

IN THE SUPREME COURT OF THE STATE OF NEVADA

LYNITA SUE NELSON,
INDIVIDUALLY, AND IN HER
CAPACITY AS INVESTMENT
TRUSTEE OF THE LYNITA S.
NELSON NEVADA TRUST DATED
MAY 30, 2001,
Appellants/Cross-Respondents,
vs.
MATT KLABACKA AS
DISTRIBUTION TRUSTEE OF THE
ERIC L. NELSON NEVADA TRUST
DATED MAY 30, 2001; AND ERIC L.
NELSON,
Respondents/Cross-Appellant.
and
ERIC L. NELSON,
Respondent.

SUPREME COURT CASE NO.: 87234

District Court Case No. 24-01537
Electronically Filed
Feb 13 2024 01:37 PM
Elizabeth A. Brown
Clerk of Supreme Court

APPENDIX TO APPELLANT, LYNITA NELSON'S OPENING BRIEF

VOLUME 8

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CERTIFICATE OF SERVICE

Pursuant to Nevada Rule of Civil Procedure 5(b) and NEFCR 9, the undersigned hereby certifies that on February 13, 2024, a copy of the **APPENDIX TO APPELLANT, LYNITA NELSON'S OPENING BRIEF VOLUME 8** was filed with the Clerk of the Court through the Court's eFlex electronic filing system and notice will be sent electronically by the Court to the following:

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MICHAELSON LAW

/s/ Michelle Ekanger

An Employee of Michaelson Law

1 THE COURT: We'll clarify it when we get there. They said
2 they have a different 6245. When they get there, we can give them some
3 time to pull that up on redirect, and we'll see what the confusion is. But
4 we admit Exhibit 64 and note there's some dispute as the LSN number
5 being 6245. But we'll figure that out when you do redirect. Let them pull
6 up the other 6245 and see if we can figure out what's going on for that.

7 [Plaintiff's Exhibit 64 admitted into evidence]

8 BY MR. LUSZECK:

9 Q Just to confirm, as you sit here today, you have no
10 independent recollection as to what you reviewed with respect to the
11 sentence that reads, on page 23 of your report, the next day, on January
12 19, 2007, ELN Trust sold the High Country Inn for 1,240,000, correct?

13 A Correct. Just that it's not this document.

14 Q I believe that you further testified that the LSN Trust received
15 no compensation for the transfer of High Country Inn, correct?

16 A Correct. It references -- yeah, that's correct.

17 Q Okay. That statement is actually not true though, is it?

18 A To my best recollection, to the extent that I'm referencing the
19 1.2, based upon my review of the banking records and the general
20 ledgers, that's my understanding.

21 Q Okay. And to be clear, the banking records that you're
22 referring to are the banking records for the account ending in 2798,
23 correct?

24 A Well, they'd be specifically, in that regard, to the LSN related
25 accounts at that time period and review of general ledgers.

1 Q Okay. So you're saying then that the High Country Inn sales
2 proceeds did, in fact, go to an account title in the name of the LSN Trust?

3 A No, that's not what I'm saying.

4 Q Okay.

5 A It did not.

6 Q I don't understand what you're saying. Can you please
7 explain?

8 A I'm saying based upon my review of the banking records and
9 commiserate with this sale and thee general ledgers, there was not a
10 reference to the LSN Trust receiving the sales proceeds from the 1.240
11 High Country Inn sale --

12 Q Oh, okay.

13 A -- that were deposited in the ELN Trust.

14 Q Okay. I appreciate that explanation. So it's your
15 understanding then that the sale proceeds from High Country Inn were
16 deposited into the ELN Trust, correct?

17 A Account ending 2798.

18 Q Okay.

19 A That's correct.

20 Q And once again, account ending in 2798, you had done kind
21 of a summary of that, correct, in your report?

22 A I did, yes.

23 Q Okay. And that's Exhibit 10 to your report?

24 A That is correct.

25 Q Okay. And you'll turn to Exhibit 10 of your report. If you go

1 to reference 235.

2 A One second.

3 Q Okay.

4 A Okay. I'm there.

5 Q Okay. And it appears that -- the date on that is 1/24/07,
6 correct?

7 A Correct.

8 Q And it say deposit High Country Inn, correct?

9 A Yes. That's the category that we assigned to it.

10 Q Correct. And I just want to confirm that's a category you
11 assigned to it, correct?

12 A That's correct.

13 Q Okay. So there's nothing on the banking records that say the
14 banking records for account ending in 2798, that says that deposit came
15 from High Country Inn on January 24, 2007, correct?

16 A Specifically, High Country Inn, no. Just that it's from Unita
17 [sic]. I'm not sure how to say that. The wire transfer information is next
18 to it. That is from the banking record. But yes, no reference to
19 specifically High Country Inn.

20 Q Okay. All right. And the High Country Inn sold --

21 MR. LUSZECK: Strike that.

22 BY MR. LUSZECK:

23 Q Okay. So, and it's your testimony that the LSN Trust
24 received no compensation from the transfer of High Country Inn,
25 correct?

1 A That was discernably tied to that deposit. That's correct.

2 Q Okay. Isn't it true, however, that following the deposit of
3 what you deem to be High County Inn sale proceeds into account ending
4 in 2798. There were transfers to Lynita from this account.

5 A I'm just reviewing the schedule. And you're asking
6 specifically Lynita?

7 Q Or the LSN Trust. Let me save you some time. Why don't
8 you go to reference number 263.

9 A I see it.

10 Q Okay. And that indicates -- it's date February 12th, 2007,
11 correct?

12 A Correct.

13 Q And it says withdrawal cash, correct?

14 A Correct.

15 Q And it says LSN Nevada Trust, correct?

16 A Correct.

17 Q And it shows that there was \$200,000 that went to the LSN
18 Trust, correct?

19 A That's correct.

20 Q Okay. And despite the fact that this \$200,000 transfer was
21 made from the ELN Trust to the LSN Trust, literally weeks after the
22 January 24th, 2007 deposit, you didn't make reference to that in the body
23 of your report, correct?

24 A Correct, because there was no discernible link between those
25 payments and the sale.

1 Q Oh, okay. What do you mean there was -- there was no
2 discernible link to you, correct?

3 A What do you mean to me?

4 Q Well, there was a \$200,000 transfer from the ELN to the LSN
5 Trust within two weeks of the High Country deposit being made, correct?

6 A That's correct.

7 Q And you don't feel that there's any link, potentially, between
8 the two?

9 A Based upon my review of the documentation, I could not
10 discern one, no.

11 Q Okay. Well, isn't it true though that your -- you focused on in
12 your report a number of transactions that you believed benefited the ELN
13 Trust, correct, to the detriment of the LSN Trust?

14 A I have identified those, yes.

15 Q Okay. And you were -- you were certain to point those out to
16 the Court, right?

17 A As indications of comingling, yes.

18 Q Okay. Well, why wouldn't you have done the same here
19 when your own summary indicates that there was a \$200,000 transfer
20 from the LSN Trust -- or from the ELN Trust to the LSN Trust?

21 A It could be another observation of comingling, yes.

22 Q Well, isn't that important for the Court to know?

23 A Additional comingling, sure.

24 Q Well, no, not of additional comingling, but payments being
25 made from the ELM Trust that could have resulted from the High

1 Country and sale proceeds?

2 A Again, based upon the review of the documentation, namely
3 the general ledger, that when it removes the High Country and asset and
4 transaction, doesn't record any kind of sale proceeds, gains, losses,
5 anything related to it. It just removes it from the books.

6 Q Okay. Isn't it true that the whole focus of your report was to
7 try to convince the judge that there was numerous transfers that you
8 believed benefited the ELN Trust to the detriment of the LSN Trust?

9 A I don't believe that's accurate.

10 Q Okay. But your report doesn't -- you would agree though
11 that your report doesn't focus on transfers from the ELN -- or sorry, from
12 the ELN Trust to the LSN Trust that benefited the LSN Trust, correct?

13 A We name transactions, yes.

14 Q Okay. Which ones?

15 A The Wyoming acres that we discussed earlier, 200 acres from
16 the ELN to the LSN. The transfer of the Mississippi property and Las
17 Vegas property in 2004 is referenced in the report as benefiting from the
18 ELN to the LSN Trust.

19 Q But you can see though that based upon this summary itself,
20 there was other transactions from the ELN Trust that benefited the LSN
21 Trust that were not included in the body of your report?

22 A That is correct.

23 Q So to clarify, this summary in Exhibit 10 that you drafted, is
24 this based upon Lynita's general ledgers? Or is this based upon -- or,
25 sorry, based upon actual account statements?

1 A This -- the data for the source used, check number, date and
2 amount is pulled from the banking records.

3 Q Okay. Not from Lynita's general ledger?

4 A Correct.

5 Q Okay. And how do you know that?

6 A Well, Lynita general ledger wouldn't have this activity for
7 2798. That's a ELN Trust asset.

8 Q Okay. But you also had Eric's general ledger, too, correct?

9 A Correct.

10 Q Or, sorry, the ELN Trust general ledger, correct?

11 A Correct.

12 Q So how do you know for certain then that Exhibit 10 was
13 based upon account statements as opposed to just the general ledger?

14 A Because I personally know that this information was data
15 entry from those accounts. There was information pulled from the
16 general ledger, as noted in the reports; specifically, check details or
17 categorization information that went into the categories, but the date,
18 source used, check number and amount is all from the banking records.

19 Q Okay. But you have no personal knowledge regarding that,
20 correct?

21 A No, I do.

22 Q You didn't do that?

23 A I did not personally input it. I oversaw it as part of our office,
24 because that's what I do. And then I also pulled that information to
25 create the schedule itself.

1 Q Sorry, did you say you pulled that information?

2 A From our transaction log.

3 Q Okay.

4 A I pulled that information and inputted it into the schedule.

5 Q Did you create this table, Exhibit 10?

6 A I was probably primarily involved.

7 Q What does that mean?

8 A Again, so I just indicated that some of the information for the
9 check detail would have come from Peachtree exports, as noted in the
10 report; general ledgers, essentially. Somebody else could have done
11 that, if under my direction.

12 Q Okay. All right. But it wasn't you that personally did it,
13 correct?

14 A I was personally involved in it. I did not do the entire thing.

15 MR. LUSZECK: Okay. Well, what -- I move to strike that,
16 Your Honor.

17 BY MR. LUSZECK:

18 Q I mean, what portion of this did you personally input?

19 A It's hard to recall after over a year ago. I mean, again, I do
20 not do data entry. That would be very expensive. So I did not data entry
21 from the banking records into the transaction log. I did pull the
22 information from the transaction log to create the template for this
23 schedule. That's what I can specifically recall.

24 Q So again, let's go to the exhibit. All right. I'm just going to
25 move on. Are you familiar with an individual named Frank Suarez?

1 A Generally. I've heard the name, yes.

2 Q Okay. Isn't it true that Frank Suarez also owned an interest in
3 High Country Inn at some point in time?

4 A Generally, I have that understanding.

5 Q Okay. How is that -- how did you gain that understanding?

6 A Review of the documents. I might also have been contained
7 in Mr. Nelson's deposition testimony.

8 Q Okay.

9 A Review of the decree.

10 Q Let's turn to Exhibit 6-J. So you may actually still be there.

11 A Yes.

12 Q Okay.

13 A Oh, wait, no, I'm sorry. That was wrong.

14 Q Isn't it true -- isn't it true that it was Frank Suarez's trust that
15 conveyed an interest in High Country Inn to the LSN Trust? Do you know
16 that as you sit here today?

17 A I can't specifically recall.

18 Q Okay.

19 A I need to refer.

20 Q It looks like you're shuffling through some documents?

21 A Yeah, I was.

22 Q What were you going to look at?

23 A I was going to refer to the report to see if it was summarized.

24 Q Okay. Yeah, why don't you go ahead and do that?

25 A Okay. Your question?

1 Q The question was, is isn't it true that Frank Suarez's trust
2 transferred an interest of High Country Inn to the LSN Trust?

3 A I can't specifically recall.

4 Q Okay. Is that not in your report?

5 A There's a --

6 MR. CARMAN: Object to the extent if it exceeds the time
7 period, the scope of the tracing. I'm not sure it does, but I don't know.

8 THE COURT: Let me see what she recalls and we'll see what
9 time frame you're talking.

10 THE WITNESS: There's a discussion in the report about
11 multiple deed transfers occurring during a period of time. It could be
12 contained within that information, but we'd have to look at the
13 documents.

14 BY MR. LUSZECK:

15 Q Okay. What document would you like?

16 A Deed transfers, titles.

17 Q Okay. Why don't you turn to bates number 16991 at Exhibit
18 6-J to help refresh your recollection.

19 A 16991?

20 Q Yes.

21 A Okay.

22 Q 16991.

23 A Okay. I'm looking at the document.

24 Q Okay. And the document that you just reviewed, it's a quit
25 claim deed, correct?

1 A That is correct.

2 Q From Frank D. Suarez Trustee of the Frankie Suarez Family
3 Living Trust dated June 18th, 2004 to the LSN Nevada Trust, correct?

4 A That is correct.

5 Q Okay. And it looks like this quit claim deed was executed on
6 January 11th, 2007, correct?

7 A That is correct.

8 Q Okay. Yeah, that's a little difficult to read. Okay. All right.
9 So does that help refresh your recollection as to whether or not Frank D.
10 Suarez's Family Living Trust had conveyed an interest in High Country
11 Inn to the LSN Trust?

12 A It appears it did at that date, yes.

13 Q Thank you. And isn't it true that because of the transfer, the
14 LSN Trust owed Frank Suarez a sizable amount of money resulting from
15 this transfer?

16 A I don't recall it specifically as a result of this transfer, since I
17 don't specifically reference it, but I do recall a liability between the LSN
18 Trust and the Frank Suarez -- and Frank Suarez discussed in the
19 document.

20 Q Sorry, you recall a liability --

21 A Between the LSN Trust and Frank Suarez.

22 Q Okay. I don't recall seeing, in the analysis of that, in your
23 report, correct?

24 A That is correct.

25 Q Okay. Why wasn't that included in your report?

1 A I believe the analysis here in the report is discussing at the
2 time of the sale for High Country Inn and the use of those proceeds,
3 those would have occurred prior to. I don't think there's any specific
4 reason.

5 Q Okay. Well, isn't -- well, isn't it a little misleading not to -- or
6 not to include an important fact like that from your report?

7 A To the extent that my analysis is between comingling
8 between these two trusts and not third parties, I believe what is here is
9 still accurate.

10 MR. LUSZECK: Okay. Your Honor, I move to strike that. It
11 was a simple yes or no question that I asked.

12 THE COURT: Sustained.

13 THE WITNESS: Can you repeat your question?

14 BY MR. LUSZECK:

15 Q Yeah. Isn't it misleading not to include this source obligation
16 in your report?

17 A I don't believe so.

18 Q Okay. Isn't it true that after High Country Inn was transferred
19 to the ELN Trust, that that liability was also transferred to the ELN Trust?

20 A I don't specifically recall.

21 Q Okay. Well, once again, isn't that an important factor that
22 should have been considered in preparing your report?

23 A If when it was transferred from --

24 Q Okay.

25 A I'm sorry, I'm just trying to understand your question.

1 Q Once again -- yeah, once again. It's a close-ended question.
2 I would appreciate just a yes or no response.

3 A I was just being -- trying to understand your question. Can
4 you repeat it?

5 Q Oh, goodness. Isn't that an important fact that should have
6 been identified in your report?

7 A And what is that fact?

8 Q The fact that the ELN Trust began making payments on the
9 obligation that the LSN Trust owed to Suarez?

10 MR. KARACSONYI: Objection. Assumes facts not in
11 evidence.

12 THE COURT: Overruled. If she knows.

13 THE WITNESS: I don't specifically recall.

14 BY MR. LUSZECK:

15 Q You don't specifically recall if it happened?

16 A Correct.

17 Q Okay. But if it did happen, wouldn't that be an important fact
18 to advise the Court in your report and in your testimony?

19 A I just want to make sure I understand. The fact?

20 Q Yeah.

21 A The fact that I'm not answering, I'm just repeating the
22 question.

23 Q Yeah.

24 A The fact that at the time of transfer from the LSN to the ELN,
25 the ELN Trust subsumed a debt?

1 Q Correct.

2 A That could be pertinent, yes.

3 Q Okay. And you'll concede that that was not included in your
4 report, correct?

5 A That is correct.

6 Q And I mean, this whole section of your report as it pertains to
7 High Country Inn, you wanted to advise -- one of the things you wanted
8 to advise the court of is that the LSN Trust transferred its interest in High
9 Country Inn to the ELN Trust, correct? That's one of the points you
10 wanted to make?

11 A It is one of the points I made, yes.

12 Q Okay. And another point that you wanted to make was after
13 the High Country Inn was transferred to the ELN Trust, the ELN Trust
14 sold the High Country Inn for 1.24 million, correct?

15 A Correct.

16 Q And you also wanted to highlight to the court that you didn't
17 believe that the LSN Trust was compensated for that transfer, correct?

18 A Correct.

19 Q Okay. And as we've already shown in Exhibit 10 of your
20 report, within two weeks of the ELN Trust selling the High Country Inn
21 for 1.24 million, there was a \$200,000 transfer from the ELN Trust to the
22 LSN Trust, correct?

23 A Correct.

24 Q Okay. And that was not included in the body of your report,
25 correct?

1 A Correct.

2 Q Okay. And then not included in your report is the fact, or
3 whether or not the ELN Trust subsumed the obligation from -- the
4 obligation between the LSN Trust and Frank Suarez, correct?

5 A That is correct.

6 Q Okay. But as you sit here today, if the ELN Trust in fact made
7 payments on that obligation to Frank Suarez, that would be important for
8 the court to know and consider, correct?

9 A The assumption of the liability, yes.

10 Q Okay. Isn't it true that there was evidence regarding the ELN
11 Trust overtaking the obligation in Dan Gerety's report?

12 A It could have been. I don't specifically recall.

13 Q Okay. And you reviewed Dan Gerety's report prior to
14 compiling your report, correct?

15 A At some point, yes.

16 Q Okay. And isn't it true that Dan Gerety testified regarding
17 this obligation as well back in 2012?

18 A I wasn't there in 2012, so I don't know.

19 Q Okay. Well, you didn't read Mr. Gerety's trial testimony from
20 2012?

21 A I did not, no.

22 Q Okay. Wouldn't that be important for you to look at though
23 since Dan Gerety conducted and prepared a tracing from 2001 to 2013?

24 A Given the court's, you know, opinion regarding the Gerety
25 report, I deemed it not necessary, no.

1 Q Okay. But your retention was to prepare a tracing from 2001
2 to 2013, correct?

3 A That's correct.

4 Q Okay. And Dan Gerety had in fact -- in fact done that,
5 correct?

6 A I disagree, but if -- regarding the definition of tracing.

7 Q Once again, please just answer the question. I -- this can all
8 be done on redirect with Mr. Karacsonyi.

9 A Sure, but it --

10 Q If I'm asking -- posing a question, I think you can provide a
11 yes or no answer.

12 THE COURT: If you can answer yes or no and then go
13 through it on those issues.

14 THE WITNESS: Sure. I'm sorry.

15 THE COURT: We would speed it up a little bit for you.

16 THE WITNESS: So my answer was no.

17 BY MR. LUSZECK:

18 Q Okay. All right. Let's go to tab 10 of your report.

19 A Exhibit?

20 Q Exhibit 10.

21 A Okay.

22 Q Okay.

23 MR. KARACSONYI: Can we take a restroom break? Is this a
24 good time?

25 MR. LUSZECK: Yeah, that's fine. I know -- I'm almost done

1 and I know Mike's got a break at like 11:30, but we can take one, yeah.

2 THE COURT: You want to take a bathroom break? Want to
3 take a ten minute bathroom break?

4 MR. KARACSONYI: Thank you.

5 [Recess taken from 10:43 a.m. to 10:53 a.m.]

6 THE COURT: We're back in the record in the matter of
7 Nelson v. Nelson, D-09-411537. We took a brief bathroom recess. We
8 can pick up where we left off. Mr. Luszeck.

9 MR. LUSZECK: Thank you.

10 BY MR. LUSZECK:

11 Q Ms. Allen isn't it true that taking on an obligation can be
12 deemed a form of consideration?

13 A I would agree with that.

14 Q Okay. So if the ELN Trust took on the obligation that the LSN
15 Trust had to bring Suarez, that could be deemed consideration?

16 A It could.

17 Q Okay. And isn't it true here that the ELN Trust in fact took on
18 the LSN Trust obligation to Mr. Suarez?

19 MR. KARACSONYI: Objection. Asked and answered.

20 THE COURT: If you know. I think you said you don't recall.

21 THE WITNESS: I don't specifically recall the timing and the
22 amount, but I generally understand that there was an obligation.

23 BY MR. LUSZECK:

24 Q Okay. Well, what happened with that obligation? What do
25 you recall happening?

1 A I don't recall.

2 Q Okay. Did Frank Suarez ever initiate a lawsuit against the
3 LSN Trust?

4 A I don't recall.

5 Q Do you know, did Frank Suarez release the obligation that it
6 had against the LSN Trust?

7 A I don't recall.

8 Q Okay. Do you even know what the obligation that the LSN
9 Trust owed to Mr. Suarez?

10 A I don't recall.

11 Q And once again, none of that's included in your report,
12 correct?

13 A That's correct.

14 Q Okay. Isn't it true that after the High Country Inn was sold,
15 the ELN Trust began making a series of payments to Mr. Suarez?

16 A I don't recall.

17 Q Let's turn to Exhibit 10 of your report.

18 A I'm there.

19 Q Okay. Turn to page -- Bates number ending in 10301.

20 A I'm there.

21 Q Okay. And if you go to reference number 274, it says -- it's
22 dated March 1st, 2007, which is approximately six weeks after the High
23 Country Inn sold, correct?

24 A That's correct, yeah.

25 Q Okay. And it says, "Payment to Suarez Enterprise," correct?

1 A Correct.

2 Q And it identifies a check number, correct?

3 A Correct.

4 Q 1959? And a payment for \$16,300, correct?

5 A I see that, yes.

6 Q Okay. So if you go to -- why don't we go next to reference
7 number 275?

8 A I see that.

9 Q Is that another \$16,300 payment to Mr. Suarez?

10 A It is. It is. Sorry.

11 Q Okay. Why don't we turn to reference number 291?

12 A I'm there.

13 Q Same question.

14 A I see that; same amount.

15 Q Okay. And what do you mean same amount? \$16,300
16 payment?

17 A That's correct.

18 Q Okay. Reference number 345.

19 A Sorry. I see that, and same amount, 16,300.

20 Q Okay. So that was another payment from the ELN Trust to
21 Mr. Suarez for \$16,300?

22 A Correct.

23 Q Okay. Go to reference 378, please.

24 A I see it.

25 Q Okay. Same thing?

1 A Yes.

2 Q Okay. Reference 414.

3 A I see it.

4 Q Okay. Reference 451.

5 A I see it.

6 Q Reference 492.

7 A I see it.

8 Q Reference 535.

9 A I see it.

10 Q Reference 560.

11 A I see it.

12 Q Reference 588.

13 A I see it. I see it.

14 Q Reference 631.

15 A I see it.

16 Q Reference 659.

17 A I see it.

18 Q Reference 702.

19 A I see it.

20 Q Reference 739.

21 A There was an illegible portion of the check on the payee, but

22 it says, what I categorize as illegible and then Enterprises, which was the

23 same as Suarez Enterprises, and the amount is 16,300, so I -- that's

24 reasonable.

25 Q Okay. 831.

1 A Same -- oh, I'm sorry. Yes, I see that.
2 Q Okay. And I think I may have skipped over 779.
3 A 77- -- I see that.
4 Q Okay. 871.
5 A I see that.
6 Q 898.
7 A I see it.
8 Q 935.
9 A I see it.
10 Q 972.
11 A I see it.
12 Q 996.
13 A I see it.
14 Q 1,030.
15 A I see it.
16 Q 1,121.
17 A Can you repeat the number? Sorry.
18 Q 1,121.
19 A Oh, I see it. I see it.
20 Q Okay. 1,156.
21 A I see it.
22 Q 1,189.
23 A I see it.
24 Q 1,214.
25 A I see it.

1 Q 1,248.

2 A I see it.

3 Q 1,278.

4 A I see it.

5 Q 1,299.

6 A I see it.

7 Q Okay. And just to confirm, and it saved us a little time doing
8 it this way, when you said I see it, every time you mentioned that, you
9 were affirming that there was a payment from the ELN Trust to Suarez in
10 the amount of \$16,300, correct?

11 A Suarez Enterprises, correct.

12 Q Yeah, Suarez Enterprises. Except for that one was that
13 illegible. It didn't say Suarez, but I think it said Enterprises. Okay. And I
14 know you weren't keeping count, but there was 30 different references in
15 Exhibit 10 regarding this \$16,300 payment; does that sound about right?
16 We can go through all of them one-by-one again if you want to tally.

17 A Like you said, I didn't keep count. It seems reasonable.

18 Q Okay. And if you multiply 30 times \$16,300, that's \$489,000
19 in payments from the ELN Trust to Suarez Enterprises?

20 A It seems reasonable.

21 Q Okay. And once again, the fact that these payments were
22 made by the ELN Trust to Suarez Enterprises was not included in the
23 body of your report, correct?

24 A That is correct.

25 Q Okay. And I guess going back, once again, isn't it -- isn't it

1 misleading not to include this type of information in your report,
2 specifically, these payments that were made from the ELN Trust to Frank
3 Suarez?

4 A I can't answer yes or no.

5 Q In addition to these payments that were made by the ELN
6 Trust to Suarez, isn't it also true that the ELN Trust transferred multiple
7 homes to Mr. Suarez to extinguish the outstanding obligation that the
8 LSN Trust owed to Mr. Suarez?

9 MR. KARACSONYI: Objection. Assumes facts not in
10 evidence.

11 THE COURT: Do you know?

12 THE WITNESS: I don't specifically recall.

13 THE COURT: Okay.

14 BY MR. LUSZECK:

15 Q Is that something that would be important for you to
16 consider in drafting the report, specifically as it relates to High Country
17 Inn?

18 MR. KARACSONYI: And just object as, again, assumes facts
19 not in evidence.

20 THE COURT: Okay. If you know. Do you know, Ms. Allen, I
21 think you said -- you said, no, you don't recall. And then I think he asked
22 you a question; would that be important if there was?

23 THE WITNESS: To the extent that they are all related as a
24 form of compensation, it could be included and assist the analysis, yes.

25 /////

1 BY MR. LUSZECK:

2 Q I'm not saying could it be included, but would it -- would it be
3 important to include that in your analysis?

4 A If they are related and it's the form of compensation, I would
5 say, yes.

6 Q Okay. And how do you determine whether or not it's related
7 or not?

8 A Based upon a review of the documentation. So the general
9 ledgers. I don't recall seeing a liability that was on the LSN books that
10 was then subsequently removed.

11 Q With --

12 A Again, documentation linking the two.

13 Q Would documentation include Mr. Bertsch's reports?

14 A It could. I, again, didn't rely on Bertsch's to the extent to
15 conduct my analysis, but I generally reviewed them.

16 Q Okay. So you -- you generally -- if I understand you correctly,
17 you generally reviewed Bertsch's reports and you may or may not
18 include findings or conclusions that Mr. Bertsch made in his reports?

19 A Correct. It's not my -- I'm not just reiterating Mr. Bertsch's
20 opinions.

21 Q It -- isn't it true though that when Mr. Bertsch's report made a
22 finding that you believed benefited the LSN Trust, you would include
23 that in your report?

24 A I believe we pulled information from the Bertsch report that
25 was an observation, but I don't know if it was necessarily relying on -- on

1 Burch.

2 Q Isn't it also true that even though you discounted Mr.
3 Gerety's report, if Mr. Gerety made a finding in his report, you would
4 include that in your report?

5 A We did reference Gerety in our report, yes.

6 Q Okay. When -- when it benefited the LSN Trust?

7 A Not necessarily.

8 Q And once again --

9 A No.

10 Q -- it's a yes or no question.

11 A I would say no.

12 Q All right. If you go to -- and once again, you -- you reviewed
13 Burch's reports prior to preparing your report, correct?

14 A At some point, yes.

15 Q Okay. Let's go to 6-C -- or actually, it's 7-C, sorry. No, it's 6.

16 A 6 or 7?

17 Q 6. Sorry. All the letters are so close together. 6. 6-C.

18 A Okay.

19 Q Okay. And once again, this is a notice of filing asset schedule
20 and notes to asset schedule.

21 A No. You're going to be 7.

22 Q Oh, gosh, I'm sorry, 7-C.

23 A Yeah. Okay. I'm there now.

24 Q Okay. This is a notice of filing asset schedule and notes to
25 asset schedule --

1 A Yes.

2 Q -- that was filed by Mr. Burch on or around July 6, 2001,
3 correct?

4 A That's correct.

5 Q Okay. And if you go to note 17 --

6 A I'm there.

7 Q Okay. And note 17 says, "Suarez transaction," correct?

8 A Correct.

9 Q Okay. Let's see, and again, it provides a history, I guess, of
10 the Suarez transaction, correct?

11 A It appears so, yes.

12 Q Okay. And if you look at this -- and once again, the fact that
13 Mr. Bertsch had a whole section entitled Suarez transaction was not
14 included in your report, correct?

15 A That's correct.

16 Q Okay. And if you look at the second -- or let's start with the
17 first paragraph. "The first transaction commenced in 2002 and Frank
18 Suarez made an investment as a mortgage holder in the Wyoming
19 operations. Mr. Suarez loaned 2.3 million to the Lynita Trust on the
20 building that was used to be -- that was to be used for offtrack betting to
21 support a racetrack owned at that time by the Nelsons;" is that correct?
22 Did I read that correctly?

23 A You did.

24 Q Okay. Okay. And that first paragraph indicates that there
25 was a loan by Mr. Suarez to the Lynita's Trust for 2.3 million, correct?

1 A That is what it says, yes.

2 Q Okay. And then if you go to the third paragraph, it says,
3 "When the offtrack betting business failed, Mr. Suarez insisted on
4 collateral to replace the building in Evanston, Wyoming. Eric Nelson
5 then collateralized the note with property in Phoenix, Arizona. Upon
6 failure of that collateral, Eric Nelson then collateralized the note with
7 property in Mississippi. Since there was ongoing litigation in
8 Mississippi, Mr. Suarez again sought collateral in the amount do again.
9 It was then in early 2010 when Eric made a decision to take the better of
10 the Band One properties in Arizona and transfer those rental properties
11 to the Frank Suarez Family Trust." Did I read that correctly?

12 A Correct.

13 Q Okay. "It was understood from Eric" -- going onto the next
14 paragraph. "It was understood from Eric Nelson that there was a deal
15 with Frank Suarez that if the properties were to sell in excess of the 1.3
16 million, Eric would be entitled to monies from such sales. In documents
17 received, there was a written agreement that upon the transfer of the
18 Band One properties, the million-dollar note made payable to the Eric L.
19 Nelson Nevada Trust is canceled and considered satisfied." And then if
20 you go back -- did I read that correct so far?

21 A You have.

22 Q Okay. And then if you go down to under the current
23 situation, it says, "The cost of the current 20 properties transferred to
24 Suarez has a book value of 737,018.67. Therefore, the aggregate amount
25 of collateral against a debt of 1.3 million leaves a contingent liability of

1 562,981.33. In addition, Eric has pledged to use eight lots from his
2 investment in AZ-29 Gateway lots, but actual lots would be determined
3 at a later date according to the February 19th, 2010 agreement between
4 Suarez and Mr. Eric Nelson." Did I read that correctly?

5 A You did.

6 Q Okay. So we start off that Mr. Suarez loaned 2.3 million to
7 Lynita's trust in 2002, correct?

8 A Correct.

9 Q Based upon what this says. And then we go to Eric Nelson,
10 or the ELN Trust transferring a series of properties to Mr. Suarez,
11 correct?

12 A Correct.

13 Q And none of this information showed up in your report,
14 correct?

15 A That is correct.

16 Q Okay. Despite the fact that in the history section here, it talks
17 about this being a part of the Wyoming operations, and specifically the
18 offtrack betting, correct?

19 A Offtrack betting to support a racetrack, yes.

20 Q Correct. And the offtrack betting, the acronym for that
21 people have used is OTB, correct?

22 A That is my understanding, yes.

23 Q And that showed up in the High Country Inn analysis, correct,
24 the OTB sale?

25 A Yes, as part of the larger deposit.

1 Q Correct. Okay. Okay. So even though the LSN Trust
2 apparently -- or sorry, even though Mr. Suarez loaned 2.3 million to the
3 LSN Trust, that fact was not contained within your report, correct?

4 A That is correct.

5 Q Okay. Nor was it contained in your report that in satisfaction
6 of that obligation, that loan, the ELN Trust also transferred multiple
7 parcels of property to Mr. Suarez, correct?

8 A You said ELN?

9 Q Yes.

10 A Okay. Yes, that is correct.

11 Q And once again, isn't that an important fact that should have
12 been analyzed and contained in your report?

13 A To the extent that that loan is verified to relate, it could, but --

14 Q Yeah.

15 A -- there's ambiguities even here.

16 Q And once again, isn't it misleading to tell the Court in report
17 and your testimony that the LSN Trust transferred High Country Inn to
18 the ELN Trust, and the ELN Trust sold that for 1.24 million, and the LSN
19 Trust received no financial consideration for that?

20 A I can't answer yes or no.

21 Q Okay. Isn't the hangup -- what you're saying by your
22 opinion, I believe is that there was no, necessarily transfer of money
23 from the ELN Trust to the LSN Trust?

24 A A discernable link, that's fair, through funds, yes.

25 Q Okay. Okay. But since we've looked at these other

1 discernible links, correct, these payments of -- 30 payments from the ELN
2 Trust to Suarez Enterprises each time for \$16,300, correct?

3 A Correct.

4 Q Okay. And then we've also looked at these other transfers of
5 property, at least 20 properties in Arizona from the ELN Trust to Mr.
6 Suarez, correct?

7 A Correct.

8 Q Okay. Based upon, you know, all of these -- based upon the
9 fact that the ELN Trust paid hundreds of thousands of dollars and
10 transferred dozens of pieces of property to Mr. Suarez, does that change
11 your opinion at all with respect to High Country Inn?

12 A Potentially.

13 Q I believe you previously testified that you couldn't perform a
14 tracing during the accounting period because of inadequate
15 documentation, correct?

16 A A complete, that is correct.

17 Q Okay. Is it your opinion that you performed a tracing for
18 certain times during the accounting period?

19 A Yes.

20 Q What time period do you believe you provided a tracing for?

21 A The time periods for which we've received the
22 documentation. Banking records specifically.

23 Q Okay. What's your definition of tracing?

24 A It can encompass taking the information from the banking
25 records into a transaction register in order to analyze the flow of funds

1 between the various accounts during that time period. It also
2 encompassed reviewing the tax returns, the deeds, the general ledgers
3 to identify the use of funds. That information across all accounts is
4 incomplete.

5 Q Okay. So what period of time were you able to perform a
6 tracing for?

7 A I would say it's various and it's specific to an asset and it
8 would reference whether or not we had banking records, we referenced
9 the general ledgers or the tax returns.

10 Q So are you saying that you performed tracing for certain
11 assets then? Or are you saying there were certain periods of time in
12 which you were able to perform a tracing for the LSN Trust or the ELN
13 Trust as a whole?

14 A I guess it's more the negative. We were unable to perform a
15 complete tracing for the entirety of that scope of engagement, 2001
16 through 2013.

17 Q Okay. Well, why couldn't you have performed a tracing, at
18 least for the LSN Trust, for the years 2009 to 2013?

19 A We could have. I don't believe we even have all of the tax
20 returns or banking records for that time period, but to the extent that
21 there's more complete information, we could use that information.

22 Q Do you know when the divorce was initiated in this case?

23 A I believe it's noted in our report. I believe it's some time
24 either in 2008 or 2009.

25 Q Okay. Yeah, I'll represent to you it's June of 2009. I believe

1 June of 2009.

2 A I complaint.

3 Q And you couldn't even perform a complete tracing for the
4 LSN Trust for the years 2009 to 2013, correct?

5 A That's fair. Yes.

6 Q Okay. And isn't it true that one of the reasons why you
7 couldn't perform a complete tracing during that time period is because
8 Lynita failed to provide you the necessary documentation to do so?

9 A I don't know if I can answer that, it's Lynita's failure, but we
10 don't have the documents in hand.

11 Q Okay. Yeah, like for example, Lynita didn't provide to you
12 copies of her tax returns for that entire period, 2009 to 2013, correct?

13 A The information would have come through counsel, but we
14 are missing tax returns related to LSN and Lynita for that time period,
15 yes.

16 Q Okay. And same with account statements as well, correct?

17 A Correct.

18 Q Okay. So whether or not it -- you know, Lynita didn't provide
19 them to you directly, or whether her counsel didn't provide them to you,
20 the fact remains you did not receive complete tax returns or account
21 statements for the time period 2009 to 2013 as it relates to the LSN
22 Trust?

23 A Or general ledgers, that's correct.

24 Q Okay. Isn't it true that, to the extent that Ms. Nelson didn't
25 have copies of tax returns, she could have just executed a document and

1 sent it to the IRS to -- requesting copies of those tax returns for those
2 years?

3 A In my experience, clients do that. I don't have any personal
4 knowledge of doing that.

5 Q You don't have any reason to disbelieve though that Ms.
6 Nelson could not have obtained her tax returns for the time period of
7 2009 to 2013 if she wanted to do so?

8 A I don't have reason to disbelieve.

9 Q And you'd agree with me that she could have obtained those
10 tax returns during that time period, correct?

11 A I would say that's outside my expertise knowledge to know
12 what's available or not available. I guess, I mean, the question is at what
13 time period?

14 Q 2009 to 2013?

15 A At what time would she have requested them?

16 Q Well, at any point in time.

17 A Is it -- well, I can't answer the question. It's --

18 Q Okay. In your experience, do -- do individuals usually
19 execute their tax returns before it's filed with the IRS?

20 A Sometimes the tax preparer does it on their behalf. Again,
21 I'm not a tax specialist, but my question to you is more at what time
22 period did she request it?

23 Q Yeah. No, that's fair. You don't get to ask questions.

24 A I'm sorry. I guess I was trying to clarify.

25 THE COURT: You've been on the stand for a long time. I'll

1 give her some leeway.

2 MR. LUSZECK: I'm just kidding.

3 BY MR. LUSZECK:

4 Q I understand. That's a point well taking, which is sometimes
5 a tax preparer does it. Is it your understanding that tax preparers,
6 usually they'll have their clients review tax returns and obtain authority
7 from their clients before they sign it, before the tax preparer would sign
8 off on the client's behalf?

9 A My experience is wide and sees all different types of things
10 when tax preparers could once -- had once. I can't answer.

11 Q Have you ever prepared a tax return for a client?

12 A No, I have not.

13 Q Okay.

14 A That is not my expertise.

15 Q The fact remains though is you were unable to provide --
16 perform a tracing, for at least the time period of June of 2009 to June 3rd
17 of 2013, correct?

18 A That is correct.

19 Q Did you ever -- did you ever personally make requests for
20 documents through Ms. Nelson? Or did you always make those requests
21 for documents through her counsel?

22 A They would typically be through counsel.

23 Q Okay. All right. You previously testified that you, I think
24 prepared some type of analysis for accounts titled in the ELN Trust and
25 that's set forth in Exhibits 9 and 10, correct?

1 A That is correct.

2 Q Of your report? And one of them, I believe, is the Bank of
3 America account ending in 2798.

4 A That is correct.

5 Q And the other one was for BNY Mellon account ending in
6 1700, correct?

7 A That is correct.

8 Q Okay. And I believe you testified that the purpose of that was
9 to show the exhaustion of claimed separate property assets?

10 A Correct.

11 Q Okay. I just want to be clear though, however, that
12 exhaustion of claimed separate property assets analysis was only done
13 for these two accounts, correct?

14 A That is correct.

15 Q Okay. You didn't -- in other words, you didn't do it for the
16 ELN Trust as a whole during this time period?

17 A That is correct.

18 Q Okay. And I know you indicated that you had at least
19 reviewed Mr. Gerety's report in the past, correct?

20 A I have, yes.

21 Q Okay. And is it your understanding that Mr. Gerety had in
22 fact performed that analysis?

23 A I believe he and his staff he references in his report.

24 Q Okay. And I believe you previously testified that you had
25 read some selected testimony in this case; is that correct?

1 A That is correct.

2 Q Okay. And what -- as you sit here today, do you recall what
3 testimony you've read in this case, whether it be deposition or trial
4 testimony?

5 A I've reviewed certain deposition testimony. I've also
6 reviewed excerpts of trial testimony, mainly from Mr. Nelson.

7 Q Okay. And in -- I'm going to read through a number of
8 entities here, and I just want you to tell me one way or the other, do you
9 recall reading anything about these entities in either the depo or trial
10 testimony that you reviewed in this case.

11 A Specific -- I'm sorry. Specifically, in just those two things?

12 Q Yes. Yeah, in just these entities. So no, just these entities
13 that I'm about to read.

14 A But --

15 Q Okay. So --

16 A Oh, sorry.

17 Q -- first entity -- well, I guess anything. Let's open it up.

18 A Okay.

19 Q To anything you --

20 A Thank you.

21 Q Well, let me start off -- well, let me start off with this, have
22 you ever heard of the entity -- an entity called Cleopatra Gaming
23 Management, LLC.?

24 A Yes.

25 Q Okay. Did you ever mention that entity in your report?

1 A I believe it's on one of the exhibits of our report, but it's not
2 mentioned in the body of the report.

3 Q Okay. And when you say it's mentioned on one of the
4 exhibits to your report, what exhibit are you referring to?

5 A I'm going back to my report.

6 Q Are you just referring to the assignments that were included,
7 I think on Exhibit 3 of your report?

8 A That is correct.

9 Q Okay. But there's no specific analysis or reference to
10 Cleopatra Gaming Management, LLC. in the body of your report, correct?

11 A That is correct.

12 Q And you didn't provide any opinions with respect to
13 Cleopatra Gaming Management LLC. in the body of your report, correct?

14 A That is correct.

15 Q Okay. Dynasty Development Group, LLC., did you provide
16 any type of analysis or refer to that entity in the body of your report?

17 A I'm just confirming. I recall, yes, but I'm just -- if you'd like
18 me to confirm, I can. Yes, I did.

19 Q Pardon?

20 A Yes.

21 Q Okay. What page is that?

22 A I just -- I turned to page, specifically, 33, references the
23 Dynasty Development Group there. It's on page 32, or 31.

24 Q But there's no analysis here as to whether or not that entity --
25 whether Ms. Nelson possesses a community or separate property

1 interest in that asset, correct?

2 A I did not opine as to the entity itself, no.

3 Q Okay. Cleopatra's Palace, LLC.?

4 A What's your full question?

5 Q Was that entity mentioned at all in the body of your report?

6 A In the body, no.

7 Q Okay. The -- okay. But it was -- it was mentioned as an asset
8 that was -- you know, an ELN Trust asset as of May 30th, 2001 in that
9 exhibit, correct?

10 A Correct.

11 Q Okay. Cleopatra's Club Casino, LLC., same question, any
12 reference to that in the body of your report?

13 A No.

14 Q Okay. And once again, my recollection is, and I can go back
15 to Cleopatra Gaming Management, LLC., Dynasty Development Group,
16 LLC., Cleopatra's Palace, LLC.; I don't recall you providing really any
17 testimony regarding these entities during your prior testimony in this
18 trial, correct?

19 A Outside of Dynasty Development Group, that's correct.

20 Q Okay. Cleopatra's Club Casino, LLC., isn't it true that that's
21 not a -- in no type of analysis regarding that is encompassed in the body
22 of your report?

23 A That is correct.

24 Q Okay. Same with Cleopatra's Wild Goose Casino, LLC.?

25 A That is correct, in the body -- not in the body.

1 Q And I understand. So when I say the body I just mean the
2 first -- I'm excluding Exhibit 3, which identifies the assets that are owned
3 by the ELN Trust as of May 30th of 2001.

4 A Understood.

5 Q Okay. Cleopatra's Cable Bridge Casino, LLC., same question;
6 not included in the body of your report?

7 A Correct.

8 Q Okay. Cleopatra's Wild Grizzly Casino, LLC., not included in
9 the body of your report?

10 A Correct.

11 Q Okay. Hacienda Casida, LLC., not included in the body of
12 your report?

13 A Correct.

14 Q Evanston Horse Racing, Inc., not included in the body of your
15 report?

16 A I think this one may be referenced in the body.

17 Q Okay.

18 A These next ones.

19 Q But I guess, even if it was, there was no opinion as to
20 whether or not Ms. Nelson had a community property interest in the
21 asset?

22 A In the entity itself, correct.

23 Q Okay. Wyoming Downs Rodeo Events, LLC.?

24 A Same answer as Evanston.

25 Q Okay.

1 A I believe it's referenced in the report, but not an analysis as
2 to the character of the entity.

3 Q Okay. And I know Eric Nelson Auctioneering is another one, I
4 believe that may have showed up in the body of your report, but with
5 respect to the entities that I just listed, I guess just wrapping that up,
6 there's no opinions regarding -- you haven't opined in the report or your
7 prior testimony for all of those entities that Ms. Nelson possesses a
8 community property interest in those, correct?

9 A In the entities, that's correct.

10 Q Okay. And so you haven't taken that position in your report
11 and you haven't taken that position during your testimony in this trial,
12 correct?

13 A That is correct.

14 Q Okay. All right.

15 MR. LUSZECK: I'm trying to remember; did I get her
16 certificate of custodian of records then?

17 MS. HAUSER: Huh-uh.

18 MR. LUSZECK: Okay.

19 BY MR. LUSZECK:

20 Q And again --

21 MR. LUSZECK: May I approach, Your Honor?

22 THE COURT: Sure.

23 MR. LUSZECK: Okay.

24 THE COURT: What number are you going to call this?

25 MR. LUSZECK: 65.

1 BY MR. LUSZECK:

2 Q I'm handing you a certificate of custodian of records, Ms.
3 Allen. Have you seen this document before?

4 A I have.

5 Q Okay. This is a certificate of custodian of records for your
6 file, correct? And by your file, I mean Anthem Forensics file, correct?

7 A Yes. It's not notarized, but yes.

8 Q I noticed that. Did you notarize it?

9 A I did at a later date.

10 Q Okay. Okay. Well, nevertheless, is this a true and accurate
11 copy of the certificate of custodian of records --

12 A Yes.

13 Q -- that was provided by your office?

14 MR. KARACSONYI: And I don't have an objection. You don't
15 have to --

16 MR. LUSZECK: Okay. All right. Move to admit this as
17 Exhibit 65, Your Honor.

18 MR. KARACSONYI: No objection.

19 THE COURT: It will be admitted as Exhibit 65 without
20 objection.

21 [Plaintiff's Exhibit 65 admitted into evidence]

22 BY MR. LUSZECK:

23 Q Okay. And if you'll turn to Exhibit --

24 A What volume?

25 Q Oh, it's the Eric Nelson and the ELN Trust, volume 2.

1 A Okay.

2 THE COURT: You're doing better than I am.

3 BY MR. LUSZECK:

4 Q Again, if you'll turn to Exhibit 39.

5 A Oh, that's not what I have. I'm sorry. This is Volume II, but
6 it's not -- it's not yours. Any idea where that is?

7 Q I think it's the one to the back.

8 A You've got to label it on the side.

9 MR. KARACSONYI: Yeah, no objection.

10 THE WITNESS: Exhibit, what?

11 BY MR. LUSZECK:

12 Q 39.

13 A Oh, my goodness.

14 MR. KARACSONYI: No objection to 39 to being offered.

15 MR. LUSZECK: Okay. I'm going to move 39, Your Honor.

16 THE COURT: Exhibit 39 will be admitted without objection.

17 [Plaintiff's Exhibit 39 admitted into evidence]

18 THE WITNESS: Okay.

19 MR. LUSZECK: Could we take one quick break, Your Honor?

20 THE COURT: Sure.

21 THE WITNESS: Do I not need this one?

22 MR. LUSZECK: No. Sorry. It was admitted.

23 [Recess taken from 11:30 a.m. to 11:34 a.m.]

24 THE COURT: We're back on the record in the matter of

25 Nelson v. Nelson, D-09-411537. We took a brief recess. Mr. Luszeck.

1 BY MR. LUSZECK:

2 Q Yeah. I'm going to ask one of Mr. Karaconyi's last question
3 that may go into a couple. You concede that the ELN Trust has more
4 than two bank accounts, correct, during the accounting period?

5 A That is correct.

6 Q Or the tracing period. Okay. And you focused on two
7 accounts; one being one BYN Mellon account ending in 1700, correct?

8 A As a demonstrative, correct.

9 Q And one ending in 2798, correct?

10 A That is correct.

11 Q Okay. And I believe one of the reasons why you focused on
12 these two accounts is because certain deposits were made into those
13 accounts from certain real estate transactions, correct?

14 A That is correct.

15 Q Okay. Like High Country Inn, which is what we went through
16 earlier?

17 A Correct.

18 Q Is that correct? Okay. Isn't it true though that the LSN Trust
19 could have also been compensated for some of the real property from
20 other accounts that were not identified in your report?

21 A They could have, yes.

22 Q And you did not do any type of demonstrative exhibit
23 regarding those other accounts, correct?

24 A Correct.

25 MR. LUSZECK: That's all I have, Your Honor. Thank you, Ms.

1 Allen.

2 THE COURT: It's a good time to take a lunch break for --

3 MR. KARACSONYI: Sure, because I'm just going to start
4 anyways. I think --

5 THE COURT: What's that?

6 MR. KARACSONYI: I need the -- I'm going to probably have
7 the whole afternoon.

8 THE COURT: It's about 11:30. Want to shoot for 1:00?

9 MR. KARACSONYI: Will that give you enough time, Mr.
10 Carman?

11 THE COURT: An hour and a half to give you enough time, or
12 you want 1:30?

13 MR. LUSZECK: That's good with me.

14 THE COURT: I know last time we were a little bit late with
15 the --

16 MR. LUSZECK: Want to be earlier so we can finish this out
17 today?

18 THE COURT: I'm fine with what works for you guys. We can
19 come back at 12:30 or --

20 MR. KARACSONYI: Well, he's got a hearing too on
21 Thursday?

22 MR. LUSZECK: I don't know what he's --

23 THE WITNESS: I can't come tomorrow just so you know. I
24 mean, I can come another date, but in the morning I have another trial.

25 THE COURT: So we want to get you done today.

1 MR. KARACSONYI: Could you come in the afternoon
2 tomorrow, or no?

3 THE WITNESS: If it finishes, yeah. I think it will finish.

4 MS. HAUSER: Who are you in front of, just out of curiosity?

5 THE WITNESS: Cutter.

6 MR. KARACSONYI: Is that here? Is she here?

7 THE WITNESS: No, it's at RJC.

8 MS. HAUSER: No, she's at RJC.

9 THE COURT: RJC. Why don't we come back at 1:00?

10 MR. KARACSONYI: 1:00, yeah.

11 THE WITNESS: Today? Great. 1:00.

12 THE COURT: Thank you.

13 [Recess taken from 11:37 a.m. to 1:01 p.m.]

14 THE CLERK: Back on the record.

15 THE COURT: On the record in the Matter of Nelson v.

16 Nelson, case number D-09-411537. Pick up our afternoon session. We

17 have Ms. Lynita Nelson, Mr. Eric Nelson. We also got our counsels.

18 We'll start and just go down the list. Why don't start Mr. Carman and go
19 the other way? How's that, just to be equal?

20 MR. CARMAN: Wow.

21 THE COURT: This time left and go right.

22 MR. CARMAN: I'm not prepared for that, Your Honor.

23 Michael Carman, bar number 7639.

24 MS. HAUSER: Michelle Hauser, bar number 7738.

25 MR. LUSZECK: Jeff Luszeck, 9619.

1 THE COURT: Joe?
2 MR. KARACSONYI: Josef Karacsonyi, 10634. Sorry.
3 THE COURT: That's all right.
4 MS. KARACSONYI: Natalie Karacsonyi, 10579.
5 THE COURT: Of course, you're still under oath on that, which
6 either can hopefully get you finished this afternoon. I'm sure you would
7 love to come back tomorrow and day after that and day after that. So
8 we'll try to get you done today for you. Okay?
9 At your pleasure, Mr. Karacsonyi, you can begin whenever
10 you're ready.
11 MR. LUSZECK: Your Honor, just for housekeeping, I think we
12 stipulated to a couple of exhibits, get entered real quick.
13 THE COURT: Sure. Okay.
14 MR. LUSZECK: Exhibit 48.
15 MR. KARACSONYI: 48?
16 MR. LUSZECK: Yep.
17 MR. KARACSONYI: Oh, that was the one, 48.
18 MR. LUSZECK: 51, 52 --
19 THE COURT: All right. Give a chance on that 48?
20 MR. KARACSONYI: 48's done, yeah, 48.
21 MR. LUSZECK: 48.
22 THE COURT: 51?
23 MR. LUSZECK: 51 --
24 THE CLERK: 51, okay.
25 MR. LUSZECK: -- 52, 53, and 54.

1 THE COURT: Okay.

2 MR. LUSZECK: Thank you.

3 MR. KARACSONYI: And then there was one -- did you pull
4 50 -- was 50 already admitted?

5 MR. LUSZECK: That's a good question.

6 THE COURT: Not yet.

7 MR. KARACSONYI: So which ones have been admitted for
8 you, 48, 49. Was 49 admitted?

9 THE CLERK: No. I got 48, 51, 52, 53, and 54.

10 MR. KARACSONYI: 51, 52, 53 and 54.

11 MR. LUSZECK: I'm fine with 50, too.

12 MR. KARACSONYI: Okay. All right.

13 THE COURT: You guys want 50 in there, too?

14 MR. KARACSONYI: No. I might ask her about it, actually, so
15 we'll see.

16 MR. LUSZECK: I thought that was in for some reason.

17 MR. KARACSONYI: I know you asked her about it, but I don't
18 know if you admitted it. You read it to her. You read portions of it.

19 REDIRECT EXAMINATION

20 BY MR. KARACSONYI:

21 Q All right. Ms. Allen, I want to walk through your Appendix I.
22 You can pull up your report, 6G.

23 A From there?

24 Q Okay. And what is this Exhibit 1 to your report?

25 A Exhibit 1 or Appendix I, counsel?

1 Q Excuse me, Appendix I, I believe it is. Appendix I.

2 MR. KARACSONYI: Sorry, Court's indulgence. Okay.

3 BY MR. KARACSONYI:

4 Q Can you tell us what Appendix I is?

5 A It's a list of documents received.

6 Q Okay. And are these the listed documents that were
7 considered in rendering your opinion?

8 A Yes.

9 MR. KARACSONYI: Do you guys have any objection to the
10 list being admitted from pages -- rather than having her read the whole
11 thing? Otherwise I'll have her read everything she reviewed into the
12 record.

13 MR. LUSZECK: I guess I'm a little confused. One, I mean,
14 this is redirect, so you're supposed to be focusing on areas that we
15 addressed in cross. So I don't know why we're going through this for
16 the first time. And second, I mean, her report hasn't been admitted, so I
17 don't know why we would just admit Appendix I, I guess.

18 MR. KARACSONYI: Your Honor, they spent a whole lot of
19 time going through with what statements and documents she reviewed.
20 That was part of the cross, so that's what I'm referring -- responding to.
21 I'll just have her -- I can have her read Appendix I.

22 THE COURT: I'm fine giving the appendix if that's an
23 accurate list of documents she received. Is that accurate on that, just to
24 speed it up. I don't know her to read everything. I know there's a lot of
25 exhibits that she talked about, lot of documents.

1 But is that your list of documents that you received?

2 THE WITNESS: Yes.

3 MS. HAUSER: Can we voir dire on that, Your Honor?

4 THE COURT: Sure.

5 VOIR DIRE

6 BY MS. HAUSER:

7 Q Did you prepare this part of the report; do you recall?

8 A I may have been involved. I don't recall if I made the whole
9 list, but our office would have.

10 Q All right. So -- and isn't it true that Mr. Leauanae prepared a
11 portion of this report?

12 A A portion of the report. He wouldn't have prepared this list.

13 MS. HAUSER: Motion to strike. Nonresponsive.

14 BY MS. HAUSER:

15 Q Isn't it true Mr. Leauanae prepared a portion of this report,
16 correct?

17 A Yes.

18 Q And you did not verify of the accuracy of this information in
19 this exhibit, correct?

20 A I believe I may have prepared this list. I just don't specifically
21 recall.

22 MS. HAUSER: Motion strike. Nonresponsive.

23 THE COURT: They asked did you verify the information, the
24 documents that --

25 THE WITNESS: No.

1 THE COURT: -- the accuracy of the --

2 THE WITNESS: I can't specifically recall.

3 BY MS. HAUSER:

4 Q And this report was prepared over a year ago, almost a year
5 ago this week, correct?

6 A April 30th, 2021, yes.

7 Q And prior to your testimony today in the last few weeks, you
8 didn't go through this report to verify the information was accurate,
9 correct?

10 A On this Appendix?

11 Q On the Appendix.

12 A Correct.

13 Q So you don't know if the information contained in the
14 Appendix by your own personal knowledge is true and accurate, correct?

15 A I believe it's accurate.

16 MS. HAUSER: Motion to strike. Nonresponsive.

17 THE COURT: Just answer yes or no if you can.

18 THE WITNESS: Repeat your question.

19 BY MS. HAUSER:

20 Q Isn't it true you don't, by your own personal knowledge,
21 know if this Appendix is accurate?

22 A Yeah. I can't recall.

23 MS. HAUSER: Your Honor, we would move that it not be
24 entered into evidence. She does not have personal knowledge as to
25 whether or not the information contained in this Appendix is accurate.

1 MR. KARACSONYI: May I question her?

2 THE COURT: Whether it's accurate or not doesn't matter.

3 These are the documents she received. If it's not accurate, then of
4 course the report's not accurate, but these are the documents she
5 received which she considered in her opinions, fine. Whether it's
6 accurate or not is another story. We went through a lot of cross-
7 examination on accuracy and documents. I don't know what the list of
8 documents even show, so I have no idea what this is.

9 MR. LUSZECK: If it's not accurate, though, then it would be a
10 relevance objection, Your Honor.

11 MS. HAUSER: Objection. Yeah.

12 THE COURT: Yeah. I don't know, though. I don't know what
13 the text is, unless you want to go through document by document. I'm
14 just trying to expedite it. But we can go through document by document
15 if you want. I don't know. I haven't seen it, the list of documents. I
16 haven't looked at it for a while on that one. I read the report back at the
17 motion for summary judgment, but I haven't seen it recently so I don't
18 know how many exhibits are there, are specific or the purpose of it. So, I
19 mean, I don't know.

20 MS. HAUSER: Well, and the problem, Your Honor, also, is
21 there was thousands upon -- I think it's over 14,000 pages produced by
22 Anthem. So if this is not accurate listing, then the report -- then we have
23 other relevant issues. So I don't think without her personal knowledge, if
24 these are the actual documents that were reviewed and it's accurately
25 designated on here, it can be entered into evidence.

1 THE COURT: Well, I guess they can go document by
2 document if they want. Mr. Karacsonyi?

3 MR. KARACSONYI: Well, Your Honor, they produced to
4 them 13,000 pages of documents in their file. If they want to ask and say
5 -- prove that some of these are not in there, they can, but these are
6 documents that she's saying are received by her office. I mean, I can -- I
7 can ask her about it.

8 REDIRECT EXAMINATION CONTINUED

9 Q Ms. Nelson (sic) --

10 MS. HAUSER: Well, and Your Honor --

11 BY MR. KARACSONYI:

12 Q Or Ms. Allen --

13 MS. HAUSER: -- to respond to that, this is outside the scope
14 of our cross-examination. We went through very specific documents,
15 not each and every document that was in consideration in the
16 preparation of the report.

17 THE COURT: I'm sure -- I'm hoping Mr. Karacsonyi's not
18 going to go through every single document on the issue on that, but he
19 can always call her back as the rebuttal witness on evidence on that. It
20 will just take us longer on that. So let's go through and see what they
21 got to say and what documents, and you can give you some redirect if
22 you need to go on it again. I don't know the documents, don't know
23 what the relevancy is of the documents. She said she relied on
24 thousands and thousands of documents from this group, from that
25 group.

1 So there's so many documents that have been produced
2 from different groups. Can we go through some specific, and I'm sure
3 there's some specific questions you want to ask about specific
4 documents. So.

5 MR. KARACSONYI: Well, I just wanted to -- you know, they
6 tried to show -- the questioning from them was about what limitations
7 her records had and whether she did any investigation outside of this.
8 So this, I think, is proper redirect to show what she did actually consider.
9 Because that was their cross-examination.

10 MR. LUSZECK: I don't necessarily agree with that, but that's
11 two different issues. This is documents received, and he's talking about
12 what she considered.

13 THE COURT: What she relied on, yeah.

14 MR. LUSZECK: Those are two different things. The fact -- I
15 mean, even if this is true and accurate, this document received, it doesn't
16 mean that she reviewed every single thing, Your Honor. And I think her
17 testimony was she didn't review her whole file, because it's tens of
18 thousands of pages long.

19 THE COURT: I agree to that sense on that. So you want to
20 have specific topics you want to ask her about again? I mean, I don't
21 know what she received. Like I said, there's 13,000 documents. I doubt
22 she reviewed all 13,000 documents herself. Maybe she did, but yeah.

23 MR. KARACSONYI: No, but her office -- I mean, may I ask
24 her some questions?

25 THE COURT: Sure. Absolutely.

1 BY MR. KARACSONYI:

2 Q Describe to us what's Appendix I? What does it purport to
3 be?

4 MS. HAUSER: Objection. Improper question.

5 THE COURT: Overruled. I'm giving him a little leeway, see
6 what we got on that so we get this done. You can go on.

7 MR. KARACSONYI: I'm trying to establish foundation.

8 THE WITNESS: A listing of documents received by our office
9 in this matter.

10 BY MR. KARACSONYI:

11 Q And who prepared this document list?

12 A Would have been various individuals that were assisting with
13 the report. I was involved. To some extent, I recall adding some
14 information. The entirety could be others in my office.

15 Q And were they people -- did anyone outside your office
16 create this list?

17 A No.

18 Q And to your knowledge, is this -- well, where would you have
19 -- where would your office have received these -- or come up with these
20 descriptions?

21 A From the documents themselves.

22 Q So in order to come up with these descriptions, you would
23 have to have the documents in your possession?

24 A Correct.

25 Q Okay. Do you believe that this is a true and accurate list of

1 the documents that were in your possession at the time that the report
2 was created?

3 A I do.

4 Q Do you have any information to suggest that this list is
5 inaccurate?

6 A I do not.

7 Q And were you subpoenaed in this case by Mr. Nelson's
8 counsel?

9 A I was.

10 Q And were you asked to produce the documents in your file?

11 A I was.

12 Q And you produced those documents held in your file?

13 A Yes.

14 MR. KARACSONYI: Okay. Your Honor, rather than having
15 her again --

16 THE COURT: And did the sources of documents come from?
17 Did you get it from LSN Trust, the ELN Trust, counsel? Where did the
18 documents come from? Did they come in multiple choices or did they all
19 come from Mr. Karacsonyi's office?

20 THE WITNESS: They would have primarily been from
21 Mr. Karacsonyi's office. I think as noted earlier, there were certain CDs
22 that were contained in our file. Those are noted here. Those were held
23 in our file previously. But the remainder of the documents would have
24 been from Mr. Karacsonyi's office.

25 THE COURT: And those have been documents that your --

1 Anthem would see?

2 THE WITNESS: Correct.

3 THE COURT: But you couldn't say that you relied on every
4 one of those documents personally; you didn't review those personally,
5 not all 13,000 documents; is that correct?

6 THE WITNESS: Not all me personally. My office would have.

7 THE COURT: Overruled. I'm going to let it be admitted on
8 that, but just as documents received. And you can ask specific
9 documents, if there's questions on that about documents if it's relevant,
10 but I'm not so sure all the issues on that would get the specific properties
11 and what they talk about. See what it has to say. But we'll note the
12 objection as it -- doesn't have personal knowledge of all those
13 documents or did not necessarily receive -- reviewed all those in her
14 decision. But we'll let you ask those questions and see which ones she
15 relied on.

16 MR. KARACSONYI: I have a couple other questions.

17 BY MR. KARACSONYI:

18 Q When you prepare an expert report, are you supposed to -- is
19 it your understanding you're supposed to provide a list of any
20 documents considered?

21 A Yes.

22 Q Okay. And where is that list as part of your report, of this
23 report?

24 A It's part of Appendix I to the documents received.

25 MR. KARACSONYI: Your Honor, I just move to admit

1 Appendix I.

2 MS. HAUSER: Objection, Your Honor.

3 THE COURT: It'll be admitted as Exhibit Number 1 -- or,
4 Appendix Number I. I don't know what exhibit that is. Will note the
5 objections about relevancy and accuracy on it, but let's get through it on
6 that and go through and see what the documents have to say and ask
7 some questions, see if the relevancy or any probative value it had. We
8 don't have a jury here so I'm not so worried about them hearing it. I
9 don't know what those documents are.

10 We got theory -- we got a lot of questions on specific
11 properties and what they relied and what she did not rely on. It's
12 pointed out in great detail, some issues about what she did not rely on
13 the ELN Trust, assuming that's for the High Country and other stuff she
14 should not rely on. So I gave them a lot of [indiscernible] So overruled.
15 You can go into it a little bit, but let's kind of speed it up.

16 MR. KARACSONYI: And Your Honor, it's just with the
17 understanding, too, that this is just for the fact that these documents
18 were purportedly received.

19 THE COURT: Were received, and that's -- so not necessarily
20 relied on. They go specifically document by document, specific
21 questions which she actually relied on it in her decision. But it's showing
22 Appendix I -- Appendix 1, a list of documents received by the Anthem
23 office.

24 BY MR. KARACSONYI:

25 Q Do you believe that all the documents received by your office

1 were reviewed by someone in your office?

2 MR. LUSZECK: Objection to the form of the question,.
3 Speculation.

4 THE COURT: Sustained at this time. Those are the
5 documents you received and we'll just leave it at that and move forward
6 on it then. You can go Mr. Karacsonyi.

7 BY MR. KARACSONYI:

8 Q Okay. When documents come into your office related to an
9 engagement, what is the --

10 THE COURT: What exhibit is that? Which one is this?

11 THE CLERK: 6-G, right?

12 MR. KARACSONYI: Appendix I to Exhibit 6-G.

13 THE COURT: Do you want it as a separate -- should we put it
14 as part of 6-G? We already got -- 6-G's already been admitted?

15 MR. KARACSONYI: No, 6-G has not been admitted. Just the
16 appendix.

17 THE CLERK: No. That's what you were doing right now.

18 THE COURT: Okay. Okay. All right.

19 THE CLERK: So we're just doing --

20 THE COURT: This Appendix --

21 THE CLERK: -- Appendix I.

22 THE COURT: -- I at this time.

23 BY MR. KARACSONYI:

24 Q When documents come into your office, is there a process
25 that you guys use to review those?

1 A Yes.

2 Q What is that process?

3 A Depending on scope of engagement, you know, individuals
4 at various levels are going to go through each of the documents in order
5 to catalog what is received, not received. For example, we talked about
6 Exhibit 1, Exhibit 2, both of which cataloged the tax returns and the
7 banking records received.

8 So somebody's going to open all the files and go through all of
9 them to note where those are and where they're at and put them on the
10 log of information. Other individuals will go through looking for
11 different types of information, and I will also go through files and look,
12 depending on what the scope is.

13 Q Okay. And is it your practice or the firm's practice to
14 consider each piece of information received and whether it's relevant to
15 your engagement?

16 A Yes. Everything should be ultimately opened and looked at.

17 Q Now, there were questions about which accounts you had
18 related to each of the parties' trust. Do you recall that?

19 A Which accounts were open?

20 Q Which accounts -- which account statements you had
21 pertaining to each of the parties' trusts?

22 A Yes.

23 Q And there were questions about which statements you did
24 not have?

25 A Yes.

1 Q Can you -- do you keep a lot of all these statements that were
2 considered in your analysis?

3 A Yes.

4 Q You testified that was Exhibit 1 to your report?

5 A Correct.

6 Q Can you tell to us which accounts for which you did have
7 statements? Can you list the accounts for which you did have
8 statements, who the account holders were?

9 A For any statement for an account?

10 Q Yes.

11 MR. LUSZECK: Can you repeat the question?

12 THE COURT: Do you want from a different one, or do you
13 want from ELN Trust or LSN Trust or general one?

14 BY MR. KARACSONYI:

15 Q Either trust.

16 A I have to refer to Exhibit 1.

17 Q Okay.

18 MR. LUSZECK: And what was the -- sorry, what was the
19 question?

20 MR. KARACSONYI: Can you provide to us a list of the
21 accounts for which she did have statements?

22 THE WITNESS: Okay.

23 THE COURT: If you reviewed that, would that refresh your
24 memory, if you had --

25 THE WITNESS: Yeah. I don't have that committed to my

1 memory.

2 THE COURT: Could you review that, see if it refreshes your
3 memory as to --

4 THE WITNESS: I may --

5 THE COURT: -- specific accounts that you had statements
6 from?

7 THE WITNESS: Yes. I would be referring to Exhibit 1 to tell
8 you which ones we received at least a statement for. Lynita Sue Nelson
9 Silver State Schools Credit Union, Share Account ending 73601; Silver
10 State -- Lynita Sue Nelson Silver State Schools Credit Union, Insured
11 Money Market 736 ending 50; Lynita Sue Nelson Month CDs ending --
12 Silver State Schools Credit Union ending 73620; and I believe there's a
13 Silver State Schools -- I'm sorry -- the CD was held in the name of the
14 LSN Trust; another Lynita Sue Nelson Silver State Schools Credit Union
15 checking 73680. We also received an account held in the name of Erica
16 Nelson c/o Lynita Nelson Silver State Schools Credit Union ending
17 99701; another account for Erica Nelson Silver State Schools Credit
18 Union CD 99720. We also received a Carly Nelson/Lynita Nelson Silver
19 State Schools Credit Union Regular Share ending 1201.

20 We received a statement for an ELN Trust Wells Fargo Prime
21 Checking 6521; an Eric L. Nelson Nevada Trustee d/b/a Nelson &
22 Associates Bank of America 2798.

23 MR. LUSZECK: Hey, can we just have the record reflect that
24 she's reading from the report as opposed to the --

25 THE COURT: Yeah, I think there's a lot on there. We actually

1 can review that. You need to --

2 THE WITNESS: Yeah. I need to refer to this to answer the
3 question.

4 THE COURT: All right. I know that she's reading often on it.
5 So you can read till we get done.

6 THE WITNESS: Lynita Nelson Bank of America Checking
7 9812; LSN Trust d/b/a Lindell Professional Plaza Checking 2730; an LSN
8 Nevada Trust Tierra Del Sol 2743; on Eric, an ELN Trust Wells Fargo
9 ending 6005; a -- I said that one -- an ELN Trust BNY Mellon Investment
10 Account ending 1700; an ELN Trust BNY Mellon ending 1780; an ELN
11 Trust Irwin Union Bank Money Market Account ending 3663; a Lynita
12 Nelson BNY Mellon ending 1710; a Lynita Nelson Silver State Schools
13 Month Jumbo CD ending 3621; a Lynita Nelson Nordstrom Bank credit
14 card ending 3983; a Lynita Nelson Dillard's 1256 credit card; a Gap credit
15 card for Lynita Nelson ending 6015; a Lynita Nelson Sam's Club account
16 ending 7352; an Eric and Lynita Nelson Bank of America credit card
17 ending 0883; a Dynasty Development Group account ending -- Business
18 Bank of Nevada ending 9116; a Paradise Bay, Mississippi LLC account
19 ending -- with Hancock Bank ending 0337; an Eric Nelson Auctioneering
20 account Bank of America 5446; an ELN Trust Bank of America checking
21 ending 5829; an ELN Bank of America Money Management brokerage
22 account ending 1310; an ELN Bank of America account ending 4215; an
23 ELN Trust Bank of America account --

24 MR. LUSZECK: Your Honor, can I just -- are we really going
25 to go through 50 pages of this? I don't understand what this exercise is.

1 THE COURT: I'm not --

2 MR. LUSZECK: She doesn't have personal knowledge
3 regarding --

4 THE COURT: I imagine trying to --

5 MR. KARACSONYI: That's not an appropriate objection.

6 THE COURT: I'm trying to say that basically you sandwiched
7 it to not rely on it. It wasn't very thorough. I think he's trying to show
8 there's a lot of accounts that she did rely on. The inference --

9 MR. LUSZECK: Maybe there was.

10 THE COURT: -- was from 2009 to 2013. Was it -- Ms. Lynita
11 did not provide documents so she could not trace it on that? I guess he's
12 just trying to show there's a lot of documents that they had statements
13 on. Can't we just --

14 MR. KARACSONYI: Yeah. They're trying to show the
15 deficiencies in her statements. She's -- I'm entitled to ask --

16 MS. HAUSER: Well, but Your Honor --

17 THE COURT: I think it speaks for itself as far as what she
18 relied on --

19 MR. LUSZECK: This is over --

20 THE COURT: -- specific questions he can ask.

21 MR. LUSZECK: -- a period of 10 or 12 years, and our
22 questions were specifically tailored. Just because there's a -- there's an
23 ELN Trust account listed on here doesn't mean she reviewed it --

24 THE COURT: Absolutely.

25 MR. LUSZECK: -- and doesn't mean she has personal

1 knowledge about it.

2 THE COURT: That's what I said. It says for documents, as he
3 said, that got received on that. What does she rely on? They can ask
4 specific questions about specific properties, what did you rely on?

5 MS. HAUSER: Well, and Your Honor, on a foundational level,
6 there's been no testimony that she even prepared this chart or the
7 accuracy or she has personal knowledge. So from an --

8 MR. KARACSONYI: Your Honor, she signed for the report.

9 MS. HAUSER: Mr. Karacsonyi, if I could please --

10 THE COURT: Let them finish. Let them finish. Let them
11 finish.

12 MS. HAUSER: -- finish. From an appellate perspective, this
13 is going to give the appearance that there's testimony as to the accuracy
14 of this information with a lack of foundation.

15 THE COURT: I think --

16 MS. HAUSER: I mean, we don't know.

17 THE COURT: The fact was there's a lot of documents that
18 they received on that. What she relied on specifically, let's get to the
19 meat of it, what they were on that. She can read all the accounts she got
20 and all the statement accounts. I can look at Exhibit 1. It's not a big
21 issue, but let's make a connection of what time frame, what property
22 relates to, so we can determine. That's the whole issue. The issue is not
23 the accounts; the issue is are the accounts community property or
24 separate property, where they came from. That's the issues on that.

25 So we don't need to go through all the exhibits. Exhibit 1

1 lists documents that were received; is that correct and accounts and
2 statements you got?

3 THE WITNESS: Exhibit 1 relates to the --

4 MR. KARACSONYI: Do you guys have any objection to
5 admitting Exhibit 1?

6 MR. LUSZECK: Yeah, I do.

7 MS. HAUSER: Yes.

8 MR. KARACSONYI: See, Your Honor, so they do -- she does
9 have to read --

10 MR. LUSZECK: Why are -- why are we going to admit it?

11 MR. KARACSONYI: Because -- Your Honor, this is --

12 MR. LUSZECK: She didn't prepare it.

13 MR. KARACSONYI: They just don't like the testimony. You
14 know, they spend two days cross-examining her, have her spend all
15 kinds of time as to what documents were not in her file. Now I ask her to
16 read which statement accounts she did consider so we can have an
17 accurate record, and now they're objecting.

18 THE WITNESS: Well, I --

19 MR. LUSZECK: She doesn't know what she considered.

20 MR. CARMAN: Your Honor --

21 MR. LUSZECK: That's her testimony.

22 MR. CARMAN: We actually tailored the questions to rebut
23 the allegations that she set forth in her expert opinions --

24 THE COURT: About specific property.

25 MR. CARMAN: -- that Eric was somehow responsible for the

1 inability to prepare this tracing. And we really limited it to Lynita's
2 accounts that she didn't prepare during that time period simply to rebut
3 that allegation.

4 MS. HAUSER: And Your Honor, I think it's important to note
5 they're upset that the report's not in. This is redirect. It was their burden
6 during her direct, and their case-in-chief, her direct, to admit the report
7 and to lay the proper foundation. To now after they asked a lot of
8 questions, we do a cross-exam on specific testimony of their expert, to
9 now want to come in and try to backdoor the report and portions of the
10 report is a problem. Then it should have been admitted in their direct.

11 MR. KARACSONYI: That's not -- these are all speaking
12 objections, which I get a lot of by three different counsel, all making the
13 same points over and over again.

14 THE COURT: One issue on that is the report -- the Court
15 already read the expert report. It's part of the properties -- for motion for
16 summary judgment. I think I wrote a decision on that with the
17 properties. All I'm worried about is what properties they're talking
18 about, which property they're claiming has a community property, and
19 can they trace this showing me community property.

20 I'll concede there's a lot of documents, 23,000 documents or
21 whatever, people going through them. So she had a lot of documents
22 that were in the report, but we only focus on things that she relied on
23 and make a decision whether it's community property or not. I mean,
24 that's the issue on that.

25 The points made, there's a lot of documents. She said there

1 was a list on that with Exhibit Number 1 on it. Of course, there was a lot
2 of documents that there -- and so I'll take it for granted that she just did
3 not rely on just a handful of documents. And your point was to show
4 that there was a lot of documents she relied on, and it wasn't the fact
5 that the estate -- they indicated the documents she did not rely on.
6 You're just trying to make a point that there's a lot of documents that she
7 received. What she relied, again, she can testify to specifically, what
8 accounts she relied to make an opinion.

9 But I'd really like to focus on what her opinion was with
10 specific properties so we get this done. But with the Exhibit 1, I'm going
11 to have that Exhibit 1 admitted just for the point of documents or
12 accounts she said that had statements from, simply from that, accounts
13 and statements, and see if you can make the connection specifically to
14 properties to rebut stuff or to redirect questions that were raised by Mr.
15 Luszeck or Carman.

16 So that will be admitted as Exhibit number 1 solely for the
17 purpose of what accounts he said that they got received and accounts
18 with statements as far as your personal knowledge of it. I think we can
19 get to that on specific questions as to specific properties as we need to.
20 Okay. That way we'll expedite this and move on.

21 So we'll let -- note the objections as to Exhibit number 1. The
22 Court will admit the accounts and the statements just so those were
23 accounts and documents with statements that she said that they did
24 receive at the Anthem, whether she has personal knowledge of them.
25 And what she prospectively reviewed in herself in her opinion, she can

1 testify to that through -- and redirect, anything you want to address on
2 that that was addressed in the cross-examination that you want to
3 rehabilitate, any testimony from that point on.

4 But we'll let Exhibit number 1 -- we'll note the objections on
5 that as to relevancy and the fact that they cannot verify the accuracy
6 thereto but solely simply that there's documents that were received.
7 And the report on that, whether accurate or not, we can ask about
8 specific properties or what account attached to what to see if there's a
9 community property claim to specific properties or accounts.

10 [Defendant's Exhibit 1 admitted into evidence]

11 MR. CARMAN: Within your comments, Your Honor, is it safe
12 for us to assume that you're going to disregard the hearsay statements?

13 THE COURT: Yeah.

14 MR. CARMAN: Like, there's statements in here that the
15 document needs to be requested, things like that.

16 THE COURT: Absolutely. I'm [indiscernible] purpose on
17 that, the fact that he said that the inference of that, to not rely on -- the
18 report wasn't very thorough. She only relied on limited documents. I
19 think her point is there's a lot of documents that were in there that she
20 relied on. So that's what I'm letting it in for, just for that.

21 MR. KARACSONYI: That's it, just to show how many -- that
22 she had statements for various accounts.

23 THE COURT: Yeah. Yeah. Because she indicated that from
24 2009 to 2013, she could not do a full tracing. It is misleading to you
25 because she could not get all the statements, bank statements and tax

1 returns. You're showing that to show that there was a lot of documents
2 prepared so it wasn't -- so I'll leave it in for that purpose on that. I think
3 that speaks for itself with all the documents.

4 BY MR. KARACSONYI:

5 Q What is your understanding of who managed the ELN Trust
6 during the tracing period?

7 MR. LUSZECK: Objection to the form of the question.

8 THE COURT: As far as managed on that or who was in -- as
9 far as managed, who owned it or who was the --

10 MR. KARACSONYI: Who managed it?

11 THE COURT: Did they have a manager?

12 MR. LUSZECK: Same objection.

13 THE WITNESS: My understanding is Eric Nelson.

14 BY MR. KARACSONYI:

15 Q Do you know who the investment manager of the ELN Trust
16 was during the tracing period?

17 MR. LUSZECK: Objection to the form of the question.

18 MR. CARMAN: Objection. Hearsay. I mean, she -- it's calling
19 for hearsay.

20 THE COURT: If you don't know we can ask. Does she know?

21 MR. KARACSONYI: She's a --

22 THE COURT: Does she know? Did she ask this question, or
23 she did? Did you get the question? Did you ask the question, who was
24 the manager, who was the investment manager? Do you know that or is
25 that what people told you? Is that what counsel told you or did you ask

1 those questions or verify it? I don't know. Did you?

2 BY MR. KARACSONYI:

3 Q Have you seen --

4 THE COURT: Do you know who the investment --

5 THE WITNESS: I don't specifically recall. I recall seeing it
6 referenced in documents, but who the individual was, I don't recall.

7 BY MR. KARACSONYI:

8 Q Have you seen a copy of the ELN Trust?

9 A I have.

10 Q And do you know who's listed as the investment manager?

11 A I'd have to review --

12 MR. LUSZECK: Objection to the form of the question.

13 There's no investment manager, Your Honor.

14 THE COURT: I don't know if there is or not.

15 MR. KARACSONYI: Excuse me.

16 THE COURT: I don't know who it is.

17 MR. KARACSONYI: Investment trustee.

18 BY MR. KARACSONYI:

19 Q Do you know who the investment trustee of the ELN Trust is?

20 A I'd have to review the doc. It's not listed in my report.

21 Q If Eric Nelson was listed as the investment trustee in the ELN
22 Trust, would that surprise you?

23 A No.

24 Q If one manages a company, would you consider that
25 personal services?

1 A I would.

2 MR. LUSZECK: Objection to the form of the question.

3 THE COURT: Yeah. You want to kind of clarify what
4 managing --

5 MR. KARACSONYI: Form is not a proper objection, Your
6 Honor, first of all --

7 THE COURT: Well, why don't you -- I don't [indiscernible]
8 someone manages if -- why don't you restate the question. I wasn't sure
9 I understood what the question was.

10 BY MR. KARACSONYI:

11 Q If one manages a company, would you consider that
12 personal services?

13 A Yes.

14 MR. CARMAN: Objection, Your Honor. It's a vague question.

15 MR. KARACSONYI: But this is the kind of questions Mike
16 Carman asked her for days on -- or for hours about -- or I don't
17 remember how long -- about is this personal services, is this income, et
18 cetera.

19 THE COURT: Well, why don't you ask her about specific ones
20 on that and specific services she did on that, not one on management-
21 specific, service that was if there was \$100,000 service fee or
22 management fee? You can ask her specific questions about that to show
23 where it came from and who did it and why they did it to see if it's
24 community property or separate property. But we'll get the specifics. As
25 far as someone's a manager, I don't know if that means there are fees or

1 not, especially -- let's get specifics. What's the management fee we're
2 talking about, what time frame and who did it and what they did the
3 services for, if she knows.

4 MR. KARACSONYI: Well, Your Honor, we have Mr. Nelson's
5 testimony on that, and we're going to rely on that. But as far as this
6 witness, there were a lot of questions asked of her as to what type of
7 services would require compensation and what type of services wouldn't
8 require compensation. And so I'm just trying to revisit the testimony
9 that was elicited from Mr. Carman on that subject.

10 THE COURT: Well, I tell you, a lot of it was that this listed as
11 management fees, and I think they asked Mr. Gurdy, too, who decided
12 management fees. And he said that was a category that was put on by
13 somebody, but no one got in details of what management fees or exactly
14 what it was. It was just under a caption management fees.

15 If you want to go into specifics on it, management fees, I
16 think it says management fees, I imagine one who manages would be
17 the one to get to management fees on that. But do they know exactly
18 what the fee was and what it was for. But I think it makes common
19 sense if someone's a manager, if you get management fees, then when
20 you get specific, what the management fees were for. Was it on behalf
21 of Ms. Lynita, was it on behalf of the LSN Trust, was it on behalf of the
22 ELN Trust, was it on behalf of Mr. Eric Nelson himself, Nelson Auctioneer
23 management fees? But generally management fees are for managing a
24 company. I mean, that's -- so I'm going to leave it at that. The
25 management fees are, again, specific management fees, what they were

1 for, when they were done, get the times frames. If we get the specifics
2 on that.

3 But there was things about the management fees. There's
4 been several testimony as to management fees, and you want to go
5 specific ones on that. I think she already testified to management fees,
6 and if you want to rehabilitate on some specifics on that. But
7 management fees are management fees. We never got the details as to
8 exactly what the fees were for. I've been waiting for actually going
9 there. I think Mr. Nelson's testimony is something sometimes they were
10 from independent contractors that were doing stuff in Mississippi, I
11 thought, but I forgot.

12 But yeah. I will note that manager, management fees kind of
13 speaks for itself, and we'll get into details on that. But let's move on so
14 we kind of get through it on any specific ones you have management
15 fees. Becuzase that's the question. There's several categories of
16 management fees, I think. Yeah.

17 MR. KARACSONYI: Well, I was just trying to -- you know,
18 there was the point made that if an entity provided services, you know,
19 who should be compensated. And I was just trying to explore some of
20 that.

21 THE COURT: Yeah. I'll give you a little leeway on that, but
22 the management fees are management fees, and say specifically what
23 management fees we're talking about, when they accrued and what they
24 were for and who did it. I'll give you a little leeway. You can go a little
25 bit. So we move on.

1 BY MR. KARACSONYI:

2 Q If Eric was providing services through an entity he managed,
3 is that something he should be compensated for?

4 MR. CARMAN: Objection to the form of the question.

5 MR. KARACSONYI: That's not an objection.

6 THE COURT: Overruled. Let's just go -- let's get on.

7 Basically you can answer it.

8 THE WITNESS: I believe so, yes.

9 BY MR. KARACSONYI:

10 Q Even if he's rendering services through an entity?

11 A Yes.

12 Q If you --

13 MR. CARMAN: Your Honor, and this is all outside of her
14 report. And he -- this is --

15 MR. KARACSONYI: No, this is right -- this is directly on the
16 questions they asked. These were all the types --

17 THE COURT: You can ask if she determined on that what the
18 management fees -- in a report on that, what she determined, how she
19 determined it on that, but we'll get all the management fees and
20 specifically with the testimony, what it was done for on that. But
21 basically, whoever performed management fees you felt should be -- get
22 management fees if they did it, right? Is that where we're going with it?
23 Right. You can continue. I'll give you a little leeway, but otherwise you'll
24 never get done with this.

25 MR. KARACSONYI: I'll be quick on this.

1 BY MR. KARACSONYI:

2 Q If you bill through Anthem Forensics, should you be
3 compensated for the work you did?

4 A I would hope so, yes.

5 Q Would it be any different for Eric if he did work in the name
6 of Nelson & Associates?

7 MR. CARMAN: Objection, Your Honor. Calls for speculation.

8 THE COURT: Overruled.

9 THE WITNESS: No. It wouldn't be any different.

10 BY MR. KARACSONYI:

11 Q Or Eric Nelson Auctioneering?

12 A No. It wouldn't be any different.

13 Q Or any other entity?

14 A Same answer.

15 Q Were you aware that Eric testified both trial and in deposition
16 before your current engagement?

17 A Yes, I'm aware of that.

18 Q And did you consider portions of that testimony?

19 A Yes, I did.

20 Q Now, can you turn to Exhibit 4 of your report?

21 A I'm there.

22 Q Do you recall Mr. Luszeck asking you about this list of
23 property here in Exhibit 4?

24 A I believe it was Exhibit 3.

25 Q Excuse me -- Exhibit 3.

1 A Yes, I recall that questioning.

2 Q Yeah, excuse me -- Exhibit 3. Okay. And he -- you had listed
3 here that the heading was Eric L. Nelson Nevada Trust as of May 31,
4 2001?

5 A Yes.

6 Q Okay. And are you opining that all of this property was held
7 in the ELN Trust as of May 30, 2001?

8 A No.

9 Q Okay. You testified a couple of weeks ago that this was to
10 list all the possible property as of that date; is that correct?

11 A I would agree with that.

12 Q Okay. Are you expressing an opinion as to whether these
13 properties constitute the community properties of the parties or separate
14 property?

15 MS. HAUSER: Objection.

16 MR. CARMAN: Objection, Your Honor. The document
17 speaks for itself, and it does render an opinion regarding the interest
18 held at the time.

19 MR. KARACSONYI: No, it doesn't.

20 MS. HAUSER: It --

21 THE COURT: Overruled. You can answer the question.

22 THE WITNESS: No.

23 BY MR. KARACSONYI:

24 Q Did you -- Mr. Luszeck had asked you about had you
25 performed any analysis of whether or not Cleopatra Gaming

1 Management, LLC was community property. Do you recall that?

2 MS. HAUSER: Objection. Misstates the testimony.

3 MR. KARACSONYI: That's not misstating the testimony. He
4 just asked these questions.

5 THE COURT: They bought the Cleopatra, through all the
6 Cleopatras, they went through on that and she went through all the
7 different Cleopatras, going through all that issues and basically said she
8 was not -- did not make a community property analysis as to those
9 entities, I think is what she was saying from her testimony, if I
10 remember. Is that kind of what she said? She made no opinion on that; I
11 believe is what she said as to community property; is that correct?

12 THE WITNESS: Correct.

13 BY MR. KARACSONYI:

14 Q And similarly, did you make any opinion as to whether
15 Cleopatra Gaming Management, LLC was separate property of either
16 property?

17 A I did not.

18 Q Okay. What about Dynasty Development Group, LLC? Did
19 you render any opinion as to whether that was the separate property of
20 either party?

21 A I did not.

22 Q Cleopatra's Palace, LLC?

23 A I did not.

24 Q Cleopatra's Club Casino, LLC?

25 A I did not.

1 Q Cleopatra's Wild Goose Casino, LLC?

2 A I did not.

3 Q Cleopatra's Cable Bridge Casino, LLC?

4 A I did not.

5 Q Cleopatra's Wild Grizzly Casino, LLC?

6 A I did not.

7 Q Hacienda Casita, LLC?

8 A I did not.

9 Q Evanston Horse Racing, Inc?

10 A Whether it was separate property, I did not.

11 Q Wyoming Downs Rodeo Events, LLC?

12 A I did not.

13 Q There were questions about your reliance on the decree of
14 divorce and the credibility determinations made therein. Do you recall
15 those questions?

16 A I do.

17 Q Do you believe that it would be appropriate for you to
18 question the credibility determinations made by this Court?

19 A No.

20 Q Okay. Is that something that you would have considered to
21 be inside the scope of your engagement?

22 A No.

23 Q Do you feel like you're bound by the Judge's determinations
24 on matters of credibility or fact?

25 A I believe it's the starting foundation. I don't have any

1 indication to refute it. That would be outside my scope.

2 Q Do you know whether property distributed from either
3 party's trust is community or separate property pursuant to the terms of
4 the trust?

5 MR. CARMAN: Objection. It calls for speculation.

6 MR. KARACSONYI: I'm asking her if she knows.

7 MS. HAUSER: Calls for a legal conclusion.

8 THE COURT: I don't know. You said you had reviewed both
9 trusts; is that correct, the document?

10 THE WITNESS: Yeah. I don't recall.

11 THE COURT: Overruled. She can answer it.

12 BY MR. KARACSONYI:

13 Q Okay. So there were questions about whether or not
14 distributions from either trust to pay expenses, whether those were
15 considered by you as community compensation. Do you recall that?

16 A I recall questioning, yes.

17 Q Do you know if property distributed from either party's trust
18 is each party's community or separate property pursuant to the terms of
19 the trust?

20 MR. LUSZECK: Objection. Calls for a legal conclusion.

21 MR. KARACSONYI: I'm just asking her if she knows.

22 MR. CARMAN: And again, Your Honor, it calls for
23 speculation. She already said she doesn't recall.

24 MR. LUSZECK: She's already testified she's not an expert
25 and --

1 THE COURT: I think you said you didn't recall; is that
2 correct?

3 THE WITNESS: Yeah. I don't recall the terms of the trust as I
4 sit here.

5 BY MR. KARACSONYI:

6 Q So do you know if -- do you know one way or another
7 whether property paid for either party's personal expenses would be
8 separate property or community property outflows?

9 MR. CARMAN: Objection. Same objection, Your Honor. It
10 calls for a legal conclusion and it's speculative. She's already testified
11 she doesn't know the terms of the trust.

12 MR. LUSZECK: And in addition to that, she's already testified
13 she's not an expert in trust and estate law.

14 THE COURT: She's indicated on those she [indiscernible] on
15 that. But sustained this time. As far as that, you can make your
16 arguments as far as that that she clearly did not consider those issues. Is
17 that correct as far as --

18 THE WITNESS: Yeah. I don't have it committed to memory.

19 BY MR. KARACSONYI:

20 Q Now, there were questions about how transfers between two
21 entities of the same trust, such as the ELN Trust, could be an example of
22 comingling. Can you explain that to the Court?

23 A Yes. So the extent to which an --

24 MR. LUSZECK: Objection. Asked and answered I think the
25 first question, Your Honor. A lot of these questions are the exact same

1 things they asked her the first time.

2 THE COURT: I'm going to give him a little leeway on it.
3 Define your comingling. It talked about payments from one trust for the
4 benefit of the other trust. It's comingling to the detriment to the other
5 trust on that. You talked of comingling but did you want give more fair a
6 definition of what you consider comingling in your report?

7 MR. LUSZECK: And it calls for a legal conclusion. She's
8 testified she's not an expert in trust and estate.

9 MR. KARACSONYI: Using her definition, we went --

10 THE COURT: Overruled. I'll let her use her definition on that.

11 THE WITNESS: So using the definition of comingling as
12 essentially mixing, viewing it as pouring, you know, into -- from one pot
13 into another and what's the contents of that pot. My example,
14 specifically I think I've discussed, between ELN-related entities, while
15 both owned by the ELN Trust -- for example, if Dynasty Development
16 Group has received funds related to LSN assets, such as the RV park or
17 via transfer from another entity and then it then transfers to other
18 entities, that was my example of comingling. Those funds, even though
19 between two ELN Trust-related entitles or held entities transfer funds, it's
20 the context of the funds that are within one of the entities.

21 BY MR. KARACSONYI:

22 Q You were questioned about the body of your report and why
23 you didn't mention Harbor Hills was purchased by ELN Trust or with
24 monies from the ELN Trust; do you recall that?

25 A I do.

1 Q Okay. Is the source of funds for the purchase of the property
2 reflected in your report?

3 A A substantive portion of the funds are noted in relation to
4 either Exhibit 9 or 10.

5 Q And were Exhibit 9 and 10 part of your report when it was
6 produced?

7 A Yes.

8 Q And can you explain that analysis and how that was
9 reflected, the purchase of the Harbor Hills, the funds for the purchase of
10 the Harbor Hills residence, how it was reflected in your analysis that was
11 included in your exhibit?

12 MR. LUSZECK: Asked and answered, Your Honor.

13 THE COURT: Overruled. You can answer.

14 THE WITNESS: Yes. So the funds, I believe approximately
15 \$568,000, were noted as coming from an ELN Trust account. However,
16 given the -- in that specific example for the exhaustion, because it was
17 towards the purchase of an asset held in the LSN Trust name, we
18 reduced the community balance within that exhaustion method to reflect
19 the use of community funds.

20 MR. CARMAN: I object to the use of the term community,
21 Your Honor.

22 MR. KARACSONYI: Under her definition.

23 MR. CARMAN: She's already testified she didn't render an
24 opinion regarding the community nature.

25 THE COURT: It's on notice as far as community property,

1 comingling, those are legal terms on that. So just use her vocabulary for
2 her report on that, not in the legal definition.

3 BY MR. KARACSONYI:

4 Q Okay. And into -- well, let me ask you this. Can you look at
5 the deed 7Ns for the Harbor Hills residence?

6 A One second. I think it's a different volume, 19 maybe? Okay.
7 I'm in 7Ns.

8 MR. KARACSONYI: Okay. Court's indulgence.

9 BY MR. KARACSONYI:

10 Q And can you turn to the deed at 11001.

11 A Okay.

12 Q And in whose name was the property acquired?

13 A The LSN Trust.

14 Q And when you go to 11005, the declaration of value.

15 A Yes.

16 Q What is the total value sales price of the property listed?

17 A 680,000.

18 Q And do you believe you accurately reflected the legal owner
19 of the -- the legal title acquirer in your testimony?

20 A Yes, pursuant to this deed.

21 Q All right. If you go to Exhibit 50.

22 A Okay. I'm there.

23 Q Okay. And you were asked whether Lynita admitted to you
24 that she transferred this to Eric upon his suggestion to keep our kids in
25 their home. Do you recall that -- whether she indicated that in an email

1 to you?

2 A I recall that questioning. Yes.

3 Q Okay. And you indicated that that's what she had written in
4 in the email to you?

5 A In this email, yes.

6 Q Okay. And did she mention another reason that it was
7 transferred?

8 A There's other indications in this email.

9 Q All right. On that where she said that "I transferred this to
10 Eric upon a suggestion to keep our kids in their home," did she list any
11 other reason?

12 A Yes.

13 Q And what was that?

14 A It continues, "Also, in preparation for splitting assets."

15 Q Okay.

16 A He --

17 MR. LUSZECK: I just object based on hearsay, Your Honor.
18 And I don't believe this exhibit has been admitted as an exhibit.

19 MR. KARACSONYI: If he had -- he referenced this during his
20 testimony and this specific part, I have a right to question her about any
21 part that pertains to the same. He cut the question --

22 THE COURT: You can -- finish up. Let's go.

23 MR. CARMAN: Objection. Your Honor, you can elicit
24 hearsay from an opposing party. You can't elicit your own client's
25 hearsay. His client can explain it on the stand, but --

1 MR. KARACSONYI: But you can admit any parts that are --
2 that in fairness ought to be admitted in conjunction with the original
3 statement. That's in the rules.

4 THE COURT: You can go on on that, but Ms. Lynita can
5 speak for --

6 MR. KARACSONYI: That was it.

7 THE COURT: -- exactly what her purpose was for
8 transferring. That's the best.

9 BY MR. KARACSONYI:

10 Q There were a number of questions whether you did an
11 independent investigation of the facts contained within your report.

12 A I generally recall, yes.

13 Q Did you review the discovery that was provided?

14 A Yes.

15 Q Okay. If a document was provided --

16 MR. LUSZECK: Objection. That is vague, Your Honor.

17 THE COURT: There's a lot of documents on that, 23,000 up
18 there that were transactions. But --

19 BY MR. KARACSONYI:

20 Q Did you investigate these transactions within the scope of the
21 documents provided to you during discovery?

22 MR. LUSZECK: Objection. Vague.

23 THE COURT: I don't think -- I don't --

24 MR. KARACSONYI: That's not vague.

25 MR. LUSZECK: What transaction are we talking about?

1 MR. KARACSONYI: All of the transactions.

2 THE COURT: Is there testimony --

3 MR. LUSZECK: You're asking --

4 THE COURT: That she investigated every transaction, was
5 that question you have on that -- her report speaks for itself what she
6 did.

7 MR. KARACSONYI: No, that she opined about it in her
8 report. Okay. I'll make it really clear.

9 THE COURT: I mean, I imagine she -- her report was done in
10 good faith and she put in her thing how she got where she thought, what
11 she relied on or didn't on that. But I'll take for on the fact that you relied
12 on documents, or you analyzed them the way you thought they were on
13 that, but you could not have reviewed very document, I would guess, or
14 investigated every one, I would guess. That was submitted in discovery.
15 Is that accurate?

16 THE WITNESS: It's generally fair, yes. We used the
17 discovery.

18 BY MR. KARACSONYI:

19 Q With respect to the transactions that you opined about in
20 your report and during your testimony, did you review the discovery in
21 relation to those transactions?

22 A Yes.

23 MR. LUSZECK: Objection. Vague. Once again, Your Honor,
24 there's tens of thousands of pages of documents, and she's already
25 testified she didn't review everything.

1 MR. KARACSONYI: But that's not the question. That's not
2 the question.

3 THE COURT: That's not the -- just answer it on the basis. He
4 can ask questions about specific properties, what she relied on. I'm sure
5 -- she's a professional. She's trained on that, that's relied on documents.
6 I'm not sure she could have reviewed every document she relied with
7 specific questions. Making this opinion, what did you rely on? I think we
8 went through a lot of those in detail already, what she relied on to get
9 her opinions on that, or what she didn't rely on as well. So I'll give you a
10 little leeway. Let's get this done.

11 MR. KARACSONYI: All right. I'll just move on to Russell
12 Road, Your Honor.

13 BY MR. KARACSONYI:

14 Q You were asked about the Oasis Baptist Church as a
15 purchase of the Russell Road property; do you recall that?

16 A I do.

17 Q And you were asked whether if that fell apart, you know,
18 whether that should be reflected in your report; do you recall that?

19 A I do.

20 Q If the Oasis Baptist Church's purchase fell apart post-divorce,
21 would you have included that in your report?

22 A No.

23 Q Why not?

24 A Because it's outside the scope of the review period.

25 Q If Russell Road was sold to another buyer for \$6 million in

1 2020, would that be reflected in your report?

2 A It would not.

3 Q Can you recall being asked about the Tropicana property and
4 the repayment of the \$700,000 promissory note?

5 A I do.

6 Q Did you observe repayment of the \$700,000 promissory
7 note?

8 A I did not, no.

9 MR. KARACSONYI: And I want to show you what we'll mark
10 as Exhibit -- whatever my next exhibit is.

11 THE CLERK: Your next one?

12 MR. KARACSONYI: Yes, please.

13 THE CLERK: It would be eight A's.

14 MR. KARACSONYI: May I approach, Your Honor?

15 THE COURT: Yes.

16 MR. KARACSONYI: What we'll mark as eight A's.

17 THE WITNESS: Thank you.

18 MR. KARACSONYI: Well, I guess one for the Court, too.

19 [Defendant's Exhibit AAAAAAAAA marked for identification]

20 BY MR. KARACSONYI:

21 Q Are you familiar with this document?

22 A I recall this document, yes.

23 Q Was this considered in your analysis of the Tropicana
24 property?

25 A It was referenced in our report, yes.

1 Q In relation to which property?

2 A The transfer of this Mississippi and Las Vegas properties, and
3 I believe there's a footnote in our report that specifically states that the
4 Las Vegas property at that time was the Tropicana property.

5 MR. KARACSONYI: And Your Honor, I'd move to admit this.
6 This was admitted at the prior trial. In fact, it's even referenced in the
7 decree of divorce, these minutes that were entered by the Court.

8 THE COURT: Any objections to eight A's?

9 MR. LUSZECK: I mean, I don't know if she has any personal
10 knowledge regarding this, Your Honor.

11 MS. HAUSER: And there's no Bate label for us to even verify
12 if that's the actual document she considered, Jeff.

13 THE COURT: Your testimony was on that. That goes to --
14 referred in the report, you said on that is the Las Vegas-Mississippi
15 property transfer, and you believe that to be Tropicana; is that --

16 THE WITNESS: Yes.

17 MR. LUSZECK: I mean, the Tropicana property is not
18 referenced in here, Your Honor.

19 MR. KARACSONYI: That's something they can ask her on
20 their response.

21 THE COURT: All right. Want to have to go to recross and re-
22 redirect, so it's --

23 MS. HAUSER: And Your Honor, I just want to also point out
24 on this, there's no Bates label for us to even verify if this was the
25 document indeed she reviewed, or any way for us to know. I mean, it's

1 just a random document.

2 MR. KARACSONYI: These are the trust minutes that were
3 produced to us by the ELN Trust. Mr. Luszeck is familiar with, I believe,
4 these special minutes because he was here for the first trial. It's
5 referenced in the -- this and to level off the Trust was even referenced in
6 the decree of divorce and argued about.

7 MS. HAUSER: But Your Honor, if these were produced by
8 Mr. Luszeck, all documents he has produced have Bates numbers on
9 them.

10 MR. KARACSONYI: They could have been produced during
11 trial, during the last trial. I don't recall.

12 MS. HAUSER: Well, and I can't verify this was even
13 produced during discovery. I mean, if they can give us a time frame. But
14 to just give us minutes from 2004 that we can't authenticate. There's no
15 Bates or anything that these are even true and accurate. As you
16 indicated previously, there's been thousands of pages of documents --

17 MR. KARACSONYI: Do we want a break and go through --
18 Your Honor, is it necessary to break and go through Anthem's whole
19 production so we can find the specific document that was already
20 admitted as part of the prior trial?

21 THE COURT: Well, I don't know if it's already been there on
22 that. Let's just move on on that one. We'll note their objection for it.
23 But basically it's your understanding, your testimony is that was
24 referenced in your report, the Las Vegas-Mississippi property transfer
25 and your belief it was -- your understanding it was for the Tropicana

1 property and talked about the Las Vegas property; is that --

2 THE WITNESS: That's correct, Your Honor.

3 THE COURT: All right. Why don't we just leave it at that and
4 move forward on it then?

5 BY MR. KARACSONYI:

6 Q Okay. And would this suggest then --

7 MR. KARACSONYI: So is it admitted, Your Honor?

8 THE COURT: Yeah. We'll note the admission on that, just
9 based on our understanding, but again, we'll check to see if it has
10 already been provided, so I get a chance to check it and see if it was, and
11 if it's not Bates stamp it. Basically her testimony speaks for itself.

12 MS. HAUSER: Are they going to -- are they -- is the
13 defendant going to give us where they got it from? I mean, we're talking
14 tens of thousands of pages to go through. I mean --

15 MR. KARACSONYI: We got it in our file from documents that
16 were produced by opposing parties.

17 THE COURT: I hope that's where they got it from.

18 MS. HAUSER: But if they were produced by us, all the
19 Anthem documents --

20 MR. KARACSONYI: I didn't create these.

21 THE COURT: Well, they're saying it wasn't Bate stamped, so
22 they didn't believe it was produced.

23 MS. HAUSER: Well, Your Honor, every document that
24 Anthem considered that was produced to us and we produced to
25 opposing counsel --

1 THE COURT: Was Bates stamped.

2 MS. HAUSER: -- was Bates stamped. So if this was
3 something that Anthem considered in their report, then there would be a
4 PL-something Bates number on it, not just a blank one. So I think that's
5 their duty to tell us, hey, this is where we got it. It's not our duty to go
6 through Anthem's files to --which are kind of unorganized.

7 MR. KARACSONYI: You know, you're --

8 MS. HAUSER: I mean, given the amount of work --

9 MR. KARACSONYI: It's odd, though, Your Honor --

10 THE COURT: Overruled. Let's go. Let's move on. It'll be
11 admitted. We'll note the objection on that. But we'll get through all this
12 stuff; otherwise we'll never get done on that. Her testimony can speak
13 for itself.

14 You said it's referenced in the report. The report will speak
15 for itself, those issues on that, but your understanding that was the
16 Tropicana property, your understanding, the Las Vegas-Mississippi that
17 you were referring to?

18 THE WITNESS: Yes.

19 THE COURT: We'll leave it at that then. Admit eight A's,
20 we'll note the objection.

21 [Defendant's Exhibit AAAAAAAA admitted into evidence]

22 BY MR. KARACSONYI:

23 Q And if that was the case, would that seem to indicate that the
24 transfer of the Tropicana property from the LSN Trust to the -- or from
25 the ELN Trust to the LSN Trust was an error?

1 MR. LUSZECK: Objection to the -- the document speaks for
2 itself, Your Honor.

3 THE COURT: I agree with you on that, the document -- is this
4 eight A's?

5 THE CLERK: Yes.

6 THE COURT: This says that all Mississippi and Las Vegas
7 property that is owned by the Trusts would be transferred to the LSN
8 Trust in exchange for final payment due on loans outstanding from 2002
9 into level off trust. So yeah. The document speaks for you.

10 BY MR. KARACSONYI:

11 Q Okay. If you can go to Exhibit 2.

12 A 2-R?

13 Q Number 2.

14 A Yeah, this is says 2-R. Is there a non 2-R?

15 Q It's their Exhibit 2.

16 A Yes. It says 2-R.

17 Q 2R, yes, sorry.

18 A I'm there.

19 Q Can you go to Roman Numeral XII?

20 A I'm there.

21 MR. LUSZECK: I'm not sure I'm there.

22 MR. KARACSONYI: No, 2, Exhibit 2 there -- it's Exhibit 2.

23 MR. LUSZECK: I've got 2. It's the Brian Head, right?

24 MR. KARACSONYI: It's the Brian Head appraisal.

25 MR. LUSZECK: Yeah. You said Roman Numeral --

1 MR. KARACSONYI: XII.

2 THE WITNESS: XII.

3 MR. LUSZECK: Oh, okay. Got it.

4 THE WITNESS: XII.

5 MR. LUSZECK: Okay. Thank you.

6 BY MR. KARACSONYI:

7 Q Sorry. I'm getting there. Okay. And there was a question
8 about on which parcel the actual cabin sits. Do you recall that?

9 A I do.

10 Q Okay. The parcel listed there in the report, which contains
11 the log home is Partial C646-4; do you see that?

12 A I see --

13 MR. CARMAN: Objection, Your Honor. This is improper
14 question. He's arguing. He's not questioning the witness.

15 THE COURT: Overruled. Let's get on. We talked about the
16 parcels with the Brian Head. Let's go a ways and we'll get this done.

17 THE WITNESS: I see that.

18 THE COURT: And that will be legal argument summation.

19 BY MR. KARACSONYI:

20 Q If you go to Page 25.

21 A I'm there.

22 Q Okay. And do you see general description in the box?

23 A Yes.

24 Q What was the year of building of the log home?

25 A 2000.

1 MR. CARMAN: Again, Your Honor, this is an objectionable
2 issue. He's trying to elicit hearsay from this witness. It's not a proper
3 line of question.

4 MR. KARACSONYI: This is an already stipulated exhibit that
5 was introduced by them, Your Honor.

6 MR. CARMAN: Then it's in. Why is -- again, eliciting hearsay
7 from a witness to bring this to the Court's attention during her testimony
8 is not proper.

9 MS. HAUSER: Without even laying a foundation if she can
10 say it's in her report.

11 THE COURT: Has that been admitted already?

12 THE CLERK: Yes, 2-R has been admitted.

13 THE COURT: I'll read the exhibits, and unload the argument,
14 you guys can highlight what you want me to read in more detail on that.
15 But if it's already in there, I don't need her to read the exhibit to me. But
16 if there's more you want to expand to, I'm fine on it. There was some
17 testimony about the property and Brian Head on that, but if you want to
18 get to points on that, I will read the exhibits and anything you argue, you
19 want me to highlight, I'll do that. So I don't necessarily need her to read
20 everything in the file.

21 MR. LUSZECK: The problem I have is it's leading. I can see
22 that I asked these questions during cross because it wasn't included in
23 the report, and counsel knows it wasn't included in the report and they're
24 trying to rehabilitate her by leading her to specific documents that she
25 didn't consider and didn't put in the report to make it appear as of now

1 that she had this personal knowledge when she wrote a report -- well,
2 when Anthem Forensics wrote the report. And it's improper. It's a
3 leading question.

4 MR. KARACSONYI: Your Honor, they tried to create an
5 impression that she was --

6 THE COURT: Let's go. Let's go. Ask the question. Let's
7 move on. We didn't get anything on that. I'm going to cut through all
8 this stuff and make detailed findings on that, but let's get on, otherwise
9 we're going to be spending three hours on objections and not getting
10 done. Get your stuff out there so you can develop your theory of the
11 case in fact.

12 But I will read the exhibits. I will clarify the exhibits on that,
13 so I don't need people to read the exhibits to me to try to do it. Really
14 don't want to rehabilitate any -- your witness on anything specific, but
15 Exhibit 2R speaks for itself, and with the cabin and parcel built 2000. But
16 anything you want to highlight on that, you can go ahead.

17 BY MR. KARACSONYI:

18 Q And looking at -- then turning to Exhibit six Rs.

19 A On there?

20 Q Can you turn to 8068?

21 A I don't think I -- that's not my 6-R.

22 Q Six Rs.

23 A Oh, six Rs? Not Exhibit 6-R.

24 THE COURT: Not Exhibit 6-R, Exhibit --

25 THE WITNESS: Got it. That's a different --

1 BY MR. KARACSONYI:

2 Q 8068.

3 A Hold on. Okay. I'm there.

4 Q Can you ask -- you did consider the deeds related to the
5 Russell Road property in rendering your opinion; is that correct?

6 A Yes. We referenced them in the report.

7 Q Okay. If you go to this page.

8 A I just want to make sure I'm in the right location, because this
9 is not Russell.

10 THE COURT: It's the Brian Head deeds, six Rs.

11 THE WITNESS: Four, five six -- yeah.

12 BY MR. KARACSONYI:

13 Q Brian Head -- Brian Head exhibit. The Brian Head deed.

14 A Yes, okay, what page?

15 Q 8068.

16 A Yes, I see that.

17 Q And was -- what's the parcel number, serial number being
18 transferred there?

19 A Number C-0646-004-000.

20 Q Okay. And that's on what date?

21 A Looks like October 2nd, 2001.

22 Q Okay. From which entity to which entity?

23 A The LSN SPT to the LSN Trust.

24 MS. HAUSER: Your Honor, I'm just going to object. I mean, I
25 understand your concerns about us slowing it down, but if we don't

1 preserve objections in the event for an appeal --

2 THE COURT: I'm fine with that. I'm fine with making
3 objections.

4 MS. HAUSER: But this is an improper line of questioning. I
5 mean, reading from a document, it should be refreshing her recollection,
6 and then she can testify. But just going and directing her to documents,
7 it's improper.

8 MR. LUSZECK: They're leading their expert, Your Honor. I
9 mean, this -- all of this stuff should have been highlighted in the report.
10 It wasn't.

11 MS. HAUSER: Or in their test -- in her testimony.

12 MR. LUSZECK: Or in her testimony. It wasn't. And now
13 they're leading her to documents that they want her to testify to
14 rehabilitate her and it's improper.

15 MR. KARACSONYI: These are the same documents they
16 analyzed with her.

17 THE COURT: You can go on that. We'll note an ongoing
18 objection on that, but I'll read the documents and exhibits that are in
19 there. I will read it on that. A lot of this is legal argument that you can
20 make your arguments to connect the dots. But I'll give you a chance to
21 lay the thing on that. But I will read all the exhibits that have been
22 admitted on that. You guys get legal argument on what exhibits you
23 really want me to pay attention to and connect the dots.

24 The issue's real easy on that is to connect the dots, or if
25 there's community property interest or not. I mean, that's kind of what

1 we're all here about, on specific properties on that, not generalizations,
2 but specific properties, specific fees or anything on that, specific
3 accounts. We'll go through all those. But her report speaks for itself her
4 testimony so far. But I'll give you some leeway. You can go there on
5 that, but I will read any reports that's in there. You can ask it. Ask about
6 the parcel number on that. That was from October 2nd, 2001, I believe.

7 MR. KARACSONYI: Right.

8 BY MR. KARACSONYI:

9 Q And then if you could go to 8086.

10 THE COURT: Has that been admitted? Six Rs is admitted?

11 THE CLERK: Yes.

12 THE WITNESS: Okay.

13 THE COURT: Which document was that?

14 MR. KARACSONYI: Same. Same.

15 THE COURT: Same one? Okay.

16 BY MR. KARACSONYI:

17 Q Okay. And did you consider this deed in your analysis?

18 MR. LUSZECK: Your Honor, objection. I -- she doesn't know
19 as she sits here today whether or not she reviewed this in her analysis
20 that was provided a year ago. She doesn't even know if she wrote that
21 analysis with respect to Brian Head.

22 MR. KARACSONYI: No, Your Honor. They keep arguing.
23 They went through all these deeds with her --

24 THE COURT: Yeah.

25 MR. KARACSONYI: -- to try to show that -- to try to make

1 their points.

2 MR. CARMAN: And it's here. And Your Honor, I'm just
3 going to add to the objection. She referenced specific deeds in the
4 report. That's all fair game. But this doesn't appear to be one of the
5 specific deeds that she relied upon in her report.

6 THE COURT: I don't -- if it's in the report, I have to read that
7 again on the annual report. It's not been admitted but I read in the
8 summary judgment. That was months ago on that. So I don't know
9 what's in there. So we're obviously not on that, but basically she -- her
10 report and her testimony kind of speak for itself. And she reviewed too
11 on that. I'll give you some leeway on that. But the fact is the report
12 speaks for itself and what property she has and what she considered on
13 that. But you can explore it. You can explore your theory, Mr.
14 Karacsonyi.

15 BY MR. KARACSONYI:

16 Q Can you just go to the deed, deed in 8093?

17 A I'm there.

18 Q Did you rely on this deed in performing your conclusion?

19 MS. HAUSER: And Your Honor, we're just entering our
20 objection.

21 THE COURT: Yeah. You need to renew it each time because
22 you can't have a continuing objection. I'll note the objection on that.

23 THE WITNESS: I can confirm by looking at Appendix 1. Can
24 you tell me if it's in a Bate range of documents provided to our office.

25 MS. HAUSER: And objection --

1 THE COURT: Again, something about what she --

2 MR. CARMAN: It's the same objection. She specifically
3 relied on --

4 THE COURT: Relied on documents.

5 MR. CARMAN: I hasn't been referenced in her opinion, it's
6 not -- and now they're going back to this appendix that she didn't create.
7 This is -- it's not -- again, these questions are leading to completely
8 irrelevant information to the Court that has no probative value.

9 MR. KARACSONYI: That's not true.

10 THE COURT: Go on.

11 BY MR. KARACSONYI:

12 Q Can you look at your --

13 THE COURT: Just ask the questions, get done on that and
14 the Court will rule stuff out to make it real clear on that.

15 BY MR. KARACSONYI:

16 Q With respect to the Utah, the Brian Head cabin, did you rely
17 upon this deed in your analysis that you performed in your report?

18 A Same answer. I can confirm the Bates stamp.

19 MR. CARMAN: Objection, Your Honor, move to strike
20 because it's not responsive to the question --

21 BY MR. KARACSONYI:

22 Q Can you review --

23 MR. CARMAN: -- to the question that was asked of her.

24 MR. KARACSONYI: Can she review her report portions
25 related to Russell Road?

1 THE COURT: Is this Russell Road or Brian Head?

2 MR. KARACSONYI: I mean, Brian Head -- excuse me -- Brian
3 Head?

4 THE COURT: Brian Head?

5 MR. LUSZECK: And if she can independently testify as she
6 sits here today --

7 THE COURT: Testify to what she relied on, what she relied
8 on.

9 MR. LUSZECK: -- then I'm okay with that.

10 THE COURT: Yeah.

11 MR. LUSZECK: But her just looking at Appendix 1, which
12 lists -- which she did agree in totality, if she even participated at all, and
13 whether or not she has personal knowledge. But Appendix 1 just says it
14 was received by her office.

15 THE COURT: That's all it --

16 MR. LUSZECK: She's testified that she didn't review every
17 single --

18 THE COURT: That's what it --

19 MR. LUSZECK: -- deed, just as she testified she didn't draft
20 this entire report.

21 THE COURT: That's what was admitted for -- it was admitted
22 for the list of documents received only, not -- that was actually the
23 considered on that. But she can testify to documents she specifically
24 recalls relying on or not on that. They can ask questions to the deed. Of
25 course she's going to look on that with the documents received on that.

1 Because it's received doesn't mean it's relied on. The report speaks for
2 itself and her testimony.

3 MR. CARMAN: The concern on the record is they're asking
4 her whether she relied upon it. She's not answering the question and
5 instead is referring the record to the appendix, which we --

6 THE COURT: Which would be documents received, which
7 basically said received. Someone should have read it and relied on it.
8 But it speaks for itself. But basically if you remember the documents
9 relied on with the Brian Head on that, if you remember from your
10 memory, great. If not, let's move on with this. Basically I assume you
11 relied -- you testified those documents that were received, your office
12 would have relied on it. That's what experts do. But there's so many
13 exhibits, you can't recall specific ones; is that right?

14 THE WITNESS: Yes. I don't specifically recall.

15 MR. KARACSONYI: I'll just move on, Your Honor.

16 BY MR. KARACSONYI:

17 Q All right. Can you turn to Exhibit 23?

18 THE COURT: Exhibit 23.

19 THE WITNESS: I'm there.

20 BY MR. KARACSONYI:

21 Q I'm actually going to refer to our exhibit, just so I know. It is
22 -- I believe the Russell Road deeds are Exhibit six Ps. Sorry.

23 A I'm there.

24 Q Now, you testified that Lynita had assigned her interest in
25 CJENL to Cal Nelson, correct?

1 MR. CARMAN: Your Honor, I'm objecting to the witness
2 reviewing a document. He's asking her a question that should rely upon
3 personal knowledge.

4 THE WITNESS: Then we went to the [indiscernible].

5 BY MR. KARACSONYI:

6 Q Do you recall that, that she relinquished her interest in CJ&L?

7 A I do recall that testimony.

8 Q Okay. When did that occur?

9 A I believe it was January '05.

10 Q And in the examination, you asked about the deeds related to
11 Russell Road and the additional acreage; do you recall that?

12 A I do.

13 Q What percentage interest did Lynita have in CJENL at the
14 time of the relinquishment?

15 A 50 percent of the LSN Trust.

16 Q Okay.

17 THE COURT: How much is it?

18 THE WITNESS: 50,

19 BY MR. KARACSONYI:

20 Q Okay. Now, if you turn -- and that occurred in January of
21 2005, that relinquishment?

22 A That's my recollection, yes.

23 Q Okay. Can you turn to document 7920.

24 A I'm there.

25 Q Okay. And you recall you were asked about this patent that

1 was recorded 6/29/2005?

2 A I recall, yes.

3 Q Okay. Could you go down to page 7922?

4 A I'm there.

5 Q First of all, on 7921, it references where CJENL and it
6 references 6.25 acres, more or less; do you see that?

7 A I do.

8 MR. CARMAN: Your Honor, objection. This is improper
9 questioning of this witness. The document speaks for itself.

10 THE COURT: I agree with you on it.

11 But go on. You can --

12 BY MR. KARACSONYI:

13 Q What is the date of that patent? On page 7922, what is the
14 date that it's signed there at the bottom?

15 MR. CARMAN: Your Honor, just repeated objection. This is
16 hearsay, Your Honor.

17 MS. HAUSER: And it's leading.

18 MR. KARACSONYI: This is an admitted document, Your
19 Honor, a deed, a property deed.

20 THE COURT: I think you had the six Ps. It's already been
21 admitted, I believe.

22 MR. CARMAN: It's still hearsay from this witness.

23 THE COURT: The document speaks for itself. I'll read the
24 document. If you guys thought it was worth being admitted, it's worth
25 reading, so I'll read on that. But go ahead. You can --

1 BY MR. KARACSONYI:

2 Q What is the date given under my hand? What date does it
3 list?

4 A I'm sorry. I don't see it.

5 Q On the bottom of 7922, the very bottom.

6 A October 1st, 2004.

7 Q And at that time, did LSN Trust have an interest still in
8 CJENL?

9 A Yes, that's my understanding.

10 Q Would it be misleading to suggest that the LSN Trust never
11 had an -- had an interest in the additional 6.25 acres that comprised part
12 of the Russell Road property?

13 MR. LUSZECK: Your Honor, this is outside the scope of her
14 report. I believe it was outside the scope of what my questioning was, in
15 addition to the objections that Mr. Carman raised earlier.

16 THE COURT: Overruled.

17 You can answer. Let's try to get through this.

18 THE WITNESS: Pursuant to this --

19 THE COURT: Do you need him to restate the question for
20 you?

21 THE WITNESS: No. Pursuant to this document, yes.

22 BY MR. KARACSONYI:

23 Q All right. Can you go to Exhibit six Js.

24 A I'm there.

25 Q Okay. Looking at page 1.

1 A Yes.

2 Q Or, actually the page 16984.

3 A Yes.

4 Q And what is the date of that deed?

5 MR. CARMAN: Objection, Your Honor. Again, it calls for
6 hearsay and this is outside the scope of the report.

7 MS. HAUSER: And it's leading.

8 MR. KARACSONYI: This was admitted.

9 THE COURT: Actually, it's six --

10 MR. CARMAN: Just so Your Honor understands, she can rely
11 upon hearsay as an expert. She didn't rely upon this, so it's just pure
12 hearsay for the purposes of this report.

13 MR. KARACSONYI: She did rely on this. She said that the
14 High Country Inn was owned by her trust and they were trying to
15 examine this.

16 THE COURT: Overruled. Let's get on with this on that. Six
17 Js has been admitted . All right.

18 THE WITNESS: January 11th, 2000.

19 BY MR. KARACSONYI:

20 Q Okay. And in whose trust was the property acquired?

21 A The LSN Trust.

22 Q Okay. Is this the High Country Inn property? Are these
23 deeds related to the High Country Inn property?

24 MR. LUSZECK: Real quick, I know it's outside of the scope of
25 the tracing account, but I didn't mean to let that in earlier, Your Honor, so

1 just making an objection.

2 THE WITNESS: I believe so, yes.

3 THE COURT: What was the date on that?

4 THE WITNESS: January 11, 2000.

5 BY MR. KARACSONYI:

6 Q Okay. And then if you go to 16993.

7 A I'm there. Yes.

8 Q Okay. And Mr. Luszeck asked you about this statement that
9 for other good and valuable consideration. Do you see that?

10 A Yes.

11 Q Did you look -- did you in your analysis look to see whether
12 any consideration was paid?

13 A Yes.

14 Q Okay. And did you find any consideration associated with
15 the High Country Inn property --

16 A Specifically --

17 Q -- paid to the LSN Trust?

18 MR. LUSZECK: Objection, vague, Your Honor, and
19 ambiguous in light of the questioning.

20 THE WITNESS: In regard --

21 THE COURT: Overruled. They asked, they said they didn't
22 know its consideration paid to the LSN Trust, I think was the question. Is
23 that what the question was, Mr. Karacsonyi?

24 MR. KARACSONYI: Yes.

25 THE WITNESS: Based upon my review of the GLs and the

1 banking records, nothing that was discernible lining the compensation
2 page.

3 BY MR. KARACSONYI:

4 Q All right. Now, can you turn to six Cs -- seven Cs, excuse me.

5 A I'm there.

6 Q Do you recall -- could you go to note 17?

7 A I'm there.

8 Q Do you recall Mr. Luszeck reading portions of this history to
9 you?

10 A Yes.

11 Q Does this history actually indicate that \$2.3 million was
12 loaned to Lynita Trust? Can you read it? He read the first paragraph to
13 you; you saw that?

14 MR. LUSZECK: Objection. Leading and document speaks for
15 itself, Your Honor.

16 MR. KARACSONYI: Well, it didn't speak for itself. It only
17 spoke partially for itself earlier, Your Honor.

18 THE COURT: Overruled. You can --

19 THE WITNESS: It does not.

20 BY MR. KARACSONYI:

21 Q Okay.

22 MR. CARMAN: Object -- that's what you were --

23 BY MR. KARACSONYI:

24 Q What does it say the amount --

25 MR. CARMAN: Objection. The testimony of the witness just

1 concluded it misstated the document, unless I didn't hear the question
2 correct.

3 MR. KARACSONYI: Okay. Well, let's read it. Let's not
4 mistake it. Let's read the whole thing.

5 BY MR. KARACSONYI:

6 Q "The first transaction commenced in 2002 with Frank Suarez
7 made an investment as mortgage holder in the Wyoming operations.
8 Mr. Suarez loaned \$2,300,000 to the Lynita Trust on a building that was
9 to be used for offtrack betting to support a racetrack owned at that time
10 by the Nelsons. The operations in the building were outlawed and the
11 operation had to cease. The \$2,300,000 was an amount needed by Frank
12 Suarez to complete a 1031 exchange, tax code provision to defer taxes.

13 The amount actually loaned is \$1,300,000 and a note payable to
14 Lynita's trust for \$1 million. Sometime between the date of the 1031 in
15 2010, the promissory note was transferred to the Eric L. Nelson Nevada
16 Trust. We have not received indication as to why the note was
17 transferred out of Lynita's trust, or if any consideration was given in
18 return for the transfer. Information has been received that interest of
19 \$75,000 was received in 2009 relating to the \$1 million note which is
20 being serviced by U.S. Loan Servicing." Did I read those correctly?

21 A You did.

22 Q All right. Can you turn to Exhibit 4 -- well, first of all, let me
23 ask you this. If the ELN Trust had taken a promissory note payable to the
24 LSN Trust, would that have been consideration for the High Country Inn
25 property? Would you have considered that consideration for the High

1 Country Inn property?

2 MR. CARMAN: Objection, Your Honor. This calls for
3 speculation outside of her report. She already testified that she didn't
4 consider this information in her expert report.

5 THE COURT: Sustained on that. As far as -- the question on
6 that, the document speaks for itself. Note 17, you said -- what was your
7 follow-up question you want to ask?

8 MR. KARACSONYI: I'll rephrase the question.

9 BY MR. KARACSONYI:

10 Q We read this. Does this give you -- does this -- anything in
11 here indicate to you that the High Country Inn property was transferred
12 from LSN Trust to ELN Trust in exchange for a liability owed by the LSN
13 Trust?

14 MR. CARMAN: And same objection. He's asking her to
15 render an opinion outside the confines of her expert report, Your Honor.

16 MR. KARACSONYI: This was the exact purpose of them
17 questioning her.

18 THE COURT: Overruled there, yes.

19 MR. CARMAN: Well, Your Honor, he's asking for her
20 interpretation of this document and what it means, despite the fact that
21 she didn't review it in the context of her report.

22 THE COURT: She didn't say what it means on there, whether
23 the Court gives it any probative value or put any weight on it -- finish
24 your --

25 MR. CARMAN: And just --

1 THE COURT: I'm trying to get this done, otherwise we're not
2 going to get done.

3 MR. CARMAN: And I understand, Your Honor, but --

4 THE COURT: We're going to object and going back and -- the
5 Supreme Court's going to be confused because the records will be all
6 off. If they can't figure it out, then they don't need to be up there. So the
7 issue is let's get this done, otherwise we'll spend three hours on stuff.
8 I'm going to go through everything, I'm going to make specific findings.
9 I actually read exhibits. That's why I figure people put them in.

10 I give you closing argument to tell me what exhibits you
11 definitely want me to rely on so I can read through this. My issue as we
12 go through it nothing ever gets done. We spent three hours trying to get
13 a witness done. I really want to get it done today. But I note your
14 objections.

15 MR. CARMAN: But can I say one thing, Your Honor?

16 THE COURT: And I agree with you on this.

17 MR. CARMAN: I just want to say one thing. 16.1, 16.2, both
18 are really clear. All of the opinions of the expert must be contained
19 within the expert report.

20 THE COURT: In the report, absolutely.

21 MR. CARMAN: And by allowing these questions, we're
22 extending this trial. And I understand you're -- you want to get through
23 this and get done, but I feel like by not applying the rules and by not
24 sustaining the objections, we're extending the trial. And I don't want us
25 to be perceived as delaying things.

1 THE COURT: No. I don't think you've done that.

2 MR. KARACSONYI: I'm almost done with the witness. I just
3 want to -- they asked her --

4 THE COURT: I'll let him finish up. And I know your point on
5 that. That's why you have an expert for the report. That's why they do a
6 written report, so your expert can read it out so everyone knows what's
7 going on so you don't get trial by ambush. That's why they have it there
8 on that, but they got the report. I'll let him finish up on that so he's got
9 history laid out there. But I will go through great detail with everything.
10 And you can finish up, Mr. Karacsonyi. But we'll note the objection.

11 BY MR. KARACSONYI:

12 Q Did you see anything in there that indicates that there was a
13 liability transferred from LSN Trust to ELN Trust as consideration for the
14 transfer of the High Country Inn?

15 MR. CARMAN: Objection, Your Honor, as stated before.
16 Calls for hearsay and it's an opinion outside of her report.

17 THE COURT: So noted. Overruled.

18 You can answer it.

19 THE WITNESS: Within this documents in these paragraphs,
20 no.

21 MR. LUSZECK: Within those two paragraphs correct?

22 THE COURT: With the Note 17, yeah.

23 MR. LUSZECK: Yeah. Well, not the entire Note 17.

24 THE COURT: No, but --

25 MR. LUSZECK: He read through two paragraphs.

1 THE COURT: -- the paragraphs that he read, yeah.

2 MR. LUSZECK: Okay.

3 BY MR. KARACSONYI:

4 Q All right. Can you turn to Exhibit HH?

5 A I'm there.

6 Q And this is the deposition of Eric Nelson taken on June 30th,
7 2010. And I want you to go to Page 280.

8 MS. HAUSER: Your Honor, objection. This is an improper
9 question. It's leading.

10 MR. KARACSONYI: The deposition of a party can be used for
11 any purpose.

12 MR. LUSZECK: Not to rehabilitate your expert.

13 MS. HAUSER: Not -- Your Honor, I mean, the question is did
14 -- did you consider something. If she says no, then yes, you could
15 refresh, but going to documents and pinpointing without even knowing
16 if she considered it, it's problematic.

17 MR. KARACSONYI: That's not problematic, Your Honor. A
18 deposition can be used for any purpose.

19 THE COURT: Overruled. You can use it. Just ask it.

20 MS. HAUSER: That's not what the rule says.

21 THE COURT: You got a question for you. You said --

22 MR. KARACSONYI: Yeah.

23 THE COURT: Paragraph HH, the deposition of Mr. Nelson
24 from June 30th, 2010.

25 /////

1 BY MR. KARACSONYI:

2 Q Page 280, please.

3 A I'm there.

4 MR. LUSZECK: And Your Honor, this is -- now he's going to
5 read from Eric's testimony regarding Mr. Suarez, despite the fact that she
6 testified earlier that she didn't take the Suarez liability transaction into
7 consideration.

8 MR. KARACSONYI: That's true.

9 MR. LUSZECK: So now he's going to try to read in Eric's
10 testimony from 2010, despite the fact that, one, Suarez isn't mentioned in
11 her report except for the exhibit, the pleadings that were made; and, two,
12 she said she didn't consider it.

13 MR. KARACSONYI: Exactly right, Your Honor.

14 MR. LUSZECK: You can't -- you can't do that. You can't use
15 depo testimony to rehabilitate an expert on an issue that she didn't
16 consider.

17 MS. HAUSER: Right. And it goes back to what Mr. Carman
18 said in 16.1. It has to be within the four corners of her report. The
19 question is did she consider it, but she never considered this testimony
20 and it's not denoted in the report.

21 THE COURT: Not considered -- she said it was not included
22 in her report, was it, Mr. Karacsonyi?

23 MR. KARACSONYI: Your Honor, may I respond?

24 THE COURT: Sure.

25 MR. KARACSONYI: They tried to make a point, the whole

1 point of their questioning -- and it was asked many times -- shouldn't you
2 have considered the Suarez liability? And I can use the testimony of
3 Mr. Nelson pursuant to the Nevada Rules of Civil Procedure, for any
4 purpose, including reading it into the record. And I can certainly
5 establish with my expert that what she did was consistent with
6 Mr. Nelson's very own testimony about what happened.

7 MR. LUSZECK: She didn't consider it, though. That's the
8 issue.

9 MR. CARMAN: It's improper.

10 MR. KARACSONYI: But how would you -- it's going to show
11 -- exactly. They were trying to make the point that she didn't consider --
12 that she should have considered something, and I'm going to show that
13 there was -- that what she did was exactly -- or what Eric's going to
14 testify to is exactly consistent with what he said was the actual truth of
15 the transaction.

16 MR. CARMAN: And Mr. Karacsonyi can argue that using the
17 deposition transcript in his closing.

18 THE COURT: I agree with you.

19 MR. CARMAN: What he can't do is to get this expert to now
20 say, I disregarded it for a reason I didn't know about at the time.

21 MR. KARACSONYI: But there was nothing to regard. That's
22 the whole point. They're saying she disregarded something that she
23 should -- they haven't -- they've never introduced any evidence to show
24 that it even occurred.

25 MS. HAUSER: But that's not our job.

1 MR. CARMAN: Your Honor?

2 MS. HAUSER: That's her job, is to --

3 MR. KARACSONYI: To prove a negative?

4 MS. HAUSER: It's her expert report. Will she go through and
5 explain why she did or didn't do things? It's not in her report. She didn't
6 consider it so --

7 THE COURT: We're going to -- let's move on with this.
8 Overruled. Ask the question. Let's get done, otherwise we're going to
9 spend eight hours on it. You're right on that. We're dragging on much
10 longer. It needs to go on that. The report will speak for itself. I'll make
11 determinations as to credibility of the expert like I did in the prior case on
12 that and details what they remember, what they did, not what they
13 were --

14 MS. HAUSER: But they should --

15 THE COURT: -- lead to on that.

16 MS. HAUSER: They should lay the foundation, not just direct
17 her to a document and have her read it.

18 MR. KARACSONYI: Your Honor, I move to admit Exhibit HH.
19 It's the deposition of opposing party, to publish it.

20 THE COURT: Do you have the deposition?

21 MR. KARACSONYI: I think it was done already previously --

22 THE COURT: I thought it was on that.

23 MR. KARACSONYI: -- at the prior trial.

24 THE COURT: But I thought we did.

25 MR. KARACSONYI: And we just move to admit the exhibit as

1 the publication.

2 THE CLERK: HH has not been admitted, no.

3 THE COURT: Any objections to the depo of Mr. Nelson being
4 admitted?

5 MR. LUSZECK: Yes, to some degree. This is from 2010.
6 We're here on completely different issues, there's different standards.
7 You were on specific direction from the last Supreme Court as what was
8 supposed to occur and I haven't read, you know, I'm sure I have in the
9 past, but recently, enough of what's in here and whether or not it's
10 relevant to the issues before the Court.

11 THE COURT: I don't recall either. That was, like you said,
12 2010.

13 MR. CARMAN: The other concern is, admitting a deposition
14 transcript where objections were made on the record, can put into
15 evidence things that shouldn't necessarily be put before this Court. I
16 understand Mr. Karacsonyi's argument that it's admissible for any
17 purposes, but it's not admissible subject -- without it being subject to
18 those objections.

19 And I -- this is an interesting question and I -- a lot of courts
20 treat this differently. It's an open question as to when you publish a
21 deposition, when you catch someone in a lie, and you publish a
22 deposition, what comes in. Does the entire deposition come in, even if
23 questions were objected to at the deposition? It seems improper.

24 I understand Mr. Karacsonyi's argument, I'm just concerned
25 about objectionable questions and answers, that you're forced to answer

1 at a deposition, can become part of a court record and part of an
2 appellate record when they shouldn't be considered.

3 THE COURT: And I'm not -- again, that was back in June
4 2010, I don't know. But I'm going to limit it -- you want to deal with a
5 specific page, we're talking about 280?

6 MR. KARACSONYI: Yes, that's fine.

7 THE COURT: Why don't we just deal with that and try to get
8 this done. Like [indiscernible] said, I don't know what was said on that,
9 what it was on that, but let's try to get out there. And again, we'll get
10 this done. We'll plow through. But let's focus on certain parts he wants
11 to explore his theory of the case. Talking about page 280.

12 BY MR. KARACSONYI:

13 Q Go to page 280.

14 A Yes.

15 Q I asked her -- I asked Mr. Diaz -- Mr. Nelson was asked,
16 starting at line 21:

17 "Q Explain the transaction you entered into with Mr. Suarez.

18 "A Frankly, we were carrying \$1.36 million, I believe it is on the
19 books, paying about 10 percent rate of return, \$10,000 a month to him,
20 and I wanted to get out of that obligation because I was starting --

21 MS. HAUSER: Your Honor, objection.

22 BY MR. KARACSONYI:

23 Q "-- to end all debt obligation."

24 THE COURT: You got a question you're going to ask on that,
25 instead of just reading? Is there a specific question you want to ask

1 about the Suarez thing that you want to ask this witness?

2 MR. KARACSONYI: I want to ask if this is consistent with her
3 report that Suarez was not part of the transaction.

4 MR. LUSZECK: It wasn't in her report, Your Honor.

5 MS. HAUSER: Her report --

6 MR. KARACSONYI: Exactly. They're trying to make us prove
7 a negative. She didn't consider there was any -- there was nothing to
8 review. This is showing that they tried to create a false impression. I
9 mean that's what we're trying to prove or show, that they tried to create
10 this false impression that she missed something. So certainly we can
11 offer the testimony of the opposing party to show that she didn't miss
12 anything.

13 MR. CARMAN: The only thing that we were trying to create
14 is the -- not the impression, it was to create a record that she didn't
15 actually examine any of this or render an opinion regarding any of this.

16 MR. KARACSONYI: Because it didn't happen.

17 MS. HAUSER: But then she can't testify to a false negative. I
18 mean you can't -- we should be able to ask voir dire if she even
19 considered this information when she prepared her report. I mean we're
20 going to a record that there's no evidence in her report or the testimony
21 elicited in the last million days that she even considered this information.
22 And we're just going to read it into the record as if it was part of the
23 report and/or her testimony.

24 THE COURT: Wait a second. We might have lost the -- you
25 want to take a break? I don't know if it's recording anymore. So you

1 want to take a five-minute break, she's going to have to reboot and see if
2 it's still recording. We got to make sure it's recording so we don't lose
3 all the testimony.

4 [Recess taken from 2:36 p.m. to 3:07 p.m.]

5 THE COURT: We continue the matter of Nelson v. Nelson.
6 Case number D-09-411537. We took a brief recess while we had to fix up
7 our BlueJeans link.

8 I think we left off, Mr. Karacsonyi, you were asking some
9 questions on that, there were some concerns raised about Mr. Nelson's
10 deposition testimony on that that was raised objection to that you
11 wanted to question about the testimony and the deposition as the
12 source, I believe was where you were going on that.

13 MR. LUSZECK: Can I just make my position clear --

14 THE COURT: Absolutely.

15 MR. LUSZECK: -- just because it's been a while and I don't
16 know, maybe I didn't clearly articulate it before. The body of her report
17 clearly doesn't identify this issue. And I don't know if she was even
18 aware of this issue when she drafted the report. And it seems like what
19 Mr. Karacsonyi's trying to do is to show, by reading this depo transcript,
20 that she was justified in never even considering this issue, potentially
21 never even knowing about this issue, because it's a non-issue.

22 And I think that's improper. The fact remains she didn't
23 address in her report, there's no getting away of it -- there's no way to
24 get around it. It wasn't considered. If it would have been considered, I
25 mean, and if she didn't believe it had any validity, I think the way to have

1 addressed that is, as she did throughout, a good chunk of her report was
2 Mr. Gerety said this, but I don't agree with it because of credibility issues
3 or something like that.

4 That's not contained within the report. During direct, her
5 direct testimony, she never raised the Suarez issue, that was only raised
6 on cross. So I think this is an end around to somehow justify the fact
7 that this wasn't considered by her. You know, by reading Eric's
8 testimony from twelve years ago, I think it's inappropriate.

9 THE COURT: Thank you. You join in that objection, Mr.
10 Carman? You guys join in that, you and Ms. Hauser?

11 MR. CARMAN: I'm kind of gearing my objection to the prior
12 one, in that, you know, if she's going to render an opinion, it has to be
13 articulated in the report itself. To after the fact try to justify having not
14 made an investigation, it's not proper questioning in the court.

15 MS. HAUSER: I mean the question should be why. Why you
16 didn't consider it, not leading her to testimony when we don't even know
17 why she didn't consider something?

18 THE COURT: Mr. Karacsonyi?

19 MR. KARACSONYI: The whole point of the questioning that
20 occurred by my colleagues was to try to make it appear as though Ms.
21 Allen missed something that should have been considered. So certainly
22 any testimony that would show or any evidence that would show there
23 was nothing actually to be missed and, therefore, included in the report
24 would be relevant to rehabilitate her based on their line of questioning.

25 So I think it is relevant. And again, the NRCP says that a

1 deposition of a party opponent can be used for any purpose and there
2 are no limitations on that.

3 THE COURT: I do note it for the record in that her testimony,
4 as Mr. Suarez said, that counselor asked her related to the Exhibit six Js
5 on that High Country Inn, Mr. Suarez trust on that, they took her through
6 the quit claim deed 2004, indicated that it was not included in her report
7 so made it clear it was not included in her report. She said she did not
8 recall if there was any liability [indiscernible] trust was transferred at all
9 to ELN Trust. She did not know. She did no further questioning if there
10 was transfer of that then that could be consideration, assuming the
11 liability of the other on that.

12 They did ask her about Dan Gerety's report and about him
13 testifying about the ELN the trustee assuming the debt for the LSN on
14 that, based his report on that. She indicated that when she reviewed his
15 report she did not put a lot of credibility on it due to the court's findings
16 on that, but she did have address some of the information regarding her
17 reports as well. And she testified in detail about the 30 transactions of
18 \$6,3000 in the Exhibit 10, I believe. So you go into testimony on that.

19 They also asked her about Mr. Burch's report that was filed
20 on July 6th, 2011 with note 17 at the source transaction and went
21 through that issue about the \$2.3 million loan for the OTB. The OTB
22 failed. And the collateral with property from Arizona, and collateral from
23 property from Mississippi and then transfers from one property and also,
24 I believe, some gateway property on that to collateralize the loan on that.
25 So that's kind of what she talked about as to the Suarez issues on that

1 and as to the reports on that.

2 I did note that Mr. Nelson did testify a little bit about
3 deposition HH just talking about that was his testimony as far as talking
4 about some fees and stuff when they asked him about fees that was
5 earned back at Exhibit HH and Exhibit II, I think it was the second day of
6 the deposition back in 2010, July 28th was the II , he did talk about some
7 issues on that and about the money and where it went to and the entities
8 on that. So there had been some talk about that. We didn't get a lot of
9 detail.

10 I'm going to -- I'll allow you to go through that, Mr.
11 Karacsonyi to establish your theory of the case. But again, I think with
12 the rules on that, it was not included in the reports, we're clear on that,
13 that it wasn't in the report, did not rely on the part, but I'll give you -- you
14 want to develop your theory of the case so that Mr. Karacsonyi on that
15 and the Court will give it the probative value, if any, that it deserves on
16 that But I'll give you a chance to explore that for your issues since
17 Suarez was brought up on that and this is your attempt to rehabilitate
18 the issue as a source.

19 So I'll note the objection on that for the record, but overruled
20 and you can continue, Mr. Karacsonyi. And I'm focusing just on the
21 depo from the HH, from basically the Suarez transaction, so we don't get
22 the entire deposition. Mr. Nelson's already testified and if we need to
23 bring the whole thing in, we can, but I really was more just the Suarez to
24 give you an opportunity to develop the.

25 MR. KARACSONYI: Okay.

1 BY MR. KARACSONYI:

2 Q I'm starting again then, on page 280, Ms. Allen.

3 A I'm there.

4 Q Okay. Starting at line 21 Mr. Nelson was asked the question:

5 "Q Explain the transaction you entered into with Mr. Suarez.

6 "A Frankly, we were carrying \$1.36 million, I believe it is on the
7 books, paying about a 10 percent rate of return, \$10,000 a month to him
8 and I wanted to get out of that obligation as I was starting to end all debt
9 obligations for various reasons -- the divorce, economic reasons, and the
10 current conditions of the economy. I proposed to him we would take 20
11 of the rentals, those 20 rentals at a basis of approximately \$700,000, a
12 gross of about \$16,000 per month, which would net him still about
13 \$10,000.

14 So I said, Frank, take my 20 houses out of Bannan, Arizona, I will
15 do an exchange with you of debt, because he owned other real estate.
16 The 1.3 was actually collateralized against a portion of the 125 acres in
17 Mississippi. Because I told him we are not going to build the RV park
18 because of the hotel. His money would travel into areas that we thought
19 we could build on. First, the slot transaction up in Wyoming and then it
20 went to the Mississippi property. We didn't get that, what we thought
21 was the Silver Slipper, to build a massive RV Park, so we moved it down
22 to Bannan and he took those 20 properties and forgave the debt.

23 However, still a personal liability that I call it, selling the future, that
24 if he loses money that I will make up the difference of anything between
25 the \$700,000 and the \$1.360.

1 "Q Why did you owe him money in the first place?

2 "A He loaned me \$1.3 million."

3 Did I read that correctly?

4 A You did.

5 MR. CARMAN: And objection to the form of the question,
6 obviously.

7 THE COURT: Overruled.

8 BY MR. KARACSONYI:

9 Q Does anything in that testimony -- first of all, does anything
10 there change your opinion that there was no consideration associated
11 with the transfer of the High Country Inn from the LSN Trust to ELN
12 Trust?

13 MR. CARMAN: Objection to the question for the same
14 reasons as before, Your Honor.

15 THE COURT: Overruled. You can answer.

16 THE WITNESS: No. None of that referenced the High
17 Country Inn and they referenced Mississippi property.

18 BY MR. KARACSONYI:

19 Q And the \$16,000 a month that Mr. Nelson testified to, is that
20 consistent with the amount of the amount of the transactions that you
21 were observing throughout your analysis that Mr. Luszeck highlighted?

22 A Approximately \$16,300.

23 Q I want to show you what we'll mark as our next exhibit.

24 There was a question about a footnote in your report and the document
25 to which you're referring. Do you recall that?

1 A I do.

2 MR. KARACSONYI: For the record, I know there was a
3 question earlier about the minutes, the 2004 minutes, and I do have the
4 Bates number for Ms. Hauser so that she can check. I know that they've
5 had some that haven't had Bates numbers and we checked for them to
6 ensure they're accurate. And obviously, if they find something that's
7 different there then certainly they have a right bring that up later, and I
8 have no objection to that.

9 The Bates number is PL116053. So if they could confirm that
10 those minutes that we admitted without the Bates number comport with
11 the ones that were Bates stamped and if they find that they're not, then
12 we're happy to offer the ones that are Bates stamped.

13 THE COURT: Thank you for that clarification there.

14 MR. KARACSONYI: This will be eight Bs. Would you mark
15 this eight Bs.

16 [Defendant's Exhibit BBBB BBBB marked for identification]

17 BY MR. KARACSONYI:

18 Q Do you recognize this document?

19 A I do.

20 Q Okay. Can you tell us what this document is?

21 A It's a Schedule D attached to the personal tax return, form
22 1040 and it's the corresponding Bates stamp that's referenced in my
23 report relative to High Country Inn.

24 Q 6245?

25 A LSN006245, yes.

1 Q Okay. And looking at Exhibit 64 that was admitted earlier --
2 MR. KARACSONYI: Well, first of fall, I move to admit Exhibit
3 eight Bs.

4 THE COURT: Any objections?

5 MR. LUSZECK: Was she able to authenticate this? I mean
6 my recollection from the testimony earlier was she couldn't confirm one
7 way or the other what document she actually relied upon with respect to
8 her report.

9 MR. KARACSONYI: She just testified to that.

10 MR. LUSZECK: Well, she just testified what the document is.
11 She didn't testify this --

12 MR. KARACSONYI: Excuse me.

13 MR. LUSZECK: -- what she used for the report. Because
14 earlier she testified she didn't recall.

15 BY MR. KARACSONYI:

16 Q Is this -- can you --

17 THE COURT: She said she recognized the document, I
18 believe. You want to give it a little further clarification?

19 MR. KARACSONYI: Do you want me to or --

20 THE COURT: Yeah, I want you to give a little bit more.

21 BY MR. KARACSONYI:

22 Q Is this Bates stamp number that's found on this document
23 referenced somewhere in your report?

24 A yes.

25 Q And what section is it referenced in?

1 A It's on page 23 of my report in regard to High Country Inn.

2 Q Okay. And does this document correspond with the
3 document that you referenced in your report as having been relied upon
4 or is this a different document?

5 A This document corresponds with what's written in my report,
6 yes.

7 Q Was 64 the document that also contains the Bates stamp
8 number LSN 6235, is that the document that you were relying upon in
9 your report or is it Exhibit eight Bs?

10 A It is not 64. It's the one that was provided to me earlier. It is
11 eight Bs.

12 MR. KARACSONYI: Move to admit, Your Honor.

13 MR. LUSZECK: Your Honor, I object. She testified earlier she
14 didn't know what she utilized in preparing the report and I think it's
15 improper now for her to change position mid-testimony saying it was
16 this, when she clearly testified earlier she didn't know.

17 MR. KARACSONYI: Earlier she was shown a document --

18 THE COURT: Overruled. Overruled. You can go through it,
19 Mr. Karacsonyi

20 [Defendant's Exhibit BBBB BBBB admitted into evidence]

21 BY MR. KARACSONYI:

22 Q All right. And what is the sales price of the Wyoming hotel
23 listed there?

24 A \$1.24.

25 Q Now, there was a question about in your analysis that the

1 deposit that you referenced in Exhibit 10 to your report was greater than
2 \$1.24 million. Do you recall that?

3 A I do.

4 Q And how you knew that that was related to the Wyoming
5 High Country Inn, do you recall that?

6 A I do.

7 Q And what was that number, that additional number that was
8 actually deposited --

9 A The --

10 Q -- put in Exhibit 10?

11 A The amount was \$1.947 approximately.

12 Q Okay. And you, I believe, indicated that there were two
13 components to that deposit; is that correct?

14 A Correct.

15 Q Okay. What were the two components?

16 A My understanding the High Country Inn Hotel and OTBs.

17 Q Okay. And on this, what's been admitted as four -- as eight
18 Bs, excuse me, is there an OTB listed there, too?

19 A There is.

20 Q And a sales price for that as well?

21 A There is.

22 Q And what is the sales price?

23 A \$760,000.

24 Q Is this the OTB that you believe forms the other component
25 of that deposit?

1 A Yes.

2 Q And the total sales price was \$2 million between these two
3 properties?

4 A Yes.

5 Q But the deposit was \$1.9-something?

6 A 1.947 approximately.

7 Q Would that be anything that concerns you if the deposit was
8 slightly less than the actual total sales price?

9 MR. CARMAN: Objection to the form of the question. It lacks
10 foundation.

11 THE COURT: Sustained on that as far as it speaks for itself,
12 the deposit was \$1.947 and total sales thing was \$2 million.

13 BY MR. KARACSONYI:

14 Q I think you testified about this with them, but are there
15 usually costs associated with the sale?

16 A There can be, yes.

17 Q And does the seller always receive the full gross sales price?

18 A You said always, I'm sure there's --

19 MR. CARMAN: Objection, Your Honor, to the speculative
20 nature of the question.

21 THE COURT: Sustained. Basically she testified that there
22 was a \$1.947 million deposit on that and sale was about \$2 million on
23 that, but it could have been fees associated. Who knows? Sales fees,
24 commissions.

25 //

1 BY MR. KARACSONYI:

2 Q And did you review all the bank statements that you had for
3 that time period?

4 A My office --

5 MR. CARMAN: Objection. Asked and answered and it lacks
6 foundation.

7 THE COURT: I'll overrule it. You can answer.

8 THE WITNESS: Sorry. My office inputted them into our
9 various analyses, yes.

10 BY MR. KARACSONYI:

11 Q Okay. And did you review the transactions around this time?

12 A I did, yes.

13 Q The time of this sale?

14 A I did.

15 Q And did you know any other transactions which you felt
16 could have been the proceeds from these sales, other than the one that
17 you noted in your exhibit?

18 A No.

19 MR. KARACSONYI: I believe I'm done. May I take a quick
20 break? I think we're done. Your Honor, actually before the -- I don't think
21 I have any more questions -- but before the close of evidence, I'd ask that
22 I be given an opportunity to recall Mr. Nelson just as to the source
23 transaction that's been raised by my counterparts in their questioning of
24 Ms. Nelson as an issue that was raised by them that I believe I should
25 have an opportunity to explore with Mr. Nelson.

1 MR. LUSZECK: I adamantly object to that, Your Honor. The
2 fact that their expert didn't analyze that in her report isn't our fault. They
3 chose who to call and what order. They decided to call Mr. Nelson
4 before they called Ms. Allen, and I think it's inappropriate.

5 MS. HAUSER: And we're delaying this.

6 MR. LUSZECK: This isn't a new issue. I mean this came up
7 in Bertsch's report, too. I mean same thing. This is something that
8 should have been addressed previously with Mr. Nelson. Should have
9 been addressed by Mr. Bertsch potentially and should have been
10 addressed in Ms. Allen's report. They didn't do it. So --

11 THE COURT: Well, the issue on that is we can wait and recall
12 him later as rebuttal on that, but might as well get it all done on that.
13 The question's straight out there. It's clear from her report that source
14 was not included in her report, was not considered. So that would stand
15 what's out with the report from the legal arguments under 16.1 and 16.2,
16 but let's try to get this thing done on that. You have no more questions
17 for the expert?

18 MR. KARACSONYI: No, no. I just wanted to request leave to
19 recall Mr. Nelson at some point just to ask him about the source
20 transaction because it was raised in the cross-examination.

21 THE COURT: Have you got any other witnesses ready to go
22 today?

23 MR. KARACSONYI: We can -- I don't know if they have more
24 questions based on my questions.

25 THE COURT: Do you guys want more? Because then I got to

1 give some more.

2 MR. KARACSONYI: And we've got to do some rescheduling
3 on trial dates.

4 THE COURT: I give you guys some recross, then I got to give
5 them re-redirect. They have the have the last word, so I don't like you to
6 go on too much. If you guys want some, I'll give you some leeway. I've
7 been very liberal on that, so I'm fine to give you guys some recross, if
8 you want, but then I got to give them some re-redirect since they -- so I'll
9 leave it up to you guys. If you want, I'm more than happy to give it to
10 you.

11 MR. LUSZECK: I just have a couple.

12 THE COURT: Sure.

13 MR. LUSZECK: Okay.

14 RECROSS-EXAMINATION

15 BY MR. LUSZECK:

16 Q With respect to, I guess, the deposit of these sale proceeds
17 from High County and the Wyoming OTB, I think you testified that you
18 reviewed the charts which are Exhibit 9 to your report and based upon
19 the transactions reviewed you don't believe that you saw any payments
20 being made from the ELN Trust to the LSN Trust. Was that your
21 testimony?

22 A I believe my testimony was no payments -- not just those
23 exhibits, I guess. You just limited by the exhibits. So no, that wasn't my
24 testimony.

25 Q Okay. What was your testimony, then?

1 A Based upon my review of the documentation, which includes
2 the full transaction register as well as the general ledgers and other
3 records.

4 Q Okay. And I want to focus in on it. What do you mean by the
5 full transaction ledger? Because you didn't prepare a full transaction
6 ledger of every asset or every transaction from the ELN Trust, correct?

7 A I think we're using those terms differently. I did not do that,
8 no.

9 Q Okay. So what you're referring to is the summary that your
10 office prepared for account number 2798?

11 A No. That's now what I'm referring to.

12 Q Okay. What are you referring to, then?

13 A The, as we've discussed, as part of the data entry process,
14 I've taken all the information from the banking records and putting it in
15 to our various templates. I would refer to that as a transaction register,
16 which is the 23,000 transactions referenced in our report. That is the
17 totality of the transactions across all the accounts that were analyzed.

18 Q Okay.

19 A The exhibits that you're referencing are just the accounts for
20 the time periods referenced in the report.

21 Q Okay. And I guess just to clarify, then as well. Other than the
22 Exhibit 9, there was no reference to Suarez in your expert report,
23 correct?

24 A That's fair, yes.

25 Q Okay. And the only reference to Suarez in Exhibit 9 was the

1 payments of \$16,300 that were approximately 30 of those that showed
2 up in Exhibit 9, correct?

3 A Correct.

4 Q I think you previously testified that your office looked at
5 everything in Appendix 1 of your report, correct?

6 A Yes.

7 Q You didn't -- your testimony is you didn't personally review
8 everything, but you believe that your office reviewed everything in there,
9 correct?

10 A I believe that's reasonable. I looked through a lot of stuff. To
11 say I looked at everything would probably be too extreme. So I agree
12 with that.

13 Q Okay. Yeah. But isn't it true, though, that there were some
14 documents in the appendix that your office did not review?

15 A I'm not familiar. I don't recall.

16 Q Okay. Let's go to just Appendix 1, LSN0010236.

17 A Appendix 1 --

18 Q To your report and I just --

19 A Oh, I'm sorry. 20 -- what was the Bates, I'm sorry, Counsel?

20 Q It's page 47 of your report. LSN0010236.

21 A Correct.

22 Q Okay. And in there it says 51, says various Peachtree files.

23 A That is correct.

24 Q And you conceded in your report that your office was unable
25 to open the Peachtree files, correct?

1 A That is correct.

2 Q Okay. So you'd agree with me then, that your office hasn't
3 reviewed every single document that's listed in Appendix 1, correct?

4 A I guess if you're reviewing underlying content and not just
5 analyzing the fact that we have the file, and except trying to access it, I
6 would agree with that.

7 MS. HAUSER: Motion to strike.

8 MR. LUSZECK: Yeah, I move to strike that s nonresponsive,
9 Your Honor.

10 THE COURT: Sustained.

11 MR. LUSZECK: Okay.

12 BY MR. LUSZECK:

13 Q And just Appendix 1 is essentially, it's documents or files that
14 you concede your office has received, correct?

15 A Correct.

16 Q Correct? And you concede in your report that your office
17 wasn't able to open the Peachtree files, correct?

18 A That is correct.

19 Q And with respect to I want to say Exhibit 1, which is the list of
20 statements that --

21 A Yes.

22 Q -- that your office received. This is -- it's essentially -- would
23 you agree with me that this is incomplete?

24 A How so? No.

25 Q Okay. Well, your report is dated when?

1 A April 30th, 2021.

2 Q Are you aware that there was additional tax returns and
3 statements produced after your report was prepared and submitted?

4 A I believe so. I recall seeing some additional information later
5 in the year, yes.

6 Q Okay. And you never went back and supplemented your
7 report, correct?

8 A I have not supplemented my report.

9 Q And you haven't come back and supplemented Exhibit 1,
10 correct?

11 A I have not, no.

12 Q I think you also testified previously that with respect to some
13 of these transactions you considered portions of Eric's testimony; is that
14 correct?

15 A Our report references portions of the testimony. Yes.

16 Q Okay. Isn't it true that you only considered portions of Eric's
17 testimony that was pointed out by opposing counsel?

18 A That is not true.

19 Q Okay. What specific areas of Eric's testimony did you review
20 then?

21 A Those also contained in the decree and those provided by
22 opposing counsel.

23 Q Okay. But you concede you didn't read his testimony in
24 totality, correct?

25 A That is correct.

1 MS. HAUSER: And didn't take the deposition portion.

2 BY MR. LUSZECK:

3 Q And you didn't review his deposition testimony in its totality,
4 correct?

5 A I reviewed his latest deposition in totality, but not any at the
6 time of the issuance of this report.

7 Q Okay. Have you ever reviewed his 20 -- other than what Mr.
8 Karacsonyi just read, you know, ten minutes ago, have you ever read
9 Eric's deposition testimony from 2010?

10 A Not in conjunction with this engagement. I don't recall if at
11 that time I would have assisted. I don't recall.

12 Q Okay. And what about Eric's deposition testimony from
13 2012?

14 A Same answer.

15 Q Okay. Switching gears real quick to Harbor Hills. Mr.
16 Karacsonyi asked a question earlier about the fact that your report
17 ultimately mentioned that the ELN trust paid for \$580,000 approximately
18 for the purchase of Harbor Hills. Do you recall that?

19 A I do.

20 Q Okay. Even though it was contained at the end of your
21 report, isn't it true, during your direct examination with Mr. Karacsonyi,
22 you didn't divulge the fact that the ELN Trust made that expenditure for
23 that purchase a couple of weeks ago?

24 A A couple of weeks ago was in relation to the questioning
25 today.

1 Q Correct. Yeah.

2 A No, no.

3 Q When Mr. Karacsonyi asked you about Harbor Hills you
4 testified that the LSN Trust purchased Harbor Hills, correct?

5 A Correct. You didn't tell the Court that the LSN Trust was the
6 legal title acquirer, you testified that the LSN Trust purchased that
7 Harbor Hills property, correct?

8 A That's not necessarily true, no.

9 Q Really? Is it your testimony that when you were asked on
10 direct examination -- not by me, but by Mr. Karacsonyi -- your testimony
11 is that you told the Court during your testimony that it was actually
12 purchased by the ELN Trust but titled in the name of the LSN Trust?

13 A No, that is correct. I did not mention that during direct.

14 Q Isn't that misleading?

15 A Again, it's --

16 MR. KARACSONYI: Objection. Argumentative.

17 THE WITNESS: No, I --

18 BY MR. LUSZECK:

19 Q Yes or no answer, please.

20 A I don't believe so -- I guess, no.

21 Q Thank you. With respect to Russell Road, I believe you
22 testified that you didn't identify the fact that the Oasis -- sale to Oasis
23 Baptist Church didn't go through was because it was outside of the
24 scope of the tracing, correct?

25 A I don't recall that specifically outside, just that it wouldn't

1 have been mentioned because it was outside.

2 Q Okay. Isn't it true, though, that for a number of the
3 transactions that you identified in your report you went outside of the
4 trace of the scoping?

5 A I referenced information prior to, yes.

6 Q Okay.

7 MR. LUSZECK: That's all the questions I have.

8 MR. CARMAN: If I could just ask really quick, Your Honor.

9 THE COURT: Sure.

10 RECROSS-EXAMINATION

11 BY MR. CARMAN:

12 Q Just so we're clear, we talked about management fees, I
13 think to death in your testimony earlier. You haven't done any personal
14 investigation as to what portion of management fees would have been
15 related to Mr. Nelson's personal labor, compared to management
16 services rendered by ELN Trust entities, correct?

17 A I have not, no.

18 Q Okay. And you haven't rendered an opinion as to which, if
19 any, of those management fees would be directly related to Mr. Nelson's
20 personal labors versus the management services provided by ELN Trust,
21 correct?

22 A I have no, no.

23 Q All right. Just now you mentioned that your conclusions in
24 regard to some of these opinions were based upon the 23,000
25 transactions record that Anthem produced, correct?

1 A Created, yes.

2 Q You acknowledge that that 23,000 transaction ledger was not
3 produced by Anthem as an exhibit to this report, correct?

4 A I do acknowledge that.

5 Q In relying -- I understand you reviewed the decree. But by
6 only relying on deposition transcript excerpts provided by opposing
7 counsel, you do understand -- let me rephrase that. You do understand
8 that when an expert is provided only limited portions of deposition
9 transcripts by counsel, you can -- you could be -- you could come to false
10 conclusions because you don't have the entire context of the deposition
11 testimony, correct?

12 MR. KARACSONYI: Objection. Calls for speculation.
13 Mischaracterizes.

14 THE COURT: Overruled. You can answer, if you can.

15 THE WITNESS: That is possible.

16 BY MR. CARMAN:

17 Q And do you really, as you sit there on the stand, do you
18 believe that that was objective on your part to only review certain
19 excerpts of deposition testimony that was produced by one counsel in
20 this case?

21 MR. KARACSONYI: Objection. Mischaracterizes.

22 THE COURT: Overruled. She can answer if she can.

23 THE WITNESS: I can't answer yes or no. But --

24 BY MR. CARMAN:

25 Q So you won't acknowledge that that lacks objectivity?

1 A You have a double negative. I won't acknowledge that that
2 lacks.

3 Q Would you acknowledge that in only reviewing specific
4 deposition excerpts provided by one counsel, you're not performing
5 your services in an objective manner?

6 A I would disagree with that.

7 Q Finally, just in regard to the property transactions, again, you
8 have an ethical obligation to objectively review information that's being
9 presented to you, correct?

10 A Correct.

11 Q In rendering opinions about property transactions, do you
12 believe that you , as an expert, have an obligation to verify your opinions
13 with public records that are regularly available?

14 A I don't believe so, no.

15 Q And if a public record contradicted an opinion expressed in
16 your report, do you believe that you, as an expert, have an obligation to
17 correct a false impression that might have been created by your report?

18 A I believe that could come out if there was a document that's
19 presented either to me individually or at trial that it could contradict
20 something in my report, yes.

21 Q Well, we talked about records in this case that you're
22 unaware of, that were outside of your tracing period that may have led to
23 you including a false conclusion in your report regarding the sale of a
24 property to Oasis Baptist Church, correct?

25 MR. KARACSONYI: Objection. Compound. Assumes facts

1 not in evidence.

2 THE COURT: Do you understand the question that he asked?

3 THE WITNESS: Not entirely. It's related to Oasis Baptist?

4 BY MR. CARMAN:

5 Q If public records showed that the sale to Oasis Baptist Church
6 referenced in your report fell through, do you believe that you as an
7 expert have an obligation to correct your report?

8 MR. KARACSONYI: Objection. Relevance. Lack of
9 foundation. Assumes facts that are not in evidence. Relying on things
10 that are outside the time frame of the Court ordered analysis.

11 THE COURT: Overruled. She can answer.

12 THE WITNESS: I just think it depends.

13 MR. CARMAN: Okay. No further questions.

14 THE COURT: Any redirect on that? Re-redirect?

15 FURTHER REDIRECT EXAMINATION

16 BY MR. KARACSONYI:

17 Q When things happened after the date of divorce concerning
18 any of these properties, was that included in your report?

19 A No.

20 Q And if an entity in the ELN Trust performed services -- Okay?
21 -- does that necessarily mean that Eric is not entitled to any
22 compensation or shouldn't have compensation credited to him for those
23 services?

24 MR. LUSZECK: Objection. I think that's outside of the scope
25 of the redirect, one; and two, it's not included in the report --

1 MR. KARACSONYI: That's what he just asked her.

2 MR. LUSZECK: -- and its legal conclusions. That's not what
3 he just asked.

4 MR. KARACSONYI: Again, that went to the same thing
5 earlier.

6 MR. LUSZECK: Objection, it's a compound question as well.

7 THE COURT: He asked about management fees on that if she
8 did any analysis of management fees that were provided by Eric or by
9 the ELN Trust as management, I think that was the question they asked.
10 She said she did no analysis as to whether that would be community or
11 separate property either way. So what was your question after that?

12 BY MR. KARACSONYI:

13 Q My question was if he was asking to draw a distinction
14 between the two, he was assuming there was a distinction. My question
15 was if services were rendered by an entity within the ELN Trust, does
16 that necessarily mean that Eric is not entitled to some sort of
17 compensation as a result of those services.

18 MR. LUSZECK: Same objection. Outside of the scope.
19 Expert report, she's not an expert in trusts and estates. She didn't testify
20 to that.

21 THE COURT: Do you feel you can --

22 MR. CARMAN: And I'm going to object it calls for
23 speculation. Because she didn't perform an analysis.

24 THE COURT: Yeah, we're clear on that. But you can answer,
25 if you think you can.

1 THE WITNESS: It depends.

2 BY MR. KARACSONYI:

3 Q Okay. On what does it depend?

4 A The extent to which the entity was already under the services
5 of, say, like a CEO, they might not do a direct service, but you're
6 managing the overall entity, but you don't actually perform that duty that
7 you were discussing that regards to management But if you're
8 overseeing everything, that would probably be a it depends. You know,
9 you could be entitled to compensation from an entity even though in this
10 discussion it's not your direct involvement of managing something. But
11 you're managing the entity.

12 Q So the owner of Goettl doesn't have to install air conditioners
13 to necessarily be entitled to compensation, would you agree with that?

14 MR. LUSZECK: Same objections, Your Honor.

15 THE COURT: Sustained. I think she got it. Answered the fact
16 she didn't really do any analysis as to between Mr. Nelson personally
17 and the trust, as far a management fees; is that accurate?

18 THE WITNESS: That's fair.

19 BY MR. KARACSONYI:

20 Q The register of transactions that you created, what is that?
21 Can you describe that, what they just asked you about?

22 A It's essentially all of the data entry that was pulled from the
23 transactions, from the --

24 Q 23,000-plus transactions?

25 A Yes.

1 Q And was that requested at some point by Eric or his counsel?

2 A Yes.

3 Q And that was -- when was that requested?

4 A During the depositions of myself and Mr. Leauanae.

5 Q Okay. And was -- to your knowledge was -- or did you
6 produce that as requested?

7 A Yes.

8 Q And to your knowledge was it produced prior to the expert
9 rebuttal deadline?

10 A Yes.

11 Q And the question about -- there was a question about, again,
12 the funds that were used to purchase the Harbor Hills property. What
13 were the sources of monies that were in the account from which the
14 funds were paid for the Harbor Hills property?

15 A I'd have to review or refer to my report, just for recollection.

16 Q Okay.

17 A I referred to my report.

18 Q Okay. And what were the sources?

19 A There was --

20 MR. LUSZECK: Can you tell us where you are?

21 THE WITNESS: I looked -- when I was referring to my report,
22 I looked at page 40, or 39 and 40. Do you want the Bates?

23 MR. LUSZECK: Oh, yes, please, give us the Bates.

24 THE WITNESS: Yes. LSN00100228 and 229.

25 /////

1 BY MR. KARACSONYI:

2 Q Okay?

3 A So there were within that account there was also deposits of
4 the High Country Inn proceeds and the Tropicana property proceeds.

5 Q Okay. And so then can you say definitively, as you sit here
6 today, whether the monies that were used to purchase the Harbor Hills
7 residence originated from property that was held in the ELN Trust or
8 property that was held in the LSN Trust?

9 MR. LUSZECK: Objection to the form of the question.

10 THE COURT: Did you know the --

11 THE WITNESS: I do. I would say it depends, given the
12 comingling of those properties that I've just discussed within the ELN
13 Trust account.

14 MR. LUSZECK: Move to strike as nonresponsive, Your
15 Honor.

16 MR. KARACSONYI: No, I think she --

17 THE COURT: Overruled. You can --

18 BY MR. KARACSONYI:

19 Q Did that account contain monies from the High Country Inn
20 which was owned by the LSN Trust at some point as you testified,
21 correct?

22 A Yes.

23 Q And you said it also contained money from the Tropicana
24 property?

25 A Yes.

1 Q Okay. And is it possible that the proceeds, or the funds that
2 were used to purchase Harbor Hills originated from either of those two
3 properties?

4 A It could. There was funds within that account to support that
5 transaction.

6 Q And you can't say definitively whether it was those funds or
7 some other funds that purchased that property because they were
8 comingled within that account, is that correct?

9 A Correct.

10 MR. KARACSONYI: And I have no further questions.

11 MR. CARMAN: Can I do one follow-up, Your Honor.

12 MS. HAUSER: Three.

13 THE COURT: Okay.

14 FURTHER RECROSS-EXAMINATION`

15 BY MR. CARMAN:

16 Q The hypothetical regarding the owner of Goettl, whether he
17 would receive any personal benefit from a service performed by a Goettl
18 technician, do you recall that?

19 A I do.

20 Q Just so we're clear, the only way the owner of Goettl is going
21 to receive a benefit from a service performed is if that service generates
22 a profit to the company, correct?

23 A I mean not necessarily, no.

24 Q So let me ask you a question. Let's say the service technician
25 is paid \$15 an hour by Goettl. They work for two hours and they end up

1 earning \$20 on the service. Under that scenario, there'd be no benefit to
2 the owner of Goettl from that service, correct?

3 A Not necessarily.

4 Q Okay. So even if -- your testimony on the stand is if a service
5 technician was paid \$30 to go out on a call and received \$20 from the
6 customer, it's your testimony on the stand today that the owner of Goettl
7 may have received a personal financial benefit from that transaction?

8 A They could have, yes.

9 Q Okay.

10 MR. CARMAN: I have no further questions.

11 FURTHER REDIRECT EXAMINATION

12 BY MR. KARACSONYI:

13 Q Can you explain how they could have, please?

14 A Sure. You sell the unit or you fix a unit and then, let's say it
15 was a sale. You sold the unit, made a loss on that unit when you sold it,
16 but there's going to be, say, ongoing maintenance or ongoing things in
17 the future. There's a benefit in the future to have done that for a loss.

18 Q So you're saying you'd have to have all the facts to know.

19 A Yes. That's why I said not necessarily.

20 Q Is it -- are there times that owners of companies or CEOs of
21 companies derive benefits from companies even though the company
22 may be losing money?

23 A Yes.

24 Q Okay. Explain that.

25 MR. LUSZECK: Objection, Your Honor. It's outside the scope

1 of everything. It's not included in the report.

2 THE COURT: They can get money on that, they can have
3 other things on that, they can have salaries they pay themselves.
4 There's a lot of ways they could on that. But the point 's been made, I
5 think. Well, thank you for --

6 MR. KARACSONYI: Thank you, Ms. Allen.

7 THE COURT: -- spending three weeks with us.

8 THE WITNESS: We're going to end on Goettl, that's what --

9 THE COURT: We're going to end up on there.

10 MR. KARACSONYI: It was getting hot in here, that's why --

11 THE COURT: Thanks for all your time and sorry for all the
12 inconveniences.

13 THE WITNESS: No problem. Thank you for getting done
14 today, guys.

15 MR. KARACSONYI: Thank you. We want to focus on -- not
16 focus on, but we want to get into some of the rescheduling now.

17 THE COURT: I think you said you're waiting to hear about
18 your trial on the end of May, right? You know when you're going to
19 know if they're going to --

20 MR. KARACSONYI: We're trying to advance that. But if we
21 reschedule -- we've expressed to the court in the other action, that we
22 would prefer not to break for this case for that case, because the
23 evidence presentation has already started here in a stipulation that we
24 submitted. And that the parties because of the age of this case, and the
25 fact that this is their divorce action, would like to see this through to the

1 conclusion and not let the evidence that's already been presented
2 obviously get stale.

3 And so we have expressed that there were additional trial
4 dates to try to conclude this case already scheduled at the end of May,
5 some of which are likely to be vacated, and we told Judge Hardy that,
6 but I think that if we could at least -- I think if we could get all the dates
7 down that we might need, and then we could express that to Judge
8 Hardy, we could at least give him a clearer picture of how many dates
9 we have set and where we're at.

10 MR. LUSZECK: I don't disagree. The problem that I have
11 with that, though, is that when you're done with your case in chief, you
12 know what our position is. And I don't know if Judge Sullivan's
13 indicated he was going to get us additional time if necessary. And I just
14 don't know until you're done with your case in chief essentially how
15 much time we're going to need. But I agree, to me, it doesn't make
16 sense, why would we start in the civil case mid-way through this. So I
17 don't disagree that we need additional dates, I just don't want to have
18 my hands tied, you know, by saying we've got to be done by the end of
19 May, when I just don't know given the procedural posture.

20 MR. KARACSONYI: Could we tie down some additional
21 dates tentatively now so that we could at least express to Judge Hardy
22 what we tentatively have to maybe finish this case, and that way we can
23 at least give Judge Hardy a clearer picture of what kind of dates we're
24 looking at. Because certainly I don't think that the five dates we have
25 now at the end of May are going to finish the case. Would you agree

1 with that?

2 MR. LUSZECK: Based on how it's going, yeah. I mean a lot
3 of it depends on whether or not you're going to finish tomorrow.

4 MR. KARACSONYI: I think I will. But I don't know how long
5 you're going to have with Ms. Nelson. So maybe we just schedule some
6 additional dates while we have far enough out and then we're trying to
7 get in front of Judge Hardy by the 2nd, but for sure he's moved us up to
8 the 11th of May so we'll have a definitive answer then.

9 THE COURT: I think he said those dates we had didn't work,
10 we had to vacate those dates, right, Josef?

11 MR. KARACSONYI: Yes.

12 THE COURT: All right. So you're looking for the week after
13 May 23rd, is that what we're looking for since you said those 18th to 20th
14 doesn't work for you? So that's the -- and you're going to be finished the
15 charity on the 11th. So I'm looking at --

16 MR. LUSZECK: And I guess that goes to part of the problem,
17 Your Honor. Once again, I mean we've said from day one, given our
18 position, we may need some additional time. I'm a little apprehensive
19 that to agree that we're going to have, you know, May 23rd and then the
20 following week when there's issues regarding, you know, what's really at
21 issue.

22 MS. HAUSER: Yeah, I think that --

23 MR. KARACSONYI: If we get on calendar, though, and he
24 can always vacate those and leave us later dates.

25 MS. HAUSER: But it's hard for Judge Sullivan just to find

1 senior judges, too. I think my concern is also we're also all assuming
2 that the civil trial, I mean, gets continued. They could say no. I mean it's
3 rare, but it does happen. So maybe we should -- we have the hearing
4 Monday maybe we should schedule --

5 MR. KARACSONYI: We don't have that.

6 MS. HAUSER: What?

7 MR. KARACSONYI: We don't know for sure.

8 MS. HAUSER: Yeah, I mean so they may say no. They may
9 not continue the stack trial under the pressures of the Supreme Court.
10 So maybe we should wait till we find out.

11 [Recess taken from 3:53 p.m. to 4:14 p.m.]

12 THE CLERK: We're back on the record.

13 THE COURT: We're going back on the record in Matter of
14 Nelson v. Nelson. Case number D-09-411537.

15 Off the record we were going through all the exhibits to see
16 what has been admitted by the Court. We did note Exhibit seven Ns, the
17 Harbor Hill dates have been admitted by stipulation of parties, so we
18 want to show that it had been offered and admitted.

19 [Defendant's Exhibit NNNNNNNN admitted into evidence]

20 MR. KARACSONYI: Thank you, Your Honor.

21 THE CLERK: And that was by stipulation.

22 /////

23 /////

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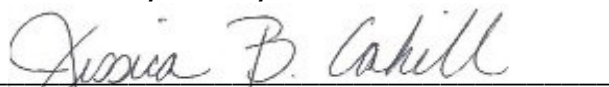
25 /////

1 THE COURT: By stipulation of counsel. And then I guess we
2 can go off for the rest, I guess. Unless we need to go back on for
3 anyone.

4 MR. KARACSONYI: So far I think we're good, unless you
5 guys have any others.

6 [Proceedings adjourned at 4:15 p.m.]
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18 ATTEST: I do hereby certify that I have truly and correctly transcribed the
19 audio-visual recording of the proceeding in the above entitled case to the
20 best of my ability.

21 

22 Maukele Transcribers, LLC
23 Jessica B. Cahill, Transcriber, CER/CET-708
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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,

Plaintiff,

vs.

LYNITA NELSON,

Defendant.

CASE#: D-09-411537-D

DEPARTMENT O

SUPREME COURT NO. 87234

SEALED

BEFORE THE HONORABLE FRANK P. SULLIVAN

FAMILY COURT JUDGE

THURSDAY, APRIL 28, 2022

SEALED TRANSCRIPT RE: TRIAL

APPEARANCES

For the Plaintiff

JEFFREY P. LUSZECK, ESQ.

MICHAEL P. CARMAN, ESQ.

MICHELLE A. HAUSER, ESQ.

For the Defendant

JOSEF M. KARACSONYI, ESQ.

NATALIE KARACSONYI, ESQ.

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1 Las Vegas, Nevada, Thursday, April 28, 2022

2
3 [Case called at 9:08 a.m.]

4 THE CLERK: On the record.

5 THE COURT: Good morning, everyone. It's the time set in
6 the matter of Nelson v. Nelson, case number D-09-411537.

7 Good morning, Ms. Lynita. Good morning, Mr. Eric. And
8 we'll get our appearances. We'll start right to left this time, because
9 when I had Mr. Carman start yesterday you kind of froze on it. So --

10 MR. CARMAN: Hey, I did pretty good on that, under the
11 pressure.

12 THE COURT: We'll keep things the same way under the
13 pressure.

14 MS. KARACSONYI: Natalie Karacsonyi, bar number 10579.

15 MR. KARACSONYI: Joseph Karacsonyi, 10634 on behalf of
16 Lynita Nelson.

17 MR. LUSZECK: Jeff Luszeck, 9619.

18 MS. HAUSER: Michelle Hauser, 7738

19 MR. CARMAN: Michael Carman, bar number 7639.

20 THE COURT: I think when we left off -- anything we need to
21 talk about before we jump right into it?

22 MR. KARACSONYI: Yeah, two things, Your Honor. I had
23 previously asked the Court to take judicial notice of Wyoming statutes
24 and have provided everyone a copy. I just want to revisit that. I'm sure
25 they've had time to look them up now. I have a copy still of the

1 Wyoming statutes. The Court shall take judicial notice of laws of other
2 territories of the United States when offered. And so I just ask that the
3 Court take judicial notice of the Wyoming statutes.

4 THE COURT: You guys had a chance to review those to see if
5 they're accurate or they're current statutes or for the time being?

6 MR. KARACSONYI: Well, I mean the Court can take judicial
7 notice of the statutes. And then if somebody wants to argue that there
8 was a different version we all have access to that information on line. I
9 just want the Court to take judicial notice of the statutes.

10 MR. LUSZECK: The concern that I have, Your Honor, is
11 obviously they're only good as to what they're intended to -- what
12 position they're trying to take with respect to them. As of now we have
13 no idea. They're just asking this Court to take judicial notice of
14 something, without any type of explanation as to the reasons they're for.

15 Second one is I don't know when -- I mean that matters
16 because of the time frame, Your Honor. Obviously, statutes and
17 jurisdictions are updated. Here in Nevada we have the legislature meets
18 every two years and they update statutes. And because we don't know
19 what reason they're being proffered for; we have no way of knowing
20 whether or not they're actually the statutes that were enacted and
21 effective at the time of the transactions at issue.

22 MR. CARMAN: I would reiterate that. It would be a
23 relevancy objection. They haven't made any offer or showing as to why
24 they would be relevant and how they would provide some type of
25 assistance or guidance to this court.

1 THE COURT: I think they're dealing with conveyances of
2 properties that was --

3 MR. KARACSONYI: Judge, they deal with conveyances,
4 recorded affidavits. And again, this is -- I mean these are just -- we've
5 had now weeks. They could have researched the statutes. These are
6 just excuses. This is mandatory under the law.

7 THE COURT: I'll admit them on that. I'll take judicial notice
8 of it specifically for what it's worth on that. I will review statutes if I need
9 to on the issues on that. I think the general conveyance statutes on that,
10 but I'll review them if I need to, if they have probative value I'll review
11 them and research them and make sure they're accurate for the time
12 frame, if it comes up to that point. But I'm not sure how probative it will
13 be. Let's see when we get there on that.

14 MR. LUSZECK: And that's the issue, Your Honor. We've had
15 weeks to research but we don't know what they're being used for and
16 what time frame is relevant. So that's the issue I got.

17 THE COURT: Absolutely.

18 MR. KARACSONYI: Neither party can argue their statutes --

19 THE COURT: Fine. I got -- I'll take judicial notice on that and
20 look at it if I need to, if they're relevant and probative. I'll look at it and
21 make sure the time periods in question, if it is on that. But --

22 MR. KARACSONYI: Does the Court still have the copy I
23 provided previously?

24 THE COURT: Yes. Madam Clerk is good. She takes care of
25 stuff on that.

1 MR. KARACSONYI: All right. And then there was one other
2 housekeeping matter. There was previously an objection to seven
3 queues on the basis that we didn't have date stamp copies. Even though
4 I had a certificate of custodian of records and a --

5 THE COURT: Those are the bank statements from Tierra Del
6 Sol?

7 MR. KARACSONYI: Tierra Del Sol and the other ones that
8 were examined with Ms. -- \$1,947,153. Even though -- I would offered
9 these were admitted, too, I think as Exhibit four Ks in the prior trial. But I
10 did find the Bates stamps for all of these. So I've got a new Exhibit Q
11 packet with the Bates stamps, same statements, same order. In fact,
12 these don't even have any writing on them, they're perfectly clean.

13 THE COURT: That's even better.

14 MR. KARACSONYI: So I'll hand these out and see if there's
15 no issue. This would replace the other Qs --

16 THE COURT: Seven Qs. I'll give you guys some time to
17 check them, maybe during lunch or something, if you want when --

18 MR. CARMAN: Perfect. Thank you, Your Honor.

19 THE COURT: -- we get a break on that so you have a chance
20 to review them and see if you got any questions about their authenticity
21 or anything.

22 MR. KARACSONYI: May I replace those?

23 THE COURT: Yeah.

24 MR. KARACSONYI: This is to replace the other Qs, the seven
25 Qs that I brought previously.

1 MS. HAUSER: They're the same thing over there?

2 MR. KARACSONYI: Yes.

3 MS. HAUSER: Okay.

4 THE COURT: Just hold on to them. Give them a -- give
5 counsel a chance to review them in their leisure just to see if they're --

6 MR. KARACSONYI: Okay. All right. Those were the only
7 two things I had, Your Honor. The statutes are those being put as an
8 exhibit or are they just when you take judicial notice you mark them as
9 exhibit or you just take judicial notice?

10 THE COURT: I'll just take judicial notice of them on that. And
11 then, as I think on the that and decision I make, I'll reference to them in
12 my findings.

13 MR. KARACSONYI: Okay. All right. Then we call Lynita
14 Nelson.

15 THE COURT: I'm going to ask you to remain standing and
16 get you sworn in, then we'll let you relax a little bit.

17 THE DEFENDANT:

18 LYNITA NELSON, DEFENDANT, SWORN

19 THE CLERK: Please state your name and spell it for the
20 record.

21 THE WITNESS: Lynita Sue Nelson. It's L-Y-N-I-T-A and then
22 S-U-E and then N-E-L-S-O-N.

23 THE COURT: Please sit down and get comfortable, Ms.
24 Lynita. You've testified in this court more than you care to on that so
25 you kind of know all the things. So I'll just jump right into it so I don't

1 have to give you all the recitals I think you're familiar with. We'll just
2 jump right into it then.

3 THE WITNESS: I think so, yeah.

4 THE COURT: All right. We'll try to get you on and off as
5 soon as we can. We should get you done in about three to four days, so
6 don't worry about it.

7 MR. KARACSONYI: We're hoping to finish today, Your
8 Honor.

9 DIRECT EXAMINATION

10 BY MR. KARACSONYI:

11 Q When were you married to Eric?

12 A September 17, 1983.

13 Q Okay. I'm going to show you what we're going to mark as
14 seven Cs. There are eight Cs, excuse me.

15 [Defendant's Exhibit CCCCCCCC marked for identification]

16 BY MR. KARACSONYI:

17 Q All right. Can you identify this document?

18 A It's my LSN Nevada Trust.

19 MR. KARACSONYI: I move to admit this. This has been
20 admitted before.

21 THE COURT: I'll just make sure there's no objection.

22 MR. LUSZECK: No objection.

23 MR. CARMAN: No objection from me.

24 THE COURT: If I admit it, it's Exhibit eight Cs.

25 [Defendant's Exhibit CCCCCCCC admitted into evidence]

1 BY MR. KARACSONYI:

2 Q And prior to this LSN Nevada Trust, you had another trust, a
3 1993 trust; is that correct?

4 A Yes.

5 Q Okay. And can we refer to that as your 1993 separate
6 property trust?

7 A Sure.

8 Q Okay. On May 30, 2001, who was managing the properties
9 held in your 1993 separate property trust?

10 A Eric would have been.

11 MR. LUSZECK: Objection to the form of the question.

12 THE COURT: That's right. You want to get a little bit more
13 background. When you say managed, management or trustee or --

14 BY MR. KARACSONYI:

15 Q Well, was he -- when you say he managed, what did he do
16 for the assets in your 1993 separate property trust as of May 30th, 2001?

17 A He decided everything. What would be in it. What he would
18 do with it. What -- he said that he was taking control over it and
19 managing it because it was ultimately for us anyway. So --

20 MR. LUSZECK: Your Honor, I move to strike that as
21 nonresponsive. It's factually inaccurate. She executed the '93 separate
22 Property Trust, and now she's saying he controlled everything that went
23 into it.

24 MR. KARACSONYI: She can testify.

25 THE COURT: It's testimony. She can testify. She can testify

1 to her belief on that. But the document speaks for itself.

2 BY MR. KARACSONYI:

3 Q Once the properties -- well, were the properties from the
4 1993 Separate Property Trust transferred to the LSN Nevada Trust at
5 some point?

6 A Some, yes.

7 Q Okay. And once the properties were transferred to the LSN
8 Trust, who managed the properties held in your -- in the LSN Nevada
9 Trust?

10 A Eric did.

11 MR. LUSZECK: Objection to the form of the question, Your
12 Honor.

13 THE COURT: Overruled. Let's get through this if we can.

14 BY MR. KARACSONYI:

15 Q What was your answer?

16 A Eric did.

17 Q And what decisions would Eric make with respect to the
18 assets in the LSN Trust prior to the filing of the divorce?

19 MR. LUSZECK: Your Honor, the concern that I have here is
20 we have a civil claim -- a civil case that's coming up for breach of
21 fiduciary.

22 THE COURT: Yeah, I get that.

23 MR. LUSZECK: I'm concerned that what this is going to turn
24 into is a question and answer session that can ultimately be utilized in
25 the civil case. And I know you've been very lenient in letting, you know,

1 evidence come in, but knowing that you're the trier of fact and you can
2 make decisions about what's relevant and what's not, but that's not
3 necessarily going to be the case in the civil proceeding.

4 So there's an issue there.

5 MR. KARACSONYI: May I --

6 THE COURT: I'm not sure. I got civil cases against the
7 trustee and Mr. Nelson's investment trustee for breach of fiduciary duty,
8 so --

9 MR. KARACSONYI: Your Honor, even in a recent situation
10 we signed there was an acknowledgement that the two cases could lead
11 to inconsistent results, that there's overlap there. There certainly is. You
12 have to decide whether property transfers were intended as gifts, were
13 intended as something else, but what the intent there was.

14 So certainly whether we have another case or not doesn't
15 matter, you're entitled to hear the evidence in this case and she's here to
16 present evidence she can testify as to her knowledge and personal
17 knowledge as to who did things for her trust, and why certain -- these
18 transfers that we've examined happened.

19 We've already had a trial on this years ago, and now -- on
20 parts of this -- and now she's here to testify on the subject.

21 MR. LUSZECK: Your Honor, it's true we had a trial on it years
22 ago and the Court overruled you on that. Right now I'm reading from
23 *Klabacka v. Nelson*. "Extrinsic or parol evidence is not admissible to
24 contradict or vary the terms of an unambiguous written instrument since
25 all prior negotiations and agreements are deemed to have merged

1 therein." And that's citing the *Frei v. Goodsell* Nevada Supreme Court
2 from 2013.

3 THE COURT: It's simple parol evidence rule on that that any
4 prior negotiation decisions and negotiations are considered incorporated
5 in the final agreement on that. So the agreement speaks for itself. So --

6 MR. KARACSONYI: And Your Honor --

7 MR. LUSZECK: So her position regarding these transactions
8 is irrelevant. She executed the documents at issue. And that's exactly
9 what they're trying to go into

10 In the stipulation that he's referring to has nothing to do with
11 my objections. IF they're asking questions that border on the breach of
12 fiduciary duty claims in the civil claim, it's inappropriate for those to be
13 asked here, as they in theory could be utilized in that case.

14 THE COURT: Well, they can have people testify under oath.
15 They can use prior testimony in court proceedings.

16 MR. KARACSONYI: So portions of the --

17 MR. CARMAN: Your Honor, I didn't have a chance to object.
18 I just want to say I'm objecting to that specific question based upon he's
19 asking her to speculate as to decisions that were made by Eric on just
20 lack of personal knowledge by the witness who's on the actual stand.

21 THE COURT: I want to stay focused on what we need to do
22 as far as the issues have been community property put into trust on that
23 that was comingled with separate property. Things like that. That the
24 point can't be on that. I do show some concerns about the -- I don't want
25 to get into the civil case, that's why I declined to take it to get on that

1 issue. But we kind of focused on the issue. We know that the position
2 on that, as far as Mr. Nelson, is investment trustees and trust and stuff
3 like that. But that's why I just want to stay focused on the key issue,
4 which is to get an issue about gifts on them.

5 Let's get to specific properties and stuff that they're talking
6 about that were gifts, the general relations that the position of Mr.
7 Nelson was running both trusts that was basically the testimony before,
8 at least the position from Ms. Lynita and everyone kind of try to stay
9 focused. I'll give you a little leeway, but let's stay focused on the issue
10 which is really tracing this community property.

11 MR. KARACSONYI: And I'm going to go into each of those
12 transactions. I'm just setting a foundation for her. What happened
13 background and her belief.

14 MR. LUSZECK: But belief is irrelevant, Your Honor. It's the
15 documents that matter. And that's what I just read to you from *Klabacka*
16 *v. Nelson* the --

17 THE COURT: The Supreme Court said that basically people's
18 intent or position was as far as the property, but --

19 MR. KARACSONYI: The part he's referencing had to do with
20 whether or not an agreement to equalize the trust --

21 THE COURT: Right.

22 MR. KARACSONYI: -- was bound --

23 THE COURT: Based on my issue that they were going there.
24 And I think Mr. Jeffrey Burr testified that he advised them that if they
25 want to keep it there, that he needed to put property in the trust that they

1 want to keep it separate. Supreme Court said the intent of the parties
2 wasn't relevant at that time, it basically was the document itself.

3 MR. LUSZECK: But it rings true to any unambiguous --

4 THE COURT: Yeah. Right. I agree with you on that.

5 MR. KARACSONYI: Well, but the Supreme Court also said
6 that the parties can test whether because of the transfers back and forth,
7 too, that community property was created in the trust. So does that
8 mean nothing, then? Because obviously, if these were all gifts, if you
9 just looked at the deeds, the Supreme Court would have said that for
10 nothing? I mean that's the whole question.

11 You have to decide. You make decisions in any domestic
12 case where properties are transferred and somebody's trying to do a
13 tracing as to what the intent was. Was there a gift intended to the
14 community? Was there a gift intended to the separate property of the
15 other spouse. Deeds are not dispositive in those situations. And so our
16 position is that you have to hear the evidence to determine whether
17 transmutation occurred or not.

18 MR. CARMAN: And Your Honor, I will argue -- I just want to
19 refer you to *Todkill* as well. When it comes to proving the character of a
20 property *Todkill* says testimony of the parties insufficient. There has to
21 be clear and convincing evidence outside of the testimony --

22 MR. KARACSONYI: I'm not asking for whether she believes
23 it's community or separate.

24 THE COURT: The Supreme Court said the same thing.

25 MR. KARACSONYI: I'm asking what her intent was in

1 transferring.

2 THE COURT: We want to get to specific properties and just
3 get --

4 MR. KARACSONYI: I would like to, if I could just get through
5 a few questions to even set any kind of background.

6 THE COURT: I'll give you a couple of questions on that. But
7 we want to get this done sometime. So I'll give you a couple --

8 MR. KARACSONYI: I'm going to have --

9 THE COURT: -- of questions on that. But the issue -- I
10 understand the position, we all know it, that's why we're here on that.
11 Her position was that Eric made all the decisions on everything on that
12 and then they got divorced and then everything hit the fan on that. So
13 the issue's not -- so I think everybody's aware of the position of the
14 parties. The issue is, is there any community property in those trusts or
15 were they trying to be dated or is there any comingling or separate
16 community. So I'll give you a couple of questions on that, but let's kind
17 of stick to specific properties, and it was transferred, and how it got
18 transferred, or where it came from.

19 MR. KARACSONYI: I'm going to get into those, Your Honor.

20 THE COURT: I'll give you a little leeway so we could --

21 MR. KARACSONYI: Very shortly, actually.

22 THE COURT: -- just -- sure.

23 BY MR. KARACSONYI:

24 Q Okay. So the question was what decisions would Eric make
25 with respect to the assets and LSN Trust prior to the filing of the divorce?

1 MR. LUSZECK: Same objection. And speculation as well.
2 But I know you've ruled on it. Just preserving the record.

3 THE COURT: Yes, just for the record.

4 MR. CARMAN: And I'm going to object as well, and it's
5 outside of the scope of the tracing period established by this Court.

6 BY MR. KARACSONYI:

7 Q From May 30th, 2001 to the time of divorce?

8 A What was purchased, what was sold.

9 Q Did you allow him to do those things?

10 A I did.

11 Q Why?

12 A Well --

13 THE COURT: You can answer.

14 THE WITNESS: I loved him and I trusted him.

15 THE COURT: Okay.

16 THE WITNESS: And to me that's what you do in a marriage.
17 We talked about it when we were dating, what the makeup of my family
18 was. My mom divorced when I was six. His parents were still married
19 and remained married until they passed. And that's what he wanted our
20 relationship to be when we got married was that he wanted us to work
21 together. He wanted me to stay home with the children and have
22 children together. And that's what I believed that he was saying that his
23 mom and dad had and that he wanted for us. And out of love I did what
24 he asked me to do and I trusted him because of it.

25 MR. CARMAN: Objection, Your Honor. This is going far

1 beyond the question that was posed to the witness.

2 THE COURT: Basically she did it because they were married.
3 All right.

4 MR. LUSZECK: I think she's testifying to what Eric wanted.

5 MR. KARACSONYI: Any statement of a party opponent is
6 adversarial.

7 THE COURT: Basically, she indicated that they -- she did it
8 because they were married and he was making the decisions. That kind
9 of was her --

10 BY MR. KARACSONYI:

11 Q When did you separate?

12 A Sometime in 2008.

13 Q Okay. And what was your involvement in the decision
14 making for the purchase, sale and transfer of any assets in the LSN Trust
15 between May 30th, 2001 and your separation?

16 A Can you say that again?

17 MR. CARMAN: Object to the form of the question.

18 THE WITNESS: I can't really hear you.

19 THE COURT: You want to restate the question for her.

20 BY MR. KARACSONYI:

21 Q Between May 30th, 2001 and your separation in 2008, what
22 was your involvement in the decision making for the purchase, sale, and
23 transfer of assets of the LSN Trust?

24 MR. CARMAN: Objection to the form of the question again.
25 It's vague.

1 THE WITNESS: I didn't have any major decision --

2 THE COURT: Now --

3 THE WITNESS: Oh, I'm sorry.

4 THE COURT: You can answer it. Just basically you say you
5 didn't have any major decision making, is that --

6 THE WITNESS: I didn't have any decisions. I just did what
7 he asked me to do. He said it was for us ultimately anyway.

8 BY MR. KARACSONYI:

9 Q Did it --

10 MR. LUSZECK: And Your Honor, we move to strike it. This is
11 getting into the breach of fiduciary duties. And we've got a civil claim.

12 MS. HAUSER: And it's nonresponsive.

13 MR. KARACSONYI: It's going to her intent. We're getting to
14 specific properties.

15 MR. CARMAN: And the second part of that answer was
16 nonresponsive to the question, Your Honor. We move to strike it.

17 THE COURT: Let's move on here. Let's get the specifics on
18 there with the properties to see where they came so we can get through
19 this on that. We all know the issues at hand. We know the theories of
20 the cases on that, but we'll leave the tort issues to the civil court and
21 we'll focus on the property issues here as community property or
22 comingling or transmutation. But you can move on, counsel.

23 MR. KARACSONYI: And the results of -- Your Honor, and I'm
24 going to have some questions about this, the results of this suggestion
25 that she had control over her accounts that they raised, as you may

1 recall with respect to obtaining documents for Anthem. So I do want
2 to -- I do think I should get some leeway to have her answer questions on
3 things like that.

4 THE COURT: What documents?

5 MR. KARACSONYI: They made allegations that she had
6 control over her accounts, and she could have gotten all the statements
7 et cetera. So I do plan to ask her a few questions on it.

8 MR. LUSZECK: Well, I --

9 THE COURT: I think you can get stuff that -- if your name's
10 on a bank account, you can get it. Information on that, whether you
11 know what to do or not, but you can get it. I mean if it's your account,
12 your name's on it, you can get access to anything.

13 MR. LUSZECK: Not only that, but the real focus was after the
14 divorce was initiated in June of 2009, Your Honor, she was represented
15 by counsel -- she was represented by counsel prior to that time. You
16 can't tell me neither her nor her client [sic] could have obtained copies of
17 bank statements, tax returns from 2008, 2009 when she had counsel.

18 THE COURT: You can get a copy of any of your stuff. People
19 know that. Ms. Lynita's a sharp person. You know if you're named you
20 can get bank accounts, tax returns. If it's in your name, you can get that.
21 So as far as that issue, I don't see any -- you don't need to spend a lot of
22 time on that, basically you get documents. If your name's on, you get
23 documents. So we're trying to play that person that couldn't get them
24 on that and give me stuff they couldn't get on. But they got access to
25 records whether she deferred everything to Mr. Nelson, so be it, but she

1 can get stuff on that. And there's a lot of documents provided by
2 everybody.

3 MR. KARACSONYI: No, that's true. But if it's after the 7-year
4 period and you can't get them anymore, and you never received the
5 original statements, then you wouldn't have --

6 THE COURT: Well, then --

7 MS. HAUSER: And, Your Honor, objection.

8 THE COURT: -- you have the right to get your [indiscernible]
9 but I'm not going into all the stuff or what [indiscernible] didn't get on
10 that. The issue is --

11 MR. KARACSONYI: I'm not going to go into all that.

12 THE COURT: -- the community property. So let's move on
13 with this or we're not going to get done.

14 MS. HAUSER: And, Your Honor, just to clarify. I mean
15 you're making assumptions that the seven years she couldn't get it. I
16 mean that's not true for all banks. And I mean to have that on the record
17 I think is misleading.

18 MR. CARMAN: Well, and I'm concerned, too, because what
19 was just said is -- we all know the banks go back seven years, but she
20 was on notice that there was a potential divorce case in 2007, 2008.
21 Going back seven years means she had direct access to all these
22 documents during the entire tracing period. So I don't really
23 understand --

24 MS. HAUSER: I mean sometimes our long --

25 THE COURT: I'm not worried about access to the records.

1 The issue is the testimony -- what we have, what people can prove with
2 documentation submitted by testimony. I'm not going to rely on just
3 one person's testimony saying that what they say is what it is. The fact
4 is there's documents -- thousands of documents provided for issues on
5 that. I don't think anyone was hiding documents or didn't provide
6 documents that they had. If there's any inference that people were
7 holding back documents I didn't find that. The issue on that if she had
8 access to documents, she did. If she didn't have them; she didn't have
9 them on that for whatever reason. But the issue is what do we have.

10 I would like to focus on what we have, what we don't have.
11 So sustained. Let's kind of move on. Otherwise we get kind of bogged
12 down. We know the issue. This is our third, I think, trial on the issue. So
13 we know the issue of the 24-year marriage, I believe it was. Actually 20
14 -- more than that. I think by the time we got the decree on that. But you
15 can continue, Counsel.

16 BY MR. KARACSONYI:

17 Q You did sign documents on occasion, correct?

18 A Yes.

19 Q And why did you do that?

20 MS. HAUSER: Objection. Leading.

21 THE WITNESS: Because he asked me to do it. And
22 sometimes he told me to do it.

23 MR. CARMAN: Your Honor, objection that it's vague. And
24 what specific document was --

25 THE COURT: Sustained.

1 MR. CARMAN: -- at the time --

2 THE COURT: Sustained. She signed documents and her
3 name was on the document she signed it. I mean under duress or
4 something, I'm not going to go to that. They can take that in another
5 courtroom.

6 But she signed documents. She signed the document. She's
7 an adult, she signed documents on it. Could be Mr. Nelson asked her to
8 or not, doesn't matter. She signed documents. She's an adult. She can
9 sign documents. Unless you got a gun to the head, forcing around there
10 for duress, to me duress is gun to the head, not oops I did it because
11 someone told me to do it.

12 But we got more than that. We all know the issue here on
13 that, on her position on that is she was married and deferred things to
14 Mr. Nelson. So let's get to the substance of that on specific properties
15 and what happened and how it got transferred and things like that.

16 BY MR. KARACSONYI:

17 Q Okay. I'm going to show you what's been --

18 MR. KARACSONYI: What we'll mark -- this is 5 Ws with
19 attachments. This has been objected to previously, but it didn't have the
20 attachments. And we do have the initial case conference, the disclosure
21 from Mr. Luszeck's office of this document in case there's a question as
22 to where it came from. This will replace the other 5 Ws.

23 [Defendant's Exhibit WWWWW marked for identification]

24 BY MR. KARACSONYI:

25 Q Can you identify this email?

1 MR. KARACSONYI: Do you have any objection to this?

2 MR. CARMAN: Did you ask if we had an objection?

3 MR. KARACSONYI: Yes.

4 THE COURT: He asked if you had an objection.

5 MR. CARMAN: Yeah, I would object to it's a hearsay
6 document.

7 THE COURT: Objection to hearsay. It's an --

8 MR. KARACSONYI: It's a statement by --

9 THE COURT: -- email from McGowan.

10 MR. KARACSONYI: It's a statement -- exactly. It's a
11 statement by Ms. McGowan, who's an employee of the ELN Trust.

12 MR. CARMAN: It's my understanding that Ms. McGowan
13 was an employee of the LSN Trust. Is that not correct?

14 MS. HAUSER: Uh-huh. You have to re-lay the foundation.

15 MR. KARACSONYI: We've had testimony about this in the
16 prior trial.

17 MS. HAUSER: But this is --

18 THE COURT: I don't remember what the testimony was on
19 that. Ms. McGowan, I do recognize the name on that, but I forgot her
20 position on that and her email on that as far as I don't remember who
21 she worked for.

22 MR. KARACSONYI: And it's not being offered to show the
23 truth, it's not being offered to show whether a transfer was made or the
24 things that are being stated in there, it's just being shown to show that
25 she's getting back control of her accounts on April 20th, 2010. So it's not

1 offered for the truth of the matter asserted.

2 MR. CARMAN: She can testify -- he is trying to admit it to
3 prove the truth of that matter asserted. But he can ask his client --

4 THE COURT: That she can testify to --

5 MR. CARMAN: -- when she got control of her accounts
6 without admitting a hearsay document.

7 MR. KARACSONYI: It's not hearsay if it's not being offered
8 for the truth.

9 MS. HAUSER: But then it's an improper -- then you can't just
10 hand her a document and have her read from it.

11 MR. KARACSONYI: I can have her -- okay. I can have her
12 authenticate it.

13 THE COURT: Yeah, all right. All right. Basis.

14 BY MR. KARACSONYI:

15 Q Can you identify this document?

16 MR. KARACSONYI: The prior objection was it wasn't Bates
17 stamped and they didn't know where it was from. So I'm just going to
18 note that for the record.

19 MR. CARMAN: Just so we're 100 percent clear, what our
20 objection is right now, it's a hearsay document that is being admitted --

21 THE COURT: It's an email from an --

22 MR. CARMAN: -- for the truth of the matter asserted. But if
23 they're saying it's not being admitted to prove the truth of the matter
24 asserted, then it's irrelevant.

25 THE COURT: I tend to agree with you. Just ask her a

1 question on that.

2 MR. KARACSONYI: Okay.

3 BY MR. KARACSONYI:

4 Q Can you identify this document?

5 MS. HAUSER: Objection.

6 THE COURT: No, just ask her a fact on that. I don't need an
7 email from McGowan unless we're going to bring McGowan here to
8 testify what was said in it so she can explain in more detail. Because it is
9 coming in for the truth contained therein. Have her testify when she got
10 control of the -- she can testify from her own understanding. I don't
11 need an email to do that. She can sit there and say, hey, she already
12 knows now, she got the email, so she knows where you're going. So
13 just ask her straight out.

14 MR. KARACSONYI: Okay. I will. But just for the record, Your
15 Honor, during Ms. McGowan's testimony there was -- she had testified
16 that her understanding as to when she got control of her accounts, the
17 same email was brought up. And it was relied up on by the expert to
18 support the positions. It's a statement by a party opponent.

19 MS. HAUSER: But it's not a statement by a party opponent.

20 MR. KARACSONYI: Then it's not hearsay, that's my offer of
21 proof.

22 MS. HAUSER: It's not a statement by a party opponent, it's a
23 statement by Rochelle McGowan. She's not a party opponent.

24 THE COURT: Let's go on. Ask questions on that. Let's move
25 on. When it gets around that, I'm looking at Ms. McGowan's testimony

1 as the email on that. But the issue on that, I'm not -- I'll admit it, but not
2 for the truth contained therein. Because I'm not sure that relevant or
3 probative value, she can testify to herself as to her understanding of the
4 trust and how it operated on that, but --

5 MS. HAUSER: So this is going to be admitted?

6 MR. KARACSONYI: I'm not offering it for the truth of the --
7 whether a transfer was made. I'm not offering it even for the truth of
8 these statements in the email.

9 THE COURT: So what's it being offered for, then?

10 MR. KARACSONYI: It's being offered to show that this is
11 being sent to her. These account statements are being sent to her to
12 provide her with her own account statements and where they were
13 going, and that she was not receiving them.

14 THE COURT: Okay. She can testify to it.

15 MR. KARACSONYI: Right she can testify --

16 THE COURT: She can testify specifically. I don't need an
17 email to tell me that. I'm not sure if that email provides all that where it
18 came. Just let her testify directly. She doesn't need an email. Let her
19 testify.

20 MS. HAUSER: So then it won't be admitted into evidence?

21 THE COURT: No, I'm not going to admit this time on that.

22 But you can -- she can testify to her own knowledge. She
23 already read it now, so she knows exactly where you're going now. So it
24 doesn't matter at this point. But the fact is on that she can testify. She
25 know on that, she knows she got accounts, can get accounts, she can do

1 from her own memory what happened on that. The email doesn't make
2 it any more or not unless I have Ms. McGowan here just to understand
3 what transpired, what the email came from, was the intent in the email,
4 what generated the email. So I don't know on that issue on that, but I
5 think she could testify herself as to accounts and who's running it, and
6 when she got control of it or whatever. So why don't you just ask her
7 the question straight out?

8 MR. KARACSONYI: Okay.

9 BY MR. KARACSONYI:

10 Q Between May 30, 2002, your separation, did you get the
11 monthly statements for the LSN Trust account?

12 A No.

13 Q Did you write checks for the LSN Trust accounts?

14 A No.

15 Q Did you feel you had control over the accounts in the LSN
16 Trust?

17 MR. CARMAN: Objection, Your Honor.

18 THE COURT: Sustained. As far as that, she did not get
19 statements, she did not write checks. Is that accurate?

20 THE WITNESS: Yeah.

21 THE COURT: You didn't get statements, you didn't --

22 THE WITNESS: I didn't even know until the divorce started
23 that I even had the account in my name.

24 THE COURT: Good. You can continue.

25 MS. HAUSER: Objection, Your Honor. Move to strike.

1 THE COURT: Overruled. You can continue, counsel.

2 BY MR. KARACSONYI:

3 Q Who did you understand controlled the accounts?

4 MR. CARMAN: Objection to the form of the question.

5 THE COURT: Not an objection, no. Overruled. We know
6 what the questions are going to be. Look, I'm not going to spend three
7 hours at the bar. We know what's going to happen. She's going to say
8 Eric did everything, Eric made all the decisions. We know where we're
9 going. You can use that for the tort thing. When we stick on a fact on a
10 specific property, this one how it got transferred, where it came from,
11 that's all. Specifics.

12 I don't need the generalities on it. We all know the theory on
13 that -- from the third time around on that as far as her position was that
14 basically until they get ready to divorce he made all the decisions on the
15 trust and the marriage and all the business stuff and she stayed home
16 and raised the kids was her position earlier on that. So we all know. We
17 stick to -- let's get to the meat with specific properties . How it got -- or
18 how it got transferred. There's stuff you can do when you're talking
19 about advice or if he took advantage of that or if he made decisions to
20 benefit himself over her. Those are all fiduciary duty issues on that.

21 So like kind of focus on her property on that. We know the
22 theory of the case already on that. We don't need to prove it to this
23 court. I know where in theory the issues can be established, community
24 property with co-mingling or transmutation, or whatever you need to do,
25 but let's move on. Otherwise we're not going to get done today.

1 MR. KARACSONYI: Okay.

2 BY MR. KARACSONYI:

3 Q Did you attempt to obtain the documents that were -- did
4 you attempt to obtain the documents that were requested during
5 discovery?

6 A Yes.

7 Q The documents requested by Anthem Forensics?

8 A Yes.

9 Q Do you know if subpoenas were issued --

10 MR. CARMAN: Objection, Your Honor. Due to the lack of --
11 it's vague, because it's not specifying a time period.

12 MR. KARACSONYI: It's all the documents during this case
13 of -- during --

14 THE COURT: Ask her straight out did she make a good faith
15 attempt to get the documents pursuant to discovery. I'm sure she did on
16 that, so I don't know where we're going with this on that. I'm not sitting
17 here saying that the documents were omitted or not omitted, or she
18 didn't provide documentation. I know they have some questions about
19 her not getting stuff. I'm not sure where you're going with that as far as
20 the documents. The documents speak for itself. There's 23,000
21 documents that was reviewed, so I don't know where you're going.

22 MR. KARACSONYI: Your Honor, they made a whole point of
23 that with my expert, so I do have to create some record to show my
24 client, in good faith, tried to get all the documents.

25 THE COURT: Well, I didn't put a lot of probative value on

1 them, the ten documents. I'm looking at documents and what was
2 submitted with the testimony. What they said, what they didn't provide
3 on that, that's further legal argument. As far as the factual basis, the
4 facts will speak for itself as of that. I'll give you a little leeway but
5 understand I don't think the documents were hidden or not produced on
6 that. I think everyone submitted a lot of documents. There was
7 thousands and thousands of documents.

8 MR. KARACSONYI: I appreciate that, Your Honor, I'm just
9 worried --

10 MR. CARMAN: And just so the Court understands my
11 objection. They're asking did you try to retrieve these documents for
12 Anthem. Anthem has been either a consulting expert or a testifying
13 expert since 2009, I believe they testified. I mean my objection is based
14 upon lack of specificity in a time period.

15 THE COURT: That's right.

16 BY MR. KARACSONYI:

17 Q Since the remand from the Nevada Supreme Court, did you
18 attempt to obtain the documents that were requested during discovery?

19 A I did.

20 Q From Anthem Forensics during that same time period?

21 A Yes.

22 Q Do you know if subpoenas were issued?

23 A I do.

24 Q How many?

25 A More than 15, but maybe between 15 and 20.

1 Q Did you attempt to obtain missing tax returns?

2 A Yes.

3 Q How?

4 A Well, I -- you can go online and see what they have online
5 that you can obtain. And they were ones -- there were just a few and
6 there were ones that we already had. So then there's another way that
7 you fill out a form, and you request it. And I never got a response by
8 mail or email.

9 Q Okay.

10 A I don't --

11 Q And did you sign an authorization for opposing parties to
12 obtain the tax returns?

13 A Yes, I did.

14 Q Okay. I'm going to show you what's going to be marked as
15 Exhibit 4 Ds or eight Ds. And can you tell us are these the authorizations
16 you provided during the course of discovery?

17 A Yes.

18 MR. KARACSONYI: Your Honor, I move to admit eight Ds.

19 MR. CARMAN: The authorizations that she provided to
20 opposing counsel or is she alleging that she provided them to Anthem?

21 MR. KARACSONYI: To you.

22 MR. CARMAN: Well, objection on relevance. How would it
23 be at all relevant as to why Anthem didn't get the documents?

24 MR. KARACSONYI: Because, Your Honor, they've tried to
25 make this whole case that she didn't give them the tax returns, that she

1 never provided them. She even gave them authorizations to get them. I
2 think it should be for the record should be admitted.

3 MR. CARMAN: Whether they gave us authorizations isn't an
4 answer to that question whether she provided them to Anthem or not.

5 MR. KARACSONYI: Okay. I asked whether she provided --

6 THE COURT: I'll admit it.

7 MR. KARACSONYI: -- authorizations.

8 THE COURT: I'll admit it. Let's move on. I don't see a lot of
9 probative value on that. But otherwise you're just going to get bogged
10 down with arguing all day instead of getting testimony on that, the issue
11 on that. As far as the documents, I'm going to rely on the documents
12 and the testimony provided, the expert reports and all that stuff. I'm
13 going to rely on that, what was not admitted, unless people sit there and
14 say that somebody deliberately hid those or destroyed them so they
15 couldn't get access to it. But I'm going to rely on the documents that I
16 have, not things that were not provided by anybody on that.

17 But I know they made their case on trying to make the case
18 about the documents not provided by Ms. Lynita, but as far as that's, to
19 me there's legal argument on that, that's argument on that. As far as
20 facts I'm going to look at the documents that they got and what they did
21 on that. I don't think anyone in bad faith hid documents or was hiding
22 documents from the Court. So we'll rely on what we have.

23 You can continue, counsel. We admit eight Ds we'll not the
24 objections.

25 [Defendant's Exhibit DDDDDDDD admitted into evidence]

1 BY MR. KARACSONYI:

2 Q All right. Did you try to get the bank records Anthem
3 requested post-remand?

4 A Yes.

5 Q And what did you do?

6 A To try to get the bank statements?

7 Q Yes.

8 A Well, we subpoenaed them.

9 Q Okay. And -- all right. Between May 30th, 2001 and the date
10 of your separation 2008, how often did Eric work?

11 A Every day.

12 Q How many hours per day?

13 MR. CARMAN: Objection to form of the question, Your
14 Honor.

15 THE COURT: Get some of the background or maybe what
16 kind of work or where he worked at, I guess. But basically he was a
17 worker on that. So you can explore it on that. You can go that way since
18 you can make a claim as to any wages earned. You can continue.

19 BY MR. KARACSONYI:

20 Q How many hours a day did he work?

21 MR. CARMAN: Objection. Vague.

22 THE COURT: Yeah.

23 BY MR. KARACSONYI:

24 Q During the time period -- do you understand we're focusing
25 on May 30th, 2001, the date of your separation 2008?

1 MR. CARMAN: And Your Honor, I've --

2 THE WITNESS: Yes.

3 MR. CARMAN: -- got to object on lack of personal
4 knowledge. I mean she has to establish that she physically saw him go
5 to work.

6 THE WITNESS: I did. I lived --

7 BY MR. KARACSONYI:

8 Q Okay. Did you guys live --

9 A -- in the same house.

10 Q Okay. Did you live together?

11 A Yes.

12 Q Okay. And would he leave each day?

13 A Yes.

14 Q Or did he leave?

15 A Yes. Every day. Even on holidays.

16 Q And where did he tell you he was going?

17 A To work.

18 Q Okay. And what did you understand that to mean?

19 A That he was going to work.

20 Q And how many hours per day would he work?

21 MR. CARMAN: Objection on the form of the question.

22 THE WITNESS: Usually about 12.

23 THE COURT: Objection overruled. I'll give her some leeway
24 to go on and answer. You can continue, counsel.

25 MR. LUSZECK: And just same objection with respect to this

1 is outside of the scope of their expert report, Your Honor. None of this
2 was addressed or doven into in their expert report and they're trying to
3 get something else in, despite the fact that their expert didn't testify
4 regarding the same or put it in the report.

5 THE COURT: Well, as far as community property, it doesn't
6 have to just be an expert. Any reliable or other reliable information on
7 that. It's her day in court. Give her a chance -- give her a day in court
8 with the employment, she says employed on that issue would be what
9 he did, where he did it, when he did it, who he did it for, because the
10 more details on that would give her a chance to testify. She's been
11 waiting for years or got a chance or get a chance on this case in chief as
12 well, if they want to. But let her testify. You can continue on that, Ms.
13 Lynita.

14 BY MR. KARACSONYI:

15 Q And how many days a week would he work?

16 A Every day.

17 Q And did he travel for work?

18 A Yes.

19 Q And did he tell you where he was traveling to for work?

20 A Most of the times, yes.

21 Q And between 2001 and 2008, where did he say he was
22 traveling for work when he was traveling?

23 A Do you want me to tell you --

24 MR. CARMAN: Objection. Vague.

25 THE COURT: Specifics on there?

1 MR. KARACSONYI: Yes. I'm going to ask her specifics on
2 where he was going, what places and what he said he was doing in each
3 of those places.

4 THE WITNESS: Okay. Just name the places that he states
5 that he went to?

6 BY MR. KARACSONYI:

7 Q Well, then we can talk about what he said he was doing in
8 each place.

9 A Okay. He traveled to Washington State, he traveled to
10 Arizona, to Mexico, to Mississippi. Those were the most often places
11 that he went to. For -- like for work. What I understood was for work.
12 He went to New York a few times.

13 Q And what was your understanding based upon -- that he was
14 going for work? What was your understanding as to work?

15 A Well, he would talk about what he was doing and what was
16 going on and what he wanted to happen.

17 Q Okay.

18 A You know, like the projects or that he was working on and
19 that.

20 Q Okay. And how many times -- do you recall how many times
21 he traveled to Washington State in that time period between 2001 and
22 2008?

23 A Oh, I can't give you a number, but he traveled a lot there. He
24 traveled a lot there because he said he had to, you know, set it up.

25 Q Okay. And when you say set it up what was he setting up.?

1 What did --

2 A He was setting up -- he called them card rooms and as far as
3 I was concerned he pretty much was going there and managing it and
4 working it. I mean he owned them, so --

5 MR. CARMAN: Objection, Your Honor. It goes beyond the
6 question posed.

7 THE COURT: Overruled.

8 THE WITNESS: He spent a lot of time there. Months. And I
9 mean he would never be for one month, you know, at a time, but it was
10 over -- from the beginning of the -- from beginning the project, to set it
11 up, to when they were closed.

12 BY MR. KARACSONYI:

13 Q What were they? What did you understand was the project,
14 the specific projects he was working on in Washington State?

15 A He would call them card rooms.

16 Q Did they have names? Did you know the names of any of
17 these places?

18 A I did. That was something that we talked about. Some of the
19 names we created together.

20 Q Okay. And what names were those?

21 A The Wild Grizzly, I believe, the Cleopatra. There was a lot of
22 Cleopatras. That's all I can remember right now. But I remember we
23 designed like chips and that. There were chips for each one of the
24 names.

25 Q Okay. Would he ask you for your input sometimes?

1 A Just on the names pretty much. I had -- we had talked about
2 not the business aspect of it, but like on the names and I felt like I knew
3 more about the names and that we talked to the kids about it. I had
4 gone, even gone and I mean --

5 Q Gone and done what?

6 A -- you know. What?

7 Q Gone and done what?

8 A I had gone and like I was excited because I felt like I was
9 involved. So I had gone and had -- like I had dressed up in this Cleopatra
10 outfit and had pictures taken because he had --

11 MR. CARMAN: Objection. Relevance.

12 THE WITNESS: -- made me think that I was, you know,
13 going to kind of be a part of it. It was kind of a time where I thought it
14 was a lot of fun, because I wasn't involved in a lot of things, but I was --
15 felt more involved with that one.

16 BY MR. KARACSONYI:

17 Q Okay. What about Arizona? What was your understanding
18 of what was going on in Arizona?

19 A We had a condo actually, and we traveled there. I went
20 there, you know, substantially and we'd take the kids there as well. We
21 did auctions there. He had a friend there that worked for a bank, and so
22 sometimes I would go to meetings, I would go and work the auctions
23 that he did there as well.

24 Q Okay. And what would you do as far as working the
25 auctions? What do you mean?

1 A I would help like the -- when you come and you want to bet
2 on it, there's forms that you need to fill out and then there's a bid card
3 that you give the client. And I was a bid assistant at a good majority of
4 the auctions that he did, whether they be charity or real estate.

5 Q And between 2001 and 2008, your separation, how often did
6 you guys go to or did Eric go to Arizona for?

7 A He did a lot of work in Arizona, so I don't know how many
8 days. But he traveled a lot.

9 MR. CARMAN: Objection, Your Honor, to that. She
10 answered the question then added additional testimony to it after
11 indicating she didn't know.

12 THE COURT: Not really. She said he travelled a lot. She
13 said he travelled a lot. You can continue, counsel.

14 BY MR. KARACSONYI:

15 Q Can you estimate how many times per year he would travel
16 there?

17 A To Phoenix?

18 Q To Arizona, the state.

19 A Probably once a month for, I don't know, maybe ten years. I
20 don't know.

21 Q What about what other -- was there any other business --
22 besides auctions was there any other business in Arizona that you're
23 aware of?

24 A Yes. There were -- yes, there were a lot of businesses there.

25 Q Okay. What types of businesses?

1 MR. CARMAN: Objection, Your Honor. It's irrelevant. This
2 is -- is he generally asking her whether there are businesses in Arizona or
3 whether there's business specifically related to the parties?

4 THE COURT: I imagine he's saying business --

5 MR. KARACSONYI: I'm not asking about in the State of
6 Arizona if there are businesses there.

7 THE COURT: -- I think it speaks for itself. You can continue.

8 THE WITNESS: I'm sorry. Could you repeat it?

9 THE COURT: I think he said a lot of business there, so
10 specifically what businesses makes you talk about businesses that not
11 just in general but businesses --

12 THE WITNESS: Oh.

13 THE COURT: -- for you and Eric or you or just Eric or
14 whatever.

15 THE WITNESS: Okay. So besides the auctions there were --
16 we bought a shopping center, there were a couple of warehouses that
17 we bought. There was a subdivision, a lot of lots, empty lots, but then
18 there were homes there as well. Like I said we bought this condo and --

19 BY MR. KARACSONYI:

20 Q Okay.

21 A There were a couple other shopping centers. But --

22 Q Okay. And would Eric travel to Arizona to actually be
23 involved in those purchases and acquisitions of those assets?

24 A Yes. Uh-huh.

25 Q And I want to make sure, or was there somebody else who

1 was doing that for him and he was at home?

2 A No.

3 MR. CARMAN: Objection. Speculation.

4 THE WITNESS: He did. He was in charge of everything. He
5 created everything, controlled it all. He --

6 MS. HAUSER: Objection. Now there's not --

7 MR. LUSZECK: Objection. Nonresponsive and best evidence
8 rule, Your Honor. With all of this stuff if there's this property in all these
9 states all they have to do is point to the documents. They're asking her
10 for these generalities where you said you want specifics. Let's get to the
11 specifics.

12 THE COURT: I'm trying to take in a little background, but I
13 want to get to specific properties, like you said. But I'm getting a little
14 background.

15 MR. KARACSONYI: The documents don't show the labor,
16 though, and who did the labor. There's been a claim that he didn't do
17 any labor.

18 THE COURT: Well, there --

19 MR. LUSZECK: The testimony doesn't show that either, Your
20 Honor.

21 THE COURT: They got specific management fees that we
22 need to get to, that was identified on that. But you have to show specific
23 funds that were generated by him or it came from. There's a lot of
24 things in the general ledgers about management fees. We need to get to
25 what those fees were for, when they're done on it. But these general

1 things that he's working every day doesn't give me a lot to know what
2 was earned or what wasn't earned on that is the potential community
3 property. I'll give you a little leeway, but we really want to get into
4 specifics. If you have specific issues and management fees that were
5 referenced in ledgers, that's the stuff we'd like to get into.

6 MR. KARACSONYI: Okay.

7 BY MR. KARACSONYI:

8 Q You mentioned Mexico.

9 A Yes.

10 Q Okay. Between 2001 and 2008, do you recall how many
11 times he traveled to Mexico there?

12 MS. HAUSER: Objection. Relevance.

13 THE COURT: I'll overrule it. Let's get through this, give the
14 background in general, then I want to get some specific properties so we
15 know exactly what we're talking about a specific incomes earned so I got
16 some specifics to rely on. Right now I'm giving you a little bit of
17 background on that, with the employment, but employment doesn't tell
18 me a lot unless you show funds that are generated from specific things
19 so I can determine when they were made, where they were made from
20 and what they were for. But I can give you a little leeway. You can
21 continue, counsel.

22 THE WITNESS: Okay. You asked me --

23 THE COURT: Mexico.

24 THE WITNESS: I'm sorry?

25 THE COURT: He asked about Mexico. I think is where he --

1 THE WITNESS: Like how long he was gone during that time?

2 BY MR. KARACSONYI:

3 Q How many times he went during that time?

4 A He was the only one that knew what was going on and what
5 he wanted. So he was there that -- when he traveled there, he would be
6 gone for longer than a week. It would -- and so I can't tell you when that
7 project started and when it ended, but he -- I can't specifically say how
8 many days he was there. But he was gone the majority of the time span
9 between when that began or maybe what the documents would show
10 that it started in and ended, he was there. He was there more than he
11 was home.

12 Q Okay. What about Mississippi?

13 A That was like a staple place for him to travel. He since we
14 started buying the lots in that area -- you're talking just for business,
15 because he had friends there, too.

16 Q Yeah, just for business.

17 A Okay. That was a staple place for him to go. I mean maybe
18 once a month for years.

19 Q And did he say what he was doing there?

20 A Yes. He was --

21 Q And what did he --

22 A Do you want me to -- I'm sorry?

23 Q What would he say?

24 A Well, he was going to work. Do you want me -- what his plan
25 was?

1 Q Did he talk about the work that he was doing there?

2 A Yes, he did.

3 Q Okay. And what was the work that he was doing in
4 Mississippi?

5 A He wanted to buy out the land so that he could create like a
6 little city. Like a -- that's the easy way that I can explain it. He also
7 traveled there to -- we had a casino, so he traveled there for that. To I
8 mean set up the barges and meet the employees and hire the employees
9 and there was a lot of work that goes into that. So not only that casino,
10 but he was involved in other casinos, too. I don't know if you want the
11 names or not.

12 Q Do you know the names?

13 MR. CARMAN: And Your Honor, I know you're allowing a lot
14 of leeway on this, but she has to show that she has personal knowledge
15 of his activities there. The testimony is indicating that he left; and told
16 her he was going to work. She's then speculating as to what actually
17 occurred there. And it's not based on personal knowledge. As much as I
18 don't want to delay the trial, the Court has to impose some type of
19 guideline as to what is based upon personal knowledge and what's not.

20 MR. KARACSONYI: If your spouse tells you what they're
21 doing in another state she can say what he said.

22 THE COURT: I don't think -- he could be having a girlfriend in
23 the other state, is what they could be doing and fell in love. And I know
24 no husbands in this courtroom has ever lied, but husbands lie all the
25 time. I mean, so the fact is I don't know what he was doing on that. The

1 issues -- I'm getting a lot of background there, but you need to connect
2 the dots.

3 If he's in Mississippi what he's doing, when he was doing it,
4 who he did it for on that very specific, how they got [indiscernible]. But
5 what he told her is fine on that, but --

6 THE WITNESS: I traveled there so I saw the end result.

7 THE COURT: You might see the result on --

8 THE WITNESS: So do you want me to talk about that?

9 THE COURT: -- that, but you got to talk about things that
10 that you've seen. The documents and the things that were done on that.
11 But I'm getting a little leeway on that with the travels. But with these
12 travels what he was doing. I need specifics on that. What he was doing,
13 when he was doing it, what the services were, so I can determine, you
14 know, if there's community property now.

15 But you travel a lot to different places on that, we know the
16 different properties that are in question in Mississippi and Arizona with
17 the band. Once we know all that, we just need to connect the dots.
18 That's what I need on there. As far as the traveling is fine, and what he
19 told you he was doing is fine on that. But what he actually done; I don't
20 know.

21 THE WITNESS: That's true.

22 THE COURT: So we get there on that with time frames and
23 documents and expert reports of exactly what the transactions were in
24 those time frames. But base your testimony he traveled a lot to her
25 understanding business, worked a lot, every day, 12 hours a day, wasn't

1 home a lot, obviously, according to her testimony on that. And basically
2 traveled to different states and countries, including Mexico, which he felt
3 was on business.

4 THE WITNESS: Do you want me to tell you --

5 BY MR. KARACSONYI:

6 Q Did you ever travel with him to Mississippi?

7 A Yes.

8 Q Did you ever observe him working?

9 A Yes.

10 MS. HAUSER: Objection. Vague.

11 THE COURT: You want to give a time frame of when it was,
12 you know where they were at and what he did on that. We know the
13 time frame's from May 30, 2001 at 2008, there was specific things you
14 did on a project you worked on. The specific time frame that you know
15 in Mississippi that you worked on --

16 MS. HAUSER: The days of travel. --

17 THE COURT: -- and what he did.

18 MS. HAUSER: Foundation.

19 THE WITNESS: I'm not able to tell you the years, because I
20 don't remember. But I can tell you specifically what I saw when I went
21 there. And I'm not supposed to say what other people said to me when I
22 was there, right?

23 THE COURT: Right.

24 THE WITNESS: Okay. So --

25 MR. CARMAN: Your Honor, obviously I'm objecting. That

1 was a nonresponsive answer to a question that was never posed.

2 THE COURT: We need to get around it. You got anything
3 about what the travel -- I really would like to get to specifics of so at least
4 I can connect the dots. But I get a little bit about traveling to Mississippi,
5 Mexico, Arizona, Washington, on a regular basis on business to her
6 understanding, I don't know what that means, but we'll see if they
7 connect the dots.

8 THE WITNESS: Okay.

9 BY MR. KARACSONYI:

10 Q Can you tell us what you -- was it during the 2001 to 2008
11 period?

12 A Yes.

13 THE COURT: Are we talking about Mississippi? Is that what
14 you're talking about?

15 THE WITNESS: We'll start there, uh-huh.

16 BY MR. KARACSONYI:

17 Q And what did you observe there that he was -- what work did
18 you see him perform in Mississippi?

19 THE COURT: And have you more of a time frame than 2001
20 to 2008? Can you narrow it more specific? Was it 2005?

21 MR. KARACSONYI: Well, which time? She talks about --

22 BY MR. KARACSONYI:

23 Q Which projects did you see him work on?

24 A Can I just tell you what I saw? The Las Vegas casino, the
25 Fitzgerald, the Silver Slipper.

1 Q Okay. Focusing on Silver Slipper, what did you see him do
2 with respect to Silver Slipper?

3 MS. HAUSER: Objection.

4 MR. CARMAN: Objection again, Your Honor.

5 MS. HAUSER: Foundation.

6 MR. CARMAN: As to -- I mean it's a relevance objection,
7 because no time frame has been established.

8 MS. HAUSER: And that with foundation.

9 THE COURT: You want to start with Silver Slipper and --

10 MR. KARACSONYI: Well, we know from the general ledgers
11 et cetera, what the time period of Silver Slipper was, that it falls within
12 the time period and from his testimony.

13 MS. HAUSER: Your Honor, she can't just generally testify
14 what she saw. I mean dates, months, years. I mean this is all subject to
15 cross-examination and the veracity of her statements.

16 MR. CARMAN: Your Honor, just from a general due process
17 prospective, I'm sure we can gather a whole bunch of rebuttal witnesses
18 to rebut what she's about to say, but we need to know the time, the date.
19 We need to know when the statements were made so we know who the
20 witnesses would be and who the rebuttal -- where the rebuttal evidence
21 would lie. There has to be some --

22 MS. HAUSER: What she saw.

23 MR. CARMAN: -- basic foundation established.

24 THE COURT: Just ask her a question on that. Can she give
25 me specific time more than 2001 to 2008. Specific things that she saw.

1 And the time frame.

2 THE WITNESS: I can --

3 THE COURT: We'll try to get more specific. The generalities
4 are generalities. The thing we're trying to get specific details and time so
5 they can tie it together.

6 What's going to happen, counsel are going to have to
7 connect the dots. We got a lot of documents, he's got to connect the
8 dots to what's community property of that, so you got to get more
9 specific than just not 2001 to -- by what you saw, when it was. Was it
10 April 2005, around spring 2005? Just not so we know specific what we're
11 doing and what specific event was at the Silver Slipper. Was it Fitzgerald
12 and what you seen and what you signed or things like that. Are you
13 involved with, you know, business deals? A little more specifics.

14 And I know it's difficult because it's been many years, but
15 maybe there have been more specifics if you can recall more consistent
16 timeframes and --

17 THE WITNESS: I can.

18 THE COURT: -- and specifics if you can. You want to start
19 with the Silver Slipper is where you're at?

20 BY MR. KARACSONYI:

21 Q Do you recall when the Silver Slipper opened?

22 A I'm thinking.

23 THE COURT: That's all right.

24 THE WITNESS: It would have been, I believe, after Katrina.

25 And I think Katrina was in 2005, the hurricane Katrina. I believe I kind of

1 go by dates when we had our babies. And I believe we were all there for
2 that. So I know it was after '97. So I believe that -- I remember Fitzgerald
3 I was pregnant with --

4 BY MR. KARACSONYI:

5 Q Okay. I'm focusing on Silver Slipper.

6 A I know. I can't give you the date, but I can --

7 Q Hurricane Katrina happened in August 2005.

8 A Yes.

9 MS. HAUSER: Objection, Your Honor.

10 THE WITNESS: So I believe it was after that.

11 MR. KARACSONYI: The Court can take judicial notice of
12 when Hurricane Katrina happened, landfall in the United States.

13 THE COURT: You got the time frame, after Katrina. Can you
14 make it more specific? Was it a month after Katrina? A year after
15 Katrina? Three years after Katrina? You got a timeframe when you can
16 put in about Silver Slipper.

17 THE WITNESS: I don't because I haven't looked at -- I haven't
18 looked at any of that for a long time. I know we were all there, and the
19 family was all there. I just -- everybody, his brothers and sisters were
20 there and for the opening, but I can't tell you right this moment. I mean I
21 could -- I would have to refresh my memory.

22 THE COURT: So basically it was after Hurricane -- you know
23 it was after Hurricane Katrina?

24 THE WITNESS: I believe so, yes. Because yeah, it ruined the
25 barge and all that. So I can't tell you when. Sorry.

1 THE COURT: That's fine.

2 MR. KARACSONYI: All right. I'll move on, Your Honor. Can
3 we go to Exhibit seven Ns, please?

4 THE COURT: You got the book? Can you get her all set up
5 on there. Seven Ns was it?

6 THE MARSHAL: Counsel, it's this binder, right?

7 MR. KARACSONYI: Yes.

8 THE MARSHAL: Here you go.

9 THE WITNESS: Okay.

10 MR. CARMAN: I'm sorry, what was that exhibit, Judge.

11 MR. KARACSONYI: Seven Ns.

12 THE WITNESS: Okay.

13 BY MR. KARACSONYI:

14 Q Are you familiar with these documents?

15 A Well, they relate to Harbor Hills.

16 Q Are you familiar with these deeds?

17 A Yes.

18 Q Okay. And can you turn to Bates 10997.

19 A Okay.

20 Q Why did you transfer Harbor Hills out of the LSN Trust into
21 your personal name?

22 A I have no idea. Eric would have overseen that.

23 MR. LUSZECK: Your Honor, once again, I mean not only is
24 that nonresponsive, but I feel like we're getting into some of the civil
25 claim issues.

1 MR. KARACSONYI: It is responsive, Your Honor. It shows
2 that she didn't make the decision to do this to give a gift to him.

3 MR. LUSZECK: Okay. If that's the question is did you intend
4 this to be a gift --

5 MR. KARACSONYI: That's the next question.

6 MR. LUSZECK: But if he's asking why she did it, and she's
7 going to say Eric made me do it, then we're getting into the civil claims
8 and I got a concern.

9 THE COURT: Sustained. She said the transfer from why he
10 did it on that, she answered the question straight out there.

11 MR. KARACSONYI: Okay.

12 BY MR. KARACSONYI:

13 Q And the next transfer is from your personal name to Eric, do
14 you see that on 10993? To Eric personally, do you see that?

15 A Yes, I see it.

16 Q Did you intend to gift this property to Eric?

17 A No.

18 Q Why did you transfer it to him?

19 MR. LUSZECK: Objection, Your Honor.

20 MR. KARACSONYI: She can answer as to why she did it,
21 why she transferred it.

22 THE COURT: You can answer.

23 THE WITNESS: Why I transferred the house in this personal
24 name?

25 /////

1 BY MR. KARACSONYI:

2 Q No. Why you transferred the house period to him?

3 A Oh. He came to me and said that, you know, we're getting
4 divorced so we need to look at what we're going to do. We need to
5 separate things and in order to do that, you know, you're going to be in
6 Palmyra we might as well start here dividing the things.

7 Q Okay. And did you think this was a division for the Palmyra
8 residence?

9 A I don't -- will you restate that?

10 Q Did you believe that you were exchanging this for the
11 Palmyra residence or part of a bigger division?

12 A No, it was like the beginning, like that was the first and
13 foremost thing, I guess, where we would start. And so it was just the
14 beginning of what we were going to do. Foolish or not, I trusted him
15 way beyond what maybe I should have.

16 MS. HAUSER: Objection. Nonresponsive. Motion to strike.

17 THE COURT: That will be stricken.

18 BY MR. KARACSONYI:

19 Q Did you trust him when he asked you to make this transfer?

20 A I did.

21 MR. LUSZECK: Same, Your Honor. We're getting to the
22 breach of fiduciary duty claims.

23 THE COURT: The issue I think is that she did not intend to be
24 a gift.

25 MR. KARACSONYI: Right.

1 THE COURT: So that's the key on it. She did not intend to be
2 a gift. Why she transferred it? She transferred down there, she said she
3 did not intend it to be a gift. So leave it at that. The other stuff can take
4 care of itself if she felt she was taken advantage or anything, they can do
5 that in the civil case on it. But basically, there's no intent to -- as a gift on
6 that. They were beginning to separate. So they're starting to separate
7 property was her understanding. Fair enough?

8 THE WITNESS: That's right, sir.

9 THE COURT: Okay.

10 THE WITNESS: Your Honor, I'm sorry.

11 THE COURT: It's okay.

12 BY MR. KARACSONYI:

13 Q All right. Can you turn to Exhibit six Ps and six Ms, and if
14 you could just look those over, I just have some general questions?

15 A I'm sorry. Could you say it again? I can't --

16 Q Six Ps and six Ms, these have already been admitted.
17 They're Russell Road documents and O, the operating document for
18 CJNL, do you see those?

19 A Six Ps?

20 Q Yes.

21 THE COURT: Six Ps and --

22 THE WITNESS: I'm counting these here so I don't know if six
23 is in this one. I think it's in a different book. Because these are sevens.

24 THE MARSHAL: You want me to help you? Here, I'll help
25 you.

1 MR. KARACSONYI: Six Ps would be volume --
2 MR. LUSZECK: 17.
3 THE WITNESS: That's Z. They're talking about Ps like in
4 Peter.
5 THE MARSHAL: Yes. I believe it's going to be in this one.
6 THE WITNESS: Oh, it's A through -- okay.
7 MR. KARACSONYI: It's volume 17.
8 THE MARSHAL: Yes, we have it.
9 THE WITNESS: Sorry.
10 THE MARSHAL: Oh, no. Don't be sorry.
11 THE WITNESS: Okay. You want me to look through these?
12 BY MR. KARACSONYI:
13 Q Just look through Exhibit six Ps and six Ms.
14 A Did you say M as in Mary?
15 Q Yes.
16 A Okay.
17 Q Okay. Did you form CJENL?
18 A No.
19 Q Who did.
20 A Eric.
21 Q Why did you sign the operating agreement?
22 A That's he told me we needed to sign it.
23 MR. LUSZECK: Your Honor, same objection. We're getting
24 into the breach of fiduciary duty issues here.
25 MR. KARACSONYI: Your Honor, this showed that she did not

1 transfer these things, this whole case was, the expert report was about
2 whether there was adequate consideration, whether community property
3 was created. And so she's testifying as to her intent and reasons for
4 doing these things and signing these documents.

5 MR. LUSZECK: Eric's not even a member of CGENL.

6 MR. CARMAN: CJENL.

7 THE WITNESS: I was told that he was. That's why it was
8 made up that way.

9 MS. HAUSER: Your Honor, motion to strike. There's no
10 pending question and Ms. Nelson shouldn't be speaking.

11 THE COURT: Sustained. Let's relax. Give her a chance,
12 then. All right? You guys have been to court one hundred times on that.
13 All right? Give her a chance. It's her day in court to it. You guys
14 missed part of the thing about family court. Part of it is people are
15 getting hurt, whether they like the decision in the court or not. At least
16 they got to be heard on them. Give her some leeway on that.

17 The issue she signed the agreement, operating agreement.
18 We all know what the testimony's going to be. You can make all your
19 stuff finance; It's going to be Eric told me to do it or made me do it.
20 That's going to be the answer for everything. We haven't figured it out
21 yet, whether it's true or not. You guys will decide in your civil case on
22 that, if that's true or not. That's what civil cases. But we haven't figured
23 out where we're going on this. I mean --

24 MR. LUSZECK: I do and that's why I'm confused why the
25 same questions are being asked when I've already objected and you've

1 sustained, Your Honor, and said, no, that's probably going to the civil
2 claims, we don't want to get there. And that's the concern is they keep
3 asking these questions why does he do it. I'm' not surprised that's what
4 Ms. Nelson's testifying to, I would expect her to.

5 THE COURT: Right.

6 MR. LUSZECK: The problem that I have is, like I said, I'm
7 fearing that they're going to use testimony give here that you're allowing
8 in because you're giving a lot of leeway --

9 THE COURT: And what --

10 MR. LUSZECK: -- in the civil case.

11 THE COURT: She's not going to give this testimony in the
12 civil case, said Eric made me do it. The judge will say you can't testify to
13 that. I did it because Eric told me. That's what she's going to testify to in
14 the civil case, I would guess. And I imagine she's going to get that in in a
15 civil case. So I don't know how this is going --

16 MR. KARACSONYI: You can't use the testimony --

17 THE COURT: -- to jeopardize the case either way. So let's
18 get to the meat. I want to connect the dots. We need to get -- to start to
19 connect some dots. I understand the position.

20 MR. LUSZECK: Your Honor, I agree.

21 THE COURT: I just and I agree with you as far as getting in
22 fiduciary breaches or what she was transferred that without
23 consideration. Well, those issues, just because things were transferred
24 without consideration, does not mean that it's community property. The
25 issue on that there may be breach of fiduciary duty in your civil case,

1 took advantage of his position on that or violate that, that's something to
2 be on that. But I really want to start to connect the dots with specific
3 properties or assets so I can make a determination if there's a
4 community property claim on that.

5 So I agree, Mr. Luszeck, we really want to start to get to some
6 of the meat of it. But I do know the general stuff on that with the
7 agreement, but she signed the operating agreement, she signed and she
8 signed it because she was asked to do it or told to do it. So we can move
9 on.

10 MR. KARACSONYI: Okay.

11 BY MR. KARACSONYI:

12 Q Why did you transfer Russell Road to CJENL?

13 A Am I allowed to say that?

14 THE COURT: Yeah, you can answer.

15 THE WITNESS: Because that's what Eric told me to do.

16 BY MR. KARACSONYI:

17 Q And why did you assign your membership interest in CJENL
18 to Nelson Nevada Trust?

19 A The same reason, because that's what he told me we needed
20 to do.

21 Q If Eric said during his deposition that he had little or no
22 involvement in this -- in Russell Road and CJENL and that you handled
23 this, would that be accurate?

24 A No.

25 Q When Eric did financial deals with his family, did he discuss it

1 with you?

2 A No.

3 Q Did he ask your permission?

4 A No.

5 Q Did you ever discuss why he would do deals with his family
6 members in your name?

7 A Yes.

8 Q And what was the reason?

9 MR. CARMAN: Objection to foundation, Your Honor.

10 THE COURT: I'll overrule it. You can answer it. You can
11 answer.

12 THE WITNESS: Okay.

13 BY MR. KARACSONYI:

14 Q What was the reason?

15 A He wanted to keep a distance from his family and that he
16 wanted to be able to I call it good guy/bad guy. He wanted to be to the
17 good guy. So if there was anything maybe that he didn't want to look
18 like it came from him, he wanted to be able to say that it was from me,
19 that it was my decision. It gave him the ability to play the story the way
20 he wanted it.

21 Q All right. Can you turn to Exhibit six Js?

22 A Okay.

23 Q Can you go to 16993?

24 A Okay.

25 Q Did you sign this warranty deed?

1 A No.

2 Q What makes you say that?

3 A Well, it's not my signature. I mean the -- there's no -- the Y
4 doesn't - if that's supposed to be the Y, the Y doesn't come down.
5 There's two Is in it. I don't make my As that way. I don't do my Ss that
6 way, and there's no E in the Nelson.

7 Q If you can go to page 16989 now.

8 A 16989.

9 MR. CARMAN: What was the last three numbers?

10 MR. KARACSONYI: The last one was 16993, this one's 169 --

11 MR. CARMAN: 16989.

12 THE WITNESS: Is there a tissue here? Is there a tissue
13 around?

14 THE MARSHAL: Yes.

15 THE COURT: Do you have it?

16 THE WITNESS: Thank you. Okay, 16989?

17 BY MR. KARACSONYI:

18 Q Yes.

19 A Okay.

20 Q Why did you transfer High Country Inn to the Grada
21 Partnership?

22 A Because that's what Eric would have directed me to do.

23 Q Did you form Grada Financial Partnership?

24 A No.

25 Q Who did?

1 A Eric did.

2 Q Do you know when it was formed?

3 A I can't tell you the date.

4 Q Who chose the name?

5 A Eric.

6 Q Why?

7 A It's his mother's --

8 MR. LUSZECK: Your Honor, objection to the form of the
9 question.

10 MS. HAUSER: Relevance.

11 MR. LUSZECK: It calls for speculation. There's lack of
12 foundation.

13 THE COURT: I gave it --

14 MR. LUSZECK: I understand she's entitled to her day in
15 court, Your Honor, but --

16 MR. KARACSONYI: Your Honor, the claims are that there
17 were -- they have claimed that these all were gifts from her --

18 MR. LUSZECK: That's what the Supreme Court said.

19 MR. KARACSONYI: No, that's not what the Supreme Court,
20 the Supreme Court said that they could have been gifts, but they didn't
21 say -- they didn't specifically rule each of these were gifts. So we're just
22 trying to establish whether these were gifts or not or whether or not
23 these were transferred with the intention that they were creating
24 property for the two of them.

25 THE COURT: Ask her straight out.

1 MR. LUSZECK: Supreme Court said this, "Many transfers of
2 property occurred between the trust between 2001 and 2009, most of
3 which were gifts from one trust to the other."

4 MS. HAUSER: Yes, it did not say --

5 MR. LUSZECK: If you want to ask her that question, I'm fine
6 with that. But all of these other questions, I think, lack foundation,
7 they're leading. If they want to ask her if it was a gift, fine. But I don't
8 know why you need ten questions before they get to the gift question.

9 MR. CARMAN: And Your Honor, I'll add to that objection that
10 *Todkill* says the intent of the parties is not relevant. It's title that controls
11 unless there's clear and convincing evidence.

12 THE COURT: The Supreme Court said that as well. Basically
13 the parties' intent as understanding community property was a separate
14 matter on that. So I agree with that. So basically you can ask him on
15 that High Country -- Grada Financial ask her -- why she transferred it was
16 the question?

17 MR. KARACSONYI: It's not about -- the Supreme Court never
18 said the intention of the parties in transferring property isn't relevant.
19 They said that the opinion of a party as to the character of the property --

20 THE COURT: Character of the property.

21 MR. KARACSONYI: -- is not.

22 THE COURT: Exactly.

23 MR. KARACSONYI: Not that they can't testify as to what
24 their intention was when they did something.

25 THE COURT: I agree with you.

1 MR. KARACSONYI: Otherwise you could never if you
2 transferred something --

3 THE COURT: I agree with you. So just ask her straight out.
4 It said High Country was granted, why'd you do it? That's the question.

5 MR. KARACSONYI: That's what I did ask her.

6 THE COURT: Yeah. And you got into when it was created,
7 who created it. I'm not sure what that has to do with the facts.

8 MR. KARACSONYI: Well, because she'll testify --

9 THE COURT: I'm not sure what the name would be. How's
10 that --

11 MR. KARACSONYI: What's this -- well, because the
12 significance of the name would show that -- may I ask her?

13 THE COURT: First ask her was there intent to be a gift, I
14 guess, would be the first question, then follow up with that, yeah. I think
15 you asked her why she transferred High Country to Grada Financial.

16 MR. KARACSONYI: Well, she testified actually when she
17 transferred it, it was transferred she testified Eric told her to.

18 THE COURT: Yeah, right. That's her answer for everything, I
19 would imagine we're going to get to. That's why we have the civil suit I
20 would guess. That he took advantage of her is the position on that. So
21 we all know that.

22 MR. LUSZECK: Absolutely and I go back to that's the
23 concern with this line of questions.

24 MR. KARACSONYI: Okay. Let's --

25 THE COURT: You can continue. You can ask her -- let's get it

1 done. Grada what's the meaning of Grada, is there a big thing in Grada?

2 MR. KARACSONYI: I don't have that many questions. We're
3 almost done.

4 THE WITNESS: It's his Mother's maiden name.

5 THE COURT: Okay.

6 BY MR. KARACSONYI:

7 Q And it was thereafter transferred back from Grada at 16990,
8 back to the LSN Trust, do you see that?

9 A Just a minute. Yes, to my trust.

10 Q Do you know why that happened?

11 A I don't.

12 Q When it was transferred to the ELN Trust -- the deed we
13 looked at 16993 -- did you intend to make a gift to the ELN Trust?

14 A No.

15 Q Were you aware of any liability owed by you at that time to
16 Frank Suarez?

17 A That I had a liability to him?

18 Q Yeah, were you aware of any liability owed by you at that
19 time to Frank Suarez?

20 A No.

21 Q Do you know Frank Suarez?

22 A No. I never worked with him, no. I just heard his name.

23 Q Okay. How many times have you met?

24 A I may have met him once.

25 Q Did you ever borrow money from Mr. Suarez?

1 A No.

2 Q Now, if you go to Exhibit seven Cs, note 17.

3 A What exhibit is it; do you know?

4 THE MARSHAL: It's going to be right here.

5 THE WITNESS: Oh, I thought this was sixes. Thank you. Did
6 you say six or seven?

7 THE COURT: Seven Cs.

8 THE WITNESS: Yeah, these are sixes.

9 THE MARSHAL: Okay. They didn't make me enough
10 [indiscernible].

11 MR. KARACSONYI: It might not be in the --

12 THE WITNESS: This starts in N.

13 MR. LUSZECK: It was a looseleaf one yesterday. I certainly
14 did not place it in a binder.

15 MR. KARACSONYI: Oh.

16 MR. LUSZECK: So it may just be in there loose.

17 MR. KARACSONYI: Okay. It might be up there. Sorry, let
18 me look for it.

19 THE MARSHAL: One of these?

20 MR. KARACSONYI: A Larry Bertsch finding.

21 It must be up here, though, because Jenny Allen was
22 looking at it yesterday.

23 MR. LUSZECK: Yeah, yeah, yeah. I just thought.

24 THE MARSHAL: That thing was all spread out, so I just
25 gathered them together.

1 THE WITNESS: That starts with the Ns.

2 MR. KARACSONYI: Oh, yeah, that's Ns. So it's got to be in
3 the binder.

4 THE WITNESS: These are sevens.

5 MR. KARACSONYI: Here it is. Volume 18. I'll leave all these
6 extras.

7 THE WITNESS: Okay. In that it's a Larry Bertsch report in
8 seven Cs.

9 BY MR. KARACSONYI:

10 Q Okay. He said that there was a -- on the second paragraph --
11 the amount actually loaned is \$13 million and the note payable --

12 A Oh, wait just a minute. Can you let me get that?

13 Q Oh, sorry. Page --

14 A On the second paragraph on the --

15 Q Page 13.

16 A Okay. I'm there.

17 Q Okay. The second paragraph of number 17, the second
18 sentence, he said: The amount actually loaned is \$1,300,000 and note
19 payable to Lynita's trust for \$1 million. Sometime between the date of
20 the 10-31-2010 the promissory note was transferred to the Eric L. Nelson
21 Nevada Trust. Do you see that?

22 A Yes, I read that.

23 Q Okay. I'm going to show you now Exhibit four U's.

24 A Is it in the pile that you left here or a book?

25 Q Yeah, sorry, let me show you.

1 MR. KARACSONYI: Mr. Marshal, I'll be happy to do that. I
2 don't --

3 THE MARSHAL: No, no, it's okay, Counsel. I'm up here.
4 UUUU, Exhibit UUUU-R?

5 THE COURT: Yeah.

6 THE WITNESS: Okay.

7 BY MR. KARACSONYI:

8 Q Okay. And do you recognize is that Eric's signature there?

9 A It is.

10 MR. KARACSONYI: And, Your Honor, I move to admit the
11 promissory note endorsement, this was produced by Gerety &
12 Associates as part of their files referencing Mr. Burch's report. We also
13 have a certificate of custodian of records for it.

14 THE COURT: Any objections?

15 MR. LUSZECK: I object based on her trying to get this in
16 based upon her recognizing Eric's signature. That absolutely looks like
17 there's her signature here, so I don't know why he didn't ask her if that
18 was her signature. I guess we'll get to that.

19 MR. CARMAN: Yeah, to lay the foundation. He would have
20 to authenticate her signature.

21 THE COURT: You want to authenticate her signature and get
22 on with it?

23 BY MR. KARACSONYI:

24 Q Well, did you sign this? Is that your signature?

25 A Not me.

1 Q What's the answer?

2 A No.

3 Q Okay. Did you sign an endorsement of a note of \$1 million
4 from Suarez to you?

5 A That's not my signature.

6 Q Did you intend to gift any note that was owed to you or your
7 trust to the ELN Trust?

8 A No.

9 Q Okay.

10 MR. KARACSONYI: Your Honor, I move to admit again. This
11 was produced to us by Gerety & Associates. It was given to him with
12 Eric's signature and my client's signature it has a certificate of custodian
13 of records. I think it's been referenced in Mr. Bertsch's report. It has
14 significant indicia of reliability that it's authentic, and I don't think there's
15 a basis to find that it's not authentic.

16 MS. HAUSER: it's a hearsay document.

17 MR. LUSZECK: There absolutely is. There's no evidence that
18 this is what was referenced to in Mr. Bertsch's report. Mr. Bertsch was
19 on the stand. He could have asked the questions. Again, same thing.
20 Mr. Nelson was on the stand and he didn't do it. I don't see how we get
21 this document in through her when she says that's not her signature and
22 I don't even know if she's seen this document.

23 MR. KARACSONYI: It's something that purports to be her
24 signature, Your Honor.

25 MR. CARMAN: That's -- I mean she's saying it's not

1 authentic, it's not her signature.

2 THE COURT: That's not your signature? That's your
3 testimony, it's not your signature on there on the promissory note
4 endorsement?

5 THE WITNESS: It's not my signature.

6 THE COURT: Have you seen that document before?

7 MR. KARACSONYI: And that's the purpose it's being offered
8 for, Your Honor, to show that there's a document that purports to have
9 her signature.

10 THE WITNESS: I never knew that I --

11 MR. KARACSONYI: Not that she actually has signed it, to
12 show that there's a document that purports to have her signature, that
13 was part of their expert's report, that she didn't actually sign. And that
14 transfer is a \$1 million note payable to her.

15 MR. LUSZECK: She just said she didn't even know there was
16 a \$1 million note payable to her. So I don't know how she's complaining
17 about that note.

18 MR. KARACSONYI: So I'd ask that be admitted for limited --

19 THE COURT: Overruled.

20 MR. KARACSONYI: -- admissibility.

21 THE COURT: Overruled. Let's get it in as far as this issue.
22 But because she says it's not her signature doesn't make it so. I got no
23 expert testimony to her signature or someone looking at that, but her
24 testimony stands by itself. But we'll let it in for you on that, we'll note
25 the objection on there. But basically you said you did not sign that and

1 you haven't seen that document before; is that correct?

2 THE WITNESS: I've never seen it.

3 THE COURT: We'll just leave it at that on that. And as far as
4 her testimony it's not her signature. But again, I got no one to tell me it
5 is her signature or not. Four U's, yeah.

6 [Defendant's Exhibit UUUU admitted into evidence]

7 MR. KARACSONYI: May I approach, Your Honor.

8 THE COURT: Sure.

9 MR. KARACSONYI: Your Honor, I move to admit Exhibit
10 seven Es as a publicly recorded document, a copy of this was produced
11 by Eric Nelson without the exhibit. It was produced in -- I'll get you the
12 exact Bates numbers for the -- we pulled this because the exhibit wasn't
13 attached, from the public records of Uinta County. And of course, we
14 could get a certified copy overnight if it's necessary.

15 THE COURT: And what is the document?

16 MR. KARACSONYI: It's a real estate mortgage from
17 mortgagor Frank D. Suarez to lender, Lynita Sue Nelson. It was
18 produced as EN614 to 619. And I -- the Court allowed them to introduce
19 a publicly recorded -- recorder's printout two trial dates ago as a public
20 record.

21 THE COURT: Was that --

22 MR. LUSZECK: Much to the scorn of Mr. Karacsonyi.

23 MR. KARACSONYI: Yeah, but this one is actually, unlike my
24 opponent --

25 THE COURT: So noted.

1 MR. KARACSONYI: Unlike my opponents, this one was
2 actually produced by them, an unrecorded copy, and I do have a copy of
3 that if they'd like to look at the distinction. Eric Nelson, this is the
4 production.

5 MR. LUSZECK: And what's the difference between them? I
6 missed that?

7 MR. KARACSONYI: The exhibit -- there was no exhibit page
8 on what was given to us and it wasn't the recorded copy.

9 MR. LUSZECK: Oh, okay.

10 MR. KARACSONYI: So we just went and pulled it.

11 THE COURT: Any objections to the --

12 MR. LUSZECK: I mean other than the fact that I haven't had a
13 chance to review it or see if it's a true and accurate copy --

14 THE COURT: Oh, okay.

15 MR. LUSZECK: -- I guess that's the issue, Your Honor.

16 THE COURT: Oh, okay. I'll admit it this time subject to give
17 you a chance to review it afterwards if you need some time on that, if
18 you got a question on it, then we'll revisit. If not, then we can just move
19 forward. I know they said they could get you a certified copy if we need
20 to. So to keep it moving, we'll admit it at this time. We note we'll give
21 them a chance to object if after they have a chance to review it in a little
22 more detail during a break.

23 [Defendant's Exhibit EEEEEEE admitted into evidence]

24 BY MR. KARACSONYI:

25 Q All right. Can you go to Exhibit 4 Ks?

1 THE MARSHAL: I'll help you.

2 THE WITNESS: Yeah, we had it before. Okay. I'm there.

3 BY MR. KARACSONYI:

4 Q Okay. Can you go to the signature page, please?

5 A To where my signature is?

6 Q Yes.

7 A Okay.

8 Q Did you sign this document?

9 A Not my signature.

10 Q Did you see this at the time it was -- okay. What makes you
11 say that it's not your signature?

12 A Well, there's the Y doesn't drop down at all. I don't know if
13 that's -- it doesn't look like there's an N, there's just an I --

14 MR. LUSZECK: Your Honor, I don't think she's been offered
15 as a handwriting expert.

16 MR. KARACSONYI: You don't have to be a handwriting --

17 THE COURT: She can testify --

18 THE WITNESS: It's my signature.

19 THE COURT: She can testify that it's not her signature.

20 MR. LUSZECK: And she did. It's hers But she's going to
21 analyze her signature?

22 THE COURT: Basically just say it's not your signature.

23 THE WITNESS: I -- it's not mine.

24 THE COURT: All right. That's all.

25 MR. KARACSONYI: She can say why she doesn't believe it's

1 her signature. You don't have to be an expert to identify --

2 THE COURT: I think you can recognize your signature.

3 THE WITNESS: Well, I'm an expert at my own signature I
4 could tell.

5 THE COURT: That's not your signature?

6 THE WITNESS: It's not. That's -- no, I don't write my name
7 that way.

8 THE COURT: Okay.

9 THE WITNESS: There's not even an N in it and there's two
10 Ts.

11 THE COURT: Okay.

12 BY MR. KARACSONYI:

13 Q Did you see this at the time it was entered into?

14 A No. I wouldn't have seen it. I didn't see this.

15 Q Okay. Can you go to Exhibit six Qs?

16 A Six Qs.

17 MS. HAUSER: Josef?

18 MR. KARACSONYI: Yeah?

19 MS. HAUSER: Can we take a quick --

20 MR. KARACSONYI: Yes, yes, yes.

21 MS. HAUSER: Are you at a good stopping?

22 MR. KARACSONYI: No, that is a good time.

23 MS. HAUSER: Your Honor, could we take a quick break?

24 THE COURT: Sure. We can take a bathroom break.

25 [Recess taken from 10:38 a.m. to 10:55 a.m.]

1 THE COURT: Back on the record in Nelson v. Nelson. Case
2 number D-09-4111537. You can pick up where you left off, Mr.
3 Karacsonyi. I think you left off at six Qs, I believe.

4 MR. KARACSONYI: Correct. Thank you, Your Honor.
5 BY MR. KARACSONYI:

6 Q Can you go to Exhibit six Qs and Bates stamp 7866?

7 A Okay.

8 Q Okay. The Tierra del Sol property was sold by your trust to
9 Mary Fagan and Deborah C. Fagan; is that correct?

10 A I see that.

11 MR. LUSZECK: What was the Bates again?

12 MR. KARACSONYI: 7866.

13 MR. LUSZECK: 7866, thank you.

14 BY MR. KARACSONYI:

15 Q And why was this sold?

16 A I'm not sure. Supposed to make a profit. I don't know.

17 Q Well, you have to make louder. Just make sure the record --

18 A Supposed to make a profit.

19 Q Okay. Who organized the sale?

20 A Eric.

21 Q Do you know if the proceeds were received by your trust?

22 A I don't.

23 Q Did you intend to gift any of the proceeds from the sale of
24 Tierra del Sol to Eric or ELN Trust?

25 A No.

1 Q Okay. Can you go to Exhibit six Ns, please?

2 A Okay. I'm there.

3 Q If you go to 8031, these are the deeds for the Tropicana
4 property that have already been admitted.

5 A Okay. I'm at 8031.

6 Q Why did you or you on behalf of LSN Trust transfer the
7 Tropicana property to the ELN Trust?

8 A Because I was told to sign the document.

9 Q By who?

10 A Eric.

11 Q Did you intend to gift the property to ELN Trust?

12 A No.

13 Q Did you believe you were relinquishing the rights to the
14 property or its proceeds?

15 A No.

16 Q What did you believe?

17 A Well, I had always been told that whatever work and things
18 that he did, it was for us and the family.

19 MR. CARMAN: Objection, Your Honor, to the nonresponsive
20 to question.

21 MR. KARACSONYI: That is responsive. It says --

22 THE COURT: It's overruled. Overruled. Let's go. We don't
23 need to argue about terms. Let's move on.

24 BY MR. KARACSONYI:

25 Q And why did you sign this deed?

1 MR. CARMAN: Objection. Asked and answered.

2 THE WITNESS: Because of that and because Eric asked me
3 to.

4 BY MR. KARACSONYI:

5 Q Okay. Can you turn to Exhibit six Os?

6 A Okay. I'm there.

7 Q Can you turn to 7953?

8 A Okay. I'm there.

9 Q Okay. These have already been admitted. These are deeds
10 related to the Flamingo property. Why did you transfer this property to
11 Grada Financial Partnership?

12 A Because that's what Eric directed me to sign.

13 Q Did you intend to make a gift?

14 A No.

15 Q Okay. There is an exemption claimed here on page 7956, can
16 you go to that?

17 A Okay.

18 Q Have you ever seen this before, this exemption?

19 A No.

20 Q Okay. Can you read it?

21 A Out loud or --

22 Q Just to yourself is fine.

23 A Sure. Okay. I read it.

24 Q Okay. Do you know if these statements are accurate?

25 A I don't. I wouldn't know.

1 Q Okay. Can you go to Exhibit six Rs?
2 A Okay.
3 Q You can go to 8068 to 8071.
4 A Okay. 8068, I'm at there.
5 Q Okay. And these are the Brianhead deeds; is that correct?
6 A That's what it looks like, uh-huh.
7 Q Okay. And it says here that you transferred from your 1993
8 trust to your -- or to the LSN Trust parcel number 7, do you see that, 60
9 acres?
10 A Yes.
11 Q And then if you go to the next -- this is on page 8068. Now, if
12 you go to the next deed.
13 A On 8702?
14 Q 8070.
15 A Oh. Yes, I see it.
16 Q Okay. And you transferred from your 1993 trust to the LSN
17 Trust parcels 4 and 6 as well.
18 A Yes.
19 Q And these were in 2001.
20 A Yes.
21 Q Okay. Now, if you go to Exhibit -- or Bates stamp 0886 to
22 8087.
23 A Okay. 8086.
24 Q Okay. Excuse me. Go to 808 -- sorry -- 8093.
25 A Okay. I'm there.

1 Q Okay. There's a warranty deed there from you, Paul Harber
2 and Nola Harber as trustees of their trust to LSM Trust and ELN Trust
3 half out. Do you see that?

4 A Yeah. I don't see -- oh, I see, yes . Uh-huh. I see it now.

5 Q Why did you transfer the interest I your parcels one half to
6 the LSN Trust and one half to the ELN Trust on March 21, 2007?

7 A Because Eric told me that we had to do it because of taxes.

8 Q Okay. Did you intend to make a gift?

9 A No.

10 Q Did you believe you were relinquishing your rights to the
11 other one-half?

12 A No.

13 Q All right. Can you go to Exhibit six Ks?

14 A Okay. I'm there.

15 Q Okay. And can you go to the third page, it's the Bates
16 number 7985?

17 A Yes, I'm there.

18 Q Is that your signature on that page?

19 A It's not.

20 Q Okay. And what makes you say that?

21 A I don't write like that at all.

22 Q All right. And then can you go to page 6?

23 A Page 6 of the --

24 Q The final page, excuse me, 7988.

25 A I'm at 7988.

1 Q Is that your signature?

2 A It is not.

3 Q And why do you say that?

4 A Well, there's no Y in it. I don't make my As like that, and
5 there's no E in the Nelson.

6 Q Okay. Did you intend to gift a one-half interest in the Lyndell
7 Property to Eric or the ELN Trust?

8 A No.

9 Q There was testimony regarding a line of credit against the
10 Palmyra residence earlier in the trial, do you recall that?

11 A I remember talking about that, yeah.

12 Q Did you ever take a line of credit against the Palmyra
13 residence?

14 A I did not.

15 Q Do you recall why a line of credit was taken against the
16 residence?

17 A Why? No.

18 Q Do you know where the monies that were borrowed against
19 the home were spent?

20 A No.

21 Q Who made that decision?

22 A Eric.

23 Q You don't deny that you allowed Eric access to the properties
24 and accounts of the LSN Trust, do you?

25 A I don't deny that, no.

1 Q Okay. And you testified previously as to why you gave him
2 that access, correct?

3 A I did, yes.

4 MR. LUSZECK: Objection to foundation, Your Honor.

5 THE COURT: A little more details with more foundation on
6 that.

7 MR. KARACSONYI: Yeah.

8 BY MR. KARACSONYI:

9 Q Why did you allow him access to your properties and the
10 accounts, the LSN Trust properties and accounts?

11 MR. LUSZECK: Same objection, Your Honor.

12 THE COURT: Overruled. You can answer. You can answer.

13 THE WITNESS: Because he told me that he was doing it for
14 us as a husband and wife and our family.

15 BY MR. KARACSONYI:

16 Q Did you have any belief -- would you agree that allowing him
17 access allowed him to make certain transfers even if you didn't sign
18 them? The transfers we talked about.

19 A Yes.

20 MR. LUSZECK: Objection. Leading, and compound, and
21 lacks foundation.

22 THE COURT: More questions or what -- basically you
23 allowed him to have access to stuff; is that right? To your accounts.

24 THE WITNESS: I'm sorry. Can you --

25 THE COURT: You testified that you allowed him to have

1 access to your accounts.

2 THE WITNESS: Yes.

3 THE COURT: And the trust accounts?

4 THE WITNESS: Yes.

5 THE COURT: You want to follow-up with that?

6 MR. KARACSONYI: Yeah, I'll just go through it.

7 BY MR. KARACSONYI:

8 Q Did you allow him to have access to the LSN's dealings with
9 respect to Russell Road?

10 MR. LUSZECK: I guess same objection. Foundation.

11 THE COURT: Overruled. You can answer.

12 THE WITNESS: Yes.

13 BY MR. KARACSONYI:

14 Q Did you allow him to have access to the LSN's Trust's
15 dealings with respect to the High Country Inn?

16 A Yes.

17 Q Okay. How about the 200 acres in Miami?

18 A Yes.

19 Q Tierra del Sol?

20 A Yes.

21 Q Tropicana?

22 A Yes.

23 Q Flamingo?

24 A Yes.

25 Q Brianhead?

1 A Yes.

2 Q Lindell?

3 A Yes.

4 Q And if that access was used to transfer any of those
5 properties -- well, first of all would you -- did that authority by you or
6 access include the right to make transfers of the properties?

7 A Yes.

8 Q Okay. And did you have any belief as to -- well, let me strike
9 that.

10 MR. LUSZECK: And Your Honor, can I just say, I'm once
11 again concerned we're just getting into the civil case and the court claim
12 here with this line of questioning.

13 MR. KARACSONYI: I'm only going to her intent in allowing
14 these transfers to happen, whether she intended a gift. And I only have
15 a few more questions, actually, I'm about to wrap stuff.

16 MR. LUSZECK: Why doesn't he just ask her if it was intended
17 to be a gift?

18 THE COURT: I think he has. Finish up here.

19 MR. KARACSONYI: I'll ask her.

20 BY MR. KARACSONYI:

21 Q Did you --

22 THE COURT: Basically the ones she testified she didn't
23 intend those as gifts.

24 BY MR. KARACSONYI:

25 Q If he made transfers, if he used that authority you had

1 allowed him or access to make transfers, did you intend that he would be
2 able to transfer property as a gift from you to him?

3 MR. LUSZECK: Objection to foundation.

4 THE WITNESS: No.

5 MR. LUSZECK: There's no evidence that he did in fact.

6 THE COURT: You can ask the question. You can ask
7 questions. There's nothing showing that he did make those transfers,
8 but you can ask her on that. Did she give him authority to make
9 transfers as gifts?

10 THE WITNESS: No.

11 THE COURT: All right.

12 BY MR. KARACSONYI:

13 Q What authority did he have to make transfers on your behalf?

14 MR. LUSZECK: Same objection.

15 THE COURT: Overruled. You can --

16 THE WITNESS: On the basis of what he -- that he told me it
17 was for us. I mean he did everything for us and our family.

18 BY MR. KARACSONYI:

19 Q And did you believe that any transfers of your property that
20 were being made on his behalf were for the benefit of you and your
21 family?

22 A I did.

23 MR. LUSZECK: Same objection.

24 THE WITNESS: Yes.

25 MR. KARACSONYI: Okay. I have no further questions for

1 her. That was quicker than everybody expected.

2 THE COURT: Yeah.

3 MR. KARACSONYI: Maybe I can go back to some of those
4 questions that were objected to.

5 THE COURT: You want to start off with cross?

6 MR. LUSZECK: You want to break for early lunch and then
7 come back and just knock it out?

8 THE COURT: Take a lunch and pick it up after? I'm fine. It's
9 about -- how long you want for lunch. You want to shoot for 12:30? Any
10 time we say an hour, we're always kind of running late anyways.

11 MR. KARACSONYI: I'm just worried I'm going to get hungry
12 in the afternoon.

13 THE COURT: Bring a snack.

14 MR. KARACSONYI: I just want to see them scramble
15 because they weren't ready for that.

16 MR. LUSZECK: I want to try and narrow it down so we can
17 get done.

18 THE COURT: Why don't you come back at 12:30?

19 MR. LUSZECK: That works.

20 THE COURT: And bring a snack for him, will you, Natlie? So
21 if he get hungry again.

22 MS. KARACSONYI: Yeah, it can happen.

23 [Recess taken from 11:10 a.m. to 12:40 p.m.]

24 THE COURT: We are on the record in the matter of Nelson v.
25 Nelson, case number D-09-411537. We took our lunch recess. Ready to

1 pick up where we left off. Good to see you again Ms. Lynita, Mr. Eric.
2 And let's get our appearances from counsel and we'll start with Mr.
3 Carman. See if he can handle the pressure this time. Mr. Carman, we'll
4 let you start off and see if you get it right this time.

5 MR. CARMAN: Michael Carman, bar number 7639.

6 THE COURT: You got that one.

7 MS. HAUSER: Are you done, Mr. Carman? Need some
8 water?

9 MR. CARMAN: I'm good.

10 MS. HAUSER: Okay. Tequila?

11 MR. CARMAN: Well, I can't say no to that, but I think the
12 time is inappropriate.

13 MS. HAUSER: Okay. Michelle Hauser, 7738.

14 THE COURT: Thank you.

15 MR. LUSZECK: Jeff Luszeck, 9619.

16 MR. KARACSONYI: Josef Karacsonyi, 10634.

17 MS. KARACSONYI: Natalie Karacsonyi, 10579.

18 THE COURT: See what happened when we first started it
19 screwed up Josef.

20 MS. HAUSER: Joe handled it a little better than Mike,
21 though.

22 THE COURT: There you go. Of course, you're still under
23 oath, Ms. Lynita. We're trying to kind of get you on and off today, if we
24 can, okay? Who's going to take the mic first?

25 MR. CARMAN: I'll take the lead, yeah.

1 CROSS-EXAMINATION

2 BY MR. CARMAN:

3 Q Ms. Nelson, during your testimony you indicated that you
4 signed documents because you trusted Eric, correct?

5 A Yes.

6 Q During your deposition, though, isn't it true that you
7 indicated you actually had trust issues with Eric going back to 2004?

8 A I believe I stated that's when --

9 Q And just to make it clear, I'm asking you a simple yes or no
10 question. Do you recall at your deposition indicating that you had trust
11 issues going back to 2004 when it comes to Eric?

12 A Yes.

13 Q And you claimed at your deposition that you believe that Eric
14 had been unfaithful to your marriage since 2003 or 2004, correct?

15 A That's not how I worded it.

16 MR. KARACSONYI: Objection. Relevance. It's a no fault
17 state.

18 THE COURT: Overruled. She got into an issue about trust
19 and what she signed documents, so I guess you got a little leeway to
20 explore that. But you can answer this yes or no. On cross you can
21 answer yes or no. You can say no if that's not what you said or you --

22 THE WITNESS: That's not what I said.

23 THE COURT: Okay.

24 MR. CARMAN: Can I -- I don't know where our depo
25 transcript is. If I could have it?

1 THE COURT: James, they up there? I think they're on that
2 chair.

3 MR. CARMAN: I do believe it was already published, but --

4 MS. KARACSONYI: No, it was not.

5 THE COURT: I know he published the one -- I know he
6 published --

7 MS. HAUSER: I think. Natalie's right.

8 THE COURT: And that is the deposition of Lynita Nelson --

9 MR. CARMAN: I believe.

10 THE COURT: You might need scissors to open that with the
11 way they taped it. You're probably seeing it's the deposition of Lynita
12 Nelson dated when?

13 THE CLERK: March 10th, 2022.

14 THE COURT: March 10th, 2022. Did you want her to refer to
15 a specific --

16 MR. CARMAN: I'm sorry?

17 THE COURT: Did you want her to have a copy of that to --

18 MR. CARMAN: Yeah, when it's done. If it's ready I can bring
19 it up to the witness.

20 BY MR. CARMAN:

21 Q Okay. And I'll ask you specifically do you recall indicting
22 during your deposition that you believe that Eric was having
23 relationships outside of the marriage as far back as 2003 and 2004?

24 A Are you saying that's what I said?

25 Q Yes.

1 A In my deposition?

2 Q Do you recall saying that at your deposition?

3 A I remember saying something different.

4 MR. CARMAN: May I approach the witness?

5 THE COURT: Sure.

6 MR. KARACSONYI: Do you have a page and line number,
7 Mike, so we can follow along?

8 MR. CARMAN: Yeah, it's page 145.

9 BY MR. CARMAN:

10 Q We'll start with -- it's kind of hard to read along with her.

11 I indicated -- I questioned you. You indicated Eric had
12 previously gone outside of the marriage. What were you referring to?
13 You indicated he was having relationships outside of the marriage; is
14 that correct?

15 A Yes. I didn't remember that.

16 Q Okay. So as you sit there does that help refresh your
17 recollection as to --

18 A It does.

19 Q -- what you told us at the depo?

20 A It does, yep.

21 Q During your testimony you discussed the missing tax returns
22 that Jenny Allen talked about during her testimony, correct?

23 A I remember saying that I did everything I could to obtain the
24 documents that were missing.

25 Q Well, actually, you indicated that you -- your attorney

1 admitted an authorization which would have allowed the release of tax
2 information to our office, correct?

3 A Oh, that's true. Uh-huh.

4 Q Okay. So going back to the initial question that your attorney
5 asked you, what efforts did you make to obtain those documents
6 yourself?

7 A The taxes?

8 Q The tax returns.

9 A I went to Steve Halderman was the accountant that Eric had
10 doing my taxes for years. And I had never met him. And I had gone
11 directly to his office and asked him for taxes.

12 Q Okay. Just so we're clear, we're talking about tax returns
13 that occurred subsequent to -- we're specifically talking about tax returns
14 between 2008 and 2013.

15 A Oh.

16 Q Who prepared your taxes during that time period?

17 A Either Steve Halderman or it was Smith & Bradshaw or
18 Bradshaw & Smith, I think. And Natalie was my accountant's name. I'm
19 trying to think what her last name is. Natalie -- that's all I can remember.

20 Q Okay. And outside of the accountant you referred to earlier,
21 who prepared taxes for both you and Eric, what efforts did you make to
22 reach out to the accountants that prepared your tax returns for you
23 separately?

24 A She -- Natalie Bradshaw I think is what her name was. She
25 was no longer with the firm. So I didn't go to the firm and ask for my

1 taxes then.

2 Q And I didn't ask you what efforts you didn't make, I'm asking
3 you what efforts you did make to obtain those tax returns.

4 A Well, subpoenas were made and I stated that I went on line
5 and saw what was available there, and then I filled out a form for an
6 email.

7 Q Okay. And you didn't actually go to the accountant's office
8 you're testifying, correct?

9 A That's accurate.

10 Q In regard to bank statements, you had indicated during your
11 testimony that your attorney had subpoenaed them subsequent to the
12 remand in this case, correct?

13 A Subsequent being before the remand or after?

14 Q Subsequent would be after the remand in this case.

15 A Okay. Okay. Could you say that again?

16 Q You had indicated that your attorney subpoenaed bank
17 statements --

18 A Yeah.

19 Q -- from this case after it was remanded for these
20 proceedings.

21 A Yes. Uh-huh.

22 Q Isn't it true that those subpoenas were not sent out until
23 January of 2021?

24 A I wouldn't know that.

25 Q Would you dispute --

1 A I wouldn't remember.

2 Q -- that? If I were to tell you that, based upon the court
3 records, the subpoenas were not issued until January of 2021, would you
4 dispute that?

5 A I would not. Huh-huh.

6 Q You indicated that Eric would leave the house for 12 hours a
7 day during your marriage, correct?

8 A That's the guestimate I gave, yes.

9 Q Okay. And you are aware, too, that Eric engaged in leisure
10 activities throughout your marriage, correct?

11 A I would agree. Is that what you're asking me is if I agree with
12 that statement?

13 Q Correct, yes. Do you agree with it?

14 A I agree. Uh-huh.

15 Q Eric was in a golf league, correct?

16 A I didn't know that.

17 Q He was in a basketball league, correct?

18 A I didn't know that.

19 Q Multiple racquetball leagues, correct?

20 A I know he played with friends.

21 Q Eric never missed school events related to the children when
22 he was in town, did he?

23 A I don't know that I could answer that one. I don't recall.

24 Q Do you recall Eric going to all of the children's sporting
25 events while he was in town?

1 A I don't.

2 Q Do you recall Eric going to the children's award banquets
3 when he was in town?

4 A I remember him attending some, yes.

5 Q Do you recall Eric attending parent-teacher conferences
6 when he was in town?

7 A I don't ever recall him coming to a parent-teacher
8 conference.

9 Q Do you recall Eric being home to put the kids to bed every
10 night when he was home?

11 A I can answer that he came home at night most of the times.

12 Q Do you recall Eric doing chores during the day, such as
13 mowing the lawn, washing the cars?

14 A Nope.

15 Q Do you recall taking trips with Eric to go visit the cabin?

16 A Did I go with him? Yes.

17 Q Do you recall taking vacations with Eric?

18 A Yes.

19 Q Do you recall taking family trips with Eric?

20 A Yes.

21 Q Just -- and I have to ask this question because of the I can't
22 recalls -- are you under the influence of any medication that would
23 inhibit your ability to remember events in the past?

24 A I am not.

25 Q Throughout the course of this case, including the earlier

1 proceedings before Judge Sullivan, you testified that you just signed
2 things when Eric put them in front of you, Correct?

3 A Could you repeat that?

4 Q You testified that you would sign documents when Eric
5 placed them in front of you; isn't that correct?

6 A Yes.

7 Q Throughout the course of your testimony in these
8 proceedings, you indicated that you sometimes signed documents in the
9 bathroom, correct?

10 A Yes.

11 Q Sometimes in the kitchen, correct?

12 A I don't remember saying that. But if it's on the document,
13 then it's what I said. It's right then.

14 Q Do you recall signing documents -- you don't recall signing
15 documents in the kitchen as you sit there today?

16 A It's possible. It's reasonable that I could have. I'm not going
17 to deny it.

18 Q Do you recall signing documents in the vehicle on occasion
19 when asked to do so?

20 A I don't recall that.

21 Q Do you recall signing documents poolside?

22 A No.

23 Q Okay. And just so we're clear, during the course of the
24 tracing period, the 2001 to 2013 period that we've been discussing in
25 court, were you under the influence of any medications?

1 A Could you repeat that?

2 Q During the time period of 2001 to 2013, were you under the
3 influence of any medications?

4 MR. KARACSONYI: Objection. Relevance.

5 THE WITNESS: Influence --

6 MR. KARACSONYI: Privacy rights.

7 MR. CARMAN: I can make an offer of proof.

8 THE COURT: She can answer.

9 MR. CARMAN: She's alleged that --

10 THE COURT: She can answer, if she wants to. You can
11 answer.

12 THE WITNESS: Do you want to define what -- I don't know
13 what influence is. I mean I take a heart medication.

14 BY MR. CARMAN:

15 Q Have you taken -- between 2001 and 2013 did you take any
16 medication?

17 A Yes.

18 Q What medications did you take during that time period?

19 A Metoprolol.

20 Q Can you spell that?

21 A Probably not.

22 Q The best you can.

23 A M-E-T-O-P-R-O-L-O-L.

24 Q Are there any other medications that you took during that
25 time period?