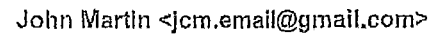


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EXHIBIT 1



20 messages

Tue, Aug 8, 2017 at 4:00 PM

Jackie Alioto, Legal Assistant
The Law Offices of John C. Martin
1145 Merrill Street
Menlo Park, CA 94025
(650) 329-9500



Tue, Aug 8, 2017 at 9:27 PM

PDF Page 3

9/26/2017

Gmail - Telephone consult with John C. Martin

[Quoted text hidden]

Jackie Alioto <jalioto@johncmartinlaw.com>
To: Reinhard Oesterle <roesterle@gmail.com>
Cc: John Martin <jcm.email@gmail.com>

Wed, Aug 9, 2017 at 9:10 AM

Hi John,

Is there a special phone number to use or just our regular phone number?

Thank you.

Jackie



Virus-free. www.avg.com

Best Regards,

Jackie Alioto, Legal Assistant
The Law Offices of John C. Martin
1145 Merrill Street
Menlo Park, CA 94025
(650) 329-9500

[Quoted text hidden]

John Martin <jcm@johncmartinlaw.com>
Reply-To: jcm@johncmartinlaw.com
To: Jackie Alioto <jalioto@johncmartinlaw.com>

Wed, Aug 9, 2017 at 9:47 AM

Regular phone number.

[Quoted text hidden]

--
John C. Martin, Esq.
Certified Specialist, Estate Planning, Trust and Probate Law
State Bar of California Board of Legal Specialization

Law Offices of John C. Martin
1145 Merrill Street
Menlo Park, California 94025

Tel. (650) 329-9500
Fax. (650) 329-9510

Wealth Preservation, Estate & Business Succession Planning, Estate Administration, Estate Litigation

Visit our firm on the web at www.johncmartinlaw.com

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Jackie Alioto <jalioto@johncmartinlaw.com>
To: Reinhard Oesterle <roesterle@gmail.com>
Cc: John Martin <jcm.email@gmail.com>

Wed, Aug 9, 2017 at 10:30 AM

Thank you.

All set for Friday, August 11th at 2:00 pm. You may call John at 650 329-9500.

Have a good day!

Jackie



Virus-free. www.avg.com

Best Regards,

Jackie Alioto, Legal Assistant
The Law Offices of John C. Martin
1145 Merrill Street
Menlo Park, CA 94025
(650) 329-9500

On Tue, Aug 8, 2017 at 9:27 PM, Reinhard Oesterle <roesterle@gmail.com> wrote:
[Quoted text hidden]

Reinhard Oesterle <roesterle@gmail.com>
To: John Martin <jcm.email@gmail.com>
Cc: Jackie Alioto <jalioto@johncmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Fri, Aug 11, 2017 at 2:45 PM

Hi John

Thanks for taking the time to speak with us. We appreciate.

I talked to Debby, and I think there is a pretty good chance she can "convince" Ho to do whatever it takes to put a Certificate of Independent Review in place. From what I understand from our conversation, this would provide the strongest line of defense against any challenge to the gift after his passing.

How far in advance would we have to schedule a face-to-face appointment? I am asking because Ho is currently on chemotherapy and not feeling very well. Early during the week (Mondays or Tuesdays) would likely work best.

Thanks again, and have a pleasant weekend.

Reinhard

[Quoted text hidden]

Reinhard Oesterle <roesterle@gmail.com>
To: John Martin <jcm.email@gmail.com>
Cc: Jackie Alioto <jalioto@johncmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Mon, Aug 14, 2017 at 2:17 PM

Hi John,

I am following up on my previous email and have one more question.

9/26/2017

Gmail -- Telephone consult with John C. Martin

Would you be able to go to meet Mr. Ho at the place he lives at in Redwood City?

Let me know if you have time for another brief chat if that's easier.

Thank you,
Reinhard

[Quoted text hidden]

Mon, Aug 14, 2017 at 3:22 PM

John Martin <jcm@johncmartinlaw.com>

Reply-To: jcm@johncmartinlaw.com

To: Reinhard Oesterle <roesterle@gmail.com>

Cc: Jackie Alioto <jalioto@johncmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Hi Reinhard,

Thank you for speaking with me last week. As we discussed over the phone, it is possible for Mr. Ho to request to engage me to review his transaction. If it appears that I can accept the representation after meeting with Mr. Ho, then I would proceed to speak one on one with Ho to discuss his intent. This conversation and review must be confidential, and I cannot share any of the contents of the conversation with any third parties. I could meet Mr. Ho where he lives in Redwood City, provided that there is a room where we may meet confidentially. I must have complete independence in the conclusion that I come to in my review. As such, I would request a retainer of \$2,000 in advance from Mr. Ho. If Mr. Ho approves, then I can forward an engagement letter to him in advance. Please just let me know his address, phone number, email, and the best way to contact him.

Best regards,
John

[Quoted text hidden]

John C. Martin, Esq.
Certified Specialist, Estate Planning, Trust and Probate Law
State Bar of California Board of Legal Specialization

Law Offices of John C. Martin
1145 Merrill Street
Menlo Park, California 94025

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Thu, Aug 17, 2017 at 11:12 AM

Reinhard Oesterle <roesterle@gmail.com>

To: jcm@johncmartinlaw.com

Cc: Jackie Alioto <jalioto@johncmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Thanks, John.

Mr. Ho would like to go ahead and schedule a meeting with you. He is wondering if you have any availability before Wednesday next week (the day of his next chemotherapy appointment).

Please let me know what information you need and next steps re. engagement letter, payment, etc.

Thanks very much,
Reinhard
650-619-4461
[Quoted text hidden]

John Martin <jcm@johncmartinlaw.com> Thu, Aug 17, 2017 at 1:50 PM
Reply-To: jcm@johncmartinlaw.com
To: Reinhard Oesterle <roesterle@gmail.com>
Cc: "jcm@johncmartinlaw.com" <jcm@johncmartinlaw.com>, Jackie Alioto <jalioto@johncmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Hi Reinhard,

I am available Monday the 21st from 2:00pm thru 4:30pm. Please let me know if a meeting within that time frame will work. I will bring the proposed engagement letter with me to the meeting. Mr. Ho can also bring his retainer check for \$2,000 at the time of the meeting payable to "The Law Offices of John C. Martin".

Could you please provide me with Mr. Ho's full name, address, email, and phone number? Thank you.

Best regards,
John
[Quoted text hidden]

Reinhard Oesterle <roesterle@gmail.com> Thu, Aug 17, 2017 at 2:11 PM
To: jcm@johncmartinlaw.com
Cc: Jackie Alioto <jalioto@johncmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Hi John,

Monday at 3pm works well.

Just to set expectations: if Mr. Ho feels really bad that day there is a chance we might have to re-schedule. We would let you know early Monday morning if that's the case.

James Ho
229 Fulton Street
Redwood City, CA 94062
650-931-7000
(he doesn't check email)

If you do need to reach Mr. Ho please let me know, or you can also call Debby Chang at 510-236-9727.

Best,
Reinhard

[Quoted text hidden]

Jackie Alioto <jalioto@johncmartinlaw.com> Thu, Aug 17, 2017 at 2:42 PM
To: John Martin <jcm.email@gmail.com>

Hi John,

Is this an hourly agreement? If so, what will be the description you would like in the first paragraph?

Thanks!

Jackie
[Quoted text hidden]

9/26/2017

Gmail - Telephone consult with John C. Martin

Thu, Aug 17, 2017 at 3:19 PM

John Martin <jcm@johnmartinlaw.com>
Reply-To: jcm@johnmartinlaw.com
To: Jackie Alioto <jalioto@johnmartinlaw.com>

Limited scope to review a gift transaction and potentially draft a certificate of independent review.
[Quoted text hidden]

Thu, Aug 17, 2017 at 3:20 PM

John Martin <jcm@johnmartinlaw.com>
Reply-To: jcm@johnmartinlaw.com
To: Reinhard Oesterle <roesterle@gmail.com>
Cc: "jcm@johnmartinlaw.com" <jcm@johnmartinlaw.com>, Jackie Alioto <jalioto@johnmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Confirmed for 3pm on Monday.
[Quoted text hidden]

Thu, Aug 17, 2017 at 5:19 PM

Reinhard Oesterle <roesterle@gmail.com>
To: jcm@johnmartinlaw.com
Cc: Jackie Alioto <jalioto@johnmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Thanks, John.

Can you send us a copy of the engagement letter prior to the meeting so Mr. Ho can review?

Thank you,
Reinhard
[Quoted text hidden]

Fri, Aug 18, 2017 at 9:37 AM

John Martin <jcm@johnmartinlaw.com>
Reply-To: jcm@johnmartinlaw.com
To: Reinhard Oesterle <roesterle@gmail.com>
Cc: "jcm@johnmartinlaw.com" <jcm@johnmartinlaw.com>, Jackie Alioto <jalioto@johnmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Hi Reinhard,

I will put it in the mail today for Mr. Ho. I cannot send it via email because it is attorney-client privileged.

Best regards,
John
[Quoted text hidden]

Fri, Aug 18, 2017 at 12:00 PM

Reinhard Oesterle <roesterle@gmail.com>
To: jcm@johnmartinlaw.com
Cc: Jackie Alioto <jalioto@johnmartinlaw.com>, Rita Chang <ritachang1@gmail.com>

Many thanks, John.

Enjoy your weekend,

Reinhard
[Quoted text hidden]

Mon, Aug 21, 2017 at 5:31 PM

Reinhard Oesterle <roesterle@gmail.com>
To: jcm@johnmartinlaw.com

John,

Just wanted to say sorry about the confusion today. I realize that you got conflicting messages from different people.

Thanks for being flexible and for helping Mr. Ho document his true intentions.

9/26/2017

Gmail - Telephone consult with John C. Martin

I may consult you for my own estate planning needs in the future.

Best,
Reinhard
[Quoted text hidden]

Reinhard Oesterle <roesterle@gmail.com>
To: jcm@johnmartinlaw.com

Thu, Sep 14, 2017 at 9:16 AM

Dear John,

I was wondering if you could recommend a local estate & trust litigation lawyer. I am assuming you wouldn't be able to take this on but I'd be happy to discuss, of course.

James Ho passed away last week, and I think things could become contentious between the two families.

Many thanks,
Reinhard Oesterle

[Quoted text hidden]

John Martin <jcm@johnmartinlaw.com>
Reply-To: jcm@johnmartinlaw.com
To: Reinhard Oesterle <roesterle@gmail.com>

Sat, Sep 16, 2017 at 2:01 AM

Hi Reinhard,

I am sorry to hear about that. Please accept my condolences for your loss. Below is the contact information of a colleague who I recommend:

Jeffrey R. Loew, Esq.

Certified Specialist, Estate Planning, Trust and Probate Law

State Bar of California Board of Legal Specialization

1650 Borel Place, Suite 104
San Mateo, California 94402

Email: jloew@loewlawgroup.com

Web: www.loewlawgroup.com

Phone: 650.397.8700

Fax: 650.397.8889

[Quoted text hidden]

EXHIBIT 2

Progress Notes (continued)

Progress Notes by So-Rosillo, Rosendo (M.D.) at 7/26/2017 3:52 PM (continued)

Version 1 of 1

-Started Velcade on day 1, 4, 8, 11 plus Decadron 4 mg daily on 12/20/2016

-He started Cycle 2 on 1/10/2017 and Cytoxan 300 mg/m² = 550 mg once a week was added.
Decadron 4 mg once a day (pt was reluctant to take it once a week)

-Due to complaints of left leg weakness he underwent an MRI of L spine on 2/16/17 that showed the following:

1. Diffuse bone marrow T1 and T2 hypointensity and multiple enhancing nodules in the spine and bony pelvis compatible with multiple myeloma. No soft tissue mass.

2. Degenerative disease of the lumbar spine

-He has a **history of Meningioma s/p SRS** in the past and had a follow up **brain MRI on 2/16/17** that showed abnormal findings as follows:

No significant change in the size of the intracranial and calvarial components of large right parasagittal meningioma. Intracranial component is again noted to invade the super sagittal sinus and extends across midline to overlie the parasagittal left posterior frontal lobe.

Interval development of edema within the right posterior frontal and anterior parietal lobes, possibly treatment related. Increasing regional leptomeningeal enhancement is suggestive of leptomeningeal inflammation or venous engorgement.

-He had a great response to therapy with Velcade, Decadron, Cytoxan but due to fatigue Cytoxan and Decadron were eliminated and Velcade changed to every 2 weeks then pt wanted to try the Velcade once a month.

He is here with his son to discuss the most recent test results. The entire visit was spent discussing the most recent test results. The pt has a difficult time retaining information and things have to be repeated multiple times. He appears to have memory loss (dementia). Despite explaining things he would forget soon thereafter.

Exam:

Vitals: BP 156/78 mmHg | Pulse 73 | Temp(Src) 98.6 °F (37 °C) (Oral) | Ht 5' 7" | Wt 66.679 kg (147 lb) | BMI 23.02 kg/m² | SpO2 97%

Performance Status (ECOG scale):1

General: WN, WD sitting on a wheelchair in NAD

HEENT: NC/AT, no scleral icterus

Psych: forgetful, non-anxious

EXHIBIT 3



Consult/ H&P - CONSULT/H&P (continued)

Consult/ H&P by Gheorghevi, Dorina (M.D.) at 8/12/2017 2:59 PM (continued)

Version 3 of 3

James Fj Ho is a 84 Y male.

Chief Complaint:

"Not feeling well"

History of Present Illness:

James Fj Ho is a 84 Y male with PMHx. Of meningioma on chemotherapy with Avastin for brain edema, HTN, CKD, multiple myeloma, on chemotherapy with Velcade and Dexamethasone brought to ED for "not feeling well". Patient is a poor historian due to memory loss. Son present at bedside provides history. Apparently patient awoke up today and c/o feeling fatigued, nauseated, c/o dull headache and vague abdominal discomfort, no pain. Had BM last night, passes flatus. Has poor appetite and poor oral intake since restarted on Velcade and started on Avastin. Feels weak and son told me patient was able to ambulate with a cane three weeks ago but now he uses a wheelchair.

No hx. Of fever, chills, chest pain, cough, shortness of breath, emesis, diarrhea, constipation, melena.

CT abdomen was ordered in ED due to c/o abdominal discomfort and was read as possible early SBO. Dr. Lynn Chang from Surgery evaluated patient, in his opinion this is not SBO by history, physical exam and the fact that patient is passing flatus. He recommended admission on HBS service for lab abnormalities and give gastrografin challenge followed by standard KUBs per SBO protocol.

Patient had a bowel movement before gastrografin was given and he told me that he does not want to be admitted in the hospital, he wants to go home today. Son will like patient to be discharged if possible. Dr. Chang recommended to hold on on gastrografin and challenge patient with full liquids, assess if he tolerates diet. Patient and son Peter agreed with plan to try diet, continue hydration, recheck labs in a couple of hours and decide if it is safe to discharge patient.

Patient received Avastin on 8/9/10 for meningioma and Velcade on 8/10/17, for MM. Patient and son told me this is how he feels after chemotherapy.

Medications Prior to Admission:

Prior to Admission Medications

Outpatient Home Medications

Acyclovir (ZOVIRAX) 400 mg Oral Tab

Sig: Take one tablet twice a day

Taking?

Takes Regularly

Dexamethasone (DECADRON) 2 mg Oral Tab

Sig: Take 2 tablets by mouth 2 times a day or as directed

Note (8/12/2017): TAKES 2 TABLETS ORALLY DAILY

Takes Regularly

Docusate Sodium (STOOL SOFTENER) 100 mg Oral Cap

Sig: Take 1 to 2 capsules by mouth at bedtime as needed for constipation

Note (12/5/2016): Last dose 12-04-16

Takes Occasionally

Multivitamin Oral Tab

Sig: TAKE 1 TABLET ORALLY DAILY

Takes Regularly

Pantoprazole (PROTONIX) 40 mg Oral TBEC DR Tab

Sig: Take 1 tablet by mouth daily half-hour before breakfast

Takes Regularly

**Consult/ H&P - CONSULT/H&P (continued)****Consult/ H&P by Gheorghevici, Dorina (M.D.) at 8/12/2017 2:59 PM (continued)**

Version 3 of 3

Sulfamethoxazole-Trimethoprim (BACTRIM/SEPTRA DS) 800-160 mg Oral Tab Takes Regularly
Sig: TAKE 1 TABLET ORALLY ONCE A DAY ON MONDAY, Wednesday, and FRIDAY

Vitamin B Complex (B COMPLEX 1) Oral Tab Takes Regularly
Sig: TAKE 1 TABLET ORALLY DAILY

amlODIPine (NORVASC) 5 mg Oral Tab Takes Regularly
Sig: Take 1 tablet by mouth daily (NOTE: This medication replaces nifedipine)

Back Office (Facility-Administered) Medications	Last Administration
Sodium Chloride 0.9 % IV Premix	8/10/2017 3:27 PM

Allergies:**Allergies****Allergen****Reactions**

- No Known Allergies

Past Medical History:**Active Ambulatory Problems**

Diagnosis	Date Noted
• HTN (HYPERTENSION)	12/04/1996
• HYPERLIPIDEMIA	03/02/2006
• MENINGIOMA, BRAIN	04/24/2008
• MEMORY LOSS	04/24/2008
• SENILE LENTIGO	11/10/2008
• ERECTILE DYSFUNCTION	06/04/2009
• IMPAIRED FASTING GLUCOSE	11/21/2011
• HX OF HEPATITIS B	11/21/2011
• VITAMIN D DEFICIENCY	03/22/2012
• CKD STAGE 3 (GFR 30-59)	02/02/2015
• HX OF COLONIC POLYP	07/02/2015
• OSTEOARTHRITIS OF RIGHT KNEE	10/16/2015
• GOUT	07/25/2016
• ATHEROSCLEROSIS OF AORTA	11/28/2016
• GERD (GASTROESOPHAGEAL REFLUX DISEASE)	11/29/2016
• RENAL CALCULUS	12/04/2016
• ESOPHAGEAL ULCER	12/13/2016
• MULTIPLE MYELOMA W HYPOGAMMAGLOBULINEMIA	12/19/2016
• CAD (CORONARY ARTERY DISEASE)	01/18/2017

Additional diagnoses from the Past Medical History section

Diagnosis	Date
• ABNL GLUCOSE MEASUREMENT, FASTING	8/25/2008
• MALE ERECTILE DISORDER..	4/24/2008
• FORGETFULNESS.	4/24/2008
• OSTEOARTHRITIS OF KNEE.	9/25/2006

Past Surgical History:



Consult/ H&P - CONSULT/H&P (continued)

Consult/ H&P by Gheorghevi, Dorina (M.D.) at 8/12/2017 2:59 PM (continued)

Version 3 of 3

Past Surgical History

Procedure	Laterality	Date
• Removal loose body knee		10/06
R		
• Cataract surgery w iol-phaco		4/28/10
Performed by CHANG, WILLIAM JERRY (M.D.) at RWC-AMBULATORY-OR		
• Cataract surgery w iol-phaco		7/13/2011
Performed by CHANG, WILLIAM JERRY (M.D.) at RWC-AMBULATORY-OR		

Social History:

Social History

Social History

- Marital Status: Widowed

Social History Main Topics

- Smoking status: Never Smoker
- Smokeless tobacco: Never Used
- Alcohol Use: No
- Drug Use: No
- Sexual Activity: No

Social History Narrative

*Retired engineer**Widowed, wife died of stomach cancer at age 62, patient was in his 60's at times**Has a lady friend Debby**Used to do gymnastic**Is from Taiwan**Does weight lifting and play tennis for about 1/2 hour before**Has a son Peter*

Family History:

Family History

Problem	Relation	Age of Onset
• Skin Cancer	Nephew	
• Skin Cancer	Brother	
• Lung Cancer	Brother	
possible/unsure		

Review of Systems:

Negative except fatigue, dull headache, intermittent nausea, vague abdominal discomfort. Please

Consult/ H&P - CONSULT/H&P (continued)
Consult/ H&P by Gheorghevi, Dorina (M.D.) at 8/12/2017 2:59 PM (continued)

Version 3 of 3

see H&P.

Objective:

Patient Vitals for the past 24 hrs:

	Temp	Temp Source	Pulse	BP	Resp	SpO2	O2 Delivery
08/12/17 1500	-	-	75	158/86 mmHg	16	97 %	-
08/12/17 1200	-	-	-	148/81 mmHg	-	96 %	-
08/12/17 1030	-	-	95	162/78 mmHg	17	96 %	-
08/12/17 1000	-	-	90	156/87 mmHg	14	97 %	-
08/12/17 0951	97.3 °F (36.3 °C)	Tympanic	80	160/97 mmHg	16	96 %	RA-ROOM AIR

No intake or output data in the 24 hours ending 08/12/17 1459

Physical Exam:

General appearance - chronically ill appearing, NAD

Mental Status - alert, oriented x 2, confused about date; forgetful

Neck - supple, no significant adenopathy

Chest - clear to auscultation, no wheezes, rales or rhonchi

Heart - normal rate, regular rhythm, normal S1, S2, no murmurs, rubs

Abdomen - soft, nontender, nondistended, no masses or organomegaly; +hypoactive bowel sounds

Extremities - no clubbing, cyanosis or edema

Skin - warm and dry; hyperpigmentation both shins

Selected Results:

Recent Results (from the past 24 hour(s))

CHEM 7 (NA, K, CL, CO2, BUN, GLUC, CR) *Canceled*

Collection Time: 08/12/17 10:29 AM

Narrative

Sample rendered unacceptable due to hemolysis. Notified A. Fernandez,RN on 8/12/2017 11:15 by mfrancisco

AST *Canceled*

Collection Time: 08/12/17 10:29 AM

Narrative

Sample rendered unacceptable due to hemolysis. Notified A. Fernandez,RN on 8/12/2017 11:15 by mfrancisco

ALT *Canceled*

Collection Time: 08/12/17 10:29 AM

Narrative

Sample rendered unacceptable due to hemolysis. Notified A. Fernandez,RN on 8/12/2017 11:15 by mfrancisco

BILIRUBIN, TOTAL *Canceled*

EXHIBIT 4

20170821 151228 Debby, dad.3gpp

Remote recording of James and Debby
on **8/21/2017 at 3:12pm.**

Certificate of Translation

I, Jie Ma, a Court Interpreter in Mandarin/English certified by the Judicial Council of California, do hereby declare that I am competent to transcribe and translate the following document into the English language. The English translation is true and accurate to the best of my knowledge and ability based on the documents provided:

-20170821_151228 Debby, dad.3gpp



Jie Ma 09/13/2023
CA Certified Court Interpreter ID# 301830
939 S Broadway, #709
Los Angeles, CA 90015

Time	Original Audio Transcription in Chinese	English Translation
00:00-	<p>Female: 拿来送给法官，他怎么能够代表你去 cancel 呢。</p> <p>Male : (inaudible) ...</p> <p>Female : (inaudible) ... 这个本来就是要啦，每个人都说要弄一个律师搞，你再找一个，不要他来，你就没事了，我告诉你，再找一个，不要他来。</p> <p>Male : 不要 Peter 来</p> <p>Female : 对，他不需要来，我只是给他一个 courtesy，这个你没有他的 business, 就是能代表你的，他用不着来，再去找一个。</p> <p>Male : (inaudible) ...</p> <p>Female: 或许，再给他介绍一个，叫他不要打电话，他是 liar, ok? 他是 liar。</p> <p>Male : 没事搞出一大堆事来</p> <p>Female : 他是 liar, 是你儿子搞出来的。本来这件事情是好好地在做，我是 for courtesy 叫他</p>	<p>Female: "Give this to the judge. How can he cancel it? on your behalf"</p> <p>Male: "(inaudible)..."</p> <p>Female: "(inaudible)..." This was originally required. Everyone says you need to get a lawyer. Find another one, don't let him come, then you'll be fine. I'm telling you, find another one, don't let him come."</p> <p>Male: "Don't let Peter come.</p> <p>Female: "Right, he doesn't need to come. I just gave him a courtesy. This matter is none of his business; one can represent you. He doesn't need to come. Go find another one."</p> <p>Male: "(inaudible)..."</p> <p>Female: "Maybe, introduce him to another person, tell him not to call. He is a liar, ok? He is a liar."</p> <p>Male: "Creating a huge mess out of nothing."</p> <p>Female: "He is a liar. It's your son who caused this. Originally, everything was going smoothly. I called him here out of courtesy, but then he turned it into this mess. Now</p>

	<p>来结果他搞成这个样子。你现在告诉他， either 你要去他家，或是你不去他家，我不要和他 deal，ok？我不要再看到他，他非常卑鄙的，这个事情做成这个样子，他还做出这种事情</p> <p>Male：你要问清楚到底为什么 cancel</p> <p>Female: 他就是不要今天让你弄嘛，他可以给你洗脑，他要今天就是要你 (beeping sound)，给我两个钟头出去就是要给你洗脑，你懂吗？我就不肯。所以他就把它 cancel 掉。</p>	<p>tell him, either you go to his house, or you don't go to his house. I don't want to deal with him, ok? I don't want to see him again. He is very despicable. Turning the situation into this, and he still does such things."</p> <p>Male: "You need to clarify why cancel</p> <p>Female: "He just doesn't want you to proceed today, right? He can brainwash you. Today, he wanted to (beeping), give me two hours to go out, he wanted to brainwash you, understand? I won't allow it. That's why he canceled it."</p>
01:43-	<p>Female:我现在让你跟律师讲话，你说我要 keep 这个 appointment，是你的 power，他怎么可以 cancel 你。OK？</p> <p>Male：(inaudible) ...</p> <p>Female：No，你说叫 (inaudible) 问说谁 cancel 的，为什么律师没有来。</p>	<p>Female: I'm letting you speak to the lawyer now. You tell him that I want to keep this appointment. It's your power; how can he cancel you? OK?</p> <p>Male: (inaudible)...</p> <p>Female: No, you said ask (inaudible) who canceled it. Why didn't the lawyer come?</p>
02:02-	<p>Female: (covered by background noises, speech is inaudible)</p>	<p>Female: (covered by background noises, speech is inaudible)</p>
02:21-	<p>Male：(inaudible) ...家里搞坏掉</p> <p>Female: (covered by background noises,</p>	<p>Male: (inaudible)... wrecked it at home.</p> <p>Female: (covered by background</p>

	<p>speech is inaudible) 什么把家里搞坏掉，谁把我们家里搞坏掉，这个事情本来没有这样子，一定要做的，他也说要做，他就是，他也说要做，OK？结果他今天就是要给你洗脑，他没有洗到脑，所以他就是把它 cancel 掉。</p> <p>Male：洗什么脑</p> <p>Female：他今天就是要给你洗脑</p> <p>Male：哪一方面</p> <p>Female：就是要给你说这个钱是你借给我的</p> <p>Male：我是送给你的嘛</p> <p>Female：你跟他讲，你今天回来再跟他讲，讲一百遍，你说 Peter 我还是要找这个律师，我就是要把这个事情，我是送给 Debby 阿姨的，现在打电话给他。</p>	<p>noises, speech is inaudible) What wrecked our home? Who wrecked our home? This shouldn't have happened this way. It has to be done. He also said he would do it. He did. He said he would do it, OK? But today he's trying to brainwash you. He couldn't brainwash you, so he cancelled it.</p> <p>Male: Brainwash what?</p> <p>Female: He's trying to brainwash you today.</p> <p>Male: About what?</p> <p>Female: He's trying to tell you that the money is a loan from you to me.</p> <p>Male: I gave it to you as a gift, didn't I?</p> <p>Female: Tell him that. When you come back today, tell him, for a hundred times, tell him, "Peter, I still want to see this lawyer. It's a gift to Aunt Debby. Call him now."</p>
03:03-	<p>Male: 这事，搞得。什么么这是。</p> <p>Female：没关系，本来这个事情没什么的</p> <p>Male：那就不要再做了</p>	<p>Male: This thing, what's going on? What is this?</p> <p>Female: It's okay, this matter wasn't a big deal in the first place.</p>

	<p>Female : 一定要做</p> <p>Male : 到此为止</p>	<p>Male: Then don't do it anymore.</p> <p>Female: must do it.</p> <p>Male: Let it end here.</p>
03:14-	(phone dialing)	(phone dialing)
03:28	<p>Female: 你现在打电话给律师 , 你跟他说叫他今天还是来。</p> <p>Male : 我不打 (beeping sound)</p> <p>Female: No, 你为什么不打 , 你现在都准备好了 , 你很清楚 , 你...</p> <p>Female: Hello Reinhard , can you do me a favor? Peter canceled our appointment, (inaudible),...yeah...</p> <p>Female: (speaking from distance, inaudible)</p>	<p>Female: Call the lawyer now and tell him to come today.</p> <p>Male: I won't call. (beeping sound)</p> <p>Female: No, why won't you call? You are ready now, your mind is clear, you are clear, you...</p> <p>Female: Hello, Reinhard, can you do me a favor? Peter canceled our appointment, (inaudible),...yeah...</p> <p>Female: (speaking from distance, inaudible)</p>
04:22-	<p>Female: ...wants to talk to the lawyer (speaking from distance, inaudible) ...daddy Ho ask him to come</p> <p>Male: 问 Peter 为什么要 cancel</p> <p>Female: (speaking from distance, inaudible) ...phone number</p>	<p>Female: ...wants to talk to the lawyer (speaking from distance, inaudible) ...daddy Ho ask him to come</p> <p>Male: Ask Peter why he wants to cancel.</p> <p>Female: (speaking from distance, inaudible) ...phone number</p>
04:42-	<p>Female: No, no, you dont need to do anything, (speaking from distance, inaudible) ...number...yeah...all right</p>	<p>Female: No, no, you dont need to do anything, (speaking from distance, inaudible) ...number...yeah...all right</p>

<p>05:29-</p>	<p>Female: I'll let him call, I'll let him call. (beeping sound) Thank you, bye. Bye.</p> <p>Female: Ho 伯伯 , Do me a favor. 就是今天这个 appointment , 把它办完 , OK ? 了了一个事情。你给那个律师叫做 John , 你跟他讲你要 keep the appointment.</p> <p>Male: 为什么 Peter 要 Cancel</p> <p>Female: 他就是要给你洗脑</p> <p>Male : 你现在给他搞坏了 , 我又 , 出了很多问题啊 , 我不 (inaudible) 现在又搞出问题来 , 干什么我在这 , forget about it, 一定不高兴吗 , 你在那搞什么么你</p> <p>Female : 是我搞吗 , 是他搞</p> <p>Male : 你不要管他 , 由他去弄。 你现在不是搞坏了吗 , 我又不高兴了</p> <p>Female: 我告诉你你跟他搞坏啊。 你跟他搞好 , 我会跟他搞坏。我走了。我一百万我也拿走了。(inaudible) 我走了。我不来了。如果今天不做这个事情我也不来了。这表示你要听他的 , 你不听我的。你看是他给你做的多还是</p>	<p>Female: I'll let him call, I'll let him call. (beeping sound) Thank you, goodbye. Goodbye.</p> <p>Female: Uncle Ho, Do me a favor. Regarding today's appointment, finish it, OK? One thing will be settled. Call that lawyer named John and tell him you want to keep the appointment.</p> <p>Male: Why Peter wants to cancel.</p> <p>Female: He just wants to brainwash you.</p> <p>Male: You've messed things up for him now. There have been a lot of problems, I don't... (inaudible) ...now there are more problems. Why am I here, forget about it, must be unhappy! What are you doing?</p> <p>Female: Was it me who caused the trouble? It was him.</p> <p>Male: Don't worry about him, let him handle it. Now that you've messed it up, I'm upset again.</p> <p>Female: I tell you, you messed up with him. If you get along with him, I am going to mess it up with him. I'm leaving. I'm taking the one million with me. (inaudible) I'm leaving. I won't come back. If we don't do this today, I won't come back. This means you listen to him, not me. Do you think he has done more for you or I have? Without him, can't you treat cancer?</p>
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	我做的多， 没有他你就不能够去治癌症吗？	
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06:40-	<p>(phone dialing)</p> <p>Female: 每个人...</p> <p>Male: 你一定要把这件事情搞得这么坏，对我有什么好处，我自杀好不好，我有个枪在这</p> <p>Female: 你没有</p> <p>Male : 不要管我</p> <p>Female : OK , 那我走了嘛</p> <p>Male : 你走你走，枪都来了，你看枪在地上</p> <p>Female : 这是个打鸟的枪，我不知道</p> <p>Male : (laughing)</p> <p>Female : 你不要威胁我</p> <p>Male : 我当然要威胁你，你把我枪都给我弄掉了</p> <p>Female : 今天他来了我就要跟他讲，我说要走你爸爸说如果我走他就要拿枪打自己，我说Peter 你害死人。 OK。</p>	<p>(phone dialing)</p> <p>Female: Every person...</p> <p>Male: Do you really have to make this matter so bad? What benefit does it bring to me? How about I commit suicide? I have a gun here.</p> <p>Female: You don't.</p> <p>Male: Leave me alone.</p> <p>Female: OK, then I'm leaving, alright?</p> <p>Male: Go, go. The gun is already here. Look at the gun on the ground.</p> <p>Female: This is a bird-shooting gun. I don't know about it.</p> <p>Male: <i>(laughing)</i></p> <p>Female: Don't threaten me.</p> <p>Male: I of course want to threaten you. You made me lose my gun.</p> <p>Female: Today when he comes, I am going to tell him that I said I am going to leave, your father said he'd shoot himself if I leave. I said, "Peter, you're killing someone." OK.</p> <p>Male: Why do you make things so complicated?</p> <p>Female: I didn't make things complicated. They bully me like this, and then what I did for you...</p> <p>Male: You didn't... if they bully you,</p>
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	<p>Male : 你怎么这样搞这么多</p> <p>Female : 我没有搞这么多事啊 , 我被他们这样子欺负 , 然后我给你做的这个...</p> <p>Male: 你没有...他们欺负你我保护你</p> <p>Female: 没有用。你保护我什么? 我叫你打电话给律师你都不保护我, 你都在听 Peter , Peter 做的完全是错的。做这个事情并不是说这个钱要给我的。我们是把这个事情做好了然后就 (beeping sound) 不会 以后打官司打来打去。他今天为什么 , 他就要 washing 你的 brain, 去告诉你说, 你这个钱是要借给我的。</p>	<p>I'll protect you.</p> <p>Female: It's useless. What are you protecting me from? I asked you to call the lawyer and you didn't protect me. You are always listening to Peter. What Peter did is completely wrong. Doing this thing isn't to say this money should be given to me. We are supposed to handle this properly so (beeping sound) we don't have to keep suing each other in the future. Why did he do it today? He wants to wash your brain, telling you that this money is a loan to me.</p>
07:45-	<p>Male : 他没有这样说</p> <p>Female : 他就是这样。 否则他今天为什么不守这个 appointment?</p> <p>Male : 我会问的</p> <p>Female : 你现在打电话给律师。否则的话我真的要走。 我不要干了。你根本就没有保护我。你保护我什么</p>	<p>Male: He didn't say that.</p> <p>Female: That's exactly what he did. Otherwise, why didn't he keep the appointment today?</p> <p>Male: I'll ask him.</p> <p>Female: Call the lawyer now. If not, I'm really leaving. I'm done. You never protected me. What have you protected me from?</p>

	<p>Male : 我保护我自己</p> <p>Female : 保护你自己你就去保护啊</p> <p>Male : 我把钱给你就是给你了嘛。 谁要拿就让他去拿</p> <p>Female : 将来你走了他们就要来打我了</p> <p>Male : 将来? 将来早得很呢 , 还有多少年呢。</p> <p>Female : 没有 , 你...</p> <p>Male : 我死啦 ?</p> <p>Female : 你还有多少年啊</p> <p>Male : 我就死啦</p> <p>Female : 你还有多少年啊</p>	<p>Male: I'm protecting myself.</p> <p>Female: If you're protecting yourself, then go on and do it.</p> <p>Male: I gave you the money. If anyone wants to take it, let them.</p> <p>Female: When you're gone, they'll come after me.</p> <p>Male: The future? The future is far away. How many more years do we have?</p> <p>Female: No, you...</p> <p>Male: I'm dead?</p> <p>Female: How many more years do you have?</p> <p>Male: So I'm dead then.</p> <p>Female: How many more years do you have?</p> <p>Male: If I die, I die. I don't care about all that anymore. Why would I care about those things if I'm dead?</p>
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	<p>Male : 我死就死吧 , 我更不管了 , 死了我还管那些事</p> <p>Female : 那你就是害我 , 你就是害我 , OK ? 我替你做这么多事情 , 你连这个都不能够。他根本就是听你的</p> <p>Male : 谁听我的 , 没人听我的</p> <p>Female : 他叫你 , 你说 , 他 cancel 没有经过你的同意 , 他怎么可以 cancel 你的 appointment ? 他说你糊涂了 , 他胡说八道</p>	<p>Female: Then you're harming me, you're harming me, OK? I've done so much for you, and you can't even do this. He's listening to you.</p> <p>Male: Who listens to me? No one listens to me.</p> <p>Female: He called you that, You tell me, how can he cancel your appointment without your consent? He said you're confused, he's talking nonsense</p>
08:50-	<p>Female: 我现在试着打电话给律师</p> <p>Male : 你不要再瞎扯了 , 等 Peter 回来再说。</p> <p>Female : 明明 cancel 了 , 你还要怎么样</p> <p>Male : 我问他为什么要 cancel</p>	<p>Female: I am trying to call the lawyer now.</p> <p>Male: Stop talking nonsense. We'll discuss it when Peter gets back.</p> <p>Female: He clearly canceled. What more do you want?</p> <p>Male: I'll ask him why he canceled.</p> <p>Female: He said you were confused.</p> <p>Male: I'm not confused.</p>

	<p>Female : 他说你糊涂了</p> <p>Male : 我没有糊涂</p> <p>Female : 他给律师讲他说你糊涂了 , 他都不敢回来打电话给我们。 他打电话给 Reinhard , 他说他 cancel , 他不敢打电话回来给我们。</p>	<p>Female: He told the lawyer he said you were confused. He doesn't even dare to call us back. He called Reinhard, saying he canceled and he doesn't dare to call us back.</p>
09:15-	<p>Male : 这不是搞乱七八糟吗</p> <p>Female : 是啊 , 他打电话给 Reinhard, Reinhard 说我不管了你们自己去打 , ok</p> <p>Male : 讨厌嘛 , Reinhard 搞这些事情出来干什么</p> <p>Female : 为什么是 Reinhard 搞得 , Reinhard 帮我们约律师 , 是我叫他帮我的忙的 , 去找个律师 , (beeping sound)将来他去找个律师 , 我跟你讲 , 他去找一个律师。 去找 , 让他去找 , OK ?</p> <p>Male : 现在在自己家里面瞎吵</p> <p>Female : 没有瞎吵。你这个儿子瞎吵我跟你讲。他凭什么要来跟我捣蛋 ? 他就是要跟你 brain wash , 他就是要跟你 brain wash 我跟你</p>	<p>Male: Isn't this all messed up?</p> <p>Female: Yes, he called Reinhard. Reinhard said, "I'm not dealing with this, you guys handle it yourselves," okay?</p> <p>Male: Annoying, huh? Why is Reinhard getting involved in this stuff?</p> <p>Female: Why do you think it's Reinhard's fault? Reinhard helped us, arranging a lawyer. I asked him to do me a favor, to find a lawyer. (beeping sound) In the future, he finds a lawyer, I'm telling you, he go find one. Let him go find one, okay?</p> <p>Male: Now there's all this pointless arguing at home.</p> <p>Female: There's no pointless arguing. I'm telling you, your son is the one causing the ruckus. What right does he have to mess with me? He's trying to brainwash you. He's trying to brainwash you, I'm telling you. Don't I know him? Even if you don't talk to him, I will. He shouldn't come into this house anymore. Either I leave or he doesn't come in. This house is mine. Why should I</p>

	<p>讲。我不知道他吗？你不讲他我也要来讲他的，他不要再进来我这个房子。他不要再进来了，不是我走就是 他不要进来。这个房子是我的，我为什么要走？他不准进来。你的儿子女儿统统都不准进来。你要去他家你就去好了。你说你口口声声说要保护我，连这个电话你都不敢打。</p>	<p>leave? He's not allowed in. Neither your son nor your daughter is allowed in. If you want to go to his home, then go. You always say you want to protect me, but you don't even dare to make this call.</p>
10:35-	<p>Male : 我为什么要打？我不打</p> <p>Female : 你就是要保护我</p> <p>Male: 我少麻烦</p> <p>Female : 你就是要保护我</p> <p>Male : 我也要保护我自己，我不管</p> <p>Female : 你这个才不是保护你自己</p> <p>Male : 搞这么多乱七八糟的事干什么！干什么我在这！</p> <p>Female : 这个什么叫乱七八糟的事情</p> <p>Male : (inaudible) 高高兴兴的事</p> <p>Female : 这个什么叫乱七八糟？这个事情他</p>	<p>Male: Why should I call? I won't call.</p> <p>Female: You have to protect me.</p> <p>Male: It's less trouble for me.</p> <p>Female: You have to protect me.</p> <p>Male: I also need to protect myself. I don't care.</p> <p>Female: That's not you protecting yourself.</p> <p>Male: Why create such a mess! Why am I even here!</p> <p>Female: What do you mean by "a mess"?</p> <p>Male: (inaudible) the happy matter</p> <p>Female: What do you mean by "a mess"? This matter, he also said there should be a lawyer, that, you also said, I also said there should be one.</p>

<p>也说要有一个律师，那个，你也说，我也说要</p> <p>Male：要讲清楚</p> <p>Female：讲好的那他为什么要 cancel？他好不要脸啊我跟你讲，他好不要脸</p> <p>Male：不要讲这种脏话</p> <p>Female：他不要脸到极点了</p> <p>Male：你不要说这种脏话会打架的！</p> <p>Female：打架就该打，他没有...</p> <p>Male: 我走了我走了</p> <p>Female：他没有经过你的同意</p> <p>Male：我就出去了我跟你讲</p> <p>Female：他没有经过你的同意</p> <p>Male：我死在外面你不要管我</p> <p>Female：他为什么没有经过你的同意他要 cancel？</p> <p>Male：我不知道，他随便问问</p>	<p>Male: It needs to be clarified.</p> <p>Female: If it was agreed upon, then why did he cancel? He's so shameless, let me tell you, he's so shameless.</p> <p>Male: Don't use such foul language.</p> <p>Female: He's reached the peak of being shameless.</p> <p>Male: Saying such things can lead to a fight!</p> <p>Female: If there's a fight, then so be it, he didn't...</p> <p>Male: I'm leaving, I'm telling you</p> <p>Female: He didn't ask for your consent.</p> <p>Male: I'm dying out, I'm telling you.</p> <p>Female: Why didn't he ask for your consent before cancelling?</p> <p>Male: I don't know, maybe he just asked randomly.</p> <p>Female: What's there to ask about? He's just talking nonsense.</p> <p>(beeping sound)</p>
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	<p>Female : 有什么好问? 他就是胡说八道。 (beeping sound)</p>	
11:34-	<p>Male : 基本上要来打架的话 , 那就打吧</p> <p>Female : 他就是要来打架。 跟你讲 , 他现在就是要来把你拿走 , 他现在就是要来把你拿走 , 你去他那边啦 , 我告诉你</p> <p>Male : 你不要告诉我</p> <p>Female : 我告诉你</p> <p>Male : 不必</p> <p>Female : 你到他那边 , 他的 (inaudible) 也快没有了。 然后你也被那些请人的来 , 来给你乱搞。</p> <p>Male : 我不请</p>	<p>Male: Basically, if it's about fighting, then let's fight.</p> <p>Female: He's here to fight. Let me tell you, he's here to take you away now, he's here to take you away. You go to his, I'm telling you.</p> <p>Male: Don't tell me.</p> <p>Female: I'm telling you.</p> <p>Male: No need.</p> <p>Female: If you go to his, his (inaudible) is also almost gone. And then those who are hired will come and mess with you.</p> <p>Male: I won't hire.</p>
12:00-	<p>Female : 我走了。你说什么 , 你说什么 ?</p> <p>ale : 我不请</p> <p>Female : 他不请 , 他不请谁来照顾你 ?</p>	<p>Female: I'm leaving. What did you say? What did you say?</p> <p>Male: I won't hire.</p> <p>Female: If he doesn't hire, then who will take care of you?</p> <p>Male: Stop causing a scene here.</p>

	<p>Male : 胡闹嘛在这。不要在这瞎胡闹好不好</p> <p>Female : 你不要说我胡闹, 你为什么不说他胡闹呢。他请个律师来讲, 为什么不好好讲?</p> <p>Male : 那你跟他讲</p> <p>Female ; 你又说我不能和他讲</p> <p>Male : 我没有说你不能讲, 你讲嘛, 你吵吧</p>	<p>Can you not cause a fuss here?</p> <p>Female: Don't say I'm causing a scene, why don't you say he's causing a scene? He invites a lawyer to talk, why doesn't he just speak properly?</p> <p>Male: Then you talk to him.</p> <p>Female: You said I can't talk to him.</p> <p>Male: I didn't say you can't talk, just speak up, go ahead and argue.</p>
12:47-	<p>Female : 那你现在问他为什么要 cancel ? 他说你头脑不清楚, 所以他要 cancel</p> <p>Male : 我没听见</p> <p>Female : 什么叫做你没听见?</p> <p>Male : 谁说我头脑不清楚?</p> <p>Female : 他说的! 他给律师说, 说你头脑不清楚所以他要 cancel</p> <p>Male : 我起来</p>	<p>Female: Then why don't you ask him why he wants to cancel? He said you're not thinking clearly, so he wants to cancel.</p> <p>Male: I didn't hear.</p> <p>Female: What do you mean you didn't hear?</p> <p>Male: Who said I'm not thinking clearly?</p> <p>Female: He said it! He told the lawyer that you're not thinking clearly so he wants to cancel.</p> <p>Male: I'll get up.</p>
13:27-	<p>(phone dialing) (beeping sound)</p>	<p>(phone dialing) (beeping sound)</p>

13:51-	Female: 最后再讲一句话 , 以后再 (inaudible) appointment,	Female: last sentence , later on (inaudible) appointment,
14:01-	<p>Female: Hi, Mr. Martin? Ah, maybe, ah, Mr. Ho, James Ho, he and ..(inaudible) have an appointment at three O'clock? No, He is fine, no, he is fine. (inaudible) can you talk again? Ok, thank you good. Mr. Martin.</p> <p>Male: Mr. Martin? This is James. Fine, thank you. I just heard that my son canceled my appointment?</p>	<p>Female: Hi, Mr. Martin? Ah, maybe, ah, Mr. Ho, James Ho, he and ..(inaudible) have an appointment at three O'clock? No, He is fine, no, he is fine. (inaudible) can you talk again? Ok, thank you good. Mr. Martin.</p> <p>Male: Mr. Martin? This is James. Fine, thank you. I just heard that my son canceled my appointment?</p>
14:54-	Male: Oh, I do not know and I want to find out later. (inaudible) why?	Male: Oh, I do not know and I want to find out later. (inaudible) why?
15:14-	<p>Male: Ah, ok. Ah, (inaudible) ok, I will talk to her about it.</p> <p>Female: (inaudible) Debby</p> <p>Male: Thank you.</p> <p>Female: (inaudible)</p> <p>Male: Yes, half an hour. (beeping sound)</p>	<p>Male: Ah, ok. Ah, (inaudible) ok, I will talk to her about it.</p> <p>Female: (inaudible) Debby</p> <p>Male: Thank you.</p> <p>Female: (inaudible)</p> <p>Male: Yes, half an hour. (beeping sound)</p>
15:37-	<p>Male: Ok, ok...ok, all right, I will. All right. Thank you.</p> <p>Female: (inaudible)</p> <p>Female: Hi, Mr. Martin? Hello? 他说什么 ?</p> <p>Male: 他说 call 他 back.</p> <p>Female: Call back for what?</p> <p>Male: 目前 cancel 了</p> <p>Female: 那他现在不是 call back 了吗 ?</p> <p>Male : 那你打个电话给他。 (inaudible)</p>	<p>Male: Ok, ok...ok, all right, I will. All right. Thank you.</p> <p>Female: (inaudible)</p> <p>Female: Hi, Mr. Martin? Hello? What did he say?</p> <p>Male: He said call him back.</p> <p>Female: Call back for what?</p> <p>Male: Right now its canceled</p> <p>Female: Didn't him just call back?</p> <p>Male : Then you call him (inaudible)</p>

Female : 他今天没有时间吗？他今天？	Female: Does he not have time today? today?
Male : 今天好像有	Male: It seems like he does today.
Female : (inaudible) 那你刚才为什么没有跟他， 就叫他今天	Female: (inaudible) Then why didn't you tell him earlier, to have him come today?
Male : (inaudible)	Male: (inaudible)
Female: huh?	Female: Huh?
Male: 我不做决定	Male: I don't make the decisions.
Female : 你做决定我跟你讲， 这个事情要你自己做决定。ok。	Female: When I discuss with you, you make the decision. This matter requires you to decide. Ok.
Male: (inaudible)	Male: (inaudible)
Female: (inaudible)	Female: (inaudible)
Female: 他跟你讲话好好的	Female: He talks to you very nicely.
Male : 我 (inaudible)	Male: I (inaudible)
Female : 拜托你说一个时间， OK？	Female: Please give me a time, OK?
Male : 我不做	Male: I won't do it.
Female : 我已经跟他讲了， (phone dialing) 叫他今天来	Female: I've already told him, (phone dialing) to have him come today.
Male : 你， Peter 在中间又	Male: You, Peter will be in the middle again...
	Female: No, no, no. (phone dialing) you tell him after we woke up and felt good, we called to ask if he wanted to come, and in the end, he said he would.

	<p>Female : 不会不会。(phone dialing) 跟他说我们后来醒过来就觉得很好 , 打电话问他要不要来 , 最后他说他要来</p> <p>Male : 那你讲</p> <p>Female : 你跟他讲 , 我不能再讲了</p> <p>Male : 为什么不能再讲 ? 你就讲</p>	<p>Male: Then you tell him.</p> <p>Female: You tell him. I can't speak anymore.</p> <p>Male: Why can't you speak anymore? Just tell him.</p>
16:58-	<p>Female: Mr. Martin, are you able to come today? Ok. So, can you confirm...(inaudible)one hour, can you? ...one more time. Confirm, OK , can you, please?</p> <p>Male: 4:30PM. All right, I will let my son know. 4:30 pm.</p> <p>Female: ok. yes, yes. (beeping sound)</p> <p>Female: Yeah, yeah, and the same. Ok. see you later. Ok, ok bye-bye.</p> <p>Male: 搞什么嘛现在是</p> <p>Female : 就说我们打电话为什么现在没有来。他说 cancel , 我说没有 cancel 啊 , 那你可不可以来 , 他说他可以 , 因为 Peter 又没有打电话给我们 , 说他不来 , 那我们就打电话给他。</p>	<p>Female: Mr. Martin, are you able to come today? Ok. So, can you confirm...(inaudible)one hour, can you? ...one more time. Confirm,OK , can you, please?</p> <p>Male: 4:30PM. All right, I will let my son know. 4:30 pm.</p> <p>Female: ok. yes, yes. (beeping sound)</p> <p>Female: Yeah, yeah, and the same. Ok. see you later. Ok, ok bye-bye.</p> <p>Male: What's going on now...</p> <p>Female: Just say we called why didn't come. He said cancelled. I said didn't cancel. Then, can you come? He said he can. Because Peter didn't call us to say he isn't coming, so we called him.</p>

	<p>Male : (inaudible)</p> <p>Female: (inauible) ...我们打电话回去。 那我说， 没有啊 (machinary noises)</p> <p>Female:...那你现在可不可以来。 他说可以来。 (inaudible) Peter 说不会来， (inaudible)</p> <p>(machinary noises)</p>	<p>Male: (inaudible)</p> <p>Female: (inaudible) ...we called back. Then I said, no, (machinery noises)</p> <p>Female: ...So, can you come now? He said he can come. (inaudible) Peter said he won't come, (inaudible)</p> <p>(machinery noises)</p>
18:28	<p>Female: ...他说 cancel， 我说没有啊， 就这样子。 后来他说那我现在可以来。 那他就现在来。 很简单。 (inaudible)</p> <p>Female: 把这件事情做完， 大家都好</p>	<p>Female: ... He said cancel, I said no, it's like this. Later, he said that he can come now. So, he's coming now. It's very simple." (inaudible)</p> <p>Female: Get this thing done which is good for everybody.</p>
19:35-	(beeping sound)	(beeping sound)
19:43-	<p>Male: 不想看</p> <p>Female : (inaudible)你看看会不会高兴， 你看， 你看</p> <p>Male: No</p> <p>Female: 没有什么不高兴？ 这个事情是个好事情。(inaudible)</p> <p>Male : No</p>	<p>Male: Don't want to see.</p> <p>Female: (inaudible) Take a look at it to see if you will be happy. look, look.</p> <p>Male: No</p> <p>Female: There's nothing to be unhappy about? This matter is a good thing. (inaudible)</p> <p>Male: No.</p>

20:08-	<p>Female : (inaudible)...Peter, 就很轻松的跟他讲。 我们等，等了他都不来，我们打了电话给了他。结果他说 cancel 了，我说没有啊，他大概搞错了吧。(inaudible)...所以就，来嘛，(inaudible) 跟他讲话讲的好好的，他要是觉得你讲不好的话， 他会走， 看样子他可能不想讲话。(inaudible)</p> <p>你要不要喝一点水？</p>	<p>Female: (inaudible)...Peter, just talk to him in a relaxed manner. We waited, and when he didn't come, we called him. As a result, he said he had cancelled. I said no, he probably got it wrong. (inaudible)...So, come on, (inaudible) I spoke to him very nicely. If he feels you aren't speaking well, he will leave. It seems like he might not want to talk. (inaudible) Would you like some water?</p>
20:38-	<p>Male : 那你就给 Peter 打电话</p> <p>Female : 要不要打。他都不跟我们打， 我们要不要打？不要打不要打，打了他又要去给它 cancel 了，这样烦死了，</p>	<p>Male: Then you give Peter a call.</p> <p>Female: Don't call, don't call him. He never calls us. Should we call him? Don't call, don't call. If we call, he'll just cancel it again. It's so annoying.</p>
20:03-	<p>Male : 不要</p> <p>Female : 喝水！(inaudible) 往后一点哦，给你吃个药...(inaudible) (inaudible)</p>	<p>Male: Don't</p> <p>Female: Drink water! ... Move back a bit, I'll give you some medicine... ..</p>
21:30-	<p>Female: (inaudible) ...他不敢给我们打电话，他怕...(inaudible)， 关他什么事 (beeping sound)</p>	<p>Female: (inaudible)... He doesn't dare to call us, he's afraid...(inaudible), what does it have to do with him? (beeping sound)</p>
22:45-	<p>Female: (inaudible)</p> <p>Male : 不要...(inaudible)</p> <p>Female: 不要，不要不高兴。我这么多事情，</p>	<p>Female: (inaudible)</p> <p>Male: Don't... (inaudible)</p> <p>Female: Don't, don't be upset. I have so many things going on. Xiaowei just called, I might have to see</p>

	<p>Xiaowei 刚打电话来，我可能要去看他/她了，后来我没去</p> <p>Male：你去嘛</p> <p>Female：Xiaowei 说，妈妈，你不要 (inaudible)，他/她哭起来了，</p>	<p>him/her. But I didn't go later on.</p> <p>Male: Will you go?</p> <p>Female: Xiaowei said, "Mom, you don't (inaudible)", then started crying.</p>
23:35-	(beeping sound)	(beeping sound)
23:42-	<p>Female: 刚才你们在讲话，我还跟他/她说，这一万块钱如果是我的话，我会分给你们，他还听不懂这句话。还要 cancel 这(inaudible)</p>	<p>Female: Just now when you were talking, I even told him, "If this ten thousand Kuai were mine, I would share it with you." He still didn't understand this sentence. And canceled this(inaudible)</p>
23:52-	<p>Male: 你怎么分</p> <p>Female：我是不喜欢，你要是不写这个 (inaudible) 会打官司，知道吧。</p> <p>Male：打什么官司，我收回来了！</p> <p>Female：你收不回来，我房子，房子钱在里面，怎么收？</p> <p>Male:你骗我了</p> <p>Female: 啊？</p> <p>(machinary noise starts)</p>	<p>Male: How would you split?</p> <p>Female: I don't like it. If you don't write this... (inaudible)... there will be a lawsuit, you know?</p> <p>Male: What lawsuit? I am taking it back!</p> <p>Female: You can't take it back. It's my house. The money for the house is inside, how can you retrieve it?</p> <p>Male：You tricked me</p> <p>Female: huh?</p> <p>(machinery noise starts)</p>

<p>(inaudible conversation)</p> <p>Female: ...(inaudible) 房子也卖不掉, 房子也卖不掉</p> <p>Male : 那就不拿嘛 , 摆在那儿嘛</p> <p>Female : 摆在那里有一天你没有了 , 他们就打官司了</p> <p>Male : 让他打 !</p> <p>Female : 打了是我倒霉呀</p> <p>Male : 那你倒霉</p> <p>Female : 你为什么</p> <p>Male : 谁让你 involve 这个钱呢</p> <p>Female: 我怎么叫做 involve 这个...</p> <p>Male : 拿回来</p> <p>Female: 什么叫做我 involve 这个...</p> <p>Male : 你打官司当然 involve 了</p>	<p>(inaudible conversation)</p> <p>Female: ... (inaudible) ...can't sold the house either., .can't sold the house either.</p> <p>Male: Then just don't take it. Just leave it there.</p> <p>Female: If it's left there, and one day if you're gone, they'll come and sue.</p> <p>Male: Let them sue!</p> <p>Female: If they sue, I'll be the one in trouble.</p> <p>Male: Then you are in bad luck</p> <p>Female: Why you...</p> <p>Male: Who asked you to get involved with this money</p> <p>Female: How am I involved in this...</p> <p>Male: Give it back</p> <p>Female: What do you mean I'm involved in this...</p> <p>Male: Of course you're involved when you go to court.</p> <p>Female: They'll sue me, not the other way around.</p> <p>Male: Then give me my money back.</p> <p>Female: Where do I have money to give back to you?</p> <p>Male: If you don't have any, you can't</p>
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	<p>Female : 他们要打我 , 不是我打他们</p> <p>Male : 那你把钱还给我</p> <p>Female : 我哪里有钱还给你啊</p> <p>Male : 没有的话 , 没有钱 , 没有的话打不了官司了 ,</p>	<p>have a lawsuit if you have no money.</p>
24:48-	<p>Female : 打不了 , 他们也要叫我打 , 我告诉你</p> <p>Male : 谁叫你打 ? 他们是谁 ?</p> <p>Female : 他们是你的女儿。Peter 跟我 , 两个人都觉得 , 我们不跟你定律师这个东西啊 , 他们那两个会来打官司的。将来打了官司以后 , 这个钱就拿去当费用 , 通通给律师了。Peter 和我两个都赞同做这个事。他今天为什么不让你做 , 他就要来给你洗脑 , 跟你说这个钱...(inaudible)</p> <p>Male: 为什么要洗脑 , 做就做了</p> <p>emale : 他就是要让你 confuse 说 , 你这个钱...</p>	<p>Female: Can't? but they want me to. Let me tell you."</p> <p>Male: "Who told you to? Who are 'they'?"</p> <p>Female: They are your daughters. Peter and I, both of us think that if we don't have a lawyer over this matter, those two will end up suing. If they sue in the future, all the money will be used to cover the fees, and it will all go to the lawyers. Both Peter and I agree on doing this. I don't know why he didn't let you do it today; he wants to brainwash you, telling you about the money...(inaudible)</p> <p>Male: Why brainwash? What's already done is done</p> <p>Female: He just wants to confuse you, saying this money...</p> <p>Male: I'm confused now; it's done.</p> <p>Female: Then you explain to him again, tell him not to fight, this money given to her is just for her.</p>

	<p>Male : 我 confuse 了 , 做了</p> <p>Female : 那你再给他讲 , 你说不要打 , 这个钱给她就是给她。</p>	
25:31-	<p>Male : 给你了</p> <p>Female : 对 , 你就跟他这么讲 , 让他死了这条心 , 好不好</p> <p>Male : 好</p> <p>(beeping sound)</p> <p>Female:就不会打了。就跟他讲 , 很简单 , 你待会儿讲这句话。就今天 (inaudible) 你跟他也是讲这样的话 , 那这个人也是写跟你和 Peter 讲话一样 , 那就没事了。</p>	<p>Male: I gave it to you.</p> <p>Female: Yes, just tell him that. Ask him to give up on this idea, alright?</p> <p>Male: Alright.</p> <p>(beeping sound)</p> <p>Female: Then won't have fight anymore. Just tell him, it's simple. You just say this line to him later. Just like today (inaudible) you talked to him in this way, and this person talks to you and Peter the same way, then everything will be fine.</p>
27:34	<p>Female: 你不要说是我闯的祸 , 是我们两个都一致 (beeping sound) 说要请这样的一个人来跟你写一个</p> <p>(inaudible), 他也赞成的. 那我们就给你找了一个 , 这个人和我毫无关系 , 他完全替你讲话 , 写下来。 那他为什么要 cancel ? 这是他在闯祸。那怎么还说我闯祸呢。</p> <p>Male : 不想想这个</p>	<p>Female: Don't say that I caused the trouble. Both of us agreed (beeping sound) to invite such a person to write for you (inaudible) He also agreed. So we found one for you. This person has nothing to do with me, he speaks entirely on your behalf, writing it down. Then why did he cancel? He's the one causing the trouble. So why are you saying that I caused the trouble?</p> <p>Male: I don't want to think about this.</p> <p>Female: Ok, (inaudible) don't think,</p>

	<p>Female : ok, (inaudible) 不要想 , (inaudible)</p> <p>Male: 我的日子 , 干什么这是 !</p> <p>Female: 好好的过 , ok</p> <p>Male : 乱七八糟 , 胡来 !</p> <p>Female : (inaudible)</p> <p>Male: 不管 , 我什么都不管 , 现在。</p>	<p>(inaudible).</p> <p>Male: My life, what is this?!</p> <p>Female: Live well, ok.</p> <p>Male: It's a mess, nonsense!</p> <p>Female: (inaudible)</p> <p>Male: I don't care, I don't care about anything now.</p>
29:38-	(beeping sound)	(beeping sound)
30:22	(audio ends)	(audio ends)

EXHIBIT 5

VIDEO DEPOSITION OF JOHN MARTIN

Taken On May 30, 2019

IN RE THE MATTER OF THE HO FAMILY
TRUST: PETER C. HO -VS- DEBBY CHANG

Page 1 to Page 246

CONDENSED TRANSCRIPT

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VIDEO DEPOSITION OF JOHN MARTIN

<p style="text-align: center;">Page 1</p> <p style="text-align: center;">IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN MATEO</p> <p>In Re the Matter of No. 17-PRO-00973 TRUST A UNDER THE JAMES F. HO AND GRACE C. HO DECLARATION OF TRUST DATED SEPTEMBER 11, 1992, as amended</p> <hr/> <p>PETER C. HO, TRUSTEE OF TRUST A OF THE JAMES F. HO AND GRACE C. HO DECLARATION OF TRUST DATED SEPTEMBER 11, 1992, Petitioner, vs. DEBBY CHANG, and DOES 1 through 20, inclusive, Respondents.</p> <p style="text-align: center;">VIDEO DEPOSITION OF JOHN MARTIN</p> <p>Date: Thursday, May 30, 2019 Time: 10:08 a.m. Location: TEMMERMAN, CILLEY & KOHLMANN, LLP 2502 Stevens Creek Boulevard San Jose, California 95128 Reported by: Gina Minnis CSR No. 11996</p> <p>#57606</p>	<p style="text-align: center;">Page 3</p> <p style="text-align: center;">INDEX OF EXAMINATIONS:</p> <table> <tr> <th></th><th style="text-align: right;">Page</th></tr> <tr> <td>Examination by Mr. Cilley</td><td style="text-align: right;">5</td></tr> <tr> <td>Examination by Mr. Loew</td><td style="text-align: right;">207</td></tr> <tr> <td>Further Examination by Mr. Cilley</td><td style="text-align: right;">239</td></tr> </table> <p style="text-align: center;">INDEX OF EXHIBITS:</p> <table> <tr> <th>Exhibit</th><th style="text-align: right;">Page</th></tr> <tr> <td>Exhibit 1 File pertaining to James Ho JM0001 through JM0068</td><td style="text-align: right;">38, 43</td></tr> <tr> <td>Exhibit 2 Agreement to Occupy After Close of Escrow</td><td style="text-align: right;">195</td></tr> <tr> <td>Exhibit 3 Seller Multiple Counteroffer No. 1</td><td style="text-align: right;">195</td></tr> <tr> <td>Exhibit 4 Escrow Trust Receipt and Copy of check</td><td style="text-align: right;">196</td></tr> <tr> <td>Exhibit 5 Letter from Geoffrey Garcia to Sterling Bank</td><td style="text-align: right;">198</td></tr> <tr> <td>Exhibit 6 Gift Letter</td><td style="text-align: right;">198</td></tr> <tr> <td>Exhibit 7 3/14/17 Letter of Explanation</td><td style="text-align: right;">199</td></tr> <tr> <td>Exhibit 8 3/20/17 Note from Debby Chang</td><td style="text-align: right;">200</td></tr> <tr> <td>Exhibit 9 Declaration of Geoffrey Garcia</td><td style="text-align: right;">201</td></tr> <tr> <td>Exhibit 10 PRDS Addendum No. 2</td><td style="text-align: right;">202</td></tr> </table> <p style="text-align: center;">---o0o---</p>		Page	Examination by Mr. Cilley	5	Examination by Mr. Loew	207	Further Examination by Mr. Cilley	239	Exhibit	Page	Exhibit 1 File pertaining to James Ho JM0001 through JM0068	38, 43	Exhibit 2 Agreement to Occupy After Close of Escrow	195	Exhibit 3 Seller Multiple Counteroffer No. 1	195	Exhibit 4 Escrow Trust Receipt and Copy of check	196	Exhibit 5 Letter from Geoffrey Garcia to Sterling Bank	198	Exhibit 6 Gift Letter	198	Exhibit 7 3/14/17 Letter of Explanation	199	Exhibit 8 3/20/17 Note from Debby Chang	200	Exhibit 9 Declaration of Geoffrey Garcia	201	Exhibit 10 PRDS Addendum No. 2	202
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<p style="text-align: center;">Page 2</p> <p style="text-align: center;">A P P E A R A N C E S:</p> <p>For the Petitioner: TEMMERMAN, CILLEY & KOHLMANN, LLP BY: JAMES P. CILLEY, ESQ. 2502 Stevens Creek Boulevard San Jose, CA 95128 (408) 780-1912</p> <p>For the Respondent LOEW LAW GROUP Debby Chang: BY: JEFFREY L. LOEW, ESQ. BY: SARAH B. SHEPPARD, ESQ. 1650 Borel Place Suite 104 San Mateo, CA 94402 (650) 397-8700</p> <p>For John Martin: LAW OFFICES OF JOHN C. MARTIN, P.C. BY: JACK J. FERGUSON, ESQ. 1145 Merrill Street Suite 500 Menlo Park, CA 94025 (650) 329-9500</p> <p>Also Present: PETER HO DELLA LAU</p> <p>The Videographer: ADVANTAGE MEDIA BY: PETER YAROSCHUK One Mountain Valley Road Scotts Valley, CA 95066</p> <p style="text-align: center;">---o0o---</p>	<p style="text-align: center;">Page 4</p> <p>THE VIDEOGRAPHER: Good morning. We're now on record at 10:08 a.m. on May 30, 2019. This is the beginning of Video No. 1 in the deposition of John Martin taken by the petitioner in the matter of the Ho Family Trust in the Superior Court of California for the County of San Mateo, Action No. 17PRO00973. We are located at 2502 Stevens Creek Boulevard, San Jose, California 95128.</p> <p>The court reporter is Gina Minnis in association with Advantage Reporting Services. My name is Peter Yaroschuk. I am a legal videographer in association with Advantage Media, One Mountain Valley Drive, Scotts Valley, California.</p> <p>Will all counsel please state your appearances for the record.</p> <p>MR. CILLEY: Yes. James Cilley on behalf of the petitioner, Peter Ho.</p> <p>MR. LOEW: Jeffrey Loew for respondent Debby Chang.</p> <p>MS. SHEPPARD: Sarah Sheppard for respondent Debby Chang.</p> <p>MR. FERGUSON: Jack Ferguson for deponent, John Martin.</p> <p>THE VIDEOGRAPHER: Will the court reporter please administer the oath.</p> <p>///</p>																														

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1 JOHN MARTIN,
2 being first duly sworn by the Certified Shorthand
3 Reporter to tell the truth, the whole truth, and
4 nothing but the truth, testified as follows:
5

6 EXAMINATION BY MR. CILLEY:

7 Q. Good morning, Mr. Martin. My name is Jim Cilley.
8 I introduced myself off the record. I'll do so now again
9 for the benefit of the record.

10 As you know, you are here today to have your
11 deposition taken in connection with the proceedings that
12 have been filed following the death of your former client,
13 James Ho.

14 Do you understand that?

15 A. Yes.

16 Q. Okay. You're an attorney at law; is that
17 correct?

18 A. Yes.

19 Q. And you're licensed by the State of California?

20 A. Yes.

21 Q. How long have you been an attorney?

22 A. Over ten years.

23 Q. Have you had your deposition taken prior to this
24 morning?

25 A. No.

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1 Q. Now, this is not meant to be a test by fire or
2 any sort of ordeal for you. So if for whatever reason you
3 would like to take a break, please let me know, and I'll
4 be happy to grant you the courtesy of a break; is that
5 fair?

6 A. Thank you for that.

7 Q. Sure. The one thing that I would ask is that you
8 complete the answer to the question that is pending before
9 we take the break. Is that fair?

10 A. It is.

11 Q. Okay. Now, I would appreciate it if you would
12 please grant me the courtesy of allowing me to complete my
13 questions before you answer them.

14 Will you do that?

15 A. I'll try my best.

16 Q. Okay. And I will try to grant you the same
17 courtesy; and that is, to allow you to complete your
18 answer before I ask another question. The reason that we
19 need to do that is so that we have a clear record of both
20 my question and your testimony. Is that fair?

21 A. It is.

22 Q. Okay. Please do not guess regarding the answer
23 to any of my questions. If you do not know the answer to
24 the question, please state that you don't know. Is that
25 fair?

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1 Q. Have you had occasion in your practice to take
2 depositions?

3 A. Yes.

4 Q. How many times have you taken depositions
5 approximately?

6 A. Two.

7 Q. Okay. Would you say that you're generally
8 familiar with the admonitions that are given at the
9 beginning of the deposition?

10 A. Yes.

11 Q. All right. Just so that we're on the same page,
12 I'll do so again now for the benefit of the record and
13 also to make sure that you and I have the same or similar
14 understanding about the rules or the admonitions.

15 First of all, you've sworn to tell the truth, the
16 whole truth and nothing but the truth.

17 Do you understand that?

18 A. Yes.

19 Q. Will you so testify?

20 A. Absolutely.

21 Q. Okay. And you understand, obviously, that
22 despite the fact that we're here in these informal
23 surroundings, your testimony has the same force and effect
24 as it would in a court of law?

25 A. I do.

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1 A. Yes.

2 Q. Okay. However, there may be questions that from
3 time to time require you to give me an estimate, such as,
4 for example, when an approximate date may have been. And
5 I am entitled to your best estimate, if in fact you can
6 give me an estimate that you believe is reasonably
7 accurate.

8 Do you understand that?

9 A. I understand the concept of giving an estimate.

10 Q. Okay. Very good. Is there any reason that your
11 deposition cannot go forward this morning?

12 A. Not that I'm aware of.

13 Q. Okay. You're not under any medications or
14 anything else that would interfere with your ability to
15 understand and answer my questions?

16 A. No.

17 Q. Fair enough. As I'm sure you're aware, a short
18 time after the deposition is concluded, you'll have an
19 opportunity to review your testimony that will be
20 presented to you in booklet form.

21 Do you understand that?

22 A. Yes.

23 Q. And you've seen deposition transcripts?

24 A. Yes.

25 Q. And when you do review your testimony, you're

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1 free to make whatever changes to it that you deem
2 appropriate.
3 Do you understand that?
4 **A. Okay.**
5 Q. However, if you do make changes to your
6 testimony, either I or any other lawyer in this case may
7 comment on those changes and argue that they negatively
8 impact your credibility as a witness.
9 Do you understand that?
10 **A. Understood.**
11 Q. Okay. And you just answered one of my prior
12 questions with okay. Please answer with words yes, no or
13 audible responses as opposed to nods or gestures or okay
14 or uh-huhs or uh-uhs.
15 Can you do that?
16 **A. I'll try to do so.**
17 Q. Okay. And, again, that's so we can get a clear
18 record of your testimony. Fair enough?
19 **A. Sounds fair.**
20 Q. Okay. So I notice that you have Mr. Ferguson
21 here as your attorney representing you at the time of the
22 deposition; is that correct?
23 **A. Yes.**
24 Q. And Mr. Ferguson is a lawyer in your office; is
25 that correct?

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1 **A. That's correct.**
2 Q. Is he an associate attorney of yours?
3 **A. Yes.**
4 Q. Did Mr. Martin have any involvement in the work
5 that you did for James Ho?
6 **A. Since you said Mr. Martin, I'm going to ask you**
7 **to clarify the question.**
8 Q. Did Mr. Ferguson have any involvement in the work
9 you did for James Ho?
10 **A. No.**
11 Q. Did he review any of the file prior to Mr. Ho's
12 death?
13 **A. No.**
14 Q. Okay. Has he done any work in connection with
15 any post death administration or other tasks associated
16 with James Ho?
17 **A. Since that's a compound question, allow me to**
18 **separate my answer. He has taken no involvement with any**
19 **post death administration, but in preparing for this**
20 **deposition he's reviewed the document production.**
21 Q. Okay. Have you undertaken any post death
22 administrative tasks following James Ho's death?
23 **A. If by administration you mean facilitating the**
24 **administration of his trust, no.**
25 Q. Okay. Have you been retained by anybody in

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1 connection with James Ho after James Ho passed away?
2 **A. What do you mean by "in connection with"?**
3 Q. In any way in connection with his -- either his
4 estate, any gifts that he is alleged to have made or in
5 any other way connected with James Ho?
6 **A. No.**
7 Q. Okay. What year did you graduate high school?
8 **A. 2001.**
9 Q. 2001?
10 **A. Correct.**
11 Q. And where did you attend college?
12 **A. UCLA.**
13 Q. What year did you graduate?
14 **A. 2005.**
15 Q. And what degree did you receive?
16 **A. I had a double major in political science and**
17 **French.**
18 Q. And where did you attend law school?
19 **A. Boston College Law School.**
20 Q. From when to when?
21 **A. From 2005 through 2008.**
22 Q. So you went straight from college to law school?
23 **A. That's correct.**
24 Q. Okay. And when were you admitted to the
25 California Bar?

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1 **A. In December 2008.**
2 Q. Do you have any other postgraduate education
3 aside from your law degree from Boston College?
4 **A. I also hold a diplome du programme**
5 **Internationale -- that's in French. It's spelled**
6 **D-I-P-I-O-M-E, space, D-U, space, P-R-O-G-R-A-M-M-E,**
7 **space, I-N-T-E-R-N-A-T-I-O-N-A-L-E [sic].**
8 Q. And what does that certify? What's -- what's --
9 can you describe what that is for me?
10 **A. Absolutely. It's equivalent to the bac plus four**
11 **years, which is a French undergraduate degree equivalency.**
12 Q. Okay. And when did you obtain that?
13 **A. In 2005.**
14 Q. Okay. Did you attend any institution in order to
15 receive that certification or degree?
16 **A. Yes.**
17 Q. Which?
18 **A. L'Institut d'Etudes Politiques de Paris.**
19 Q. And that was -- was that before or after you went
20 to UCLA?
21 **A. It was while I was at UCLA in my fourth year.**
22 **The program credits were applicable to my degree at UCLA**
23 **while being applicable to Sciences Po.**
24 Q. Any other postgraduate education?
25 **A. Define what you mean by education.**

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Q. Any formal education at any other institutions, first of all, here in the United States after graduating --

A. No education programs that lead towards a degree or other credential.

Q. Where did you first work after graduating from Boston College and being admitted to the California Bar?

A. I opened a solo practice.

Q. And is that the practice that you currently still operate?

A. Yes.

Q. John Martin Professional Corporation?

A. No. I started a solo practice and then I formed a corporation, which was a professional corporation several years after I started practice.

Q. Okay. What was the entity when you were initially -- when you initially opened your practice?

A. It was a sole proprietorship.

Q. Okay. And how long were you a sole proprietor?

A. I can't remember the number of years off the top of my head, but at a certain point -- I believe it was a few years after I started practice -- I became of counsel to James D. Palmer, Jr., and continued as of counsel with him for a period of three years.

Q. Okay. From when to when approximately?

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A. In 2015, if I recall correctly.

Q. Okay. What was the -- your primary practice area when you were a sole proprietor prior to becoming of counsel with James Palmer?

A. Estate planning, trust and probate law.

Q. Okay. What about while you were associated with James Palmer?

A. Estate planning, trust and probate law.

Q. Okay. And I assume that that is still the case. That's your primary practice area?

A. That's still the case.

Q. Okay. And do you have any other areas that you practice in aside from estate planning, trust and probate law?

A. It depends on how you classify certain areas of law. For example, we help clients with business formations.

Q. Uh-huh.

A. And that tends to be ancillary to our estate planning practice.

Q. Sure. Okay. All right. Other than your certification as a specialist, do you have any other degrees or credentials in the area of estate planning, trust and probate law?

A. No.

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A. I believe that it was approximately 2012 through 2015.

Q. Okay.

A. But I would have to check back with my records.

Q. Okay. And then is it accurate that after you left James Palmer you opened up your current law offices, the Law Offices of John C. Martin, a Professional Corporation?

A. No. I maintained my solo practice through that period but I was serving as of counsel. Of counsel is an association between two attorneys, which is not a partnership or association of attorneys.

Q. Right. I understand what of counsel is. So you were of counsel while at the same time maintaining your sole proprietorship?

A. Yes.

Q. Okay. When did you form John C. Martin, Professional Corporation?

A. The beginning of last year.

Q. Okay. All right. I understand that you're certified as a specialist by the California State Bar?

A. That's correct.

Q. In what area?

A. Estate planning, trust and probate law.

Q. And when were you first certified?

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Q. Okay. You are not a member of ACTEC or any other professional association in the field of estate and trust planning?

A. I am a member of WealthCounsel, which is a professional organization for estate planning attorneys.

Q. Okay. Any others?

A. I attend bar association meetings.

Q. Okay. Have you published any articles or have you written any scholarly materials in the field of estate planning, trust and probate law?

A. Yes.

Q. What have you published?

A. I have an article scheduled for publication this July, which is on how drafting wills can go awry when client expectations are not met in administration. It will be published with the American Bar Association Senior Division publication in July. Published a article with the -- or note rather with the Boston College International and Comparative Law Review.

Q. And what was the subject of that note?

A. It was called "Bringing Dead Capital to Life," and it was dealing with the protections of land rights in South America and comparing that to land rights in the United States.

Q. Okay. Before I get into any other publications

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<p style="text-align: center;">Page 17</p> <p>1 or articles, did the article that you intend to publish</p> <p>2 this July -- or does it, rather, deal with the issues of</p> <p>3 undue influence or lack of capacity --</p> <p>4 A. No.</p> <p>5 Q. -- in any event -- in --</p> <p>6 A. No.</p> <p>7 Q. -- any way, rather?</p> <p>8 A. No.</p> <p>9 Q. No? What about the Boston College Law review</p> <p>10 article that --</p> <p>11 A. No.</p> <p>12 Q. -- does it address either of those issues?</p> <p>13 A. No.</p> <p>14 Q. Okay. Please allow me to finish my question.</p> <p>15 All right?</p> <p>16 Do you ever any other publications or articles?</p> <p>17 A. By publications or articles, do you mean with</p> <p>18 scholarly journals?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. Have you ever taught any legal courses?</p> <p>22 A. Yes.</p> <p>23 Q. Where?</p> <p>24 A. I taught a seminar through Community Education of</p> <p>25 San Mateo, which is administered by College of San Mateo</p>	<p style="text-align: center;">Page 19</p> <p>1 A. I taught a course with the National</p> <p>2 Administration -- or the National Association of Pension</p> <p>3 Administrators on IRA plans and 401(k)s and the minimum</p> <p>4 distribution rules and how to use trusts in order to</p> <p>5 accumulate distributions from retirement plans and create</p> <p>6 asset protection or to help special needs beneficiaries.</p> <p>7 Q. Okay.</p> <p>8 A. That was approximately three years ago.</p> <p>9 Q. Any other courses that you've taught or seminars</p> <p>10 that you've given?</p> <p>11 A. I can't recall right at the moment.</p> <p>12 Q. Okay. Have you ever taught a course or given a</p> <p>13 seminar that dealt with the issues of undue influence or</p> <p>14 lack of capacity?</p> <p>15 A. Not that I recall specifically.</p> <p>16 Q. Okay. Have you ever published or written any</p> <p>17 materials that deal with those two topics?</p> <p>18 A. It's possible but I can't recall specifically at</p> <p>19 the moment.</p> <p>20 Q. Okay. Do you have a CV or a resume that's listed</p> <p>21 on your Website?</p> <p>22 A. We have a bio which is a -- you can call a CV.</p> <p>23 Q. Okay. And does that bio list your publications,</p> <p>24 articles, teaching positions, so on and so forth?</p> <p>25 A. It does list a portion of those --</p>
<p style="text-align: center;">Page 18</p> <p>1 from approximately 2009 to 2010.</p> <p>2 Q. Okay. And what was the nature of the class that</p> <p>3 you taught?</p> <p>4 A. It was a class for consumers to understand what</p> <p>5 would happen if they died without a will or died without a</p> <p>6 trust.</p> <p>7 Q. Okay. Did you prepare any written materials for</p> <p>8 dissemination to your students through the period of time</p> <p>9 that you were teaching at CSM, College of San Mateo?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Did any of those written materials deal</p> <p>12 with the subjects of undue influence or lack of capacity?</p> <p>13 A. Not that I recall.</p> <p>14 Q. Okay. Have you taught any other courses aside</p> <p>15 from what you already testified to about CSM?</p> <p>16 A. At CSM, no.</p> <p>17 Q. Or anywhere else?</p> <p>18 A. Yes.</p> <p>19 Q. Which others?</p> <p>20 A. Well, I taught several courses. So I may not be</p> <p>21 able to recall all of them.</p> <p>22 Q. All right.</p> <p>23 A. So I'll just start listing the ones that I</p> <p>24 recall, if that's okay with you.</p> <p>25 Q. Please.</p>	<p style="text-align: center;">Page 20</p> <p>1 Q. Okay.</p> <p>2 A. -- positions.</p> <p>3 Q. All right.</p> <p>4 A. And can I add further --</p> <p>5 Q. Please.</p> <p>6 A. -- courses that I have taught? I've also done</p> <p>7 radio interviews. I don't know if you count that as -- as</p> <p>8 courses.</p> <p>9 Q. Yeah. That's fine. Tell me about those.</p> <p>10 A. We did a program through KALW and it dealt with</p> <p>11 advance healthcare directives.</p> <p>12 Q. Okay.</p> <p>13 A. The importance of having a healthcare directive.</p> <p>14 Q. Okay.</p> <p>15 A. We also did a program -- this is on Your Legal</p> <p>16 Rights with Chuck Finney, who passed away this last year</p> <p>17 of pancreatic cancer. And we also did a course on</p> <p>18 preventing elder abuse.</p> <p>19 Q. Okay.</p> <p>20 A. And that did deal with questions of undue</p> <p>21 influence and lack of capacity.</p> <p>22 Q. Okay. The course dealing with elder abuse, when</p> <p>23 did you -- when did you do that?</p> <p>24 A. I can't remember the specific year but it would</p> <p>25 have been within the last five years.</p>

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Q. And that was also with Chuck Finney?

A. Yes. And one of my co-presenters was Linda

Kramer --

Q. Okay.

A. -- of Kramer Radin law firm.

Q. And did you prepare any written materials in connection with that course?

A. I prepared my own personal notes.

Q. Do you still have those personal notes?

A. Yes.

Q. Okay. And what do you recall having discussed about the topics of elder abuse and undue influence and capacity in connection with that course?

A. The course was geared towards consumers, and I spent significant time recommending the listeners on the radio program to be attentive when there's an isolated elder adult to ensure that elder adults have their care team, whether it be their financial advisor, CPA, estate planning attorney, regularly apprised of their financial or personal situation in order to prevent abuse. And also to watch for warning signs that could come about that might indicate that some sort of elder abuse is occurring; for example, if a relative or caregiver is suddenly acting like they have a lot of money, driving around the elder's car, et cetera.

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order to prepare you for your deposition this morning?

A. If by prepare me for my deposition, do you mean to prepare my responses? Then no.

Q. Okay. Have you discussed the deposition with anybody aside from your attorney?

A. I mentioned it to my wife.

Q. Okay.

A. And my mother-in-law.

Q. Anybody else?

A. Well, I've -- certainly may have mentioned it to colleagues that I'm going to be deposed for the first time.

Q. Okay.

A. And to friends and others. I have people that pray for me.

Q. Okay. Which colleagues?

A. Well, I have a friend in my Bible study, and I said there's this litigation and if you could please pray for me to make sure that -- that justice is done, truth comes out, that would be appreciated.

Q. Uh-huh. All right. Have you discussed the deposition with Jeff Loew?

A. Yes.

Q. How many times have you discussed the deposition with Jeff Loew?

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Q. Okay. What other warning signs did you talk about?

A. I don't recall any specifically.

Q. Okay. Just the warning sign of a relative or acquaintance displaying new wealth or having new cars or other items, something to that effect?

A. Right. And among others. I actually had written notes and the interview was about 50 minutes long. So it would be hard to summarize in just a few --

Q. Sure.

A. -- sentences.

Q. Of course. Do you know if those interviews, the Chuck Finney interviews, are accessible currently?

A. They are.

Q. How would one go about accessing --

A. You can go to NPR's website, that's National Public Radio --

Q. Sure.

A. -- and search for your legal rights.

Q. And if I type in your name, the seminars that you've given will come up?

A. I would assume so.

Q. Okay. Okay. Now, turning our attention to today's deposition, have you had an opportunity to discuss your deposition with anybody aside from your attorney in

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A. Well, Jeff Loew called me after you sent your e-mail in order to discuss logistics for setting the date of the deposition.

Q. All right.

A. So that was once. And then during the previous time that we were also noticed to produce documents and attend a deposition, he also called to discuss logistics.

Q. Okay. Now, when you refer to the previous time, is that the subpoena that was served by my predecessor, John Minton?

A. Correct.

Q. Okay. So let's talk about this most recent deposition notice. Aside from just discussing logistics, what else did you talk about with Mr. Loew?

A. I don't recall specifically.

Q. Okay. Do you recall generally?

A. Generally we were talking about dates in May --

Q. Okay.

A. -- that were available for me to come in, and I think he also did say that generally he hoped that the case would be resolved soon.

Q. Okay.

A. But we didn't discuss the specifics of the case.

Q. Okay. Have you talked with anybody else at Mr. Loew's office in connection with your deposition, this

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1 most recent deposition notice?
 2 **A. Well, Sarah Sheppard was also on the phone.**
 3 Q. Okay. So it was a conference call with the three
 4 of you: Yourself, Mr. Loew and Ms. Sheppard?
 5 **A. Yes.**
 6 Q. All right. And was the content of the
 7 conversation with respect to Ms. Sheppard any different
 8 from what you described with respect to Mr. Loew?
 9 **A. No. I think Sarah Sheppard suggested that I ask**
 10 **you if it could be held at my office for my convenience.**
 11 Q. Anything else?
 12 **A. Logistics and that he hoped that the case would**
 13 **be resolved soon.**
 14 Q. Okay.
 15 **A. It was a short call.**
 16 Q. All right. Now let's go back in time to the
 17 prior conversations that you had with Mr. Loew when your
 18 deposition -- or at least the subpoena was issued by
 19 Mr. Minton.
 20 What did you discuss with Jeff Loew at that point
 21 in time?
 22 **A. Jeff asked that I could share the document**
 23 **production that had been given to Minton.**
 24 Q. Okay. So if I'm correct, Mr. Minton served a
 25 subpoena, and then it appears as if there was some sort of

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1 an accommodation made whereby the documents were produced
 2 informally or there was some sort of arrangement between
 3 your office and his; is that accurate?
 4 **A. Well, that's accurate in the sense that we didn't**
 5 **have to formally appear and produce documents. Instead,**
 6 **he allowed me graciously to provide those documents via**
 7 **e-mail.**
 8 Q. Okay. All right. Fair enough. In any event,
 9 you produced documents pursuant to Mr. Minton's subpoena
 10 and you had a conversation with Mr. Loew wherein you
 11 agreed to his request that you also provide him with the
 12 copy of the documents that were given to Minton?
 13 **A. More or less.**
 14 Q. Okay. At that point in time did you have any
 15 discussion with Mr. Loew about the subject or the
 16 substance of the lawsuit?
 17 **A. Not that I recall.**
 18 Q. Have you ever had a conversation with Mr. Loew
 19 about the substance of this lawsuit?
 20 **A. Not that I recall.**
 21 Q. Not at any point in time since James Ho passed
 22 away?
 23 **A. Besides the phone calls that I've mentioned?**
 24 Q. Yes.
 25 **A. No.**

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1 Q. All right. What about with Ms. Sheppard, have
 2 you had any conversations with her about the substance of
 3 this lawsuit?
 4 **A. Well, only the conversations that I mentioned**
 5 **where she was on the phone.**
 6 Q. Okay.
 7 **A. Besides that, no.**
 8 Q. Okay. So I would characterize those
 9 conversations that you testified to as generally being
 10 more sort of administrative or logistic in terms of where
 11 is the deposition going to be taken, you know, when is it,
 12 so on and so forth. And so I just want to make sure that
 13 we're clear on the record.
 14 It's your testimony that you've never had any
 15 conversations with either Jeff Loew or Sarah Sheppard
 16 about the substance of the lawsuit?
 17 **A. No. That's not my testimony.**
 18 Q. Okay.
 19 **A. I said they said they helped -- they hoped that**
 20 **the case would be resolved soon. And I think they**
 21 **volunteered that they thought it was a poor case --**
 22 Q. Uh-huh.
 23 **A. -- that it didn't make any sense, that it was**
 24 **obvious that Debby was, you know, a friend that James**
 25 **wanted to assist. So they volunteered different opinions**

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1 **of theirs on their case. So certainly that does go to the**
 2 **substance.**
 3 Q. Okay. I noticed a couple of times you corrected
 4 me in some of my questions. Do you consider yourself to
 5 be a very precise person?
 6 **A. I try to be.**
 7 Q. Good. Good. That will come in handy as the
 8 deposition proceeds.
 9 Have you discussed the substance of this lawsuit
 10 with any other lawyers aside from your counsel who's
 11 present this morning and Mr. Loew and his colleague,
 12 Ms. Sheppard?
 13 **A. Yes. I discussed it with my former associate,**
 14 **Beth Chagonjian.**
 15 Q. Okay. Can you spell that name for me, please?
 16 **A. Oh, gosh. That might be difficult. It's -- I**
 17 **might be wrong here, but it's C-h-a-g-a -- no. Sorry.**
 18 **C-h-a-g-o-n-j-i-a-n, I believe.**
 19 Q. Okay. And when did -- Ms. Chagonjian?
 20 **A. Chagonjian.**
 21 Q. Chagonjian. Okay. From when to when did she
 22 work with you?
 23 **A. Oh, it was approximately a year in 2017, and I**
 24 **suppose she left early 2018, very early, if I recall**
 25 **correctly. So she must have started working for me early**

7 (Pages 25 to 28)

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2017.

Q. Okay. And what about the substance of this case did you discuss with her?

A. I debriefed her after I met with Mr. Ho.

Q. Okay. So that is slightly different -- you answered a slightly different question than the one I asked, and I'll get into your answer in just a second.

But did you also speak to her after Mr. Ho passed away in connection with this lawsuit?

A. No.

Q. Okay. But you did debrief her at some point in time after -- at some point in time while Mr. Ho was alive; is that correct?

A. Yes.

Q. Okay. And I'll get into that in just a little while.

Do you know where Ms. Chagonjian currently works?

A. Yes.

Q. Where does she work?

A. She works at Gadzo Law in Palo Alto with Alexandra Gadzo.

Q. Gaddy?

A. Gadzo. I think it's spelled G-a-d-z-o.

Q. Okay.

MR. LOEW: And if I may -- excuse me --

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A. I understood that it was his home, yes.

Q. And that was the first and only time you ever met with him during his entire life; is that correct?

A. Yes.

Q. Is it also correct that that is the first and only time that you ever spoke to him during his entire life?

A. No.

Q. Okay. How many other times did you speak with James Ho aside from the meeting at his home?

A. I spoke with him on the phone the same day that I met with him --

Q. Okay.

A. -- at his home about an hour before I visited with him.

Q. All right. Other than that phone conversation, did you ever speak to him on the phone on any other occasion?

A. Not that I recall.

Q. Okay. And I'll represent to you that the day of your meeting was August 21, 2017.

Does that sound correct to you?

A. That sounds correct.

Q. Okay. So you had the phone conversation that you just mentioned and the meeting that you just mentioned on

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interrupt, she now works at Thirkell Law Group to my knowledge in San Mateo.

THE WITNESS: I was not aware of her subsequent job change. So thanks for that.

BY MR. CILLEY:

Q. She's currently with -- okay. Very good.

Aside from those three lawyers who you've already testified about, have you discussed the substance of this lawsuit with anybody else?

A. Not that I recall.

Q. Okay. Any other lawyers. I should be a little more precise.

A. Not that I recall.

Q. Okay. When did you first meet James Ho?

A. In 2017.

Q. Do you recall what date?

A. Not precisely.

Q. How many times did you meet him?

A. One time.

Q. And was that the meeting that occurred at the property located at 229 Fulton Street, Redwood City?

A. I can't remember the exact number of the address, but I do recall that it was Fulton Street in Redwood City.

Q. Okay. It was what you understood to be his home. Correct?

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August 21, 2017. Correct?

A. Yes.

Q. Other than on that particular date, you never spoke to or met with James Ho on any other occasion during his lifetime. Correct?

A. Not that I'm aware of or recall.

Q. Okay. Did he ever correspond with you via e-mail at any point in time during his life?

A. I don't believe so.

Q. Did he ever send you any letters or correspond with you via writing at any point in time during his life?

A. If by correspond with by writing you mean did he give me a written note, yes.

Q. Okay. We'll get into the written note that was given to you, I believe, on the 28th of August that same year as the deposition proceeds. But beside --

Or rather aside from that written note, did he ever correspond with you in writing in any other fashion during his lifetime?

A. Not that I'm recalling at the moment.

Q. And so would it be fair to say that you had essentially three points of contact with Mr. Ho during his lifetime, one was the brief telephone conversation on August 21st of 2017, the second was the meeting at his home on August 21, 2017, and the third was the note that

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<p style="text-align: center;">Page 33</p> <p>1 you're referencing, the handwritten note?</p> <p>2 MR. FERGUSON: I'll object. That's vague as to</p> <p>3 content.</p> <p>4 BY MR. CILLEY:</p> <p>5 Q. You can answer the question.</p> <p>6 A. Let me separate that out. So he did speak with</p> <p>7 me that day that I met with him via phone. I met with him</p> <p>8 one on one at his house. He dropped off a written note.</p> <p>9 He also sent me a written or a signed engagement letter in</p> <p>10 the mail along with a signed check.</p> <p>11 Q. Okay. Where was he -- well, strike that.</p> <p>12 As far as your having received the signed</p> <p>13 engagement letter, do you recall the date that you</p> <p>14 received that?</p> <p>15 A. No, not specifically.</p> <p>16 Q. Did you receive it via mail?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. You obviously were not present when he</p> <p>19 mailed the letter to you; is that correct?</p> <p>20 A. I was not present to my knowledge at his house,</p> <p>21 if that's what you mean. I can't speculate as to where he</p> <p>22 was.</p> <p>23 Q. You don't know where or even if he was the person</p> <p>24 that mailed that letter. Correct?</p> <p>25 A. I'm not going to speculate as to that. I would</p>	<p style="text-align: center;">Page 35</p> <p>1 Q. Did he ever prepare a check in your presence?</p> <p>2 A. No.</p> <p>3 Q. Would you be able to recognize his handwriting if</p> <p>4 you saw it today?</p> <p>5 A. Probably not.</p> <p>6 Q. Any other points of contact with Mr. Ho during</p> <p>7 his lifetime?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Okay. Would it be fair to say that you had</p> <p>10 approximately 20 or more contacts with -- with Reinhard</p> <p>11 and Debby Chang and Rita Chang?</p> <p>12 A. I don't have that --</p> <p>13 MR. FERGUSON: Objection. Vague. How are you</p> <p>14 defining contacts?</p> <p>15 BY MR. CILLEY:</p> <p>16 Q. Contact in any way, e-mail, personal contact,</p> <p>17 phone conversation.</p> <p>18 A. I haven't kept that number in my memory.</p> <p>19 Q. Okay. Well, does that sound like an accurate</p> <p>20 approximation?</p> <p>21 A. I would have to refresh my memory by looking at</p> <p>22 the specific documents in my file.</p> <p>23 Q. Okay. On that point did you bring any documents</p> <p>24 with you this morning?</p> <p>25 A. I did not personally but my associate has</p>
<p style="text-align: center;">Page 34</p> <p>1 have no way of knowing that.</p> <p>2 Q. You don't know and it would require you to</p> <p>3 speculate in order to answer my question. Fair?</p> <p>4 A. I would not want to speculate.</p> <p>5 Q. All right. You can't answer the question because</p> <p>6 you simply don't know?</p> <p>7 A. What do you mean by I don't know?</p> <p>8 Q. You don't know if he mailed the letter?</p> <p>9 A. Well, I would assume so, but I can't verify it</p> <p>10 absolutely.</p> <p>11 Q. Okay. Well, your assumption is speculation, is</p> <p>12 it not?</p> <p>13 A. It is.</p> <p>14 Q. Okay. And would it also be fair to say that you</p> <p>15 don't know whether or not he was the person who wrote the</p> <p>16 check, filled in the check that paid you for your</p> <p>17 services?</p> <p>18 A. Well, his signature on the check matched the</p> <p>19 signature on his engagement letter.</p> <p>20 Q. But my question was about who completed the</p> <p>21 check.</p> <p>22 A. Well, I believe he probably was completing his</p> <p>23 own checks based on my personal experience of meeting with</p> <p>24 him and him having possession of his checkbook going</p> <p>25 through his check registry.</p>	<p style="text-align: center;">Page 36</p> <p>1 documents that were the same as the ones that were</p> <p>2 produced to John Minton.</p> <p>3 Q. Okay. And -- and I'm going to get into those</p> <p>4 documents as we progress and, frankly, that will probably</p> <p>5 compromise the majority of the time that we take in your</p> <p>6 deposition this morning.</p> <p>7 But before we get to that, did you or your</p> <p>8 associate bring any documents aside from those that were</p> <p>9 previously produced to Mr. Minton?</p> <p>10 A. Besides notepad, not to my knowledge.</p> <p>11 Q. Okay. Do you know how Mr. Ho was referred to</p> <p>12 you?</p> <p>13 A. What do you mean by the word refer?</p> <p>14 Q. Do you know how he came to retain you?</p> <p>15 A. I'm not sure exactly what you mean by how he came</p> <p>16 to retain me. He signed his engagement agreement.</p> <p>17 Q. Okay.</p> <p>18 A. Is that what you mean? To my knowledge he did.</p> <p>19 Q. Do you know how he learned of you, if in fact he</p> <p>20 ever learned of you, before you had the meeting with him</p> <p>21 before -- or rather on August 21st of 2017?</p> <p>22 A. I don't know how James Ho specifically learned of</p> <p>23 me as an attorney but I can guess.</p> <p>24 Q. Okay. What's your guess?</p> <p>25 A. Well, our law firm first had a contact from</p>

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Dr. Oesterle I believe his name is, and if I recall correctly, he contacted us online. And, again, the time line is not completely clear in my memory, but I remember speaking with him about general details on an issue that he said that his mother-in-law had and wondered if I would potentially be able to help.

Q. Okay. So he told you that his mother-in-law had issues that he was contacting you in connection with?

A. I don't recall all the details of the conversation, but I do recall that he described a man who I now understand is -- is James Ho and said that he had given a gift to his mother-in-law. And he had concerns that it was going to end badly with litigation after this man's death. And he was wondering if I could speak with him.

Q. Okay. All right. Do you recall if you ever had any conversations with Mr. Oesterle or Debby Chang or Debby's daughter Rita --

MR. FERGUSON: Objection. Compound.

BY MR. CILLEY:

Q. -- at any point in time before you met with James Ho?

A. Could I ask you to separate those out so I could respond to each one?

Q. If you would like. Did you have any subsequent

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note that appears to be from either Minton's office or your office, Mr. Cilley. It states -- in chronological order and appears to be subsequent to the --

MR. CILLEY: Okay.

MR. FERGUSON: -- document production.

BY MR. CILLEY:

Q. So let me ask you this: Did you Bates stamp these documents before they were produced?

A. No.

Q. Okay. May I take a look at the notes that -- your file notes?

A. Yes.

Q. Thank you. Okay. For the record, the documents themselves seem to be substantially identical. I may make a copy of this set of documents that you provide just to make sure that that is in fact the case. Somebody may have reorganized these after they were produced pursuant to the subpoena, and if that happened at Mr. Minton's office, I was unaware of it.

So what I am going to do this morning is ask you questions based upon the set of documents that I've marked as Exhibit 1. Okay?

So the first question I have for you is, what process did you undertake to find documents responsive to the subpoena after Mr. Minton served it upon your office?

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conversations over the telephone -- well, strike that.

I'll go -- I'll go through your notes with you.

I'm going to have a copy of what I understand to be your file relating to James Ho marked as Exhibit 1.

(Whereupon, Exhibit 1 was marked for identification.)

BY MR. CILLEY:

Q. Okay. Mr. Martin, first, can I please ask you to review the contents of Exhibit 1, which I understand, as I said, to be your file in this matter, Bates stamped JM0001 through JM0068.

And the first question that I have for you is: Are these all of the documents that you produced to Mr. Minton pursuant to his earlier subpoena in this case?

A. I can't verify that without looking at the actual e-mail that I sent comparing each and every page --

Q. Can you --

A. -- of the e-mail.

Q. Can you look at it and compare it to the documents that your associate brought with you this morning which you testified was a copy of what was previously produced?

A. Yes. These are not in the same order as we have them.

MR. LOEW: I'll just note at page 5 there's a

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A. I recall asking my associate, Beth, to take all the documents in our file that were in James Ho's file and simply copy them and provide them in a form that we could forward to John Minton.

Q. Okay. Did the file also include printed e-mails?

A. Good correction. Yes. I also went into my e-mails and printed them to make sure that they were in the file.

Q. Okay. And did you print all of the e-mails that you were able to find that you thought were relevant to the subpoena?

A. I don't recall -- or I'm not sure what you mean exactly by relevant.

Q. Well, did you print all of the e-mails that you had on your system that related to your representation of James Ho?

A. To my knowledge.

Q. And you produced those?

A. To my knowledge.

Q. Did Beth search her e-mail to see if she had any e-mails that might have been responsive to the subpoena to your knowledge?

A. To my knowledge, no.

Q. To your knowledge, would she have had any e-mails that were responsive to the subpoena?

10 (Pages 37 to 40)

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1 **A. I don't believe she would have.**
 2 Q. Okay. Did you do anything else to look for
 3 documents that may have been responsive to the subpoena?
 4 **A. Not that I recall.**
 5 Q. Were there any documents withheld from production
 6 for any reason?
 7 **A. Not that I recall.**
 8 Q. Were there any documents for -- strike that.
 9 Were there any documents that pertained to events
 10 subsequent to James Ho's death that were not provided
 11 pursuant to the subpoena?
 12 **A. Could you repeat that question?**
 13 Q. Sure. Were there any documents that pertained to
 14 events or contacts that occurred after James Ho's death
 15 that were withheld from production?
 16 **A. Well, any documents that might have been produced**
 17 **after the production were not produced.**
 18 Q. Okay. Fair enough. But as to those documents
 19 that were in existence at the time of your response to the
 20 subpoena, did you withhold from production anything that
 21 was generated after James Ho died?
 22 **A. Not to my knowledge.**
 23 Q. Okay. Are there documents that you're aware of
 24 as you sit here today that were created after the
 25 production of the documents pursuant to the subpoena?

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1 **A. I can't think of anything specifically.**
 2 Q. Okay. Do you have e-mails, for example, from
 3 Mr. Loew or his office or Ms. Baker that were sent to you
 4 after the production of documents pursuant to the
 5 subpoena?
 6 **A. Yes.**
 7 Q. Okay. And do any of those e-mails deal with the
 8 substance of the lawsuit?
 9 **A. I don't believe so.**
 10 Q. Okay. Would it be fair to say that the -- or is
 11 it your recollection that the e-mails relate to sort of
 12 the logistics of the deposition notice, in that type of
 13 manner?
 14 **A. Yes. My recollection is that we had an e-mail**
 15 **where you were copied as well that was dealing with**
 16 **setting dates in May.**
 17 Q. Okay. To your knowledge, do you have possession,
 18 custody or control of any other documents relating to
 19 James Ho that were not provided pursuant to the subpoena?
 20 **A. Not that I recall specifically.**
 21 Q. Okay. And as we progress through your notes, I'm
 22 just going to ask you to flip through the pages. And I'll
 23 reference them by Bates stamp number in the lower
 24 right-hand corner. All right?
 25 **A. I don't have a Bates stamp in the lower hand**

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1 **corner.**
 2 MR. FERGUSON: Our pages look like they are cut
 3 off.
 4 MR. LOEW: There's a name of Peter Ho in the
 5 bottom right but it may have cut off the Bates number.
 6 MR. CILLEY: May I see that?
 7 THE WITNESS: Yes.
 8 MR. CILLEY: Okay. Let's take a break for a
 9 second.
 10 THE VIDEOGRAPHER: We are off the record at
 11 10:53 a.m.
 12 (Whereupon, a brief recess was taken.)
 13 THE VIDEOGRAPHER: We're back on the record at
 14 11:07 a.m.
 15 MR. CILLEY: Thank you.
 16 All right. What I'm going to do is ask the
 17 reporter to substitute this set of documents as Exhibit 1
 18 in place of what was previously marked as Exhibit 1. The
 19 only difference is that these notes -- these are the
 20 documents that were produced pursuant to the subpoena, but
 21 these are Bates stamped in the lower right-hand corner
 22 numbers JM0001 through JM0068.
 23 (Whereupon, Exhibit 1 was remarked for
 24 identification.)
 25 THE WITNESS: I have two now.

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1 BY MR. CILLEY:
 2 Q. These are, I believe, yours; is that correct?
 3 MR. LOEW: Actually, I think -- I think we're off
 4 by one. He's got yours. Is it okay if I hand one off to
 5 Sarah as well?
 6 MR. CILLEY: Yes.
 7 MR. FERGUSON: Perfect.
 8 BY MR. CILLEY:
 9 Q. All right. Have you had occasion to talk to
 10 Debby Chang since James Ho died?
 11 **A. I recall that she asked for a referral to a**
 12 **litigation attorney via e-mail, I believe.**
 13 Q. Okay. Have you talked to her either in person or
 14 over the telephone since -- since James Ho died?
 15 **A. Since his death? I can't recall.**
 16 Q. Okay. In any event, did you speak to her at all
 17 in connection with the documents that you produced
 18 pursuant to Mr. Minton's subpoena?
 19 **A. I have spoken with Debby Chang in relation to the**
 20 **subject matter that's covered in these documents.**
 21 Q. Okay. How many times have you spoken to Debby
 22 Chang regarding the subject matter that's covered in these
 23 documents?
 24 **A. I recall speaking with her in --**
 25 MR. FERGUSON: Sorry. Vague as to time.

11 (Pages 41 to 44)

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BY MR. CILLEY:

Q. We've been talking about since James Ho died.

A. Oh, since James Ho died. I don't recall speaking with her specifically following his death. I may have. I just -- the time line is starting to get confused it's been so long.

Q. Okay. How many times did you speak to her while James Ho was alive?

A. I don't recall a specific number. I could list the occasions I can recall.

Q. Please.

A. I spoke with her one-on-one following my meeting -- not one-on-one but in a group meeting where James Ho was present, Debby was present and I was present. That was following my one-on-one meeting with James Ho.

Q. Okay.

A. And then following the creation of my certificate of independent review, I recall having a phone call from Debby where she related her concerns regarding James Ho and his safety. And then I recall getting a note where she returned documents that I had forwarded to James Ho's address.

Q. Okay.

A. And then the e-mail that I mentioned where she was requesting a referral to a litigation attorney.

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Q. Okay. All right. With respect to this grant deed, do you know who provided this to you?

A. If I recall correctly, we used our First American Title Company DataTree service to order the last recorded deed on this property, and then we added the PDF to our file.

Q. Okay. When did you do that?

A. I don't remember the specific date. It would have been prior to my meeting with James Ho.

Q. So you asked for a copy of the -- or you obtained a copy of this grant deed before you had any contact directly with James Ho in any fashion. Correct?

A. That's correct.

Q. And the First American DataTree, is that -- is that just a program that you have available to you through your computer system at work?

A. Yes. It's available online.

Q. Okay. Did you attempt to retrieve any other documents via the First American DataTree program?

A. I don't recall specifically.

Q. Did you -- do you recall if you attempted to recover any other deeds relative to any other properties that James Ho had an interest in or that Debby Chang had an interest in prior to meeting with James Ho?

A. It's possible but I don't recall.

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Q. All right. And then you also spoke to her via telephone at approximately two o'clock on August 21, 2017, prior to your meeting with James Ho. Correct?

A. I don't recall speaking with her directly.

Q. You don't recall that at all?

A. I recall speaking with James Ho. I believe my assistant spoke with Debby Chang, and then when she transferred the phone call to me, I did not speak with Debby one-on-one during that call. I spoke with James. That's what I recall.

Q. Okay. Okay. Will you turn to the next page. I'll just refer to it by the last digit, page No. 5. This is a document entitled "Grant Deed."

A. Yes.

Q. Okay. And first there is what appears to be a Post-it note with some handwriting stating "Law Offices of John C. Martin."

Do you know whose handwriting that is?

A. No.

Q. Do you know who placed the notes on this -- or the note rather on this document?

A. No.

Q. Okay. But would it be fair to say that you did not do it?

A. I did not do it.

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Q. If you had and if had -- had you printed them, would they be within the documents that you produced as part of your file?

A. Most likely.

Q. Did you discuss this grant deed with Mr. Oesterle before you met with James Ho?

A. No.

Q. Did you discuss this document with Debby Chang before you met with James Ho?

A. No.

Q. Did you discuss this document with anybody before you met with James Ho?

A. Not that I recall.

Q. Would you be able to determine when you did the search to find this deed?

A. I don't believe so.

Q. Will you please turn to page 8. And page 8 is a -- it appears to be an e-mail from an individual named Jackie Alioto (phonetic)? Am I pronouncing that correctly?

A. It's Alioto.

Q. Alioto. Okay. I'm sorry. I didn't see the I. It looks like two Ls to me.

Jackie Alioto, who is that?

A. She's my assistant.

12 (Pages 45 to 48)

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1 Q. Is she still your assistant?
 2 **A. Yes.**
 3 Q. All right. And this is an e-mail that Jackie
 4 Alioto sent to Mr. Oesterle on August 8th of 2017; is that
 5 correct?
 6 **A. Mr. Oesterle.**
 7 Q. Oesterle.
 8 **A. Yes. The date of the e-mail is August 8, 2017.**
 9 Q. And, yes. It appears to have been sent by Jackie
 10 to Mr. Oesterle. Correct?
 11 **A. Yes.**
 12 Q. And she indicates that John -- you understand
 13 that to be you?
 14 **A. Yes.**
 15 Q. That you asked her to follow up with Mr. Oesterle
 16 to let him know that you would be happy to have an
 17 open-ended conversation with him for about ten minutes
 18 without charge.
 19 Did you instruct Debby -- sorry -- Jackie Alioto
 20 to do that?
 21 **A. Yes.**
 22 Q. And did you ultimately have an open-ended
 23 conversation with Mr. Oesterle?
 24 **A. I believe so.**
 25 Q. Okay. Now, how is it that you came to know of

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1 **A. We search all names of people who contact us in**
 2 **our Rocket Matter database, which is part of our conflicts**
 3 **check, yes.**
 4 Q. All right. So at my firm we print the potential
 5 conflicts and discuss them with the potential client as
 6 part of our initial consultation.
 7 Do you do something similar?
 8 **A. What we do is we look up our contacts and we have**
 9 **associated contacts listed on a main page. So that's how**
 10 **we perform our conflict check. We look up each name to**
 11 **ensure there's no conflicts.**
 12 Q. Do you have any printed record of the conflicts
 13 check, if any, that you did in connection with
 14 Mr. Oesterle's contacting you?
 15 **A. No.**
 16 Q. Would you be able to retrieve whatever search you
 17 did in order to determine whether or not you had a
 18 conflict?
 19 **A. It would not be retrievable in the same form as**
 20 **our database. As it updates, there's new information that**
 21 **goes in. So if I were to put in the name, different**
 22 **information would come up today.**
 23 Q. Okay. I'll just ask the question. In terms of
 24 sort of adopting best practices in trying to avoid a
 25 conflict, what -- what would you do in a situation where

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1 Mr. Oesterle?
 2 **A. If I recall correctly, he contacted us online.**
 3 Q. How would that have come about?
 4 **A. I'm not sure. We were available through a Google**
 5 **search, through Yelp, through other online search**
 6 **features.**
 7 Q. Okay.
 8 **A. It could have been any one of those.**
 9 Q. All right. Would he have sent you an e-mail
 10 pursuant to one of those online search features?
 11 **A. That's unlikely because we don't post our e-mail**
 12 **online. We try to avoid that. It is available through**
 13 **the State Bar website.**
 14 Q. Okay. So -- so this is a -- if I'm correct, what
 15 I think you're saying is that either via Yelp or your
 16 personal -- or your firm website he contacted you and made
 17 an inquiry regarding a consultation; is that correct?
 18 **A. Yes.**
 19 Q. Did you print the content of that inquiry?
 20 **A. I don't recall.**
 21 Q. Okay. Is it your custom and practice to print
 22 contacts that come in via that -- that method?
 23 **A. No.**
 24 Q. Okay. Did you run a conflict check with
 25 Mr. Oesterle before you met with him?

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1 somebody said that they had contacted you in connection
 2 with a potential dispute and you needed to determine
 3 whether or not that was in fact true?
 4 **A. I believe it's best, in particular this case**
 5 **where I have really no information what's going on or who**
 6 **is the potential client, to have an open-ended**
 7 **conversation and to receive some basic information to see**
 8 **if it's something that I can help in. And from there I**
 9 **would be in a position I could actually do a conflicts**
 10 **check.**
 11 Q. Well, what would you do in a situation, say, for
 12 example, if Peter Ho had contacted you maybe a year
 13 earlier and you ran this conflict check but didn't have a
 14 record of it? How -- how would you know that you had been
 15 contacted by somebody who may be an adverse party in this
 16 particular representation?
 17 **A. I'm not sure what you mean by your question.**
 18 Q. Well, if Peter Ho had contacted you --
 19 **A. Yes.**
 20 Q. -- approximately a year earlier, how would you
 21 know that in connection with your conflicts check that you
 22 did for Mr. Oesterle?
 23 **A. Let's say Peter Ho had contacted me online just**
 24 **like Dr. Oesterle had done. And he said I have a**
 25 **situation. I'd like to talk with you about it. I would**

13 (Pages 49 to 52)

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1 have done the same thing. I would have said to my
2 assistant, perhaps you can set up a time where I can talk
3 and see if Peter Ho has a problem or a need or if it's
4 somebody else I need to help with, and I'll just get some
5 basic information. And if I can help, I'll take it from
6 there.

7 Q. Okay. So you have that initial preliminary
8 consultation before you determine whether or not there's a
9 conflict?

10 A. Sometimes.

11 Q. Okay. You keep calling him Dr. Oesterle and I
12 don't mean to be disrespectful. Do you know what type of
13 a doctor he is?

14 A. No.

15 Q. Okay. Do you recall what the content of
16 Dr. Oesterle's initial contact with you was?

17 A. I don't recall the text of his message.

18 Q. Do you have a general understanding of what the
19 text was?

20 A. Yes. My general understanding was that he had an
21 issue regarding Mr. Ho. I think he didn't mention him
22 specifically. Although, I don't recall. And that he
23 wanted to have a phone call to see if it's something I
24 could help with.

25 Q. Okay. Fair enough. And one last time and I'll

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1 a message pad. She writes down the name of, for example,
2 missed call and she gives me a pad. Is that what you
3 mean?

4 Q. Yeah. I mean, that's one thing that I -- that is
5 one potential response. So I'm envisioning based upon
6 what you said the old-fashioned pink message slips?

7 A. Uh-huh. Yes.

8 Q. Do you use those?

9 A. Yes. For missed calls.

10 Q. Okay. Jackie Alioto uses those?

11 A. Yes.

12 Q. All right. Do you know one way or another if she
13 gave you a message slip for the contact from Dr. Oesterle?

14 A. I don't believe so.

15 Q. And is that because you believe that he contacted
16 you via the online search?

17 A. Correct.

18 Q. Do you know if she ever prepared any message
19 slips for missed calls in connection with contacts by
20 Dr. Oesterle?

21 A. Not to my knowledge.

22 Q. Okay. Did you search for those in connection
23 with the documents that you produced pursuant to your
24 deposition subpoena?

25 A. I delegated that to my associate, Beth.

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1 leave this topic, not to continue to beat the dog.

2 But were there any e-mails or any other written
3 communications from Dr. Oesterle to you prior to this
4 e-mail from Jackie Alioto to Mr. Oesterle -- or
5 Dr. Oesterle, rather, on August 8th?

6 A. So I don't remember the timeline of e-mails off
7 the top of my head --

8 Q. Okay.

9 A. -- but if we went through this, perhaps I can
10 recount the dates of each e-mail we received.

11 Q. Did you take any con- -- or any notes rather
12 during the conversation that you had with Dr. Oesterle
13 when that conversation did take place?

14 A. I don't recall taking notes.

15 Q. Have you searched your records to see if you took
16 any notes?

17 A. All of my records that were in my file were
18 produced.

19 Q. Okay.

20 A. So if that's what you mean by search, then, yes.

21 Q. Does -- strike that.

22 Are you familiar with whether or not Jackie
23 Alioto has a custom and practice of maintaining notes of
24 conversations that she has with prospective clients?

25 A. Well, if we receive a phone message, then she has

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1 Q. To Beth. Okay. Lower down on that page 8, the
2 next e-mail appears to be from Reinhard Oesterle to Jackie
3 Alioto later in the day on August 8, 2017; is that
4 correct?

5 A. Yes.

6 Q. And he indicates that he would be available for a
7 phone call on Friday at 2 p.m.; is that correct?

8 A. That's what it says.

9 Q. Okay. And he also indicated to Jackie Alioto
10 that Debby's daughter Rita would also join on the call.

11 A. That's what he writes.

12 Q. Okay. And did Rita ultimately participate in the
13 call that you had at some subsequent point in time with
14 Reinhard?

15 A. I don't recall.

16 Q. You don't recall if she was on the -- on the
17 phone call?

18 A. I don't recall specifically speaking with her.

19 Q. Okay. So these e-mails are sent on Tuesday,
20 August 8th. So by my math the conversation that you did
21 have with Reinhard and potentially Rita would have
22 occurred on Friday, February 11th. Correct?

23 A. Thereabouts.

24 Q. Okay. Do you recall what time of the day the
25 call occurred?

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1 **A. I don't recall but it appears that it would have**
2 **been between 2 and 4.**
3 Q. Okay. And do you recall how long the
4 conversation lasted?
5 **A. No.**
6 Q. Do you recall if you called him or he called you?
7 **A. I don't recall. I can take a look at the e-mail.**
8 Q. Okay. Just as you sit here today, you don't
9 recall how that -- how that occurred, how the call was
10 initiated?
11 **A. No.**
12 Q. Please turn to page 9. The next contact is an
13 e-mail from Jackie Alioto to you on August 9th asking if
14 Mr. Oesterle should use a special phone number; is that
15 correct?
16 **A. Yes. That's what it says.**
17 Q. Okay. That was a little bit confusing to me.
18 Why -- why would she have asked that question?
19 **A. We have a conference call number.**
20 Q. Okay. And did she ask you if there was a special
21 number because there might be multiple parties on the
22 conversation?
23 **A. That makes sense.**
24 Q. Okay. Do you have a recollection if that is why
25 she did it?

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1 **A. No.**
2 Q. But in any event, she -- Jackie Alioto was
3 on-site at your office. Correct?
4 **A. Yes.**
5 Q. Okay. All right. And then later on that day you
6 respond to Jackie by telling her just to have Mr. Oesterle
7 use your regular phone number. Correct?
8 **A. I said the words "regular phone number."**
9 Q. Okay. And by that you meant that he should call
10 on your regular office line?
11 **A. That he should dial that number, yes.**
12 Q. Now, throughout your e-mails there is a -- in
13 this instance in particular, under the words regular phone
14 number, there's a parenthetical that says, "Quoted text
15 hidden."
16 Do you know what that references?
17 **A. I think that's the preceding e-mail which is**
18 **reproduced above.**
19 Q. Perhaps I'm confused but this looks to me to be
20 sort of a normal e-mail chain and the e-mail is reproduced
21 above.
22 Why would quoted -- why does your e-mail indicate
23 that the quoted text is hidden?
24 **A. I believe that's an automatic thing that happens**
25 **when e-mails are produced, but I'm not familiar with the**

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1 **technology.**
2 Q. Okay. Fair enough. Okay. Had you ever
3 represented Reinhard Oesterle prior to this contact in
4 August of 2017?
5 **A. No.**
6 Q. Have you ever represented him?
7 **A. No.**
8 Q. Have you ever represented Rita, Debby's daughter?
9 **A. No.**
10 Q. Have you ever represented Debby Chang?
11 **A. No.**
12 Q. Okay. Turn to the next page, please, which is
13 number 10. The next contact between your office and
14 Reinhard is on Wednesday, August 9th wherein she tells
15 Reinhard to essentially call on Friday, August 11th at
16 2 p.m. Correct?
17 **A. That's what it says.**
18 Q. All right. Do you have any sort of a time log
19 for the amount of time that you spent with Dr. Oesterle on
20 Friday, August 11th?
21 **A. No. I don't believe so.**
22 Q. Okay. And you indicated that you do not believe
23 that you have any notes from that call?
24 **A. No.**
25 Q. Would you have any way of retrieving your phone

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1 invoices to determine how long you spent on that phone
2 call?
3 **A. It's possible.**
4 Q. Who pays the phone bill in your office?
5 **A. I do.**
6 Q. You actually write out the check?
7 **A. We have an automatic payment.**
8 Q. Okay. Fair enough. Do you receive via -- strike
9 that.
10 Do you receive a statement online?
11 **A. Yes.**
12 Q. And does that statement itemize the phone calls
13 that have occurred during the period that it covers?
14 **A. I'm not sure.**
15 Q. Okay. With respect to your phone call with
16 Dr. Oesterle, where were you located when you were on the
17 phone call with him?
18 **A. I can't recall.**
19 Q. Okay. Were you in your office?
20 **A. Most likely.**
21 Q. And you don't recall having taken notes?
22 **A. No.**
23 Q. Was anybody else in your office with you?
24 **A. I don't remember.**
25 Q. Just don't recall one way or another?

15 (Pages 57 to 60)

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1 **A. No. It was over a year ago.**
 2 Q. Okay. Do you generally have a hard time
 3 recalling things that occurred over a year ago?
 4 **A. Yes. I don't remember the specific people who**
 5 **were in my office at specific times over a year ago.**
 6 Q. Fair enough. I understand. And you don't recall
 7 if Rita was on the telephone?
 8 **A. I don't recall.**
 9 Q. And you don't recall who initiated the call?
 10 **A. No.**
 11 Q. And you don't recall how long the call lasted?
 12 **A. No.**
 13 Q. Okay. Do you recall if he sent you any form of
 14 communication aside from the e-mails that we've already
 15 covered prior to that phone call?
 16 **A. I don't -- you mean the e-mails that we've just**
 17 **read through --**
 18 Q. Yes.
 19 **A. -- specifically?**
 20 Q. Yes.
 21 **A. Could you repeat the question?**
 22 Q. Sure. Do you recall if he sent you any
 23 communications aside from the e-mails that we've covered
 24 before your telephone conversation with him?
 25 **A. Well, there was an online contact and that was**

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1 **not in the form of an e-mail I believe.**
 2 Q. Okay.
 3 **A. But I don't recall specifically.**
 4 Q. Okay.
 5 **A. It may have been an online contact that came to**
 6 **my e-mail. I can't remember.**
 7 Q. Right. And I understand. We have something
 8 similar here.
 9 Do you know -- referring back to that online
 10 contact, were there any attachments to that online
 11 contact?
 12 **A. I don't believe so.**
 13 Q. Okay. So he didn't, for example, attach a copy
 14 of the deed that we referenced earlier in his online
 15 contact?
 16 **A. I don't believe so.**
 17 Q. Okay. And would that be something that would be
 18 sort of outside of the norm for you for a potential client
 19 to send a document as part of their initial contact?
 20 **A. What do you mean by "outside of the norm"?**
 21 Q. Well, I just -- I'm speaking from my own personal
 22 experience. When I get those types of contacts, more
 23 often than not, they're very short and more often than not
 24 they're fairly cryptic as well. But I'm --
 25 So I'm just asking if you recall in the instance

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1 where Mr. Oesterle contacted you if he attached any
 2 documents that he said he was going to ask you questions
 3 about.
 4 **A. No.**
 5 Q. Okay.
 6 MR. FERGUSON: No, he didn't; or, no, you don't
 7 recall?
 8 THE WITNESS: No. I don't recall that he sent me
 9 any documents.
 10 BY MR. CILLEY:
 11 Q. Do you recall what, if anything, Rita said during
 12 the telephone conversation if in fact she was a party to
 13 it?
 14 **A. I don't recall anything that she said. I don't**
 15 **recall her being on the phone.**
 16 Q. Okay. And just to be clear, you don't recall
 17 whether or not she was on the phone?
 18 **A. Correct.**
 19 Q. Right. Okay. And now with respect to
 20 Dr. Oesterle, do you recall what he told you during that
 21 telephone call?
 22 **A. Generally.**
 23 Q. Okay. What did he generally tell you?
 24 **A. Well, now I'm perhaps confusing the two contacts**
 25 **that we had because he did have a prior phone call I**

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1 **believe that was very quick, and then I said he should**
 2 **schedule an appointment or it may have been just in**
 3 **response to the e-mail contact. I actually can't remember**
 4 **specifically.**
 5 Q. Okay.
 6 **A. But at some point I was over the phone with him**
 7 **and he outlined basic details -- I believe it's earlier in**
 8 **my testimony --**
 9 Q. Uh-huh.
 10 **A. -- saying that there had been a gift made by this**
 11 **elderly gentleman and that he had concerns that it might**
 12 **end badly with litigation --**
 13 Q. Uh-huh.
 14 **A. -- and that he was hoping I could meet with this**
 15 **gentleman and potentially help.**
 16 Q. Okay. Fair enough. So -- and I understand how
 17 memory works. It's easy for me as the deposing attorney
 18 to ask questions and I, like you, might have difficulty
 19 remembering things that occurred years ago, but I want to
 20 focus on something you just said. You talked about the
 21 possibility of there having been an earlier telephone
 22 conversation with Dr. Oesterle prior to Friday, August 11,
 23 2017.
 24 As you sit here today, do you recall whether or
 25 not an earlier conversation over the telephone did in fact

16 (Pages 61 to 64)

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1 occur?

2 **A. I can't recall.**

3 Q. Okay. Is there anything that you can think of
4 that would refresh your recollection as to whether or not
5 such a conversation occurred?

6 **A. Well, if there were an e-mail chain that referred
7 to it, that would refresh my recollection.**

8 Q. You talked earlier about the elder abuse seminar
9 that you gave, and you mentioned that you discussed with
10 the audience that there were some red flags or things to
11 watch out for with respect to elder abuse.

12 In connection with this contact by Dr. Oesterle,
13 did it strike you as odd at all that you were being
14 contacted by the son-in-law of the transferee that you
15 were seeking to -- or that he was seeking a certificate of
16 independent review in connection?

17 **A. Yes.**

18 Q. So that was a red flag for you?

19 **A. Yes.**

20 Q. Do you recall what you said to Dr. Oesterle
21 during that telephone conversation?

22 **A. Well, at some point I told him that if I were
23 going to sit down with Mr. Ho that it had to be in
24 complete independence and that I could not have any person
25 present and that the attorney-client relationship was**

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1 initial conversation, again that day, Friday, August 11th?

2 **A. Not that I recall.**

3 Q. Okay. And his e-mail specifically states: "I
4 talked to Debby."

5 As a preliminary matter, you understood Debby was
6 his mother-in-law?

7 **A. Yes.**

8 Q. And that she was the person to whom the purported
9 gift had been made? You understood that?

10 **A. Yes.**

11 Q. His e-mail says, "I talked to Debby and I think
12 there is a pretty good chance she can 'convince' Ho to do
13 whatever it takes to put a certificate of independent
14 review in place."

15 Do you see that?

16 **A. Yes.**

17 Q. Okay. And you understood Ho to mean James Ho?

18 **A. Yes.**

19 Q. Okay. He then goes on to state, "From what I
20 understand from our conversation, this would provide the
21 strongest line of defense against any challenge to the
22 gift after his passing."

23 So during your telephone conversation with
24 Dr. Oesterle, did you talk about certificates of
25 independent review?

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1 **extremely important, that there be no influence by any
2 kind of outside party. And I discouraged him from
3 contacting me further except just for logistics and I
4 wanted to speak one on one with Mr. Ho.**

5 Q. Okay. All right. But he did contact you after
6 that and you did speak to him after that. Correct?

7 **A. Mr. Ho?**

8 Q. No. Dr. Reinhard.

9 **A. Dr. Reinhard sent me follow-up e-mails after that
10 phone call, yes.**

11 Q. And getting to -- let me strike that.

12 Do you recall anything else that occurred during
13 that conversation over the telephone between you and
14 Mr. Oesterle?

15 **A. Not specifically.**

16 Q. All right. So referring again to page 10, the
17 next contact after the meeting -- strike that -- after the
18 phone conversation with Mr. Oesterle was his e-mail of
19 Friday, 11th, 2017, at 2:45 p.m.; is that correct?

20 **A. Yes.**

21 Q. Okay. And this is an e-mail that Mr. Oesterle
22 sent to both -- to you and he copied Jackie Alioto and
23 also Rita Chang. Correct?

24 **A. Yes.**

25 Q. Okay. Did you talk to him, other than the

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1 **A. Yes.**

2 Q. Okay. And did you tell him that that would
3 provide the strongest line of defense against a challenge
4 to the document?

5 **A. I don't recall using those words.**

6 Q. Okay. Do you recall saying something to that
7 effect?

8 **A. I recall saying what I said earlier, that I
9 needed to have independence. And I also said that a
10 certificate of independent review was something that I
11 could consider doing but that if I were hired by Mr. Ho
12 that there would be no guarantee that I would do a
13 certificate of independent review and that I would have to
14 have complete independence in my conversation and my
15 conclusions.**

16 Q. Okay.

17 **A. But that if I were to able to do a certificate of
18 independent review, that it would be a -- some kind of
19 defense. I'm not sure if that's exactly the words that I
20 used.**

21 Q. Uh-huh.

22 **A. But it would be at least a document that would be
23 my opinion that the transaction was not the product of
24 undue influence or a lack of capacity.**

25 Q. Do you remember a few minutes ago I just asked

17 (Pages 65 to 68)

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1 you if you could recall the content of your communications
2 with Dr. Oesterle on --

3 **A. Yes.**

4 Q. -- your phone conversation on Friday, August 11,
5 2017?

6 **A. Yes.**

7 Q. And you told me very little about the content of
8 that conversation.

9 **A. That's correct.**

10 Q. And now you've just added substantially. It
11 appears to me to be advocacy on your part. So I don't
12 want anybody to have a misimpression about what you're
13 trying to do here. So when I ask you if you can recall
14 the entire contents of your communication or something to
15 that effect, I would appreciate it if you would give me
16 your accurate --

17 MR. FERGUSON: That's not what you asked him --

18 MR. CILLEY: Let me finish, please.

19 BY MR. CILLEY:

20 Q. Okay? Can you do that?

21 **A. So if we want to read my transcript testimony,
22 what I said specifically was not that I recall
23 specifically when you said was there anything else that I
24 recalled. And then as I look down and see the e-mail,
25 he's referring to the certificate of independent review,**

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1 **be able to be drafting a certificate of independent
2 review, but if I did, as I mentioned earlier, that that
3 would be a defense to a charge that the instrument or the
4 transfer was procured through undue influence or lack of
5 capacity.**

6 Q. Okay. Then Mr. Oesterle asks you how far in
7 advance we would have to schedule a face-to-face
8 appointment. Correct?

9 **A. Yes.**

10 Q. And then he goes on to inform you that James Ho
11 was on chemotherapy and not feeling very well. Correct?

12 **A. Yes.**

13 Q. Okay. Then three days later there's yet another
14 contact with Reinhard Oesterle wherein he sends an e-mail
15 on August 14, 2017. Correct?

16 **A. Yes.**

17 Q. And he -- in that e-mail he asks you if you would
18 be able to meet with Mr. Ho at his home in Redwood City?

19 **A. I'm sorry. You're looking at this Monday,
20 August 14?**

21 Q. Yes.

22 **A. Okay. I have to turn to the next page. He says,
23 "Would you be able to meet Mr. Ho at the place he lives at
24 in Redwood City?"**

25 Q. Yes. And you ultimately did meet with Mr. Ho

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1 **and so I must have discussed that specifically with him.
2 So that jogged my memory.**

3 MR. LOEW: I will share Mr. Ferguson's objection.
4 All this should be stricken as improper. These are not
5 questions. These are badgering and arguing with the
6 witness.

7 BY MR. CILLEY:

8 Q. So --

9 MR. FERGUSON: And misstates his testimony.

10 BY MR. CILLEY:

11 Q. You instructed the son-in-law of the transferee
12 of the purported gift about the effect of an independent
13 review. Correct?

14 **A. Who do you mean by --**

15 MR. FERGUSON: Objection. That misstates his
16 testimony.

17 BY MR. CILLEY:

18 Q. You can answer the question.

19 **A. What do you mean by instruct?**

20 Q. You informed him of the certificate of
21 independent review.

22 **A. I spoke in very broad language about the
23 possibility of that being one potential thing I could do.**

24 Q. Uh-huh.

25 **A. And that there would be no guarantee that I would**

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1 there?

2 **A. I did.**

3 Q. Okay. And through all these contacts all the way
4 up through and until Monday, August 14, 2017, you've never
5 had any contact with James Ho himself. Correct?

6 **A. I believe that's correct.**

7 **Q. Okay. How often do you prepare certificates of
8 independent review?**

9 **A. Not often at all.**

10 **Q. Can you give me an estimate as to how many times
11 you've done it?**

12 **A. This is the only one.**

13 Q. How often do you prepare estate plans?

14 **A. Very often.**

15 Q. How often during the course of your practice as
16 an estate planner do you meet with the intended
17 beneficiaries of an estate plan as opposed to the trustors
18 or settlors of --

19 MR. FERGUSON: That's vague as to meet, the word
20 meet.

21 BY MR. CILLEY:

22 Q. I think you can understand the question.

23 **A. You mean how often do I meet with people who are
24 the beneficiaries? Well, often after somebody's death
25 because sometimes they come in for reading of a trust or**

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<p style="text-align: center;">Page 73</p> <p>1 will or administration duties.</p> <p>2 Q. Fair enough.</p> <p>3 A. But during the testator's lifetime not very often</p> <p>4 at all. We try to meet with the testator one-on-one</p> <p>5 outside of the presence of beneficiaries.</p> <p>6 Q. Okay. And that's so as to avoid any appearance</p> <p>7 or actual undue influence by the beneficiary?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. Then -- Reinhard then indicates or asks,</p> <p>10 "Let me know if you have time for another brief chat if</p> <p>11 that's easier."</p> <p>12 Did you ever have another brief chat with him</p> <p>13 prior to the meeting that occurred at James Ho's home on</p> <p>14 August 21st?</p> <p>15 A. I don't recall.</p> <p>16 Q. Okay. The next e-mail in this chain is from you</p> <p>17 to Reinhard on August 14, 2017, at 3:22.</p> <p>18 Do you see that?</p> <p>19 A. I'm sorry. Are you looking at the August 14,</p> <p>20 2017, at 3:22 e-mail?</p> <p>21 Q. Yes. I am.</p> <p>22 A. Yes.</p> <p>23 Q. And this is your responding to his inquiry about</p> <p>24 having the meeting at James Ho's Redwood City home?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">Page 75</p> <p>1 Q. Okay. You then ask Mr. Reinhard, "Please just</p> <p>2 let me know his address, phone number, e-mail, and the</p> <p>3 best way to contact him."</p> <p>4 Would it be fair to say that you did not have any</p> <p>5 of that information regarding James Ho prior to your</p> <p>6 request of Mr. Reinhard on Monday, August 14th?</p> <p>7 A. I'm not sure. It may just be a formality.</p> <p>8 Q. You don't know one way or another if you had his</p> <p>9 address?</p> <p>10 A. I can't recall.</p> <p>11 Q. Okay. Well, if you did, would it have been</p> <p>12 written down somewhere or otherwise in your file?</p> <p>13 A. It's possible.</p> <p>14 Q. You don't know one way or another?</p> <p>15 A. I can't recall.</p> <p>16 Q. Okay. None of the file documents prior to this</p> <p>17 particular date indicate that you had that information</p> <p>18 regarding Mr. Ho.</p> <p>19 Are you aware of something that would suggest</p> <p>20 that you had that information regarding Mr. Ho prior to</p> <p>21 August 14, 2017?</p> <p>22 A. Well, I'm not sure if the documents are in</p> <p>23 chronological order.</p> <p>24 Q. They are.</p> <p>25 A. Are they?</p>
<p style="text-align: center;">Page 74</p> <p>1 Q. On this e-mail you cc Jackie Alioto and Rita</p> <p>2 Chang as well?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And in this e-mail you requested a</p> <p>5 retainer of \$2,000 in advance from Mr. Ho before the</p> <p>6 meeting?</p> <p>7 A. I said the words, I would request a retainer of</p> <p>8 2,000.</p> <p>9 Q. And did you actually request a retainer of 2,000?</p> <p>10 A. I used the conditional tense.</p> <p>11 Q. Okay. Explain what you mean by that.</p> <p>12 A. Well, I was being polite.</p> <p>13 Q. Okay. Did you receive a retainer before you met</p> <p>14 with Mr. Ho?</p> <p>15 A. No.</p> <p>16 Q. Okay. In any event, you informed Reinhard that</p> <p>17 the price of your meeting with James Ho would be \$2,000?</p> <p>18 MR. LOEW: Objection. Misstates testimony.</p> <p>19 Misstates the document.</p> <p>20 THE WITNESS: No. My words were I would request</p> <p>21 a retainer of \$2,000.</p> <p>22 BY MR. CILLEY:</p> <p>23 Q. Okay. And what did you envision that retainer</p> <p>24 covering?</p> <p>25 A. The time spent if I were engaged by Mr. Ho.</p>	<p style="text-align: center;">Page 76</p> <p>1 Q. Yes.</p> <p>2 A. I think the e-mail chain is in chronological</p> <p>3 order. I don't believe that I did have his address, phone</p> <p>4 number. That's probably why I asked for it.</p> <p>5 Q. Okay. Fair enough. So as of August 14, 2017,</p> <p>6 you had not had any contact in any conceivable fashion</p> <p>7 with James Ho; is that right?</p> <p>8 A. That's correct.</p> <p>9 Q. So you had no way of knowing if he was aware that</p> <p>10 anybody was contacting you as of that date. Correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And you had no way of knowing whether or not --</p> <p>13 well, strike that.</p> <p>14 And the next e-mail in this chain is the e-mail</p> <p>15 from Reinhard Oesterle to you -- sorry -- yes. It's to</p> <p>16 you on Thursday, August 17th; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And you still had not talked to James Ho</p> <p>19 or spoke or communicated with him in any fashion as of the</p> <p>20 date of this e-mail, August 17th?</p> <p>21 A. I don't believe so.</p> <p>22 Q. Okay. And in this e-mail Reinhard says that</p> <p>23 Mr. Ho would like to schedule a meeting. Correct?</p> <p>24 A. That's right. He says, "Mr. Ho would like to go</p> <p>25 ahead and schedule a meeting with you."</p>

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1 Q. Okay. And then Reinhard asks you to let him,
2 Reinhard, know what information you need and the next
3 steps regarding engagement letter, payment, et cetera.
4 Do you see that?
5 A. He says, Please let me know what information
6 you need and next steps re engagement letter, payment,
7 etc.
8 Q. He doesn't say contact Mr. Ho and let him know.
9 He says to let him, Reinhard, know the next steps.
10 Correct?
11 A. That appears to be the case.
12 Q. The next point of contact, if you will turn to
13 page 12, is your reply e-mail to Reinhard Oesterle on
14 Thursday, August 17th at 1:50 p.m.
15 Do you see that?
16 A. Yes.
17 Q. And in that response you indicate that you are
18 available Monday the 21st from 2 p.m. through 4:30 p.m.
19 Correct?
20 A. Yes.
21 Q. And you indicate that you will bring the proposed
22 engagement letter with you to the meeting; is that
23 correct?
24 A. Yes.
25 Q. And did you in fact bring the proposed engagement

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1 letter with you to the meeting?
2 A. Yes.
3 Q. Do you have any knowledge -- okay. So do you
4 have any knowledge as to whether or not the first time
5 that James Ho ever saw the proposed engagement letter was
6 at the time of the meeting?
7 A. I can't recall specifically but I may have mailed
8 it to him in advance.
9 Q. Okay. You just don't know one way or the other
10 as you sit here right now?
11 A. I just can't recall.
12 Q. Fair enough. And you also gave Reinhard Oesterle
13 instructions regarding the delivery of a retainer check.
14 Correct?
15 A. I said, "Mr. Ho can bring his retainer check for
16 \$2,000 at the time of the meeting payable to Law Offices
17 of John C. Martin."
18 Q. Okay. And once again you asked for Mr. Ho's full
19 name, address, e-mail and phone number?
20 A. Yes.
21 Q. Okay. The next point of contact is Reinhard
22 Oesterle contacting you via e-mail later on the day of
23 August 17th at 2:11 p.m. Correct?
24 A. Yes.
25 Q. Okay. And in that e-mail he indicates

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1 essentially that if -- there may be a need to reschedule
2 depending upon how Mr. Ho is feeling that day?
3 A. Yes.
4 Q. Okay. And he also says, "If you need to reach
5 Mr. Ho, please let me know or you can also call Debby
6 Chang at" her phone number.
7 Do you see that?
8 A. I do see it.
9 Q. He doesn't direct you to call Mr. Ho. He directs
10 you to contact him or call Debby Chang. Correct?
11 A. That's what he requests.
12 MR. FERGUSON: But he also provides Mr. Ho's --
13 MR. CILLEY: I don't need a speaking objection.
14 If there's an objection, you can state it for the record.
15 BY MR. CILLEY:
16 Q. Okay. The next e-mail in the chain is at
17 2:42 that day and this appears to be Jackie Alioto just
18 asking you questions about the description of legal
19 services in the first paragraph of the hourly agreement
20 with James Ho?
21 A. Yes.
22 Q. Okay. So it had not been prepared at least as of
23 August 17, 2017?
24 A. Correct.
25 Q. And you reply to Jackie Alioto on August 17th at

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1 3:19 that the scope should be limited to review of gift
2 transaction and potentially draft a certificate of
3 independent review. Correct?
4 A. That's correct.
5 Q. And you arrived at the description of the
6 services that you were going to render prior to having --
7 prior to having had any contact with James Ho; is that
8 correct?
9 A. That's not accurate. I said potentially draft a
10 certificate of independent review. So it was not a
11 foregone conclusion that's what I would be doing.
12 Q. But my question was you arrived at the scope
13 prior to meeting with James Ho. Whether or not you were
14 going to potentially draft the certificate or not, the
15 scope of services was arrived at before you had any
16 communication with him?
17 A. Yes.
18 Q. Okay. Then later that day at 3:30 you e-mail
19 Reinhard confirming an appointment for 3 p.m. on Monday
20 the 21st. Correct?
21 MR. FERGUSON: Objection. That misstates the
22 time.
23 MR. CILLEY: Did I not say 3:20?
24 MR. FERGUSON: You said 3:30.
25 MR. CILLEY: I'm sorry. I misspoke.

20 (Pages 77 to 80)

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<p style="text-align: center;">Page 81</p> <p>1 BY MR. CILLEY:</p> <p>2 Q. At 3:20 you confirmed the appointment with</p> <p>3 Reinhard Oesterle?</p> <p>4 A. Correct.</p> <p>5 Q. And then he replies later that day at 5:19 p.m.</p> <p>6 asking you to send us a copy of the engagement letter</p> <p>7 prior to the meeting.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Does that refresh your recollection as to</p> <p>11 whether or not you sent a copy of the engagement letter</p> <p>12 prior to meeting with James Ho?</p> <p>13 A. Well, in the following e-mail it says, "I will</p> <p>14 put it in the mail today for Mr. Ho. I cannot send it via</p> <p>15 e-mail because it is attorney-client privileged."</p> <p>16 Q. Okay. Fair enough. And did you do that?</p> <p>17 A. I can't recall.</p> <p>18 Q. Okay. Now, the next e-mail that I want to ask</p> <p>19 you about is at the bottom of this page, 13. This is an</p> <p>20 e-mail on Monday, August 21, 2017, at 5:31 p.m.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And this is an e-mail from Reinhard Oesterle to</p> <p>24 you apologizing for the confusion that day?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">Page 83</p> <p>1 August 21, 2017, 5:31 p.m. e-mail. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. All right. Do you know why your e-mails</p> <p>4 say "Gmail telephone consult with John C. Martin"?</p> <p>5 A. I think it's because I used Gmail in order to</p> <p>6 send my messages.</p> <p>7 Q. Okay. And that makes sense to me. The thing</p> <p>8 that I'm a little bit curious about is why it says</p> <p>9 "telephone consult."</p> <p>10 A. I think that may be the subject line of the</p> <p>11 e-mail but I'm not sure.</p> <p>12 MR. LOEW: Right. At page 8 there's a subject</p> <p>13 line for all of the messages that follow and that seems to</p> <p>14 be carried over across the pages.</p> <p>15 MR. CILLEY: Okay. Fair enough. Thank you,</p> <p>16 Mr. Loew.</p> <p>17 BY MR. CILLEY:</p> <p>18 Q. All right. The next contact or the next e-mail</p> <p>19 rather in this chain is on September 14th at 9:16 a.m.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And this is an e-mail wherein John -- or -- I'm</p> <p>23 sorry -- Reinhard Oesterle asks you for a referral for an</p> <p>24 estate and trust litigation --</p> <p>25 A. Yes.</p>
<p style="text-align: center;">Page 82</p> <p>1 Q. And did you understand him to mean the fact that</p> <p>2 the meeting had initially been canceled?</p> <p>3 A. I think that's what he was referring to, yes.</p> <p>4 Q. Okay. And so by the time that Reinhard Oesterle</p> <p>5 sent this e-mail you had already met with -- strike</p> <p>6 that -- you were presumably in the process of meeting with</p> <p>7 James Ho?</p> <p>8 A. I'm not sure.</p> <p>9 Q. All right. The next e-mail is on page 14 and it</p> <p>10 appears to be dated September 26, 2017.</p> <p>11 Do you see what I am referring to?</p> <p>12 A. No.</p> <p>13 Q. Can you turn to page 14. And in the upper</p> <p>14 left-hand portion of the document there's a date 9/26/17.</p> <p>15 A. I can't see that.</p> <p>16 MR. LOEW: And I'll object. That appears to be</p> <p>17 when it was printed. All the preceding documents also say</p> <p>18 9/26/17 in the whole e-mail chain.</p> <p>19 MR. CILLEY: Okay. All right. Thank you. I</p> <p>20 appreciate that.</p> <p>21 BY MR. CILLEY:</p> <p>22 Q. So -- all right. So I did -- I misunderstood</p> <p>23 that. Is this -- this last sentence which states, "I may</p> <p>24 consult you for my own estate planning needs in the</p> <p>25 future," that's just the last line of the Monday,</p>	<p style="text-align: center;">Page 84</p> <p>1 Q. -- lawyer? And did you know that James Ho had</p> <p>2 died before you received this e-mail?</p> <p>3 A. I can't recall.</p> <p>4 Q. Okay. Had you had any conversations over the</p> <p>5 telephone or in person with Reinhard Oesterle between</p> <p>6 August 21, 2017, and the -- this -- this particular</p> <p>7 e-mail?</p> <p>8 A. I don't believe so.</p> <p>9 Q. Okay. Do you recall how you learned that James</p> <p>10 Ho had died?</p> <p>11 A. No.</p> <p>12 Q. Okay. All right. And ultimately in the e-mail</p> <p>13 below, September 16th, you responded to Reinhard and</p> <p>14 recommended Jeffrey R. Loew?</p> <p>15 A. Correct.</p> <p>16 Q. Had you discussed the case with Mr. Loew before</p> <p>17 you made the referral?</p> <p>18 A. No.</p> <p>19 Q. Are you and Mr. Loew social acquaintances?</p> <p>20 A. I would say that.</p> <p>21 Q. Okay. Well, do you socialize together?</p> <p>22 A. Outside of bar association events? No.</p> <p>23 Q. Okay. Did you give Mr. Oesterle any other</p> <p>24 recommendations?</p> <p>25 A. No.</p>

21 (Pages 81 to 84)

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1 Q. Have you referred other cases to Mr. Loew?
 2 **A. Yes.**
 3 Q. Do you have any sort of a referral arrangement
 4 with him?
 5 **A. No.**
 6 Q. And has he referred estate planning clients to
 7 you?
 8 **A. Estate planning clients?**
 9 Q. Yeah.
 10 **A. Not that I recall.**
 11 Q. Estate administration clients?
 12 **A. Yes.**
 13 Q. Okay. Do the two of you have an arrangement
 14 whereby you refer work back and forth to one another?
 15 **A. No.**
 16 Q. Okay. But he has referred administrations to
 17 you?
 18 **A. Yes.**
 19 Q. And you have referred litigation to him?
 20 **A. Yes.**
 21 Q. Okay. Did -- did you have any type of an
 22 understanding what it was that Reinhard was seeking a
 23 litigation attorney in connection with?
 24 **A. Well, in his e-mail he says things can become**
 25 **contentious between the two families.**

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1 Q. Okay. So in this particular instance Reinhard
 2 was reaching out to you to -- to get a referral for a
 3 lawyer that would represent Debby Chang. Correct?
 4 MR. LOEW: Objection. Calls for speculation.
 5 THE WITNESS: That does call for speculation.
 6 I'm not sure I know what he was thinking.
 7 BY MR. CILLEY:
 8 Q. What was your understanding?
 9 **A. He says in his e-mail "I think things could**
 10 **become contentious between the two families."**
 11 Q. Okay.
 12 **A. So by that I would imagine the children of James**
 13 **Ho and his -- and Debby Chang.**
 14 Q. Okay. So when you qualify questions by saying
 15 things such as "I would imagine," I'm sure you're being
 16 accurate. My question, however, was a little bit
 17 different.
 18 It was what was your understanding, if in fact
 19 you had one, at the time that you received and then
 20 responded to this e-mail about what he was seeking
 21 representation in connection with?
 22 **A. I don't recall forming a specific understanding.**
 23 Q. Okay. The next document that I have is number 15
 24 and this is a priority mail receipt sent to the Law
 25 Offices of John C. Martin.

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1 And so my first question is do you know what was
 2 enclosed with the -- this envelope?
 3 **A. I can't recall specifically.**
 4 Q. Okay. Do you recognize the handwriting, The Law
 5 Offices of John C. Martin?
 6 **A. No.**
 7 Q. Okay. As you sit here today can you think of
 8 anything that was mailed to you around September of 2017?
 9 **A. Well, if I recall correctly, the documents that I**
 10 **had sent to James Ho were returned.**
 11 Q. Uh-huh.
 12 **A. And I believe that was done by Debby Chang.**
 13 Q. Yeah. Yeah. I understand that. What I'm trying
 14 to get at -- maybe we can cover it a little bit more
 15 accurately as we progress is -- is when that occurred. I
 16 wasn't able to put a day on that.
 17 **A. I don't have a specific date for you.**
 18 Q. Okay. And there's some handwriting that appears,
 19 you know, to be partially obscured by the receipt.
 20 Do you see what I'm referring to?
 21 **A. Yes.**
 22 Q. Do you have any idea what that says?
 23 **A. No.**
 24 Q. Okay. Okay. The next page, number 16, is a --
 25 appears to be a photocopy of an en- -- invoice rather

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1 to -- strike that.
 2 It appears to be a photocopy of an envelope from
 3 your law firm to James Ho.
 4 Do you see that?
 5 **A. Yes.**
 6 Q. And it's sent on August 17th of 20- -- or I'm
 7 sorry -- August 18th of 2017?
 8 **A. Yes.**
 9 Q. All right. And it appears based upon the
 10 following couple of pages that this was the envelope that
 11 was used to send a draft engagement letter to -- to James
 12 Ho.
 13 Do you have any information as to whether or not
 14 that is true?
 15 **A. Well, looking at the following page the date on**
 16 **the letter is the same as the date on the envelope.**
 17 Q. Okay. All right. So there's some handwriting on
 18 this under -- under the canceled stamp.
 19 Do you see that?
 20 **A. Yes.**
 21 Q. A parenthetical that appears to say total equals,
 22 closed parenthetical?
 23 **A. Yes.**
 24 Q. Do you know whose handwriting that is first of
 25 all?

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<p style="text-align: center;">Page 89</p> <p>1 A. No.</p> <p>2 Q. Do you have any knowledge from any source as to</p> <p>3 what that references?</p> <p>4 A. You don't want me to venture a guess so I won't.</p> <p>5 I have no such --</p> <p>6 Q. I don't want you to guess --</p> <p>7 A. I have no such knowledge.</p> <p>8 Q. Okay. So now turning to your engagement letter,</p> <p>9 it bears the date August 18, 2017.</p> <p>10 As you sit here today, do you believe that that</p> <p>11 is the date that this was sent to Mr. Ho?</p> <p>12 A. That's my belief.</p> <p>13 Q. Okay. And it says in the first full paragraph,</p> <p>14 "Thank you for selecting the Law Offices of John C. Martin</p> <p>15 to represent you as legal counsel to review a gift</p> <p>16 transaction and potentially draft a certificate of</p> <p>17 independent review."</p> <p>18 You had never discussed any of those things with</p> <p>19 James Ho before you prepared this contract. Correct?</p> <p>20 A. Correct. And to clarify, I believe my assistant</p> <p>21 prepared this contract.</p> <p>22 Q. It would have been Jackie Alioto at your ---</p> <p>23 A. Behest.</p> <p>24 (Reporter clarification.)</p> <p>25 MR. CILLEY: I said request. He said behest.</p>	<p style="text-align: center;">Page 91</p> <p>1 of a second set of handwritten notes; is that correct?</p> <p>2 A. That appears to be the case, yes.</p> <p>3 Q. Do you recognize the handwriting on page 32?</p> <p>4 A. Not specifically but I know whose it is.</p> <p>5 Q. Whose it?</p> <p>6 A. This is Beth Chagonjian's.</p> <p>7 Q. Okay. And these notes beginning on page 32 are</p> <p>8 dated August 24, 2017?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Did she take these notes during a meeting</p> <p>11 with you or how did these come about?</p> <p>12 A. During a meeting with me.</p> <p>13 Q. Okay. Was Beth present at the meeting on</p> <p>14 August 21st?</p> <p>15 A. August 21st?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. Okay. Was she ever present during any telephone</p> <p>19 conversations with -- with Reinhard Oesterle?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Okay. Was the meeting an August 21st recorded in</p> <p>22 any way aside from your handwritten notes?</p> <p>23 A. I created a memo also incorporating my memory in</p> <p>24 addition to my notes.</p> <p>25 Q. Okay. So that's the memo that you -- it's a</p>
<p style="text-align: center;">Page 90</p> <p>1 Okay. It is twelve o'clock. Let's go off the</p> <p>2 record.</p> <p>3 THE VIDEOGRAPHER: I'm just going to end this</p> <p>4 media. This marks the end of Media No. 1. The time is</p> <p>5 12:07 p.m.</p> <p>6 (Whereupon, a lunch recess was taken.)</p> <p>7 THE VIDEOGRAPHER: This marks the beginning of</p> <p>8 Media No. 2 in the deposition of John Martin. The time is</p> <p>9 12:48 p.m.</p> <p>10 BY MR. CILLEY:</p> <p>11 Q. Okay. Mr. Martin, will you please turn to page</p> <p>12 19 of your file.</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And page 19 appears to be a set of</p> <p>15 handwritten notes; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And whose handwriting is this?</p> <p>18 A. Mine.</p> <p>19 Q. And are these notes that you took at your meeting</p> <p>20 with James Ho on August 21st, 2017?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And I'd like to just understand how</p> <p>23 this -- these two sets of notes work together. Would you</p> <p>24 now turn your attention to page 32.</p> <p>25 So at page 32 or page 32 rather is the beginning</p>	<p style="text-align: center;">Page 92</p> <p>1 typewritten memo dated August 24, 2017. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. But as it relates to what actually occurred on</p> <p>4 August 21st, was the meeting recorded in any way?</p> <p>5 A. By audio recording?</p> <p>6 Q. By any type --</p> <p>7 A. Or video recording?</p> <p>8 Q. Yeah.</p> <p>9 A. No.</p> <p>10 Q. Okay. So you didn't bring a Dictaphone with you</p> <p>11 or any other transcript -- or any device like that?</p> <p>12 A. No.</p> <p>13 Q. So the only actual record of what occurred at</p> <p>14 that meeting as far as you're concerned would be your</p> <p>15 handwritten notes and your memory?</p> <p>16 A. No. I also produced a memorandum which</p> <p>17 incorporated my memory a few days after the time when</p> <p>18 these notes were written.</p> <p>19 Q. But as of the actual day of the meeting,</p> <p>20 August 21st, the only record of that meeting would be the</p> <p>21 memory, your memory, and the notes that you took on August</p> <p>22 21st?</p> <p>23 A. The only record that are in written form as of</p> <p>24 August 21, 2017, are these written notes that I made.</p> <p>25 Q. Okay. And at some point in time after</p>

23 (Pages 89 to 92)

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1 August 21st, you debriefed with Beth and you told her
2 about what happened at the meeting and she made notes of
3 what you were telling her?

4 **A. Yes.**

5 Q. Okay. All right. So now going back to page 19,
6 page 19 through page 26 are your notes from conversations
7 that you had with both James Ho and also Debby Chang on
8 August 21, 2019?

9 **A. These are notes that I took while I met with**
10 **James Ho one-on-one for approximately an hour and a half,**
11 **and then afterwards with James Ho and Debby Chang for**
12 **approximately 30 minutes.**

13 Q. Okay. And the first line in your notes says,
14 "does not know." What does that refer to?

15 **A. I can't recall.**

16 Q. Okay. And then it says, "Debby" and I can't read
17 the word under that. Head -- head dress?

18 **A. I actually can't read my own handwriting there.**

19 Q. Okay.

20 **A. Oh, you know what that says? It says,**
21 **"headaches."**

22 Q. Okay. So -- why did you write headaches?

23 **A. Well, I recall that I asked Mr. Ho about his --**
24 **how he felt and his current condition and that he said**
25 **that he felt fine aside from some headaches.**

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1 Q. Okay. Did you know at the time that Peter Ho
2 called that he was James Ho's son?

3 **A. Well, my recollection is that at some point I**
4 **knew that Peter Ho was his son. I'm not sure when I**
5 **formed that knowledge.**

6 Q. Okay. Fair enough. Did you know that Peter Ho
7 was acting as agent under a Durable Power of Attorney for
8 his father, James Ho?

9 **A. At what time?**

10 Q. At the time --

11 **A. At the time when his meeting was canceled?**

12 Q. Yes.

13 **A. No.**

14 Q. You did learn that at some point in time?

15 **A. Yes.**

16 Q. And you believe that Peter Ho spoke to
17 Mrs. Alioto?

18 **A. That's my belief.**

19 Q. Okay. And then did she tell you that the meeting
20 had been canceled?

21 **A. I can't recall the medium she used to tell me.**

22 Q. Okay. Why do you say that, "the medium"?

23 **A. Whether it was an e-mail, a page on my phone or**
24 **if I was passing by her desk and she said it to me**
25 **verbally. I can't recall.**

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1 Q. And then almost the first entry, it's the fourth
2 line down, you say, "good long-term memory."

3 How did you determine that so quickly into your
4 meeting with James Ho?

5 **A. Well, this actually is not representative of how**
6 **fast our meeting had been. There had been quite a long**
7 **time actually even between these four lines. So I don't**
8 **think that's representative of how much time has actually**
9 **passed.**

10 Q. I see. So going back to the events that occurred
11 prior to this meeting, we've gone through the e-mail chain
12 and we've established that the meeting was scheduled for
13 August 21st.

14 You received a phone call that day canceling the
15 meeting; is that right?

16 **A. Do you mean me personally or my office?**

17 Q. Your office.

18 **A. My office received a call.**

19 Q. Okay. Did -- were you a party to that phone call
20 canceling the meeting?

21 **A. Not that I recall.**

22 Q. Who called?

23 **A. According to my recollection, Peter Ho called our**
24 **office and spoke with my assistant to cancel his father's**
25 **meeting.**

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1 Q. Okay. But the two of you were in the same office
2 that day when the meeting was canceled initially?

3 **A. Well, we are -- our office is over two floors.**
4 **So she's downstairs in a reception area.**

5 Q. Okay.

6 **A. And I'm upstairs.**

7 Q. Okay. Fair enough. And did you learn why the
8 meeting had been canceled?

9 **A. Well, I recall seeing -- whether it was seeing or**
10 **hearing Jackie, I can't recall, but I recall forming the**
11 **impression that Peter Ho said there was a confusion. His**
12 **father was confused and that there would be no meeting.**

13 Q. Do you recall anything else?

14 **A. Not specifically but I could look through my**
15 **notes and the memo and perhaps it would jog my memory.**

16 Q. Okay. I'm just asking for your memory now.
17 We'll go through the notes.

18 Did you try to memorialize your meeting with
19 James Ho accurately in your notes?

20 **A. I tried to be accurate in my memorandum. My**
21 **notes are my personal impressions.**

22 Q. Did you try to be accurate -- in terms of when
23 you made a note about something that was said to you, did
24 you try to be accurate in writing down what was said?

25 **A. I think the word accurate probably would be**

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1 misleading if I were to say yes because notes were done in
2 a very free-form way. In other words, it might have been
3 the beginning of a sentence or idea that I started writing
4 and then simply stopped writing or moved to the next idea.

5 Q. But you don't try to purposely be inaccurate when
6 you take notes, do you?

7 A. My intention in taking notes is to do a few
8 things: It's to keep track with how somebody is talking.
9 So it's an active listening. And it's also sometimes to
10 write down facts. In the sense that I'm trying to write
11 down facts, I try to write those down accurately.

12 Q. And you do that because you want to at least as
13 one of the functions of note-taking memorialize the
14 conversation?

15 A. It's one of the purposes.

16 Q. Okay. Now, what time did you arrive at the home
17 on August 21st?

18 A. I can't recall specifically but I believe it was
19 just before four o'clock.

20 Q. And who was present when you arrived?

21 A. I walked up to the house after parking my car and
22 there was a man who was in the driveway area. I assumed
23 he was a handyman.

24 Q. Why do you assume he was a handyman?

25 A. I think by his clothes.

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1 Q. Okay. So was that the first time that you had
2 ever met Debby Chang?

3 A. To my knowledge.

4 Q. And you said that James Ho was located in the
5 kitchen?

6 A. When I walked through the house, Debby Chang took
7 me to the kitchen and introduced me to Mr. Ho. That's
8 where he was standing.

9 Q. What did you discuss, if anything, with Debby
10 Chang before she walked you through the house?

11 A. I don't recall discussing anything with her.

12 Q. Okay. Did she say hello and introduce herself?

13 A. Yes.

14 Q. Okay. Was anybody else present aside from Debby
15 Chang and James Ho?

16 A. Well, there was the handyman in the garage. He
17 was outside, I believe.

18 Q. Inside the house.

19 A. Inside the house? Not to my knowledge.

20 Q. Okay. So it was just you, James Ho and Debby
21 Chang?

22 A. At that particular time during my meeting, yes.

23 Q. Okay. Did anybody else arrive at the home at any
24 point in time that day aside from the three of you?

25 A. During the entire day? Well, I was only there

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1 Q. Okay. Did you ever learn who that was?

2 A. No.

3 Q. Did you have any discussion with that person?

4 A. I believe I asked him if he could go into the
5 house and let whoever's inside know that I am there.

6 Q. Did you have any other communication with that
7 person?

8 A. Not that I recall.

9 Q. You didn't ever learn his name?

10 A. No.

11 Q. Okay. And who was present at the house when you
12 arrived aside from this gentleman in the driveway or
13 garage?

14 A. Well, after I said this to the gentleman, he went
15 through the garage and then Debby Chang came out of the
16 house. I can't remember if it was the front door or
17 through their garage and she said I can come in.

18 Q. Uh-huh.

19 A. And she led me through the house. It looked very
20 much put in order. And I believe there was a living room
21 to the left, and we went through this living room to the
22 dining room and then into the kitchen. And there Mr. Ho
23 was and he was standing. He had a walker. He looked very
24 well-kept. He greeted me and said hello. He was very
25 amiable.

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1 for I believe two hours.

2 Q. While you were --

3 A. So I'm not sure the entire day.

4 Q. While you were there?

5 A. Not to my knowledge.

6 Q. Okay. Would it be fair to say that you have no
7 knowledge from any source as to what Debby Chang and James
8 Ho discussed that day before you arrived?

9 A. Could you repeat that?

10 Q. Sure.

11 A. No knowledge from any source as to what Debby
12 Chang and --

13 Q. James Ho discussed before you arrived.

14 A. I have no actual knowledge of what they discussed
15 before I arrived.

16 Q. So, for example, you would have no way of knowing
17 whether or not it was true that she specifically said that
18 she would leave him if he did not meet with you?

19 A. I would have some way of knowing that in that I
20 had asked James Ho if he felt comfortable, if he was happy
21 and asked him what Debby's relationship with him was. I
22 asked him if she demanded things from him. And that I was
23 receiving those facts and he never at all indicated that
24 she did any of those things --

25 Q. Okay. I understand you want to advocate --

25 (Pages 97 to 100)

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1 A. -- or that I would -- well, I was just saying
2 that --
3 Q. Do you have personal knowledge what was
4 discussed?
5 A. I have --
6 MR. LOEW: Objection. Argumentative.
7 THE WITNESS: I have personal knowledge of what
8 was discussed between me and James Ho.
9 BY MR. CILLEY:
10 Q. But you have no knowledge whatsoever of what
11 James Ho and Debby Chang talked about before you arrived?
12 A. Of course not. I wasn't there before I arrived.
13 Q. Of course not. Is it your custom and practice to
14 ask a potential victim of elder abuse whether or not
15 they've been abused?
16 MR. LOEW: Objection. Argumentative.
17 THE WITNESS: I'm sorry. What do you mean by
18 "potential victim of elder abuse"?
19 BY MR. CILLEY:
20 Q. Well, such, for example, James Ho.
21 A. Well, we are all potential victims of some kind
22 of abuse. Right? I'm sorry. Your question is?
23 Q. Is it your custom and practice -- let me
24 rephrase.
25 Is it your custom and practice to ask somebody

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1 where you have concerns about the possibility of undue
2 influence whether or not they're being unduly influenced?
3 A. Well, first of all, this was our only certificate
4 of independent review that we've done.
5 Q. Uh-huh.
6 A. So I think it would be unfair to say I have a
7 custom and practice.
8 Q. Okay.
9 A. But based upon my review of a CEB treatise and
10 the statute -- based upon my review of a CEB treatise
11 which deals with process and a purpose and scope of a
12 certificate of independent review, I believed it would be
13 appropriate to ask Mr. Ho questions that dealt with his
14 health --
15 Q. Uh-huh.
16 A. -- his memory, engaged his sense of where he was
17 situated and also to understand whether there might be any
18 kind of undue pressure from his perspective that might
19 have led him to make a transfer to Debby Chang.
20 Q. Right. So what treatise are you referring to?
21 A. There's a CEB treatise. I don't know what
22 specific name it is, that's available through my OnLAW
23 subscription, which I reviewed. In fact, I think I
24 printed it out and put it in my file.
25 Q. Okay. And I think there is a note to a few

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1 statutory references, and I'll get to that in a while.
2 But the note that you printed out and put in your
3 file, does that represent the totality of the review of
4 treatises or other authorities that you conducted prior to
5 meeting with James Ho?
6 A. I don't think -- I don't think that would be a
7 fair statement because certificates of independent review
8 have come up from time to time in CLE courses that I've
9 taken. And definitely on my own I've looked into it for
10 conservatorship cases. I was part of a conservatorship
11 where the testator, when he had done a will, there was
12 a -- we referred out a certificate of independent review.
13 So I recall reviewing the statute at that time as well.
14 Q. You indicated that when you arrived James Ho was
15 standing?
16 A. Correct.
17 Q. And he was using a walker?
18 A. Yes.
19 Q. Okay. And what happened when you first saw one
20 another?
21 A. I introduced myself.
22 Q. Okay. That was the first time that you had ever
23 met him?
24 A. Yes.
25 Q. Okay. And what happened next?

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1 A. I exchanged pleasantries and I can't remember
2 specific words that were exchanged in detail right there
3 in the kitchen, but at some point I said to everybody
4 present, both Debby and James -- because I believe Debby
5 offered me a beverage -- and I said, "Well, the purpose of
6 this meeting is for me to meet one-on-one with James Ho to
7 see if I'd be able to assist him in some form. But for us
8 to do that, I'm going have to ensure that there's complete
9 privacy and independence. Is there a place that we can
10 meet which is private?"
11 And at that point Debby Chang said, "Well, you
12 can meet in this dining room," which was adjoining the
13 kitchen and, in fact, there were some doors that were
14 there. So between being in the kitchen and starting our
15 meeting, Mr. Ho walked and I believe Debby may have
16 assisted him in sitting down so that he didn't trip.
17 And then I wanted to make sure that we had total
18 privacy. So I asked Debby Chang if she could leave us and
19 if there was a place where she could go where she would
20 not be in earshot. And she said, yes. And then I
21 proceeded to close all the doors to make sure that we were
22 completely closed off, made sure that I listened to make
23 sure there was no footsteps close by and then proceeded to
24 have an approximately hour-and-a-half meeting with Mr. Ho.
25 Q. Did you notice that there was a cot in the

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<p style="text-align: center;">Page 105</p> <p>1 kitchen when you arrived?</p> <p>2 A. I don't recall seeing a cot.</p> <p>3 Q. Have you learned from any source that Mr. Ho was</p> <p>4 sleeping on a cot in the kitchen?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. What is the note at the bottom left-hand corner</p> <p>7 of page 19? What does that say?</p> <p>8 A. Are you looking at the little squiggle?</p> <p>9 Q. Yeah.</p> <p>10 A. I'm not sure what that is.</p> <p>11 Q. Okay. Okay. Turning to the next page, at the</p> <p>12 top of page 20 your notes indicate that James Ho told you</p> <p>13 that his wife passed away approximately 20 years ago.</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And then your notes indicate that he</p> <p>16 believes that about six months ago he gave Debby</p> <p>17 \$1 million?</p> <p>18 MR. LOEW: I'll object that that's not clear</p> <p>19 that's what the note says.</p> <p>20 THE WITNESS: That's correct. That's not clear</p> <p>21 what the notes say, and I'd refer you to my memorandum</p> <p>22 where I spell that out in more detail.</p> <p>23 BY MR. CILLEY:</p> <p>24 Q. Well, I don't want to look at your memorandum</p> <p>25 right now. I want to ask you about these notes that you</p>	<p style="text-align: center;">Page 107</p> <p>1 question.</p> <p>2 THE WITNESS: What question is that?</p> <p>3 BY MR. CILLEY:</p> <p>4 Q. Did he tell you that he was not sure what Debby</p> <p>5 had done with the funds? You'll get a chance to testify</p> <p>6 and do your advocacy at trial --</p> <p>7 MR. LOEW: Objection. Argumentative. Badgering</p> <p>8 the witness. Harassing the witness.</p> <p>9 BY MR. CILLEY:</p> <p>10 Q. Do your notes say that he told you --</p> <p>11 MR. LOEW: We can bring a referee --</p> <p>12 BY MR. CILLEY:</p> <p>13 Q. Do your notes say that he was not sure what Debby</p> <p>14 had done with the funds?</p> <p>15 A. Actually, it says the words, "not sure what Debby</p> <p>16 did with the funds."</p> <p>17 Q. Okay. Then the notes go on to say, not sure what</p> <p>18 he owns. Correct?</p> <p>19 A. It says, "not sure what he own."</p> <p>20 Q. Okay. What assets did James Ho own as of</p> <p>21 August 21, 2017?</p> <p>22 A. So based on my conversation, he believed that he</p> <p>23 had a -- at one point two properties and then he said now</p> <p>24 perhaps just one property. And he said he used to own a</p> <p>25 Corvette and a Mercedes and now he just had the Mercedes.</p>
<p style="text-align: center;">Page 106</p> <p>1 prepared contemporaneous with your meeting.</p> <p>2 A. Correct.</p> <p>3 Q. I understand you want to advocate, but I'm asking</p> <p>4 you questions about these notes right now.</p> <p>5 MR. LOEW: Objection. Argumentative. Asked and</p> <p>6 answered.</p> <p>7 BY MR. CILLEY:</p> <p>8 Q. So your notes indicate that he told you about six</p> <p>9 months ago he believed that he had given Debby \$1 million?</p> <p>10 A. That's actually not what these notes literally</p> <p>11 say. It says six months, believes he have given to Debby</p> <p>12 1 million.</p> <p>13 Q. Okay. And then your notes indicate that he told</p> <p>14 you he wasn't sure what Debby did with the funds.</p> <p>15 Correct?</p> <p>16 A. That's what it says.</p> <p>17 Q. Okay. So he was not aware what Debby had done</p> <p>18 with the \$1 million that he had given to her?</p> <p>19 A. Well, what I recall from my conversation and I</p> <p>20 wrote down, "not sure what Debby did with the funds," but</p> <p>21 I was asking him if he -- several things, if he was</p> <p>22 comfortable with the fact that these funds were Debby's --</p> <p>23 Q. Let me ask -- I don't want --</p> <p>24 MR. FERGUSON: Please let him finish.</p> <p>25 MR. CILLEY: No. I want him to answer my</p>	<p style="text-align: center;">Page 108</p> <p>1 And he also mentioned that Debby liked to drive the</p> <p>2 Mercedes around. And he said he had an account and he</p> <p>3 gestured to his checkbook. And he opened up his checkbook</p> <p>4 and he leafed through the different transactions.</p> <p>5 Actually seemed pretty proud about his balancing of his</p> <p>6 checkbook --</p> <p>7 Q. Okay.</p> <p>8 A. -- showed me the transactions.</p> <p>9 Q. Okay. So I want to refer back to earlier in your</p> <p>10 testimony when you said that you considered yourself to be</p> <p>11 a precise person.</p> <p>12 Do you recall that?</p> <p>13 A. Of course.</p> <p>14 Q. Okay. And James Ho had just given away or was</p> <p>15 seeking your advice in connection with a gift of</p> <p>16 \$1 million. Correct?</p> <p>17 A. Actually, I clarified that the scope of my</p> <p>18 representation was just to review his gift that he had</p> <p>19 made and that it was not actually advice in connection</p> <p>20 with, for example, documenting that gift itself.</p> <p>21 Q. Well, wouldn't it have been important to you to</p> <p>22 consider whether or not he was giving away his very last</p> <p>23 dollar?</p> <p>24 A. Of course.</p> <p>25 Q. Okay. So it's a different situation if he's got</p>

27 (Pages 105 to 108)

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1 \$1,101,000 or \$20 million. Correct?

2 A. Well, wait a minute. The scope of my
3 representation was specifically to determine whether or
4 not the gift of 1 point whatever million dollars was
5 procured through undue influence or a lack of capacity.

6 Q. Do you believe --

7 A. That's very specific. So actually it doesn't
8 require me to do a complete estate planning evaluation.
9 I'm not required to do that scope of representation, nor
10 do I believe it's completely appropriate to get a complete
11 list of all of his assets which is accurate in order for
12 me to fulfill my scope.

13 Q. Right. That's actually very important. So you
14 didn't consider it important to determine what his assets
15 were before you advised him about the appropriateness of
16 the gift --

17 A. That's not my testimony.

18 Q. -- of 1.1 million --

19 MR. FERGUSON: Objection.

20 THE WITNESS: That's not what I said. I didn't
21 scale the level of importance for you --

22 BY MR. CILLEY:

23 Q. So it wasn't important for you --

24 A. It's not the word important. That's not
25 accurate. Of course it's important for me to understand

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1 Drive. So there's one note right there.

2 Q. About the property that he owned as of August 21,
3 2017, find me a note anywhere regarding where that
4 property was located.

5 A. Well, I believe in my memorandum I refer to the
6 second property.

7 Q. Where is it located?

8 A. You want me to read through every line here?

9 Q. I'll represent to you that there's no reference
10 in your notes as to what -- or your file as to where that
11 property is located. You are free to spend as much time
12 as you need to look through them to see if my
13 representation is accurate or not.

14 A. I'm sorry. What property are you referring to?

15 Q. The property that you just testified about that
16 he told you he owned as of August 21, 2017.

17 A. Which property is that?

18 Q. You tell me. You had the meeting with him.

19 MR. LOEW: Objection. Argumentative. Misstates
20 testimony.

21 THE WITNESS: What's your question?

22 BY MR. CILLEY:

23 Q. Where is -- what's the address of the property
24 that he owned?

25 A. Well, I didn't write that down in these notes

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1 that he knows what he owns to some degree or that he has
2 some knowledge of his finance. That's why I asked him to
3 describe what he owned.

4 Q. Okay. So tell me, where was this house -- he
5 said that may -- your words were he may have owned two
6 houses. So he wasn't certain as to whether or not he
7 owned one or two houses; correct?

8 A. No. He said that in past he owned two
9 properties.

10 Q. Okay. Where was the property that he still
11 owned?

12 A. What are you talking about?

13 Q. Where was it located?

14 A. That's not something that I -- I believe I was
15 aware of at the time when we were having this meeting.

16 Q. Did you ask him?

17 A. I do recall asking him where his properties were.

18 Q. Refer to your notes and tell me where you made a
19 note, if ever, about where his properties were located.

20 A. I believe I wrote down Csm Drive at one point.
21 Let me see if I can find that.

22 Q. That's the property that he sold --

23 A. Yeah.

24 Q. -- a couple years ago --

25 A. That's on page 2-3. Lived in San Mateo, Csm

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1 apparently.

2 Q. What was that property worth?

3 A. How would I know that information?

4 Q. You didn't ask him. Correct?

5 A. Did I ask him how much what property is worth?

6 The property he was living in?

7 Q. The property that he told you he owned.

8 A. Well, wait a minute. What I did was I asked him
9 if he recalled what property he owned. And what I said is
10 exactly what he related to me in general terms, which is
11 that at some point he owned a couple properties and now he
12 recalled owning one.

13 Q. Right. There's no reference to where that
14 property is located?

15 A. Correct.

16 Q. What was that property worth?

17 A. I didn't ask him that question.

18 Q. Okay. What was the mortgage owing, if any, on
19 that property?

20 A. I don't know.

21 Q. How was that property titled?

22 A. I'm not sure.

23 Q. Was it in his trust?

24 A. I can't recall.

25 Q. You didn't ask him?

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1 **A. I don't recall asking him if his house was titled**
2 **to his trust but I did ask him if he had a trust.**
3 Q. Okay. We'll get to that in a few moments. So
4 what about accounts at financial institutions.
5 Where did James Ho have accounts with financial
6 institutions?
7 **A. I'm not sure.**
8 Q. You didn't ask him?
9 **A. I asked him about his checkbook.**
10 Q. We'll ask about the checkbook in just a minute
11 but --
12 **A. Sure.**
13 Q. Oh, first of all, let's -- okay. Let's start
14 here. Where was that checking account maintained?
15 **A. I'm not sure.**
16 Q. What was the balance of that checking account?
17 **A. I don't know.**
18 Q. Okay. What other accounts did James Ho have
19 aside from that checkbook?
20 **A. To my knowledge, I'm not sure what other accounts**
21 **he may have had.**
22 Q. What other assets did James Ho own as of
23 August 21, 2017, apart from the house that he may have
24 told you about and apart from the checking account that he
25 pointed to?

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1 BY MR. CILLEY:
2 Q. So are you aware of any other assets that he
3 owned as of August 21, 2017?
4 **A. A general awareness.**
5 Q. Tell me the assets that he told you about or that
6 are reflected anywhere in your file.
7 **A. Well, I already told you that he told me he used**
8 **to own two cars, Corvette and Mercedes. And he said that**
9 **he believed he still owned the Mercedes. And that he said**
10 **he used to own two properties and now he believed he still**
11 **owned one. That he had a checkbook, checking and savings,**
12 **and that he had enough money to pay his bills and he**
13 **mentioned specifically his HMO bill. And he mentioned**
14 **expenses that he was reimbursing. So clearly there was**
15 **some cash in his account that he was using to reimburse**
16 **expenses.**
17 Q. And that was sufficient for your purposes?
18 **A. For what purposes?**
19 Q. That description of what you just said, what you
20 have just testified about, was sufficient for your
21 purposes in determining whether or not you could prepare a
22 certificate of independent review with regard to a
23 \$1.1 million transaction?
24 MR. FERGUSON: Objection.
25 THE WITNESS: Of course not. That's why I asked

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1 **A. Since I didn't require him to do an estate**
2 **planning inventory, I wouldn't possibly have the answer to**
3 **that question.**
4 Q. Okay. So was it relevant to you whether or not
5 he was giving away his last dollar?
6 MR. LOEW: Objection. Argumentative. Assumes
7 facts not in evidence.
8 THE WITNESS: That seems like it's a leading
9 question.
10 BY MR. CILLEY:
11 Q. Well, it is. It's --
12 **A. It requires -- it would require me to somehow**
13 **admit that he was giving away his last dollar which both**
14 **from our conversation and from knowledge from after the**
15 **conversation did not appear to be the case.**
16 Q. What about the conversation that you had with
17 James Ho on August 21, 2017, suggested to you that he
18 wasn't giving away his last dollar?
19 MR. LOEW: Objection. Vague and ambiguous.
20 THE WITNESS: He pointed to his checkbook and he
21 said that he was managing his transactions and he said
22 that he was paying his HMO bill. I believe he said it was
23 a couple hundred dollars a month. And he said that he was
24 reimbursing expenses to Debby for food and for other
25 things.

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1 additional questions beyond just the nature of his assets.
2 BY MR. CILLEY:
3 Q. What other questions did you ask him about his
4 assets?
5 **A. I can't recall specifically.**
6 Q. What were his sources of income?
7 **A. Well, after the meeting I believe I learned at**
8 **some point, and I'm not sure if I recall where I learned**
9 **it, but that he was renting out his -- a second property.**
10 Q. Where was that property located?
11 **A. I'm not sure if I recall.**
12 Q. You learned that after the meeting and you
13 learned it from somebody other than James Ho. Correct?
14 **A. I believe so.**
15 Q. Did he tell you that he had previously given away
16 an interest in a home in Southern California to Debby
17 Chang?
18 MR. LOEW: Objection. Lacks foundation.
19 THE WITNESS: No. He didn't mention any gift of
20 a property in Southern California.
21 BY MR. CILLEY:
22 **Q. Would that have been relevant if you knew that he**
23 **had previously given her an interest in a property in**
24 **Southern California?**
25 **A. Yes.**

29 (Pages 113 to 116)

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Q. Did Debby Chang ever refer to herself as James Ho's wife?

A. Not that I recall.

Q. Okay. Would it have been significant to you -- well, first of all, do you know if she was his wife?

A. I don't believe that she was.

Q. Okay. Would it have been significant to you if she represented herself to be his wife but when she was not in fact his wife?

A. It would have some significance.

Q. Okay. Do you have any knowledge from any source as to whether or not she ever represented she was his wife?

A. Not to my knowledge.

Q. Getting back to sources of income that may or may not have been available to James Ho, you mentioned that there was some reference to a rental property.

What other sources of income did he have?

A. I don't have any knowledge of other sources of income beside his rental property.

Q. Okay. So what did you do, if anything -- and you may not have done it, maybe that's your practice -- but what, if anything, did you do to determine whether or not he did in fact have income or assets available to him to meet his living expenses after he had given away

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Q. Okay. What did he tell you?

A. He said he used to own a couple houses and now he just owned one. He said he used to own a Mercedes and a Corvette, and he believed that he just owned the Mercedes. He said he had a checking and a savings. He had enough money to pay his bills. He went through his transactions. He leafed through his checkbook register, talked about his expenses being his monthly medical premium.

Q. That's the extent of the conversation that you had with him about his assets and his income. Correct?

A. That's correct.

Q. It appears that the -- strike that.

When you were discussing with him his not knowing what Debby did with the funds, did you tell him that you had previously been informed that they were used for the purchase of the 229 Fulton property?

A. Sorry. Can you break that down? When I was telling him what?

Q. When he told you he wasn't sure what Debby had done with the funds, what, if anything, did you tell him about what she had done with the funds?

A. Well, I told Mr. Ho, "Did you know that the house that you're living in is in Debby Chang's name?"

Q. Uh-huh. And what did he say in response?

A. Well, he sort of shifted in his seat. He said,

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\$1.1 million?

A. I didn't try to conclude one way or the other what amount of his living expenses were met by his current income or otherwise.

Q. Okay. You didn't consider that to be part of the scope of your services?

A. The scope of my services was limited to determining whether the gift that he had given, over a million dollars, was procured through undue influence by having a private meeting with him one-on-one. And based upon the content of that meeting that it was my opinion that he did not.

Q. It wasn't relevant to you, for purposes of the scope of your review, whether or not if after giving away \$1.1 million he had no money left to pay his living expenses? That's not something that you considered?

A. I wouldn't make a conclusory statement because something had not been asked that it would not be relevant.

Q. Okay. Well, why wouldn't you ask him what his other assets were in order to determine what the gift -- the relevance of the gift that he was proposing or that he was -- you were there talking to him about was in relation to his overall estate?

A. I did ask him what his assets were.

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"Well, if that's what she wanted to do, that's fine with me. That's her money."

Q. And that was the extent of it?

A. No. I asked him details about where did the money come from. And he said it was he sold his house in Foster City. And I said, "Where did you put the proceeds of the money?" And he said, "I put them in an account," and he gestured to his checkbook. And then I asked about, "Well, how did the gift take place?" And, you know, again his checkbook and he said he went into a bank. So I asked questions about, "Well, was it a certified check, a transfer or regular check?" And it seemed to be he was saying it was a check and probably a certified check or maybe a wire transfer. But then he said, yeah, certified check. And -- sorry.

You were asking about whether I asked him what about the property in Debby Chang's name being on it? I lost track.

Q. I'll ask a new question.

A. Okay.

Q. Thank you for volunteering all of that, though. With respect to the check, he couldn't recall whether it was certified or just a normal check out of the checkbook?

A. No. I asked him what were the circumstances for him moving the money over --

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1 Q. My question is could he remember?
 2 A. I'm not sure what he was subjectively thinking in
 3 his head.
 4 Q. Okay. He told you that it may have been a
 5 certified check, may not have been. Correct?
 6 A. I asked him how he moved the money over to Debby
 7 and he gestured to his checkbook.
 8 Q. Okay.
 9 A. And then I said, "Was it a check?" And then I
 10 said -- he said, "Yes." I said, "Well, did you go to the
 11 bank? Could it have been a wire transfer?" And he said,
 12 "Yes." And I said, "Could it be a certified check?"
 13 Q. Did you constantly and repeatedly ask him leading
 14 questions like the ones that you've just recited on the
 15 record?
 16 MR. FERGUSON: Objection. It's argumentative.
 17 MR. CILLEY: It's not.
 18 THE WITNESS: I did not constantly ask him
 19 leading questions.
 20 BY MR. CILLEY:
 21 Q. Okay. Did you ask him those specific leading
 22 questions?
 23 A. I believe so.
 24 Q. Do you have an opinion as to whether or not it's
 25 appropriate to ask leading questions when you're trying to

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1 Power of Attorney?
 2 A. Yes.
 3 Q. And he told you that his son Peter was his agent?
 4 A. Yes.
 5 Q. And he told you that Peter was managing his
 6 assets?
 7 A. He said he was managing his assets and Peter was.
 8 Q. Okay. Did he tell you whose handwriting was in
 9 the check register that he had shown you?
 10 A. He didn't specifically talk about his own
 11 handwriting or whoever's it might have been.
 12 Q. Okay. So it would be fair to say that as you sit
 13 here today you don't know whose handwriting was reflected
 14 on the check register that -- where he was pointing to
 15 that you testified about earlier?
 16 A. I couldn't verify handwriting, no.
 17 Q. Okay. Did you ask him why his son was assisting
 18 with the management of his assets?
 19 A. I don't recall specifically asking him that
 20 question.
 21 Q. Okay. Do you recall specifically asking him what
 22 his son was doing in connection with the management of his
 23 assets?
 24 A. I asked him if he was helping out with his bills.
 25 Q. Okay. And was that it, that the extent of what

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1 ascertain one's ability to make decisions on their own
 2 behalf?
 3 A. I think if my meeting were entirely conducted
 4 with leading questions, it could potentially be
 5 inappropriate.
 6 Q. At the bottom of your notes on page 20, you
 7 indicate, "Peter has been managing funds."
 8 Do you see that?
 9 A. Yes.
 10 Q. What did Mr. Ho tell you about Peter managing his
 11 funds?
 12 A. Well, I asked Mr. Ho if he had estate planning
 13 documents. I asked him if he had a Power of Attorney, and
 14 I asked him who was his agent under his Power of Attorney,
 15 and he said it was his son, Peter Ho.
 16 Q. With regard to the estate planning documents, did
 17 you ever see any estate planning documents that were
 18 prepared for Mr. Ho?
 19 A. No.
 20 Q. With respect to the Durable Power of Attorney,
 21 did you ever see that?
 22 A. No.
 23 Q. With respect to him telling you that -- strike
 24 that.
 25 He did, however, tell you that he did have a

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1 you asked him?
 2 A. I don't recall specifically.
 3 Q. Okay. And what did he tell you about that?
 4 A. He said yes.
 5 Q. Okay. Did he tell you anything else?
 6 A. Well, the rest of the meeting content?
 7 Q. Obviously confining it to the scope of the
 8 preceding question. Did he tell you anything else about
 9 what his son was doing in connection with the management
 10 of his assets?
 11 A. Not that I recall at the moment.
 12 Q. Okay. Did you ever have a conversation with
 13 Peter Ho?
 14 A. Not that I recall.
 15 Q. Did you ever have a conversation with Della Ho?
 16 A. Who's Della Ho? Oh, the sister?
 17 Q. Yes.
 18 A. Not that I recall.
 19 Q. Did you ever have a conversation with --
 20 MR. HO: Shan-Yuan.
 21 BY MR. CILLEY:
 22 Q. -- Shan-Yuan?
 23 A. Not that I recall.
 24 Q. Did -- I'll come back to that.
 25 On the next page, at page 21 your notes say,

31 (Pages 121 to 124)

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1 "wrote a check for 1 million." Did Peter Ho tell you that
2 he had written a check for one -- I'm sorry.

3 Did James Ho tell you that he had written a check
4 for \$1 million?

5 **A. I believe so.**

6 Q. Okay. Okay. Then there's a note next to the
7 words living trust and there's a word I can't really read
8 under the word spouse.

9 Is that a word or what is that?

10 **A. I can't read my own handwriting there.**

11 Q. Okay. And your note says, "living trust with
12 spouse, requested a copy."

13 Who -- who are you referring to there as having
14 requested a copy.

15 **A. I'm not sure.**

16 Q. Okay. And did you ever request a copy of the
17 trust?

18 **A. I can't recall.**

19 Q. Do you know who the trustee of this trust was?

20 **A. No.**

21 Q. Did you ever ask him?

22 **A. I may have asked him in relation to Peter Ho
23 being his agent, but I can't recall specifically.**

24 Q. Okay. Did you ask him if the money -- or rather
25 the Foster City home that was sold was a trust asset?

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1 influence or lack of capacity.

2 Q. Did you ask him any questions that in your mind
3 were sort of specifically diagnostic?

4 **A. I'm not a doctor.**

5 Q. All right.

6 **A. So I couldn't say that it was diagnostic, but I
7 asked questions that in my own mind established a sense of
8 where he was and who he was, who the objects of his
9 affection were, that he had a basic understanding of what
10 his finances were.**

11 Q. Did you have an understanding as you were
12 undertaking this review whether or not the capacity
13 standard was testamentary capacity or the standard under
14 the due competency -- Due Process Competency Determination
15 Act?

16 **A. I think I made a clear determination in my mind
17 that he had testamentary capacity, and I had some
18 questions in my mind if he had the inability to manage
19 complex financial transactions.**

20 Q. Okay.

21 **A. But I believe he had a basic understanding of his
22 finances.**

23 Q. Which standard, if any, did you have in mind when
24 you were preparing the certificate of independent review?

25 **A. Lack of testamentary capacity.**

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1 **A. That it was titled to the trust prior to being
2 sold?**

3 Q. Yeah.

4 **A. No. I didn't ask him that specifically.**

5 Q. Well, would it have been relevant to you if, say,
6 for example, that Foster City home had been an asset of
7 the bypass trust of James Ho and his predeceased wife?

8 **A. Maybe yes, maybe not.**

9 Q. If it was in the bypass trust, there would have
10 been at least a possibility that it would have been
11 inappropriate for Mr. Ho to have given away the proceeds
12 from its sale. Correct?

13 MR. FERGUSON: Objection. That calls for
14 speculation.

15 BY MR. CILLEY:

16 Q. I said there's a possibility.

17 **A. There's a possibility. It could have been a
18 failure to properly administer the trust.**

19 Q. You didn't review the trust?

20 **A. No.**

21 Q. And you didn't review anything to determine
22 whether or not the Foster City property was ever an asset
23 of the trust?

24 **A. No. I was only reviewing whether I believed that
25 the specific transfer of funds was procured by undue**

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1 Q. Well, this --

2 **A. And lack of financial capacity. Both. I was
3 thinking of both of them.**

4 Q. Okay. At the bottom of page 21 there's a note
5 that says, "Debby never asks for money, feels that if have
6 had separate" -- strike that.

7 Can I ask you to please just read your notes
8 beginning with "Debby never asks for money."

9 **A. "Debby never asks for money, feels that if have
10 had separate in the beginning of relationship for James,
11 money is whatever is left."**

12 Q. Okay. And what did you mean by that?

13 **A. I'm not completely sure. But my recollection is
14 that I asked him if Debby was trying to pressure him into
15 giving him gifts and that he said no. She was not asking
16 him for money. And I also asked him if she -- he
17 understood that the money that he gave to Debby was not
18 going to go to his children. And he said, "Yes.
19 Absolutely. That's what I want."**

20 **Q. Let me ask you to turn to the next page,
21 page 22. And before I get there, would it be of -- would
22 it have been significant to your review and your meeting
23 with James Ho if Debby Chang had yelled at him immediately
24 before your meeting to have the meeting with you?**

25 **A. Yes.**

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<p style="text-align: center;">Page 129</p> <p>1 Q. Very significant?</p> <p>2 A. Yes.</p> <p>3 Q. Would it be significant to you if she had told</p> <p>4 him that she was going to leave him if he did not meet</p> <p>5 with you?</p> <p>6 A. Yes.</p> <p>7 Q. Would it be of significance to you if she had</p> <p>8 told him that she wanted him to tell you that the</p> <p>9 \$1.1 million was a gift?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Okay. At page 22 your notes say "monthly</p> <p>12 expenditures." And then under that it seems to say</p> <p>13 Mercedes and Corvette.</p> <p>14 Do you have any other notes indicating what he</p> <p>15 told you about his monthly expenditures?</p> <p>16 A. Besides my memorandum? No. And besides Beth's</p> <p>17 notes.</p> <p>18 Q. And he told you that he still had the Mercedes</p> <p>19 and that Debby had her own car?</p> <p>20 A. Yes.</p> <p>21 Q. At the bottom of page 22, it says, "Debby's home</p> <p>22 in the East Bay and Los Angeles, has at least two homes."</p> <p>23 Did James Ho tell you that?</p> <p>24 A. So this was a conversation regarding Debby's</p> <p>25 assets and what she did and what her -- and I believe --</p>	<p style="text-align: center;">Page 131</p> <p>1 Q. -- to stand on, that's fine.</p> <p>2 MR. LOEW: Objection. Argumentative. Objection.</p> <p>3 Stricken for the record. This is all badgering and</p> <p>4 harassing the witness --</p> <p>5 BY MR. CILLEY:</p> <p>6 Q. Anyway, you asked him what -- you asked him what</p> <p>7 Debby owned?</p> <p>8 A. Correct.</p> <p>9 Q. Did you ask him how Debby acquired the property</p> <p>10 in Los Angeles?</p> <p>11 A. No.</p> <p>12 Q. Did you ever learn that James had given her an</p> <p>13 interest in that property?</p> <p>14 A. No.</p> <p>15 Q. Would that be of significance to you?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Your notes go on to say, "only own one</p> <p>18 home, believes the street name is Sally Street."</p> <p>19 What is that referring to?</p> <p>20 A. I can't recall specifically.</p> <p>21 Q. So you don't know if that refers to a home that</p> <p>22 he, James Ho, owned or that Debby owned?</p> <p>23 A. Do you want me to guess?</p> <p>24 Q. No, I want you to tell me if you could recall.</p> <p>25 A. I can't recall.</p>
<p style="text-align: center;">Page 130</p> <p>1 well, this says specifically "Debby's home in the East Bay</p> <p>2 and Los Angeles, has at least two homes." So it appears I</p> <p>3 asked him what Debby owned.</p> <p>4 Q. So you asked him what Debby owned but you didn't</p> <p>5 ask him what he owned?</p> <p>6 A. I did ask him --</p> <p>7 MR. LOEW: Objection. Argumentative.</p> <p>8 THE WITNESS: I did ask what he owned.</p> <p>9 BY MR. CILLEY:</p> <p>10 Q. Okay. You told me that he may have recalled</p> <p>11 owning one house and he pointed to a checkbook and that's</p> <p>12 the extent --</p> <p>13 MR. FERGUSON: Objection. Misstates testimony.</p> <p>14 THE WITNESS: That wasn't my testimony. As I</p> <p>15 said -- I think this is now the fourth time I've said it.</p> <p>16 He said that at one point he owned two homes and currently</p> <p>17 he thought he owned one. And that he had a Mercedes and</p> <p>18 Corvette. He still had the Mercedes.</p> <p>19 Do you want me to continue repeating or would you</p> <p>20 like to read it in the prior testimony, transcript?</p> <p>21 BY MR. CILLEY:</p> <p>22 Q. I want to know what you asked him. It's</p> <p>23 ludicrously inadequate but if that's what you want --</p> <p>24 MR. FERGUSON: Objection.</p> <p>25 BY MR. CILLEY:</p>	<p style="text-align: center;">Page 132</p> <p>1 Q. Okay. There's a word under that to the lower</p> <p>2 left. Do you see what that -- It's the very last word in</p> <p>3 the left-hand corner of the page.</p> <p>4 A. No, I can't read it. It's been cut off.</p> <p>5 Q. And then the top page 23 your notes indicate that</p> <p>6 children all have their own houses?</p> <p>7 A. Yes. I asked him about whether he wanted to</p> <p>8 leave the over \$1 million to his children and he said,</p> <p>9 "No. They all have enough money. They are all doing</p> <p>10 their own things. They all have their own houses."</p> <p>11 Q. You next indicate that lived in San Mateo Csm,</p> <p>12 looks like, Drive for 30 plus years.</p> <p>13 Did he tell you why he sold that property?</p> <p>14 A. What property is that?</p> <p>15 Q. The San Mateo property.</p> <p>16 A. I never established whether or not he owned</p> <p>17 specifically a Csm Drive property, but that was my</p> <p>18 assumption that he said he lived in a property on Csm</p> <p>19 Drive for over 30 years with his wife.</p> <p>20 Q. Did he tell you why he sold it?</p> <p>21 A. No.</p> <p>22 Q. You reference a Mr. Foster below where it says,</p> <p>23 "First lived on a very nice street, same as Mr. Foster."</p> <p>24 Who is that?</p> <p>25 A. You know, I'm not sure. He lived in Foster City.</p>

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1 So maybe he was referring to the founder of Foster City
2 but that's just a guess.

3 Q. All right. Now, there's the name "Debby" in the
4 left-hand portion of approximately the middle of this
5 page.

6 Do you see that?

7 A. Yes.

8 Q. Now, does this represent notes that you began to
9 take after you -- after Debby came into the meeting?

10 A. So I actually left the meeting and went and asked
11 around the house for Debby to come in. And she came in
12 and joined us and the three of us sat at the table. And
13 at that point, yes, I started keeping this portion of the
14 notes.

15 Q. And you understand that Debby was the transferee
16 in connection with the certificate of independent review
17 that you were contemplating doing on behalf of James Ho?

18 A. Yes.

19 Q. And yet you met with her the very same day that
20 you met with James Ho?

21 A. That's correct.

22 Q. And you actively sought her out to meet with her?

23 A. Correct.

24 Q. And all of the prior contact that you had ever
25 had in connection with this certificate of independent

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1 A. I think she said plus 67,000.

2 Q. Okay. And then your notes indicate said, "Once
3 she sells the house, she would pay it back." Is that
4 correct?

5 A. I can't read that. It does look like the word
6 pay.

7 Q. Okay. But he wouldn't -- or he wanted to make it
8 an outright gift?

9 A. "He wanted to make an outright gift."

10 Q. Okay. When you originally met with James Ho, he
11 wasn't aware of the fact that Debby had used the
12 \$1.1 million to purchase the home. Correct?

13 MR. LOEW: Objection. Calls for speculation.

14 THE WITNESS: I'm not sure what he was aware of
15 specifically.

16 BY MR. CILLEY:

17 Q. Go back to your notes, it specifically states and
18 you testified that he didn't know that she had used the
19 money for that purpose?

20 A. Actually, I believe if you want go back on the
21 deposition transcript, I was asking him if he knew that
22 Debby's name was on title for the home. And he said if
23 that's what she did with the money, that's fine.

24 Q. Okay.

25 A. So whether that indicates knowledge or lack of

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1 review had come from Mr. Oesterle, all the contact prior
2 to August 21st of 2017?

3 A. Well, I think that -- was it Rita? I think she
4 was copied on some e-mails. Although, I don't think she
5 contacted me specifically.

6 Q. Okay. So all of your contact prior to August 21,
7 2017, was from Debby Chang's daughter or her daughter's
8 partner, Mr. Oesterle. Correct?

9 A. No. I spoke with James Ho over the phone prior
10 to coming and meeting with him.

11 Q. I said prior to August 21st.

12 A. That's prior to August 21st -- oh, the day of our
13 meeting? Or prior to our meeting or prior to that day
14 specifically?

15 Q. Prior to that day, August 21st.

16 A. Correct.

17 Q. Okay. And on the very day that you met with him,
18 you also actively sought out and met with the transferee --

19 A. Absolutely.

20 Q. -- Debby Chang?

21 A. Absolutely.

22 Q. Okay. And Debby Chang told you that the gift was
23 actually \$1.1 million, not \$1 million?

24 A. I wrote down the words gift was \$1.1 million.

25 Q. And then she told you plus, looks like, 60K?

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1 knowledge, I'm not sure. That's just what he said.

2 Q. At page 20 of your notes you write "Not sure what
3 Debby did with the funds."

4 A. Correct.

5 Q. Page 24 your notes indicate, "gave \$1,500 for one
6 month."

7 What does that mean?

8 A. I believe that's referring to the reimbursements
9 that he was making for expenses.

10 Q. Who was he reimbursing? What are you
11 referencing?

12 A. Well, I asked Debby questions and also James Ho
13 questions in our meeting prior as to whether or not he had
14 been compensating Debby Chang in any way.

15 Q. Okay.

16 A. And he said that she'd buy groceries and he would
17 pay her here and there. And then I, seeking to
18 corroborate that through my second meeting with Debby
19 Chang, asked her those same questions.

20 Q. Okay.

21 A. And then she filled in the details.

22 Q. And the detail that she filled in is that he had
23 given her a check for \$1500 and then stopped?

24 A. That's what I wrote down.

25 Q. Okay. Neither James Ho or -- or Debby Chang told

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1 you that he had given her any other remuneration for what
2 she was doing for him?

3 **A. Can you repeat that?**

4 Q. Yeah. Neither of them told you that he was
5 giving her -- giving her any other funds aside from the
6 \$1,500 specifically referenced in your notes?

7 **A. I can't recall specifically.**

8 Q. Would it have been significant to you if he had
9 been giving her funds beyond the \$1,500 that was
10 referenced?

11 **A. Yes. That's why I asked him if he was being
12 asked to -- or to give additional funds to her.**

13 Q. Okay. Would it be significant to you if he had
14 been writing checks to her for tens of thousands of
15 dollars?

16 **A. Yes.**

17 Q. Just to go back to the estate planning documents
18 for a moment, is it accurate that you never at any point
19 in time saw any of Mr. James Ho's estate planning
20 documents?

21 **A. Yes.**

22 Q. Okay.

23 **A. Well, prior to I believe your petition being
24 filed or admittance.**

25 Q. Okay. Did you review the petition that was

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1 **A. No.**

2 Q. Did either James Ho or Debby Chang ever tell you
3 that James Ho had written a check to Debby Chang for
4 \$3,500 on July 10, 2017?

5 **A. No.**

6 Q. Did either James Ho or Debby Chang ever tell you
7 that James Ho had written a second check to Debby Chang on
8 July 10, 2017, in the amount of \$3,000?

9 **A. No.**

10 Q. Did either James Ho or Debby Chang ever tell you
11 that James Ho had written numerous checks for cash in
12 amounts of \$10,000?

13 **A. They didn't reference specific amounts except for
14 the 1500.**

15 Q. Did you ever review any of James's medical
16 records?

17 **A. No.**

18 Q. Did you ever ask to talk to any of his doctors
19 about his medical condition?

20 **A. No.**

21 Q. What did you know about -- strike that.

22 What were you told about his medical condition on
23 August 21, 2017?

24 **A. August 21st? You'll have to give me some
25 context. Was that the day of my meeting?**

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1 filed?

2 **A. I skimmed it.**

3 Q. Okay. Why did you do that?

4 **A. I was curious.**

5 Q. Why were you curious?

6 **A. Well, I think it mentions me in there. So I
7 wanted to see what was said.**

8 Q. Okay. When did you review or skim the petition?

9 **A. I think it was -- I can't recall the specific
10 date. It must have been a year ago.**

11 Q. Did either Debby or James ever tell you that
12 James had written Debby a check for \$5,000 in April of
13 2016?

14 **A. No specific mention of a \$5,000 check.**

15 Q. Did either James Ho or Debby Chang ever tell you
16 that James Ho had written a check for \$10,000 to Debby
17 Chang on September 1, 2016?

18 **A. No.**

19 Q. Did either James Ho or Debby Chang ever tell you
20 that Debby -- or rather that James Ho had written a check
21 for \$3,000 to Debby Chang on January 8, 2017?

22 **A. No.**

23 Q. Did either James Ho or Debby Chang ever tell you
24 that James Ho had written a check for \$10,000 to Debby
25 Chang on February 19, 2017?

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1 Q. Yes. That was the date of your meeting.

2 **A. So I asked James how he felt and he said he had
3 headaches, he was going in for some treatments, and aside
4 from that he felt fine. I asked Debby and she told me
5 that he had been diagnosed with a kind of bone [sic]
6 cancer. It's hard to pronounce but meningioma and that he
7 was receiving radiation treatment.**

8 Q. Do you know if he had any sort of diagnosis of a
9 cognitive decline --

10 **A. No.**

11 Q. -- prior to August 21st?

12 **A. Not to my knowledge.**

13 Q. Do you know if he had received results of
14 numerous MRIs that indicated brain swelling prior to
15 August 21st?

16 **A. Not to my knowledge.**

17 Q. Okay. Can you read for me the -- your notes at
18 the bottom of page 24? It looks like the first note is
19 15th.

20 **A. 15th August started in Thanksgiving. He felt
21 badly. Doctor could not make a diagnosis. Debby's
22 daughter wrote to the doctor. Next day James went to --
23 went in for bone biopsy. And then it cuts off.**

24 Q. Were you ever made aware of the fact that James
25 had an MRI done on February 16, 2017, which demonstrated

35 (Pages 137 to 140)

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substantial swelling in his brain?

A. Not that I recall.

Q. Okay. Were you ever made aware that that MRI was the day before James and Debby signed an agreement to purchase the 229 Fulton Street property?

A. So are you saying that Debby and James signed a purchase agreement? You're asking me to comment on that?

Q. Are you --

A. Because I was not aware of a purchase agreement.

Q. Okay. Okay. Fair enough. Is it also fair that you were not aware of the MRI?

A. Yes.

Q. Nobody ever told you about that?

A. Not that I recall.

Q. Okay. Next page, page 25, you say around February 2017 James made a gift of \$1.1 million. That's information that Debby had relayed to you?

A. Yes.

Q. Okay. And then your notes also indicate he went to the bank to get a -- is that cashier's check?

A. Yes.

Q. And Debby told you that?

A. Yes.

Q. And then below the figure \$60,000 there's some notes that I can't read. Can you read that? The first

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the words that she must have said.

Q. You don't know what that -- as you sit here today, you don't know what your notes mean?

A. Well, I think that they mean that she was telling me that he was paying rent, and then I do recall asking her, "Well, why would you require him to pay rent?" That doesn't really make a lot of sense. And then she said, "Well, it's reimbursement for the expenses of the house."

Q. And then you say parenthetically, only paid one time --

A. Yes.

Q. -- correct? And lower your notes indicate 2.235 million, 1.1 million down payment. Was that in reference to the acquisition of the 229 Fulton property?

A. I believe so. Although, it does say above that has a property in Los Angeles and one in El Cerrito, but I believe that it was the Fulton property because it's the same amount of the down payment as the amount of the gift.

Q. Then on the next page there's a note, "Son added father's name to deed to get lower property tax bill."

Does that reflect your communications or your conversation with Debby?

A. Yes.

Q. It was Debby that told you that and not James. Correct?

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word appears to be "he was."

A. "He was having problems."

Q. Okay. What were the problems that he was having?

A. I'm not sure.

Q. Okay. Were they medical problems? Cognitive problems?

A. I'm not sure.

Q. Then it says, Debby unaware that gave? Is that --

A. That appears to be the word gave.

Q. So did Debby tell you that she was unaware that James had made that purported gift?

A. Maybe that says James. Debby unaware that James, but I can't recall what specifically her sentence was.

Q. And then there are notes where Debby tells you "James currently owns a rental property 272 Booth Ave."

A. Yes.

Q. And that's information that Debby told you?

A. Yes.

Q. And you wrote it down. Okay. And then your notes say, Every month James pays 3,500 month for rent, paren, only paid one time.

So can you explain what you meant by that?

A. I'm not sure. I wrote down every month James pays 3,500 month for rent, only paid one time. Those were

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A. Yes.

Q. Okay. And do you have any knowledge from any source as to when James's son did that?

A. No.

Q. Did you ask?

A. I don't recall asking.

Q. Do you know if it was -- well, strike that.

Do you know if --

A. Can I clarify that I know it must have been after he sold his house in Foster City. So to some extent I do know it would have been within the last year prior to our meeting.

Q. Okay. What else did Debby tell you about that transaction?

A. She said that James Ho really loved her son -- his son Peter and that he had a very close relationship, but he didn't want to make his son sad and he didn't want to talk about that with me. So it was unlikely that he would mention anything about it. And she didn't want to bother James Ho about it.

But she felt that Peter Ho was really smart, very intelligent and that he had a plan and that he wanted to save on tax dollars. And she said that she had called Peter Ho and said she didn't feel comfortable about having this gift made to her. She wanted to put her name and his

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1 name on the title but that Peter Ho had told her that --
2 no, keep his name off of the title.

3 Q. Okay. Did she say when she had supposedly had
4 this conversation with Peter Ho?

5 A. No.

6 Q. Okay. So I appreciate what you just volunteered
7 about titling with respect to the Fulton property, but my
8 question had to do with the property tax issues insofar as
9 James Ho's name being added to Peter Ho's home.

10 A. Right.

11 Q. What did she tell you, if anything else, aside
12 from what you've already testified about that transaction?

13 A. Well, I asked her why he would do something like
14 that.

15 Q. Uh-huh.

16 A. And I don't recall specifically how the
17 conversation played out, but I do recall either asking her
18 whether it had to do with property taxes. And I believe I
19 may have been speculating at the time or she volunteered,
20 I can't recall which, that Peter Ho may have done it in
21 order to transfer over a senior citizen property tax basis
22 to himself.

23 Q. Okay. And she told you that James Ho would not
24 be comfortable discussing this with you because of his
25 love for his son Peter?

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1 conclusion.

2 Q. Okay. So you asked yourself that question with
3 respect to the savings that would result from this
4 property tax basis transaction that Debby told you about,
5 but you didn't think that the \$1.1 million that was
6 purportedly gifted to Debby was worthy of the same type of
7 consideration as to whether or not it might be the product
8 of elder abuse?

9 MR. FERGUSON: Objection. It's argumentative and
10 misstates testimony.

11 THE WITNESS: Actually, I did ask myself whether
12 or not there was elder abuse. That's the purpose for why
13 I was there, whether that gift was procured by undue
14 influence. That's why I was asking the questions that I
15 did.

16 BY MR. CILLEY:

17 Q. Okay. I'd like to direct your attention to page
18 39. And 39 is page 4 of 5 of the memo that you prepared
19 on August 24, 2017. And I'd like to direct your attention
20 to the bottom paragraph. And you indicate that you had
21 discussed a certificate of independent review with James,
22 and James asked you how much it would cost and how long it
23 would take you.

24 Do you see that?

25 A. No.

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1 A. Correct.

2 Q. And so is it fair to say that the information
3 that you have about that transaction came from Debby?

4 A. Yes.

5 Q. Okay. Now, you surmised or perhaps speculated
6 that the reason James Ho or Peter Ho may have done that is
7 to save some amount of property taxes by transferring his
8 father's property tax basis. Correct?

9 A. That was my assumption.

10 Q. Okay. Do you have any information that would
11 lead you to conclude what the savings -- the tax savings
12 would be?

13 A. Yes. Just anecdotally that because James Ho was
14 very old and he had told me he lived in this property for
15 over 20 years that it would be a very low property tax
16 basis.

17 Q. Okay. So and -- so what's the property tax rate
18 in the county where this transaction would apply?

19 A. It's 1 percent state plus special assessments.

20 Q. Okay. So approximately 1.25 percent roughly?

21 A. On the property tax assessed value.

22 Q. You ultimately conclude later that may have
23 somehow or another been inappropriate or may have been
24 elder abuse?

25 A. I asked myself the question. I didn't make the

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1 Q. Page 39, bottom paragraph.

2 A. Oh, right.

3 Q. And then James said that he did not have -- and
4 then you indicate -- strike that.

5 You then said that -- "I showed him my engagement
6 letter."

7 Did you do that?

8 A. Yes.

9 Q. As of that point in time, the engagement letter
10 had not been signed. Correct?

11 A. Correct.

12 Q. So when you say you showed him your engagement
13 letter, was that an engagement letter that you brought
14 with you to the meeting?

15 A. Yes.

16 Q. Okay. And then you indicate that he said that he
17 did not -- or he didn't have his reading glasses. So he
18 couldn't read it at the moment.

19 Is that an accurate statement?

20 A. Yes.

21 Q. He told you those things?

22 A. I don't recall specifically but I trust what I
23 put down in my memo.

24 Q. Would it be fair to say that what you did in your
25 memo which was contemporaneous with your meeting separated

37 (Pages 145 to 148)

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1 by only three days --
 2 **A. Right.**
 3 Q. -- is a more accurate depiction of what occurred
 4 or account of what occurred than your memory now would be?
 5 **A. Most likely.**
 6 Q. Okay. He then said or your notes say rather --
 7 or your memo says, "He then said, "I'd like you to go over
 8 this with Debby."
 9 **A. Right.**
 10 Q. Did he tell you that?
 11 **A. Yes.**
 12 Q. And did you go over it with Debby?
 13 **A. No.**
 14 Q. **So your notes then say, or your memo says, "At**
 15 **this time James was starting to look tired. So I agreed**
 16 **we should end the meeting."**
 17 Did that happen?
 18 **A. Yes.**
 19 Q. You observed that he was starting to look tired?
 20 **A. Yes.**
 21 Q. And you and he agreed to end the meeting?
 22 **A. I believe that I left him the engagement**
 23 **agreement and then went outside to go seek -- to bring in**
 24 **Debby and debrief with her.**
 25 Q. Okay. So after you had this exchange with James

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1 that we had just gone through, you went outside of the
 2 room that you were in and --
 3 **A. Yes.**
 4 Q. -- you actively sought out Debby?
 5 **A. Yes.**
 6 Q. Okay. Then in your memorandum you state, I left
 7 him with the agreement -- the engagement agreement for his
 8 later review.
 9 **A. Yes.**
 10 Q. Did you do that?
 11 **A. Yes.**
 12 Q. Okay. And was that the last time that you
 13 discussed the agreement with him that day?
 14 **A. Yes.**
 15 Q. Okay. And he did not sign the agreement in your
 16 presence?
 17 **A. No.**
 18 Q. Okay. You then had the portion of your meeting
 19 on August 21st where Debby was present that you testified
 20 about earlier. Correct?
 21 **A. That's correct.**
 22 Q. So you went out, found Debby, and she came into
 23 the room that you and James had previously been meeting
 24 in. Correct?
 25 **A. Yes.**

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1 **Q. And that portion of your meeting that day lasted**
 2 **approximately half an hour?**
 3 **A. Yes.**
 4 **Q. And James fell asleep for a portion of that part**
 5 **of the meeting?**
 6 **A. That's right.**
 7 Q. The last interaction that you had with James
 8 regarding your engagement agreement was when he asked you
 9 to go over it with Debby?
 10 **A. Correct.**
 11 Q. Turn to page 27 if you would. Can you tell me
 12 what this is?
 13 **A. It's a check for 637 with James F. Ho's name on**
 14 **the upper left. It's written out to John C. Martin for**
 15 **\$2,000.**
 16 Q. Do you know whose handwriting the name John C.
 17 Martin is?
 18 **A. I don't have the ability to recognize**
 19 **handwriting. So, no.**
 20 Q. Okay. So would it be fair to say that you don't
 21 know if this is James Ho's handwriting?
 22 **A. I couldn't verify that for you, no.**
 23 Q. Would it also be fair to say that you couldn't
 24 verify that this is his signature?
 25 **A. No.**

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1 Q. No, you cannot verify that this is his --
 2 **A. No. I cannot verify that that's his signature**
 3 **besides that it looks the same as the signature on his**
 4 **engagement agreement.**
 5 Q. But you weren't present when he signed the
 6 engagement letter. Correct?
 7 **A. Yes.**
 8 Q. And I believe you indicated earlier that this
 9 check was mailed to you?
 10 **A. That's my recollection.**
 11 Q. Turn to page 28 through 30 if you would. This is
 12 an executed copy of your engagement letter with James Ho;
 13 is that correct?
 14 **A. Yes.**
 15 Q. And again you weren't present when he signed
 16 this?
 17 **A. Correct.**
 18 Q. And this was returned to you via mail?
 19 **A. That's my recollection.**
 20 Q. All right. Turn to the next page, 31, what is
 21 page 31?
 22 **A. It's an initial client contact form.**
 23 Q. And do you recognize the handwriting?
 24 **A. No.**
 25 Q. Do you know whose handwriting this is even though

38 (Pages 149 to 152)

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1 you can't recognize it?
 2 **A. No.**
 3 Q. Do you know when this was completed?
 4 **A. I would assume it was completed 8/21/17 since**
 5 **that's the date that's up above.**
 6 Q. Did you bring this document with you to the
 7 meeting with James Ho?
 8 **A. I don't believe so.**
 9 Q. Did you take it with you from the meeting with
 10 James Ho?
 11 **A. No.**
 12 Q. What is the custom and practice within your
 13 office with respect to the completion of this document?
 14 **A. When we have an initial consultation scheduled,**
 15 **my assistant Jackie attaches an initial client contact or**
 16 **sends one in the mail, depending on the way we were**
 17 **communicating with the potential client.**
 18 Q. So do you know if this document had been
 19 completed by the time that you arrived at James Ho's house
 20 on August 21, 2017?
 21 **A. I'm not sure.**
 22 Q. Just don't know one way or another?
 23 **A. No.**
 24 Q. Okay. Turn to pages 32 through 35. And these
 25 are Beth's notes?

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1 **A. Well, I think that, if my recollection is**
 2 **correct, girlfriend did call but spoke with our assistant**
 3 **and then put James on the phone and then I spoke with him.**
 4 Q. And then girlfriend Debby Chang called back --
 5 sorry. The notes later say, girlfriend called back said
 6 would see in hour?
 7 **A. Well, you skipped a line that said, "He seemed**
 8 **articulate and well spoken," but then it does say**
 9 **girlfriend calls back -- called back said would see in**
 10 **hour.**
 11 Q. Do you know if there's a recording of exactly
 12 what the two of you discussed that day?
 13 **A. There's not a recording.**
 14 Q. Are you certain of that? Would it be fair to say
 15 if there is a recording you don't know what the contents
 16 of the recording is?
 17 **A. That's correct.**
 18 MR. FERGUSON: Objection as to who. Vague as
 19 to --
 20 MR. CILLEY: The conversation he had with James
 21 Ho.
 22 THE WITNESS: If there was a recording, I had no
 23 knowledge of it.
 24 BY MR. CILLEY:
 25 Q. Do you have any knowledge from any source as to

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1 **A. Correct.**
 2 Q. Okay. And these are notes that she took after
 3 you debriefed her following your meeting with James Ho?
 4 **A. Yes.**
 5 Q. I take it that in this debriefing you weren't
 6 telling her specifically what to write. You were just
 7 generally recounting what happened?
 8 **A. Yes.**
 9 Q. And were you doing that just by memory or with
 10 use of your notes or some combination of the two things?
 11 **A. I can't recall.**
 12 Q. Okay. And in the top center it says, "GF Debby
 13 Chang." Do you see that?
 14 **A. Yes.**
 15 Q. GF, does that -- those initials refer to
 16 girlfriend?
 17 **A. Probably.**
 18 Q. Okay. And her notes say in approximately the
 19 middle of the page, girlfriend called, saved 3:30, you
 20 aren't here.
 21 Do you know what that relates to?
 22 **A. No.**
 23 Q. Okay. But she indicates that the girlfriend
 24 called regarding a 3:30 appointment. Do you have any
 25 reason to dispute the accuracy of that note?

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1 whether or not Peter Ho or any of the siblings suspected
 2 that Debby may have been abusing their father?
 3 **A. Well, I don't specifically have any reason to**
 4 **connect any particular belief of abuse besides that the**
 5 **context of calling me up to review a transaction indicates**
 6 **a concern that that could be an accusation leveled.**
 7 Q. Do you have any knowledge from any source as to
 8 whether or not there were recordings of Debby's abuse of
 9 James Ho?
 10 **A. I have no such knowledge.**
 11 Q. At the bottom of Beth's notes she says, "Deficits
 12 - doesn't know name of street," and she's again writing
 13 down what you were telling her.
 14 What was that in relation to? Which street?
 15 **A. I recall that I asked him the name of the street**
 16 **that he lived on and he couldn't recall that it was Fulton**
 17 **Street.**
 18 Q. And then she says, again taking notes from your
 19 conversation, "Thought owned house." Was she referring to
 20 your having told her that James thought that he owned the
 21 house?
 22 **A. Uh-huh. Yes.**
 23 Q. Okay. At the middle of the next page, page 33,
 24 it says, "prob had ability to make valid inter vivos
 25 gift." She again is recording your conversation with her.

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1 Did you tell Beth that he probably had ability?
 2 **A. I don't recall all the specific words that I**
 3 **used.**
 4 Q. Well, do you have any reason to believe that she
 5 would inaccurately record what you were telling her?
 6 **A. I don't believe this is designed to be an**
 7 **accurate recording of everything I told to her.**
 8 Q. Why were you telling this to Beth? Did Beth
 9 prepare the memorandum that we discussed a few moments
 10 ago?
 11 **A. I think she did start the memorandum and then I**
 12 **finished it.**
 13 Q. How many different drafts or versions of that
 14 memorandum are there?
 15 **A. Well, I think that the only version that we have**
 16 **in the file is the one that's been produced. So I can't**
 17 **recall specifically what number -- I don't think we have**
 18 **any drafts that are labeled as drafts, if that's an answer**
 19 **to your question.**
 20 Q. This was in August of 2017. Do you still have
 21 the same computer system that you had in August of 2017?
 22 **A. Yes.**
 23 Q. Would you be able to provide us with what I
 24 understand -- I may be getting this wrong -- but a native
 25 version of that document so we can check metadata to

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1 determine what changes were made?
 2 **A. I don't know what that means.**
 3 Q. Well, we'll explore that. In any event, do you
 4 know if there were changes made to the draft between the
 5 version that Beth prepared and the version that was
 6 ultimately reproduced and provided as a document in
 7 response to the subpoena?
 8 **A. Yes.**
 9 Q. Okay. And do you have a recollection of what
 10 those changes were?
 11 **A. No.**
 12 Q. Okay. Please turn to page 34. And I'm just
 13 using Beth's first name because her last name is --
 14 **A. Sure.**
 15 Q. -- difficult to pronounce. In any event, Beth
 16 states again writing down what you were telling her, "She
 17 started explaining Foster City house gross if saved, if he
 18 wants her to stay he needed new house."
 19 Is she -- is she recounting there what you were
 20 telling her that James and/or Debby had told you?
 21 **A. Well, she wrote these notes while she was talking**
 22 **with me. I don't know if she was taking something down**
 23 **verbatim or just writing her own notes.**
 24 Q. Okay. Okay. Then she writes, He said I have
 25 dollar signs to buy. Correct?

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1 **A. Well, I guess we can assume that's a Y. It looks**
 2 **like sort of like a U, doesn't it?**
 3 Q. I'm assuming it's -- I'm assuming it's buy. If
 4 you read it differently, I'm certainly --
 5 **A. It's hard to read. She again then says buy a few**
 6 **lines down. It's a little bit different Y. And then she**
 7 **says, "She said we can buy it together."**
 8 Q. Then her notes go on to say, "She said," she
 9 being Debby --
 10 **A. Uh-huh.**
 11 Q. -- "son told her not to put house in dad's name."
 12 **A. Correct.**
 13 Q. And, again, that was the sort of end of the
 14 conversation that you had with Debby or at least the
 15 notes --
 16 **A. Uh-huh.**
 17 Q. -- that reflect that she told you about the son
 18 Peter having maybe used his dad's property tax basis and
 19 also told you that Peter had ostensibly told her not to
 20 put the Foster City home in her father's name -- his
 21 father's name, rather?
 22 **A. You mean the Redwood City home?**
 23 Q. The Redwood City home. Thank you.
 24 **A. Yes.**
 25 Q. Okay. Turn to page 35 and Beth's notes say, "Ho

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1 said he will just give it to her. She said she didn't
 2 want to take it." Is that in reference to the Foster City
 3 home -- or I'm sorry -- the Redwood City home?
 4 **A. Sorry. What page are you on?**
 5 Q. I'm on page 35.
 6 **A. "GF said saved you loan and I'll pay back. Ho**
 7 **said will just give it to her. She didn't want to take**
 8 **it."**
 9 Q. Did Debby Chang ever tell you why she changed her
 10 mind?
 11 **A. Changed her mind about what?**
 12 Q. Taking the property.
 13 **A. Taking the property? Taking title to the**
 14 **property?**
 15 Q. Yeah.
 16 **A. Well, I asked Debby about the title of the home,**
 17 **about the payments that Mr. Ho was making to her. She had**
 18 **mentioned the 3500, the 1500 that are in my notes. And**
 19 **then she spoke about how Peter Ho had asked her not to add**
 20 **James's title to the house. Is that what you are**
 21 **referring to?**
 22 Q. Yes. Thank you. Did James Ho ever tell you that
 23 Peter Ho had asked him not to put his own name on the
 24 Redwood City home?
 25 **A. No. Nor, do I have any knowledge that Peter Ho**

40 (Pages 157 to 160)

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1 asked James Ho that question.
 2 Q. Debby told you specifically, irrespective of what
 3 questions James Ho asked Peter --
 4 Peter Ho -- strike that.
 5 James Ho never told you that Peter had asked that
 6 James's name not be placed on the Redwood City property?
 7 A. That's my recollection, yes.
 8 Q. Now, again referring to Beth's notes at page 35,
 9 she writes, Girlfriend thinks son may try to set aside.
 10 Did Debby tell you that she thought Peter might
 11 try to set aside the gift?
 12 A. I don't recall her using those words.
 13 Q. Okay. What did she tell you that you relayed to
 14 Beth that caused her to make this note?
 15 A. I don't recall the specific words I relayed to
 16 Beth. Debby told me that she thought Peter Ho was very
 17 smart, very capable and that he had a plan in mind, that
 18 he wanted to keep it out of James's name on purpose but
 19 that he felt he could deal with it later.
 20 Q. Okay. Her notes indicate, "Ho no ability to
 21 manage finances." Did Debby Chang tell you that?
 22 A. No.
 23 Q. Did James Ho tell you that?
 24 A. No.
 25 Q. Why did you relate that, if you related that to

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1 A. To clarify, I think she started working on it as
 2 a letter.
 3 Q. Okay.
 4 A. And then I went in and changed the format to a
 5 memorandum.
 6 Q. Okay. Did you make any other changes aside from
 7 just that formatting change?
 8 A. I added my own personal recollections.
 9 Q. So in paragraph 2 the first full sentence says,
 10 "At the same time, it appears that Peter Ho, James Ho's
 11 son, has obtained an undue benefit from James Ho
 12 transferring James Ho's property tax basis from the sale
 13 of his Foster City home for Peter Ho's sole use and
 14 benefit."
 15 Okay. And that again is based upon what Debby
 16 told you. Correct?
 17 A. Correct.
 18 Q. Okay. And then it says, "It also appears that
 19 Peter Ho may be attempting to use intimidation and fear to
 20 control James Ho's actions."
 21 What is that statement based upon?
 22 A. Well, two different things: One, it was during
 23 the lead up to the meeting. Peter Ho called to cancel his
 24 father's meeting, and when I spoke to James Ho over the
 25 phone, he was very disturbed that Peter Ho had done that.

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1 Beth?
 2 A. I don't believe I did relate it to her.
 3 Q. Do you have any understanding as to why it's in
 4 her notes?
 5 A. She wrote the notes, not me.
 6 Q. Okay. Then the notes say, "may be easily
 7 influenced."
 8 MR. LOEW: Objection. Misstates what the
 9 document says.
 10 BY MR. CILLEY:
 11 Q. Well, does it appear that it says, "may be easily
 12 influenced" to you?
 13 A. There's a hyphen and the words "may be easily
 14 influenced."
 15 Q. Did you tell Beth that James may be easily
 16 influenced?
 17 A. I probably did.
 18 Q. Turn to pages 36 through 41 again. This is your
 19 memorandum regarding the certificate of independent
 20 review, is that correct?
 21 A. Yes.
 22 Q. And this document was initially prepared by Beth?
 23 A. Yes.
 24 Q. And then subsequently -- subsequently reviewed
 25 and edited by you?

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1 And he said, "Absolutely not." Let's have our meeting."
 2 And I said, "Could I come by at four?"
 3 And then also when we first started our meeting,
 4 I said, "I'm so sorry that there was some confusion around
 5 the time of our meeting. Your son called our office to
 6 cancel it." And he was very upset that that had happened.
 7 Q. Uh-huh.
 8 A. And I asked him, "Do you still want to meet with
 9 me?" And he said, "Yes."
 10 Q. Okay. You refused to meet with James Ho later in
 11 the month of August when he was at your office, didn't
 12 you?
 13 A. I don't know what you mean.
 14 MR. FERGUSON: Objection.
 15 BY MR. CILLEY:
 16 Q. You're -- you're aware of the fact that James Ho
 17 was taken to your office later in the month of August
 18 after your meeting with him, are you not?
 19 A. Yes.
 20 Q. And I believe that was on August 28th, if I'm not
 21 mistaken.
 22 A. It may have been.
 23 Q. You refused to meet with him; is that right?
 24 A. I don't believe so. I think I may have either
 25 been in another meeting or not even in the office.

41 (Pages 161 to 164)

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Q. But you were told that he would wait all day for a few moments to speak with you?

A. I don't recall specifically.

Q. Okay. You had your assistant, Ms. Alioti, come out -- Alioto come out to tell them that you were unavailable to meet at all that day?

A. I'm not sure if I did talk to Ms. Alioto.

Q. Okay.

A. I don't recall.

Q. Are you aware that she came out and met with them on the sidewalk outside of your office saying that you would not meet with him?

A. I don't recall that. If Ms. Alioto did that, that's possible.

Q. Are you aware of the fact that Peter Ho contacted you or called you to try to discuss what was -- what you had done on behalf of his father?

A. I don't recall.

Q. Are you aware that his sister called you on three separate occasions to try and determine what you had done on behalf of her father?

A. I don't remember.

Q. Turn to page 37, please. And the fourth full paragraph down, the first sentence says, quote, I then asked James if I knew why -- or rather if he knew why I

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Q. In addition to not knowing the date, he didn't know his address. Correct?

A. He didn't know the street that he lived on. Can I have another water, please?

MR. CILLEY: Sure. Actually, can we go off the record. Do you want to take a break? We've been at it for a few minutes.

THE WITNESS: Sure.

THE VIDEOGRAPHER: This marks the end of Media No. 2 in the deposition of John Martin. The time is 2:28 p.m.

(Whereupon, a brief recess was taken.)

THE VIDEOGRAPHER: This marks the beginning of Media No. 3 in the deposition of John Martin. The time is 2:38 p.m.

BY MR. CILLEY:

Q. Mr. Martin, are you aware of the circumstances surrounding Debby Chang's purchase of 229 Redwood City -- or Foster Ave. -- Fulton Ave., rather, Redwood City property?

MR. LOEW: Objection. Vague and ambiguous.

THE WITNESS: Yes. Can you specify what you mean?

BY MR. CILLEY:

Q. Sure. Do you know when the property was

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was there. James said, quote, I think it may be about the gift that I gave to Debby.

Was that the first time that -- does that reflect what he told you when you first asked him why you were there?

A. What do you mean by first asked why I was there?

Q. Let me --

A. Did I ask that multiple times?

Q. Is -- is this an accurate statement, he told you I think it may be about the gift to Debby?

A. He said those words more or less to me, yes.

Q. He didn't tell you, for example, you're here because I asked you to be here or anything to that effect?

A. Over the phone he said he wanted me to be there.

Q. But when you asked him at the house, he said I think it may be about the gift that I gave to Debby. Correct?

A. Yes.

Q. Okay. The last paragraph on this page, the second to last sentence you say, "However, he did not know the current date."

Is that -- do you mean to say he did not know the date that you met with him?

A. I asked him what the number date was and he couldn't recall.

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purchased?

A. Well, I've seen the grant deed.

Q. Have you seen any other documents in connection with the purchase aside from the grant deed?

MR. LOEW: Objection. Vague and ambiguous.

THE WITNESS: What sort of documents?

BY MR. CILLEY:

Q. Any other document. Any --

A. My notes -- my notes refer to the purchase. My memo refers to the purchase.

Q. Anything other than things you have created, documents that you created?

A. Well, I looked at his checkbook, Mr. Ho's.

Q. Anything else?

A. Not to my knowledge.

Q. Okay. Let's refer to your memo, page 39. The first paragraph, second sentence you indicate, "He seemed to think that he currently owned this house. So I asked him whether he knew that Debby's name alone was on title." Is that accurate?

A. Well, I wrote that sentence. Is that what you mean?

Q. Did you do that? Did you ask him if he knew that Debby's name was alone on title?

A. Yes.

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1 Q. And then you indicate, "He indicated if that's
2 what she did he was fine with that."
3 Is that what he told you?
4 **A. Yes.**
5 Q. And then you go on to state a few sentences after
6 that, "He said he didn't know what she had done with the
7 million dollars since it was her money now."
8 Is that accurate, did he tell you that?
9 **A. Yes.**
10 Q. And then you go on to state or your memo goes on
11 to state, "I asked what he meant by this and he said that,
12 'Well, the gift of the million dollars was in the past.
13 So there's nothing that can be done about it now.'"
14 Is that accurate? Did he tell you that?
15 **A. More or less.**
16 Q. Did you -- did you advise him that he could ask
17 that the money be repaid?
18 **A. Indirectly, yes.**
19 Q. Did you say that directly?
20 **A. I did not say the words, did you know that you
21 could get this repaid.**
22 Q. Turn to page 40, please. The beginning of the
23 first full paragraph on this page indicates that James
24 fell asleep while you were meeting with he and Debby.
25 What portion of that 30-minute meeting did he

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1 **specifically. That's why I put it down in my notes and
2 this memo.**
3 Q. So at the bottom of the second paragraph you
4 indicate, "She said that James did not want to trouble his
5 son about this matter and she did not want to get between
6 the two of them."
7 And that's in reference to the property tax issue
8 that we talked about earlier. Correct?
9 **A. Yes. And I think other things.**
10 Q. So you never actually confirmed any of this with
11 James, did you?
12 **A. I didn't have the chance to. I wanted to.**
13 Q. Right. But you didn't?
14 **A. I sent him a letter saying that I had deep
15 concerns and I wanted to get in touch with him.**
16 Q. Okay. My question is did you ever confirm this
17 with James? Yes or no?
18 **A. He never confirmed it with me, no.**
19 Q. And you never confirmed it with him?
20 **A. I sought to confirm it.**
21 Q. But you didn't?
22 **A. It was never confirmed.**
23 Q. Despite that lack of confirmation and despite the
24 fact that the information came solely from the transferee
25 of the gift that was the subject of your certificate of

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1 sleep through?
2 **A. I don't have a specific proportion.**
3 Q. The bottom of that paragraph you indicate, "She
4 expressed that she had been worn out caring for James over
5 the past several months and that it had been very
6 difficult."
7 Did she tell you that?
8 **A. Yes.**
9 Q. What specifically did she tell you that she had
10 been doing for James?
11 **A. Well, I can't recall at this point when I learned
12 information, whether it was at that meeting or now I've
13 read different things, but I do recall asking James what
14 Debby did during our meeting, about her cooking food over
15 the 20 years that he had known her and doing shopping and
16 driving her around.**
17 Q. Him around you mean?
18 **A. Driving him around. Correct. And then I was
19 seeking to corroborate that with Debby --**
20 Q. Uh-huh.
21 **A. -- during our 30-minute meeting.**
22 Q. My question -- besides from all the information
23 that you volunteered, my question was what did Debby tell
24 you?
25 **A. Well, I don't recall our conversation**

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1 independent review, you used that information as the basis
2 for expressing your concerns that Peter Ho might be undue
3 influencing his father?
4 **A. Actually, if you look at the deposition
5 transcript, I referred to my conversation with James Ho
6 specifically where he called me and expressed concern that
7 his son had canceled his meeting. And at the beginning of
8 our meeting, I'm repeating myself now, that he had said he
9 was disturbed that his son had gotten in the way of the
10 meeting. I expressed my apology. So it was also what he
11 said. By no means was it solely what Debby had told me.**
12 Q. But the information about this purported property
13 tax transaction came solely from Debby, the purported
14 transferee?
15 **A. The property tax information solely from Debby.**
16 Q. Okay. And also the person who we claim is the
17 undue influencer in this case?
18 **A. You claim that Debby is the undue influencer?**
19 Q. Yes.
20 **A. Yes.**
21 Q. Please turn to page 42. What is exhibit -- or
22 page 42, rather?
23 **A. Looking at a letter dated August 24, 2017, the
24 subject line is Certificate of Independent Review,
25 California Probate Code Section 21384 and it's addressed**

43 (Pages 169 to 172)

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1 to James Ho.

2 Q. James Ho never told you in person or over the
3 telephone specifically that he wanted you to prepare a
4 certificate of independent review; is that correct?

5 A. No. That's not correct.

6 Q. The last time you had a conversation with him
7 about your engagement, he said that he wanted you to talk
8 to Debby. Correct?

9 A. Regarding the check --

10 Q. Regarding the --

11 A. -- and the engagement agreement?

12 Q. Yes.

13 A. Is that what you mean?

14 Q. Yes.

15 A. I think he said he wanted to go over it with
16 Debby were his words.

17 Q. Your memo says, "He then said, 'I'd like you to
18 go over this with Debby.'"

19 A. Oh, you're correct.

20 Q. He never had -- strike that.

21 He never told you face-to-face that he wanted you
22 to go forward with the certificate of independent review,
23 did he?

24 A. He did.

25 Q. You're certain of that?

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1 A. It looks like an envelope with stamps.

2 Q. And please turn to page 44. Is this the invoice
3 that you submitted or generated for services on behalf of
4 James Ho?

5 A. Yes.

6 Q. And it indicates that you met with client and
7 reviewed documents on 8/21. Correct?

8 A. Correct.

9 Q. Okay. And then on 8/24 there's an entry,
10 drafting letter of independent review BFC. Is that Beth?

11 A. Correct.

12 Q. Okay. And then that same day you revised the
13 letter and certificate; is that correct?

14 A. Correct.

15 Q. And Beth spent one hour drafting the letter of
16 independent review, which you ultimately -- which you
17 testified rather ultimately became the memo?

18 A. Yes.

19 Q. And you spent 2.5 hours revising the letter and
20 also preparing the certificate --

21 MR. FERGUSON: Objection. That's not what it
22 says.

23 BY MR. CILLEY:

24 Q. Oh, 2.3. I'm sorry?

25 A. No. We have 2.3 billing units but I spent more

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1 A. When we were meeting I said, "Do you know why I'm
2 here?" And he said, "It's about the gift transaction to
3 Debby." And later in my meeting I said, Well, there's one
4 thing I could do for you. I can draw up a document that
5 perhaps would make it -- and I'm paraphrasing it -- but it
6 would document that in my opinion the gift that you made
7 was not the product of undue influence or lack of
8 capacity.

9 Q. Then you started talking about your engagement
10 and he told you to discuss the engagement with Debby?

11 A. Well, he nodded in agreement. That's what he
12 wanted me to do.

13 Q. To discuss the --

14 A. No. That he wanted me to prepare the document.

15 Q. He nodded in agreement?

16 A. Yes.

17 Q. That's what you based your belief that he wanted
18 the certificate of independent review to be done on the
19 fact that he nodded?

20 A. I didn't use legalese, certificate of independent
21 review. I think I said I can draw up a document that says
22 my understanding based on my review and, yes, he nodded.
23 And I did interpret his nod as him saying yes.

24 Q. Okay. Let me ask you to turn to page 43, if you
25 would. What's page 43?

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1 time than that.

2 Q. Okay. What's a billing unit?

3 A. Billing unit is hourly rate and since we had
4 capped -- and time that you would multiply your hourly
5 rate by, and since I had agreed one-on-one with James to
6 cap my fees at \$2,000, I eliminated the time that we
7 billed -- I limited the time that we billed Mr. Ho to
8 \$2,000.

9 Q. But you didn't agree with Mr. Ho. You discussed
10 your fee agreement and he told you talk to Debby?

11 A. I said if you wish, I can cap my fees.

12 Q. Okay.

13 A. And he nodded.

14 Q. Okay. Was that before or after he told you that
15 talk to Debby about your engagement letter?

16 A. I think it was probably before.

17 Q. Please turn to page 46. This is your certificate
18 of independent review; is that correct?

19 A. Yes.

20 Q. All right. This certificate of independent
21 review relates only to the \$1.1 million transaction.
22 Correct?

23 A. That's all it refers to.

24 Q. You did not undertake any review of any other
25 gifts or transfers that James Ho ever made to Debby Chang.

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<p style="text-align: center;">Page 177</p> <p>1 Correct?</p> <p>2 A. That's correct.</p> <p>3 Q. Okay. Please turn to page 47. This is an</p> <p>4 envelope to the Law Offices of John C. Martin.</p> <p>5 Do you know what was enclosed within this</p> <p>6 envelope?</p> <p>7 A. I can't recall.</p> <p>8 Q. Okay.</p> <p>9 A. It might be later in the document production.</p> <p>10 Q. Please turn to page 48. Can you tell me what</p> <p>11 page 48 is?</p> <p>12 A. This appears to be a letter written by James Ho,</p> <p>13 his signature looks similar to the check and the</p> <p>14 engagement agreement he signed.</p> <p>15 Q. Okay.</p> <p>16 A. And it says, Dear Mr. Martin, please provide my</p> <p>17 son, scratch mark, Peter Ho a copy of my estate planning</p> <p>18 documents. And then I can't read the writing and then it</p> <p>19 says, promptly and promptly is misspelled.</p> <p>20 Q. How did you receive this note?</p> <p>21 A. I can't recall.</p> <p>22 Q. Do you have any reason to dispute that it was</p> <p>23 hand delivered to your office August 28, 2017?</p> <p>24 A. Well, one question I had was whether it was in</p> <p>25 this envelope that was attached, but I think my</p>	<p style="text-align: center;">Page 179</p> <p>1 your office.</p> <p>2 A. Oh.</p> <p>3 Q. Is there any reason why you were happy to speak</p> <p>4 with Rita Chang and/or Reinhard Oesterle before you met</p> <p>5 with James Ho --</p> <p>6 A. I don't think I --</p> <p>7 Q. -- but you wouldn't speak to his own children?</p> <p>8 A. I don't think I did speak with Rita Chang. Do</p> <p>9 you mean Debby Chang?</p> <p>10 Q. Debby Chang.</p> <p>11 A. Well, Debby Chang was living in the same home</p> <p>12 that James Ho lived in for over 30 years.</p> <p>13 Q. Rita Chang was -- Rita Chang was on a</p> <p>14 conversation that you had with Reinhard at the very</p> <p>15 beginning of this whole process.</p> <p>16 A. I don't recall speaking with her specifically.</p> <p>17 She was copied on the e-mails that we sent back and forth.</p> <p>18 Q. But yet you wouldn't speak with James Ho's own</p> <p>19 children?</p> <p>20 A. Well, the meeting, which is very common for</p> <p>21 estate planning and administration, was facilitated by a</p> <p>22 relative-in-law of Mr. Ho. That's extremely common for</p> <p>23 elderly adults. Sometimes they have trouble hearing on</p> <p>24 the phone, sometimes they have trouble handling online.</p> <p>25 You know, somebody's who's in their early 80s, it's</p>
<p style="text-align: center;">Page 178</p> <p>1 recollection is that, as you were saying earlier, that</p> <p>2 Mr. Ho came with his son and dropped off a letter and said</p> <p>3 that they were going to wait. That was what you said.</p> <p>4 Q. Okay.</p> <p>5 A. So it could have been he dropped it off at that</p> <p>6 time.</p> <p>7 Q. Okay. I'll represent to you that James Ho's</p> <p>8 daughter Shan-Yuan Ho called you after your meeting with</p> <p>9 James Ho on August 21st of 2017.</p> <p>10 Do you have any recollection of her having</p> <p>11 called?</p> <p>12 A. Vaguely, I think that my assistant said that</p> <p>13 there had been calls --</p> <p>14 Q. Okay.</p> <p>15 A. -- coming in from family members.</p> <p>16 Q. Let me correct that statement. She called your</p> <p>17 office.</p> <p>18 A. Okay.</p> <p>19 Q. And I'll further represent to you that you did</p> <p>20 not talk to her.</p> <p>21 A. Correct.</p> <p>22 Q. You told her that her father -- or she was told</p> <p>23 rather her father would have to show up at your office.</p> <p>24 A. Who said that to her?</p> <p>25 Q. Somebody at your -- either you or somebody at</p>	<p style="text-align: center;">Page 180</p> <p>1 extremely likely that they would have somebody</p> <p>2 facilitating their meeting.</p> <p>3 Q. Who is the relative-in-law?</p> <p>4 A. I think Dr. Oesterle is Debby Chang's son-in-law.</p> <p>5 Correct?</p> <p>6 Q. No.</p> <p>7 A. Debby Chang's son-in-law?</p> <p>8 Q. No.</p> <p>9 A. Well, anyway, I'm not sure what his precise</p> <p>10 relationship is, but my understanding was that she was</p> <p>11 somehow related to him in-law.</p> <p>12 Q. Okay. So your understanding is that whether or</p> <p>13 not he was an in-law, he was facilitating the meeting on</p> <p>14 behalf of Debby Chang?</p> <p>15 A. On behalf of Mr. Ho.</p> <p>16 Q. Well, he wasn't represented -- related to Mr. Ho</p> <p>17 in any way.</p> <p>18 A. Well, I didn't know anything one way or the other</p> <p>19 at the time when he contacted our office. I had virtually</p> <p>20 no information at that point.</p> <p>21 Q. So again this -- my question started with, you</p> <p>22 know, asking you about your reluctance to speak to James</p> <p>23 Ho's own children and comparing that and contrasting it</p> <p>24 with your seeming -- your willingness to talk to Oesterle</p> <p>25 and to Debby Chang -- and to Rita Chang?</p>

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A. Do you want me to list the reasons why I was reluctant to talk to them?

Q. Yeah. What -- what, if anything, had you been told about either of Mr. Ho's daughters that would cause you to be reluctant to talk about them? Because there's nothing in your file.

A. Well, we received a phone call. I'm not sure what the timeline is but first of all -- and the context being that Peter Ho I knew had been picking up --

Q. Not Peter Ho. The daughters.

A. Hold on. That Peter Ho had been picking up his father's --

Q. Well, respond to my question. You can volunteer whatever you want when you're -- you're asked questions by your own lawyer. Okay?

My question was what had you been told about Mr. Ho's daughters that would cause you to believe there would be anything wrong with speaking to them?

A. My understanding was all three of the children had taken possession of their father and that he was no longer residing with Debby.

Q. And how did you come to that understanding?

A. Debby Chang called our office following my meeting with Mr. Ho.

Q. Okay. When did she call your office?

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Q. His -- James Ho's daughter.

A. I don't recall.

Q. Did you ever have a conversation with Della Ho?

A. I don't recall.

Q. Did you ever have a conversation with Peter Ho?

A. I don't recall.

Q. All right. Do you have any recollection whatsoever about having either informed personally or having had somebody from your office inform Shan-Yuan Ho that she needed to take James Ho to your office if she wanted -- or he wanted to speak with you?

A. No.

Q. Okay. Are you aware that he did travel to your office on August 28th of 2017?

A. That's what I gathered.

Q. Okay. And you may have gathered that through my questions. Do you have personal knowledge of the fact that that occurred?

A. I didn't see him there.

Q. Okay. Do you have a recollection of having been told by your secretary or your assistant Ms. Alioto that that happened?

A. I remember talking to her after the fact.

Q. Okay. And what do you mean by after the fact?

A. I remember having a conversation with her that

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A. I can't remember. I can't remember the specific date.

Q. Why is there no notes regarding that meeting or that phone call from Debby Chang?

A. I don't believe I kept notes of the meeting.

Q. Okay. Are you aware of the fact that Debby Chang called Peter Ho's wife and specifically told her that she was no longer able to take care of James Ho and that she was planning on taking a vacation to Taiwan and Los Angeles?

A. I do vaguely recall seeing that in your previous counsel's petition.

Q. Are you aware of the fact that there's a voicemail to that effect or a message?

A. No.

Q. So you're not aware that a couple days after your ostensibly neutral meeting and certificate of independent review there's a message, a voicemail message saying that she was essentially taking off to go on vacation and she could no longer look after James Ho?

A. How would I be able to comment on something I haven't heard?

Q. Did you ever have a conversation that you can recall with Shan-Yuan Ho?

A. Who is Shan-Yuan Ho?

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family members had been calling and had even come by our office while I was indisposed and that she didn't know what to do about it, and she was very concerned about Mr. Ho.

Q. How long did -- you discussed a conversation or a phone call from Debby Chang that took place after you met with she and Mr. Ho on August 21st.

How long did that phone conversation last?

A. It was very brief.

Q. And what's -- do you recall what date?

A. No.

Q. At some point in time she returned letters that you had previously sent to James Ho; is that correct?

A. Yes.

Q. Okay. When did she do that?

A. What did she do that?

Q. When did she do that?

A. When?

Q. Yeah.

A. I can't recall but I would assume it's in the file.

Q. Okay. Do you know how she went about doing that?

A. By mail.

Q. Okay. In your -- is there a copy of the envelope that she sent those documents in?

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1 A. It could be one of the envelopes that's copied
2 here. I can't recall which envelope corresponds to which
3 return. Maybe it's the one that -- that could be the
4 invoice.
5 Q. Okay. Turn to page 49 and page 50, please. What
6 is this? What is this document?
7 A. This appears to be a piece of notepad paper
8 and -- excuse me -- there's a note that says: Mr. Martin,
9 this is Debby Chang, James Ho's friend. I'm sending you
10 all the letters back to you because I still have no chance
11 to talk to James Ho after he left with his son Peter Ho
12 from my house on August 23, '17. His son has asked to --
13 want me to keep going?
14 Q. Please.
15 A. -- have the letter you mailed to my house but I
16 don't feel comfortable to give to him. Even the son has a
17 Power of Attorney from his father. I'm not sure his Power
18 of Attorney has enough power to do anything. Sorry for
19 the inconvenience. Debby Chang.
20 Q. Did she send this before or after your phone call
21 with her?
22 A. I can't recall.
23 Q. Does anything in this note refresh your
24 recollection as to when it was that she returned the
25 letters that you had previously sent?

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1 him? That's your client. He's making a request.
2 A. Well, it was my -- and I wasn't sure about this
3 at the time, but based upon the call that I had received
4 with Debby and, again, I don't remember the specific date,
5 I had concerns that Mr. Ho was being held against his
6 will.
7 Q. So, again, it was based upon information that
8 came from Debby?
9 A. Correct. But I also had a desire not to
10 facilitate any kind of undue influence or elder abuse.
11 Q. Would you please turn to page 54. And there's an
12 e-mail on August 29, 2017, from Peter Ho to you.
13 Do you see that?
14 A. Yes.
15 Q. Could you please read the first full paragraph of
16 that e-mail to yourself?
17 A. Dear Mr. Martin --
18 Q. Just to yourself.
19 A. Oh, to myself. Okay.
20 Q. Do you dispute the accuracy of anything that's
21 set forth in that paragraph?
22 A. I have no basis to dispute anything specifically.
23 Q. He concludes this e-mail by saying, "My father
24 does not know what legal work you performed for him and
25 does not have any copies of any work product."

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1 A. Well, there doesn't appear to be a date.
2 Probably was after August 23, '17. That's the only date
3 that's referenced.
4 Q. Okay. Did you ever have a discussion with her
5 about her having indicated she wanted to leave and go on
6 vacation?
7 A. No.
8 Q. The next page in your file is page 51 and this is
9 a letter from you to James Ho; is that correct?
10 A. Yes.
11 Q. Okay. And you indicate to him that, "Our office
12 does not have any of your estate planning documents.
13 Therefore, we have nothing to give to Peter."
14 A. Yes.
15 Q. Why didn't you include the certificate of
16 independent review? Your client was asking for it?
17 A. I already sent him the certificate of independent
18 review, did I not?
19 Q. That had been returned?
20 A. Well, I'm not sure what the date of this letter
21 is returning it.
22 Q. And even if they had been returned --
23 A. It could have come afterwards.
24 Q. Even if the certificate of independent review had
25 been mailed to him, why wouldn't you provide documents to

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1 Do you have any reason to dispute the accuracy of
2 that sentence?
3 A. Yes.
4 Q. Did you do anything to confirm with your client
5 that he had questions about what you had done for him?
6 A. Yes.
7 Q. What did you do to confirm with James Ho that he
8 was aware of what you had done for him after receiving
9 this e-mail from Peter Ho?
10 A. I prepared a follow-up letter for what was going
11 to be an in-person meeting with James Ho where I would in
12 person go over my concerns with him.
13 Q. Uh-huh.
14 A. And ask him -- sorry. Go ahead.
15 Q. I'm sorry. Please continue.
16 A. I wanted to know what was going on.
17 Q. Okay. So you sent him a letter?
18 A. I started preparing a letter. I'm not sure if it
19 ever got sent.
20 Q. Okay. So I have a question about when and when
21 you do not believe the attorney-client privilege applies
22 somehow or another to mailed documents or e-mailed
23 documents.
24 Because you indicated early on in this when
25 talking to Reinhard that you could not e-mail a proposed

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1 fee contract. Why -- why do you say that?

2 **A. Well, I had concerns that perhaps Reinhard was**
3 **unduly influencing Mr. Ho. So I wanted to have complete**
4 **independence and I wanted to give the engagement agreement**
5 **directly to him.**

6 Q. Okay. So somehow or another you differentiated
7 the oral communications and e-mail communications that you
8 were having with Reinhard from an unsigned draft fee
9 agreement which you were going to send to James Ho who was
10 ostensibly going to become your client?

11 MR. LOEW: Objection. Misstates testimony.

12 THE WITNESS: What do you mean by differentiate?

13 BY MR. CILLEY:

14 Q. Well, you were having extensive contact with
15 Reinhard. You talked to him over the telephone and
16 there's multiple, multiple e-mails.

17 Why did the proposed fee agreement, which is
18 unsigned and contain the terms of, you know, what you had
19 been asked to do by Reinhard, why did that somehow or
20 another become confidential to the point that you were
21 uncomfortable sending it via e-mail?

22 **A. Well, I saw Reinhard's e-mails to me as**
23 **logistical and lining up a time when I would meet with**
24 **him, but, of course, I did have concerns about Reinhard.**
25 **So I wanted to preserve the independence of our meeting**

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1 prepare this authorization?

2 **A. That and other things.**

3 Q. Okay. Who did you intend this authorization for?

4 **A. So I can't recall exactly how I formed this**
5 **impression, but somehow I believe that there was going to**
6 **be a time where I could meet again with Mr. Ho at my**
7 **office, whether that was organized through Peter Ho or**
8 **otherwise I can't recall.**

9 **But I do remember thinking there will be some**
10 **other opportunity where Peter Ho can schedule a time with**
11 **me, and my thought was I would be able to talk one-on-one**
12 **with him. And then I prepared this authorization with the**
13 **thought that it could be edited based upon what he**
14 **actually asked me to do.**

15 **But then I'd be able to follow up and make -- if**
16 **this was in fact correct, if he had verified what Debby**
17 **Chang said, then I'd be prepared right away to disclose it**
18 **to the authorities.**

19 Q. So if I'm not mistaken, you had meetings --
20 meetings with Debby to try to confirm what James Ho had
21 told you, at least insofar as the gift is concerned and
22 that type of thing. Correct?

23 **A. You used the word meetings in the plural?**

24 Q. Yeah.

25 **A. The only time that I met one-on-one with Debby**

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1 with Mr. Ho.

2 Q. Please turn to page 56. This is an authorization
3 to disclose information. Did you prepare this?

4 **A. Yes.**

5 Q. Okay. Why did you prepare this?

6 **A. I had gotten the e-mail from Peter Ho. And also**
7 **his attorney Ed Koplowitz --**

8 **Q. Okay.**

9 **A. -- contacted me and he asked me a series of**
10 **questions on what kind of documents I had. And I was very**
11 **categorical and refusing to give him any information and**
12 **was very uncooperative.**

13 **Q. You were uncooperative with --**

14 **A. Yes.**

15 **Q. -- Mr. Koplowitz?**

16 **A. Yes.**

17 Q. Okay. When did Mr. Koplowitz call you?

18 **A. I can't remember the specific date but it was**
19 **before the 31st, I believe.**

20 Q. Okay. And what was he asking you to the best of
21 your recollection?

22 **A. He wanted to know if I had done estate planning**
23 **documents for Mr. Ho, like a will or trust or agreement of**
24 **gift and if I had them in my file.**

25 Q. Okay. And so somehow or another that led you to

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1 **was immediately following my hour-and-a-half meeting with**
2 **James Ho for 30 minutes.**

3 Q. Well, whether it was one or multiple
4 communications, you did try to confirm with her what James
5 had supposedly told you about the gift. Correct?

6 **A. I wanted to corroborate what Mr. Ho said, yes.**

7 **Q. But you never made any sort of an effort to**
8 **corroborate and/or refute or run what Mr. Ho had told you**
9 **by any of his children?**

10 **A. Correct.**

11 Q. Okay. Page 57 of your file is a letter of
12 representation limited scope and this is a fee agreement
13 that you prepared. Correct?

14 **A. Yes.**

15 Q. On or about August 31?

16 **A. Yes.**

17 Q. James Ho did not ask you to prepare this
18 engagement letter, did he?

19 **A. No.**

20 Q. Who did?

21 **A. Nobody did.**

22 Q. You took it upon yourself?

23 **A. Based upon my understanding that we were going to**
24 **have an opportunity to meet again one-on-one for any**
25 **consulting that might be required.**

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1 Q. Okay. You indicate in this letter that you
2 prepared subsequent, as we discussed today, you've
3 requested a follow-up meeting to discuss your general
4 estate planning and personal care wishes.
5 You didn't discuss that with him that day
6 August 31, 2017, did you?
7 A. Sorry. What line is that?
8 Q. It's the -- one, two, three -- fourth down.
9 A. From what paragraph?
10 Q. First paragraph.
11 A. Subsequently as we discussed today -- so that was
12 me drafting in advance of a meeting where I was
13 anticipating I was going to discuss those matters with him
14 on that day.
15 Q. Why are you anticipating a meeting that day?
16 A. My thought was that I was going to meet with him
17 one-on-one and I wanted to be prepared with documents that
18 he could sign rather than go up and down my staircase.
19 Q. Why did you think that you were going to be
20 meeting with him that day?
21 A. You know, I can't recall specifically how I
22 formed this impression, but I think -- again, I can't
23 remember, but I think Peter Ho ultimately succeeded in
24 scheduling a meeting for his father to come back in our
25 office and then subsequently canceled it. But I might be

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1 incorrect on that. That's just -- I think that might be
2 what happened.
3 Q. Is it possible you prepared this as a result of
4 the conversation that you had with Debby Chang?
5 A. I don't believe so. Well, I think that there
6 were things that she said that influenced what I put in
7 this letter.
8 Q. The final paragraph on this first page says,
9 "However, it appears that Peter Ho recently took you
10 against your will from your home at 229 Fulton Street."
11 That was something that Debby Chang told you.
12 Correct?
13 A. Yes.
14 Q. That was your only source of information
15 regarding that -- that purported event?
16 A. Well, and that he appeared to have been with his
17 children alone without Debby.
18 Q. James Ho never signed this agreement that you
19 prepared?
20 A. Correct.
21 Q. Okay. Are you aware of whether or not James Ho
22 was ever a party to the purchase contract for the 229
23 Fulton Street, Redwood City property?
24 A. I'm not so aware.
25 Q. Let me show you what I'll have marked as

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1 Exhibit 2.
2 (Whereupon, Exhibit 2 was marked for
3 identification.)
4 BY MR. CILLEY:
5 Q. This is the first page of an agreement to occupy
6 after close of escrow signed by Debby Chang and James Ho
7 on February 17, 2017.
8 Do you see that?
9 A. I see the date, yes, and their signatures.
10 Q. Okay. Did James ever tell you he was actually on
11 the contract documents to purchase the property?
12 A. No.
13 Q. And you never saw this document?
14 A. No.
15 Q. Did you ever see any other documents in
16 connection with the purchase contract for the Fulton
17 property?
18 A. The grant deed.
19 Q. Okay. Other than the grant deed?
20 A. Not to -- that I can recall.
21 Q. Okay. And let me show you briefly what I'll have
22 marked as Exhibit 3.
23 (Whereupon, Exhibit 3 was marked for
24 identification.)
25 BY MR. CILLEY:

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1 Q. This is a document entitled "Seller Multiple
2 Counteroffer No. 1." And do you see that James and Debby
3 accepted counteroffer February 18, 2017, approximately the
4 lower third of the document?
5 A. I see paragraph number 7 and it appears to be two
6 signatures. I can't read the one that's above Mr. Ho's
7 but I do see James Ho's signature. It does look like
8 Chang right above his signature.
9 Q. Okay. Did you ever see this document before I
10 just showed it to you?
11 A. No.
12 Q. Did you ever discuss with either Debby Chang or
13 James Ho that they had accepted a counteroffer for the
14 acquisition of the Fulton Street property?
15 A. No.
16 MR. CILLEY: I'll have this document marked as
17 the next exhibit in order, Exhibit No. 4.
18 (Whereupon, Exhibit 4 was marked for
19 identification.)
20 BY MR. CILLEY:
21 Q. Exhibit No. 4 is -- it's actually two documents.
22 The first is an escrow trust receipt and the second is a
23 copy of a check that's at the bottom of the escrow trust
24 receipt.
25 First of all, did you ever see this escrow trust

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receipt?

A. No.

Q. And did you ever see the check or copy of the check that James Ho wrote to Old Republic Title Company for the acquisition of the Fulton property?

A. No.

Q. Did you ever discuss this specific check with James or with Debby?

A. What do you mean by this specific check?

Q. I'll withdraw the question.

Q. Did you ever discuss with James that he had written a check for the deposit for the purchase of the Fulton Street property?

A. For the deposit, no.

Q. You mentioned earlier that Debby never represented to you that she was James's wife. Correct?

A. Yes.

Q. And you also referenced that it would be of concern to you if she had misrepresented her status as his spouse?

MR. LOEW: Objection. Misstates testimony.

THE WITNESS: I think it would be significant and it could potentially cause me concern depending on the context.

MR. CILLEY: Okay. Let's have this document

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to Debby as husband?

A. Relationship to borrower husband.

Q. Yeah. And it's signed by James Ho and signed by Debby Chang.

A. Yes.

Q. Do you see that? Okay. It's signed on 3/9/17?

A. Yes.

Q. Okay. Have you ever seen this document before I just showed it to you?

A. No.

MR. CILLEY: Okay. I'll have this document -- I'll have this marked as the next in order, please.

(Whereupon, Exhibit 7 was marked for identification.)

BY MR. CILLEY:

Q. Have you ever seen Exhibit 7?

A. No.

Q. Okay. I'll represent to you that this is yet another document signed by Debby Chang referencing -- or wherein she references James as her husband.

Did you ever discuss with her whether or not she'd ever misrepresented herself as James's wife or he as her husband?

A. No.

Q. Do you recognize Debby's signature on this letter

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marked as the next in order, please.

(Whereupon, Exhibit 5 was marked for identification.)

BY MR. CILLEY:

Q. Have you ever seen Exhibit 5?

A. No.

Q. Okay. Do you have any idea who Geoffrey Garcia is?

A. No.

Q. You've never seen this document; is that correct?

A. That's correct.

MR. CILLEY: Okay. Let me have this next document which is entitled "Gift Letter" marked as the next in order, Exhibit 6.

(Whereupon, Exhibit 6 was marked for identification.)

BY MR. CILLEY:

Q. Have you ever seen Exhibit 6?

A. No.

Q. Exhibit 6 is a gift letter that states I, quote, we, James Ho have made a gift of \$67,050 and \$1,100,000 to the borrowers named below, and it goes on to state that the borrower is James -- or Debby Chang rather.

Do you see that this document lists Debby's relationship to the borrower as -- or James's relationship

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of explanation?

A. No.

Q. So these two letters, Exhibit 6 and 7, where Debby misrepresents herself as James's wife are dated March 9 and March 14 respectively. I would like to now show you a handwritten document dated March 20, which is approximately seven days after the later of those two letters that I just referenced.

(Whereupon, Exhibit 8 was marked for identification.)

MR. FERGUSON: This is 8?

MR. CILLEY: This is 8, yeah.

BY MR. CILLEY:

Q. Have you ever seen Exhibit 8?

A. No.

Q. Okay. This is a -- I'll represent to you a note from Debby to James Ho. It says, "I borrowed 1 million dollars from James Ho without interest, will return at appropriate time" dated March 20, 2017.

Have you ever seen this document?

A. No.

Q. Do you have any understanding as to why Debby would be calling the \$1 million a loan or stating that she borrowed it after the two purported gift letters?

A. Yes.

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<p>Page 201</p> <p>1 Q. What's your understanding?</p> <p>2 A. Well, she told me that she had talked with Peter</p> <p>3 and that she felt badly about the amount being a gift but</p> <p>4 that James Ho had insisted on it being a gift and that she</p> <p>5 wanted to add his name but Peter Ho said no, and she had</p> <p>6 suggested recharacterizing it as a loan.</p> <p>7 Q. I see. Do you consider yourself to be Debby's</p> <p>8 advocate?</p> <p>9 A. No.</p> <p>10 MR. CILLEY: I'll have this document marked as</p> <p>11 the next exhibit in order, Exhibit No. 9.</p> <p>12 (Whereupon, Exhibit 9 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. CILLEY:</p> <p>15 Q. Again, you indicated that you do not know who</p> <p>16 Geoffrey Garcia is; is that correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. At the third paragraph of this</p> <p>19 declaration, Mr. Garcia states under penalty of perjury</p> <p>20 that Ms. Chang also stated that James Ho was her husband.</p> <p>21 Do you have any reason to believe that Geoffrey</p> <p>22 Garcia is inaccurate when he recounts what he was told by</p> <p>23 Ms. Chang?</p> <p>24 A. I have no specific reason why he would be</p> <p>25 inaccurate in saying that.</p>	<p>Page 203</p> <p>1 this to anyone.</p> <p>2 Q. Okay. At the top there's a reference to Family</p> <p>3 Dental, what appears to be a fax number.</p> <p>4 Do you see that?</p> <p>5 A. No. Oh, I see the words partially blocked out</p> <p>6 Family Denta.</p> <p>7 Q. Yeah. It looks like there was a hole punch and</p> <p>8 the L was --</p> <p>9 A. Yes.</p> <p>10 Q. -- partially punched out.</p> <p>11 Does that mean anything to you?</p> <p>12 A. Family Dental? Well, maybe it's a dentist</p> <p>13 office.</p> <p>14 Q. I mean, I can guess as well that it's probably a</p> <p>15 dental office. But are you aware of a business where</p> <p>16 either Debby Chang or Rita Chang or Reinhard worked known</p> <p>17 as Family Dental?</p> <p>18 A. No, not to my knowledge.</p> <p>19 Q. Okay. Is that facsimile number at all</p> <p>20 significant to you?</p> <p>21 A. I see 650. So I guess it's the Bay Area.</p> <p>22 Q. Okay. Do you -- did you form the opinion in your</p> <p>23 interviews with James and Debby that James trusted Debby?</p> <p>24 A. Yes.</p> <p>25 Q. That he had confidence in her?</p>
<p>Page 202</p> <p>1 MR. CILLEY: Okay. Can we have this PRDS</p> <p>2 Addendum marked as the next exhibit in order.</p> <p>3 (Whereupon, Exhibit 10 was marked for</p> <p>4 identification.)</p> <p>5 BY MR. CILLEY:</p> <p>6 Q. Have you ever seen this document?</p> <p>7 A. No.</p> <p>8 Q. Okay. And did you ever discuss with Debby her</p> <p>9 request that James be removed from the purchase contract</p> <p>10 for the acquisition of the 229 Fulton Street property?</p> <p>11 MR. LOEW: Objection. Mischaracterizes the</p> <p>12 document.</p> <p>13 THE WITNESS: Yeah. What do you mean by purchase</p> <p>14 contract?</p> <p>15 BY MR. CILLEY:</p> <p>16 Q. I mean purchase contract as is referenced in the</p> <p>17 typewritten portion of the document that says, "James F.</p> <p>18 Ho to be removed from purchase contract."</p> <p>19 A. I never discussed this specific document with</p> <p>20 Debby Chang.</p> <p>21 Q. Did you ever discuss the fact that she e-mailed</p> <p>22 this to the real estate agent in order to have the change</p> <p>23 effectuated with regard to the titling of the Fulton</p> <p>24 Street property?</p> <p>25 A. I never discussed with Debby Chang her e-mailing</p>	<p>Page 204</p> <p>1 A. Yes.</p> <p>2 Q. That he relied upon her?</p> <p>3 A. He relied on her for cooking. So, yes.</p> <p>4 Q. And transportation?</p> <p>5 A. Yes, transportation.</p> <p>6 Q. And cleaning?</p> <p>7 A. I don't think I discussed cleaning specifically</p> <p>8 but the house was very clean.</p> <p>9 Q. Okay. So was James -- you said when you met</p> <p>10 James that he was -- he had a walker?</p> <p>11 A. That's correct.</p> <p>12 Q. Are you aware of the fact that at some point in</p> <p>13 time James was unable to get upstairs in the 229 Fulton</p> <p>14 Street home?</p> <p>15 A. No. I'm not specifically aware of that.</p> <p>16 Q. You don't know one way or the other?</p> <p>17 A. I don't know one way or the other.</p> <p>18 Q. Okay. Do you know if James was dependent upon</p> <p>19 Debby for transportation?</p> <p>20 A. He said that she drive -- drove him around --</p> <p>21 sorry. He said that she drove him around in the Mercedes.</p> <p>22 Q. Are you sure of that?</p> <p>23 A. I didn't verify it.</p> <p>24 Q. Okay. He said that, though?</p> <p>25 A. Correct.</p>

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1 **Q. Has anybody ever informed you that the Mercedes**
2 **that you referenced on multiple occasions and specifically**
3 **told me you yourself four different times was sold 15**
4 **years before you ever met James?**
5 **A. Nobody told me that.**
6 **Q. Okay. Is that significant to you in terms of**
7 **James's ability to remember or not remember things at the**
8 **time you met him?**
9 **A. If it's true, then it would have some**
10 **significance, yes.**
11 **Q. Well, wouldn't it be very significant that he had**
12 **sold a car 15 years before he met with you and yet told**
13 **you that he still owned it?**
14 **A. If that's the car that he's referring to, then,**
15 **yes.**
16 **Q. Is there anything that you could hear that would**
17 **cause you to not so tenaciously hold your opinion that**
18 **somehow or another Debby wasn't guilty of elder abuse?**
19 **MR. LOEW: Objection. Argumentative.**
20 **MR. CILLEY: I'll withdraw the question. I think**
21 **I'm done. Give me a few minutes and I'll be right back.**
22 **THE VIDEOGRAPHER: Let's go off the record. We**
23 **are off the record at 3:32 p.m.**
24 **(Whereupon, a brief recess was taken.)**
25 **THE VIDEOGRAPHER: We're back on the record at**

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1 3:37 p.m.
2 BY MR. CILLEY:
3 **Q. Okay. Mr. Martin, if you would do me a favor and**
4 **return to page 57 of your file. That's the first page of**
5 **your August 31st I'll just call it second fee agreement.**
6 **It says in the upper left-hand corner under the name James**
7 **F. Ho and his address (by hand delivery).**
8 **Was this ever hand delivered to anybody?**
9 **A. No.**
10 **Q. Okay. You -- did you just type that in, that**
11 **parenthetical, because you anticipated the possibility of**
12 **possibly hand delivering it?**
13 **A. I anticipated hand delivering it to James during**
14 **his meeting.**
15 **MR. CILLEY: Okay. Thank you. That's all I**
16 **have.**
17 **THE WITNESS: You are welcome.**
18 **MR. CILLEY: Thank you very much.**
19 **THE VIDEOGRAPHER: Off the record?**
20 **MR. LOEW: Yes. If we could, and then we can**
21 **switch -- switch up here, if it's all right.**
22 **THE VIDEOGRAPHER: We are off the record at**
23 **3:38 p.m.**
24 **(Whereupon, a brief recess was taken.)**
25 **THE VIDEOGRAPHER: We're back on the record at**

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1 3:42 p.m.
2
3 EXAMINATION BY MR. LOEW:
4 **Q. Well, thank you, Mr. Martin, for appearing today.**
5 **We appreciate it, and I'm sure everyone here appreciates**
6 **your time. So I'd like to begin going back to beginnings**
7 **here.**
8 **You testified earlier that essentially your**
9 **entire legal career has been involved in estate planning,**
10 **trust and probate matters; is that correct?**
11 **A. Yes.**
12 **Q. And -- and during that time has estate planning**
13 **been a primary part of your legal practice?**
14 **A. Yes.**
15 **Q. And during that time how many estate plans -- if**
16 **you can give me an estimate, about how many estate plans**
17 **would you say you have done?**
18 **A. Maybe about 800.**
19 **Q. And during that time have you developed a**
20 **practice for satisfying yourself that a trustor or**
21 **testator is not being subjected to undue influence?**
22 **A. I do have a practice, yes, that I'm comfortable**
23 **with.**
24 **Q. And you also testified earlier today that you are**
25 **certified by the State Bar as a specialist in -- forgive**

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1 me if I've got this wrong -- estate planning, trust and
2 probate; is that correct?
3 **A. That's correct.**
4 **Q. And is it correct that there is an exam that you**
5 **took to be certified?**
6 **A. Yes.**
7 **Q. And did that exam require extensive study by you?**
8 **A. Yes.**
9 **Q. And what sorts of materials did you study in**
10 **preparing for that exam?**
11 **A. Tax, litigation, Probate Code materials, elder**
12 **abuse, there was also gift, inter vivos gift, testamentary**
13 **gift, testamentary instruments, requirement for a valid**
14 **trust versus will and so on.**
15 **Q. And during the process of studying for that exam,**
16 **did you study matters relating to the identification of**
17 **undue influence?**
18 **A. Yes.**
19 **Q. And during the course of your career, have you**
20 **established the knowledge to know what the findings are**
21 **that would cause a presumption of undue influence?**
22 **MR. CILLEY: Objection. Ambiguous.**
23 **THE WITNESS: I think I'm familiar with some of**
24 **the markers that would show undue influence.**
25 **BY MR. LOEW:**

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1 Q. And have you ever done an estate plan for someone
2 who you believed was being subjected to undue influence?
3 A. No.
4 Q. Have you ever prepared any document transferring
5 assets for anyone that you believed was being subjected to
6 undue influence?
7 A. No.
8 Q. And is it your understanding that -- well, strike
9 that.
10 What sorts of things do you wish to determine if
11 you're going to look for signs of undue influence?
12 A. I want to make sure that the testator has the
13 opportunity to meet with me one-on-one without third
14 parties that might be influencing them, that they
15 understand what they own and they understand who are the
16 people who they love in their life, objects of their
17 affection.
18 Q. And would you say those are components of
19 testamentary capacity?
20 A. Yes.
21 Q. And would you say they are also things that you
22 wish to determine that the person knows so that you can
23 determine how vulnerable they might be to undue influence?
24 A. In part, yes.
25 Q. And are those things that you always seem to

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1 determine whether or not undue influence might be present?
2 A. That there's not a third party who has real or
3 apparent authority over that person who has obtained an
4 undue benefit or seeking to obtain an undue benefit.
5 Q. And you testified earlier that it is important to
6 you to ensure that the meeting you have with that person
7 is independent; is that correct?
8 A. Correct.
9 Q. You also testified earlier that it is not unusual
10 for someone other than the transferor or trustor to
11 initially set up a meeting with you; is that correct?
12 A. That's correct.
13 Q. And what are the reasons that might occur?
14 A. As I said earlier, there are times when an
15 elderly person has difficulty hearing over the phone or
16 that they don't use the internet and they have age
17 appropriate decline. And so they want to have a third
18 party facilitate their appointments and assist them
19 generally with going to their appointment with their
20 attorney as well.
21 Q. And how do you ensure that the third party is not
22 interfering with the appointment itself?
23 A. Whenever this happens, my practice for estate
24 planning and anytime there would be some kind of
25 testamentary transfer is to have that person leave the

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1 determine with any client who you are preparing either an
2 estate plan for, a transfer document for?
3 A. It's always in my mind, more so when there are
4 some indications.
5 Q. And is the sort of information you might want to
6 find out, for example, who the children are of the
7 testator or trustor?
8 A. Yes.
9 Q. And is the sort of information you wish to
10 determine in general that the assets of the trust are
11 understood by him or her?
12 A. Yes.
13 Q. And is it also --
14 MR. CILLEY: Can I ask that we have an ongoing
15 continuous objection to leading questions?
16 MR. LOEW: Sure.
17 MR. CILLEY: I don't want to have to
18 continuously restate it.
19 MR. LOEW: Fair enough.
20 MR. CILLEY: If you try to use these questions at
21 trial, you understand that I'm going to assert an
22 objection that they are leading.
23 MR. LOEW: Sure. Fair enough.
24 BY MR. LOEW:
25 Q. What other things might you look for then to

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1 room, whether or not -- either it's at the outset of the
2 meeting or after exchanging pleasantries, have them remove
3 themselves from the room, and to ensure that -- I also ask
4 them questions to this person that they -- just to probe
5 and see, well, is their decision something that they
6 really want and to make sure that they feel comfortable,
7 make sure that it really is truly them and not this third
8 party who's there who's trying to influence them.
9 Q. Mr. Cilley asked you earlier today whether your
10 memo dated August 24, 2017, which we have discussed at
11 some length today -- it is page 36 I believe in your file.
12 He asked you whether that is more likely to be an
13 accurate recollection of events that occurred in August
14 2017 than your memory based on the notes you took the day
15 of your meeting with James Ho; is that correct?
16 A. It is.
17 MR. CILLEY: Misstates my question and his
18 testimony.
19 BY MR. LOEW:
20 Q. And -- and is it true that the memorandum that
21 was signed by you, created primarily by you and your firm
22 on or around August 24, 2017, is a more accurate
23 recollection of the events of August 2017 --
24 A. It is.
25 Q. -- than your memory today concerning your notes

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of your meeting with James Ho?

A. It is.

Q. And is it fair to say that the statements you made in your memo are accurate as to your recollection of your meeting with James Ho?

A. Absolutely.

Q. So I'd like you to turn your attention to what is page 36 of your file. And so just starting at line 1, you state there, James Ho made a gift to Debby Chang in March of 2017 of approximately \$1.1 million in cash.

Is that your understanding?

A. Yes.

Q. And who told you that?

A. James Ho.

Q. And when did he tell you that?

A. During our meeting in March of 2017 -- or, sorry, in August of 2017.

Q. And did James Ho tell you that he wanted to make a gift to her of that amount?

A. Yes.

Q. Did James Ho seem concerned that his children might try to challenge that gift --

A. He did.

Q. -- to Debby Chang?

A. He did.

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Q. And how did he show that he appeared concerned?

A. He -- when I asked him if he was concerned that his children might contest the gift, he shifted his weight. He grimaced, gave a sour expression and said, "I don't want that to happen."

Q. And did you discuss with him actions you might take to help prevent the gift from being set aside?

A. I did.

Q. And what did you tell him?

A. I told him that if he wanted me to I could create a document that said I've reviewed with him during this meeting the circumstances of the gift and that based upon my review it was not my opinion that it was the product of undue influence or lack of capacity and that that would create a kind of defense against his children challenging the gift in the future but it was not bulletproof. And I also recommended him to talk to an estate planning attorney, and I said I could make a referral.

Q. Did James agree to your satisfaction to have you create this document?

A. He did.

MR. CILLEY: Jeff, I want to again make sure it's clear on the record I'm going to object to each and every single one of these leading questions.

MR. LOEW: Sure.

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MR. CILLEY: You can continue to do it but I just want you to know if there's any attempt to use them at trial I will object on that basis. I want to make sure that's clear.

MR. LOEW: All right. I understand what you're saying.

MR. CILLEY: All right.

BY MR. LOEW:

Q. So in line 3 of your -- of page 1 which is page 36 of your file, it says, "Debby does not appear to fall into the definition of a caregiver."

Do you see that?

A. Yes.

Q. And can you tell me what you mean by that?

A. Well, I'm familiar with the statute which deals with disqualified donees of gifts. And I'm aware that a caregiver is -- there's exceptions to a definition of a caregiver, which includes a person who has a preexisting relationship or one who does not receive remuneration. And specifically reimbursements for expenses are not included for remuneration. So on many levels I did not see her as a caregiver.

Q. And did you receive any information from James as to whether they had a preexisting relationship?

A. Yes.

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Q. And what did he tell you about the length of their relationship?

A. He said it was for over 20 years.

Q. Now, further down on this -- on page 1 of your memo, which begins page 36 of your file, you state that at the same time it appears that Peter Ho, James Ho's son, has obtained an undue benefit from James Ho in transferring James Ho's property tax basis from the sale of his Foster City home for Peter Ho's sole use and benefit without any fair compensation to James Ho.

Do you see that?

A. Yes.

Q. And you testified earlier that -- that Debby told you that had occurred; is that correct?

A. Yes.

Q. You have no information that that's not true, however; is that correct?

A. That's correct.

Q. And you've heard nothing here today that suggests that's not true. Correct?

A. Correct.

Q. You've also testified earlier that -- that it's your understanding that Peter initially tried to cancel James Ho's appointment with you; is that correct?

A. Yes.

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1 Q. And you've heard nothing today that leads you to
2 believe that that is not true. Correct?
3 A. Correct.
4 Q. So going down to the final full paragraph on that
5 first page on the -- go one, two, three, four, five, six
6 lines. It says your office received a call from Debby
7 Chang which was transferred to you and then you say, "When
8 I picked up, James Ho came on the line. He did not sound
9 confused but very clearly identified himself as James Ho
10 and asked why I was late to his meeting."
11 Do you see that?
12 A. Yes.
13 Q. Is that an accurate statement of what you
14 experienced at that time?
15 A. It is.
16 Q. Did you then meet with James Ho on that date?
17 A. I did.
18 Q. And did you meet with James Ho alone on that
19 date?
20 A. I did.
21 Q. Right now -- in your notes that you had prepared
22 on that date, which I can draw your attention back to
23 those notes, which will be at -- specifically I draw your
24 attention to page 20 of your file, about a third down the
25 page it says -- well, I will just point your attention to

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1 to determine his general understanding and cognition."
2 Do you see that?
3 A. Yes.
4 Q. And did you ask him questions at that time for
5 that purpose?
6 A. I did.
7 Q. And what actions specifically -- what questions
8 did you ask him?
9 A. I asked him how he felt and he said he was
10 currently suffering from headaches and that he was
11 receiving treatment for them. I asked him if he knew his
12 own name. I asked him if he knew my name, and he was able
13 to correctly answer those questions. He did not know the /
14 current date.
15 Q. And did his answers seem inappropriate to you?
16 A. No.
17 Q. Did they seem to lack an understanding of who you
18 were?
19 A. No.
20 Q. Did he seem to lack an understanding of who his
21 children were?
22 A. No.
23 Q. Did he seem to lack understanding based on his
24 responses to you of why you were at his house?
25 A. No.

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1 where it says, first child, Diana Ho; second, Della Ho;
2 and third, Peter Ho."
3 Do you see that?
4 A. Yes.
5 Q. And is that information that James provided to
6 you?
7 A. Yes.
8 Q. And do you know if that refers to children of
9 James Ho?
10 A. It refers to his children.
11 Q. And do you have any reason to believe that that's
12 not true?
13 A. No.
14 Q. And on the right side column you'll see it makes
15 reference to what appear to be schools his children may
16 have attended, jobs they may have.
17 Do you see that?
18 A. Yes.
19 Q. And where did you obtain that information?
20 A. From James Ho.
21 Q. And do you have any reason to believe that
22 information is untrue?
23 A. No.
24 Q. So on page 2 of your memo in the final paragraph,
25 you say, "I proceeded to ask James some personal questions

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1 Q. Did you ever learn that it was -- strike that.
2 Did you ask him any other questions to help
3 satisfy yourself about his understanding?
4 A. Yes. I asked him about his background, about his
5 expenditures, about the property that he owned, and about
6 what his expenses were.
7 Q. Do you recall discussing with him at all property
8 he had owned in Foster City?
9 A. Yes.
10 Q. And what was the nature of your discussion with
11 him about property in Foster City?
12 A. He said that he had moved to Foster City after
13 his wife's death and that he lived on a very nice street,
14 and he said that it was the same street as Mr. Foster or
15 about three blocks away. And he said that from time to
16 time -- sometime during that 20-year period Debby lived
17 with him and she always had maintained her own house.
18 Q. And did he say anything else about any property
19 he may have owned at some time in Foster City?
20 A. Not specifically, no.
21 Q. Did he make reference to ever having sold any
22 real property he owned in the past?
23 A. Yes.
24 Q. And what did he say about that?
25 A. He said that he had sold his place in Foster

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City.

Q. And did he tell you anything about what he did with the proceeds from selling that property?

A. Yes. He said that he put the money into an account.

Q. And did he tell you anything else about that money?

A. He picked up his checkbook, gestured to it, and then we proceeded to talk about that being the source of the gift that he had made to Debby.

Q. And what -- what else did he tell you about the gift that he had made to Debby?

A. He -- I wanted to know what the circumstances were for how the gift had been made. So I asked him if it had been a check that he had written and he nodded that yes, it was. And I said, "Well, is it possible that it had been a wire transfer?" And he seemed to think no but then said maybe it was possible. But then he said he had gone to the bank. And I asked, "Well, was it a certified check?" And then he said, "Yes."

Q. And did he make reference -- well, let me -- let me go to Exhibit No. -- Exhibit No. 4. If you can take a look at that, please. This is the separate set of exhibits that Mr. Cilley had.

MR. FERGUSON: Exhibit 4?

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Q. In doing the -- you estimated earlier about 800 estate plans that you've done. Correct?

A. Yes.

Q. And do you ever have cause to have to determine whether a trustor or testator is being subjected to undue influence?

A. Yes.

Q. And would you say you have over time developed experience at determining whether someone is subject to undue influence?

A. Yes.

Q. And over time have you developed experience at determining whether someone has testamentary capacity?

A. Yes.

Q. And you would not execute a document if you believed the person signing it was being subjected to undue influence or lack of capacity. Correct?

A. Never.

Q. Mr. Cilley asked you earlier today about what standard of capacity might be appropriate here for this matter, one of which is the basic level of testamentary capacity, and you understood his question at the time. Correct?

A. Yes.

Q. And you referenced -- what are the standards for

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MR. LOEW: Yes.

BY MR. LOEW:

Q. Do you see this document?

A. Yes.

Q. And do you see the bottom of this document?

A. Yes.

Q. And do you know if James Ho ever mentioned this particular transfer to you?

A. To Old Republic Title? I think he was referring to this because he said specifically that he thought he had written two checks. So this I believe was one of them.

Q. And I draw your attention as well to -- apologize -- Exhibit No. -- Exhibit No. 6. I draw your attention to the first -- I'll draw your attention to where there's handwriting first appearing on the check, the two numbers of 67,050 slash \$1.1 million?

A. Yes.

Q. Does that appear to be consistent with what James told you if you read that first paragraph?

A. It is consistent with what he said to me.

Q. And nothing you've heard today has led you to believe that that's not consistent with what he told you. Correct?

A. Not at all.

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testamentary capacity?

A. It's understanding who you are and who the objects of your affections are and what your natural bounty is.

Q. And from talking to James Ho, did you form the determination that he had that capacity?

A. That was my understanding based upon what he told me.

Q. And you also discussed with Mr. Cilley a different standard under Section 850 of the Probate Code. You referred to it with the full name.

Do you recall that?

Section 850 is the competency act, loosely speaking, that deals with other transactions other than specifically a will.

Do you recall that?

A. I don't recall referring to the section today during today's deposition.

Q. Uh-huh. Are you aware of any other standards for capacity?

A. There's also contractual capacity and financial capacity.

Q. And are you aware of any -- when any other standard might apply to a testamentary act?

A. When a will or trust is being executed or when a

56 (Pages 221 to 224)

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1 gift is being made.

2 Q. And are you aware of any time when a different
3 standard of capacity might be used?

4 A. Yes. When a trust is being executed, contractual
5 capacity is at issue.

6 Q. And do you know why that would be?

7 A. Yes. A contract is more complex. So --
8 especially a trust, there's many more relationships,
9 obligations and duties that are involved. So the
10 understanding of how those duties are going to be carried
11 out is much more of a high standard. And so if you look
12 at all of the range of different levels of capacity,
13 medical capacity perhaps being -- and testamentary
14 capacity being on the lower end. Contractual capacity
15 being on the higher end. And that's why when somebody is
16 executing a trust there's a much higher standard that we
17 look for. A will might be appropriate in some
18 circumstances where a trust is not appropriate.

19 Q. And would you say a higher standard would appear
20 to apply to this gift in your opinion?

21 A. I don't think it does apply the same level that a
22 trust would require because a gifting a fixed amount of
23 cash like this does not involve the kinds of complex
24 relationships that a trust would involve.

25 Q. So in determining whether undue influence might

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1 is saying or something that I'm thinking, but then it's to
2 focus on what they're saying so I don't lose track of
3 mind. Then I lift my pen. I might engage with them
4 one-on-one. So the note doesn't actually get finished or
5 trails off.

6 Q. And is that a process you engage in at times with
7 estate planning clients as well?

8 A. Yes. Yes.

9 Q. And you earlier testified the purpose of that is
10 not to verbatim record the conversation. Correct?

11 A. Correct.

12 Q. And -- and what did you do in this case then to
13 ensure that James's wishes were memorialized correctly?

14 A. Two things: I debriefed with my associate Beth
15 which helped to -- as I spoke through it with her, it
16 helped to refresh my own recollections. And then together
17 we drew up the memorandum, first with her starting and
18 then I took over shortly after and finished up the memo.

19 Q. And so if you were to rely solely on your notes
20 from August 21, 2017, the date of the meeting with James,
21 today a year and a half later, would that be the best way
22 for you to refresh your recollection as to what James told
23 you?

24 A. No.

25 Q. And what would be a better way for you to do

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1 be present, what -- what other factors might you look at?

2 A. If I was aware of any actual abuse or threats or
3 violence or maybe also his weakness of mind, so if he had
4 any medications he was taking or alcohol. So I wanted to
5 make sure that he was healthy. That's why I looked around
6 the room, make sure everything was clean. He appeared to
7 be very alert. He didn't -- I didn't smell any alcohol.

8 I didn't think that he seemed despondent in any
9 way. He wasn't drooling. He was very alert. He was
10 right with me in the conversation the entire time. He
11 followed completely what I said. He actually seemed
12 very -- he followed completely what I said. He was
13 profoundly intelligent. I could feel a lot of
14 intelligence. When you are with somebody like that you
15 realize that, you know, perhaps at a certain point he was
16 even more intelligent than I.

17 Q. You described earlier your process of initially
18 taking notes when you met with James. Correct?

19 A. Yes.

20 Q. And you mentioned that during that time you were
21 also engaging in active listening; is that correct?

22 A. That's correct.

23 Q. And what do you mean by active listening?

24 A. Well, sometimes I write down thoughts as they
25 occur to me. And it may be even something that the person

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1 that?

2 A. The memorandum.

3 Q. So I turn your attention to page 40, which is
4 page 5 of your memo. This is the conversation you had in
5 the presence of Debby and James. Beginning of paragraph 2
6 it says, "I asked her whether she has talked James into
7 giving her the million dollars. She said that no, she had
8 actually asked James not to give the money to her. At
9 first she said she had been insisting on drawing up a loan
10 document of some kind or to add James's name to the title
11 on the Fulton home."

12 Do you see that?

13 A. Yes. Yes.

14 Q. Is that -- is that consistent with what she told
15 you on that date?

16 A. Yes.

17 Q. And you then say, "However, she said that James
18 had insisted that she keep the money, again lining up with
19 James's version of the narrative."

20 Do you see that?

21 A. Yes.

22 Q. So is there any information you've received today
23 that is inconsistent with those statements by Debby?

24 A. I have received now these other exhibits which
25 show some details I wasn't aware of, and I may have to go

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over them again, but I don't believe that what she said was actually inconsistent just based upon our -- my most recent testimony and going over these exhibits.

In other words, she may have been referring to the initial sale documents here as being part of that back and forth will we be naming James as one of the title holders to this property, yes or no. You know, is this going to be characterized as a gift. It makes complete sense that she would be talking on the phone with Peter at that time and that sometime between the initial offer, the counteroffer and title was taken that the decision had been made exactly as she said here, that James's name would not appear on title. I haven't seen anything that contradicts that.

Q. So turning back one page to page 39, did you discuss with James the notion that if he did not make this gift to Debby that his children would otherwise be the beneficiaries of these assets on his death?

A. I did.

Q. And what did he say?

A. He said, "That's fine. They've got enough money."

Q. And did you discuss with him the fact that he was not on title to the Fulton Street property?

A. I did.

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A. Yes.

Q. And what was your reaction when you saw this note?

A. I was very concerned.

Q. And what were your concerns?

A. My concern was I have an obligation to my client to provide them all the documents and to do it promptly. I'm his advocate. But I also knew that he had come over with his three children, and I was concerned that perhaps Peter had forced him to sign this. And -- especially since my conversation with Debby indicated that although he had been living together with her for so many years Peter Ho didn't return him after his medical appointment as was their usual practice and that she was extremely distraught and that he was being held by Peter and the children, so I thought it was possible that he was being forced to -- to write it. I didn't know what to do.

Q. And do you know whose writing is on the lower left of this document?

A. I don't.

Q. Did it appear to you to be James's writing?

A. No.

Q. And did it appear consistent with the other writing on the document?

A. No.

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Q. And what did he say to that?

A. He said, "That's fine with me." He gave a gift to Debby. It's up to her what she does with the gifted money.

Q. Did you ever receive any information from James whether he discussed with Peter whether it was a gift?

A. I don't believe so.

Q. Did you ever receive information from anyone that led you to believe James had discussed with Peter whether it was a gift?

A. That James had discussed with Peter whether the transaction was a gift? No. I'm sorry. Could I clarify?

Q. Yeah, please.

A. Can you repeat the question?

Q. Sure. Did anyone ever tell you that James and Peter had discussed whether it was a gift?

A. Yes. Debby had said -- and I believe I mentioned this a little bit ago -- that James was insisting that it be a gift and Peter Ho had said, no, keep his name off the title. And so I think that is a third-party discussion with someone outside.

Q. So I want to draw your attention to page 48 of your file if I can. We've discussed this note at some length today, but -- but I did want to ask you, when you -- you did review this note at some point. Correct?

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Q. And what is the information on the lower left part of this document?

A. It's Peter Ho's name, address and phone number and e-mail address.

Q. Now, Mr. Cilley had made reference earlier to alleged voice mails where Debby Chang said she did not want to take care of James anymore.

Did you hear that testimony today from Mr. Cilley?

A. I did.

Q. You just mentioned that you received information that James may have been taken from Debby; is that correct?

A. That's correct.

Q. As you sit here today, do you have any reason to believe that James was not taken from Debby?

A. No.

Q. Do you have any information other than Debby's statement that he was taken from Debby?

A. Yes.

Q. And what other information is that?

A. That's that he was with the three children when he came by our office rather than being with Debby. Also, my conversation with Koplowitz, if I recall correctly, he said that Mr. Ho had been put in palliative care.

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1 Q. And what else do you recall Mr. Koplowitz telling
2 you?
3 **A. As I said earlier, he gave me a barrage of**
4 **questions asking me for information that I couldn't give**
5 **him, like whether or not I had estate planning documents**
6 **or agreements of gift, et cetera.**
7 Q. And did Mr. Koplowitz tell you who he was
8 representing?
9 **A. Yes.**
10 Q. And who did he say he was representing?
11 **A. Peter Ho and the children.**
12 Q. And did Ed Koplowitz tell you to send him on
13 behalf of his clients James's estate planning documents?
14 **A. Yes.**
15 Q. And did you do so?
16 **A. No.**
17 Q. After you talked with Ed Koplowitz, did you
18 determine it would be important to meet with James Ho?
19 **A. I did form that impression, yes.**
20 Q. And did you take some actions to try to make it
21 possible for you to meet with James Ho?
22 **A. I began drafting a letter that was anticipating**
23 **that I would have the ability to meet with him. I didn't**
24 **know how that could be possible and that he didn't have a**
25 **cell phone or way that I could contact him. But at some**

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1 **A. Yes.**
2 Q. Based on what you know now, do you believe that
3 is a true statement?
4 **A. Yes --**
5 MR. CILLEY: Are you asking him to speculate as
6 to whether or not John Minton was being accurate when he
7 stated --
8 MR. LOEW: Yes.
9 MR. CILLEY: -- those documents were necessary --
10 MR. LOEW: Yes.
11 MR. CILLEY: -- to be administered?
12 MR. LOEW: Yes.
13 BY MR. LOEW:
14 Q. And at that time did you have any further
15 information about why those documents might be necessary
16 for Anderson Yazdi's administration of the trust?
17 **A. I believe at that time I was aware that Peter Ho**
18 **was the trustee of the trust and my understanding is that**
19 **trustee holds the privilege for communications between a**
20 **decedent settlor of a trust and the decedent settlor's**
21 **attorney.**
22 Q. And did you have any other information as to why
23 they were requesting your file?
24 **A. Well, I believe I perused the petition online,**
25 **skimmed it.**

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1 **point, and, again, I don't remember the circumstances for**
2 **this, but I believe Peter Ho actually was going to arrange**
3 **for a meeting between myself and James Ho. I don't have**
4 **notes on that. So I can't confirm the logistics, but I**
5 **considered that to be very good so that I could confirm**
6 **what was going on and what his wishes were, but the**
7 **meeting was canceled.**
8 Q. And then tell more about that. When you say the
9 meeting was canceled, how did you become aware of that?
10 **A. I can't recall. I believe that he may have**
11 **either -- he must have either come by the office or spoken**
12 **with my assistant and just taken it off my calendar.**
13 Q. Did Ed Koplowitz talk with you at all about
14 arranging a meeting between you and James?
15 **A. Not that I recall.**
16 Q. I want to draw your attention to page 64 of your
17 notes. At the bottom of the page there is an e-mail
18 from -- excuse me -- John Minton to Beth Chagonjian
19 saying, "Dear, Mr. Chagonjian," and the first line says,
20 "Thank you for your e-mail. It is probably best if you
21 return the check to us."
22 In the second paragraph, the final sentence says,
23 "The documents you have are necessary for our firm's
24 administration of the trust."
25 Do you see that?

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1 Q. And had you been advised by them that they had
2 filed a petition?
3 **A. No.**
4 Q. Now, on page 37 again and this is again dealing
5 with your memo, at paragraph 4 of page 37, you say, "I
6 then asked James if he knew why I was there. James said I
7 think it may be about the gift that I gave to Debby."
8 Do you see that?
9 **A. Yes.**
10 Q. Is that what James said?
11 **A. Yes.**
12 Q. And was that an accurate statement?
13 **A. Yes.**
14 Q. Was that an inappropriate statement?
15 **A. In what way?**
16 Q. Did -- did it strike you that that was unusual
17 for him to say that?
18 **A. No.**
19 Q. At line 3 of that paragraph, you say, "I asked
20 James if he had any estate planning documents, such as a
21 will or trust. James told me that he had set up a living
22 trust with his wife, Grace, who had passed away about
23 20 years ago."
24 Do you see that?
25 **A. Yes.**

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Q. And did you ask him at that time whether he had estate planning documents?

A. Yes.

Q. And to your knowledge is the information he provided you accurate?

A. To my knowledge.

Q. And what did he tell you when you asked if you could see the documents?

A. He said he believed his son had them.

Q. And so were you ever able to see the documents?

A. No.

Q. Were you not able to see the documents because of some lack of effort on your part?

A. In part, perhaps.

Q. Well, did you ever have the opportunity to meet with anyone who had the power to give you those documents?

A. No.

Q. Were you concerned at all that James did not have possession, at least in his knowledge, of his own estate planning documents?

A. Yes.

Q. And why is that a concern to you?

A. Well, I think they're extremely personal documents. So I wouldn't want them to be tampered with by any third parties. On the other hand, if Peter was

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A. Well, the length of time that they had been together and that they lived together in the same residence.

Q. And how long was it your understanding they had been together?

A. For a period that began after Grace's death off and on and then became more, I suppose, intense.

Q. And do you recall if James told you how long he had known Debby?

A. Yes. Over 20 years.

MR. LOEW: I think that may be all I have.

MR. CILLEY: I have just a couple more questions for you, Mr. Martin, and I'll just do it from this side of the table.

FURTHER EXAMINATION BY MR. CILLEY:

Q. With reference to page 57 of -- with reference to page 57 of your -- the engagement letter that you took it upon yourself to prepare because of concerns about James spending time with his children --

MR. LOEW: Objection. Argumentative.

BY MR. CILLEY:

Q. -- why didn't you just call James? He was your client.

A. Did he have a cell phone at that time?

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operating as James's POA, it would make sense for him to have copies of documents or maybe the originals. So in that sense it wouldn't be inappropriate.

Q. Would there be any reason for James to have a copy of his own trust?

A. I would hope that he would have a copy just so that he knew what his testamentary wishes were and in case he wanted to change them.

Q. So did it trouble you that he did not have a copy?

A. To that extent, yes.

MR. LOEW: Let me just confer for five minutes, if that's okay, and then we'll see if we have anything more.

THE VIDEOGRAPHER: We are off the record at 4:25 p.m.

(Whereupon, a brief recess was taken.)

THE VIDEOGRAPHER: We're back on the record at 4:32 p.m.

BY MR. LOEW:

Q. Now, Mr. Martin, in your notes and in Beth's notes you refer to Debby Chang as the girlfriend, and I wanted to know if you have any information you recall or facts you recall that led you to form the impression that Debby was James's girlfriend?

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Q. Yes. And you had his number.

A. I thought that that was the home number.

Q. Okay. Well, let's turn back to page 12 of your notes. The e-mail from Richard Oesterle [sic] to you of August '17.

And you see there's James Ho's contact information there?

A. Yes.

Q. And there's a phone number?

A. Yes.

Q. You understood that -- or you thought that that was the home number?

A. That was my assumption.

Q. Why did you -- did you do anything to test your assumption, such as, for example, spend a few seconds to dial the number?

MR. FERGUSON: Objection. Argumentative.

THE WITNESS: No. I made the assumption that if I called I would get Debby Chang.

BY MR. CILLEY:

Q. Did you try to call?

A. No. I said I did not.

Q. Okay. And earlier when I asked you whether or not you had any conversations with Peter -- or James Ho's children after Debby told you he had been taken from her

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1 home or their home, you couldn't recall?

2 **A. Yes. That's correct.**

3 **Q.** In response to Jeff Loew's questions, you were

4 able to recall, presumably.

5 Just to clear this up, as you sit here today, do

6 you remember one way or another whether you had

7 conversations with James Ho's children after August 28th

8 of 2017?

9 **A.** Well, I know that Peter Ho sent me an e-mail and

10 it could be since this is over a year ago I'm starting to

11 confuse what was said in the e-mail versus phone. So I

12 can't remember specifically if Peter Ho somehow got

13 through to me on the phone, but I don't believe so.

14 **Q.** Okay. What about either of Peter's sisters, did

15 you talk to either of them on the telephone?

16 **A.** I don't think so, no.

17 **Q.** As you sit here today, do you recall having

18 instructed Ms. Alioto to tell James Ho's daughters that

19 you would not meet with him or one or the other daughter

20 that you would not meet with him on August 28th despite

21 the fact that he was present at your office?

22 **A.** Well, by August 28th I -- my recollection is I

23 did talk to Jackie about how the family members had come

24 by, but because of the context of what I recall, I think

25 it must have been after they were already here.

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1 asked --

2 **Q.** No. I'm not.

3 **A.** -- several hours ago.

4 **Yes.** You said what were the, you know,

5 circumstances, and I can't recall. But I could have been

6 in a meeting at the time. I could have not even been at

7 the office because my recollection is talking to Jackie

8 and the context. And what I remember is that it had been

9 in the past, and she was expressing concern that the

10 family members were coming by.

11 **Q.** They were there all day.

12 **A.** They were there all day?

13 **Q.** And they were there specifically because you told

14 them that you would only speak to James Ho in person.

15 **A.** I specifically told them?

16 **Q.** Yes.

17 **A.** Well, I don't remember having a conversation with

18 them specifically.

19 **Q.** But in any event, you didn't think that it might

20 be appropriate to have a very brief conversation with

21 James Ho, who you understood to be your client, and just

22 ask them to excuse themselves?

23 **A.** That would be appropriate, yes, if I were

24 available.

25 **Q.** Okay. But yet you didn't do it?

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1 **Q.** I'll represent to you that they're going to

2 testify that Jackie came out and said to them that you

3 specifically told her that you would not meet with Peter

4 Ho that day or James Ho that day.

5 **Do you have any reason to dispute the accuracy of**

6 **that representation?**

7 **A.** I don't know what Jackie was thinking

8 specifically when she said that. Jackie may have been

9 saying that for any number of reasons.

10 **Q.** Did you tell her to say that?

11 **A.** After she came back, I did express concerns to

12 her that we had to look out for the interest of James Ho

13 and that we had to be very careful and it would probably

14 be best not to communicate with the children and then to

15 have a meeting with James Ho one-on-one if that's

16 possible.

17 **Q.** Okay. So you're testifying that you were

18 concerned about James Ho --

19 **A.** Yes.

20 **Q.** -- who's ostensibly your client. And James Ho is

21 present at your office.

22 **Why don't you just meet with him, if even for a**

23 **few moments, and ask Peter Ho or whoever else was with him**

24 **to excuse themselves?**

25 **A.** So you're actually repeating a question that you

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1 **A.** We don't take drop-bys actually in our practice

2 typically. That's not my practice. We're an

3 appointment-only firm.

4 **MR. CILLEY:** I have no further questions.

5 **THE VIDEOGRAPHER:** This concludes today's

6 deposition of John Martin. The number of media used was

7 three. The time is 4:40 p.m.

8 **THE REPORTER:** Would anybody like a copy?

9 **MS. SHEPPARD:** Yes, please.

10 **MR. FERGUSON:** Yes.

11 (Whereupon, the video deposition of JOHN MARTIN

12 was concluded at 4:40 p.m.)

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CERTIFICATE OF WITNESS

I, JOHN MARTIN, hereby declare that I have
read the foregoing testimony pages 1 to 244, inclusive.
I hereby state there are:

(Check one)

_____ no corrections

_____ corrections per attached

JOHN MARTIN

DATE

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I, GINA MINNIS, C.S.R. #11996, a Certified
Shorthand Reporter in and for the State of
California, do hereby certify:

That prior to being examined, the witness
named in the foregoing deposition was by me duly
sworn to testify the truth, the whole truth, and
nothing but the truth.

That said deposition was taken before me at
the time and place set forth and was taken down by me in
shorthand and thereafter reduced to computerized
transcription under my direction and supervision, and I
hereby certify the foregoing deposition is a full, true
and correct transcript of my shorthand notes so taken.

I further certify that I am neither counsel
for nor related to any party to said action nor
anywise interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto
subscribed my name this _____ day of
_____, 2019.

Gina Minnis
Certified Shorthand Reporter
No. 11996

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EXHIBIT 6

REPORTER'S TRANSCRIPT OF
PROCEEDINGS - TRIAL DAY 7

Taken On September 26, 2023

PETER C. HO -VS- DEBBY CHANG, ET AL.

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CONDENSED TRANSCRIPT

ADVANTAGE
REPORTING SERVICES
1083 Lincoln Ave.
San Jose, CA 95125
www.arsdepos.com

TRIAL DAY 7 - SEPTEMBER 26, 2023

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO
--oOo--

In Re the Matter of
TRUST A UNDER THE JAMES F. HO No. 17 PRO 00973
AND GRACE C. HO DECLARATION
OF TRUST DATED SEPTEMBER 11, 1992,
as amended,

PETER C. HO, TRUSTEE OF TRUST A OF
THE JAMES F. HO AND GRACE C. HO
DECLARATION OF TRUST DATED
SEPTEMBER 11, 1992,

Petitioner,

vs.
DEBBY CHANG and DOES 1 through 20,
inclusive,

Respondents.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TRIAL - DAY 7

Date: September 26, 2023
Time: 10:08 a.m.
Location: JAMS
160 West Santa Clara Street
Suite 1600
San Jose, CA 95113

Reported by: Nina Pavone
CSR No. 7802

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Kysen Kuo
Erik Weiss (Via Zoom)
Jeanny Ho (Via Zoom)
Geoffrey T. MacBride (PM only)

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TRIAL DAY 7 - SEPTEMBER 26, 2023

<p style="text-align: center;">Page 5</p> <p>1 --oOo--</p> <p>2 PROCEEDINGS</p> <p>3 THE COURT: Mr. Martin, could you raise your</p> <p>4 right hand, please.</p> <p>5 JOHN MARTIN,</p> <p>6 being duly sworn by the Court to tell the truth, the</p> <p>7 whole truth, and nothing but the truth, testified as</p> <p>8 follows.</p> <p>9 THE COURT: Could you start by stating your</p> <p>10 first and last name, and both names are common</p> <p>11 spelling.</p> <p>12 THE WITNESS: John Martin, J-O-H-N,</p> <p>13 M-A-R-T-I-N.</p> <p>14 THE COURT: Thank you.</p> <p>15 DIRECT EXAMINATION</p> <p>16 BY MR. BAER:</p> <p>17 Q. Good morning, Mr. Martin. My name is David</p> <p>18 Baer, and I represent Debby Chang. I'm going to</p> <p>19 start out the examination this morning.</p> <p>20 First let me ask you some questions about</p> <p>21 your credentials.</p> <p>22 Are you an attorney?</p> <p>23 A. Yes.</p> <p>24 Q. And when did you become licensed to practice</p> <p>25 law?</p>	<p style="text-align: center;">Page 7</p> <p>1 of paper which was also a certificate. So I'm</p> <p>2 including that. It was same year that I graduated</p> <p>3 from UCLA in 2005.</p> <p>4 Q. Okay. Do you have any other degrees or</p> <p>5 certifications besides that?</p> <p>6 A. I'm certified as a specialist in estate</p> <p>7 planing trusts and probate law.</p> <p>8 Q. And when did you obtain that certification?</p> <p>9 A. You know, I believe it was in 2015, if I</p> <p>10 recall correctly.</p> <p>11 Q. All right. What did you have to do to get</p> <p>12 that certification?</p> <p>13 A. There was an exam that was taken, which is a</p> <p>14 specialist's exam. In addition, there were some</p> <p>15 references that had to be provided by other members</p> <p>16 of the bar, and there was a background check. There</p> <p>17 was an experience requirement, education requirement,</p> <p>18 and then after certification by the bar, I earned my</p> <p>19 certification.</p> <p>20 Q. What was the education requirement, if you</p> <p>21 can recall?</p> <p>22 A. I can't recall the specific hours, but I</p> <p>23 believe it was five years of hands-on experience, in</p> <p>24 addition to a certain number of matters, in different</p> <p>25 areas. So for example, litigation, estate planning</p>
<p style="text-align: center;">Page 6</p> <p>1 A. December 2008.</p> <p>2 Q. And that was in the State of California?</p> <p>3 A. Yes.</p> <p>4 Q. Have you been licensed ever since then?</p> <p>5 A. I've been continually licensed since December</p> <p>6 of 2008.</p> <p>7 Q. Where did you go to law school?</p> <p>8 A. Boston College Law School.</p> <p>9 Q. When did you graduate?</p> <p>10 A. 2008.</p> <p>11 Q. Okay. Do you have any degrees besides your</p> <p>12 JD from Boston College?</p> <p>13 A. I have a Bachelor of Arts degree from UCLA.</p> <p>14 Q. And do you have any other post-graduate</p> <p>15 degrees?</p> <p>16 A. I have a certificate from the -- I'll say it</p> <p>17 in French, L'Institut d'Etudes Politiques de Paris in</p> <p>18 France. So it's like L'Institut d'Etudes.</p> <p>19 Q. What does that mean in English?</p> <p>20 A. It's the Institute of Political Science.</p> <p>21 Q. All right. And when did you get your</p> <p>22 certificate from the Institute of Political Science?</p> <p>23 Pardon me for not trying to do the French.</p> <p>24 A. It's -- it was in my last year of college as</p> <p>25 a study-abroad program. And so they gave us a piece</p>	<p style="text-align: center;">Page 8</p> <p>1 and then, as you mentioned, the education</p> <p>2 requirement, which was substantial.</p> <p>3 Q. All right. And have you maintained your</p> <p>4 certification since then?</p> <p>5 A. Yes.</p> <p>6 Q. And as of 2017, what was the nature of your</p> <p>7 law practice?</p> <p>8 A. Well, in 2017, we were a small firm. We</p> <p>9 continue to be a small firm of two lawyers, an</p> <p>10 associate and myself, with a small amount of support</p> <p>11 staff. And at that time, we were located in Menlo</p> <p>12 Park.</p> <p>13 Q. Okay. And in what areas were you practicing</p> <p>14 then?</p> <p>15 A. Estate planning, trusts, probate law,</p> <p>16 business succession planning.</p> <p>17 Q. And how long before then -- well, how long</p> <p>18 have you been practicing in the area of estate</p> <p>19 planning?</p> <p>20 A. Since 2008.</p> <p>21 Q. And how long had you been practicing in the</p> <p>22 area of trusts?</p> <p>23 A. Since 2008.</p> <p>24 Q. And how long had you been practicing in the</p> <p>25 area of probate law?</p>

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<p style="text-align: center;">Page 9</p> <p>1 A. Since 2008.</p> <p>2 Q. Okay. And how about business -- did you say</p> <p>3 business succession training?</p> <p>4 A. Perhaps -- it's hard to recall exactly when.</p> <p>5 I believe it was around 2011, 2012 when I started</p> <p>6 doing succession planning.</p> <p>7 Q. Okay. And as of February of 2017 can you</p> <p>8 estimate how many estate plans you had prepared at</p> <p>9 that point?</p> <p>10 A. Oh, I can't recall that. It's over a</p> <p>11 thousand by 2017, I'm sure.</p> <p>12 Q. And were you practicing in any other</p> <p>13 substantive areas at that point in time?</p> <p>14 A. Can you clarify what you mean by</p> <p>15 "substantive"?</p> <p>16 Q. I'm sorry. Besides estate planning, trusts</p> <p>17 or business succession.</p> <p>18 A. So within there, there's different practices.</p> <p>19 I'm not sure if that's what you're getting at.</p> <p>20 There's court appearances, there can be litigation,</p> <p>21 there can be planning, there can be tax advice as</p> <p>22 part of that. I'm not sure if that's what you mean</p> <p>23 by your question.</p> <p>24 Q. Thanks. And have you published in any of</p> <p>25 those fields?</p>	<p style="text-align: center;">Page 11</p> <p>1 Administrators on retirement plans.</p> <p>2 Q. And when was that?</p> <p>3 A. Again, I can't recall. I think it might be</p> <p>4 around 2014, 2015.</p> <p>5 Q. Do you recall whether it was before you --</p> <p>6 well, do you remember -- do you remember a gentleman</p> <p>7 by the name of James Ho?</p> <p>8 A. Yes.</p> <p>9 Q. Do you remember when you met with him?</p> <p>10 A. In 2017.</p> <p>11 Q. Did you give the seminar before or after you</p> <p>12 met with James Ho?</p> <p>13 A. Before.</p> <p>14 Q. And how about the courses that you gave at</p> <p>15 College of San Mateo, were those before or after you</p> <p>16 met with James Ho?</p> <p>17 A. Before.</p> <p>18 Q. Okay. Have you participated in any other</p> <p>19 kinds of programs in any of your practice areas?</p> <p>20 A. Yes.</p> <p>21 Q. What other programs?</p> <p>22 A. Well, I've given different seminars regarding</p> <p>23 estate planning. I've given talks regarding other</p> <p>24 aspects of estate planning. For example, for many</p> <p>25 years, I appeared on Know Your Legal Rights, which is</p>
<p style="text-align: center;">Page 10</p> <p>1 A. Yes.</p> <p>2 Q. On what topics?</p> <p>3 A. Oh, I published an article with an ABA</p> <p>4 journal. Gosh, I can't remember the subject now. I</p> <p>5 believe it was something dealing with estate</p> <p>6 planning, maybe for the elderly, needing to get your</p> <p>7 estate plan updated and some common issues that can</p> <p>8 happen.</p> <p>9 Q. Was that an article?</p> <p>10 A. I believe so. I think it was maybe 2014,</p> <p>11 '15, something like that.</p> <p>12 Q. It was published then?</p> <p>13 A. Right.</p> <p>14 Q. All right. Have you taught any courses in</p> <p>15 any of these fields?</p> <p>16 A. Yes.</p> <p>17 Q. What courses have you taught?</p> <p>18 A. Well, at College of San Mateo through</p> <p>19 community education, for a number of years, I did an</p> <p>20 introduction to estate planning class. I believe it</p> <p>21 was 2009, 2010, 2011, if I recall correctly, and it</p> <p>22 was a consumer/professionals can enroll, it was for</p> <p>23 credit with College of San Mateo.</p> <p>24 And then I've taught seminars. I can recall</p> <p>25 doing a course for the National Institute of Pension</p>	<p style="text-align: center;">Page 12</p> <p>1 a program for KALW/NPR, KALW radio station, broadcast</p> <p>2 on NPR.</p> <p>3 I believe I appeared with a former probate</p> <p>4 judge from Santa Clara County and did a presentation</p> <p>5 on elder abuse and preventing elder abuse, for</p> <p>6 example.</p> <p>7 I also did a presentation on risks that you</p> <p>8 can face in not doing your estate plan, for example,</p> <p>9 dying without a will, the costs of going through</p> <p>10 probate, and some other programs as well through</p> <p>11 KALW.</p> <p>12 I've done different consumer presentations.</p> <p>13 So for example, recently I did a presentation on</p> <p>14 Proposition 19. I've also done presentations for</p> <p>15 other professionals. So I've spoken to a number of</p> <p>16 real estate agent groups, perhaps a dozen different</p> <p>17 real estate agent groups, talking about Proposition</p> <p>18 19 and risks that now parents have in passing on</p> <p>19 their real estate to their children with respect to</p> <p>20 reassessment.</p> <p>21 I've given presentations to community</p> <p>22 organizations like Kiwanis, which is a community</p> <p>23 organization I'm part of on preventing elder abuse</p> <p>24 and ways in which professionals can identify red</p> <p>25 flags.</p>

<p style="text-align: center;">Page 13</p> <p>1 I've spoken to financial planners as well 2 about similar topics, including preventing elder 3 abuse by red flagging issues that can come up for 4 mandated reporters. 5 I've given joint presentations with financial 6 planners to pools of clients that we share. 7 Too many to mention. 8 Q. Were any of these -- did you give any 9 programs or seminars prior to meeting with James Ho? 10 A. Yes. 11 Q. Which ones? 12 A. Well, I just listed so many. 13 Q. You did. 14 A. Well, the real estate agent presentations on 15 Prop 19 were all after 2020. 16 Q. And you can answer it that way if you want, 17 to say which ones are after Prop 19, if that's 18 easier. 19 A. I think that's easier. You know, anything 20 dealing with Prop 19, obviously, that was passed by 21 the voters in 2020. And then, gosh, this was six 22 years ago, Mr. Ho, so it's very hard for me at this 23 point to think of the timeline of events. But 24 certainly all the radio appearances ceased because 25 after the gentleman who used to give that passed</p>	<p style="text-align: center;">Page 15</p> <p>1 their neighbors, they seem to not be talking with 2 certain children of theirs. Maybe suddenly a 3 caregiver starts driving the car around of an elder. 4 Maybe the phone is no longer working. You call your 5 friend or you call your loved-one or your client, but 6 they're no longer responding. Maybe there's always 7 somebody else on the phone who is playing 8 interference. 9 Perhaps there seem to be lavish transfers to 10 a person. Maybe this elder goes into the bank and 11 they ask for large transfers of money to a person. 12 Maybe they want to withdraw a lot of cash, right, go 13 to the ATM and take numerous withdrawals of cash. 14 Maybe there's signs of neglect that the 15 person is malnourished or they're physically 16 suffering from not having attention. 17 Maybe the elder starts to talk about how 18 certain family members don't really love them 19 anymore. 20 You know, they have this sense that they've 21 been abandoned by certain of their children and they 22 say the only one who loves me is this one person. 23 I think a really signature fact pattern that 24 can happen is an adult child will move into the home 25 with the parent and start to take advantage of the</p>
<p style="text-align: center;">Page 14</p> <p>1 away, I haven't done any KALW appearances, and all 2 that was pre-2017. 3 Q. Okay. 4 A. Oh, I'm sorry. I've done recently, but also 5 prior to 2017, I did some radio appearances on KGO as 6 well, KGO Radio with Michael Finney. I also appeared 7 on television with Michael Finney on Channel 7 8 regarding estate planning issues. 9 Q. Okay. You mentioned red flags for elder 10 abuse. 11 A. Yes. 12 Q. As of February 2017, what -- so it may be a 13 little hard to sort this out, but what did you 14 consider to be the primary red flags for financial 15 elder abuse? 16 A. Well, I'll just refer to perhaps the 17 presentation that I gave at Kiwanis, which was 18 presentation to lots of different members of our 19 community. 20 So among those people were CPAs, financial 21 planners, a lot of retired people. And I admonished 22 the group to be very careful if they're working with 23 clients of theirs and look for these red flags. 24 For example, maybe the parent suddenly starts 25 being isolated and they seem to not be talking with</p>	<p style="text-align: center;">Page 16</p> <p>1 decline in cognition that an elder might have and 2 then use that decline, perhaps it's being 3 rationalized by that child; they think they're 4 entitled to this. But to use this decline as an 5 occasion to convince their parent to change the 6 estate plan and give more to them, to convince them 7 that the other children really don't love them, 8 right, and then to take advantage of their parent. 9 Happens over and over again. 10 There's also caregiver elder abuse. Very 11 frequent, that a caregiver will go in and try to take 12 gifts, maybe take jewelry or take personal effects 13 that an elder person might own, that the caregiver 14 might even try to change the estate plan. 15 I've had people come to me in my office where 16 they brought an elderly person, maybe their parent, 17 and then said, oh, mom or dad wants to change the 18 estate plan, give everything to me. You know, the 19 other kids hate mom, don't trust them anymore. This 20 is -- happens over and over again. One would be 21 really surprised to see this, but unfortunately, it's 22 very frequent. 23 And now in probate court, there's many elder 24 abuse cases. I think the pandemic especially has 25 fostered this, with the isolation of elders.</p>

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<p style="text-align: center;">Page 17</p> <p>1 I could go on.</p> <p>2 Q. Okay. I think that was pretty thorough.</p> <p>3 So as of February of 2017, had you heard the</p> <p>4 term "certificate of independent review"?</p> <p>5 A. Of course.</p> <p>6 Q. What was your understanding of the purpose of</p> <p>7 a certificate of independent review when you first</p> <p>8 heard of James Ho?</p> <p>9 A. Okay. Well, the most classic application is</p> <p>10 where there is a transfer or intended transfer.</p> <p>11 Typically, it's where another attorney is being asked</p> <p>12 to do an estate plan or execute some sort of --</p> <p>13 assist with some transaction, and that attorney has a</p> <p>14 duty to identify if there's a care custodian that is</p> <p>15 the recipient of this gift or an attorney or another</p> <p>16 disqualified beneficiary, to refer that person to</p> <p>17 another attorney who can provide, as a one-off, a</p> <p>18 certificate of independent review.</p> <p>19 There's a statute which is actually quite</p> <p>20 limited in terms of what it provides, but it provides</p> <p>21 that an attorney can engage a client as part of a</p> <p>22 limited scope engagement and that that attorney</p> <p>23 should counsel the client, out of the presence of any</p> <p>24 other person, and that they should determine that the</p> <p>25 transfer which is in question was not procured</p>	<p style="text-align: center;">Page 19</p> <p>1 Q. What of that did you know?</p> <p>2 A. Everything that I just recounted.</p> <p>3 Q. So in the conduct of your estate planning</p> <p>4 practice, did you have any custom or practice with</p> <p>5 regard to meeting with your clients, either</p> <p>6 separately or together with family members or other</p> <p>7 beneficiaries?</p> <p>8 A. Yes.</p> <p>9 Q. Can you explain what that was?</p> <p>10 A. Well, I don't like talking about testamentary</p> <p>11 planning with interested persons. So while I'm happy</p> <p>12 to have introductory meetings or general</p> <p>13 conversations with people, meet and greet, for</p> <p>14 example, and while I'm happy to talk with other</p> <p>15 parties regarding general questions they may have or</p> <p>16 to understand where they might fit in, I'm happy to</p> <p>17 have those conversations.</p> <p>18 But when somebody, a client of mine, is doing</p> <p>19 estate planning, I want to be very sensitive around</p> <p>20 having privacy and confidentiality. So that means</p> <p>21 having a private conversation, one-on-one, with the</p> <p>22 client, so that we can really understand and know</p> <p>23 their testamentary wishes. And also so I can ask</p> <p>24 them about what this role of a third party might be</p> <p>25 to ascertain whether or not there's some influence or</p>
<p style="text-align: center;">Page 18</p> <p>1 through undue influence or through fraud.</p> <p>2 There then is the requirement that this</p> <p>3 attorney, if they are satisfied this is correct,</p> <p>4 would sign a certificate of independent review saying</p> <p>5 that they've counseled the person outside of anyone's</p> <p>6 presence and that, in their opinion, the transfer was</p> <p>7 not the result of fraud or undue influence.</p> <p>8 Q. Okay. And were those things that you knew</p> <p>9 essentially at the time you first heard James Ho's</p> <p>10 name?</p> <p>11 A. I'm sorry, what things are you referring to?</p> <p>12 Q. Well, you gave a lot of testimony about the</p> <p>13 nature of certificate of independent review. Are</p> <p>14 those things you already knew when you learned</p> <p>15 that -- when you first heard James Ho's name?</p> <p>16 A. Yes.</p> <p>17 MR. FRASER: Objection. Leading.</p> <p>18 THE WITNESS: I think the things that you're</p> <p>19 referring --</p> <p>20 THE COURT: Excuse me. Sustained. Rephrase.</p> <p>21 MR. BAER: Okay.</p> <p>22 BY MR. BAER:</p> <p>23 Q. Did you know any of that before you first</p> <p>24 heard James Ho's name?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">Page 20</p> <p>1 whether or not they're making truly an independent</p> <p>2 decision.</p> <p>3 And also sometimes to establish capacity.</p> <p>4 For example, very often there will be a third party</p> <p>5 who's completing someone's sentences; this is what</p> <p>6 mom wants, this is what they said.</p> <p>7 So by speaking with the client one-on-one, I</p> <p>8 can ask follow-up questions, might be direct, and I</p> <p>9 believe with better certainty to be able to determine</p> <p>10 whether or not this person's making independent</p> <p>11 decisions or if they're just being fed something by a</p> <p>12 third party who is self-interested.</p> <p>13 MR. FRASER: Move to strike as nonresponsive</p> <p>14 everything after the example.</p> <p>15 THE COURT: I forgot what the question was.</p> <p>16 MR. BAER: The question really was what his</p> <p>17 custom and practice was.</p> <p>18 THE COURT: Fair enough. Stricken.</p> <p>19 MR. BAER: Okay.</p> <p>20 BY MR. BAER:</p> <p>21 Q. So why was that your custom and practice?</p> <p>22 You explained your custom and practice of wanting to</p> <p>23 meet separately with testators, not together with</p> <p>24 third persons --</p> <p>25 A. To determine that there's not --</p>

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MR. BIORN: Was that answer stricken? Is that what I heard?

THE COURT: Part of it now. He's now going to go into the part that wasn't stricken.

BY MR. BAER:

Q. Okay. So why was that your custom and practice?

A. To determine that there's not a third party influencing the decision making, to determine that the testamentary decisions are independent and not influenced by a third party, to determine that the person has some level of capacity to make decisions based upon, at least my understanding of what they're communicating and what their intent may be, to rule out the possibility of undue influence.

Q. Okay. So as of February 2017, before you met with Mr. Ho, what things did you typically do to try to determine whether a client might be being influenced by a third party? How would you go about that?

A. Well, we follow a very typical process, which is that clients schedule appointments and that we will encourage people to come alone to the appointment so that we can meet with them one-on-one.

And my assistant, who currently is Melody,

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a person doesn't seem to appreciate the implications of their actions, I reserve judgment in terms of determining whether or not I should, at that point, disengage or refuse to engage or refer to a different attorney.

There can be situations where I'm not appropriate as a choice. Perhaps there's an area of law that's not my specialty, and so I reserve judgment for withdrawing, for terminating my representation, of course, within the bounds of ethical rules that we abide by.

Q. Okay. And you also mentioned having a custom and practice of ruling out undue influence. So as of February 2017, what exactly did you do when you were meeting with a client to try to rule out that the client's choice has been procured by undue influence?

MR. FRASER: Asked and answered.

MR. BAER: Well, I thought the last question --

THE COURT: This is in connection with this case you're asking?

MR. BAER: Yes. Well --

THE COURT: Overruled. Hold on.

MR. BAER: It was just his general custom and practice. If you want, I can ask him whether he did

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but at that time was Jackie Alioto, would ask some background questions to see about whether or not we can have a one-on-one meeting, to see whether or not a person can come themselves to a meeting, or if we do a house call, which I do occasionally, to see if there will be a place where I can meet one-on-one with the client, and then to compare documents, disclosures, consents, confidentiality waivers that are appropriate to the situation.

For example, sometimes it's necessary to do a waiver of current representation when we represent married couples so that we can identify some of the potential conflicts of interest that exist.

Sometimes we're doing inter-family transactions and we need to do written disclosures or determine that it's inappropriate to proceed with the representation. We have to do a conflicts check, which involves running names through our system to see if there are associated parties where we might have some conflicts of interest and can't accept representation because it's adverse. And then we continue to monitor as we go.

So, for example, if we're in a meeting and I determine that there is some level of communication that's inappropriate or that I can't proceed because

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that in connection with meeting with Mr. Ho. But anyway, I was just asking what his practices were at the time.

THE COURT: I think he might have answered, but I'll permit it. It's all preliminary.

MR. BAER: It was a little different. I think the question was to see if a third party had influenced the decision. Similar, but not exactly the same.

THE COURT: Objection overruled.

BY MR. BAER:

Q. Do you have the question in mind?

A. Can you rephrase?

Q. Yes. Okay. So as of February 2017, what was your custom and practice when meeting with clients to rule out that their donative intent has been procured by undue influence, that they weren't acting of their own free will?

A. So that's a very broad question. We have -- I have training as an attorney to identify issues, and those issues are based upon knowledge of the law, knowledge of lots of facts and circumstances.

And so when I see facts that indicate the potential of undue influence, that's when I have a red flag. I think that's how we're trained as

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<p style="text-align: center;">Page 25</p> <p>1 attorneys, to identify how facts relate to law, 2 relate to these situations.</p> <p>3 So I try to avoid -- I put up a hedge to 4 avoid these situations by having one-on-one meetings. 5 But then also, using my judgment as an attorney, to 6 determine when there may likely be undue influence 7 and then acting appropriately based upon the 8 circumstance.</p> <p>9 Q. Okay. So how did you first hear of James Ho? 10 A. I can't recall specifically.</p> <p>11 Q. Did you learn some way that -- did someone 12 communicate to you that he was in need of counsel? 13 A. Yes.</p> <p>14 Q. Was that Mr. Ho himself? 15 A. I can't recall. I believe that I may have 16 received a form e-mail through our program through 17 our website, but again, I can't recall.</p> <p>18 Q. Okay. Did you set up a meeting with Mr. Ho? 19 A. Myself personally?</p> <p>20 Q. Well, was a meeting set up for you to meet 21 with Mr. Ho? 22 A. Yes.</p> <p>23 Q. How was that done? 24 A. I can't recall. I do vaguely recall, again, 25 this is six years ago, that there were some</p>	<p style="text-align: center;">Page 27</p> <p>1 well, if I'm able to accept a representation, if I'm 2 able to meet one-on-one with Mr. Ho, then potentially 3 I could do a certificate of independent review, if I 4 determined that's appropriate.</p> <p>5 So I believe my response was very shrouded in 6 hypotheticals. But, yes, and that was because, if 7 you would permit me to give an explanation, I was 8 concerned at the time that there could be some 9 potential influence by third parties.</p> <p>10 Q. Why were you concerned about that? 11 A. Well, whenever somebody -- a third party is 12 communicating on someone's behalf, there's a question 13 that I have: Why is this person not communicating 14 with me directly?</p> <p>15 Q. Okay. And did you get an answer to that 16 question? 17 A. Yes.</p> <p>18 Q. What was the answer? 19 A. Well, James Ho was a very elderly man. I 20 doubt that he was using e-mail. At that time, while 21 I spoke with him on the phone, it's very often for 22 elderly men to -- or women -- not to be using e-mail 23 communication.</p> <p>24 MR. FRASER: Move to strike as nonresponsive, 25 everything after it's very common [sic].</p>
<p style="text-align: center;">Page 26</p> <p>1 e-mails -- and, in fact, I reviewed them in advance 2 of today's testimony, but even so, I'm vague on the 3 details -- that my assistant set up a time where I 4 would be meeting with Mr. Ho, and I believe I 5 exchanged some e-mails with my assistant regarding 6 setting up a proposed engagement letter based upon 7 what our proposed scope was going to be.</p> <p>8 And I believe also that there was a person 9 who was related to Debby Chang, who was James Ho's 10 longtime girlfriend who I think contacted our office, 11 inquiring whether we could be of assistance. I 12 forget his name now. I believe he was a dentist or 13 something like that, and he contacted our office 14 inquiring whether we could be of assistance in this 15 particular area.</p> <p>16 Q. Okay. Did you communicate with that person? 17 Was the name Reinhard? 18 A. Yes.</p> <p>19 Q. Okay. Did you communicate with Reinhard 20 about the possibility that you be hired as James Ho's 21 attorney? 22 A. If I recall correctly, he sent me an e-mail 23 regarding the appointment that we were going to be 24 setting up where he inquired whether I could do 25 certain things, and I responded indirectly by saying,</p>	<p style="text-align: center;">Page 28</p> <p>1 THE COURT: The question is: Why didn't you 2 speak to Mr. Ho? 3 MR. BAER: I frankly can't remember the 4 question.</p> <p>5 THE WITNESS: I believe it was why are you 6 concerned about third parties. 7 BY MR. BAER: 8 Q. Yes, why are you concerned? Yes. 9 A. I'm concerned because --</p> <p>10 THE COURT: Hold on. You have to wait. 11 MR. BAER: Yes.</p> <p>12 THE COURT: Overruled. I'm going to allow 13 that answer to remain. 14 MR. BAER: Okay.</p> <p>15 BY MR. BAER: 16 Q. Did you do anything to address that concern? 17 A. This particular concern? 18 MR. FRASER: Vague and ambiguous as to 19 concern. 20 MR. BAER: Okay.</p> <p>21 THE COURT: Sustained. 22 BY MR. BAER: 23 Q. Did you do anything to address your concern 24 that you had been contacted by a third person rather 25 than Mr. Ho himself?</p>

<p style="text-align: center;">Page 29</p> <p>1 A. Yes. Exactly as I described, I responded 2 without any particular advice, without any particular 3 promise as to what I was going to do. 4 I spoke in potentials. So I told -- I'm 5 sorry, Mr. Reinhard, I believe it was -- that I can 6 potentially be engaged, that I might be able to do a 7 certificate of independent review if I were able to 8 establish that it were appropriate and if I could 9 meet one-on-one with Mr. Ho and if I could be engaged 10 by him. All these things I had no idea at that time 11 whether it would be appropriate. 12 Q. Okay. And up to that point, anyway, why did 13 you think that a certificate of independent review 14 might be the -- might be something you could do? 15 A. Well, on the one hand, the most classic 16 situation for a certificate of independent review is 17 where there's an attorney referring one to certify an 18 estate plan. It's not limited to that expressly by 19 statute. 20 And my thought at the time was if there was 21 some transfer that took place, maybe it would avoid 22 litigation, for there to be somebody who sat down 23 with Mr. Ho and determined whether or not he actually 24 intended to do this, and if it was the product of 25 undue influence, maybe I could help.</p>	<p style="text-align: center;">Page 31</p> <p>1 specifically. 2 Q. Okay. So did you prepare -- you met with 3 Mr. Ho, though, right? 4 A. Yes. 5 Q. And did you prepare some notes when you met 6 with him? 7 A. I think just some scattered stream of 8 consciousness notes on a yellow notepad. 9 And then afterwards, my associate Beth 10 Chagonjian, and I drew up a memo, which was a 11 reflection of my recollection. 12 MR. FRASER: Move to strike as nonresponsive, 13 everything after "and afterwards." 14 THE COURT: Appears to be. 15 Mr. Baer, do you have anything you wanted to 16 add? 17 MR. BAER: No. 18 THE COURT: It's stricken. 19 BY MR. BAER: 20 Q. We're going to show you what's been marked as 21 Exhibit 523. 22 MR. BIORN: Which binder? 23 MR. KUO: Volume 3. 24 MR. FRASER: Mr. Martin, can you slow down a 25 little bit? I know it's hard for the court reporter.</p>
<p style="text-align: center;">Page 30</p> <p>1 Maybe I could point him in the right 2 direction, ask him to do some estate planning, avoid 3 some sort of conflict between his family members. 4 So I think it was with just this desire to be 5 of assistance and not to overlook something where I 6 could potentially help this family. 7 Q. Okay. And was an appointment set up for you 8 to meet with Mr. Ho? 9 A. Yes. 10 Q. Why did you decide -- well, did you consider 11 not meeting with Mr. Ho unless he contacted you 12 himself? 13 A. I can't recall that specific thought entering 14 my mind. 15 Q. Let me put the question differently: In 16 light of the fact that Mr. Ho himself had not 17 contacted you, why did you go ahead and have a 18 meeting set up? 19 A. Well, I did speak with Mr. Ho over the phone 20 before the meeting. 21 Q. Okay. And then was -- when were you 22 supposed to -- when was the meeting with him 23 scheduled for? 24 A. I don't recall the date. I believe it was 25 the afternoon, but even that I can't recall</p>	<p style="text-align: center;">Page 32</p> <p>1 THE WITNESS: I'll try. 2 BY MR. BAER: 3 Q. Okay. Mr. Martin, can you explain what 4 Exhibit 523 is? 5 A. These appear to be my notes dated August 6 21st, 2017, which I took while I was interviewing 7 Mr. Ho. 8 Q. And on that day, did you also interview 9 Ms. Chang? 10 A. Yes. 11 Q. Do these notes cover that interview or not? 12 A. Oh, I don't know. I think yes, actually, at 13 the very end. I'm not sure. 14 Q. Okay. 15 A. Perhaps. 16 Q. Let me turn your attention to page JM 0023 of 17 this document. So you see about two-thirds of the 18 way down there the heading "Debby"? 19 A. Yes. 20 Q. Can you tell whether that indicates these are 21 notes of your interview with her or something Mr. Ho 22 said about her or something else? 23 A. These appear to be my notes based on what 24 Debby said from this point forwards. 25 Q. Okay. And in terms of this meeting on August</p>

<p style="text-align: center;">Page 33</p> <p>1 21, did it go forward as originally scheduled?</p> <p>2 A. Can you clarify what you mean by that?</p> <p>3 Q. Did you set up a time for the meeting? Was</p> <p>4 there a time initially set up for the meeting?</p> <p>5 A. I believe my staff set up a time for the</p> <p>6 meeting. I believe it was a little bit late, if I</p> <p>7 recall correctly, but I'm not sure.</p> <p>8 Q. Why was it late, if you can recall?</p> <p>9 A. Well, I recall reviewing my notes and that,</p> <p>10 according to my notes, Peter Ho called our office to</p> <p>11 cancel the meeting.</p> <p>12 MR. FRASER: Move to strike as nonresponsive</p> <p>13 everything after I reviewed my notes.</p> <p>14 MR. BAER: I don't agree with that.</p> <p>15 THE COURT: Why was it late?</p> <p>16 MR. BAER: Yes.</p> <p>17 THE COURT: Overruled.</p> <p>18 MR. BAER: Okay.</p> <p>19 BY MR. BAER:</p> <p>20 Q. Did you speak to Peter Ho yourself?</p> <p>21 A. No.</p> <p>22 Q. Did your staff inform you as to what Mr. Ho</p> <p>23 said?</p> <p>24 A. I can't recall specifically.</p> <p>25 Q. Did you go to the meeting as scheduled</p>	<p style="text-align: center;">Page 35</p> <p>1 Q. What did he say in response to that?</p> <p>2 A. I can't remember his specific words, but</p> <p>3 the -- what I took away from that was that he was</p> <p>4 upset and that he wanted to go through with the</p> <p>5 meeting, it was very important for him and he</p> <p>6 requested that I come.</p> <p>7 MR. FRASER: Objection. Speculation. Move</p> <p>8 to strike.</p> <p>9 THE COURT: Upset is speculation because he</p> <p>10 doesn't know this gentleman, but he wanted to go</p> <p>11 through with the meeting will remain.</p> <p>12 BY MR. BAER:</p> <p>13 Q. Did you ask him if he wanted to go through</p> <p>14 with the meeting?</p> <p>15 A. I don't think I used those words, do you want</p> <p>16 to go through with the meeting.</p> <p>17 Q. As best you recall, what did you -- strike</p> <p>18 that.</p> <p>19 Did you say or do noticing to confirm that he</p> <p>20 wanted to go through with the meeting?</p> <p>21 A. Yes.</p> <p>22 Q. What did you do?</p> <p>23 A. I can't recall specifically, so I don't want</p> <p>24 to speculate.</p> <p>25 Q. Do you recall anything that Mr. Ho said to</p>
<p style="text-align: center;">Page 34</p> <p>1 despite the call from Peter Ho?</p> <p>2 A. Clarify what you mean by "as scheduled,"</p> <p>3 because I'm not sure if I showed up at the original</p> <p>4 time or a little bit later. It could have been a</p> <p>5 little bit later. I think that was the case.</p> <p>6 Q. Okay. When you got that message, did you</p> <p>7 decide not to meet with Mr. Ho?</p> <p>8 A. Yes.</p> <p>9 Q. Why?</p> <p>10 A. The meeting was cancelled.</p> <p>11 Q. Did you subsequently change your mind?</p> <p>12 A. I can't recall changing my mind. I believe</p> <p>13 that our office was called by Debby Chang who asked</p> <p>14 where we were, if I recall correctly. I can't</p> <p>15 recall, though, speaking to Debby Chang, but I do</p> <p>16 recall that -- oh, now I remember.</p> <p>17 I think Debby Chang called our office to</p> <p>18 confirm the appointment or to wonder why it was</p> <p>19 cancelled, either one. And then when it was</p> <p>20 transferred to me, James Ho was on the line directly.</p> <p>21 Q. What did Mr. Ho say, if anything?</p> <p>22 A. He said, why is my meeting cancelled?</p> <p>23 Q. What did you say?</p> <p>24 A. I said, well, I understand your son called to</p> <p>25 cancel it.</p>	<p style="text-align: center;">Page 36</p> <p>1 confirm that he wanted to go through with the</p> <p>2 meeting?</p> <p>3 A. Yes.</p> <p>4 Q. What?</p> <p>5 A. He asked me to come to his house.</p> <p>6 Q. And did you decide to do that then?</p> <p>7 A. Yes.</p> <p>8 Q. Did you tell him that you would come?</p> <p>9 A. Yes.</p> <p>10 Q. Did you tell Ms. Chang that you would come?</p> <p>11 A. No.</p> <p>12 Q. Did you go to Mr. Ho's house after that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you remember when you got there?</p> <p>15 A. I don't remember the time of day.</p> <p>16 Q. Okay. Do you recall who you saw first when</p> <p>17 you got there?</p> <p>18 A. Okay. I remember that -- I think the garage</p> <p>19 door was open and there was somebody in the garage,</p> <p>20 maybe a service person.</p> <p>21 Q. Go ahead.</p> <p>22 A. And then I looked towards the garage. I</p> <p>23 realized that probably wasn't James Ho or Debby</p> <p>24 Chang. So I came around to the front door. I</p> <p>25 believe I rang the doorbell.</p>

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<p style="text-align: center;">Page 37</p> <p>1 Q. Who answered the doorbell?</p> <p>2 A. Debby Chang.</p> <p>3 Q. And what did she say to you, if you can</p> <p>4 recall?</p> <p>5 A. I can't recall.</p> <p>6 MR. FRASER: Objection. Hearsay.</p> <p>7 MR. BAER: He couldn't recall anyway.</p> <p>8 THE WITNESS: I can't recall.</p> <p>9 THE COURT: Okay.</p> <p>10 BY MR. BAER:</p> <p>11 Q. Did you have any substantive discussion --</p> <p>12 this is just a yes-or-no question.</p> <p>13 Did you have any substantive discussion with</p> <p>14 Ms. Chang then concerning the purpose of your meeting</p> <p>15 with Mr. Ho?</p> <p>16 A. No.</p> <p>17 Q. What happened next after she let you in?</p> <p>18 A. Well, I looked around the house to see where</p> <p>19 we were going to be meeting and, at some point, I saw</p> <p>20 James Ho, introduced myself to him. And then we</p> <p>21 looked around for a space to make sure that there</p> <p>22 would be a secure place where I could meet with him</p> <p>23 one-on-one.</p> <p>24 And then, at a certain point, Debby Chang, I</p> <p>25 asked her to leave and be out of earshot so I could</p>	<p style="text-align: center;">Page 39</p> <p>1 Q. Did you do anything to confirm that your</p> <p>2 meeting would, in fact, be in private?</p> <p>3 A. Yes, I looked around the house.</p> <p>4 Q. Did you do anything to confirm that, in</p> <p>5 essence, Ms. Chang was not eavesdropping on you and</p> <p>6 Mr. Ho?</p> <p>7 A. Well, I kept my -- I used my ears, my sense</p> <p>8 of hearing to determine if I heard any walking or any</p> <p>9 movement.</p> <p>10 Q. So during your meeting with Mr. Ho, did you</p> <p>11 ever hear anything to indicate to you that Ms. Chang</p> <p>12 was in the vicinity?</p> <p>13 A. I didn't --</p> <p>14 MR. FRASER: Calls for speculation.</p> <p>15 THE WITNESS: I don't recall any --</p> <p>16 MR. BAER: Wait. Let her rule.</p> <p>17 THE WITNESS: Yes.</p> <p>18 MR. BAER: Please.</p> <p>19 THE COURT: Did he do anything?</p> <p>20 MR. BAER: That was the question.</p> <p>21 MR. FRASER: Okay. Withdrawn.</p> <p>22 THE COURT: Okay. Thank you.</p> <p>23 MR. BAER: Appreciate it.</p> <p>24 BY MR. BAER:</p> <p>25 Q. Okay. So, yes, did you do anything to</p>
<p style="text-align: center;">Page 38</p> <p>1 could be one-on-one with Mr. Ho.</p> <p>2 Q. Okay. So did you find such a secure place?</p> <p>3 A. Yes.</p> <p>4 Q. And what made you think that that would be a</p> <p>5 secure place?</p> <p>6 A. I looked around the house and there was a</p> <p>7 stairway that led upstairs and Debby said she was</p> <p>8 going to go upstairs. And I believe we were going to</p> <p>9 be in this dining room that adjoined to a kitchen and</p> <p>10 there were these doors that could shut.</p> <p>11 And so my thought was there were going to be</p> <p>12 several rooms that separate us, James and myself,</p> <p>13 from Debby, so it appeared to be very private.</p> <p>14 MR. FRASER: Move to strike his testimony as</p> <p>15 to what Debby said.</p> <p>16 THE COURT: What is it that Debby said? I</p> <p>17 heard Debby was going to go upstairs.</p> <p>18 MR. FRASER: I believe she said -- he said</p> <p>19 that she said that she was going to go upstairs.</p> <p>20 MR. BAER: I think that's just -- I don't</p> <p>21 think that's a fact. I think that's a state of mind.</p> <p>22 THE COURT: It will be received only for that</p> <p>23 purpose.</p> <p>24 MR. BAER: That's fine. Okay.</p> <p>25 BY MR. BAER:</p>	<p style="text-align: center;">Page 40</p> <p>1 essentially -- I'm sorry. I forgot the question</p> <p>2 myself at this point.</p> <p>3 Let me ask it a little bit different way.</p> <p>4 Okay. During the meeting with Mr. Ho, did you ever</p> <p>5 hear Ms. Chang moving in the house, or that you</p> <p>6 thought was Ms. Chang moving in the house?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Did she -- did she interrupt your meeting</p> <p>9 with Mr. Ho?</p> <p>10 A. No.</p> <p>11 Q. Did she knock on the door so that she could</p> <p>12 talk to you and/or Mr. Ho while you were meeting with</p> <p>13 him?</p> <p>14 A. No.</p> <p>15 Q. Before you met with Mr. Ho, did Ms. Chang ask</p> <p>16 you any questions about what you would do in the</p> <p>17 meeting with James?</p> <p>18 MR. FRASER: Objection. Hearsay.</p> <p>19 MR. BAER: It's just a yes/no question.</p> <p>20 THE COURT: Overruled. It is a yes/no. No</p> <p>21 explanation, please.</p> <p>22 MR. BAER: Could you read the question back,</p> <p>23 please?</p> <p>24 (The record was read by the Reporter.)</p> <p>25 THE WITNESS: I can't recall.</p>

10 (Pages 37 to 40)

<p style="text-align: center;">Page 41</p> <p>1 BY MR. BAER:</p> <p>2 Q. Okay. Did she make any statement to the</p> <p>3 effect of what she hoped would be achieved in the</p> <p>4 meeting?</p> <p>5 A. Well, I'm confused now because we did have</p> <p>6 this e-mail message that came through and I had</p> <p>7 e-mail correspondence with Mr. Reinhard regarding</p> <p>8 correspondence. I don't think Debby was copied on</p> <p>9 those, if I recall correctly, so I wouldn't count</p> <p>10 those as statements to Debby.</p> <p>11 So now I'm thinking of it, I don't think</p> <p>12 prior to this point -- I can't recall specific</p> <p>13 comments from her. Certainly after the meeting, I</p> <p>14 spoke with Debby about what I could do, but I can't</p> <p>15 recall specifically. I'm going to assume that I did</p> <p>16 not, that she didn't ask me specifically.</p> <p>17 Q. While you were in the house, before you</p> <p>18 actually met with James separately, did Ms. Ho [sic]</p> <p>19 say anything to the effect that she was hoping that</p> <p>20 you would confirm that James had made a gift to her?</p> <p>21 A. I can't recall that specifically. I don't</p> <p>22 think so.</p> <p>23 Q. Did she say anything to you before you met</p> <p>24 with James separately to -- strike that.</p> <p>25 Let me ask a little differently. Okay. Did</p>	<p style="text-align: center;">Page 43</p> <p>1 He went over certain transactions. He referred very</p> <p>2 specifically to a history of transfers that had taken</p> <p>3 place and seemed oriented as to when he went to the</p> <p>4 bank, when he took out funds.</p> <p>5 He couldn't remember exact details, but he</p> <p>6 ultimately seemed to understand the objects of his</p> <p>7 affection, the assets that he owned, the relationship</p> <p>8 between him and his finances.</p> <p>9 There was a little bit of confusion regarding</p> <p>10 the ownership of the house that he lived in, but I</p> <p>11 reconciled that detail because a lot of people refer</p> <p>12 to the house that they're in as their home.</p> <p>13 And so I was satisfied talking to him that he</p> <p>14 understood his finances, he understood who he was, he</p> <p>15 had testamentary capacity, he had the ability to</p> <p>16 contract.</p> <p>17 He had some minor impairment with memory and</p> <p>18 with situational awareness, but in terms of the</p> <p>19 minimum necessary to manage his finances, it was my</p> <p>20 opinion, not as a medical expert, but just</p> <p>21 anecdotally, based upon his situation, other</p> <p>22 situations I was familiar with, that he had the</p> <p>23 ability to hire an attorney and to confirm what his</p> <p>24 wishes would be.</p> <p>25 MR. FRASER: Move to strike this testimony</p>
<p style="text-align: center;">Page 42</p> <p>1 she make any suggestions to you about what you should</p> <p>2 tell or ask James Ho in the meeting?</p> <p>3 A. No.</p> <p>4 Q. Before you met with James Ho, did you decide</p> <p>5 that the best way to assist him -- well, first of</p> <p>6 all, before you met with him, did you decide that you</p> <p>7 would represent him?</p> <p>8 A. No.</p> <p>9 Q. When did you decide that you would represent</p> <p>10 him?</p> <p>11 A. During the meeting.</p> <p>12 Q. And what made you decide that you were</p> <p>13 willing to represent him?</p> <p>14 A. He appeared to have capacity to contract.</p> <p>15 MR. FRASER: Objection. Calls for</p> <p>16 conclusion.</p> <p>17 THE COURT: It does, but that's part of his</p> <p>18 job, as he indicated, based on his experience. So</p> <p>19 I'm going to permit it to remain.</p> <p>20 MR. BAER: Okay.</p> <p>21 BY MR. BAER:</p> <p>22 Q. So what gave you the impression that he had</p> <p>23 the capacity to contract?</p> <p>24 A. Many things. Specifically, he understood the</p> <p>25 transactions in his checkbook. He gestured to it.</p>	<p style="text-align: center;">Page 44</p> <p>1 that James understood the transactions as</p> <p>2 speculation.</p> <p>3 THE COURT: I'm going to allow</p> <p>4 cross-examination on this area. Right now, it will</p> <p>5 stand.</p> <p>6 BY MR. BAER:</p> <p>7 Q. What did Mr. Ho -- I think you've kind of</p> <p>8 explained this in your answer, but I'll be more</p> <p>9 specific. What did Mr. Ho say that caused you to</p> <p>10 conclude that he understood the transactions at</p> <p>11 issue?</p> <p>12 A. It was specifically his checkbook, right, his</p> <p>13 understanding of where money was going, where it was</p> <p>14 coming from. He was very clear about it.</p> <p>15 He was also clear about who his children were</p> <p>16 and what kind of assets they'd be getting at his</p> <p>17 death. He knew all about their financial situation.</p> <p>18 He recounted their educations. He recounted where</p> <p>19 they were, what their roles were as power of attorney</p> <p>20 in the case of Peter Ho. He seemed to understand</p> <p>21 what his estate planning did.</p> <p>22 He understood that this gift to Debby Chang</p> <p>23 was outside the terms of estate planning. He was</p> <p>24 very specific that he didn't want to muddy the waters</p> <p>25 with his estate planning to allow for this gift. He</p>

<p style="text-align: center;">Page 45</p> <p>1 wanted it to be casual. He wanted it to be outside 2 the terms of his estate plan.</p> <p>3 I think he didn't want to involve his son in 4 this particular transaction. My sense was that he 5 just wanted to do something that a lot of people do, 6 a casual, outside of the four corners of the document 7 gift to his long-term girlfriend.</p> <p>8 Him expressing all these things, being really 9 clear as to his intent, for me, that shows a person 10 who's not unclear about their wishes. They're not 11 unclear about the details of financial transactions 12 because they're so specific.</p> <p>13 MR. FRASER: Move to strike his testimony 14 regarding what James understood and regarding James' 15 desires not to include his children.</p> <p>16 THE COURT: Could you establish a foundation? 17 MR. BAER: I'll try to. I mean it's kind of 18 working backwards.</p> <p>19 BY MR. BAER: 20 Q. But the things that you just testified to, 21 were those things that James said? 22 A. Yes. I have notes actually here that we were 23 looking at that went over the children's education 24 and we went over his career. We went over some of 25 the history of Foster City. We went over Debby, his</p>	<p style="text-align: center;">Page 47</p> <p>1 A. We were talking about him being in Foster 2 City.</p> <p>3 Q. Do you remember whether it was -- 4 A. I'm sorry. Can I clarify that -- I can't 5 recall right now. I believe this was Redwood City, 6 yes.</p> <p>7 Q. Okay. Did he know -- did he say anything one 8 way or the other to express that he understood why 9 you were there? 10 MR. FRASER: Calls for speculation. 11 THE COURT: If he said anything, that's fine. 12 THE WITNESS: Yes, that was one of the first 13 things we talked about, do you know why I'm here, 14 Mr. Ho. 15 BY MR. BAER: 16 Q. What did he say? 17 A. He said, I think it has something to do with 18 the million dollars I gave to Debby.</p> <p>19 Q. Okay. So backing up a little bit, because I 20 forgot to go over this, up to that point in time, had 21 you prepared a certificate of independent review 22 before? 23 A. Yes. 24 Q. Did you do anything essentially to plan for 25 your meeting with James?</p>
<p style="text-align: center;">Page 46</p> <p>1 relationship with her.</p> <p>2 We went over the bank. We went over all of 3 the -- his checkbook. He showed his checkbook. He 4 showed me the transactions. Everything that I 5 referred to was from him individually and my 6 response, just my conclusions, based upon what he was 7 saying.</p> <p>8 Q. Okay. You mentioned that you observed minor 9 memory impairment. Can you be more specific as to 10 what you observed? 11 A. I can't recall right now. Maybe if I 12 reviewed my notes, I could recall. Right now, I'm 13 not remembering anything specifically that he 14 couldn't remember.</p> <p>15 But I do remember coming to the conclusion 16 that he might have been a little bit situationally 17 unaware. But right now, I can't remember 18 specifically why I had that conclusion.</p> <p>19 Q. Did you ask him his name? 20 A. Yes. 21 Q. Did he give it to you? 22 A. Yes. 23 Q. Did you ask him where he was? 24 A. Yes, yes. 25 Q. What did he say?</p>	<p style="text-align: center;">Page 48</p> <p>1 A. Yes. 2 Q. What? 3 A. I reviewed the statute and some secondary 4 authority through California Education of the Bar. 5 Q. Do you remember what authority you reviewed? 6 A. The statute. 7 Q. In the secondary authority, the CEB, did you 8 review anything besides the statute itself? 9 A. Yes, I think I might have looked at one case 10 that dealt with the issue, but now I can't recall. 11 Q. Okay. 12 A. I think, actually, the case I reviewed had to 13 do with liability for failure to refer, but I think I 14 did glance at that case. And now, I'm not recalling 15 the specific case.</p> <p>16 Q. Okay. In terms of -- well, let me just -- 17 did you make any kind of plan on paper as to what you 18 were going to ask Mr. Ho? 19 A. Yes. 20 Q. Okay. 21 A. Not on paper. 22 Q. Not on paper, okay. 23 A. Yeah. 24 Q. In your own mind, did you make a plan as to 25 what issues you wanted to cover with him?</p>

12 (Pages 45 to 48)

<p style="text-align: center;">Page 49</p> <p>1 A. Yes.</p> <p>2 Q. What were those issues?</p> <p>3 A. I wanted to satisfy the requirements of the</p> <p>4 statute, to counsel Mr. Ho outside the presence of</p> <p>5 any other person and then to make a determination</p> <p>6 that the transfer was not the product of fraud or</p> <p>7 undue influence.</p> <p>8 And also to counsel him regarding what would</p> <p>9 happen to his other beneficiaries of his estate plan</p> <p>10 if the gift were made and to see that he understood</p> <p>11 that, to see that he understood that less would go to</p> <p>12 his children if he were to make a particular gift to</p> <p>13 a third party.</p> <p>14 Q. Did you decide in advance whether you would</p> <p>15 also interview Ms. Chang?</p> <p>16 A. No.</p> <p>17 Q. Okay. So what do you recall Mr. Ho saying</p> <p>18 concerning the million dollars that he brought up?</p> <p>19 A. Well, that was the subject of our</p> <p>20 conversation for I believe an hour.</p> <p>21 Q. Okay. So did he explain to you whether or</p> <p>22 not he wanted to give that money to Ms. Chang?</p> <p>23 A. Yes, he was emphatic that he wanted that</p> <p>24 money to go to her.</p> <p>25 Q. Did he say why?</p>	<p style="text-align: center;">Page 51</p> <p>1 THE WITNESS: We didn't talk about the</p> <p>2 specific assets of his children. We talked about</p> <p>3 their background and their abilities, more generally</p> <p>4 their education, their prestige.</p> <p>5 BY MR. BAER:</p> <p>6 Q. Did he tell you whether any of them were</p> <p>7 employed?</p> <p>8 A. I believe so, but now, I can't recall</p> <p>9 specifically.</p> <p>10 Q. Okay. Well, do your notes refresh your</p> <p>11 recollection on that topic?</p> <p>12 A. Yes. It says here one of them worked at</p> <p>13 Kaiser Redwood City. Then Peter Ho currently works</p> <p>14 with a company with a few advanced graduates. He's</p> <p>15 been managing his own funds, so he's serving as his</p> <p>16 agent. So at least as to two of them, I have their</p> <p>17 career information noted in my notes.</p> <p>18 Q. Okay. Did he tell you anything about their</p> <p>19 educational backgrounds?</p> <p>20 A. Yes.</p> <p>21 Q. What did he tell you?</p> <p>22 MR. FRASER: He's not asking you to look at</p> <p>23 your notes.</p> <p>24 THE WITNESS: He told me about their degrees</p> <p>25 and their education.</p>
<p style="text-align: center;">Page 50</p> <p>1 A. He said his children had enough. He said</p> <p>2 they would be well provided for. He said they will</p> <p>3 not challenge what he does. They would respect it.</p> <p>4 Q. Okay. And did he express any kind of</p> <p>5 understanding as to, in saying that they had enough,</p> <p>6 what assets or income they were -- they had?</p> <p>7 A. Yes. He told me that his oldest child</p> <p>8 Diana --</p> <p>9 MR. FRASER: Objection. Mr. Baer is not</p> <p>10 asking him to look at his notes.</p> <p>11 THE WITNESS: Can I refer to my notes?</p> <p>12 MR. BAER: You can if you can't recall</p> <p>13 otherwise.</p> <p>14 THE WITNESS: He said that his oldest child</p> <p>15 Diana --</p> <p>16 MR. BAER: Well, then, let's lay a</p> <p>17 foundation.</p> <p>18 THE COURT: If you need something to refresh</p> <p>19 your recollection, please indicate that. Otherwise,</p> <p>20 if you could just flip to another page, see if you</p> <p>21 remember.</p> <p>22 THE WITNESS: Okay.</p> <p>23 THE COURT: And you can answer the question.</p> <p>24 MR. BAER: Could you read it back, please?</p> <p>25 (The record was read by the Reporter.)</p>	<p style="text-align: center;">Page 52</p> <p>1 BY MR. BAER:</p> <p>2 Q. Did he tell you whether or not they owned</p> <p>3 their own homes?</p> <p>4 A. I can't recall that.</p> <p>5 Q. Can you explain why you prepared these notes?</p> <p>6 A. These were stream of consciousness notes.</p> <p>7 Q. Did you prepare these contemporaneously with</p> <p>8 your meeting with James Ho or did you prepare them</p> <p>9 after?</p> <p>10 A. It was done at the time I was speaking with</p> <p>11 him.</p> <p>12 Q. And why did you make these notes?</p> <p>13 A. To create for myself a reminder of what was</p> <p>14 said during the meeting, so that I could go back and</p> <p>15 later draft a memo that had my fuller remarks.</p> <p>16 Q. And did you create such a memo?</p> <p>17 A. Yes.</p> <p>18 Q. In the course of meeting with James Martin</p> <p>19 [sic], did you decide that you would sign a</p> <p>20 certificate of independent review?</p> <p>21 Let me ask the question differently. When</p> <p>22 did you decide that you would sign a certificate of</p> <p>23 independent review?</p> <p>24 A. After the meeting.</p> <p>25 Q. And what made you -- why did you decide to do</p>

<p style="text-align: center;">Page 53</p> <p>1 it after the meeting?</p> <p>2 Well, let me put it differently: Why didn't</p> <p>3 you decide to do it at the meeting?</p> <p>4 A. I still wanted to think about it.</p> <p>5 Q. So what did you do after the meeting in the</p> <p>6 course of determining whether or not to prepare a</p> <p>7 certificate of independent review?</p> <p>8 A. I debriefed with my associate, Beth</p> <p>9 Chagonjian, and I talked through the meeting, talked</p> <p>10 through what James Ho said and asked for her opinion.</p> <p>11 Q. In meeting with James Ho, did he express any</p> <p>12 kind of reticence about going forward with you?</p> <p>13 A. Yes.</p> <p>14 Q. What did he say?</p> <p>15 A. He didn't want to pay too much in legal fees.</p> <p>16 Q. Did he express any kind of reticence about</p> <p>17 just the idea of meeting with you?</p> <p>18 MR. FRASER: Calls for speculation.</p> <p>19 MR. BAER: I'm asking what he said.</p> <p>20 THE WITNESS: No. He wanted to meet with me.</p> <p>21 He said that over the phone.</p> <p>22 BY MR. BAER:</p> <p>23 Q. Did he reiterate that at the meeting or was</p> <p>24 that mentioned again?</p> <p>25 A. If I recall correctly, he was concerned about</p>	<p style="text-align: center;">Page 55</p> <p>1 A. No. He was very specific, especially with</p> <p>2 numbers.</p> <p>3 Q. What do you remember about that?</p> <p>4 A. I think he told me his specific healthcare</p> <p>5 premium, how much it was per month.</p> <p>6 Q. When you asked him questions, did he respond</p> <p>7 to your questions?</p> <p>8 A. Yes.</p> <p>9 Q. Were his answers responsive? In other words,</p> <p>10 did he stay on topic?</p> <p>11 A. Yes.</p> <p>12 Q. Did he say or do anything to give you the</p> <p>13 impression that he was confused?</p> <p>14 A. Well, can I revisit your prior question? He</p> <p>15 did say, I think, and I think a lot of elderly do</p> <p>16 this, but he went into a long conversation about</p> <p>17 where he came from and his background and where he</p> <p>18 lived and the history of his relationship and his</p> <p>19 children.</p> <p>20 It was a long conversation. Perhaps that is</p> <p>21 wandering in conversation, so if I could clarify that</p> <p>22 earlier response to add that.</p> <p>23 Q. Okay.</p> <p>24 MR. FRASER: Move to strike. There was no</p> <p>25 question pending.</p>
<p style="text-align: center;">Page 54</p> <p>1 Peter Ho.</p> <p>2 Q. What did he --</p> <p>3 A. And he was afraid, I think, of Peter Ho and</p> <p>4 what might happen if Peter Ho knew that he was</p> <p>5 meeting with me.</p> <p>6 Q. Okay. What did he say about that, if you can</p> <p>7 recall?</p> <p>8 A. He said he was concerned about his son</p> <p>9 finding out.</p> <p>10 Q. Did he tell you whether he'd spoken to Peter</p> <p>11 about the upcoming meeting?</p> <p>12 A. I can't recall that specifically.</p> <p>13 Q. Did he tell you whether he'd received any</p> <p>14 instructions from Peter about meeting with an</p> <p>15 attorney?</p> <p>16 A. No.</p> <p>17 Q. Did he tell you that Ms. Chang had given him</p> <p>18 any instructions about what he should tell you or not</p> <p>19 tell you?</p> <p>20 A. No.</p> <p>21 Q. During the meeting, was Mr. Ho lucid?</p> <p>22 A. Yes.</p> <p>23 Q. When you spoke to him -- strike that.</p> <p>24 Did he have any difficulties expressing</p> <p>25 himself to you clearly?</p>	<p style="text-align: center;">Page 56</p> <p>1 THE COURT: He's explaining the wandering.</p> <p>2 He was asked that directly and he just wants to</p> <p>3 clarify.</p> <p>4 BY MR. BAER:</p> <p>5 Q. What did you do specifically to confirm</p> <p>6 whether or not Mr. Ho wanted to make this gift?</p> <p>7 A. I asked him questions about his estate</p> <p>8 planning, who was managing his finances, where his</p> <p>9 assets were going and asked him point blank whether</p> <p>10 he wanted to deviate from that by giving something to</p> <p>11 Debby Chang.</p> <p>12 I tried to establish what his relationship</p> <p>13 was with her, to determine whether she was just a</p> <p>14 short-term thing, a caregiver, somebody who had shown</p> <p>15 up and is just taking advantage of him or whether she</p> <p>16 was a very long-term companion.</p> <p>17 And I became satisfied that she was a</p> <p>18 long-term relationship of his and that he wanted very</p> <p>19 specifically to give her this cash gift that he had</p> <p>20 given and that he was totally comfortable in</p> <p>21 deviating from his estate plan.</p> <p>22 Q. Okay. What --</p> <p>23 MR. FRASER: Move the strike everything after</p> <p>24 what he concluded. The question was what he did, not</p> <p>25 what his conclusion was.</p>

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<p style="text-align: center;">Page 57</p> <p>1 THE COURT: I think that's true. Stricken. 2 You can re-ask the question. 3 MR. BAER: Okay. 4 BY MR. BAER: 5 Q. Did he explain what his estate plan was at 6 the time to you? 7 MR. FRASER: Leading. 8 THE COURT: Overruled. This is pretty 9 preliminary. It's just shifting gears. 10 Did he explain -- 11 BY MR. BAER: 12 Q. Did he talk to you about his estate plan? 13 A. Yes. 14 Q. Did he explain his estate plan at that time? 15 MR. FRASER: Objection. Leading. 16 THE COURT: Overruled. 17 THE WITNESS: I think explained his estate 18 plan would be overbroad. He didn't give me technical 19 or legal details. But we talked about generally who 20 was managing things, how things were held and I -- he 21 said enough to communicate that he had a trust, he 22 had a power of attorney. 23 BY MR. BAER: 24 Q. Did he cover essentially -- did you discuss 25 with him the issue of who would get the money if</p>	<p style="text-align: center;">Page 59</p> <p>1 A. Yes. 2 Q. What did he say? 3 A. Well, he said that Debby could do anything 4 she wants with the money and that he wanted it to go 5 to her and that if she wanted to buy a house, she 6 could do that, including the house that he was living 7 in. 8 MR. FRASER: Move to strike as nonresponsive. 9 THE COURT: Can you read back the question? 10 (The record was read by the Reporter.) 11 THE COURT: Objection is overruled. His 12 statement about what Debby could do with the money 13 will remain. 14 BY MR. BAER: 15 Q. Did he say anything to you to suggest to you 16 that Ms. Chang had pressured him into making this 17 gift? 18 A. No. 19 MR. FRASER: Objection. Leading. 20 THE COURT: Overruled. The answer will 21 remain. 22 BY MR. BAER: 23 Q. Did you hear anything from Mr. Ho that caused 24 you to conclude that he may have been pressured into 25 making this gift?</p>
<p style="text-align: center;">Page 58</p> <p>1 Ms. Chang did not? 2 A. Yes. 3 Q. Okay. What did he say about that? 4 A. He said he didn't want his children to get 5 that money that went to Debby Chang. They had 6 enough. 7 Q. Okay. And what did he tell you about his 8 relationship with Ms. Chang? 9 A. He said he met her from about 20 years prior 10 to our conversation, prior to his wife passing away 11 and that they had -- after his wife passed away had 12 been together and that there were -- it was a very 13 long-term relationship. 14 Q. Did he have any criticisms of Ms. Chang? 15 A. I think he did. I think he did have some 16 criticisms. I can't recall specifically what they 17 were right now. 18 Q. Do you remember what they were about, just 19 the general subject matter, as opposed to the 20 specific criticisms? 21 A. Gosh, it might have been something regarding 22 appointments or healthcare, something that now I 23 can't recall specifically. 24 Q. Conversely, do you remember whether he said 25 anything positive about her?</p>	<p style="text-align: center;">Page 60</p> <p>1 A. No. 2 MR. BAER: Can we take a break, Your Honor? 3 THE COURT: Absolutely. We'll take five, ten 4 minutes. 5 (Whereupon, a break was taken.) 6 MR. BAER: So back on the record. 7 BY MR. BAER: 8 Q. What kind of mood was James in the day that 9 you met with him? 10 A. He was very calm. 11 Q. When you met with him, did he appear to be 12 either anxious or relaxed? 13 A. Relaxed. 14 Q. When you met with him, did he stop you and 15 ask you to explain what you were saying or indicate 16 that he didn't understand you? 17 A. Not that I recall. 18 Q. Was his speech fluent or halting or would you 19 describe it in some different way? 20 A. It was fluent. He went on at length with 21 responses at times and at other times he was very 22 specific and short. He was both. 23 Q. Did you consider his speech to be normal or 24 abnormal? 25 MR. FRASER: Calls for speculation.</p>

15 (Pages 57 to 60)

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<p style="text-align: center;">Page 61</p> <p>1 THE COURT: Establish a foundation. I don't</p> <p>2 think he knows.</p> <p>3 MR. BAER: Okay.</p> <p>4 BY MR. BAER:</p> <p>5 Q. Did you think at all about his speech pattern</p> <p>6 as he was talking to you?</p> <p>7 A. I understood the words he was saying. There</p> <p>8 was never a point where I couldn't understand. He</p> <p>9 spoke in complete sentences. He spoke with proper</p> <p>10 grammar. He seemed to be a reasonably well-educated,</p> <p>11 intelligent man of advanced age who liked to talk</p> <p>12 about his family, the past, his history, and those</p> <p>13 things.</p> <p>14 MR. FRASER: Move to strike everything except</p> <p>15 for the first sentence.</p> <p>16 MR. BIORN: Could you read the answer back,</p> <p>17 please?</p> <p>18 MR. BAER: Could you read the question too,</p> <p>19 please?</p> <p>20 (The record was read by the Reporter.)</p> <p>21 MR. FRASER: From when "he seemed."</p> <p>22 THE COURT: "He seemed," stricken.</p> <p>23 BY MR. BAER:</p> <p>24 Q. What did you think about his communication</p> <p>25 skills?</p>	<p style="text-align: center;">Page 63</p> <p>1 document here. Why don't we look instead at</p> <p>2 Exhibit 525.</p> <p>3 A. (Witness complies.)</p> <p>4 Q. Is that -- so did you go over this engagement</p> <p>5 letter with Mr. Ho?</p> <p>6 A. Yes.</p> <p>7 Q. Did you ask him to sign it?</p> <p>8 A. I can't recall specifically asking him to</p> <p>9 sign.</p> <p>10 Q. Did you ask him if he wanted to sign?</p> <p>11 A. I can't recall specifically asking him if he</p> <p>12 wanted to sign.</p> <p>13 Q. Did you ask him just in general terms if he</p> <p>14 wanted you to represent him?</p> <p>15 A. Yes.</p> <p>16 Q. What did he say?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So did -- do you remember whether</p> <p>19 Mr. Ho signed the engagement letter at that meeting?</p> <p>20 A. At this moment, I can't recall.</p> <p>21 Q. Your file did have the signed engagement</p> <p>22 letter in it?</p> <p>23 A. Yes.</p> <p>24 Q. It did, okay. Did you receive a check from</p> <p>25 Mr. Ho for the cost of the engagement?</p>
<p style="text-align: center;">Page 62</p> <p>1 A. I don't remember drawing a particular</p> <p>2 conclusion because I had no specific issues that I</p> <p>3 had in my mind regarding his communication.</p> <p>4 Q. Did you -- had you prepared an engagement</p> <p>5 letter before you met with Mr. Ho?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So let me turn your attention to</p> <p>8 Exhibit 522 in the notebook. And this is a letter of</p> <p>9 representation from the Law Offices of John C. Martin</p> <p>10 dated August 18, 2017.</p> <p>11 Did you prepare this document?</p> <p>12 A. No.</p> <p>13 Q. Who prepared it?</p> <p>14 A. That was prepared by my assistant, Jackie</p> <p>15 Alioto.</p> <p>16 Q. Did you sign it?</p> <p>17 A. This particular version, this copy, I'm not</p> <p>18 sure.</p> <p>19 Q. Actually, is this complete? I'm not sure.</p> <p>20 Anyway, did you bring -- did you bring an</p> <p>21 engagement letter to your meeting with Mr. Ho?</p> <p>22 A. Yes.</p> <p>23 Q. Did you discuss it with him?</p> <p>24 A. Yes.</p> <p>25 Q. Let me turn your attention to a better</p>	<p style="text-align: center;">Page 64</p> <p>1 A. Yes.</p> <p>2 Q. And do you remember whether you got that</p> <p>3 check at the meeting or later?</p> <p>4 A. I can't recall.</p> <p>5 Q. Did you wait to receive the check or</p> <p>6 engagement letter before doing anything else in</p> <p>7 connection with the representation?</p> <p>8 A. No.</p> <p>9 MR. BAER: And let me just ask that 525 be</p> <p>10 admitted.</p> <p>11 MR. BIORN: No objection.</p> <p>12 THE COURT: Received.</p> <p>13 (Whereupon, Exhibit 525 was admitted into</p> <p>14 evidence.)</p> <p>15 BY MR. BAER:</p> <p>16 Q. Okay. Let me turn your attention now --</p> <p>17 MR. BIORN: David, we have no objection to</p> <p>18 anything from Mr. Martin's file coming into evidence.</p> <p>19 MR. BAER: Okay. That's fine.</p> <p>20 MR. BIORN: Stipulated.</p> <p>21 MR. BAER: Yes, that's fine. While we're at</p> <p>22 it then, I guess I would move -- what are the</p> <p>23 notes -- Exhibit 523 into evidence.</p> <p>24 MR. FRASER: No objection.</p> <p>25 THE COURT: Received.</p>

16 (Pages 61 to 64)

<p style="text-align: center;">Page 65</p> <p>1 (Whereupon, Exhibit 523 was admitted into 2 evidence.) 3 BY MR. BAER: 4 Q. Let me turn your attention to 524. Is this 5 Exhibit 524 the check that you -- or a copy of the 6 check that you received from Mr. Ho? 7 A. It appears to be so. 8 Q. Did you deposit it? 9 A. I can't recall if I deposited it personally 10 or my staff. Probably my staff. 11 Q. Okay. So you had it deposited, is that what 12 you're saying? 13 A. Yes. 14 MR. BAER: So I'd move 524 into evidence. 15 MR. FRASER: No objection. 16 THE COURT: Received. 17 (Whereupon, Exhibit 524 was admitted into 18 evidence.) 19 BY MR. BAER: 20 Q. Did Mr. Ho say anything to you to the effect 21 that the meeting could not go forward or it could go 22 forward? That's when you were actually meeting with 23 him. 24 A. To that effect, yes. 25 Q. What did he say?</p>	<p style="text-align: center;">Page 67</p> <p>1 with his current documents? 2 A. No. He -- if I recall correctly, he leaned 3 back in the chair and had this very peaceful look and 4 then just wanted to proceed with the conversation. 5 Q. Was there any discussion about the 6 possibility that there might be any dispute over the 7 gift that he was making or the gift he told you he 8 wanted to make, I should say, to Ms. Chang? 9 A. Yes. 10 Q. Who raised the issue first, you or him? 11 A. I did. 12 Q. And what did you say about it? 13 A. I said I was concerned that whenever there's 14 a gift to someone outside of the estate plan, there 15 could be some dispute. 16 Q. And what was his reaction to that? 17 A. He wasn't pleased and he said that that would 18 not be good. 19 (Reporter clarification.) 20 THE WITNESS: "That would not be good." 21 BY MR. BAER: 22 Q. Did Mr. Ho explain to you essentially the 23 mechanics of how this gift had been made? 24 A. Yes. 25 Q. What did he tell you?</p>
<p style="text-align: center;">Page 66</p> <p>1 A. Well, our meeting began with the purpose of 2 the meeting, whether he wanted to meet with me and if 3 he understood why we were meeting and I immediately 4 ascertained that the purpose in his mind was to 5 discuss the gift to Debby Chang. 6 MR. FRASER: Move to strike everything after 7 "I immediately ascertained." 8 THE COURT: I think, technically, you're 9 asking a yes-or-no question. I'm going to take this 10 as his explanation of the yes or no. 11 MR. BAER: Okay. 12 THE COURT: So it will remain. 13 BY MR. BAER: 14 Q. Did he ask you what you were going to do 15 after the meeting? 16 A. Indirectly. 17 Q. What did he say to you indirectly about that? 18 A. He asked about his estate planning in 19 response to my asking him about updating his will and 20 whether I could assist him with certain documents and 21 I declined. 22 Q. Why did you decline? 23 A. I felt that it was not within the scope of my 24 proposed representation to do his estate planning. 25 Q. Did he express any kind of dissatisfaction</p>	<p style="text-align: center;">Page 68</p> <p>1 A. He said that he gave one check, maybe two. 2 He said it could have been a certified check or a 3 personal check. He said he did it by going to the 4 bank. 5 Q. Did he tell you whether or not Ms. Chang had 6 asked him to make that gift to him? 7 MR. FRASER: Objection. Leading. 8 THE COURT: It's a yes or no. 9 THE WITNESS: No. 10 BY MR. BAER: 11 Q. Did you have any discussion with him about 12 what Ms. Chang's role was in his life? 13 A. Yes. 14 Q. What did he say about that? 15 A. He was vague. He said that they had been 16 together and he didn't go into details. 17 Q. Did you press him for details? 18 A. A little bit. 19 Q. What were you trying to find out? 20 A. I was trying to find out whether she was his 21 live-in girlfriend or if she was a friend or if she 22 was a caregiver or if she was some other status. 23 Q. Did he explain to you whether or not she had 24 been providing any caregiving services to him? 25 A. That's not how I would put it, caregiving</p>

<p style="text-align: center;">Page 69</p> <p>1 services. It sounded like Debby was facilitating his</p> <p>2 transportation and being able to go to appointments</p> <p>3 to some degree, although it sounded like Peter Ho was</p> <p>4 also doing that from what he said.</p> <p>5 Q. Did you make any observations about the</p> <p>6 condition of the home when you went into it --</p> <p>7 A. Yes.</p> <p>8 Q. -- or while you were there? What were your</p> <p>9 observations?</p> <p>10 A. It was clean, well put together. There was a</p> <p>11 service person in the garage, looked like things were</p> <p>12 being attended to.</p> <p>13 Q. Did you see what Mr. Ho's sleeping</p> <p>14 arrangements were?</p> <p>15 A. I think there was a cot, if I recall</p> <p>16 correctly. I can't remember if it was in the kitchen</p> <p>17 or in adjoining room.</p> <p>18 Q. Did you ask him about that?</p> <p>19 A. I can't recall.</p> <p>20 Q. Did he tell you where he had been living</p> <p>21 before he had lived -- before he lived at the place</p> <p>22 where you met him?</p> <p>23 A. Yes.</p> <p>24 Q. What did he tell you about that?</p> <p>25 A. Well, he went into this long description</p>	<p style="text-align: center;">Page 71</p> <p>1 to do something to prevent the chance of litigation.</p> <p>2 Q. Did Mr. Ho say anything to you about the</p> <p>3 possibility that any of his calls or conversations</p> <p>4 might have been recorded?</p> <p>5 A. No.</p> <p>6 Q. Did you discuss with him whether he had made</p> <p>7 other gifts to Ms. Chang in the past?</p> <p>8 A. I can't recall specifically.</p> <p>9 Q. Do you know if he remembered the date?</p> <p>10 A. I can't recall. I do recall asking him that</p> <p>11 question and right now, I can't remember what his</p> <p>12 response was. That might have been, I was referring</p> <p>13 to it earlier in my testimony when I had the</p> <p>14 conclusion that he may have been not completely</p> <p>15 oriented with time. It may have been that, that he</p> <p>16 couldn't remember the specific date.</p> <p>17 Q. Okay. So --</p> <p>18 A. But now I can't recall.</p> <p>19 Q. Let me turn your attention back to 523, the</p> <p>20 second page. We'll leave it at that.</p> <p>21 Did you have the impression that he</p> <p>22 understood what he owned?</p> <p>23 A. Overall, yes.</p> <p>24 Q. Did he -- do you remember whether he told you</p> <p>25 whether he owned the house that they were in, that</p>
<p style="text-align: center;">Page 70</p> <p>1 about him buying -- himself buying a home in Foster</p> <p>2 City and now I can't remember the details, but he</p> <p>3 went into this description of where he worked and I</p> <p>4 can't remember at this point what the timeline was,</p> <p>5 but he gave me this description of everywhere he had</p> <p>6 lived and how it related to his marriage and what his</p> <p>7 job was.</p> <p>8 Q. Did you have any discussion with him about</p> <p>9 what might be done to prevent a dispute from arising</p> <p>10 over this gift?</p> <p>11 A. Yes.</p> <p>12 Q. What did you tell him?</p> <p>13 A. I suggested that I write a certificate of</p> <p>14 independent review so that potentially it could</p> <p>15 reduce the chances of litigation.</p> <p>16 Q. And what was his response to that?</p> <p>17 A. And I also recommended that he work with an</p> <p>18 estate planning attorney and that I can make a</p> <p>19 referral to him and he said yes, please proceed with</p> <p>20 doing the certificate of independent review.</p> <p>21 Q. Did he tell you why he wanted to do that?</p> <p>22 A. It was in response to my direct admonition to</p> <p>23 him that his estate planning could be challenged</p> <p>24 because of this gift that he made to Debby Chang and</p> <p>25 that he thought that would not be good and he wanted</p>	<p style="text-align: center;">Page 72</p> <p>1 you were in meeting with him?</p> <p>2 A. He did refer to that home, I guess it was on</p> <p>3 Fulton in Redwood City, as being his own.</p> <p>4 Q. Did you know whether or not that was true at</p> <p>5 the time?</p> <p>6 A. I knew -- I think I had checked the title</p> <p>7 records at some point. I think it might have been</p> <p>8 prior to the meeting. And so I already knew that it</p> <p>9 was not owned by him and so I pushed back and --</p> <p>10 Q. Just wait. I'll ask you.</p> <p>11 A. Okay.</p> <p>12 Q. So after he said something to indicate that</p> <p>13 it was his home and you knew that otherwise, well at</p> <p>14 least he didn't own it from the title records, did</p> <p>15 you -- was there any further inquiry by you into that</p> <p>16 issue?</p> <p>17 A. Yes.</p> <p>18 Q. Can you explain what that was?</p> <p>19 A. I can't recall the specific words I used, but</p> <p>20 I wanted to know if he was aware that Debby Chang was</p> <p>21 on title to the house.</p> <p>22 Q. Okay. And did he say anything about that?</p> <p>23 A. He said that if she was, then that was fine</p> <p>24 by him.</p> <p>25 Q. Did he give you any reason why that was fine</p>

18 (Pages 69 to 72)

<p style="text-align: center;">Page 73</p> <p>1 by him?</p> <p>2 A. Not specifically at that time. Later we</p> <p>3 talked about the \$1.1 million gift and he said, well,</p> <p>4 if she wanted to buy the house with that money, that</p> <p>5 was fine by him.</p> <p>6 Sorry, did I say buy the money with the</p> <p>7 house? Buy the house with the money. Did I switch</p> <p>8 those words?</p> <p>9 MR. FRASER: Maybe.</p> <p>10 BY MR. BAER:</p> <p>11 Q. Did you have any discussion with him about</p> <p>12 the management of his financial affairs?</p> <p>13 A. Yes.</p> <p>14 Q. What was that?</p> <p>15 A. He said Peter was helping him with the</p> <p>16 finances and he went over certain bills and expenses,</p> <p>17 like his healthcare premium and he talked about how</p> <p>18 he used his checkbook to pay bills.</p> <p>19 Q. Okay. Based on your meeting with Mr. Ho, did</p> <p>20 you determine -- in your mind, were there any</p> <p>21 countervailing considerations against signing a</p> <p>22 certificate of independent review?</p> <p>23 A. Yes.</p> <p>24 Q. Can you explain what those were?</p> <p>25 A. I don't have all facts at my disposal and</p>	<p style="text-align: center;">Page 75</p> <p>1 believe that you mentioned you prepared a memorandum.</p> <p>2 A. Yes.</p> <p>3 Q. And why don't we take a look at Exhibit 527.</p> <p>4 And this is a document with your office's letterhead</p> <p>5 dated August 24, 2017, re memorandum.</p> <p>6 So is this the memorandum that you were</p> <p>7 referring to?</p> <p>8 A. Yes.</p> <p>9 Q. Who prepared this memorandum?</p> <p>10 A. This was a joint effort between myself and my</p> <p>11 associate.</p> <p>12 Q. Why was it prepared?</p> <p>13 A. It was prepared to memorialize the meeting</p> <p>14 and to memorialize my conclusions.</p> <p>15 Q. And did you review the entire memo?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall thinking that there was</p> <p>18 anything that was inaccurate in it?</p> <p>19 A. Not specifically.</p> <p>20 Q. When you -- did you review a prior draft of</p> <p>21 this -- let me strike that.</p> <p>22 Was there a prior draft of this memo?</p> <p>23 A. When you say "draft," do you mean a document</p> <p>24 that's labeled a draft as such and saved in the file?</p> <p>25 Because no, if that's the question.</p>
<p style="text-align: center;">Page 74</p> <p>1 it's almost unlimited what it might be.</p> <p>2 Ultimately, being in the room with every</p> <p>3 conversation between him and Debby would have been</p> <p>4 required to absolutely eliminate the possibility of</p> <p>5 undue influence. And so there is that possibility</p> <p>6 that there were things I wasn't aware of, and I</p> <p>7 thought about that.</p> <p>8 Q. Did you decide whether or not you wanted to</p> <p>9 meet with Mr. Ho again before signing a certificate</p> <p>10 of independent review?</p> <p>11 A. I felt that, based on the statute, my role</p> <p>12 was to interview him, to counsel him and that based</p> <p>13 on the meeting, I had done exactly what the statute</p> <p>14 had required for writing the certificate of</p> <p>15 independent review, that based on my meeting, based</p> <p>16 on my counseling of him, that that was sufficient.</p> <p>17 He was very clear. I didn't see any signs from that</p> <p>18 meeting that there was undue influence.</p> <p>19 So no.</p> <p>20 Q. Okay. So you went back to your office at</p> <p>21 some point after the meeting and what more did you do</p> <p>22 at that point towards deciding whether to sign the</p> <p>23 certificate of independent review?</p> <p>24 A. I talked through it with my associate.</p> <p>25 Q. All right. Let me show you another -- I</p>	<p style="text-align: center;">Page 76</p> <p>1 Q. No, not really. Let me just ask the question</p> <p>2 a different way: So did you make any edits to this</p> <p>3 document before it wound up in this current form?</p> <p>4 A. That would be a misleading yes or no. If I</p> <p>5 said yes because there was a collaboration between</p> <p>6 myself and my associate, and so that process was</p> <p>7 itself a series of edits as an iterative process to</p> <p>8 come up with a completed memo.</p> <p>9 Q. Is there any way that you can sort of</p> <p>10 describe what your role was and what her role was in</p> <p>11 doing this?</p> <p>12 A. Well, I'm the supervising attorney, so I'm</p> <p>13 responsible for the final product.</p> <p>14 Q. Are some of the facts that are stated in</p> <p>15 here -- are some of the facts stated in this memo</p> <p>16 essentially written by her?</p> <p>17 A. Well, you mean the actual writing of the</p> <p>18 facts on the paper, yes.</p> <p>19 Q. What were her sources for those facts, if you</p> <p>20 know?</p> <p>21 A. Well, I believe the same day after I had the</p> <p>22 meeting with Mr. Ho, I came back to the office and</p> <p>23 had a debrief with Beth Chagonjian, my associate, and</p> <p>24 then we discussed drawing up this memorandum and she</p> <p>25 got started with a draft. And then I filled in the</p>

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<p style="text-align: center;">Page 77</p> <p>1 blanks and then we had a final product.</p> <p>2 Q. Okay.</p> <p>3 MR. BAER: I'd like to move 527 into</p> <p>4 evidence.</p> <p>5 MR. FRASER: No objection.</p> <p>6 THE COURT: Received.</p> <p>7 (Whereupon, Exhibit 527 was admitted into</p> <p>8 evidence.)</p> <p>9 BY MR. BAER:</p> <p>10 Q. So you mentioned there was some discussion</p> <p>11 about the fact that his son Peter -- strike that.</p> <p>12 Did he give you the names of his children?</p> <p>13 A. Yes.</p> <p>14 Q. And I believe you said there was some</p> <p>15 discussion about his power of attorney. Who raised</p> <p>16 that issue, him or you?</p> <p>17 A. I can't recall who brought it up first. I</p> <p>18 definitely brought up the issue of power of attorney</p> <p>19 specifically and he -- I believe it was him who</p> <p>20 raised the issue of who was managing his finances</p> <p>21 along with him and he said it was his son. I don't</p> <p>22 think he used the words "power of attorney."</p> <p>23 Q. Did Mr. Ho tell you whether he liked or</p> <p>24 disliked living at the house in Redwood City?</p> <p>25 A. Not that I can recall.</p>	<p style="text-align: center;">Page 79</p> <p>1 Q. So you state at the end that you conclude</p> <p>2 that the transfers to Debby Chang made by James Ho in</p> <p>3 March of 2017 are not the product of fraud or undue</p> <p>4 influence?</p> <p>5 A. Yes.</p> <p>6 Q. So what was the basis for that conclusion?</p> <p>7 A. My meeting with Mr. Ho.</p> <p>8 Q. And can you be more specific about what about</p> <p>9 that meeting convinced you that the gift was not the</p> <p>10 product of fraud or undue influence?</p> <p>11 A. I counseled him outside of the presence of</p> <p>12 the recipient of the gift and I interviewed him about</p> <p>13 the consequences of the gift, that it would reduce</p> <p>14 the share of his children under his estate plan.</p> <p>15 And I also talked about the details of how</p> <p>16 the gift was made, and I established I didn't see</p> <p>17 from that meeting that the gift was procured through</p> <p>18 undue influence or through fraud.</p> <p>19 Q. So after you met with -- after you met with</p> <p>20 Mr. Ho, did you meet with Ms. Chang?</p> <p>21 A. Yes.</p> <p>22 Q. Was Mr. Ho there then, too?</p> <p>23 A. He was.</p> <p>24 Q. Did he participate in the meeting?</p> <p>25 A. No.</p>
<p style="text-align: center;">Page 78</p> <p>1 Q. Okay. So let's take a look at the next</p> <p>2 exhibit and that will be -- okay, Exhibit 526 and</p> <p>3 this is the certificate of independent review with</p> <p>4 your law office's letterhead.</p> <p>5 Is that your signature?</p> <p>6 A. Yes.</p> <p>7 Q. Did you sign this on August 24, 2017?</p> <p>8 A. Yes.</p> <p>9 Q. And this states "I am an independent attorney</p> <p>10 as defined in California Probate Code Section 21370."</p> <p>11 So just limiting the question to that, what</p> <p>12 was the basis for your conclusion that you were an</p> <p>13 independent attorney?</p> <p>14 A. I didn't directly --</p> <p>15 MR. BIORN: Your Honor, I object. This would</p> <p>16 go to exact testimony that we were going to present</p> <p>17 Mr. Gorini on, and he's been excluded. It was</p> <p>18 certainly one of the things we were going to ask</p> <p>19 Mr. Gorini, whether what he did would meet the</p> <p>20 requirements of 21370.</p> <p>21 MR. BAER: Fair enough.</p> <p>22 THE COURT: And you're withdrawing the</p> <p>23 question?</p> <p>24 MR. BAER: I'll withdraw it, yes. Okay.</p> <p>25 BY MR. BAER:</p>	<p style="text-align: center;">Page 80</p> <p>1 Q. Why not?</p> <p>2 A. He had fallen asleep.</p> <p>3 Q. Why did you decide to meet with Ms. Chang?</p> <p>4 A. I hadn't decided to meet with her.</p> <p>5 Q. Why did you meet with her?</p> <p>6 A. Well, she -- I believe we ended the meeting</p> <p>7 and then she came in and I asked her some questions</p> <p>8 and because she had not been part of the meeting with</p> <p>9 James Ho, I wanted to corroborate what had been said</p> <p>10 to see if it in any way conflicted with what James Ho</p> <p>11 said.</p> <p>12 Q. Did you find there were any conflicts between</p> <p>13 what she told you and what Mr. Ho told you?</p> <p>14 A. Not specifically.</p> <p>15 Q. Did she ask you what you had told James?</p> <p>16 A. No.</p> <p>17 Q. Did she ask you whether you were going to</p> <p>18 sign a certificate of independent review?</p> <p>19 A. I can't remember that specifically. I may</p> <p>20 have mentioned it because that was the issue for why</p> <p>21 I was there. But at this point, I can't remember</p> <p>22 whether I discussed that with her. I don't believe</p> <p>23 so.</p> <p>24 Q. Okay. Did she tell you that she had hoped</p> <p>25 that James would confirm that the money she received</p>

20 (Pages 77 to 80)

<p style="text-align: center;">Page 81</p> <p>1 from him was a gift or anything to that effect?</p> <p>2 A. No.</p> <p>3 MR. FRASER: Objection. Hearsay.</p> <p>4 THE COURT: And it wasn't said. It would be</p> <p>5 hearsay.</p> <p>6 MR. BAER: Is that sustaining or overruling</p> <p>7 the objection?</p> <p>8 THE COURT: He said no.</p> <p>9 MR. BAER: Okay. So then there's no hearsay</p> <p>10 in. Right, okay. Thanks, I understand.</p> <p>11 BY MR. BAER:</p> <p>12 Q. Did she make any statement -- this is just a</p> <p>13 yes-or-no question -- about what she hoped would have</p> <p>14 been achieved in your meeting with James, what her</p> <p>15 objectives were for that meeting?</p> <p>16 A. Not that I recall.</p> <p>17 Q. What do you remember asking her?</p> <p>18 A. I asked her about some of the financial</p> <p>19 details. I asked her about the house sale, the prior</p> <p>20 house sale and about some property tax matters that</p> <p>21 were related to that. I asked her about Peter Ho and</p> <p>22 his involvement with the finances.</p> <p>23 Q. All right. What was the discussion about --</p> <p>24 well, what did the discussion about property tax</p> <p>25 matters concern?</p>	<p style="text-align: center;">Page 83</p> <p>1 essentially the transfer of the property tax basis,</p> <p>2 did that have any bearing on your decision to issue a</p> <p>3 certificate of independent review?</p> <p>4 A. Indirectly. It was something that was in my</p> <p>5 mind, but I didn't base my certificate of independent</p> <p>6 review in any way upon that conversation.</p> <p>7 MR. FRASER: And I would move to strike.</p> <p>8 MR. BAER: Okay. I would just ask what role</p> <p>9 did it play?</p> <p>10 THE COURT: I'll take your motion under</p> <p>11 submission.</p> <p>12 BY MR. BAER:</p> <p>13 Q. So what role, if any, did what she told you</p> <p>14 about the transfer of the property tax basis play in</p> <p>15 connection with your decision to issue a certificate</p> <p>16 of independent review?</p> <p>17 A. It's very hard to answer that question</p> <p>18 because everything I was taking in at the time went,</p> <p>19 to some extent, towards my decision on whether to</p> <p>20 proceed, whether to -- remember, I hadn't yet decided</p> <p>21 to execute the certificate of independent review.</p> <p>22 Q. For how long did you meet with Ms. Chang?</p> <p>23 A. I can't recall the breakdown between time</p> <p>24 with Mr. Ho and Ms. Chang specifically right now.</p> <p>25 MR. BIORN: We never got a ruling on the</p>
<p style="text-align: center;">Page 82</p> <p>1 A. Well, Debby was mentioning that Peter Ho is</p> <p>2 very intelligent, very smart. And then she mentioned</p> <p>3 that he had gotten somehow his father to transfer</p> <p>4 this property to him, or his name was put on title or</p> <p>5 something like that and that then, through that, he</p> <p>6 was able to transfer his father's property tax basis</p> <p>7 and she had expressed a desire not to rock the boat,</p> <p>8 not to disturb Peter, not to, you know, in any way</p> <p>9 have something that would upset him because she was</p> <p>10 afraid of him.</p> <p>11 MR. FRASER: Move to strike what Debby said</p> <p>12 as hearsay.</p> <p>13 MR. BAER: It's not really offered for the</p> <p>14 truth of the matter of what happened. It's really</p> <p>15 offered for the basis for his opinions.</p> <p>16 THE COURT: The basis of Mr. Martin's</p> <p>17 opinions?</p> <p>18 MR. BAER: Right.</p> <p>19 THE COURT: As to whether or not a</p> <p>20 certificate of independent review --</p> <p>21 MR. BAER: Let me ask a foundational question</p> <p>22 first.</p> <p>23 THE COURT: Thank you.</p> <p>24 BY MR. BAER:</p> <p>25 Q. Did anything that Ms. Chang told you about</p>	<p style="text-align: center;">Page 84</p> <p>1 motion to strike. I guess if it only goes to his</p> <p>2 state of mind, to the extent it was considered in</p> <p>3 making his decision, if not offered for the truth of</p> <p>4 the matter, that would make sense.</p> <p>5 THE COURT: It's definitely not for the truth</p> <p>6 of the matter. In my mind, the testimony is a little</p> <p>7 conflicted about whether or not it affected his</p> <p>8 certificate of independent review.</p> <p>9 But it will not be received for the truth of</p> <p>10 the matter.</p> <p>11 MR. BAER: Okay.</p> <p>12 MR. BIORN: Your Honor, I don't want you to</p> <p>13 think we're playing games with this. I probably will</p> <p>14 ask the witness about that discussion.</p> <p>15 THE COURT: You have more latitude on cross.</p> <p>16 MR. BIORN: I didn't want you to think I was</p> <p>17 playing games down the road.</p> <p>18 THE COURT: I can't guarantee that, but not</p> <p>19 in this area.</p> <p>20 MR. FRASER: More so than normal.</p> <p>21 MR. BIORN: The litigation game.</p> <p>22 BY MR. BAER:</p> <p>23 Q. Did you ever have any conversations with</p> <p>24 Ms. Chang again after you left the Fulton house in</p> <p>25 Redwood City on August 21, 2017?</p>

<p style="text-align: center;">Page 85</p> <p>1 A. Not that I recall.</p> <p>2 Q. All right. And after signing the certificate</p> <p>3 of independent review, what did you do with it?</p> <p>4 A. Well, at one point, I sent it in the mail to</p> <p>5 Mr. Ho.</p> <p>6 Q. Okay. And what happened after you sent it?</p> <p>7 First of all, where did you send it?</p> <p>8 A. His address.</p> <p>9 Q. And let me turn your attention to</p> <p>10 Exhibit 530.</p> <p>11 Let me turn your attention to a different</p> <p>12 one, 533. Is this the envelope or a copy of the</p> <p>13 envelope in which you sent the certificate of</p> <p>14 independent review back to Mr. Ho?</p> <p>15 A. I can't recall.</p> <p>16 Q. Do you remember whether you mailed it or had</p> <p>17 it mailed?</p> <p>18 A. Well, I don't send -- oh, had it mailed?</p> <p>19 Q. Yes.</p> <p>20 A. I can't recall specifically having it mailed,</p> <p>21 but I would assume so since this appears to be</p> <p>22 envelopes and a dated letter.</p> <p>23 Q. Okay. Did you send him an invoice for your</p> <p>24 services?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">Page 87</p> <p>1 Debby Chang's name is at the bottom.</p> <p>2 Do you recognize the document?</p> <p>3 A. This appears to be a note from Debby Chang to</p> <p>4 our office.</p> <p>5 Q. Did you review this?</p> <p>6 A. I believe so.</p> <p>7 Q. Do you know whether she returned any -- do</p> <p>8 you know whether she returned the letter that</p> <p>9 included the certificate of independent review back</p> <p>10 to you? She refers to letters going back to you, but</p> <p>11 do you know what was in them?</p> <p>12 A. I can't recall what was accompanying this.</p> <p>13 It refers to the document that we created, but I</p> <p>14 can't recall what was in the envelope.</p> <p>15 Q. Okay. Do you remember if the letters that</p> <p>16 she returned were opened or unopened?</p> <p>17 A. I can't recall.</p> <p>18 Q. Did you ever tell Ms. Chang that you had</p> <p>19 issued a certificate of independent review?</p> <p>20 A. I don't remember ever advising her one way or</p> <p>21 the other.</p> <p>22 Q. Did you direct anybody in your office to tell</p> <p>23 her that?</p> <p>24 A. No.</p> <p>25 Q. Did you consider the certificate of</p>
<p style="text-align: center;">Page 86</p> <p>1 Q. Let's look at Exhibit 531. Exhibit 531,</p> <p>2 again, has your office's letterhead and this is an</p> <p>3 invoice dated August 24, 2017.</p> <p>4 Did you transmit this or have this</p> <p>5 transmitted to Mr. Ho?</p> <p>6 A. I believe so.</p> <p>7 Q. How was it transmitted to him, if you know?</p> <p>8 A. Well, our ordinary process would be to mail</p> <p>9 it.</p> <p>10 Q. Do you know whether or not this was -- did</p> <p>11 you instruct that this be mailed with the certificate</p> <p>12 of independent review or that it be mailed</p> <p>13 separately?</p> <p>14 A. I can't recall that specifically.</p> <p>15 Q. Okay.</p> <p>16 MR. BAER: I'd like to move 531 into</p> <p>17 evidence, please.</p> <p>18 MR. FRASER: No objection.</p> <p>19 THE COURT: Received.</p> <p>20 (Whereupon, Exhibit 531 was admitted into</p> <p>21 evidence.)</p> <p>22 MR. BAER: Okay.</p> <p>23 BY MR. BAER:</p> <p>24 Q. Let me call your attention now to Exhibit 532</p> <p>25 and this is notes, it starts Mr. Martin and then</p>	<p style="text-align: center;">Page 88</p> <p>1 independent review -- well, did you give any -- did</p> <p>2 you think about whether the certificate of</p> <p>3 independent review was a confidential communication</p> <p>4 when you sent it to Mr. Ho?</p> <p>5 A. Yes.</p> <p>6 Q. What was your conclusion?</p> <p>7 A. Well, there's an attorney-client duty of</p> <p>8 confidentiality and so I have a duty not to disclose</p> <p>9 to a third party attorney-client communications which</p> <p>10 would include this, unless my client gives consent.</p> <p>11 Q. Okay. And then Mr. Ho says on the second</p> <p>12 page, "but I don't feel comfortable to give to him</p> <p>13 even the son has the power of attorney from his</p> <p>14 father. I'm not sure his power attorney has enough</p> <p>15 power to do everything."</p> <p>16 Did you ever receive any power of attorney</p> <p>17 that Mr. Ho had given to his son Peter?</p> <p>18 A. Not that I recall. I don't believe so.</p> <p>19 Q. Did you ever ask for one?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Was one ever offered to you?</p> <p>22 A. I don't believe so.</p> <p>23 Q. Did anything in your conversation with</p> <p>24 Ms. Chang raise any red flags for you as to the</p> <p>25 possibility that Mr. Ho had been unduly influenced by</p>

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<p style="text-align: center;">Page 89</p> <p>1 her in making the gift to her?</p> <p>2 A. Yes.</p> <p>3 Q. What was that?</p> <p>4 A. Well, she was describing this transfer</p> <p>5 between James Ho and Peter Ho and if you can be</p> <p>6 unduly influenced in one thing, you can be unduly</p> <p>7 influenced in another.</p> <p>8 MR. FRASER: Move to strike what Debby told</p> <p>9 him.</p> <p>10 MR. BAER: I thought we went through this.</p> <p>11 He didn't even refer to exactly what she told him in</p> <p>12 his answer either.</p> <p>13 THE COURT: He didn't.</p> <p>14 MR. BAER: Let me --</p> <p>15 THE COURT: I believe that this is Mr. Martin</p> <p>16 just saying if Mr. Ho could be unduly influenced in</p> <p>17 one case, i.e., the property tax situation, he could</p> <p>18 be unduly influenced in another situation.</p> <p>19 Is that correct, Mr. Martin?</p> <p>20 THE WITNESS: That's correct.</p> <p>21 MR. FRASER: For his state of mind, but not</p> <p>22 for the truth of the matter?</p> <p>23 THE COURT: Well, for his state of mind,</p> <p>24 right, about this certificate of independent review.</p> <p>25 He said he had -- my words, not his -- he thought</p>	<p style="text-align: center;">Page 91</p> <p>1 A. Not specifically.</p> <p>2 Q. All right. Let me turn your attention to --</p> <p>3 what's the exhibit, this memo? I didn't write it</p> <p>4 down.</p> <p>5 MR. KUO: 527.</p> <p>6 BY MR. BAER:</p> <p>7 Q. Let me turn your attention back to 527.</p> <p>8 THE COURT: We're going to break for lunch in</p> <p>9 about ten minutes. Is that okay?</p> <p>10 MR. BAER: Yes. I'm just about done. I may</p> <p>11 finish before then.</p> <p>12 BY MR. BAER:</p> <p>13 Q. So specifically let me turn your attention to</p> <p>14 the third paragraph on page 2. And let me ask you,</p> <p>15 does that -- well, I'll read it. So, I read part of</p> <p>16 it anyway. "James told me that he didn't know why</p> <p>17 his son that done that but that his son was aware he</p> <p>18 would be meeting with an attorney that day and had</p> <p>19 asked him not to go through with it. I asked him</p> <p>20 what he meant by that, and he said that maybe Peter</p> <p>21 thought there was a will that James would be signing.</p> <p>22 He said that his son had asked him not to sign</p> <p>23 anything."</p> <p>24 Does that refresh your recollection as to any</p> <p>25 request for instructions that James had received from</p>
<p style="text-align: center;">Page 90</p> <p>1 about it because of this alleged other transaction.</p> <p>2 MR. BAER: Okay.</p> <p>3 BY MR. BAER:</p> <p>4 Q. In light of that red flag, why did you decide</p> <p>5 to sign the certificate of independent review?</p> <p>6 A. On the basis of my counsel.</p> <p>7 MR. BAER: I'd like to move 532 into</p> <p>8 evidence.</p> <p>9 MR. FRASER: No objection.</p> <p>10 THE COURT: Received.</p> <p>11 (Whereupon, Exhibit 532 was admitted into</p> <p>12 evidence.)</p> <p>13 BY MR. BAER:</p> <p>14 Q. Did you ever learn anything from Ms. Chang</p> <p>15 prior to James' death to cause you to conclude that</p> <p>16 she knew that you had signed a certificate of</p> <p>17 independent review?</p> <p>18 A. I think these letters may indicate that</p> <p>19 indirectly. They don't refer specifically to the</p> <p>20 words "certificate of independent review," but I</p> <p>21 think that would be a fair assumption that she had</p> <p>22 knowledge of what our office had done at some point.</p> <p>23 Q. Did you ever get any knowledge as to whether</p> <p>24 or not she opened the letter with the certificate of</p> <p>25 independent review that was mailed to James?</p>	<p style="text-align: center;">Page 92</p> <p>1 his son Peter prior to the meeting?</p> <p>2 A. Yes.</p> <p>3 Q. And what is your recollection on that topic</p> <p>4 now?</p> <p>5 A. That Mr. Ho had mentioned speaking to Peter</p> <p>6 Ho and that Peter Ho didn't want him to meet with an</p> <p>7 attorney and change his will.</p> <p>8 Q. Did you consider the issue of whether there</p> <p>9 was any instrument for you to review in connection</p> <p>10 with the preparations of a certificate of independent</p> <p>11 review?</p> <p>12 A. Yes.</p> <p>13 Q. What was your conclusion?</p> <p>14 A. Well, there's no instrument other than the</p> <p>15 check here and the check itself was not available to</p> <p>16 me, but through the communications that I had with</p> <p>17 Mr. Ho, he gave a description.</p> <p>18 And so from the description of what he gave</p> <p>19 me, I was able to make a determination that a check,</p> <p>20 which was this instrument of transfer, was not</p> <p>21 procured through undue influence or fraud, even</p> <p>22 though I had not specifically looked at the actual</p> <p>23 instrument.</p> <p>24 Q. Do you remember Ms. Chang expressing anything</p> <p>25 to you about what she thought about caring for James?</p>

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<p style="text-align: center;">Page 93</p> <p>1 A. I can't recall.</p> <p>2 Q. Let me turn your attention to the last page</p> <p>3 of the document. And can you -- I'll read the last</p> <p>4 sentence of the first paragraph "She expressed that</p> <p>5 she had been worn out caring for James over the last</p> <p>6 several months and that it had been very difficult."</p> <p>7 Does that refresh your recollection?</p> <p>8 A. No.</p> <p>9 THE COURT: Can you help me out? Where are</p> <p>10 you talking about?</p> <p>11 MR. BAER: Sorry. Page 5, the last sentence</p> <p>12 of the first paragraph.</p> <p>13 THE WITNESS: I see that, but at this time, I</p> <p>14 don't have any memory of her saying that.</p> <p>15 MR. BAER: Okay.</p> <p>16 THE COURT: I'm sorry, you had an objection?</p> <p>17 MR. FRASER: Withdrawn.</p> <p>18 BY MR. BAER:</p> <p>19 Q. Did Ms. Chang describe to you the mechanics</p> <p>20 of how the gift had been made to her?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Okay. So I'll read the first and the next</p> <p>23 paragraph down, the second paragraph on page 5, I'll</p> <p>24 read part of that. "I asked her whether she talked</p> <p>25 James into giving her the million dollars and she</p>	<p style="text-align: center;">Page 95</p> <p>1 A. Not that I recall.</p> <p>2 Q. In connection with your preparation of the</p> <p>3 certificate of independent review, did you consider</p> <p>4 Debby to be a client?</p> <p>5 A. No.</p> <p>6 Q. Why not?</p> <p>7 A. She wasn't in my engagement letter and I</p> <p>8 didn't give her specific legal advice that I felt she</p> <p>9 was entitled to rely on.</p> <p>10 Q. Did anyone ever request your consent to have</p> <p>11 your telephone conversation with James recorded?</p> <p>12 A. No.</p> <p>13 Q. Did anyone ever tell you that it had been</p> <p>14 recorded?</p> <p>15 A. No.</p> <p>16 MR. BAER: I have no further questions at</p> <p>17 this time.</p> <p>18 THE COURT: Okay. Would this be an</p> <p>19 appropriate time to take the lunch recess?</p> <p>20 MR. BIORN: That would be fine.</p> <p>21 THE COURT: We'll take about an hour.</p> <p>22 MR. BIORN: Back at 1:30?</p> <p>23 THE COURT: Yes.</p> <p>24 (Lunch recess taken.)</p> <p>25</p>
<p style="text-align: center;">Page 94</p> <p>1 said no, that she actually asked James not to give</p> <p>2 the money to her. At first she said she'd been</p> <p>3 insisting on drawing up a loan document of some kind</p> <p>4 or to add James' name to the title on the Fulton</p> <p>5 home. However, she said that James had insisted that</p> <p>6 she keep the money, again, lining up with James'</p> <p>7 version of the narrative."</p> <p>8 Does that refresh your recollection as to</p> <p>9 what Ms. Chang told you about how this gift had been</p> <p>10 made?</p> <p>11 A. Yes, I do recall going over that issue with</p> <p>12 her, yes.</p> <p>13 Q. And what is your recollection now?</p> <p>14 A. I do remember asking her about pressure,</p> <p>15 pressure she might have given him. And also asking</p> <p>16 her about, you know, whether it made more sense that</p> <p>17 he would own the house, maybe she would rent it or</p> <p>18 maybe, you know, this would be something that he</p> <p>19 would list under his estate plan.</p> <p>20 I can't remember the specifics of every</p> <p>21 single thing, but those were the subjects.</p> <p>22 Q. Do you recall having any further</p> <p>23 communications with Debby -- rather Ms. Chang --</p> <p>24 written or oral, after receiving her note while James</p> <p>25 was still alive?</p>	<p style="text-align: center;">Page 96</p> <p>1 AFTERNOON SESSION:</p> <p>2 THE COURT: Let's go back on the record.</p> <p>3 CROSS-EXAMINATION</p> <p>4 BY MR. BIORN:</p> <p>5 Q. Okay. Mr. Martin, we're back after lunch for</p> <p>6 your further testimony in this trial.</p> <p>7 In the last year, have you spoken with David</p> <p>8 Baer at all?</p> <p>9 A. Yes.</p> <p>10 Q. How many times?</p> <p>11 A. I believe one time.</p> <p>12 Q. What did you discuss with him?</p> <p>13 A. Coming to this hearing, or this trial.</p> <p>14 Q. Was it just scheduling?</p> <p>15 A. Yes.</p> <p>16 Q. Did you discuss the substance of the case at</p> <p>17 all?</p> <p>18 A. No.</p> <p>19 Q. Have you discussed the substance of this case</p> <p>20 with Mr. Baer or anyone at his office within the last</p> <p>21 year?</p> <p>22 A. The substance?</p> <p>23 Q. Yes.</p> <p>24 A. No.</p> <p>25 Q. Are you getting paid your hourly rate to be</p>

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<p style="text-align: center;">Page 97</p> <p>1 here today?</p> <p>2 A. No.</p> <p>3 Q. Okay. Other than the normal witness fee,</p> <p>4 you're not being compensated today?</p> <p>5 A. Sadly, no.</p> <p>6 Q. And you are a certified specialist in estate</p> <p>7 planning; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And as a specialist you are subject to an</p> <p>10 increased standard of care in your area of specialty;</p> <p>11 is that right?</p> <p>12 A. That's correct.</p> <p>13 Q. With respect to your representation of</p> <p>14 Mr. Ho, you were first contacted by Reinhard</p> <p>15 Oesterle, not Mr. Ho; is that right?</p> <p>16 A. Our office was, yes.</p> <p>17 Q. And until the day of the meeting, your only</p> <p>18 contacts were through Reinhard Oesterle, not Mr. Ho;</p> <p>19 is that right?</p> <p>20 A. No.</p> <p>21 Q. Who else did you speak with?</p> <p>22 A. I spoke with Mr. Ho.</p> <p>23 Q. Other than the short call I think you</p> <p>24 described just prior to your meeting, that was the</p> <p>25 only call you had with Mr. Ho; is that right?</p>	<p style="text-align: center;">Page 99</p> <p>1 office or you?</p> <p>2 A. Yes.</p> <p>3 Q. And Oesterle is spelled O-E-S-T-E-R-L-E, but</p> <p>4 I'll try to refer to him -- I'll try to remember to</p> <p>5 refer to him as Reinhard since we've already been</p> <p>6 doing that. Okay?</p> <p>7 A. Okay.</p> <p>8 Q. So the first e-mail in this set is from your</p> <p>9 secretary, Jackie Alioto, to Reinhard on August 8th;</p> <p>10 is that right?</p> <p>11 A. That's the one I see in front of me.</p> <p>12 Q. And she says here that she -- that you had</p> <p>13 asked her to follow up and let Reinhard know that you</p> <p>14 were happy to have a follow-up conversation with him</p> <p>15 for about ten minutes.</p> <p>16 Did you tell that to Jackie?</p> <p>17 A. I can't recall specifically.</p> <p>18 Q. The next e-mail is from Mr. Oesterle back to</p> <p>19 Jackie and you, saying that Friday at 2:00 p.m. works</p> <p>20 and that Debby's daughter Rita wanted to join on the</p> <p>21 call.</p> <p>22 Do you recall receiving that e-mail?</p> <p>23 A. No.</p> <p>24 Q. Do you recall Reinhard asking if Rita could</p> <p>25 join on the call?</p>
<p style="text-align: center;">Page 98</p> <p>1 A. A call confirming our meeting at his home?</p> <p>2 Q. Yes.</p> <p>3 A. The short call, yes.</p> <p>4 Q. And you told us this morning everything that</p> <p>5 was discussed on that call, right?</p> <p>6 A. I don't recall every word that was discussed.</p> <p>7 I couldn't say that definitively.</p> <p>8 Q. You didn't mention this morning if you asked</p> <p>9 him why he wanted to meet with you on that phone</p> <p>10 call; is that right?</p> <p>11 A. I can't recall those specific words.</p> <p>12 Q. Let me mark as next in order.</p> <p>13 MR. BIORN: Scott, what is this? Sorry.</p> <p>14 MR. FRASER: It's okay. 181.</p> <p>15 MR. BIORN: Here you go, Your Honor.</p> <p>16 THE COURT: Thank you.</p> <p>17 MR. BIORN: And this is the witness's.</p> <p>18 (Whereupon, Exhibit 181 was marked for</p> <p>19 identification.)</p> <p>20 BY MR. BIORN:</p> <p>21 Q. Showing you what's been marked as</p> <p>22 Exhibit 181, it was a series of e-mails pulled out of</p> <p>23 the file that you produced in this litigation.</p> <p>24 Do you recognize these as e-mails between</p> <p>25 Mr. Oesterle and others and either Jackie in your</p>	<p style="text-align: center;">Page 100</p> <p>1 A. No.</p> <p>2 Q. Do you recall Rita's relation to Reinhard?</p> <p>3 A. No. It says in this e-mail that I'm looking</p> <p>4 at Debby's daughter.</p> <p>5 Q. Correct. I was asking her relation to</p> <p>6 Reinhard Oesterle.</p> <p>7 A. Well, based on this e-mail, Debby has a</p> <p>8 daughter named Rita.</p> <p>9 Q. Right. And the next e-mail between your</p> <p>10 office and Reinhard is August 9th at 10:00 a.m., and</p> <p>11 then the next e-mail, the next one, again August 9th,</p> <p>12 with you confirming to your secretary just to use the</p> <p>13 regular phone number for your call with Reinhard,</p> <p>14 right?</p> <p>15 A. Oh, I don't see that. Oh, here's my words,</p> <p>16 yes, "regular phone number."</p> <p>17 Q. And the top of the next page, your office</p> <p>18 confirms to Reinhard the phone call on August 11th at</p> <p>19 2:00 p.m.; is that right?</p> <p>20 A. I see those words.</p> <p>21 Q. And you don't have any reason to believe that</p> <p>22 was not accurate, right?</p> <p>23 A. That what's not accurate?</p> <p>24 Q. That that meeting was set -- that your</p> <p>25 secretary correctly stated that the meeting was set</p>

25 (Pages 97 to 100)

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<p>Page 101</p> <p>1 for August 11th at 2:00 p.m.</p> <p>2 A. I have no reason to believe that there was</p> <p>3 not a meeting set by my secretary at Friday, August</p> <p>4 11 at 2:00 p.m.</p> <p>5 MR. BAER: It's a call, but anyway...</p> <p>6 THE WITNESS: A call.</p> <p>7 BY MR. BIORN:</p> <p>8 Q. Then on August -- the next e-mail is August</p> <p>9 11th at 2:45 p.m. from Reinhard back to you.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. This e-mail he sent to you after you had</p> <p>13 spoken with Reinhard on the phone, right?</p> <p>14 A. Yes.</p> <p>15 Q. And he says in the first sentence "I talked</p> <p>16 to Debby" -- hold on one second. I'll come back to</p> <p>17 that.</p> <p>18 Now, the fact that Reinhard was not a</p> <p>19 relative of Mr. Ho, that was a red flag to you right</p> <p>20 at the beginning, right?</p> <p>21 A. No.</p> <p>22 Q. Do you have your deposition in front of you?</p> <p>23 A. I don't.</p> <p>24 Q. Okay.</p> <p>25 MR. BAER: I've got one here.</p>	<p>Page 103</p> <p>1 behalf of his mother-in-law, right?</p> <p>2 A. I don't recall.</p> <p>3 Q. Let's take a look at your deposition, page</p> <p>4 36, line 19 through page 37, line 6.</p> <p>5 A. I'm reading about documents from Mr. Minton</p> <p>6 that we produced?</p> <p>7 Q. No, I said 36, 19.</p> <p>8 A. Page 36, line 19.</p> <p>9 Q. Do you know how he learned of you, referring</p> <p>10 to Reinhard, before you had the meeting with him on</p> <p>11 August 21st?</p> <p>12 You say "I don't know how James Ho</p> <p>13 specifically learned of me."</p> <p>14 A. Yes, I see that.</p> <p>15 Q. And then you say "our law firm first had a</p> <p>16 contact from Dr. Oesterle"?</p> <p>17 A. Yes.</p> <p>18 Q. "I remember speaking with him," meaning</p> <p>19 Reinhard, "about general details on an issue that</p> <p>20 Reinhard said his mother-in-law had and wondered if I</p> <p>21 would potentially be able to help."</p> <p>22 Does that refresh your recollection that</p> <p>23 Reinhard told you that he was calling on behalf of</p> <p>24 his mother-in-law?</p> <p>25 A. Yes.</p>
<p>Page 102</p> <p>1 MR. BIORN: All right.</p> <p>2 THE COURT: I'm opening a sealed copy of the</p> <p>3 deposition.</p> <p>4 BY MR. BIORN:</p> <p>5 Q. Mr. Martin, would you prefer to look at a</p> <p>6 minuscrite or a full regular page-by-page transcript?</p> <p>7 A. As long as I can read it.</p> <p>8 Q. Take a look at this minuscrite of your</p> <p>9 deposition and let me know if you can read that.</p> <p>10 A. I can read it.</p> <p>11 Q. Great. So turn to page 65, lines 8 to 19.</p> <p>12 If you can read that to yourself, where it says you</p> <p>13 talked earlier about the elder abuse seminar.</p> <p>14 A. Oh, I see that, um-hmm.</p> <p>15 Q. Do you see where you said been contacted by</p> <p>16 Dr. Oesterle, the son-in-law, the transferee, was a</p> <p>17 red flag for you?</p> <p>18 A. Yeah, the way he phrases that question, I</p> <p>19 think he set it up in such a way that I answered yes.</p> <p>20 Q. There is no question pending.</p> <p>21 So my question is: Does that refresh your</p> <p>22 recollection that it raised a red flag for you that</p> <p>23 Reinhard was reaching out to you and not Mr. Ho?</p> <p>24 A. Yes.</p> <p>25 Q. And Reinhard said he was calling you on</p>	<p>Page 104</p> <p>1 Q. And you knew Debby was Mr. Ho's girlfriend?</p> <p>2 A. At this point in time?</p> <p>3 Q. Yes.</p> <p>4 A. No.</p> <p>5 Q. Did you think that Debby was Mr. Ho's wife at</p> <p>6 this point in time?</p> <p>7 A. I can't remember what specific conclusions I</p> <p>8 had about her at this time. It was so preliminary.</p> <p>9 Q. So you don't know whether Reinhard -- at this</p> <p>10 point in time, you didn't know whether Reinhard was</p> <p>11 even related to Mr. Ho?</p> <p>12 A. I can't recall making specific conclusions</p> <p>13 regarding the family relationships.</p> <p>14 Q. And have you since learned that Reinhard was</p> <p>15 not married to Debby's daughter at this time?</p> <p>16 A. I didn't know that one way or the other.</p> <p>17 Q. Okay. Would it have been of significance to</p> <p>18 you if you knew that Reinhard lied to you about being</p> <p>19 Debby's son-in-law?</p> <p>20 A. Yes.</p> <p>21 Q. During your phone call with Reinhard on</p> <p>22 Friday the 11th, you told him that you wanted to</p> <p>23 speak with Mr. Ho directly; isn't that right?</p> <p>24 A. That sounds right.</p> <p>25 Q. And you discouraged Reinhard from contacting</p>

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<p>Page 105</p> <p>1 you further except for the logistics; is that right?</p> <p>2 A. I don't recall the logistical points, but</p> <p>3 certainly it sounds right that I would discourage him</p> <p>4 from contacting me.</p> <p>5 Q. And you told him you wanted to speak</p> <p>6 one-on-one with Mr. Ho, right?</p> <p>7 A. Yes.</p> <p>8 Q. At that point in time, did you ask Reinhard</p> <p>9 to set up a phone call with Mr. Ho?</p> <p>10 A. I can't recall that.</p> <p>11 Q. Did you ask him for Mr. Ho's phone number?</p> <p>12 A. I can't recall.</p> <p>13 Q. At this point in time, do you recall making</p> <p>14 any effort to speak directly with Mr. Ho?</p> <p>15 A. I can't recall at this point in time.</p> <p>16 Q. So let's go back to --</p> <p>17 A. Can I clarify that?</p> <p>18 Q. Yes.</p> <p>19 A. That was a specific effort to speak to</p> <p>20 Mr. Ho, setting up a one-on-one meeting. So to the</p> <p>21 extent that we were moving forward to a one-on-one</p> <p>22 meeting, that was an effort to speak with him.</p> <p>23 Q. Moving back to Exhibit 181 we just marked and</p> <p>24 the page in the lower right-hand corner that says JM</p> <p>25 10.</p>	<p>Page 107</p> <p>1 A. But I don't recall any other communication</p> <p>2 regarding what he meant specifically by the word</p> <p>3 "convince."</p> <p>4 Q. Now, when you saw this e-mail, using the</p> <p>5 words "convince Ho to do whatever it takes" and</p> <p>6 convince is in quotes, did that also raise a red flag</p> <p>7 for you?</p> <p>8 A. I wouldn't call it a red flag specifically</p> <p>9 where I sit right now, but definitely, this language</p> <p>10 would have troubled me to see that, especially as</p> <p>11 it's called out in quotes.</p> <p>12 Q. When you spoke with Debby on August 21st</p> <p>13 after your meeting with Mr. Ho, did you ask her if</p> <p>14 she had told Reinhard that she could convince Ho to</p> <p>15 do whatever it takes to put a certificate of</p> <p>16 independent review in place?</p> <p>17 A. Can you repeat that?</p> <p>18 Q. When you spoke with Debby on August 21st</p> <p>19 after your meeting with Mr. Ho --</p> <p>20 A. Okay.</p> <p>21 Q. -- did you ask Debby if she told Reinhard</p> <p>22 that she could convince Ho to do whatever it takes to</p> <p>23 put a certificate of independent review in place?</p> <p>24 A. No.</p> <p>25 Q. So you didn't do anything to follow up on</p>
<p>Page 106</p> <p>1 A. I'm sorry, I'm lost.</p> <p>2 Q. I'm sorry, the exhibit that we marked, the</p> <p>3 e-mails from your file.</p> <p>4 A. Yes.</p> <p>5 Q. We're back to the same page we were on. Do</p> <p>6 you have that page? JM 10?</p> <p>7 A. Yes.</p> <p>8 Q. After your meeting on August 11 Reinhard sent</p> <p>9 you an e-mail and it begins about 60 percent or so</p> <p>10 down the page; is that right?</p> <p>11 A. I'm sorry, there's multiple e-mails here.</p> <p>12 There's one from him dated Friday, August 11 and one</p> <p>13 dated Monday, August 14th.</p> <p>14 Q. So the one that is dated August 11 at 2:45</p> <p>15 p.m., do you see that e-mail?</p> <p>16 A. Yes.</p> <p>17 Q. And he says -- Reinhard says to you "I,"</p> <p>18 meaning Reinhard, "talked to Debby and I think</p> <p>19 there's a pretty good chance she," meaning Debby,</p> <p>20 "can 'convince' Ho to do whatever it takes to put a</p> <p>21 certificate of independent review in place."</p> <p>22 Do you recall asking Reinhard what he meant</p> <p>23 by convince and using the quotation marks around it?</p> <p>24 A. I recall responding to this.</p> <p>25 Q. Okay.</p>	<p>Page 108</p> <p>1 this -- that sentence in this e-mail from Reinhard;</p> <p>2 is that right?</p> <p>3 A. I did. I did follow up by responding to the</p> <p>4 e-mail.</p> <p>5 Q. And if you look at the next sentence, it says</p> <p>6 "From what I understand from our conversation, this</p> <p>7 would provide the strongest line of defense against</p> <p>8 any challenge to the gift after his passing."</p> <p>9 Do you recall telling Reinhard words to that</p> <p>10 effect during a phone call on August 11?</p> <p>11 A. I don't recall the specific conversation.</p> <p>12 This has been six years. But what I believe I recall</p> <p>13 saying is that I could meet one-on-one with James Ho</p> <p>14 and that there was something referred to as a</p> <p>15 certificate of independent review and that I would</p> <p>16 need to meet with him one-on-one. I'd have to have</p> <p>17 confidence that he was making independent decisions,</p> <p>18 that nobody else was influencing him in those</p> <p>19 decisions and that I could not agree to do a</p> <p>20 certificate of independent review specifically.</p> <p>21 So he would have to, Mr. Ho, agree to engage</p> <p>22 me and whether or not I did a certificate of</p> <p>23 independent review, that would be something I would</p> <p>24 have to determine.</p> <p>25 Q. But it's a true statement that you told</p>

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<p style="text-align: center;">Page 109</p> <p>1 Reinhard that a certificate of independent review 2 would provide a defense against a challenge to the 3 gift? 4 A. I don't believe I used the word "defense." 5 Q. Okay. 6 A. I believe I said that there was a gift that 7 had already been made, it's in the past, and that one 8 thing I suggested was that we could do a certificate 9 of independent review to certify that Mr. Ho was not 10 unduly influenced or acting because of fraud. 11 Q. Now, you texted Reinhard back, the next 12 page -- 13 MR. BAER: It's an e-mail. 14 MR. BIORN: Right. 15 BY MR. BIORN: 16 Q. You e-mail him back on the next page, on the 17 e-mail dated August 14 at 3:22 p.m. 18 Do you see that? 19 A. Yes. 20 Q. And you say in the second sentence "Is it 21 possible for Mr. Ho to request to engage me to review 22 his transaction?" 23 You were, again, asking Reinhard to have Mr. 24 Ho contact you directly, right? 25 A. This misstates what's in the e-mail. You</p>	<p style="text-align: center;">Page 111</p> <p>1 Q. And here you ask for Mr. Ho's address, phone 2 number and e-mail and the best way to contact him. 3 So are you asking Reinhard if you can get some 4 information to contact him, Mr. Ho, directly? 5 A. I see that now, yes. 6 Q. Your next contact with Reinhard is the next 7 e-mail down, August 17, 2017 at 11:12 a.m. 8 A. Sorry, this appears to be an e-mail from him, 9 not from me. 10 Q. Right. Your next contact with Reinhard. 11 A. His next contact with me, okay. 12 Q. I meant that in general either way terms. It 13 is him e-mailing your office on August 17 at 11:12 14 a.m., right? 15 A. I see that. 16 Q. So as of that point in time, you had not 17 spoken with Mr. Ho, correct? 18 A. I believe so. 19 Q. And you had not conferred with him at all in 20 any other way? 21 A. If this was prior to our phone call, then 22 yes. 23 Q. So let's recall the appointment you had with 24 Mr. Ho was on August 21st. 25 A. Yes.</p>
<p style="text-align: center;">Page 110</p> <p>1 literally inverted the two words "it is." You said 2 is it possible. 3 Q. Okay. 4 A. And I said "It is possible for Mr. Ho to 5 request to engage me." So that's -- I'm saying 6 conditionally that it is hypothetically possible that 7 Mr. Ho might engage me in the future. 8 Q. And then at the end you say "If Mr. Ho 9 approves I can forward an engagement letter to him in 10 advance." 11 You were going to send that directly to him, 12 right? 13 A. To Mr. Ho? 14 Q. Yes. 15 A. My intent was to send a letter for his 16 advance review so if I was able to be engaged by him, 17 he would have reviewed the engagement letter in 18 advance. 19 Q. And you wanted to send that directly to him 20 because you considered that to be an attorney-client 21 privileged communication, right? 22 A. Hypothetically, were we to become attorney 23 and client, then yes, it would be covered by 24 privilege. At that time, we hadn't created an 25 attorney-client relationship yet.</p>	<p style="text-align: center;">Page 112</p> <p>1 Q. I think you indicated that this morning? 2 A. Yes. 3 Q. That's a good point of reference for us. 4 Then you e-mail Reinhard also on August 17, 5 top of the next page at 1:50 p.m. that you'll bring 6 the engagement letter with you to the meeting; is 7 that right? 8 A. I see that. 9 Q. And did you do that, bring the engagement 10 letter with you? 11 A. I did. 12 Q. And did you also send him a copy by mail? 13 A. I believe I did, yes. 14 Q. Well, you had your secretary do that, right? 15 A. That would sound right. 16 Q. Now, the next e-mail is from Reinhard to you, 17 August 17 at 2:11 p.m. 18 Do you see that? 19 A. Yes. 20 Q. Then in the second full paragraph Reinhard 21 says "Just to set expectations, if Mr. Ho feels 22 really bad that day, there is a chance we might have 23 to reschedule." 24 In or around this time and prior to your 25 meeting with Mr. Ho, do you recall asking or</p>

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<p style="text-align: center;">Page 113</p> <p>1 e-mailing Reinhard what he meant by Mr. Ho feeling</p> <p>2 bad that day?</p> <p>3 A. No.</p> <p>4 Q. Prior to your meeting with Mr. Ho, did you</p> <p>5 have any understanding of why Mr. Ho might feel so</p> <p>6 bad that he couldn't keep a meeting with you?</p> <p>7 A. I'm sorry, had I concluded at this time that</p> <p>8 he could keep a meeting with me? That sounds like</p> <p>9 it's leading.</p> <p>10 Q. I can ask a leading question.</p> <p>11 A. I'm just saying if I were to say yes to that,</p> <p>12 then it is saying that I'm saying that I had</p> <p>13 concluded that he couldn't do a meeting and, of</p> <p>14 course, I hadn't made that conclusion at that time.</p> <p>15 Q. No. My question was a little different.</p> <p>16 After you received -- at the time you received this</p> <p>17 e-mail -- never mind. Strike the question.</p> <p>18 Let's move on. So this same e-mail is where</p> <p>19 the first time Reinhard sends you Mr. Ho's address</p> <p>20 and phone number, correct?</p> <p>21 A. I'm sorry, where are you now?</p> <p>22 Q. Same e-mail.</p> <p>23 A. Okay.</p> <p>24 Q. Do you see where he provides you Mr. Ho's</p> <p>25 address and phone number?</p>	<p style="text-align: center;">Page 115</p> <p>1 Q. The next e-mail is an internal e-mail between</p> <p>2 you and your secretary, August 17, 2:42 p.m. where</p> <p>3 Jackie asks you "Is this an hourly agreement? If so,</p> <p>4 what will be the description you would like in the</p> <p>5 first paragraph?"</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And it looks like you had told her that you</p> <p>9 wanted her to type up an hourly fee agreement for</p> <p>10 Mr. Ho, right?</p> <p>11 A. That sounds right.</p> <p>12 Q. At the top of the next page in the e-mail</p> <p>13 same day, August 17 at 3:19 p.m. -- the top of the</p> <p>14 next page is another internal e-mail, you back to</p> <p>15 Jackie, saying -- I believe responding that the scope</p> <p>16 of the -- the description in your fee agreement would</p> <p>17 be limited scope to review a gift transaction and</p> <p>18 potentially draft a certificate of independent</p> <p>19 review.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. So you are defining the scope of your</p> <p>23 representation with Mr. Ho before you have even</p> <p>24 spoken with him; is that right?</p> <p>25 A. Correct.</p>
<p style="text-align: center;">Page 114</p> <p>1 A. I see that.</p> <p>2 Q. Did you call him at this time? Did you call</p> <p>3 Mr. Ho at this time?</p> <p>4 A. I don't recall that I did.</p> <p>5 Q. Did you have your secretary Jackie call</p> <p>6 Mr. Ho at this time?</p> <p>7 A. I don't recall.</p> <p>8 Q. Since you had only spoken with Reinhard at</p> <p>9 this point in time and that raised a red flag for</p> <p>10 you, did you -- did it come into your mind at all</p> <p>11 that it would be a good idea for you to reach out</p> <p>12 directly to Mr. Ho at this time?</p> <p>13 A. Well, first of all, it sounds like Debby</p> <p>14 Chang was also --</p> <p>15 Q. My question is: Did that occur to you?</p> <p>16 A. I don't recall having that thought, no.</p> <p>17 Q. And then at the bottom Reinhard, after giving</p> <p>18 you the information, says well -- doesn't say well --</p> <p>19 I'm sorry. "If you do need to reach Mr. Ho, please</p> <p>20 let me know or you can call Debby Chang" and provides</p> <p>21 you a different phone number.</p> <p>22 Did you ever ask Reinhard why he directed you</p> <p>23 to contact him or Debby instead of calling James Ho</p> <p>24 directly?</p> <p>25 A. No.</p>	<p style="text-align: center;">Page 116</p> <p>1 Q. If you look two e-mails down Reinhard still</p> <p>2 on August 17 at 5:19 p.m. e-mails you asking you to</p> <p>3 send us, and he has cc'd Rita, Debby's daughter Rita</p> <p>4 on this e-mail, "Can you send us a copy of the</p> <p>5 engagement letter prior to the meeting so Mr. Ho can</p> <p>6 review?"</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And did you send a copy of the engagement</p> <p>10 letter directly to Reinhard?</p> <p>11 A. No.</p> <p>12 Q. Did that also raise a red flag for you when</p> <p>13 he's asking for the fee agreement to be sent to him?</p> <p>14 A. I'm not sure what you mean by red flag, but I</p> <p>15 didn't want to send it to him. I eliminated that, if</p> <p>16 that's what you mean by red flag, yes.</p> <p>17 Q. So just for purposes of today, when I use the</p> <p>18 term "red flag," I'm intending to use it the exact</p> <p>19 same way you did when we read it from your deposition</p> <p>20 earlier today, okay?</p> <p>21 A. What way was that?</p> <p>22 Q. Well, let's go back and read your deposition</p> <p>23 again. Page 65, page 8 --</p> <p>24 THE COURT: Do you mean line 8?</p> <p>25 MR. BIORN: Sorry, 65, line 8 to line 19.</p>

<p style="text-align: center;">Page 117</p> <p>1 BY MR. BIORN:</p> <p>2 Q. And you can read all of it, but at the end it</p> <p>3 says so that was a red flag for you?</p> <p>4 A. Right.</p> <p>5 Q. You answered yes. Whatever you had in mind</p> <p>6 when you provided that yes answer to red flag --</p> <p>7 A. Right.</p> <p>8 Q. -- that's what I'm referring to today when I</p> <p>9 use that term. Okay?</p> <p>10 A. Since you're bringing that up, Counsel, what</p> <p>11 the questioner said here specifically was "You talked</p> <p>12 earlier about the elder abuse seminar you gave" and</p> <p>13 you mentioned that you discussed with the audience</p> <p>14 that there were some red flags or things to watch out</p> <p>15 for with respect to elder abuse.</p> <p>16 Q. Yes.</p> <p>17 A. And then he framed this question about did it</p> <p>18 strike you as odd, which is a very broad question,</p> <p>19 did it strike you as odd at all that you were being</p> <p>20 contacted by the son-in-law of the transferee, that</p> <p>21 you were seeking to or that -- he was seeking a</p> <p>22 certificate of independent review in connection and I</p> <p>23 said yes. So that was a red flag for you, yes.</p> <p>24 And I think that was immediately following up</p> <p>25 on his question regarding being contacted in general</p>	<p style="text-align: center;">Page 119</p> <p>1 Q. And then in the next e-mail, Friday August</p> <p>2 18, 9:37 a.m., you respond that you will put it in</p> <p>3 the mail to Mr. Ho and that you cannot send it via</p> <p>4 e-mail because it's attorney-client privileged.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And so as of Friday, before you meet with</p> <p>8 Mr. Ho on Monday, you had numerous contacts with</p> <p>9 Reinhard, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Numerous by e-mail and one by phone, correct?</p> <p>12 A. I'm not sure of the specific number of</p> <p>13 e-mails.</p> <p>14 Q. I just said numerous.</p> <p>15 A. Numerous, yes.</p> <p>16 Q. And you had Mr. Ho's phone number?</p> <p>17 A. Yes.</p> <p>18 Q. And you didn't call him before the meeting,</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. Other than -- and actually, that is accurate,</p> <p>22 you didn't call him before the meeting.</p> <p>23 Do you remember when we talked about your</p> <p>24 call with Reinhard about the benefits of a</p> <p>25 certificate of independent review? I won't use the</p>
<p style="text-align: center;">Page 118</p> <p>1 by the son-in-law, that that's odd and he said well,</p> <p>2 so odd is equated to red flag. So basically red flag</p> <p>3 could be anything that's odd.</p> <p>4 Q. Okay. Well, let's go back and redefine it</p> <p>5 then.</p> <p>6 Do you see up above where you said you</p> <p>7 discussed with an audience there were some red flags</p> <p>8 or things to watch out for with respect to elder</p> <p>9 abuse?</p> <p>10 A. I see that.</p> <p>11 Q. Let's define red flags today, whenever you</p> <p>12 use it, I'm referring to how you considered it when</p> <p>13 you described it for that audience that day.</p> <p>14 A. Not things that are odd in general like the</p> <p>15 questioner here?</p> <p>16 Q. Things that you consider as red flags to</p> <p>17 watch out for with respect to elder abuse.</p> <p>18 A. Okay.</p> <p>19 Q. All right?</p> <p>20 Back to my question, again. Exhibit 181,</p> <p>21 lower right-hand corner, JM 13, the third e-mail</p> <p>22 August 17, 5:19, "Did you consider it a red flag</p> <p>23 when Reinhard asked you to send a copy of Mr. Ho's</p> <p>24 engagement letter with you to Reinhard?"</p> <p>25 A. Yes.</p>	<p style="text-align: center;">Page 120</p> <p>1 word "defense," I'll call it the benefits of a</p> <p>2 certificate of independent review. Right?</p> <p>3 Do you recall --</p> <p>4 A. Yes, I believe that there would be a benefit,</p> <p>5 yes, potentially.</p> <p>6 Q. And that certificate of independent review is</p> <p>7 typically issued to confirm the validity of a gift to</p> <p>8 what is called a transferee, right?</p> <p>9 A. Yes.</p> <p>10 Q. Why are you telling the son-in-law of the</p> <p>11 transferee about the benefit of a certificate of</p> <p>12 independent review prior to meeting with Mr. Ho?</p> <p>13 A. Again, as lawyers, we identify issues, we</p> <p>14 connect facts to law. And so I was citing that there</p> <p>15 was a potential issue because this transfer had taken</p> <p>16 place.</p> <p>17 And so the thought in my mind was maybe it's</p> <p>18 potentially something that I could look at. Whether</p> <p>19 or not it would be appropriate to have a certificate</p> <p>20 of independent review, there might be some benefit</p> <p>21 because then perhaps it would lower the risk of a</p> <p>22 challenge with a SCIF that had taken place to avoid</p> <p>23 litigation.</p> <p>24 Q. That didn't answer my question why you would</p> <p>25 be advising the son-in-law of the transferee.</p>

<p style="text-align: center;">Page 121</p> <p>1 A. I consider it a general good that we avoid 2 litigation and that I understand what Mr. Ho's intent 3 was regarding this transaction. If I were 4 hypothetically to be engaged by him, that would be my 5 scope. I don't see any other thing that I would 6 accept to do for him in that context other than what 7 I was being asked to do specifically. 8 Q. Is it good to avoid litigation if the gift 9 was actually procured by undue influence? 10 A. No. 11 Q. Let's go to the meeting itself. 12 A. Can I clarify also -- 13 Q. There's no question pending. 14 THE COURT: He can clarify his last answer. 15 BY MR. BIORN: 16 Q. Is it your last answer? 17 A. My last answer, that it can be a good to 18 avoid litigation by not doing a certificate of 19 independent review if I determined that a gift was 20 procured through undue influence which was still a 21 determination that I had reserved for the future. 22 Q. Fair enough. You arrive at the house in 23 Redwood City on August 21st and Debby meets you at 24 the front door, right? 25 A. I believe so.</p>	<p style="text-align: center;">Page 123</p> <p>1 A. Not specifically. 2 Q. Let me show you a new exhibit, 182, which is 3 another document from your file, lower right-hand 4 corner Bates stamp JM 31. 5 MR. BAER: Thank you. 6 THE COURT: Thank you. 7 BY MR. BIORN: 8 Q. If you're done reviewing it, can you tell me 9 what this document is? 10 A. This is a form that my assistant fills out 11 typically when we have an initial client contact. 12 Q. Is that Jackie's handwriting? 13 A. Yes. 14 Q. Okay. And you're sure, when you met with 15 them, your engagement letter had not been signed, 16 right? 17 A. Met with who? 18 Q. When you met with Mr. Ho. 19 A. Yes. It had not been signed. 20 Q. And you showed him your engagement letter at 21 this initial meeting, correct? 22 A. Yes. 23 Q. And did he read it in front of you? 24 A. Not that I recall. 25 Q. Did you explain it to him?</p>
<p style="text-align: center;">Page 122</p> <p>1 Q. And when you first saw Mr. Ho that day, he 2 was using a walker? 3 A. Yes. 4 Q. And upon this initial meeting with Mr. Ho 5 while Debby is still there, you told everyone in the 6 room what the purpose of the meeting was, right? 7 A. Do you mean certificate of independent 8 review, yes or no? 9 Q. No. 10 A. I don't think I said those words. 11 Q. Let's go to your deposition, page 104. And I 12 guess the question starts at 103, 25, "What happened 13 next," question. 14 And then on page 104, you can read your 15 entire answer. I'll never stop you from doing that. 16 But the point -- the part I'm looking at is, 17 "At some point, I said to everybody present, both 18 Debby and James" and then go down, "Well, the purpose 19 of this meeting is for me meet one-on-one with James 20 Ho to see if I'd be able to assist him in some form, 21 but for to us do that, I'm going to have to ensure 22 there's complete privacy and independence. Is there 23 a place for us which we can meet which is private?" 24 Were you telling everyone what the purpose of 25 the meeting was at that point?</p>	<p style="text-align: center;">Page 124</p> <p>1 A. I explained it generally, but not in 2 legalese. 3 Q. Did he tell you he didn't have his reading 4 glasses so he couldn't read it at the moment? 5 A. That sounds right. I can't recall 6 specifically with respect to the engagement letter, 7 but that sounds like something he said. 8 Q. Did he tell you he was going to go over this 9 document with Debby? 10 A. I can't recall. 11 Q. Let's go to your deposition, page 149, line 6 12 through 11. 13 He then said "I'd like to go over this with 14 Debby." 15 Answer: Right. 16 Did he tell you that? 17 Yes." 18 Do you see that? 19 A. I see it. 20 Q. Did that refresh your recollection that 21 Mr. Ho told you that he was going to go over it with 22 Debby? 23 A. I can't remember now, at this point. 24 Q. Did you caution Mr. Ho that reviewing that 25 document with Debby could void the attorney-client</p>

<p style="text-align: center;">Page 125</p> <p>1 privilege?</p> <p>2 A. No.</p> <p>3 Q. Why not?</p> <p>4 A. Well, I felt at the time that it was normal</p> <p>5 for somebody with their long-term girlfriend to -- if</p> <p>6 they're in the same address, to go over things with</p> <p>7 their companion and as long as it didn't specifically</p> <p>8 interfere with my ability to advise him in</p> <p>9 confidence, I didn't think that there was a need to</p> <p>10 advise him not to do that.</p> <p>11 Q. So did this raise a red flag for you that he</p> <p>12 wanted to review your fee agreement with Debby who,</p> <p>13 at the time you were evaluating whether she had</p> <p>14 exerted undue influence over Mr. Ho to obtain a</p> <p>15 million dollar gift?</p> <p>16 A. In retrospect, I can think some of the issues</p> <p>17 there. At the time, I didn't see it as a concern.</p> <p>18 Q. And he didn't sign that agreement in front of</p> <p>19 you that day?</p> <p>20 A. Not that I recall.</p> <p>21 Q. He signed it and mailed it back to you at a</p> <p>22 later date, right?</p> <p>23 A. I believe so.</p> <p>24 Q. And he sent you a check at the same time,</p> <p>25 right?</p>	<p style="text-align: center;">Page 127</p> <p>1 could not recall the name of the street he lived on;</p> <p>2 is that right?</p> <p>3 A. Yes, I think that's correct.</p> <p>4 Q. Did he tell you that?</p> <p>5 A. That he couldn't recall the name of the</p> <p>6 street?</p> <p>7 Q. Yes.</p> <p>8 A. So right now, I'm blanking on the content of</p> <p>9 that conversation, but I think he did temporarily not</p> <p>10 know and then I think later he came back and</p> <p>11 recalled.</p> <p>12 Q. Did you add that later recollection to your</p> <p>13 memo?</p> <p>14 A. Oh, I can't recall.</p> <p>15 Q. If you stated in your memo that he couldn't</p> <p>16 recall that he lived on Fulton Street, would it be</p> <p>17 important to include on the memo that he later did</p> <p>18 recall the name of the street he lived on?</p> <p>19 A. I can't recall putting it in the memo one way</p> <p>20 or the other.</p> <p>21 Q. Okay. We'll go back over that then.</p> <p>22 Let's take a look at your -- the memo which</p> <p>23 has been marked already.</p> <p>24 MR. FRASER: It's 527.</p> <p>25 MR. BIORN: 527. I need to get that back for</p>
<p style="text-align: center;">Page 126</p> <p>1 A. I think the check was in the envelope, but</p> <p>2 I'm not sure.</p> <p>3 Q. And as I recall, you were able to compare the</p> <p>4 signatures on the check with the signature on the fee</p> <p>5 agreement to see that Mr. Ho had signed both of them,</p> <p>6 right?</p> <p>7 A. Was that in my deposition?</p> <p>8 Q. It was.</p> <p>9 A. I think I do remember doing that.</p> <p>10 Q. But you were not present when he signed; is</p> <p>11 that right?</p> <p>12 MR. BAER: Asked and answered.</p> <p>13 THE WITNESS: I can't recall.</p> <p>14 MR. BIORN: True.</p> <p>15 BY MR. BIORN:</p> <p>16 Q. And you didn't know what Mr. Ho's signature</p> <p>17 looked like other than those two exemplars on the fee</p> <p>18 agreement and check; is that right?</p> <p>19 A. Well, no, I don't think I had done a</p> <p>20 handwriting analysis at that time.</p> <p>21 Q. You had never seen his signature anywhere</p> <p>22 else other than those two documents; is that right?</p> <p>23 A. Yes. I don't think I had any basis to verify</p> <p>24 his signature one way or the other.</p> <p>25 Q. I believe your notes indicate that Mr. Ho</p>	<p style="text-align: center;">Page 128</p> <p>1 the witness.</p> <p>2 Kysen, did you put the binders back that we</p> <p>3 looked at or are they still over there?</p> <p>4 MR. KUO: I didn't put them back. It's still</p> <p>5 over there.</p> <p>6 BY MR. BIORN:</p> <p>7 Q. You have it in front of you, Mr. Martin?</p> <p>8 A. Yes.</p> <p>9 Q. Thank you. It says in the first sentence</p> <p>10 "James Ho made a gift to Debby Chang in March of</p> <p>11 2017."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. He told you that?</p> <p>15 A. We discussed the gift to her, yes.</p> <p>16 Q. Did he give you the date of the gift?</p> <p>17 A. I can't recall specifically.</p> <p>18 Q. Did you ever learn subsequently that the</p> <p>19 supposed gift was made the month prior, in March?</p> <p>20 A. If I put it in the memo, I would assume so,</p> <p>21 but I can't remember when I gained that information</p> <p>22 specifically.</p> <p>23 Q. You spoke with Mr. Baer this morning about</p> <p>24 making sure that Debby was not in the room with you</p> <p>25 during your meeting with Mr. Ho?</p>

<p style="text-align: center;">Page 129</p> <p>1 A. Yes.</p> <p>2 Q. And making sure that you didn't hear her</p> <p>3 walking around where she might be able to listen in,</p> <p>4 right?</p> <p>5 A. Right.</p> <p>6 Q. Did you ask her to leave the house?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. I feel like my duty to represent the client</p> <p>10 and to advise him in confidence doesn't require Debby</p> <p>11 Chang to leave the building. As long as we had</p> <p>12 confidentiality, that would be sufficient.</p> <p>13 Q. Now, your memo on page 2, the fourth</p> <p>14 paragraph down it says "I then."</p> <p>15 A. Yes.</p> <p>16 Q. "I then asked James if he knew why I was</p> <p>17 there. James said, 'I think it may be about the gift</p> <p>18 that I gave to Debby.'"</p> <p>19 A. Right.</p> <p>20 Q. Those words are in quotes. Is that because</p> <p>21 that's exactly what he said to you?</p> <p>22 A. As I recall them.</p> <p>23 Q. Did it raise a red flag for you that he was a</p> <p>24 little equivocal about why he was there?</p> <p>25 A. What do you mean by that?</p>	<p style="text-align: center;">Page 131</p> <p>1 A. Not specifically.</p> <p>2 Q. Why not?</p> <p>3 A. I think that's very normal for somebody to be</p> <p>4 casual or to act casual because he -- I think that</p> <p>5 might have been part of his personality, that he, you</p> <p>6 know, felt that he didn't want to make a big deal</p> <p>7 about it that he had given this gift to her and that</p> <p>8 it was her money, she could do whatever she wanted</p> <p>9 with it.</p> <p>10 The whole attitude he had was very cavalier.</p> <p>11 So I think his not being specific was related to his</p> <p>12 attitude about the gift and he wanted to put it out</p> <p>13 of his mind at that point and move forward.</p> <p>14 MR. BIORN: I'll move to strike. A good</p> <p>15 portion of that was very speculative what went on in</p> <p>16 Mr. Ho's mind. I'll move to strike those portions.</p> <p>17 MR. BAER: Your Honor, I think he explained</p> <p>18 why. That's what he thought.</p> <p>19 MR. BIORN: If it was in Mr. Martin's mind,</p> <p>20 that would be responsive to my question, but when he</p> <p>21 said it was in Mr. Ho's mind --</p> <p>22 MR. BAER: I think he -- I think he was</p> <p>23 explaining what he thought Mr. Martin thought. That</p> <p>24 was why he did what he did.</p> <p>25 THE COURT: It's a bit speculative. Both</p>
<p style="text-align: center;">Page 130</p> <p>1 Q. He said I think, it may. Think and may are</p> <p>2 equivocal words. Did he raise a red flag that he</p> <p>3 used words that were equivocal?</p> <p>4 A. Not at all.</p> <p>5 Q. The next sentence he said he had given about</p> <p>6 \$1 million last year to Debby.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Did he ever tell you the exact amount he</p> <p>10 gave?</p> <p>11 A. I think he said \$1.1 million over the course</p> <p>12 of the conversation, but it took some time for that</p> <p>13 to come out. But I can't recall now specifically. I</p> <p>14 remember asking him about whether it was one check,</p> <p>15 whether it was two checks.</p> <p>16 Q. And he didn't know if it was one or two</p> <p>17 checks?</p> <p>18 A. He said that he believed it was two, or that</p> <p>19 it could be two.</p> <p>20 Q. So this is a million dollars and it happened</p> <p>21 six months earlier?</p> <p>22 A. Yes.</p> <p>23 Q. And he couldn't remember if he transferred it</p> <p>24 by way of one check or two checks. Did that raise a</p> <p>25 red flag for you?</p>	<p style="text-align: center;">Page 132</p> <p>1 sides can explore this area.</p> <p>2 You were asking what to be stricken?</p> <p>3 MR. BIORN: The portion where he said what he</p> <p>4 thought was in Mr. Ho's mind.</p> <p>5 THE COURT: Okay.</p> <p>6 BY MR. BIORN:</p> <p>7 Q. And then if you go down this paragraph, after</p> <p>8 you ask Mr. Ho if he had a trust, you say "He said he</p> <p>9 didn't know where those documents currently were and</p> <p>10 stated that his son was currently managing his</p> <p>11 affairs."</p> <p>12 Did it raise a red flag for you that he</p> <p>13 didn't know where his estate planning documents were?</p> <p>14 A. No.</p> <p>15 Q. Did you ask to see them -- sorry, after this</p> <p>16 meeting, did you ask again to see them, the estate</p> <p>17 planning documents?</p> <p>18 A. I can't recall specifically. I don't believe</p> <p>19 so.</p> <p>20 Q. Did you ever see the estate planning</p> <p>21 documents?</p> <p>22 A. No.</p> <p>23 Q. Then you don't know whether anything he said</p> <p>24 to you about the terms of the trust was accurate,</p> <p>25 correct?</p>

<p style="text-align: center;">Page 133</p> <p>1 A. I took his word for it.</p> <p>2 Q. Now, if you look down to the next paragraph,</p> <p>3 it says "I asked him what his current health</p> <p>4 condition was and the answer was he said he was</p> <p>5 currently suffering from headaches and that he was</p> <p>6 receiving treatment for them."</p> <p>7 Is that what Mr. Ho told you about his</p> <p>8 health?</p> <p>9 A. I believe so.</p> <p>10 Q. Did he tell you anything else about his</p> <p>11 health at this meeting?</p> <p>12 A. I think he did.</p> <p>13 Q. What?</p> <p>14 A. I can't remember.</p> <p>15 Q. Okay. Well, do you recall the e-mails with</p> <p>16 Reinhard referring to Mr. Ho taking chemotherapy?</p> <p>17 A. Did they refer to it as chemotherapy?</p> <p>18 Q. Let's take a look back at those.</p> <p>19 Exhibit 181, there is a reference to chemotherapy on</p> <p>20 JM 10 and the last full e-mail, second to last</p> <p>21 paragraph, see the word "chemotherapy"?</p> <p>22 A. Yes.</p> <p>23 Q. "I'm asking because Ho is currently on</p> <p>24 chemotherapy."</p> <p>25 Do you recall asking Mr. Ho if -- strike</p>	<p style="text-align: center;">Page 135</p> <p>1 think you told us is a better recollection of what</p> <p>2 Mr. Ho told you than your notes, right?</p> <p>3 A. Well, the notes are an immediate reflection</p> <p>4 of what my thoughts were and then I went back and put</p> <p>5 a fuller version that filled in the blanks at the</p> <p>6 time I went back to the office.</p> <p>7 Q. And neither your notes nor your memo I'll</p> <p>8 represent to you refer -- use the word</p> <p>9 "chemotherapy."</p> <p>10 A. Okay.</p> <p>11 Q. If you had asked him about -- if he had</p> <p>12 mentioned anything about chemotherapy, you would have</p> <p>13 put that in your notes, right?</p> <p>14 MR. BAER: Objection. Calls for speculation.</p> <p>15 THE WITNESS: If he had mentioned</p> <p>16 chemotherapy, I would not have put it in my notes?</p> <p>17 BY MR. BIORN:</p> <p>18 Q. No, you would have --</p> <p>19 A. I would have?</p> <p>20 Q. Yes.</p> <p>21 A. Not necessarily.</p> <p>22 Q. So it would be less important to put in your</p> <p>23 notes that Mr. Ho said he was suffering from</p> <p>24 headaches?</p> <p>25 A. I don't think of it in those terms,</p>
<p style="text-align: center;">Page 134</p> <p>1 that.</p> <p>2 Did Mr. Ho tell you he was on chemotherapy?</p> <p>3 A. I can't recall asking him about chemotherapy.</p> <p>4 Q. Did you ask him if he was on chemotherapy?</p> <p>5 A. I can't recall.</p> <p>6 Q. If he didn't mention he was on chemotherapy</p> <p>7 in responding to your question about his health,</p> <p>8 would you have asked a follow-up question about that</p> <p>9 subject?</p> <p>10 A. I'm not understanding the question.</p> <p>11 Q. And there's another reference to</p> <p>12 chemotherapy, the bottom of the next page, second</p> <p>13 from bottom line where Reinhard references the day of</p> <p>14 his next chemotherapy appointment.</p> <p>15 So prior to this meeting, you had been told</p> <p>16 in two separate e-mails that Mr. Ho was undergoing</p> <p>17 chemotherapy, right?</p> <p>18 A. I believe so.</p> <p>19 Q. Did you ask Mr. Ho -- I'm sorry.</p> <p>20 At the meeting, did Mr. Ho tell you why he</p> <p>21 was undergoing chemotherapy?</p> <p>22 A. I can't recall, but I believe we must have</p> <p>23 discussed his health situation and needing to go in</p> <p>24 for treatments.</p> <p>25 Q. So you did write here in your memo, which I</p>	<p style="text-align: center;">Page 136</p> <p>1 important, less important. This was a memo dealing</p> <p>2 with my counseling session with him regarding this</p> <p>3 transaction and actually, at the time looking at this</p> <p>4 e-mail that mentions chemotherapy, that seems to</p> <p>5 confirm that this is a gentleman who is trying to do</p> <p>6 whatever he can to stay alive and cure this cancer.</p> <p>7 Q. But it was important to you that he</p> <p>8 understood his current health condition, correct?</p> <p>9 A. It's generally important. I don't remember</p> <p>10 having that specific thought regarding the</p> <p>11 counseling.</p> <p>12 Q. Okay.</p> <p>13 A. So perhaps not. Perhaps that's not the most</p> <p>14 relevant consideration.</p> <p>15 Q. Did he tell you he had undergone -- that he</p> <p>16 had undergone radiation the year before?</p> <p>17 A. No.</p> <p>18 Q. You didn't put that in your notes or memo,</p> <p>19 right?</p> <p>20 A. No, of course not.</p> <p>21 Q. Did he tell you he had blood cancer?</p> <p>22 A. Not that I can recall.</p> <p>23 Q. Did he tell you that he had a brain tumor?</p> <p>24 A. No.</p> <p>25 Q. Did Debby tell you that he was undergoing</p>

<p style="text-align: center;">Page 137</p> <p>1 chemotherapy?</p> <p>2 A. Perhaps. I can't recall specifically,</p> <p>3 though.</p> <p>4 Q. Did Debby tell you he had a brain tumor?</p> <p>5 A. I can't recall.</p> <p>6 Q. Did Debby tell you that he had blood cancer?</p> <p>7 A. I can't recall.</p> <p>8 Q. Did Debby tell you he'd been undergoing a</p> <p>9 treatment of radiation the year before?</p> <p>10 A. I can't recall.</p> <p>11 Q. Did Debby tell you that he had been</p> <p>12 undergoing medical care for cognitive decline?</p> <p>13 MR. BAER: Objection. Lacks foundation.</p> <p>14 MR. BIORN: It's in the medical records.</p> <p>15 MR. BAER: I don't agree.</p> <p>16 MR. BIORN: We can argue that on the expert</p> <p>17 reports.</p> <p>18 THE COURT: This is cross. I'm going to</p> <p>19 allow some latitude. The answer will remain. The</p> <p>20 answer is no.</p> <p>21 BY MR. BIORN:</p> <p>22 Q. So the answer is no.</p> <p>23 In your memo, the only thing you summarized</p> <p>24 about what Mr. Ho said about his health condition was</p> <p>25 that he had headaches and that he was receiving</p>	<p style="text-align: center;">Page 139</p> <p>1 memo?</p> <p>2 A. I'm not sure.</p> <p>3 Q. You did ask him a follow-up question. You</p> <p>4 asked him -- I think you told him that title of the</p> <p>5 house was in the name of Debby alone, right?</p> <p>6 A. Oh, that sounds right.</p> <p>7 Q. And at that time, he didn't confirm for you</p> <p>8 that, oh, yeah, I knew that, she does own it, he</p> <p>9 didn't say those words?</p> <p>10 A. If I recall correctly, it was well, if it's</p> <p>11 in her name, then that's fine, something along those</p> <p>12 lines.</p> <p>13 Q. But his words he indicated that at least</p> <p>14 he -- he didn't already know it was in her name?</p> <p>15 A. That, yes, I think it wasn't front in his</p> <p>16 mind what the title read, but once I confirmed that</p> <p>17 she was the owner, he didn't seem surprised or</p> <p>18 shocked.</p> <p>19 Q. Now, during the meeting, did Mr. Ho ever tell</p> <p>20 you that he was actually on the contract as a</p> <p>21 purchaser to buy the Redwood City house?</p> <p>22 A. That sounds vaguely familiar.</p> <p>23 Q. Okay.</p> <p>24 A. I'm not sure if that's because we talked</p> <p>25 about it one-on-one. Right now, I can't recall where</p>
<p style="text-align: center;">Page 138</p> <p>1 treatment for them; is that right?</p> <p>2 MR. BAER: Objection. The document speaks</p> <p>3 for itself.</p> <p>4 THE COURT: Sustained.</p> <p>5 BY MR. BIORN:</p> <p>6 Q. Two sentences down says "However, he did not</p> <p>7 know the current date."</p> <p>8 You mentioned this morning that he may have</p> <p>9 recalled the current date later in the meeting?</p> <p>10 A. No. If I recall correctly, I was referring</p> <p>11 to the name of the street.</p> <p>12 Q. Okay.</p> <p>13 A. Yeah.</p> <p>14 Q. Let's talk about the name of the street.</p> <p>15 After you left that meeting, you told your associate</p> <p>16 Beth Chagonjian that James thought he owned the house</p> <p>17 in Redwood City, right?</p> <p>18 A. I believe I did discuss that he used those</p> <p>19 words, yes.</p> <p>20 Q. Did that raise a red flag for you?</p> <p>21 A. No. After I spoke with him, I eliminated</p> <p>22 that as being a red flag in some sense because I felt</p> <p>23 he was referring to it as the place where he lived,</p> <p>24 his abode.</p> <p>25 Q. Where is that mentioned in your notes or your</p>	<p style="text-align: center;">Page 140</p> <p>1 I received that information.</p> <p>2 Q. Well, let's -- and in fact, you had never</p> <p>3 seen the purchase contract for the Redwood City house</p> <p>4 prior to your deposition, right?</p> <p>5 A. Right. I think I learned about this after</p> <p>6 the litigation was commenced, potentially.</p> <p>7 Q. So then let's go back. Does that refresh</p> <p>8 your recollection that James did not tell you that he</p> <p>9 had been on the purchase contract for Redwood City as</p> <p>10 a buyer?</p> <p>11 A. That's a fair assumption.</p> <p>12 Q. Let's go back to your memo, page 3 of 5, the</p> <p>13 first full paragraph, starts with "I asked him what</p> <p>14 his financial situation was like."</p> <p>15 What did Mr. Ho tell you about his current</p> <p>16 assets as of the day of that meeting?</p> <p>17 A. Well, the document speaks for itself.</p> <p>18 Q. Okay. Did he tell you he owned any real</p> <p>19 property?</p> <p>20 A. I can't recall specifically.</p> <p>21 Q. Did he tell you he had bank accounts?</p> <p>22 A. By pointing to his checkbook, yes, and going</p> <p>23 over the transactions, we discussed his checking</p> <p>24 account.</p> <p>25 Q. Did he tell you how much money was in the</p>

<p style="text-align: center;">Page 141</p> <p>1 bank account?</p> <p>2 A. I think he didn't give me a specific number,</p> <p>3 but he indicated that he knew his running balance.</p> <p>4 Q. Did he give you any estimation of how much</p> <p>5 money was in his bank account?</p> <p>6 A. Not that I recall.</p> <p>7 Q. Other than the bank account and automobiles,</p> <p>8 did he tell you he had any other assets as of the day</p> <p>9 of this meeting with him?</p> <p>10 A. Not that I recall where we stand today.</p> <p>11 Q. And when you left this meeting, you had no</p> <p>12 idea how much money was in his bank accounts,</p> <p>13 correct?</p> <p>14 A. I can't recall.</p> <p>15 Q. Do your notes or your memo reference anywhere</p> <p>16 how -- Mr. Ho told you how much money he had in the</p> <p>17 bank accounts?</p> <p>18 A. It must have been sufficient to cover his</p> <p>19 Kaiser healthcare premiums and his expenses. So I</p> <p>20 think it's a fair assumption that there was</p> <p>21 sufficient funds through his sources of income and a</p> <p>22 rental property that he referred to as well.</p> <p>23 Now, that's coming back into my mind. He</p> <p>24 referred to this rental property that generated</p> <p>25 income, if I recall correctly. But it's so hazy, I'm</p>	<p style="text-align: center;">Page 143</p> <p>1 the expenses because they were being paid regularly</p> <p>2 by him.</p> <p>3 Q. Okay. Did you know if he had any cash in the</p> <p>4 bank to cover extraordinary expenses?</p> <p>5 A. Most likely, given what he was describing.</p> <p>6 Q. Did he tell you that?</p> <p>7 A. Indirectly through a description of how he</p> <p>8 was paying his bills.</p> <p>9 Q. Did you ask him whether he had enough money</p> <p>10 in the bank to cover emergency expenses?</p> <p>11 A. No. That wasn't the scope of my</p> <p>12 representation.</p> <p>13 Q. If a gift left him with insufficient funds to</p> <p>14 cover contingent emergency expenses, wouldn't that be</p> <p>15 important in your determination on whether the gift</p> <p>16 was a product of undue influence?</p> <p>17 A. Those are your words.</p> <p>18 Q. I'm asking you, correct.</p> <p>19 A. It's relevant, but I would steer away from</p> <p>20 the word "important" because I was looking at whether</p> <p>21 or not this particular transaction was procured</p> <p>22 through undue influence which is where there's</p> <p>23 excessive persuasion by a person who is obtaining an</p> <p>24 undue benefit which is not directly related to what</p> <p>25 the size of somebody's bank account is.</p>
<p style="text-align: center;">Page 142</p> <p>1 perhaps forgetting.</p> <p>2 Q. So when you left this meeting, you had no</p> <p>3 idea whether \$1.1 million represented five percent of</p> <p>4 the cash he had in the bank or 75 percent of the cash</p> <p>5 he had in the bank?</p> <p>6 A. Correct.</p> <p>7 Q. Would that determination be important to you</p> <p>8 in evaluating whether a gift was a product of undue</p> <p>9 influence?</p> <p>10 A. Perhaps.</p> <p>11 Q. And did you consider whether Mr. Ho had</p> <p>12 enough money in the bank to cover his future</p> <p>13 expenses?</p> <p>14 A. Yes.</p> <p>15 Q. How did you make that determination if you</p> <p>16 didn't know how much money was in the bank?</p> <p>17 A. Well, I asked him about his cash flow, his</p> <p>18 expenses.</p> <p>19 Q. What was his income?</p> <p>20 A. I don't think I confirmed his total income</p> <p>21 with him.</p> <p>22 Q. How did you know his cash flow then?</p> <p>23 A. Well, he mentioned some of his expenses.</p> <p>24 Q. But you had no idea what the income was?</p> <p>25 A. Well, it must have been sufficient to cover</p>	<p style="text-align: center;">Page 144</p> <p>1 Q. Continuing on in this paragraph, next</p> <p>2 sentence "He said he had certain monthly expenditures</p> <p>3 which were handled by his son."</p> <p>4 Down below, there's a reference to a Kaiser</p> <p>5 expense of \$250 a month in premiums?</p> <p>6 A. Yes.</p> <p>7 Q. Did Mr. Ho tell you about any of his other</p> <p>8 monthly expenses?</p> <p>9 A. Perhaps. I don't recall.</p> <p>10 Q. Did you make any notation in your notes or</p> <p>11 memo about Mr. Ho's other monthly expenses?</p> <p>12 A. I can't recall.</p> <p>13 Q. All you have in your notes is a single Kaiser</p> <p>14 healthcare expense and no information on income, yet</p> <p>15 you told us a minute ago that he had sufficient --</p> <p>16 that his cash flow was sufficient to cover his</p> <p>17 expenses. How did you make that determination?</p> <p>18 A. That's not what I said.</p> <p>19 MR. BAER: Objection. Argumentative.</p> <p>20 MR. BIORN: I'll withdraw it.</p> <p>21 MR. BAER: Lacks foundation.</p> <p>22 MR. BIORN: Withdrawn.</p> <p>23 BY MR. BIORN:</p> <p>24 Q. The next sentence "He said that he used to</p> <p>25 own a Corvette and a Mercedes and that he still had</p>

<p style="text-align: center;">Page 145</p> <p>1 the Mercedes."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. He told you that?</p> <p>5 A. I believe so.</p> <p>6 Q. Did you ever learn that he sold the Mercedes</p> <p>7 over 15 years prior?</p> <p>8 A. No.</p> <p>9 Q. Did you ever learn that he actually still had</p> <p>10 the Corvette?</p> <p>11 A. No.</p> <p>12 Q. In fact, he had sold that about a year or two</p> <p>13 prior. Did you ever learn that?</p> <p>14 A. No.</p> <p>15 MR. BAER: Objection. Lacks foundation.</p> <p>16 MR. BIORN: I'm just asking if he learned it.</p> <p>17 BY MR. BIORN:</p> <p>18 Q. If Mr. Ho actually didn't own the Mercedes</p> <p>19 that he said he still had, would you consider that a</p> <p>20 red flag?</p> <p>21 A. Yes.</p> <p>22 Q. Did he tell you he owned a Lexus at the time?</p> <p>23 A. No.</p> <p>24 Q. If he actually did own a Lexus at the time,</p> <p>25 would you consider that a red flag?</p>	<p style="text-align: center;">Page 147</p> <p>1 transactions you reviewed with him.</p> <p>2 Can you recall any now?</p> <p>3 A. No. He was just going through his</p> <p>4 transaction ledger and showing debits and credits,</p> <p>5 but I can't recall the specific categories.</p> <p>6 Q. Okay. But he didn't tell you that he was the</p> <p>7 one making those payments, right?</p> <p>8 A. No, but he seemed very possessive of his</p> <p>9 checkbook, so his conduct indicated to me that he was</p> <p>10 in control.</p> <p>11 Q. Next paragraph "I asked him about whether he</p> <p>12 was comfortable at the home living with Debby."</p> <p>13 What did he tell you in response to that?</p> <p>14 A. I can't recall, but I can read what I wrote.</p> <p>15 Q. No, that's all right.</p> <p>16 You told us this morning that he was -- that</p> <p>17 his sleeping quarters was on a cot in you believed</p> <p>18 the kitchen?</p> <p>19 A. Somewhere around the kitchen. Might have</p> <p>20 been the adjoining room. I can't recall.</p> <p>21 Q. Did you ask why he was sleeping on a cot in</p> <p>22 the kitchen?</p> <p>23 A. No.</p> <p>24 Q. Did you look around to see whether there were</p> <p>25 any bedrooms on the first floor?</p>
<p style="text-align: center;">Page 146</p> <p>1 A. Yes.</p> <p>2 Q. The next sentence "I asked him if he still</p> <p>3 paid for things on his own. He said yes and showed</p> <p>4 me his check register where he appeared to have a</p> <p>5 very orderly and detailed listing of his financial</p> <p>6 transactions by date and check number."</p> <p>7 Did Mr. Ho tell you that was his handwriting</p> <p>8 in the check register?</p> <p>9 A. No, I didn't go into his writing.</p> <p>10 Q. Did you ask him whether it was his</p> <p>11 handwriting?</p> <p>12 A. No.</p> <p>13 Q. Did you ask him whether he was maintaining</p> <p>14 his check register himself?</p> <p>15 A. No.</p> <p>16 Q. If that was not his handwriting and someone</p> <p>17 else was maintaining the register, would that have</p> <p>18 caused a red flag for you?</p> <p>19 A. Absolutely.</p> <p>20 Q. And you've mentioned to us a couple times</p> <p>21 that Mr. Ho went over the transactions in his check</p> <p>22 register, right?</p> <p>23 A. Yes.</p> <p>24 Q. Other than the Kaiser premiums, I don't see a</p> <p>25 reference in your notes or memo to any of the other</p>	<p style="text-align: center;">Page 148</p> <p>1 A. No.</p> <p>2 Q. Did you ask him whether he could go up the</p> <p>3 stairs to the second floor?</p> <p>4 A. No.</p> <p>5 Q. If there was no bedroom on the first floor</p> <p>6 and he couldn't get to the second floor, would you</p> <p>7 consider that house inappropriate for him?</p> <p>8 A. No.</p> <p>9 MR. BAER: Objection. Irrelevant.</p> <p>10 THE COURT: Overruled. The answer is no.</p> <p>11 MR. BIORN: I think it goes to the elder</p> <p>12 abuse by Debby.</p> <p>13 MR. BAER: Well, it was overruled.</p> <p>14 THE COURT: It's overruled. It's in.</p> <p>15 BY MR. BIORN:</p> <p>16 Q. You mentioned he told you that -- when</p> <p>17 Mr. Baer was asking about the cognition, you</p> <p>18 mentioned he said that his daughter, I think it was</p> <p>19 Della, worked at Kaiser?</p> <p>20 A. Yes.</p> <p>21 Q. Did he ever learn that she actually worked at</p> <p>22 Stanford?</p> <p>23 A. No.</p> <p>24 Q. And that she had left Kaiser about 15 years</p> <p>25 or so prior?</p>

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<p style="text-align: center;">Page 149</p> <p>1 A. I didn't learn that.</p> <p>2 Q. If you had known that at the time, would that</p> <p>3 have caused a red flag for you?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And I think you also told Mr. Baer</p> <p>6 that Mr. Ho told you that all three of his children</p> <p>7 owned their own homes; is that right?</p> <p>8 A. I think so. I can't recall specifically.</p> <p>9 Q. And did you ever learn that Shan-Yuan Ho did</p> <p>10 not own a home?</p> <p>11 A. No.</p> <p>12 Q. If you had known that at the time of</p> <p>13 interviewing Mr. Ho, would that raise a red flag for</p> <p>14 you?</p> <p>15 A. If he had said that all three of them owned a</p> <p>16 home, which I can't recall, and then it wasn't true</p> <p>17 then, yes, that would be a red flag.</p> <p>18 Q. You never got a list of Mr. Ho's assets from</p> <p>19 him?</p> <p>20 A. No.</p> <p>21 Q. You never reviewed his estate plan, correct?</p> <p>22 A. Indirectly we asked him what his estate was</p> <p>23 going to and I took his word for what his trust</p> <p>24 provided.</p> <p>25 Q. But you never reviewed Mr. Ho's estate</p>	<p style="text-align: center;">Page 151</p> <p>1 A. I think that's correct.</p> <p>2 Q. And he did not know for sure that she had</p> <p>3 actually used that money to purchase the home,</p> <p>4 correct?</p> <p>5 A. I think that's a fair statement.</p> <p>6 Q. In fact, he just said well, it was a gift and</p> <p>7 if that's what she did, it's hers?</p> <p>8 A. Yes.</p> <p>9 Q. So Mr. Ho could not tell -- had made a</p> <p>10 million dollar gift to Debby, his girlfriend, and</p> <p>11 didn't know on the day of the meeting how she had</p> <p>12 used the money; is that right?</p> <p>13 A. No.</p> <p>14 MR. BAER: It's argumentative. Asked and</p> <p>15 answered.</p> <p>16 THE WITNESS: No, that's not how I would</p> <p>17 characterize it.</p> <p>18 THE COURT: Hold on. I think there's a</p> <p>19 slight change, so you can go on. It's not how you</p> <p>20 would characterize it.</p> <p>21 THE WITNESS: Yeah. That's right. I think</p> <p>22 his providing that response, that chain of responses,</p> <p>23 for me showed his attitude that my impression was</p> <p>24 that he was fine with however she used the money and</p> <p>25 if it was buying the house or not buying the house,</p>
<p style="text-align: center;">Page 150</p> <p>1 planning documents?</p> <p>2 A. The documents themselves, no. I remember he</p> <p>3 didn't have them.</p> <p>4 Q. You never asked Mr. Ho for any bank account</p> <p>5 statements?</p> <p>6 A. No.</p> <p>7 Q. You didn't ask Mr. Ho for any backup</p> <p>8 documents regarding the assets he did describe to</p> <p>9 you, did you?</p> <p>10 A. Besides the check register that we reviewed,</p> <p>11 no.</p> <p>12 Q. Did Mr. Ho tell you he had gifted a half</p> <p>13 interest in a Los Angeles property to Debby about 15</p> <p>14 years prior?</p> <p>15 A. No.</p> <p>16 Q. Would that have been important to you if he</p> <p>17 had told you that?</p> <p>18 A. Yes.</p> <p>19 Q. Did Debby tell you that Mr. Ho had gifted her</p> <p>20 a half interest in a property, I guess it was about</p> <p>21 11 years prior to your meeting?</p> <p>22 A. Not that I recall.</p> <p>23 Q. You asked Mr. Ho whether Debby had used the</p> <p>24 million dollar gift to purchase the Redwood City</p> <p>25 home, right?</p>	<p style="text-align: center;">Page 152</p> <p>1 he was just happy that she had it and it was her</p> <p>2 decision what she did with it.</p> <p>3 So for me, that's not necessarily confusion,</p> <p>4 but just this attitude that he had regarding the</p> <p>5 gift.</p> <p>6 BY MR. BIORN:</p> <p>7 Q. When you discussed the gift of \$1.1 million</p> <p>8 with him, he couldn't tell you whether it was done by</p> <p>9 way of a personal check or some other form, correct?</p> <p>10 A. Well, the word "couldn't" means he's not</p> <p>11 capable. He didn't specify. Specifically, he said</p> <p>12 he believed it was a certified check or it could have</p> <p>13 been a personal check.</p> <p>14 Q. What's a certified check?</p> <p>15 A. It's a check that is a direct draft from the</p> <p>16 account printed by the bank. It's like cash.</p> <p>17 Q. Is that different from a cashier's check?</p> <p>18 A. Gosh, I think a cashier's check can be</p> <p>19 certified, so they're the same perhaps. Now you're</p> <p>20 making me think. Is there a difference? I don't</p> <p>21 think so.</p> <p>22 Q. Did you tell Mr. Ho what a certified check</p> <p>23 was?</p> <p>24 A. Did I define it for him?</p> <p>25 Q. Yes.</p>

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<p style="text-align: center;">Page 153</p> <p>1 A. Indirectly, because when he was talking about 2 going to the bank and procuring the check, I 3 clarified for him do you believe it was a certified 4 check since you went to the bank to get it, or a 5 cashier's check. And I believe he said yes. 6 Q. In the next sentence, you say "He said that 7 if he had needed the same amount of money, he was 8 sure that Debby would have done the same for him." 9 Did he tell you that Debby had over a million 10 dollars cash to gift to him? 11 A. I can't recall. 12 Q. Did Debby tell you that? 13 A. I can't recall. 14 MR. BIORN: We've been going a little over an 15 hour. I couldn't do the math in my head. Let's take 16 a short break. I know the court reporter needs some 17 breaks, especially when I talk so fast. 18 THE COURT: I agree. 19 (Whereupon, a break was taken.) 20 MR. BIORN: Okay. 21 BY MR. BIORN: 22 Q. We were talking earlier about what Mr. Ho 23 told you about his assets. And it was important to 24 you that Mr. Ho knew, to some degree, what his assets 25 were?</p>	<p style="text-align: center;">Page 155</p> <p>1 question. 2 You wrote in your notes that "Mr. Ho said 3 that Debby never asked for money, feels that if have 4 had separate in the beginning of relationship for 5 James, money is whatever is left." 6 A. I can't recall that, but I see that answer in 7 the transcript. 8 Q. And would it have been significant for you if 9 you had learned that Mr. Ho had been writing numerous 10 checks to Debby for the amounts of 5,000 and \$10,000? 11 A. Yes. 12 Q. Did Mr. Ho tell you that he had been writing 13 checks in those amounts to Debby in the year or so 14 prior to your meeting? 15 A. I recall learning about some payments that 16 were being made by him. 17 Q. No, I'm just asking if Mr. Ho told you. 18 A. Well, I can't recall. 19 Q. Okay. 20 A. But I learned that information. 21 Q. Did Debby ever tell you that, in addition to 22 the \$1.1 million gift, that Mr. Ho had been writing 23 other checks to her for 5,000 and \$10,000? 24 A. Not the specific amounts, no. 25 Q. So for instance, neither Debby nor Mr. Ho</p>
<p style="text-align: center;">Page 154</p> <p>1 A. Well, the reason why I was asking about his 2 assets? 3 Q. Is that right, it was important to you? 4 A. If I said that, it would be misleading. 5 Can I say in what context it would be 6 important? 7 Q. Please tell us. 8 A. I was trying to establish that he was in 9 control of his finances. 10 Q. Now, I believe you testified that it would 11 have been significant to you if Debby had represented 12 herself as his wife when, in fact, she wasn't? 13 A. Yes. 14 Q. And it would have been significant to you if 15 Debby had done that on a bank loan application, 16 right? 17 A. Potentially. 18 Q. And Mr. Ho told you that Debby never asked 19 for money, right? 20 A. I don't recall him saying those words. 21 Q. Let's look at your deposition page 128. 22 Actually, I think it's in your handwritten notes, but 23 page 128 of your deposition refers to it. 24 And I think you're reading your notes into 25 the record here, that you wrote -- let me re-ask the</p>	<p style="text-align: center;">Page 156</p> <p>1 told you that he wrote her a check for \$5,000 in July 2 of 2016? 3 A. That's not what I said. 4 Q. I'm asking you: Did Debby or Mr. Ho tell you 5 that Mr. Ho wrote Debby a check for \$5,000 in July 6 2016? 7 A. Not specifically. 8 Q. Okay. 9 MR. BIORN: And I'm going to ask it as Mr. Ho 10 and Debby because I think that it will shorthand it 11 if that's okay with you, Mr. Baer. 12 MR. BAER: I don't understand what you mean, 13 so yes to you. 14 BY MR. BIORN: 15 Q. Did either Debby or Mr. Ho tell that you 16 Mr. Ho had written her a \$10,000 check in August of 17 2016? 18 A. Not specifically. 19 MR. BAER: I object to this as cumulative 20 under 452. There's a way to cover this without going 21 through every check. 22 THE COURT: I have to admit that I hope so, 23 so we doesn't have to go through every check. 24 BY MR. BIORN: 25 Q. Did either Debby or Mr. Ho ever tell you that</p>

<p style="text-align: center;">Page 157</p> <p>1 Mr. Ho wrote 11 checks to Debby in the year prior to 2 your meeting totaling almost \$100,000?</p> <p>3 A. Never.</p> <p>4 Q. Would that have raised a red flag for you?</p> <p>5 A. Perhaps.</p> <p>6 Q. And it would have been significant to you if 7 Debby had yelled at Mr. Ho in the few hours prior to 8 his meeting with you, right?</p> <p>9 A. Yes.</p> <p>10 Q. Would it have raised a red flag for you if 11 Debby had said to Mr. Ho in the hour or so prior to 12 the meeting -- in fact, this whole line of questions 13 is going to be the same day as your meeting with 14 Mr. Ho. Okay?</p> <p>15 A. Okay.</p> <p>16 Q. Then I don't have to be repetitive.</p> <p>17 A. Sure.</p> <p>18 Q. Would that have raised a red flag for you if 19 Debby said to Mr. Ho that she would leave him if he 20 didn't reinstate the appointment with you?</p> <p>21 A. Yes.</p> <p>22 Q. Would that have raised a red flag for you if 23 Debby -- if Mr. Ho told Debby he didn't want to meet 24 with you?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">Page 159</p> <p>1 A. Yes.</p> <p>2 MR. BAER: Objection. Lacks foundation.</p> <p>3 MR. BIORN: I'm reading from the transcript, 4 the rough that we have.</p> <p>5 MR. BAER: I don't care. I still think it 6 lacks foundation.</p> <p>7 MR. BIORN: What's the foundation?</p> <p>8 THE COURT: I'm going to take this subject to 9 you striking it if you can't establish a foundation. 10 It's still up in the air if these tapes are coming 11 in.</p> <p>12 MR. BIORN: I'm not talking about the tapes, 13 talking about what Debby testified to. Has nothing 14 to do with the tapes.</p> <p>15 "Question: Well, during this conversation, 16 did you tell Mr. Ho that he needed to tell Mr. Martin 17 that the \$1.1 million was a gift. 18 I may have."</p> <p>19 And most of these other ones she said yes. 20 I'm just going what she already testified that she 21 said or may have said to him. I'm not --</p> <p>22 MR. BAER: She may have said something, that 23 doesn't lay a foundation, I don't think.</p> <p>24 BY MR. BIORN:</p> <p>25 Q. Would it have raised a red flag for you if</p>
<p style="text-align: center;">Page 158</p> <p>1 Q. Would that have raised a red flag for you if 2 Debby told Mr. Ho that she would leave him if he 3 didn't reinstate the appointment with you?</p> <p>4 MR. BAER: Objection. That's the exact same 5 question he was asked before.</p> <p>6 THE COURT: Sustained.</p> <p>7 BY MR. BIORN:</p> <p>8 Q. Would it have raised a red flag for you if 9 Debby told Mr. Ho that Peter his son wanted to 10 brainwash him or words to that effect?</p> <p>11 A. Potentially.</p> <p>12 Q. Would it have raised a red flag for you if 13 Debby told Mr. Ho that she would leave and take the 14 \$1.1 million with her?</p> <p>15 A. Yes.</p> <p>16 Q. Would it have raised a red flag for you if 17 Debby told Mr. Ho that if he doesn't meet with you 18 that she would leave and not help him anymore?</p> <p>19 A. Yes.</p> <p>20 Q. Would it have raised a red flag for you if 21 they raised their voices during that conversation?</p> <p>22 A. Yes.</p> <p>23 Q. Would it have raised a red flag for you if 24 Debby said to Mr. Ho that he needed to tell 25 Mr. Martin that the \$1.1 million was a gift?</p>	<p style="text-align: center;">Page 160</p> <p>1 Mr. Ho said ask Debby what she wanted him to say to 2 you at the meeting?</p> <p>3 A. Yes.</p> <p>4 Q. Just a few more. Would it have raised a red 5 flag for you if Debby told Mr. Ho to call Mr. Martin 6 right now and tell him to come over now?</p> <p>7 A. In that exact phrasing, yes.</p> <p>8 Q. Did you -- would it have raised a red flag 9 for you if Debby said to Mr. Ho, why won't you call, 10 you are ready now, your mind is clear, you are clear 11 or words to that effect?</p> <p>12 A. Potentially.</p> <p>13 Q. Did Mr. --</p> <p>14 THE COURT: Just for my understanding, you're 15 looking at a list that you made during Ms. Chang's 16 testimony?</p> <p>17 MR. BIORN: No, I'm reading the rough 18 transcript that the court reporter provided to me.</p> <p>19 THE COURT: Oh, okay. Got it. Thank you.</p> <p>20 BY MR. BIORN:</p> <p>21 Q. Do you remember at your deposition we 22 looked -- or you looked at a gift letter?</p> <p>23 A. I can't recall that.</p> <p>24 MR. BIORN: What exhibit is that for us?</p> <p>25 Sorry.</p>

40 (Pages 157 to 160)

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<p style="text-align: center;">Page 161</p> <p>1 MR. FRASER: It's either 79 or 179.</p> <p>2 MR. BIORN: 79.</p> <p>3 BY MR. BIORN:</p> <p>4 Q. If you could take a look at Exhibit 79. It's</p> <p>5 in this big binder here.</p> <p>6 So you're looking at a gift letter that's</p> <p>7 Exhibit 79.</p> <p>8 Do you recall discussing this at your</p> <p>9 deposition?</p> <p>10 A. No.</p> <p>11 Q. Did you see this gift letter at or -- I'm</p> <p>12 sorry -- before Mr. Ho died?</p> <p>13 A. I can't recall.</p> <p>14 Q. Did you discuss this gift letter with Mr. Ho?</p> <p>15 A. Indirectly.</p> <p>16 Q. Did you discuss this specific gift letter</p> <p>17 with Mr. Ho?</p> <p>18 A. No.</p> <p>19 Q. Did you refer to the gift letter at all with</p> <p>20 Mr. Ho?</p> <p>21 A. Indirectly.</p> <p>22 Q. Did you refer to this specific gift letter?</p> <p>23 A. No.</p> <p>24 Q. Okay. Did Mr. Ho refer to the specific gift</p> <p>25 letter?</p>	<p style="text-align: center;">Page 163</p> <p>1 Now --</p> <p>2 MR. BIORN: Sorry. Scott, what number is the</p> <p>3 receipt?</p> <p>4 MR. FRASER: The receipt?</p> <p>5 MR. BIORN: I can pull it up. My apologies,</p> <p>6 Your Honor.</p> <p>7 BY MR. BIORN:</p> <p>8 Q. Let's have you turn to Exhibit 78. This</p> <p>9 morning you said, when Mr. Baer asked you about the</p> <p>10 donative instrument, you said you were not able to</p> <p>11 review the actual check, right?</p> <p>12 A. Right.</p> <p>13 Q. This is a document that's been admitted in</p> <p>14 trial. It's a cashier's check. It's a purchaser</p> <p>15 copy of a cashier's check. The remitter is you can</p> <p>16 see in the upper left was James F. Ho. The payee is</p> <p>17 Debby Chang. And the amount is \$1.1 million.</p> <p>18 This has been referred to in this trial as</p> <p>19 the gift that Debby claims was given to her by</p> <p>20 Mr. Ho.</p> <p>21 MR. BAER: Well, I don't think that's quite</p> <p>22 right. The money is the gift.</p> <p>23 MR. BIORN: Okay. Fair enough.</p> <p>24 BY MR. BIORN:</p> <p>25 Q. This is a purchaser's copy of the cashier's</p>
<p style="text-align: center;">Page 162</p> <p>1 A. He may have, but I don't recall specific</p> <p>2 words of the gift letter, this gift letter.</p> <p>3 Q. And Debby didn't refer to it at all either?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Okay. Would it -- do you see Mr. Ho's --</p> <p>6 donor signature, do you see a signature above it</p> <p>7 James F. or Z Ho, do you see that?</p> <p>8 A. I see the signature.</p> <p>9 Q. Okay. Would it have been -- do you see it</p> <p>10 was signed on March 9, 2017, or there's a date of</p> <p>11 that, do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And that's oh, about five months prior --</p> <p>14 five and a half months prior to your meeting with</p> <p>15 Mr. Ho?</p> <p>16 A. Correct.</p> <p>17 Q. Would it have raised a red flag for you if</p> <p>18 you knew that Mr. Ho's signature on this gift letter</p> <p>19 was a forgery?</p> <p>20 A. Yes.</p> <p>21 Q. Would it have raised a red flag for you if</p> <p>22 you knew that Debby Chang signed this letter and</p> <p>23 Mr. Ho's signature was forged?</p> <p>24 A. Yes.</p> <p>25 Q. Did Mr. Ho tell you that -- strike that.</p>	<p style="text-align: center;">Page 164</p> <p>1 check by which Mr. Ho transferred \$1.1 million that</p> <p>2 Debby claims was a gift. Okay? That's what we've</p> <p>3 been referring to this as in the trial.</p> <p>4 Do you understand that?</p> <p>5 A. I understand that you're referring to this</p> <p>6 check and that it reflects a gift.</p> <p>7 Q. Did Debby provide you a copy of this prior to</p> <p>8 your meeting with Mr. Ho?</p> <p>9 A. No.</p> <p>10 Q. Did Debby tell you this existed?</p> <p>11 A. Indirectly, yes.</p> <p>12 Q. Okay. What did she say about the receipt?</p> <p>13 What I'm -- maybe I didn't ask the question well.</p> <p>14 Did Debby tell you that she had a purchaser</p> <p>15 copy of the actual cashier's check by which Mr. Ho</p> <p>16 made the transfer?</p> <p>17 A. She didn't refer to those words.</p> <p>18 Q. Did she offer to show you something like</p> <p>19 that?</p> <p>20 A. I can't recall.</p> <p>21 Q. Would you have wanted to review this</p> <p>22 document, Exhibit 78, if you knew it existed when you</p> <p>23 were meeting with Mr. Ho?</p> <p>24 MR. BAER: Objection. Calls for speculation.</p> <p>25 MR. BIORN: Well, Mr. Baer asked him about --</p>

41 (Pages 161 to 164)

<p style="text-align: center;">Page 165</p> <p>1 it would be a donative instrument.</p> <p>2 THE COURT: Hold on. It is speculation.</p> <p>3 Just ask him his ordinary course of business, or</p> <p>4 something like that. Just get around it.</p> <p>5 MR. BIORN: Okay.</p> <p>6 THE COURT: Let's move on.</p> <p>7 BY MR. BIORN:</p> <p>8 Q. Would it be your custom and practice to</p> <p>9 review the donative instrument?</p> <p>10 A. In the case of a will or trust, yes. In the</p> <p>11 case of a cash gift, no.</p> <p>12 Q. Did Debby tell you -- strike that.</p> <p>13 Did Debby tell you that she wrote on the</p> <p>14 purchaser copy in Chinese that this was the money</p> <p>15 loaned to her from Ho?</p> <p>16 A. I'm sorry, I'm losing the context here. I</p> <p>17 don't have any recollection of that specifically.</p> <p>18 Q. Okay. At some point, you adjourned the</p> <p>19 meeting with just Mr. Ho and invited Debby to join</p> <p>20 you, right?</p> <p>21 A. Mr. Ho was present and then I invited</p> <p>22 Ms. Chang to join us, yes.</p> <p>23 Q. Okay. And during that meeting, Ms. Chang</p> <p>24 told you about a real property tax benefit that Peter</p> <p>25 had -- sorry, that Mr. Ho had provided to his son</p>	<p style="text-align: center;">Page 167</p> <p>1 A. He had fallen asleep.</p> <p>2 Q. You could have woken him up, right?</p> <p>3 A. That would have been extremely rude. No, I</p> <p>4 don't think that would be appropriate.</p> <p>5 Q. You didn't call Peter to ask him about the</p> <p>6 tax benefit transfer, did you?</p> <p>7 A. No.</p> <p>8 Q. And you never found out where Mr. Ho was</p> <p>9 living at the time he transferred the tax benefit to</p> <p>10 Peter?</p> <p>11 A. Well, this is very vague in my mind. I</p> <p>12 believe, if I recall, we talked about a prior home in</p> <p>13 Foster City --</p> <p>14 Q. Okay.</p> <p>15 A. -- that was sold.</p> <p>16 Q. So after he sold his long-time primary</p> <p>17 residence, he was able to transfer his real property</p> <p>18 tax base year to -- one time to Peter, correct?</p> <p>19 A. Are you referring to the law itself and my</p> <p>20 understanding of what he did specifically?</p> <p>21 Q. Yes.</p> <p>22 A. Or what I was told that he did?</p> <p>23 Q. No, your understanding of the law.</p> <p>24 A. My understanding of the law is that, at that</p> <p>25 time, there was an ability for a parent to transfer</p>
<p style="text-align: center;">Page 166</p> <p>1 Peter, right?</p> <p>2 A. Yes.</p> <p>3 Q. And you never adjourned the meeting with</p> <p>4 Debby to ask Mr. Ho about that just between the two</p> <p>5 of you, did you?</p> <p>6 A. No, the meeting was adjourned and then</p> <p>7 afterwards, as I described, went back to debrief with</p> <p>8 my associate.</p> <p>9 Q. You couldn't talk to Mr. Ho after Debby</p> <p>10 joined you because he fell asleep in the room?</p> <p>11 A. He did.</p> <p>12 Q. He fell asleep in his chair?</p> <p>13 A. Yes.</p> <p>14 Q. So you were never able to -- you never</p> <p>15 actually asked Mr. Ho about the transfer of this tax</p> <p>16 benefit to Peter?</p> <p>17 A. I did actually bring it up to him in a letter</p> <p>18 that I wrote to him.</p> <p>19 Q. Did he respond?</p> <p>20 A. No.</p> <p>21 Q. So you have no idea what his response would</p> <p>22 be with respect to this tax benefit?</p> <p>23 A. I wanted to know what his response was by</p> <p>24 asking him to contact me to discuss it.</p> <p>25 Q. Why didn't you ask him on the 21st?</p>	<p style="text-align: center;">Page 168</p> <p>1 the base year value of a residence from parent to</p> <p>2 child regardless of the value of the home.</p> <p>3 Q. And he had a two-year period in which he had</p> <p>4 to make that transfer, correct?</p> <p>5 A. No. I believe the period was three years.</p> <p>6 Q. Okay.</p> <p>7 A. For filing -- for filing the form after the</p> <p>8 time of repurchase. I think it might have been one</p> <p>9 year, but maybe you count the year of the transfer --</p> <p>10 of the sale. So maybe two years, yeah.</p> <p>11 Q. Okay.</p> <p>12 A. This is all prior law and -- Proposition 58.</p> <p>13 Q. With respect to the transfer of the tax</p> <p>14 benefit, you never talked -- you were never able to</p> <p>15 talk to anyone to confirm what Debby told you, right?</p> <p>16 MR. BAER: Objection. Vague and ambiguous as</p> <p>17 to able.</p> <p>18 THE COURT: I'm sorry, you modified it in</p> <p>19 connection with the tax basis?</p> <p>20 MR. BIORN: Yes.</p> <p>21 THE COURT: Overruled.</p> <p>22 THE WITNESS: My assumption was that I would</p> <p>23 be able to talk to James Ho about that in response to</p> <p>24 the letter which I sent to him.</p> <p>25 BY MR. BIORN:</p>

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<p style="text-align: center;">Page 169</p> <p>1 Q. Okay. But you sent that letter to him after</p> <p>2 you had signed the CIR, certificate of independent</p> <p>3 review, right?</p> <p>4 A. I can't recall the order of events.</p> <p>5 Q. In that meeting with Debby and Mr. Ho was</p> <p>6 there as well, she told you about another gift around</p> <p>7 the same time of the \$1.1 million of about another</p> <p>8 \$67,000, right?</p> <p>9 A. I can't recall that.</p> <p>10 Q. Debby told you that she called Peter and she</p> <p>11 said didn't feel comfortable about having this gift</p> <p>12 made to her.</p> <p>13 Do you recall that?</p> <p>14 A. Vaguely.</p> <p>15 Q. If that was not true, would that have raised</p> <p>16 a red flag for you?</p> <p>17 A. If she lied to me, yes.</p> <p>18 Q. Debby said she wanted to, at one point in</p> <p>19 time, wanted to prepare a promissory note to make it</p> <p>20 a loan that she would pay back to Mr. Ho, right?</p> <p>21 A. Correct.</p> <p>22 Q. Would that have caused -- if that was not</p> <p>23 true, would that have raised a red flag for you?</p> <p>24 A. If she lied to me about that, yes.</p> <p>25 Q. And Debby told you that Peter had said to</p>	<p style="text-align: center;">Page 171</p> <p>1 Q. Okay.</p> <p>2 A. There were notes that -- you know, she sent a</p> <p>3 note.</p> <p>4 Q. Since you didn't wake Mr. Ho, it's fair to</p> <p>5 assume that everything she told you in that meeting</p> <p>6 you never confirmed with Mr. Ho; is that right?</p> <p>7 A. Yes. Although I tried to confirm some of</p> <p>8 those details with him subsequently.</p> <p>9 Q. Did you tell your associate Beth that James,</p> <p>10 Mr. Ho, may be easily influenced?</p> <p>11 A. I raised that issue with her. I don't think</p> <p>12 I used the words "may be easily influenced." I might</p> <p>13 have, but I don't recall that specifically.</p> <p>14 Q. Let's look at your deposition page 162, lines</p> <p>15 15 to 17. "Did you tell Beth that James may be</p> <p>16 easily influenced?</p> <p>17 Answer: I probably did."</p> <p>18 Does that refresh your recollection?</p> <p>19 A. I can see what I said here in the deposition</p> <p>20 and I vaguely remember having a conversation about</p> <p>21 concerns that I had with an elderly person, et</p> <p>22 cetera.</p> <p>23 THE COURT: Geoffrey MacBride is entering the</p> <p>24 waiting room.</p> <p>25 MR. BAER: Who's that?</p>
<p style="text-align: center;">Page 170</p> <p>1 Debby not to put the new home in Mr. Ho's name,</p> <p>2 right?</p> <p>3 A. I recall that.</p> <p>4 Q. Would that have been a red flag if that was</p> <p>5 not true?</p> <p>6 A. Had she lied to me about that, yes. In other</p> <p>7 words, the fact that something happened is not the</p> <p>8 red flag. The fact of lying to me about these things</p> <p>9 is the red flag.</p> <p>10 Q. Yes. And all these things that I'm asking</p> <p>11 about, Debby only had these substantive conversations</p> <p>12 with you at this meeting after you had met with</p> <p>13 Mr. Ho, right?</p> <p>14 A. Well, there were substantive things raised in</p> <p>15 these Oesterle e-mails that appeared to be linked to</p> <p>16 communications she had with Reinhard. Those weren't</p> <p>17 directly from her.</p> <p>18 Q. So I'm just asking what Debby actually told</p> <p>19 you substantively about the subject you were talking</p> <p>20 to Mr. Ho about.</p> <p>21 A. Yes.</p> <p>22 Q. Those conversations only occurred during this</p> <p>23 meeting after you were done with Mr. Ho?</p> <p>24 A. The only conversation I recall was this</p> <p>25 meeting that I had one-on-one with her.</p>	<p style="text-align: center;">Page 172</p> <p>1 MR. FRASER: I think that might be an</p> <p>2 associate of Erik Weiss's.</p> <p>3 MR. BAER: Oh, yes, you're right.</p> <p>4 THE COURT: Okay. No problem linking him on?</p> <p>5 MR. BIORN: No.</p> <p>6 THE COURT: Okay. Go ahead.</p> <p>7 BY MR. BIORN:</p> <p>8 Q. Now, at some point in time, as I recall,</p> <p>9 Debby told you that Mr. Ho was no longer spending the</p> <p>10 night at her house?</p> <p>11 A. I can't recall that.</p> <p>12 Q. Did she say words to the effect that she</p> <p>13 thought Mr. Ho's children had abducted her --</p> <p>14 abducted him?</p> <p>15 A. I came to that conclusion on my own.</p> <p>16 Q. What did Debby say to you to lead you to that</p> <p>17 conclusion?</p> <p>18 A. I'm sorry, I don't think Debby said anything</p> <p>19 that led me to that conclusion.</p> <p>20 Q. The abduction?</p> <p>21 A. Well, where I stand right now, I recall some</p> <p>22 different facts. I don't know if you're asking me</p> <p>23 about those.</p> <p>24 Q. And I believe you testified that your</p> <p>25 understanding was that all three of the Ho children</p>

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<p style="text-align: center;">Page 173</p> <p>1 had taken possession of their father and he was no 2 longer residing with Debby; is that right?</p> <p>3 A. I can't recall that.</p> <p>4 Q. Are those the circumstances that you recall?</p> <p>5 A. Yes.</p> <p>6 Q. Did you learn that from Debby?</p> <p>7 A. Well, I think the first impression I remember 8 having was that the -- I was in a meeting at my 9 office in Menlo Park and then I think my assistant 10 told me that Peter Ho was there with his father and 11 his children and I wasn't available to meet with 12 them, but I was confused why he was there with his 13 children.</p> <p>14 Q. Well, Mr. Ho's at your office and you really 15 wanted to get a hold of him you told us?</p> <p>16 A. I sent him a letter.</p> <p>17 Q. But here he is at your office. Did you take 18 the opportunity to meet with him?</p> <p>19 A. No.</p> <p>20 Q. Did you take the opportunity to have your 21 secretary set up a meeting with him?</p> <p>22 A. I don't see that as an opportunity to meet 23 with him. I don't just get up and leave from 24 existing client appointments.</p> <p>25 In fact, I didn't learn of all the specific</p>	<p style="text-align: center;">Page 175</p> <p>1 Q. Now, at some point, you testified this 2 morning, I think, that Debby sent you a letter 3 returning some of the mail that you had sent to her 4 house?</p> <p>5 A. Yes.</p> <p>6 Q. To the Redwood City house?</p> <p>7 A. Yes.</p> <p>8 Q. And one of those was the envelope containing 9 the certificate of independent review, right?</p> <p>10 A. I believe so. I think I said earlier I 11 wasn't sure which envelope contained which document. 12 We have them in my file. Whether it was in one 13 packet, the note plus the documents, right, I'm not 14 sure how many envelopes came to me. I know that they 15 were in my file.</p> <p>16 Q. But you know that the -- the original 17 certificate you sent to Mr. Ho got returned to you?</p> <p>18 A. Where I stand right now, I can't recall 19 whether the original was returned to me.</p> <p>20 Q. Would it have been your custom and practice 21 to review what had been returned to you?</p> <p>22 A. Not necessarily.</p> <p>23 Q. Would you want to know if -- would it be your 24 custom and practice to determine whether Mr. Ho 25 actually received the certificate of independent</p>
<p style="text-align: center;">Page 174</p> <p>1 circumstances of what happened until later. My 2 assistant Jackie was actually the one who was really 3 concerned. She said to me, John, I think there's 4 something really going on here. That's not a good 5 situation for this man to be, you know, taken around 6 by his kids like this.</p> <p>7 And so after talking to Jackie, this was 8 after my appointment, I thought, wow, that really is 9 very concerning.</p> <p>10 Q. Did you ask Jackie to set up a meeting with 11 Mr. Ho?</p> <p>12 A. Specifically?</p> <p>13 Q. Yes.</p> <p>14 A. I can't remember asking her to do that.</p> <p>15 Q. Did you ask Jackie to call Mr. Ho?</p> <p>16 A. That would be redundant since I just sent a 17 letter to him asking for that.</p> <p>18 And I also, at that point, had concerns that 19 the children were controlling him, his movements. 20 And so I had suspicion that at any time they would be 21 the ones responding, not him.</p> <p>22 Q. And what did you do, if anything, to confirm 23 whether those suspicions were accurate?</p> <p>24 A. Well, there was very little I could do at 25 that point.</p>	<p style="text-align: center;">Page 176</p> <p>1 review?</p> <p>2 A. Not necessarily. I would prefer that.</p> <p>3 MR. BIORN: So let's mark this next in order. 4 It's a statute Probate Code Section 21384.</p> <p>5 THE COURT: You don't want me to just take 6 judicial notice of this?</p> <p>7 MR. BIORN: I'm fine with that as long as I 8 can show the witness a copy.</p> <p>9 THE COURT: Sure. I can also mark it if you 10 want.</p> <p>11 MR. BIORN: That's okay. We don't need to. 12 It's a copy of Westlaw printout of Probate Code 13 Section 21384.</p> <p>14 BY MR. BIORN:</p> <p>15 Q. Now, the -- this section says at the 16 beginning "A donative transfer is not subject to 17 21380 if the instrument is reviewed by an independent 18 attorney."</p> <p>19 And I think that you've told us that in this 20 particular instance, it was a gift and your practice 21 is not to review the actual instrument?</p> <p>22 A. That's not exactly my testimony. I said my 23 practice would be to review the instrument in the 24 case of a will or trust. But in the case of a cash 25 transfer, the amount of the cash which is transferred</p>

<p style="text-align: center;">Page 177</p> <p>1 specifically.</p> <p>2 Q. But in this particular instance, you did not</p> <p>3 review the donative instrument, did you?</p> <p>4 MR. BAER: Objection. Lacks foundation.</p> <p>5 MR. BIORN: Okay.</p> <p>6 BY MR. BIORN:</p> <p>7 Q. Did you review the donative instrument?</p> <p>8 MR. BAER: Same objection.</p> <p>9 THE WITNESS: I reviewed the substance of the</p> <p>10 transfer which was the cash transfer to Debby Chang,</p> <p>11 not the cashier's check, if that's what you mean.</p> <p>12 THE COURT: I'm going to overrule your</p> <p>13 objection, Mr. Baer.</p> <p>14 MR. BIORN: Okay.</p> <p>15 BY MR. BIORN:</p> <p>16 Q. Well, that's what they told you about, but</p> <p>17 the instrument would be a document, right?</p> <p>18 MR. BAER: Objection. Calls for speculation.</p> <p>19 THE COURT: On those grounds, I'm going to</p> <p>20 overrule it.</p> <p>21 THE WITNESS: Well, is there a statutory</p> <p>22 definition of instrument here?</p> <p>23 BY MR. BIORN:</p> <p>24 Q. I'm not aware of one. The statute says you</p> <p>25 need to review the donative instrument.</p>	<p style="text-align: center;">Page 179</p> <p>1 review them to see if you had actually been able to</p> <p>2 comply with the statute?</p> <p>3 A. I had complied with the statute by delivering</p> <p>4 them to him.</p> <p>5 Q. So it's your opinion that just putting them</p> <p>6 in the mail is sufficient?</p> <p>7 A. I don't think it's required to hand them to</p> <p>8 him physically. I think mail is an acceptable form</p> <p>9 of delivery.</p> <p>10 Q. If you -- if you had become aware that the</p> <p>11 certificate had not been delivered to Mr. Ho despite</p> <p>12 mailing it, do you believe the statute required you</p> <p>13 to then find a way to deliver it to Mr. Ho?</p> <p>14 A. No.</p> <p>15 Q. And, in fact, you didn't make any efforts to</p> <p>16 send it to Mr. Ho again after it had already been</p> <p>17 mailed once?</p> <p>18 A. I sent him a follow-up letter expressing</p> <p>19 concerns and wanting to get in touch with him.</p> <p>20 Q. By the time --</p> <p>21 MR. BAER: Hold on a second. I just noticed</p> <p>22 this. I want to make an objection, but I think I'll</p> <p>23 withdraw it later.</p> <p>24 So this particular printout relates to a</p> <p>25 statute that took effect on January 1, 2018 which</p>
<p style="text-align: center;">Page 178</p> <p>1 What did you do to do that?</p> <p>2 A. I asked questions to Mr. Ho about the cash</p> <p>3 transfer that he made.</p> <p>4 Q. At the end of this opening paragraph, and</p> <p>5 before the form of certificate of independent review</p> <p>6 it says that the independent attorney, and it says</p> <p>7 "Signs and delivers to the transferor an original</p> <p>8 certificate in substantially the following form" and</p> <p>9 there's no objection to your form.</p> <p>10 Did you -- did you deliver the original</p> <p>11 certificate to Mr. Ho?</p> <p>12 A. Yes.</p> <p>13 Q. And if Debby -- Debby returned envelopes to</p> <p>14 your office that you had sent to her house, right?</p> <p>15 A. Presumably.</p> <p>16 Q. And did you review those to see whether, as a</p> <p>17 result of that, the certificate had never been</p> <p>18 delivered to Mr. Ho?</p> <p>19 A. I can't recall what was returned aside from</p> <p>20 the note I just looked at.</p> <p>21 Q. Did you review the statute to see if you</p> <p>22 needed to deliver the statute -- the certificate to</p> <p>23 Mr. Ho?</p> <p>24 A. Yes.</p> <p>25 Q. When the envelopes came back to you, did you</p>	<p style="text-align: center;">Page 180</p> <p>1 would have been after this certificate of independent</p> <p>2 review. I don't think that the statute, this part of</p> <p>3 the statute changed effective January 1, 2018, but</p> <p>4 I'm going to check.</p> <p>5 THE COURT: Okay. Thank you.</p> <p>6 MR. BIORN: Please do. That would be news to</p> <p>7 me.</p> <p>8 MR. BAER: I don't think this part changed.</p> <p>9 BY MR. BIORN:</p> <p>10 Q. It's your understanding that Mr. Ho left</p> <p>11 Debby's house within a couple days after your meeting</p> <p>12 on the 21st; is that right?</p> <p>13 A. I can't recall.</p> <p>14 Q. Well, it was in August; is that right?</p> <p>15 A. I don't even remember. Did you say the</p> <p>16 meeting was September?</p> <p>17 Q. August 21.</p> <p>18 A. August 21.</p> <p>19 Q. And Mr. Ho left residing at Debby's house</p> <p>20 also in August, right?</p> <p>21 A. I don't have these timeline facts memorized.</p> <p>22 Q. We can go through the deposition and provide</p> <p>23 you --</p> <p>24 A. That's up to you as the questioner.</p> <p>25 Q. Represent to you that this occurred in</p>

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August.

A. That what occurred?

Q. That Mr. Ho left living with Debby occurred in August.

A. Okay.

Q. After Mr. Ho left living with Debby, did you become aware that she told Peter that you can keep him as much as you want?

A. I don't recall that.

Q. If she had said that just a few days after the -- you met with Mr. Ho, would that have raised a red flag for you?

A. Yes.

Q. A few days after, on August 23rd, two days after you met with Mr. Ho Debby left a voicemail for Peter's wife saying "Hi, Jeanny, this is Aunt Debby. I just left a message for Peter saying that I can no longer take care of Daddy Ho anymore because of my age and health. I forgot you and Peter have to work so if you need me to take care of him for a short time, I can still do it. The decision to stop taking care of him was very sudden. My back is not good. If needed, I can still care for him a few days."

If you knew that Debby left that voicemail two days after you met with Mr. Ho, would that have

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three-hole punched. That's my fault this time.

MR. BAER: Thank you.

(Whereupon, Exhibit 183 was marked for identification.)

BY MR. BIORN:

Q. Let me show you what's been marked Exhibit 183. It's from your file. The lower right-hand corner it has Bates stamps JM 57 through 60.

Do you recall drafting this letter?

A. No.

Oh, you know what, I do recall some aspect of this now as I read it over. But I'll wait for your question.

Q. Why were you drafting this letter?

A. I believe there was going to be an appointment with James Ho and so I drafted a letter. It was completely a draft and I was reserving, you know, any ability to change this, but it was after I had spoken I believe it was with Ed Koplowitz who was representing Peter Ho and he had some concerns about the transaction about the certificate of independent review.

And so I drew up this letter, but with the thought that, you know, it might be changed or it

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raised a red flag?

A. As you've defined red flag, yes.

Q. And then on August 24, so three days after you meet with Mr. Ho, Debby leaves a voicemail for Peter, "I want to tell you primarily what I told you in the text message that I can no longer take care of your dad. If he wants to meet me, I can come see him."

The fact that she, three days after you confirmed the gift is not a product of undue influence, she said that she can no longer take care of Mr. Ho, would that have raised a red flag for you?

A. It's a red flag.

Q. And she said "If he wants to meet me, I can come to see him."

If she actually never even went to see him until he was comatose, would that have raised a red flag for you?

A. Potentially, depending on the context.

Q. Now, you prepared a letter to Mr. Ho.

MR. BIORN: We will mark this next in order -- Scott?

MR. FRASER: 183.

THE COURT: Thank you.

MR. BIORN: These appear to have not been

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might not be necessary or it might be something I would rule out based on my meeting with him subsequently.

Q. And at this point in time, you wanted to meet with Mr. Ho because you had some concerns, right?

A. Yes.

Q. And a meeting never got set up?

Well, I'm sorry. A further meeting with Mr. Ho never happened; is that right?

A. I can't recall if we set up a meeting and then he passed away before he could come or if there was a cancellation. I can't recall specifically.

Q. Were you waiting for somebody else to make the meeting or did your office reach out to Mr. Ho to make the meeting?

A. I can't recall. But I will say this was going to be by hand delivery. My assumption in writing it was that I was going to be able to meet with him one-on-one.

Q. At this time, you knew he was no longer living at the Redwood City address?

A. I'm not sure if I did know that definitively.

Q. So looking back at Exhibit 183, in the letter, you do articulate that "it appears that Peter Ho recently took you against your will from your home

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<p style="text-align: center;">Page 185</p> <p>1 at 229 Fulton Street."</p> <p>2 Do you see that?</p> <p>3 A. I see those words.</p> <p>4 Q. So you knew he was no longer at 229 Fulton</p> <p>5 Street?</p> <p>6 A. No. I knew that he was taken against his</p> <p>7 will from 229 Fulton Street.</p> <p>8 Q. Why did you address this letter to him at 229</p> <p>9 Fulton Street?</p> <p>10 A. Because I assumed he was still living there.</p> <p>11 Q. Did you try to call him?</p> <p>12 A. No.</p> <p>13 Q. You had Peter Ho's contact information at</p> <p>14 this point?</p> <p>15 A. Let me clarify. I don't recall whether I</p> <p>16 specifically called him.</p> <p>17 Q. You had Peter Ho's contact information at</p> <p>18 this point, right?</p> <p>19 A. He was a represented party, but yes.</p> <p>20 Q. Did you reach out to his attorney to ask him</p> <p>21 if you could get in touch with Mr. Ho?</p> <p>22 A. No. No, instead, I wanted to be engaged by</p> <p>23 Mr. Ho so that I could engage with Ed Koplowitz</p> <p>24 regarding these concerns and wishes and interact on</p> <p>25 his behalf.</p>	<p style="text-align: center;">Page 187</p> <p>1 THE COURT: Okay. It's going to -- I don't</p> <p>2 know where we're going. It looks like we're going</p> <p>3 somewhat far afield. At least at some point, he</p> <p>4 thinks there's a meeting, he doesn't know it.</p> <p>5 Is that accurate?</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. BIORN:</p> <p>8 Q. Did Mr. Ho mention to you that he had written</p> <p>9 a note that said "I borrowed \$1 million from James Ho</p> <p>10 without interest, will return at appropriate time"</p> <p>11 and the note was dated March 20, 2017?</p> <p>12 A. I'm sorry, could you repeat that?</p> <p>13 Q. Did Mr. Ho tell you that he had written a</p> <p>14 note that said "I borrowed \$1 million from James Ho</p> <p>15 without interest, will return at appropriate time,"</p> <p>16 dated March 20, 2017?</p> <p>17 A. I'm sorry, are you referring to a note where</p> <p>18 he said he borrowed money from himself?</p> <p>19 Q. No. A note for Debby to sign that she</p> <p>20 borrowed \$1.1 million --</p> <p>21 A. Oh.</p> <p>22 Q. -- that she would repay without interest by</p> <p>23 March 20, 2017.</p> <p>24 Did Mr. Ho tell you he wrote that note?</p> <p>25 A. Not specifically.</p>
<p style="text-align: center;">Page 186</p> <p>1 Q. But other than drafting and not sending this</p> <p>2 letter, your office made no effort to contact Mr. Ho</p> <p>3 to find out if you could provide that information to</p> <p>4 Mr. Koplowitz?</p> <p>5 A. I can't recall, but my assumption is there</p> <p>6 are efforts surrounding this because obviously the</p> <p>7 meeting was set. And I can't recall specifically how</p> <p>8 it was set.</p> <p>9 Q. You said obviously the meeting was set. How</p> <p>10 do you know that?</p> <p>11 A. Well, there was an expectation that there was</p> <p>12 going to be a meeting, so I'm assuming --</p> <p>13 Q. So you're assuming?</p> <p>14 A. I'm assuming we must have set a meeting</p> <p>15 because I wrote this letter in anticipation of a</p> <p>16 personal meeting with him.</p> <p>17 MR. BIORN: I'll move to strike the</p> <p>18 assumption. He can certainly testify to what he</p> <p>19 wrote the letter for, but the assumption is</p> <p>20 speculative.</p> <p>21 THE COURT: Where are we going with this?</p> <p>22 This wasn't sent?</p> <p>23 MR. BIORN: That was not sent.</p> <p>24 THE COURT: This is a draft?</p> <p>25 THE WITNESS: It's a draft.</p>	<p style="text-align: center;">Page 188</p> <p>1 Q. Did you form the opinion in your interviews</p> <p>2 with Mr. Ho and Debby that Mr. Ho trusted Debby?</p> <p>3 A. I did.</p> <p>4 Q. And that he had confidence in her?</p> <p>5 A. By confidence, what do you mean?</p> <p>6 Q. Well, let's read from your deposition, page</p> <p>7 203, for context start at line 22. And then go to</p> <p>8 the top of page 204, line 1.</p> <p>9 A. Right. So nowhere here does it say the words</p> <p>10 "trust and confidence."</p> <p>11 Q. I didn't use the word "trust." I used the</p> <p>12 word "confidence."</p> <p>13 A. I think you said in your prior question did</p> <p>14 he trust her and we didn't talk about --</p> <p>15 Q. Hold on.</p> <p>16 MR. BIORN: Let's get the question read back</p> <p>17 then.</p> <p>18 (The record was read by the Reporter.)</p> <p>19 BY MR. BIORN:</p> <p>20 Q. So again, there was no word "trust."</p> <p>21 A. I'm sorry, I thought it was the prior</p> <p>22 question before the one that she had just asked where</p> <p>23 you asked whether or not he said that he trusted</p> <p>24 Debby Chang.</p> <p>25 Q. And you answered that yes?</p>

<p style="text-align: center;">Page 189</p> <p>1 A. Actually, I can't recall. Let me clarify. 2 I'm thinking that he did trust her based upon his 3 conduct and the relationship he had, but I can't 4 recall him specifically saying the words "I trust 5 Debby Chang." 6 Q. I'd like to read from the witness's 7 deposition, page 203, line 22 to page 204, line 1. 8 MR. BAER: I think he already answered your 9 question about trust. It's not a big deal. Go 10 ahead. 11 BY MR. BIORN: 12 Q. "Did you form the opinion in your interviews 13 with James and Debby that James trusted Debby? 14 Answer: Yes. 15 That he had confidence in her? 16 Answer: Yes." 17 A. Right, I formed the opinion -- 18 Q. There's no question pending. 19 Back to that Mercedes, Mr. Ho told you that 20 Debby drove him around in the Mercedes; isn't that 21 right? 22 A. I can't recall that. 23 Q. Let's look at your deposition, page 204, same 24 page we were on, line 18 to 21. 25 A. Yes.</p>	<p style="text-align: center;">Page 191</p> <p>1 August of 2017." 2 A. Well, the immediate -- 3 Q. There's no question pending. 4 A. Oh, there's none, okay. 5 Q. In thinking back on your meeting with Mr. Ho 6 on August 21, how would you describe his intelligence 7 level? 8 A. He seemed intelligent. 9 Q. And we've heard some of the things he's told 10 you today. Did he seem profoundly intelligent? 11 A. What do you mean by "profoundly"? 12 Q. When you talked to him, could you feel a lot 13 of intelligence? 14 MR. BAER: Objection. Vague and ambiguous. 15 THE COURT: Sustained. 16 THE WITNESS: I'm not sure what that means. 17 BY MR. BIORN: 18 Q. At some point, did you start to believe that 19 he was more intelligent than you were? 20 A. No. 21 Q. Let's read from the witness's deposition. 22 A. Or at least I don't recall specifically. 23 Q. Page 25, line 25, to 26, line 16. 24 "Question: So in determining whether undue 25 influence might be present, what other factors might</p>
<p style="text-align: center;">Page 190</p> <p>1 Q. Actually, 18 to 25. 2 Does that refresh your recollection that 3 Mr. Ho said that Debby drove him around in the 4 Mercedes? 5 A. No, but I see that in the transcript. 6 Q. And your memory of these events was better -- 7 A. In 2019. 8 Q. -- in May 2019 than it is today, right? 9 A. It was better several years ago, yes. 10 Q. So back to an earlier question about what 11 Mr. Ho told you about the date of the gift, I'd like 12 to refer you to page 213, line 7 through line 17. 13 And after you read that, my question is: 14 Does this refresh your recollection that Mr. Ho told 15 you that the gift was in March of 2017? 16 A. No, not specifically. 17 Q. So he's directing your attention to page 36 18 of your file where you state in your notes "James Ho 19 made a gift to Debby in March 2017. Is that your 20 understanding? 21 Yes. 22 Who told you that? 23 James Ho. 24 And when did he tell you that? 25 During our meeting in March -- sorry, in</p>	<p style="text-align: center;">Page 192</p> <p>1 you look at? 2 Answer: If I was aware of any actual abuse 3 or threats or violence or maybe also his weakness of 4 mind. So if he had any medications, he was taking 5 alcohol. So I wanted to make sure he was healthy. 6 That's why I looked around the room, make sure 7 everything was clean. He appeared to be very alert. 8 I didn't smell any alcohol. I didn't think he seemed 9 despondent in any way. He wasn't drooling. He was 10 very alert. He was right with me in the conversation 11 the entire time. He followed completely what I 12 said." 13 And then he actually seemed very -- he 14 followed completely what I said. And here's the 15 portion I just asked you about. 16 "He was profoundly intelligent. I could feel 17 a lot of intelligence. When you are with somebody 18 like that, you realize that, you know, perhaps at a 19 certain point, he was even more intelligent than I." 20 A. Right. 21 THE COURT: Could you tell me, again, what 22 you just read from? 23 MR. BIORN: Yes. 24 MR. FRASER: It's 225. 25 MR. BIORN: 225, line 25.</p>

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<p style="text-align: center;">Page 193</p> <p>1 THE COURT: That certainly helps.</p> <p>2 MR. BIORN: 225, line 25 to 226, line 16.</p> <p>3 THE WITNESS: Right, I recall that testimony.</p> <p>4 BY MR. BIORN:</p> <p>5 Q. And so did you feel, at some point in time,</p> <p>6 that he was more intelligent than you?</p> <p>7 A. By "some point in time" --</p> <p>8 MR. BAER: Hold on. Objection. Lacks</p> <p>9 foundation.</p> <p>10 THE COURT: Sustained.</p> <p>11 BY MR. BIORN:</p> <p>12 Q. At this deposition did you feel that you were</p> <p>13 advocating for the validity of your certificate of</p> <p>14 independent review?</p> <p>15 MR. BAER: Objection. Irrelevant.</p> <p>16 MR. BIORN: Goes to his bias, Your Honor.</p> <p>17 THE COURT: It would. Overruled.</p> <p>18 THE WITNESS: The testimony that I gave then</p> <p>19 and that I'm giving today is not based on advocating</p> <p>20 specifically for the independent review. It's for</p> <p>21 saying what happened and giving my best</p> <p>22 recollections. I'm under oath and that's what I'm</p> <p>23 obligated to do.</p> <p>24 BY MR. BIORN:</p> <p>25 Q. Going back to your meeting with Debby right</p>	<p style="text-align: center;">Page 195</p> <p>1 MR. BIORN: The second full paragraph.</p> <p>2 BY MR. BIORN:</p> <p>3 Q. First sentence "I asked her whether she had</p> <p>4 talked James into giving her the million dollars."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. That was my question. Did you ask her that?</p> <p>8 A. Yes.</p> <p>9 Q. "And she replied no"; is that right?</p> <p>10 A. That's what I've written here.</p> <p>11 Q. Is it your experience that people who commit</p> <p>12 undue influence admit to it?</p> <p>13 A. Sometimes.</p> <p>14 Q. Other than asking Debby if she had talked</p> <p>15 James into giving her the million dollars, did you</p> <p>16 seek confirmation of that from any other third party,</p> <p>17 anyone other than Debby or Mr. Ho?</p> <p>18 A. Indirectly, yes.</p> <p>19 Q. Who?</p> <p>20 A. I was taking all the e-mails, all the</p> <p>21 communications that I had from Reinhard, the</p> <p>22 communications we had setting up the meeting, the</p> <p>23 information that came through the family members --</p> <p>24 I'm sorry, not through the family members, but</p> <p>25 comparing Debby's statements with Reinhard's with</p>
<p style="text-align: center;">Page 194</p> <p>1 after you finish your meeting with Mr. Ho, so Debby</p> <p>2 and Mr. Ho, but he's asleep, so your meeting with</p> <p>3 Debby, you asked her whether she had talked James</p> <p>4 into giving her the million dollars; is that right?</p> <p>5 A. I remember talking about, yes, questions</p> <p>6 dealing with whether she had wanted him to give her</p> <p>7 the money.</p> <p>8 Q. Well, that's different. Page 40.</p> <p>9 A. Page 40 of the deposition?</p> <p>10 Q. No. Page 40 of your memorandum. So page 40</p> <p>11 of your file, which is page 5 of 5 of your</p> <p>12 memorandum.</p> <p>13 A. I may not have the memorandum in front of me</p> <p>14 anymore.</p> <p>15 Q. I think it's this one here.</p> <p>16 A. Oh, okay.</p> <p>17 MR. BAER: 527.</p> <p>18 THE WITNESS: I'm sorry, page 4?</p> <p>19 BY MR. BIORN:</p> <p>20 Q. Yes. The first sentence of the second full</p> <p>21 paragraph --</p> <p>22 THE COURT: We're not on the same page.</p> <p>23 MR. BIORN: Okay. Oh, I'm sorry, it is</p> <p>24 Exhibit 527, page 5 of 5.</p> <p>25 THE COURT: We're on the same page.</p>	<p style="text-align: center;">Page 196</p> <p>1 Mr. Ho's to see if everything was consistent.</p> <p>2 Q. Okay.</p> <p>3 A. So yes, there were other parties besides the</p> <p>4 two.</p> <p>5 Q. So Reinhard was one?</p> <p>6 A. Yes.</p> <p>7 Q. Who set up the meeting and you already said</p> <p>8 that was a red flag, the fact that he was setting up</p> <p>9 the meeting.</p> <p>10 A. Based on what you defined red flag to be,</p> <p>11 yes.</p> <p>12 Q. And where did Reinhard mention anything about</p> <p>13 whether Debby had talked James into giving her the</p> <p>14 million dollars?</p> <p>15 A. That's not what I was saying.</p> <p>16 Q. Well --</p> <p>17 A. I'm --</p> <p>18 MR. BAER: Hold on.</p> <p>19 MR. BIORN: I'm sorry.</p> <p>20 (Simultaneous conversation.)</p> <p>21 THE COURT: You can finish your answer.</p> <p>22 THE WITNESS: I was saying at the time when I</p> <p>23 wrote this memo that I was considering all the</p> <p>24 information I had at that time which included all the</p> <p>25 communications I had received.</p>

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<p style="text-align: center;">Page 197</p> <p>1 BY MR. BIORN:</p> <p>2 Q. And at the time you wrote this memo, you</p> <p>3 hadn't received any communications about setting up</p> <p>4 that subsequent meeting for which you supposedly</p> <p>5 wrote the August 31, 2017 letter?</p> <p>6 A. I'm sorry, what do you mean by "supposedly"?</p> <p>7 Q. Well, you wrote --</p> <p>8 MR. BAER: I find the question</p> <p>9 unintelligible.</p> <p>10 MR. BIORN: Okay.</p> <p>11 BY MR. BIORN:</p> <p>12 Q. Let's back up and ask a different question.</p> <p>13 I've gotten lost.</p> <p>14 Other than asking Debby whether she had</p> <p>15 talked James into giving her the million dollars, did</p> <p>16 you speak with anyone else about that -- about</p> <p>17 whether Debby had talked him into doing that, other</p> <p>18 than with Debby or Reinhard or Mr. Ho?</p> <p>19 A. I don't believe so.</p> <p>20 Q. In Reinhard's e-mail to you he said that</p> <p>21 Debby could, quote, unquote, convince Mr. Ho to get</p> <p>22 him to say the right thing to get the certificate of</p> <p>23 independent review, right?</p> <p>24 A. Those were the words in his e-mail.</p> <p>25 Q. And you never asked Debby about that?</p>	<p style="text-align: center;">Page 199</p> <p>1 will."</p> <p>2 THE COURT: If you don't mind -- yes.</p> <p>3 MR. BAER: Do you have the specific exhibit?</p> <p>4 MR. BIORN: I thought you guys had referred</p> <p>5 to that. No?</p> <p>6 MR. BAER: Are you talking about Debby's</p> <p>7 note? No, we didn't ask him any questions about that</p> <p>8 one.</p> <p>9 THE COURT: We have that --</p> <p>10 MR. BAER: We have that as an exhibit. Hold</p> <p>11 on just a second.</p> <p>12 I think it's 520. Pretty sure.</p> <p>13 MR. KUO: Yes.</p> <p>14 THE COURT: Okay.</p> <p>15 MR. FRASER: There's also our 121.</p> <p>16 BY MR. BIORN:</p> <p>17 Q. Let's look at Exhibit 520. This is the note</p> <p>18 that James Ho signed to you, "Dear Mr. Martin, please</p> <p>19 provide my son Peter Ho a copy of all my estate</p> <p>20 planning" -- I can't quite read it all.</p> <p>21 Did you provide James Ho a copy of all the</p> <p>22 estate planning you had done for him --</p> <p>23 MR. BAER: Objection. Lacks foundation.</p> <p>24 BY MR. BIORN:</p> <p>25 Q. -- in response to this letter?</p>
<p style="text-align: center;">Page 198</p> <p>1 A. About why he wrote that e-mail?</p> <p>2 Q. About the word "convince."</p> <p>3 A. I don't recall asking her about the word</p> <p>4 "convince."</p> <p>5 Q. You never asked her why Reinhard would say</p> <p>6 that to you?</p> <p>7 A. No, but I was taking it into account.</p> <p>8 Q. Next sentence is "She said no, she had</p> <p>9 actually asked James not to give the money to her."</p> <p>10 If that was an inaccurate statement, would</p> <p>11 that have raised a red flag for you?</p> <p>12 A. Yes.</p> <p>13 Q. We've talked about the first part, she said</p> <p>14 she had been insisting on drawing up a loan document</p> <p>15 of some kind, she told you that.</p> <p>16 And then the next part, "to add James' name</p> <p>17 to title on the Fulton home."</p> <p>18 Did she say that she considered doing that at</p> <p>19 the time she received the gift?</p> <p>20 A. I can't recall the specifics.</p> <p>21 Q. Now, we looked at a letter from Mr. Ho. It's</p> <p>22 attached to your deposition.</p> <p>23 A. There's no letters attached to this copy.</p> <p>24 Q. We looked at the document where it says "Dear</p> <p>25 Mr. Martin, please provide my son Peter a copy of my</p>	<p style="text-align: center;">Page 200</p> <p>1 MR. BAER: Same objection.</p> <p>2 THE COURT: He might not have done other</p> <p>3 estate planning.</p> <p>4 BY MR. BIORN:</p> <p>5 Q. Did you provide Mr. Ho a copy of the</p> <p>6 certificate of independent review after you received</p> <p>7 this letter from him?</p> <p>8 A. I had already delivered the certificate of</p> <p>9 independent review to Mr. Ho.</p> <p>10 Q. Did you have any concern, after receiving</p> <p>11 this letter, that Mr. Ho hadn't received that</p> <p>12 certificate of independent review?</p> <p>13 A. No.</p> <p>14 Q. Did you have any concern, after receiving</p> <p>15 this letter, that Mr. Ho didn't remember that he</p> <p>16 already had a copy of the certificate of independent</p> <p>17 review?</p> <p>18 A. Yes.</p> <p>19 Q. And as of the date you received this letter,</p> <p>20 in the lower left-hand corner, you had all the</p> <p>21 contact information for Peter Ho, right?</p> <p>22 A. It's on this note.</p> <p>23 Q. So you had it, right?</p> <p>24 A. I believe so. If this was delivered to me at</p> <p>25 this date, then it would have been in my possession.</p>

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<p style="text-align: center;">Page 201</p> <p>1 MR. BIORN: Your Honor, we've been going for</p> <p>2 another hour. Is now a good time to break?</p> <p>3 THE COURT: Sure, we can take a break.</p> <p>4 (Whereupon, a break was taken.)</p> <p>5 BY MR. BIORN:</p> <p>6 Q. Not too many more questions, Mr. Martin. A</p> <p>7 few of these are just cleanup.</p> <p>8 I think we were talking about a time in which</p> <p>9 you had to transfer the real property tax base year</p> <p>10 to your son after -- to a child, after you sell your</p> <p>11 residence. And we were talking about one, two and</p> <p>12 three years.</p> <p>13 Is the law that you must find the replacement</p> <p>14 within two years and file for the exemption within</p> <p>15 three?</p> <p>16 MR. BAER: Objection. Relevance.</p> <p>17 THE WITNESS: This was changed --</p> <p>18 THE COURT: This is --</p> <p>19 MR. BIORN: This is his big concern. I'm</p> <p>20 going ask some follow-up questions.</p> <p>21 MR. BAER: Okay. But I don't think it's</p> <p>22 relevant.</p> <p>23 THE COURT: You're talking about Prop --</p> <p>24 MR. BIORN: This is the transfer of the real</p> <p>25 property tax basis from father to son that he</p>	<p style="text-align: center;">Page 203</p> <p>1 A. So currently --</p> <p>2 Q. I don't want to know currently.</p> <p>3 A. I think it was the second year. But right</p> <p>4 now, I can't recall. We're operating under this new</p> <p>5 regime.</p> <p>6 Q. Fair enough.</p> <p>7 A. And then there's also when you file the form.</p> <p>8 Q. Yes.</p> <p>9 A. So that's within three years after the</p> <p>10 transaction itself.</p> <p>11 Q. Okay.</p> <p>12 A. Not like a statute of limitations, but the</p> <p>13 County can sometimes let that go even if you go</p> <p>14 beyond the three years.</p> <p>15 Q. So when you learned about Mr. Ho transferring</p> <p>16 his real estate tax base year to Peter, did you</p> <p>17 investigate the date that he had sold his long-time</p> <p>18 primary residence?</p> <p>19 A. I started taking steps towards that, but</p> <p>20 since it was outside of the scope of what I was being</p> <p>21 asked to do, no.</p> <p>22 Q. Did you investigate whether he owned a new</p> <p>23 home after that?</p> <p>24 A. No.</p> <p>25 Q. Did you investigate how long he had owned</p>
<p style="text-align: center;">Page 202</p> <p>1 mentioned.</p> <p>2 THE COURT: Or any child.</p> <p>3 MR. BIORN: That he mentioned in his memo.</p> <p>4 MR. BAER: I don't see the relevance and</p> <p>5 there wasn't a father-son transfer in this case.</p> <p>6 THE COURT: Okay. We know what area you're</p> <p>7 asking about. You can ask your next question.</p> <p>8 BY MR. BIORN:</p> <p>9 Q. So it's a transfer of the base year value</p> <p>10 from -- that Mr. Ho provided to Peter.</p> <p>11 MR. BAER: Objection.</p> <p>12 MR. BIORN: We'd be done with this --</p> <p>13 MR. BAER: I want to make sure the questions</p> <p>14 make sense in context.</p> <p>15 BY MR. BIORN:</p> <p>16 Q. Is the rule that you must find the</p> <p>17 replacement within two years and then file for the</p> <p>18 transfer of the real property tax year basis within</p> <p>19 three?</p> <p>20 A. Okay. So first of all, this law was changed,</p> <p>21 right, because the prior law was 58, Proposition 58,</p> <p>22 and the current law is 19.</p> <p>23 The years in which you need to buy the</p> <p>24 replacement home have changed.</p> <p>25 Q. Okay.</p>	<p style="text-align: center;">Page 204</p> <p>1 that new home?</p> <p>2 A. No.</p> <p>3 Q. Whether he wanted to keep that home at all?</p> <p>4 A. How would I know his desires or his wants?</p> <p>5 Q. Did you ask him?</p> <p>6 A. I think we already established I never talked</p> <p>7 with Peter Ho.</p> <p>8 Q. So you had no idea whether Mr. Ho didn't want</p> <p>9 to keep his real property tax basis because he wasn't</p> <p>10 going to be able to find a replacement home within</p> <p>11 two years?</p> <p>12 A. I did have some idea based upon these</p> <p>13 conversations that I had with Debby Chang, or the</p> <p>14 meeting that I had with her.</p> <p>15 Q. But you had no idea whether Mr. Ho was going</p> <p>16 to be able to find a replacement within the two-year</p> <p>17 period?</p> <p>18 A. Are you talking about Peter Ho or James Ho?</p> <p>19 Q. James Ho.</p> <p>20 A. I'm sorry, he was finding a replacement home?</p> <p>21 Q. Yes.</p> <p>22 A. That's not even the issue. The issue with</p> <p>23 the parent-child transfer is the parent sells their</p> <p>24 home and buys a replacement home, but the issue was</p> <p>25 Peter was coming on and therefore getting a</p>

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<p style="text-align: center;">Page 205</p> <p>1 parent-to-child transfer.</p> <p>2 Are you referring to base year value transfer</p> <p>3 for senior citizens?</p> <p>4 Q. Yes.</p> <p>5 A. I thought you were talking about something</p> <p>6 else.</p> <p>7 Q. I'll withdraw the question.</p> <p>8 A. You're talking about senior citizen</p> <p>9 transfers. That's completely different.</p> <p>10 Q. I'll withdraw the question.</p> <p>11 A. I totally was confused there. That's why I</p> <p>12 referred to Prop 58. That was parent to child. You</p> <p>13 were talking about something completely different.</p> <p>14 Q. So when Mr. Ho came to your office with Peter</p> <p>15 Ho and he was downstairs, you didn't go down to meet</p> <p>16 with him because, as you said, we don't take drop-bys</p> <p>17 in our practice, that's not my practice, we're an</p> <p>18 appointment only firm.</p> <p>19 A. I recall saying that. I believe I also was</p> <p>20 in a meeting at the time.</p> <p>21 Q. Debby Chang told you that she was charging</p> <p>22 Mr. Ho rent to stay at Redwood City, right?</p> <p>23 A. I recall that.</p> <p>24 Q. At \$3,500 a month, right?</p> <p>25 A. No, I don't recall the specific amount.</p>	<p style="text-align: center;">Page 207</p> <p>1 MR. BIORN: No further questions.</p> <p>2 MR. BAER: Okay. I just have a few.</p> <p>3 REDIRECT EXAMINATION</p> <p>4 BY MR. BAER:</p> <p>5 Q. So was there any reason for you to ask James</p> <p>6 if he wanted to ask Debby to pay him back?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. Because it was a gift that he made and he was</p> <p>10 insistent that he didn't want her to pay it back.</p> <p>11 That's what he was saying all along.</p> <p>12 Q. I believe you testified that you thought</p> <p>13 Mr. Ho's attitude in the conversation with you was</p> <p>14 cavalier. Can you explain what you meant by that?</p> <p>15 A. Well, he was very calm and he had this</p> <p>16 attitude about everything that he said, about his</p> <p>17 background, about his relationships, about his</p> <p>18 assets, about his relationship with Debby.</p> <p>19 Everything he said, it seemed to be a little bit</p> <p>20 dismissive, sort of being casual about his</p> <p>21 experience, his background, although he was very</p> <p>22 prideful about his children. So there, he started to</p> <p>23 really experience -- he showed a lot of pride.</p> <p>24 But yes, that's what I was referring to by</p> <p>25 the cavalier attitude, you know, saying something</p>
<p style="text-align: center;">Page 206</p> <p>1 Q. Okay. And you never directly asked Mr. Ho if</p> <p>2 he wanted Debby to pay him the \$1.1 million back?</p> <p>3 A. I'm sorry, can you repeat that?</p> <p>4 MR. BIORN: Can you read the question back?</p> <p>5 (The record was read by the Reporter.)</p> <p>6 THE WITNESS: May have asked that directly.</p> <p>7 That sounds like something I would have asked. I</p> <p>8 don't recall right now.</p> <p>9 BY MR. BIORN:</p> <p>10 Q. You didn't advise him that he could ask Debby</p> <p>11 for the money to be repaid; is that right?</p> <p>12 A. Well, that does go to the subject of the sort</p> <p>13 of thing I would have discussed with him, but I can't</p> <p>14 recall the specific remarks.</p> <p>15 Q. You didn't specifically advise him of that</p> <p>16 ability, correct?</p> <p>17 A. What ability?</p> <p>18 Q. To have Debby pay the money back.</p> <p>19 A. The ability to have her pay the money back?</p> <p>20 Q. You didn't advise him that he could ask --</p> <p>21 you didn't directly advise him that he could ask</p> <p>22 Debby to have the money repaid?</p> <p>23 A. No, not that I recall. That wouldn't make</p> <p>24 any sense anyway in context.</p> <p>25 Q. All right.</p>	<p style="text-align: center;">Page 208</p> <p>1 casually, moving on to the next subject, acting like</p> <p>2 things weren't any big deal, like 1.1 million, et</p> <p>3 cetera.</p> <p>4 Q. Was there any single factor that was the most</p> <p>5 important to you in forming your opinion that the</p> <p>6 gift had not been procured by fraud or undue</p> <p>7 influence?</p> <p>8 A. Any single factors, plural?</p> <p>9 Q. Any single factors, small group of factors?</p> <p>10 A. Yes.</p> <p>11 Q. Could you explain?</p> <p>12 A. Well, I wanted to make sure that there wasn't</p> <p>13 evidence of excessive persuasion by Debby Chang. So</p> <p>14 I wanted to make sure that there was no evidence that</p> <p>15 she was trying to convince him to give him this</p> <p>16 money, that she repeated herself over and over again,</p> <p>17 that she persisted, that she threatened him, that</p> <p>18 she, you know, followed up and insisted that he do</p> <p>19 something because, for me, that would show facts</p> <p>20 supporting undue influence.</p> <p>21 In addition, I also wanted to make sure that</p> <p>22 what James was describing was consistent with what</p> <p>23 Debby was describing. It's very hard even for</p> <p>24 wrongdoers to be consistent. Usually it's very</p> <p>25 difficult for that to happen.</p>

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<p style="text-align: center;">Page 209</p> <p>1 So the fact that she was aligned with what he 2 said, with the facts, in the moment showed me that 3 there was no concern with this transfer that had been 4 done because I felt that if she had been dishonest or 5 if she had unduly influenced him, I would have seen 6 it in what she was describing in that meeting. 7 Q. Did Mr. Ho ever tell you whether he had ever 8 lived with his son Peter? 9 A. Not that I recall. 10 Q. I believe that Mr. Biorn asked you a question 11 about whether or not have you learned that Mr. Ho had 12 gifted a half interest in property he owned in Los 13 Angeles to Debby, that would be important to you -- 14 would that have been important to you? 15 A. Right. I think the word "important," it's a 16 question of degree. It's certainly relevant and to 17 the extent that he had no knowledge of it, for 18 example, or he was mistaken about it, it might go to 19 his understanding about his finances, about what he 20 owned. 21 Q. Okay. Would the fact that that transfer have 22 occurred been relevant to you or not -- 23 A. It's relevant. 24 Q. -- 11 years earlier. 25 Okay. Why would you consider it relevant?</p>	<p style="text-align: center;">Page 211</p> <p>1 based on the context, it could be a concern -- I'm 2 sorry, I'm starting to go beyond the scope of your 3 question. 4 Q. Okay. Did Mr. Ho tell you that he'd ever 5 been ambivalent about the idea of making a gift of 6 \$1.1 million to Debby? 7 A. Did he say he was ambivalent? 8 Q. Did he say anything to you to express any 9 kind of ambivalence about having made the gift? 10 A. By ambivalence, vocabulary check, that means 11 he didn't care one way or the other? 12 Q. Yes. 13 A. No, he cared very deeply. He wanted to make 14 sure that she would keep the money. That's the 15 opposite of ambivalence the way I'm understanding it 16 right now. 17 MR. BAER: No further questions. 18 RE CROSS-EXAMINATION 19 BY MR. BIORN: 20 Q. Did it raise a red flag for you at all that 21 Mr. Ho or -- Debby was charging Mr. Ho rent after she 22 had -- after he had just given her a \$1.1 million 23 gift? 24 A. Yes. 25 Q. And you said to her, well, why would you</p>
<p style="text-align: center;">Page 210</p> <p>1 A. That the transaction had occurred or had not 2 occurred? Because it shows an intent to gift 3 something to Debby, to make her this beneficiary of 4 assets of his. It shows a prior pattern of wanting 5 to benefit somebody who he dearly loves. 6 Q. Okay. And then, I guess similarly, you were 7 asked, I think, whether the fact that Ms. Chang had 8 received 11 checks totaling -- or almost \$100,000 9 from Mr. Chang [sic] would be relevant to your 10 inquiry or whether it would be a red flag I think you 11 said perhaps. 12 Why might that not have been a red flag? 13 A. Okay. Well, I gathered from these meetings 14 that James was paying for the costs for his room and 15 board through these payments to Debby to cover things 16 like food and travel and other expenses. 17 And so to the extent that those were 18 connected to those expenses, you know, it would be 19 very consistent with what had just been said by them 20 during the meeting. 21 Also, it would show that he had intent that 22 perhaps it was not a rental payment or not a cost 23 reimbursement, there may have been some other gift, 24 which you could take either way. Maybe it's 25 supportive of this pattern of benefitting from her or</p>	<p style="text-align: center;">Page 212</p> <p>1 require him to pay rent? That doesn't really make a 2 lot of sense. 3 A. Yes. 4 MR. BIORN: I don't have anything further. 5 Thank you. 6 FURTHER REDIRECT EXAMINATION 7 BY MR. BAER: 8 Q. All right. So what was Ms. Chang's response 9 to your statement that it didn't make a lot of sense? 10 MR. FRASER: Objection. Hearsay. 11 THE WITNESS: I can't recall -- 12 MR. BIORN: There's an objection. Hearsay. 13 THE COURT: Well -- 14 MR. BAER: Depends what the response was. 15 THE COURT: I'll take it subject to a motion 16 to strike, but I think the answer is I don't recall. 17 THE WITNESS: I recall what my thought 18 process was at the time. 19 BY MR. BAER: 20 Q. And did she tell you how many times he had 21 paid -- how many -- for how many months he had paid 22 rent? 23 A. No. Oh, actually, I can't recall 24 specifically. That may have come up, actually. But 25 right now, that's hazy.</p>

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<p style="text-align: center;">Page 213</p> <p>1 Q. Let me turn your attention to page 143 of</p> <p>2 your declaration [sic].</p> <p>3 THE COURT: 123?</p> <p>4 MR. BAER: 143.</p> <p>5 THE WITNESS: Of my deposition?</p> <p>6 MR. BAER: Yes. Actually, why don't we start</p> <p>7 at 142.</p> <p>8 BY MR. BAER:</p> <p>9 Q. Could you read from line 20 through line 11</p> <p>10 on 143?</p> <p>11 A. Starting at what line?</p> <p>12 Q. Sorry, page 142, line 20 through 143, line</p> <p>13 11.</p> <p>14 A. "Question: And you wrote it down" --</p> <p>15 Q. You can just read it to yourself.</p> <p>16 A. Okay. Okay.</p> <p>17 Q. Does this refresh your recollection as to how</p> <p>18 many times or for how many months Ms. Chang told you</p> <p>19 that Mr. Ho had paid rent?</p> <p>20 A. Not specifically.</p> <p>21 Q. Okay.</p> <p>22 MR. BAER: No further questions.</p> <p>23 MR. BIORN: No further questions.</p> <p>24 THE COURT: Okay. I have a few and then they</p> <p>25 might have some follow-up questions.</p>	<p style="text-align: center;">Page 215</p> <p>1 THE COURT: Yes.</p> <p>2 THE WITNESS: Maybe approximately five times.</p> <p>3 THE COURT: You alluded to some taped</p> <p>4 statements and you were asked if your conversations</p> <p>5 were taped. Have you heard any tapes in connection</p> <p>6 with this case?</p> <p>7 THE WITNESS: No.</p> <p>8 THE COURT: Okay. Fiduciary obligations is</p> <p>9 the area I'm going to talk about.</p> <p>10 There was discussion that these people --</p> <p>11 that Mr. Ho and Ms. Chang were partners.</p> <p>12 Did you see a reciprocal arrangement between</p> <p>13 the two of them at all?</p> <p>14 THE WITNESS: My assumption was that they</p> <p>15 were girlfriend/boyfriend based upon the living</p> <p>16 arrangement and based upon the length of time.</p> <p>17 THE COURT: Were you under the impression</p> <p>18 that one person was sort of on the receiving end of</p> <p>19 largesse -- may be the wrong word -- but receiving</p> <p>20 end of getting the benefit?</p> <p>21 THE WITNESS: That's hard to say because</p> <p>22 there's more than just financial benefits. There's</p> <p>23 also relationship. So I think it goes in both</p> <p>24 directions.</p> <p>25 THE COURT: Okay. Thank you. That's all I</p>
<p style="text-align: center;">Page 214</p> <p>1 EXAMINATION BY THE COURT:</p> <p>2 THE COURT: Do you know if Reinhard contacted</p> <p>3 any other attorneys in connection with this case?</p> <p>4 THE WITNESS: Not to my knowledge.</p> <p>5 THE COURT: Prior to doing the certificate of</p> <p>6 independent review, had you ever done another one?</p> <p>7 THE WITNESS: I believe so.</p> <p>8 THE COURT: And do you know how many times?</p> <p>9 THE WITNESS: I think I've done it less than</p> <p>10 five times and I think at least three. Right now,</p> <p>11 I'm not sure if it's four or three. Three or four</p> <p>12 times.</p> <p>13 THE COURT: And those were before August</p> <p>14 2017?</p> <p>15 THE WITNESS: If I'm recalling correctly,</p> <p>16 I've only done one since this. So I think if, I'm</p> <p>17 recalling correctly, there was two -- two before, but</p> <p>18 now it's very hazy. It's such a long timeline, so I</p> <p>19 could be mistaken.</p> <p>20 THE COURT: And have you indicated to whoever</p> <p>21 asked you to do it on occasion that you will not do</p> <p>22 it?</p> <p>23 THE WITNESS: Yes.</p> <p>24 THE COURT: And how many times?</p> <p>25 THE WITNESS: Have I declined?</p>	<p style="text-align: center;">Page 216</p> <p>1 have.</p> <p>2 Any more questions?</p> <p>3 MR. BIORN: I do have -- actually, I'd just</p> <p>4 like to read from the witness's deposition. It is</p> <p>5 contrary to his -- contradicts his testimony.</p> <p>6 Page 72, lines 7 to 12:</p> <p>7 "Question: Okay. How often do you prepare</p> <p>8 certificates of independent review?</p> <p>9 Answer: Not often at all.</p> <p>10 Question: Can you give me an estimate as to</p> <p>11 how many times you've done it.</p> <p>12 Answer: This is the only one."</p> <p>13 THE WITNESS: Okay. I'm so sorry --</p> <p>14 MR. BIORN: Sir, there's no question pending.</p> <p>15 THE WITNESS: Okay.</p> <p>16 MR. BIORN: I'll ask a question.</p> <p>17 FURTHER RECROSS-EXAMINATION</p> <p>18 BY MR. BIORN:</p> <p>19 Q. The fact apparently that this was the first</p> <p>20 time you prepared a certificate of independent</p> <p>21 review, did that -- did that give rise to any</p> <p>22 uncertainty on your part about how you should tackle</p> <p>23 the assignment?</p> <p>24 A. Yes.</p> <p>25 Q. And what was that?</p>

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<p style="text-align: center;">Page 217</p> <p>1 A. Well, I wanted to research doing it, so I 2 looked up the statute and I looked at the secondary 3 source that was in my file. 4 Q. And for lack of a better way of putting it, 5 after you looked at those sources, did you continue 6 to have any uncertainty or did you -- or did you feel 7 that you'd resolved your uncertainty? 8 A. I felt I had resolved my uncertainty. 9 MR. BAER: No further questions. 10 MR. BIORN: I have no further questions, Your 11 Honor. 12 THE COURT: Okay. Does the depo testimony 13 that was read to you refresh your recollection that 14 it was only one time? 15 THE WITNESS: At the time that this was done, 16 yes. 17 THE COURT: Okay. Thank you. Nothing 18 further. 19 MR. BIORN: Yes. Let's clarify. 20 At the time -- 21 MR. BAER: If there's only one at the time 22 his deposition was taken, inherently, that means that 23 was the only one he'd done. 24 MR. BIORN: Right. I have no further 25 questions.</p>	<p style="text-align: center;">Page 219</p> <p>1 MR. BIORN: I don't need that into evidence. 2 MR. FRASER: No. 3 THE COURT: Can I label it withdrawn and 4 we'll clean it up? Can I label it withdrawn and 5 we'll clean it up? 6 MR. BIORN: Yes. 7 THE COURT: And 183 is the draft letter from 8 Mr. Martin. 9 MR. BIORN: Yes, we'll offer that for 10 evidence, to admit it into evidence. 11 MR. BAER: No objection. 12 THE COURT: Received. 13 (Whereupon, Exhibit 183 was admitted into 14 evidence.) 15 MR. FRASER: And there was also Exhibit 520, 16 that was the handwritten letter. 17 MR. BAER: Oh, yes. No objection to that one 18 either, the handwritten letter by Mr. Ho. 19 THE COURT: Okay. Received. 20 (Whereupon, Exhibit 520 was admitted into 21 evidence.) 22 THE COURT: Very good. Anything else on the 23 record? 24 MR. BAER: I'll just mention that I'm not 25 going to make any motion to strike testimony</p>
<p style="text-align: center;">Page 218</p> <p>1 THE COURT: Okay. Can this witness be 2 excused? 3 MR. BIORN: Yes. 4 MR. BAER: I guess so. 5 THE WITNESS: Thank you. 6 THE COURT: Thank you very much. You're free 7 to go. 8 THE WITNESS: Best of luck. 9 MR. BAER: Thank you very much. 10 MR. BIORN: Thank you. 11 MR. FRASER: I do think there's some cleanup 12 on the exhibits. 13 THE COURT: Not much. 181 is the e-mail 14 exchange between Reinhard and John Martin? 15 MR. FRASER: Yes. 16 THE COURT: Are you seeking admission? 17 MR. BIORN: Yes. 18 MR. FRASER: Yes. 19 MR. BAER: No objection. 20 THE COURT: Received. 21 (Whereupon, Exhibit 181 was admitted into 22 evidence.) 23 THE COURT: And 182 is the initial client 24 contact form, the one-page form. Do you really need 25 it in evidence?</p>	<p style="text-align: center;">Page 220</p> <p>1 concerning the questions regarding Probate Code 2 Section 21384. 3 There was a minor change in the statute that 4 took effect on January 1, 2018, but it wouldn't have 5 been material to any of the questions that Mr. Biorn 6 asked. 7 THE COURT: Could we go off the record for 8 just one minute? 9 (Whereupon, there was a discussion off the 10 record.) 11 THE COURT: We'll go from 10:00 to 1:00 12 tomorrow. 13 MR. BIORN: Yes. 14 THE COURT: We're done. 15 (Whereupon, there was a discussion off the 16 record.) 17 (WHEREUPON, the proceedings were adjourned at 18 5:03 p.m.) 19 20 21 22 23 24 25</p>

REPORTER'S CERTIFICATE

I, NINA PAVONE, hereby certify that the foregoing proceedings were taken down in shorthand by me, a Certified Shorthand Reporter, and a disinterested person, at the time and place therein stated, and that the proceedings were thereafter reduced to typewriting under my direction and supervision;

I further certify that I am not of counsel or attorney for either/or any of the parties to the said proceedings, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

Date: June 3, 2024

NINA PAVONE,
CSR No. 7802

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EXHIBIT 7

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August 24, 2017

Re: Memorandum
Certificate of Independent Review; California Probate Code §§ 15642
Gift to Debby Chang

Conclusion

James Ho made a gift to Debby Chang in March of 2017 of approximately \$1.1 Million in cash. On the basis of a 1 ½ hour private consultation with James Ho, the gift to Debby does not appear to have been obtained through undue influence or fraud. While Debby does not appear to fall under the definition of a caregiver, in an abundance of caution, a certificate of independent review appears to be appropriate and in line with the client's desires and wishes.

At the same time, it appears that Peter Ho, James Ho's son, has obtained an undue benefit from James Ho in transferring James Ho's property tax basis from the sale of his Foster City home for Peter Ho's sole use and benefit, without any fair compensation to James Ho. It also appears that Peter Ho may be attempting to use intimidation and fear to control James Ho's actions. Because of the attorney-client duty of confidentiality, and that James has not provided his consent to disclose this information to third parties, we are unfortunately unable to discuss these issues with adult protective services and/or the police.

Meeting of Monday, August 21, 2017 with James Ho:

I met with James Ho for 1 ½ hours at his home at 229 Fulton Street, Redwood City, California on Monday, August 21, 2017. There was initially some confusion in the meeting time because Peter Ho had called our office to cancel our meeting. According to the message I received around 2:00pm at my office through my assistant, Peter Ho cancelled the meeting, indicating that James Ho was confused and unable to attend. However, at about 3:30pm on Monday our office received a call from Debby Chang which was transferred to me. When I picked up, James Ho came on the line. He did not sound confused, but very clearly identified himself as James Ho and asked why I was late to his meeting. I indicated that his son had cancelled his appointment. He expressed some dismay that his son had cancelled his meeting without his consent. He asked if we could still meet later. I proposed to meet him in about an hour, at 4:30pm. He said he would call me back to confirm. About five minutes later, Debby Chang called back to confirm the meeting time at 4:30pm.

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Accordingly, I arrived at the home at 229 Fulton Street at about 4:30pm. The gate was locked, but there was a man in the garage (appeared to be a handyman) and I asked him to announce my arrival. Debby Chang came out, introduced herself, and brought me into the home. I saw the man I presumed to be James in the kitchen, standing with his walker. I noted that the home was very well kept up and immaculately clean. James appeared to be alert, well kempt, and in a good mood. I told Debby that to meet with James Ho, we needed to be in complete privacy. Debby told me that we could meet in the dining room, where the doors would be completely shut, and that she would go upstairs during the meeting. I agreed and sat down at the dining table.

After James went to the bathroom, Debby brought him into the dining room. I introduced myself. James shook my hand. He seemed very relaxed and friendly. I then asked Debby to leave the room, and to ensure that we were in complete privacy. After confirming that both doors were closed, I proceeded to conduct a 1 ½ hour interview of Mr. Ho.

First, I expressed regret for the confusion surrounding his son's cancellation of our meeting. I apologized, and asked him what happened. James told me he didn't know why his son had done that, but that his son was aware he would be meeting with an attorney that day, and had asked him not to go through with it. I asked him what he meant by that, and he said that maybe Peter thought there was a will that James would be signing. He said that his son had asked him not to sign anything.

I then asked James if he knew why I was there. James said, "I think it may be about the gift that I gave to Debby." I asked him what he meant by that, and he said that well, he had given about \$1 Million last year to Debby, and he figured that the meeting was about the gift. I asked James if he had any estate planning documents, such as a will or trust. James told me that he had set up a living trust with his wife, Grace, who had passed away about 20 years ago. I asked if I could see the documents. He said he didn't know where these documents currently were, and stated that his son was currently managing his affairs. I asked if his son was as his agent under his power of attorney, and he said he thought so. I asked James whether this meant that his son knew about his gift to Debby, and James said yes. James then volunteered to me that he wanted to specify that at his death, he wished to be buried in the mountains, at Skylawn Memorial Park. I told him, well, the scope of what I was doing that day was not to prepare his estate planning documents, but that I could refer him to an attorney to draw up a health care directive if he wished. He nodded his head.

I proceeded to ask James some personal questions to determine his general understanding and cognition. I asked him what his current health condition was. He said that he was currently suffering from headaches, and that he was receiving treatment for them. I asked if he knew his own name and my name. He was able to correctly answer these questions. However, he did not know the current date. I asked him what he did with his time, and he said he was retired. I asked

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him about what he did before he retired. He told me that he taught mechanical engineering in college for about 20 years. I asked him what subjects he taught, and he told me: mechanics, thermodynamics, and other subjects. I asked him what school he taught at, and he said Cogswell, in the city. He then complained that the school had gradually changed structure, that he remembered the days when it used to be in San Francisco "through the tunnel" and have 7 buildings, but then moved. He told me that he retired about 20 years ago.

I asked him what his financial situation was like. He said that he had certain monthly expenditures, which were handled by his son. He said he used to own a Corvette and a Mercedes, and then said he still had the Mercedes. He then said that Debby also had her own car, and that she drove him around. I asked him if he still paid for things on his own. He said yes and showed me his check register, where he appeared to have a very orderly and detailed listing of his financial transactions, by date and check number. He told me that he had Kaiser health care treatment, which ran about \$250 per month in premiums. He said that, back when he was teaching at Cogswell, the premiums had been only \$1 per month. We exchanged some laughs on this.

I asked him about whether he was comfortable at the home living with Debby. He told me that Debby kept the house nice, and that she arranged for people to come and help often. He told me that Debby had a home in the East Bay and in Los Angeles, "at least two homes," he said. He told me that he only owned one home.

I proceeded to ask him about his family relationships, and about his relationship with Debby. He said he had three children, and that they all have their own homes as well. He had lived in San Mateo on CSM Drive for 30+ years, and then moved to Foster City after his wife's death (alone, without Debby—Debby always had her own home). He said he first lived on a very nice street, the same as Mr. Foster, or about 3 blocks away. Subsequently, he had moved once or twice. He told me about his three children: his first child, Diana, he said graduated with a PhD from MIT. She had never married. His second child, Della, graduated from a state nursing school (UC Davis), and currently worked at Kaiser in Redwood City. His third child, Peter Ho, he said graduated from Stanford and had a PhD. He said he was currently working with a company with a few "advanced graduates" and again repeated that Peter had been managing his funds. I asked him when he began living with Debby, and he seemed to be a bit evasive on answering. At first, he said that Debby visited him and had her own place. Later, he said that Debby lived with him in Foster City.

I asked him how long he had known Debby. He stated that he had known Debby from the time that he was engaged to his wife over 20 years ago, and that they had known each other for a long time. I asked whether he had sold his place in Foster City, and he said yes. I then asked what he had done with the proceeds of the sale, and he said that he put the money into an account. He

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referred to a savings account and checking account, and again gestured to his checkbook. He then said that they had bought the house where they were currently living. He seemed to think that he currently owned this house, so I asked him whether he knew that Debby's name alone was on title. [I had looked up the property records before this meeting]. He indicated, if that's what she did, he was fine with that. I asked him, did you know that she used the million dollars you gave her to purchase the home? He said he didn't know what she had done with the million dollars, since it was her money now. I asked what he meant by this, and he said that, well, the gift of the million dollars was in the past, so there was nothing that could be done about it now. I asked him, but what about this home? Don't you realize that your name is not on title and that Debby now owns this home 100%? He said, well, he had looked into his checking account, and saw that there was enough money there for her to buy the home if she needed to. So, he had given her a check to her for over a million dollars—he said actually, it was about \$1.1 Million—so that she could purchase the home. He added that he may have written two checks to her. I asked him, are you sure you wrote a check, or did you wire the money? He said he recalled that he had gone to the bank. I asked whether he had used a certified check, and he said maybe. He said that if he had needed that same amount of money, he was sure that Debby would have done the same for him. He said that he didn't need the money any more at this point, and that he wanted Debby to have it.

I then asked him whether he understood that his children, who might be the beneficiaries of his trust, would no longer be getting the million dollars at his death, since he had given that amount to Debby instead. He told me that his children already had plenty of money, and that he wanted to give the money to Debby.

I asked him what he would do if he thought that his children might question his gift to Debby. James seemed troubled by this, and then said, they can't do anything about it. I told him, actually, they could try to claim that Debby talked him into making the gift to her. James seemed very concerned when I said this, and asked me "what can I do to make sure they can't do anything about this?" I said, well one thing I could do is write up a certificate wherein I certify that Debby has not defrauded you or talked you into giving her that money, and I asked him whether he wanted me to do that. James asked me how much it would cost and how long it would take me. He seemed to want to negotiate the price with me. I explained to him my hourly rate, and that it was not negotiable, but I offered to cap my fees at \$2,000. I showed him my engagement letter. He said that he didn't have his reading glasses, so he couldn't read it at the moment. He then said, I'd like you to go over this with Debby. At this point, James was starting to look tired, so I agreed that we should end the meeting. I left him with the engagement agreement for his later review.

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Meeting of Monday, August 21, 2017 with Debby:

I then met for about 30 minutes with Debby. During this meeting, James stayed seated at the table, however he fell asleep while seated. Debby told me several additional facts. First, she confirmed for me the timeline of when she met James. It appeared to line up with James' version of the story. She also stated that Peter Ho was the son referred to by James, and confirmed that he was acting as James' agent under his power of attorney. She said that she was not aware of the full extent of James' finances. However, she said that James had a rental property and that the income helped cover his living expenses. She expressed that she had been worn out caring for James over the last several months, and that it had been very difficult.

I asked her whether she had talked James into giving her the million dollars. She said that no, she had actually asked James not to give the money to her. At first, she said she had been insisting on drawing up a loan document of some kind, or to add James' name to the title on the Fulton home. However, she said that James had insisted that she keep the money—again, lining up with James' version of the narrative. In addition, Debby told me that she had been communicating with Peter Ho regarding the gift and the title on the Fulton home. She referred to Peter as "very smart", and said that he had requested that Debby not add that James' name to the title of the Fulton home. Debby explained that Peter had actually added James' name to Peter's own deed following the sale of James' Foster City property, so that he could take advantage of the property tax benefits. As such, he didn't want James' name to appear on title so that Peter could claim his own home as James' personal residence. I expressed that this was concerning, since then James was unable to take advantage of the property tax benefit himself. She said that James did not want to trouble his son about the matter, and that she did not want to get between the two of them.

I asked about the confusion with the cancellation of that day's meeting. Debby told me that, each week, Peter picks up James to take him to his chemo and radiation treatments, or medical appointments. He generally has him for an hour or two. However, this time, he took James away from the home for much longer than usual. James had come back from the visit with Peter visibly upset, and said that Peter had been angry that James had scheduled a meeting with an attorney. Debby said that James was afraid of Peter, but that he didn't want to upset his son. She also said that James did not want to confront his son over these kinds of issues because he loves his son.

EXHIBIT 8

Debby stated in her deposition that the Chinese handwriting is hers and that it means "received of the money loaned to me from Ho" (refer to the following pages of the deposition transcript).

0000191 11-24
Office AU # 1210(8)
Remitter: JAMES F HO
Purchaser: JAMES F HO
Purchaser Account: 9981392724
Operator I.D.: u509916 cu003460
Funding Source: Paper Items(s)
PAY TO THE ORDER OF ***DEBBY CHANG***

✓ 何德昌的收銀 CASHIER'S CHECK

SERIAL #: 0019102691
ACCOUNT#: 4861-505303

February 22, 2017

One million one hundred thousand dollars and no cents

\$1,100,000.00

Payee Address:
Memo:

WELLS FARGO BANK, N.A.
999 E HILLSDALE BLVD
FOSTER CITY, CA 94404
FOR INQUIRIES CALL (480) 394-3122

NOTICE TO PURCHASER - IF THIS INSTRUMENT IS LOST,
STOLEN OR DESTROYED, YOU MAY REQUEST CANCELLATION
AND REISSUANCE, AS A CONDITION TO CANCELLATION AND
REISSUANCE, WELLS FARGO BANK MAY IMPOSE A FEE AND
REQUIRE AN INDEMNITY AGREEMENT AND BOND.

VOID IF OVER US \$ 1,100,000.00

NON-NEGOTIABLE

Purchaser Copy

何德昌的收銀
CASHIER'S CHECK

FB004 14202 50198767

WITNESS Debby Chang
SUSAN YIP CSR NO. 5038
DATE 7-12-18

DeAlba Reporting Service

1 Q. Your position in this case is that those
2 funds, and I'm referring to the 1.1 million and the
3 cashier's, I'm sorry, and the down payment money, were a
4 gift from James; that's your position, correct?

5 A. Yes.

6 MR. LOEW: We are at 2:00 o'clock by my watch
7 but if we --

8 MR. MINTON: Just give me a couple more
9 minutes. I'm pretty close to being done for today.

10 (Whereupon, a copy of a cashier's check,
11 \$1,100,000.00 was marked as Petitioner's Exhibit Number
12 3 for identification.)

13 BY MR. MINTON:

14 Q. Ms. Chang, I'm showing you what's been marked
15 as Exhibit 3. It's a copy of a cashier's check in the
16 amount of \$1.1 million with some writing on it in
17 Chinese.

18 Ms. Chang, that is your writing on the check,
19 correct?

20 A. Yes.

21 Q. What does it say in the upper left-hand
22 corner?

23 A. This one?

24 Q. Yes.

25 A. It reads, receipt of the --

DeAlba Reporting Service

1 MR. LOEW: I think we want Ms. Chang's
2 interpretation and not anyone else's.

3 THE WITNESS: Meaning received of the money
4 loaned to me from Ho.

5 MR. MINTON: Thank you.

6 Q. What does it say in the lower right-hand
7 corner?

8 A. On the bottom right corner, it says the
9 receipt slip of the deposit, it says, receipt slip of
10 the, or the deposit receipt slip handed to Ho, although
11 it didn't say the word Ho, but many, it says, this was
12 deposited into the bank, and it matched the earlier
13 description. Basically, this was deposited to the bank.

14 MR. MINTON: Thank you. I think we can
15 conclude for the day.

16 MR. LOEW: Cool. And then we are on for
17 Wednesday at 9:30 or 10 or is there a preference?

18 MR. MINTON: 9:30 would be best if that's
19 suitable.

20 MR. LOEW: I think that's good for us as well.

21 MR. MINTON: Thank you.

22 MR. LOEW: Thank you.

23 VIDEO OPERATOR: Thank you. This now
24 concludes the videotaped deposition of Debby Chang on
25 July 12, 2018. We are going off the record. The time

EXHIBIT 9

Gift Letter

I/We do hereby certify to the following:

I/We JAMES HO have made a gift of \$ \$67,050 / \$1,100,00 dollars to the Borrower(s) named below, and no repayment of this gift is expected or implied either in the form of cash or future services of the recipient.

DEBBY CHANG

This gift is to be applied toward the purchase of the property located at:

229 Fulton St

Redwood City, CA 94062

The source of funds for this gift is:

Bank Name: _____

Type of Account: ☒ Checking ☐ Savings ☐ Other

Account No.: _____

Relationship to Borrower: HUSBAND

Donor's name: 1319 BREWSTER CT, EL CERRILLO CA.

Street address: JAMES HO

City: _____ State: _____ Zip: _____

Donor Telephone: 510 - 236 - 1939

James E. Ho
* Donor Signature

3/9/17
Date

Debbie Chang
* Borrower Signature (Recipient)

3/9/17
Date

* Borrower Signature (Recipient)

Date

* Please Note: Upon the signature(s) of this gift letter, I/We hereby certify that any funds given to the homebuyer were not made available to the donor from any person or entity with an interest in the sale of the property including the seller, real estate agent, broker, builder, or loan officer, or any other entity associated with this transaction.

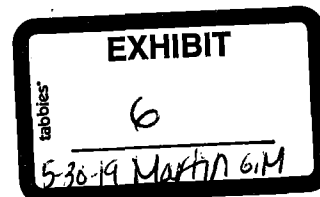


EXHIBIT 10

Dear Mr Martin,
please provide my son,
Peter Ho a copy of all my
estate plan & planning
docs immediately. diff
promptly. Lg

Jan Ho
8/8/25/17

PETER HO
889 GALINDO CT.
MILPITAS, CA 95035
408-838-9116
peter.ho@gmail.com

EXHIBIT 11

THE LAW OFFICES OF JOHN C. MARTIN

1145 MERRILL STREET
MENLO PARK, CALIFORNIA 94025

JOHN C. MARTIN, PRINCIPAL*

VOICE (650) 329-9500
FAX (650) 329-9510

*CERTIFIED SPECIALIST, ESTATE PLANNING, TRUST AND PROBATE LAW
STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION

August 28, 2017

Attn: Mr. James Ho
229 Fulton Street
Redwood City, CA 94062

Re: Estate Planning Document

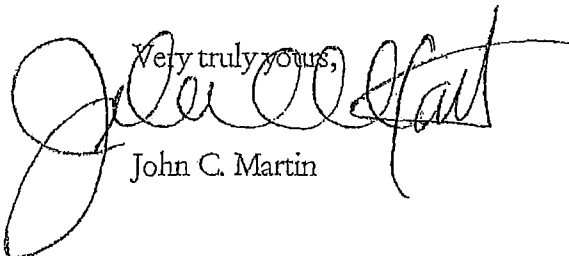
Dear Mr. Ho:

This letter is in response to your hand delivered written request asking me to provide copies of your estate planning documents to your son, Peter Ho.

Our office does not have any of your estate planning documents; therefore we have nothing to give to Peter.

If you should have any additional questions regarding this matter, please do not hesitate to contact me.

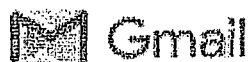
Thank you.

Very truly yours,

John C. Martin

JCM/ja

8/31/2017

Gmail - James Ho's request for estate planning documents



John Martin <jcm.email@gmail.com>

James Ho's request for estate planning documents

4 messages

Peter C. Ho <peter.ho@gmail.com>
To: jcm@johnmartinlaw.com

Tue, Aug 29, 2017 at 12:40 AM

Dear Mr. Martin,

I would like to confirm the events of this past afternoon. My father (James Ho, your client) and I dropped by your office at 2pm and spoke to Jackie, your assistant. Since we were unable to see you, we left you a handwritten, signed note from my father asking for you to provide to me a copy of all his estate planning documents. I asked Jackie to verify both my father's and my ID, which she did by examining my father's ID card and my driver license. I then left my address and contact information with Jackie.

I would appreciate if you could provide as soon as possible the requested copy of his estate plans, notes, agreements, recordings, and anything else prepared for him; if you could send it via email, that would be even better. My father does not know what legal work you performed for him and does not have any copies of any work product.

Sincerely,
Peter Ho

John Martin <jcm@johnmartinlaw.com>
Reply-To: jcm@johnmartinlaw.com
To: "Peter C. Ho" <peter.ho@gmail.com>
Cc: "jcm@johnmartinlaw.com" <jcm@johnmartinlaw.com>

Tue, Aug 29, 2017 at 10:56 AM

Mr. Ho:

Thank you for contacting me. I acknowledge receipt of your father's letter. Unfortunately, **I don't have any estate planning documents of your father's in my files, including any copies.** I'm sorry I cannot be of any further assistance.

Best regards,
John Martin



Virus-free. www.avg.com

[Quoted text hidden]

John C. Martin, Esq.
Certified Specialist, Estate Planning, Trust and Probate Law
State Bar of California Board of Legal Specialization

Law Offices of John C. Martin
1145 Merrill Street
Menlo Park, California 94025

Tel. (650) 329-9500
Fax. (650) 329-9510

Wealth Preservation, Estate & Business Succession Planning, Estate Administration, Estate Litigation

Visit our firm on the web at www.johnmartinlaw.com

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8/31/2017

Gmail - James Ho's request for estate planning documents

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Peter C. Ho <peter.ho@gmail.com>
To: John Martin <jcm@johnmartinlaw.com>

Tue, Aug 29, 2017 at 5:13 PM

Dear Mr. Martin,

My father does not recall what legal work you performed for him; from what I understand, he spent between 30-60 minutes with you and was charged \$2000. Could you kindly enlighten me on what was done for him and what was produced?

Sincerely,
Peter Ho
[Quoted text hidden]

John Martin <jcm@johnmartinlaw.com>
Reply-To: jcm@johnmartinlaw.com
To: "Peter C. Ho" <peter.ho@gmail.com>

Wed, Aug 30, 2017 at 8:39 AM

Mr Ho:

Your father's letter only authorizes me to disclose estate planning documents. As such, by law I do not have the authority to disclose any additional information.

Best regards,
John Martin
[Quoted text hidden]

EXHIBIT 12

FILED
SAN MATEO COUNTY

APR 16 2024

Clerk of the Superior Court

By _____
DEPUTY CLERK

1 KRISTOFER W. BIORN (SBN 160100)
SCOTT A. FRASER (SBN 287639)
2 CRIST | BIORN | SHEPHERD | ROSKOPH APC
2479 E. Bayshore Road, Suite 155
3 Palo Alto, CA 94303
650-321-5007 phone
4 kwb@cbsrlaw.com

5 Attorneys for PETER C. HO, TRUSTEE

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN MATEO
10

11
12 IN THE MATTER OF:
13 TRUST A UNDER THE JAMES F. HO AND GRACE
14 C. HO DECLARATION OF TRUST DATED
SEPTEMBER 11, 1992, AS AMENDED
15

Case No. 17-PRO-00973
[Consolidated with 17-PRO-01084]

JUDGMENT

16 PETER C. HO, TRUSTEE OF TRUST A OF THE
17 JAMES F. HO AND GRACE C. HO DECLARATION
OF TRUST DATED SEPTEMBER 11, 1992, AS
18 AMENDED,

19 PETITIONER,

20 V.

21 DEBBY CHANG, AND DOES 1 THROUGH 20,
INCLUSIVE,

22 RESPONDENT
23

ESTATE OF:

24 JAMES F. HO, AKA JAMES FUJEN
25 HO AND JAMES HO,
DECEASED
26
27
28


JUDGMENT

- 1 -

1 A trial was held on September 18-22 and 25-27, 2023 and December 11, 14, 15, 2023
2 before Hon. Catherine A. Gallagher (ret.)¹. Kristofer W. Biorn and Scott A. Fraser of Crist |
3 Biorn | Shepherd | Roskoph APC appeared for petitioner Peter C. Ho, Trustee of Trust A of the
4 James F. Ho and Grace C. Ho Declaration of Trust dated September 11, 1992, as amended.
5 David W. Baer of Hartog, Baer, Zabronsky, a professional corporation, appeared for respondent
6 Debby Chang. This judgment has been approved as to form, as signed by counsel on the next
7 page.

8 After consideration of the evidence, oral and documentary, that was admitted at trial and
9 the applicable law, the Court hereby renders judgment in favor of petitioner Peter C. Ho, trustee
10 and against respondent Debby Chang in the amount of one million seven hundred six thousand
11 dollars and no/cents (\$1,706,000). The Court further finds that this judgment shall not be
12 dischargeable under the bankruptcy law set forth at United States Code, Title 11, and shall
13 constitute an exception to discharge pursuant to Section 523 of Title 11 of the United States
14 Code, in that: (a) this judgment constitutes a judgment for money obtained by false pretenses,
15 false representations and actual fraud (11 U.S.C. §523(a)(2)(A)) and (b) this judgment
16 constitutes a judgment for willful and malicious injury (11 U.S.C. §523(a)(6)).

17
18 Dated: April 15, 2024


HON. CATHERINE A. GALLAGHER (RET.)
TEMPORARY JUDGE OF THE
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO

26
27 ¹ On April 14, 2021, the Judge of the Superior Court of California, County of San Mateo, issued
28 an order pursuant to the parties' stipulation that the Hon. Catherine A. Gallagher's (Ret.) be
appointed to serve as temporary judge of the San Mateo County Superior Court in the within
matter for all purposes.

1 **APPROVED AS TO FORM:**

2

3

4

CRIST, BIORN, SHEPHERD AND ROSKOPH
A Professional Corporation

5

6

7 DATED: April 10, 2024

Kristofer Biorn
Kristofer W. Biorn

8

9

10

11

HARTOG BAER ZABRONSKY
A Professional Corporation

12

13

14 DATED: April 10, 2024

David Baer
David W. Baer

15

16

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JUDGMENT

- 3 -

EXHIBIT 13

THE LAW OFFICES OF JOHN C. MARTIN

1145 MERRILL STREET
MENLO PARK, CALIFORNIA 94025

JOHN C. MARTIN, PRINCIPAL*

VOICE (650) 329-9500
FAX (650) 329-9510

*CERTIFIED SPECIALIST, ESTATE PLANNING, TRUST AND PROBATE LAW
STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION

August 24, 2017

Attn: Mr. James Ho
229 Fulton Street
Redwood City, CA 94062

Re: Certificate of Independent Review
California Probate Code § 21384

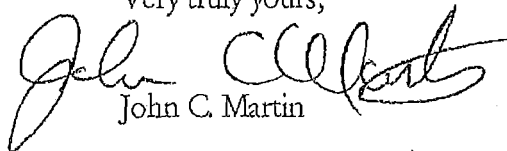
Dear Mr. Ho:

Thank you for taking the time to meet with me on Monday. As you know, I have been engaged solely to prepare a certificate of independent review with regards to your outright gift of approximately \$1.1 Million, in cash, to Debby Chang. On Monday, we met for approximately 1.5 hours in private, outside of the presence of any other person. During this meeting, you explained to me the intended effect of your transfer of cash to Debby Chang.

Based upon my review, I have concluded that, as of the time of our meeting on Monday, you understand the intended consequences of the outright gift to Debby, and that your gift was not the product of fraud or undue influence. Having concluded as such, I enclose my certificate of independent review for your records. Note that I cannot disclose the certificate to any other person without your written consent.

If you should have any additional questions regarding this matter, please do not hesitate to contact me.

Very truly yours,


John C. Martin

Enclosure: Certificate of Independent Review

THE LAW OFFICES OF JOHN C. MARTIN

1145 MERRILL STREET
MENLO PARK, CALIFORNIA 94025

JOHN C. MARTIN, PRINCIPAL*

VOICE (650) 329-9500
FAX (650) 329-9510

*CERTIFIED SPECIALIST, ESTATE PLANNING, TRUST AND PROBATE LAW
STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION

CERTIFICATE OF INDEPENDENT REVIEW (Probate Code § 21384)

I, John C. Martin, have reviewed the inter-vivos transfer of approximately one million one hundred thousand dollars (\$1,100,000) by check made by James Ho to Debby Chang in March of 2017. I have counseled the transferor, James Ho, on the nature and consequences of any transfers of property to Debby Chang that were made by such instrument.

I am an "independent attorney" as defined in California Probate Code § 21370 and am in a position to advise the transferor independently, impartially, and confidentially as to the consequences of the transfer.

On the basis of this counsel, I conclude that the transfers to Debby Chang made by James Ho in March of 2017 are not the product of fraud or undue influence.

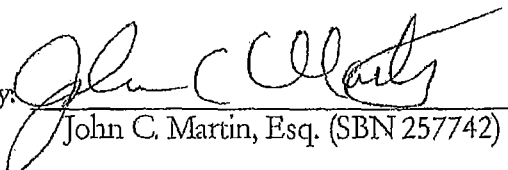
Dated: 8/24/2017 By: 
John C. Martin, Esq. (SBN 257742)

EXHIBIT 14



REDWOOD CITY POLICE DEPARTMENT

Page 1

CAD INCIDENT REPORT

1708300116

04/05/2018

Location 229 FULTON ST				Cross Streets BREWSTER AV/KATHERINE			City REDWOOD CITY																	
Incident Type 10-62 - MEET THE CITIZEN				Call Taker 1165			Dispatcher 987																	
Date 08/30/2017	Priority 3	Primary Unit B6	Beat 7	Fire Zone	Area 7	Map	Source TELEPHONE CALL																	
Caller Name CHANG, DEBBIE				Caller Address				Caller Phone 510-236-9727																
Dispositions Advised, Advised					Weapon		Alm Level		Case Number															
Vehicles					Associated Incidents																			
Incident Times		Special Circumstances																						
Received 12:53:28		<table><tr><td>Persons</td><td>Sex</td><td>DOB</td><td>Race</td><td>DL</td></tr><tr><td>Chang, Debby</td><td>F</td><td>06/02/1939</td><td></td><td></td></tr><tr><td>Ho, James</td><td>M</td><td>06/21/1933</td><td></td><td></td></tr></table>								Persons	Sex	DOB	Race	DL	Chang, Debby	F	06/02/1939			Ho, James	M	06/21/1933		
Persons	Sex									DOB	Race	DL												
Chang, Debby	F									06/02/1939														
Ho, James	M									06/21/1933														
Created 13:06:47																								
Dispatched 13:08:49																								
En Route																								
On Scene 13:17:58																								
Closed 13:49:12																								
Rcvd-Closed 55:44																								
Unit Times	Officers	Dispatched	Enroute	On Scene	Clear	Disp-On Scene	Enrt-On Scene	On Scene-Clear	Disp-Clear															
B6	448	13:08:49		13:17:58	13:49:12	09:09	N/A	31:14	40:23															
B8	439	13:09:28		13:17:58	13:49:12	08:30	N/A	31:14	39:44															
B7	438	13:41:52		13:41:52	13:49:12	N/A	N/A	07:20	07:20															

Incident Comments

rp wants to rpt her partner james ho (6/21/33) 10-65 - partner was seen last seen last wednesday //stated he is possibly in milpitis or freemont w/ his family that does not want him speaking w/ her/ **rp changed the story multiple times** and req to speak w/ pd

TIME	#	EVENT	BY
13:06:47	1	Incident initiated at 229 Fulton St, Redwood City	1165
13:08:49	2	B6 DISP. 229 Fulton St, Redwood City	987
13:09:28	3	B8 DISP. 229 Fulton St, Redwood City	987
13:17:58	4	B6 ONSCEN.	987
13:17:58	5	B8 ONSCEN.	987
13:29:26	6	B8 CHANG, DEBBY (06/02/1939) CA added to incident	987
13:31:02	7	B6 HO, JAMES (06/21/1933) added to incident	1023
13:31:51	8	B8 650 931 7000	987
13:32:25	9	B8 TRYING TO GET A HOLD OF JAMES HO TO MAKE SURE EVERYTHING	987
	10	IS OK	
13:32:42	11	VM ONLY,MSG LEFT	1023
13:41:52	12	B7 DISP. 229 Fulton St, Redwood City	987
13:41:52	13	B7 ONSCEN.	987
13:42:03	14	B7 ENRT.	987
13:45:23	15	B8 RP is talking to officers about civil financial issues between her and her partners	439
	16	family. advised rp that we do not handle civil issues. rp proceeded to discuss that she	
	17	has not talked to her partner and believes her partner is with his children. asked rp if we	
	18	could call her partners children and she advised that she doesnt want us to until after	
	19	tomorrows date after some meeting. rp advised that she does not want to report her	
	20	partner missing at this time and will call us tomorrow after said meeting if she wants to	
	21	make a report then.	
13:46:21	22	B7 ONSCEN. 229 Fulton St, Redwood City	438
13:47:18	23	B8 rp advised that her partners son was the last one to have picked him up here at the	439
	24	residence	
13:49:12	25	B7 10-8. . Disposition AD	987

This copy was prepared by the Redwood City Police Department on :

Date: Apr 09, 2018 for the official use of :

Name:

Agency: COUNTY LEGAL & NOTARY SERVICE and may not be revealed by any unauthorized person.

By: V. Olarevas #1150

TIME	#	EVENT	BY
13:49:12	1	B8 10-8. . Disposition AD	987
13:49:12	2	B6 10-8.	987
13:49:13	3	B6 Closed - Disposition AD	987
13:57:48	4	FEMALE DOES NOT TO REPORT HIM MISSING TODAY - SHE SAID SHE	987
	5	WILL CALL US BACK TOMORROW	
13:58:06	6	IF RP CALLS TOMORROW - PLEASE SEND OFFICER CYDZIK	987

This copy was prepared by the Redwood City Police
Department on :

Date: Apr 09, 2018 for the official use of :

Name: _____

Agency: COUNTY LEGAL & NOTARY SERVICE

and may not be revealed by any unauthorized person.

By: V. Olarevas #1150

EXHIBIT 15

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

_____)
In Re the Matter of the)
)
TRUST A UNDER THE JAMES F. HO) NO. 17PRO00973
AND GRACE C. HO DECLARATION)
OF TRUST DATED SEPTEMBER 11,)
1992 as amended)
)
)
)
)
_____)

**CERTIFIED
TRANSCRIPT**

ALL REMOTE ZOOM VIDEOCONFERENCE
VIDEO DEPOSITION OF REINHARD OESTERLE

DATE: Tuesday, July 13, 2021

TIME: 9:04 a.m.

REPORTED BY: KIRSTEN ENFANTINO, CSR
License No. 12253

#60723

Advantage Reporting Services, LLC
1083 Lincoln Ave., San Jose, CA 95125
(408) 920-0222

A P P E A R A N C E S

For Peter Ho:

TEMMERMAN, CILLEY & KOHLMANN
BY: JAMES CILLEY, ESQ.
HENGAMEH KISHANI, ESQ.
2502 Stevens Creek Boulevard
San Jose, CA 95128
(408) 998-9500
jcilley@tcklawfirm.com

For Debby Chang and
Reinhard Oesterle:

HARTOG, BAER & HAND
BY: DAVID W. BAER, ESQ.
AMANDA E. SHERWOOD, ESQ.
4 Orinda Way
Suite 200D
Orinda, CA 94563
(925) 253-1717
dbaer@hbh.law

Also Present:

PETER HO

Videographer:

ADVANTAGE MEDIA
JASON SAYLER
1 Mountain Valley Drive
Scotts Valley, CA 95066

Reported By:

ADVANTAGE REPORTING SERVICES
KIRSTEN ENFANTINO, CSR #12253
1083 Lincoln Avenue
San Jose, CA 95125
(408) 920-0222

1 Q. Did you ever discuss estate planning with
2 James Ho?

3 A. Estate planning, you said?

4 Q. Yes, I did.

5 A. Yeah. I did not.

6 Q. Did you ever discuss a certificate of
7 independent review with James Ho?

8 A. I did not.

9 Q. Never at any point in time during his life?

10 A. That's correct.

11 Q. Did you ever discuss John Martin with James
12 Ho?

13 A. I did not.

14 Q. Did you ever discuss any lawyer with James
15 Ho?

16 A. No.

17 Q. Did James Ho ever ask you to locate a
18 lawyer for him?

19 A. No.

20 Q. When did you first learn of an attorney by
21 the name of John Martin?

22 A. In -- let me think about the time. Must
23 have been in 2017.

24 Q. How did you learn of him?

25 A. His assistant contacted me.