

In The Matter Of:

*IN RE THE MATTER OF:
THE COMMISSION ON JUDICIAL CONDUCT.*

*GRANT L. ANDERSON
December 17, 1996*

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In re the Matter of:

) No. 96-2179

THE COMMISSION ON JUDICIAL
CONDUCT.Deposition Upon Oral Examination
of

GRANT L. ANDERSON

Taken at 3800, 1000 Second Avenue
Seattle, Washington

DATE: December 17, 1996

REPORTED BY: Patrice E. Starkovich, RPR

CSR NO.: ST-AR-KP-E511MF

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APPEARANCES

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(1) SEATTLE, WASHINGTON; TUESDAY, DECEMBER 17, 1996

(2) 9:30 A.M.

(3)

(4)

(5) GRANT L. ANDERSON, deponent herein, having been

(6) first duly sworn on oath, was

(7) examined and testified as

(8) follows:

(9)

(10)

EXAMINATION
BY MR. TAYLOR:(12) Q: Good morning, your Honor. Prior to assuming your
(13) position on the Superior Court bench, you were a municipal
(14) court judge?

(15) A: Yes.

(16) Q: That was for the City of Fircrest?

(17) A: Yes.

(18) Q: How long did you hold that position?

(19) A: I think about 15 years.

(20) Q: When did you leave that position?

(21) A: I left it - it probably would have been December
(22) of '92 or just prior to going on the bench, Superior Court
(23) bench.(24) Q: During the time that you were a municipal court
(25) judge, did you understand that you were subject to certain

(1) portions of the Code on Judicial Conduct?

(2) A: Yes.

(3) Q: How long have you known Bill Hamilton?

(4) A: I am going to say since the early to mid '70s.

(5) Q: What type of relationship did you have with him?

(6) A: Initially, Mr. Hamilton, I met him as a banker

(7) when he formed Western Community Bank, and I think it was

(8) about 1970, and I was looking for a banking relationship.

(9) I had had a semblance of one with Seafirst and when I made

(10) the relationship it was wonderful, and, of course, the man I

(11) had the relationship with went to Seattle and that was the

(12) end of the relationship.

(13) Friends - I don't know that they are clients - I

(14) want to say friends - indicated at least that was a good

(15) bank, good local bank, so I started banking there.

(16) Initially, I - I am trying to think. Besides banking there

(17) and getting to know them, I have done some real estate

(18) investing, purchasing property, developing, and I got to

(19) know Bill where I would go in and say, "I want to have this

(20) piece of property that I think I want to buy," or myself and

(21) another partner want to buy and I want to borrow the down

(22) stroke and the first year's payments, whatever it was.

(23) And what I enjoyed about him was it was a

(24) no-nonsense-type approach. I mean, it was, "Have you

(25) considered this; you do this and you do that." I wasn't

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(1) playing games with him. I wasn't trying to finagle

(2) something other than, when I was late, I was right up front

(3) with him and he would usually say yes. Whenever we got

(4) done, he would say fine; bring in the note, sign the note,

(5) put the money in the account and we went on. And I did that

(6) for a period of years. And, in that process, I did at least

(7) four different projects I can think of that I borrowed money

(8) to buy usually raw ground and built little commercial

(9) developments on. Sometimes he financed part of it;

(10) sometimes all of them, but usually on the front end, not on

(11) what I call the "takeout" or the final loan or I would sell

(12) them or do something with them.

(13) After that, in the process, I probably got to -

(14) this went on over a period of years. In the process, then I

(15) got to talking with him and he would say, "I am perhaps

(16) expanding the bank, and I am thinking of going to Tumwater"

(17) or "I am going to Federal Way or Lakewood." And he would

(18) lay out his different projects, what he was doing, and I

(19) would troubleshoot, if that is the right word, with him.

(20) Q: How frequently did those kinds of meetings take

(21) place?

(22) A: Oh, it developed. They - I mean, it is kind of

(23) one of those things that kind of expanded. Initially, not

(24) much at all. Then, over time, maybe monthly, maybe even

(25) weekly, on occasion; sometimes it was breakfast; sometimes

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(1) it was lunch, and that was usually what it was - a business

(2) relationship. I never - he was never - except that I did

(3) purchase stock in the bank. But, except for that, I never

(4) bought or participated or did anything with him and he did

(5) not with me. It was just - and we would be objective in

(6) helping each other in terms of projects we were both

(7) contemplating or undertaking and it became more than banks.

(8) He bought and subsequently sold, I think, two of the

(9) three - I am not sure what they were - banking charters on

(10) Maui; he has had some businesses with - that he has

(11) purchased mostly that are operated by his family, sons,

(12) son-in-laws - he has, I think, six kids - that he has put

(13) together and developed, run, sold, that sort of thing.

(14) Q: How did it come to be that, in late December 1992,

(15) you purchased a Cadillac? Were you looking for a car or

(16) how did you make the decision?

(17) A: Yeah. Oh, no. No. I was - you understand in my

(18) - I guess, in my life, I have purchased three new cars.

(19) One was a '64 Buick Skylark when I got out of law school and

(20) went in the service, and the next one was a '79 Buick

(21) Riviera which was the very front end of that classic Riviera

(22) design and it is my personal car. And I have had some

(23) station wagons and other cars in between. And that had

(24) upwards of 200,000 miles on it. I take very good care of

(25) them and keep them up and that sort of thing.

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(1) But, when I got to - when I was going on the
(2) bench, I said, you know, it is time. I was looking around
(3) for a car. I would have a check coming in. I would have
(4) money coming in from distributions from my partnerships,
(5) terminations of accounts receivable, I guess, basically, and
(6) it was time. And it was around the end of the year, it was
(7) in December of '92. I was down at the local Cadillac
(8) dealer, and they made me an offer that - they say, "The
(9) offer you can't refuse." It was the end of the year. It
(10) was the last year's model. They would take it down to -
(11) I would say invoice, but I am not sure what the - very
(12) low and give you all of the little goodies on it for cost -
(13) (Discussion off the record.)
(14) A: They would take it down as far as they could,
(15) add the goodies on for cost or something close thereto. And
(16) so I decided I wanted to buy it. It was one of those things
(17) that happened. I had looked a couple of times and I went
(18) back, and they said, "We found one that we think meets your
(19) criteria and here it is." And I think that was either - it
(20) was probably just before Christmas.
(21) Q: How was it that you came to be dealing with that
(22) particular dealership?
(23) A: It was the only Cadillac dealership in Pierce
(24) County.
(25) Q: Had anyone suggested that you contact that

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(1) dealership?
(2) A: Particularly, no. I mean, Mr. Hamilton may have.
(3) I don't know. I mean, he owned a Cadillac. I knew that.
(4) Q: Didn't Mr. Hamilton suggest to you that you
(5) contact these people about purchasing a Cadillac?
(6) A: We may have talked about it, but I also talked to
(7) Lincoln - I was looking at two cars, primarily. I was
(8) looking at a Lincoln Continental, which was a brand-new
(9) Continental of that year, and at the Cadillac. I went to
(10) Titus - not Titus-Will That was - Bill Gill
(11) Lincoln/Mercury.
(12) Q: Do you have a recollection of talking to
(13) Mr. Hamilton about this before you went to the dealership?
(14) A: Before I went to the dealership?
(15) Q: Yes.
(16) A: I expect I might have because he had a Cadillac,
(17) and I asked him how he liked his Cadillac. I am sure I did,
(18) as a matter of fact. I am sure I did ask him about how he
(19) liked his Cadillac.
(20) Q: Did you talk to him about the particular
(21) dealership?
(22) A: Particular dealership?
(23) Q: Yes.
(24) A: I can't recall that I did, but, you know, I may
(25) have because, like I said, unless you are coming to Seattle or

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(1) going perhaps to Olympia - and I don't even know who the
(2) dealers are. Frederick Cadillac sticks, the name, because I
(3) have seen the advertising, but I don't know who any of those
(4) folks are.
(5) Q: At that time was there only one Cadillac
(6) dealership in Tacoma?
(7) A: Yes. To my knowledge, that is still all there is.
(8) Q: How is it that Mr. Hamilton began making payments
(9) on the Cadillac?
(10) A: The - I bought the car. I went in on - they
(11) said they made the deal they said I can't refuse. I said
(12) okay. That is the one for me. The price is right. I went
(13) to the bank, Sound Bank, which I had been banking with, and
(14) I said, "I want to buy a car" - and this happened in the
(15) term of an afternoon - "and the price is" - and I think
(16) now I think it was \$36,117, and 117 was the - an add-on
(17) option that I forgot about or that we miscommunicated on.
(18) And they said, "Fine." They gave me a cashier's
(19) check at the time because I was leaving town. I think I was
(20) going to San Francisco or something in between Christmas and
(21) New Year's, and they wanted a check; they wanted to clear
(22) inventory, whatever reasons they gave me. They wanted it
(23) ahead of time, and I took delivery after the first of the
(24) year.
(25) Anyway, I got the check; signed the note, whatever

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(1) it is; went away, came back. And, after the first of the
(2) year, when I took delivery of the car, went out to the bank,
(3) and my recollection is I took - I had a \$9,000 distribution
(4) check from one of my partnership - one of the partnerships.
(5) I think it was Tuell, Anderson, Fisher & Koppe. And I took
(6) that in to pay down - the way I have almost always dealt
(7) with them and at Western Community Bank, I make payments in
(8) what I call hunks and globs sometimes. It depends on where
(9) the money is at and when I have it. I came in and I paid
(10) down \$9,000 figuring that would hold it for a while until
(11) the next hunk or glob came along.
(12) It was after that that Bill - Mr. Hamilton said
(13) - and I don't remember an exact conversation - said, "What
(14) are your payments," and, I said, "They are \$800 a month."
(15) It was kind of the effect he said, "Well, I would like to
(16) make some of those payments for you."
(17) Q: How did he know you had purchased a Cadillac?
(18) A: I drove up in it. I got the financing at that
(19) bank. I don't think it was any secret. I probably told
(20) him, you know, I said I am taking delivery or I got delivery
(21) or here it is.
(22) Q: Where did this conversation take place?
(23) A: I can't tell you that. I don't remember.
(24) Q: Do you recall who was present?
(25) A: No.

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(1) Q: To the best of your recollection, what did
(2) Mr. Hamilton say with regard to making car payments?
(3) A: He just says, "I will make some for you." He
(4) didn't - there was no - it was an open end, and he said,
(5) "As far as" - I said - I said, "There is no obligation, no
(6) reason to."
(7) And, he said, "I want to do it."
(8) In fact, I remember - whether it was that first
(9) one or a subsequent one saying "Are they a gift?"
(10) "They are a gift."
(11) And it was - you know, he said, "You know, I will
(12) make some and I will just quit - I will let you know when
(13) they are not going to be made."
(14) And, I said, "Thank you very much," and that was
(15) literally about the end of it.
(16) Q: Did it surprise you?
(17) A: Yeah. Yes, it did.
(18) Q: Did he tell you who would be making the payments?
(19) A: No, he did not.
(20) Q: Did you ask him?
(21) A: No, I did not.
(22) Q: Did you ask him how the payments would be made?
(23) A: No, I did not.
(24) Q: How did you satisfy yourself that the payments
(25) were in fact being made?

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(1) A: I suppose neither he nor the bank or anybody told
(2) me they weren't and I never asked any questions. I mean, if
(3) he told me, as he ultimately did, saying, "I am not going to
(4) make any more payments," then we took care of it. Up to
(5) that point, I never asked, and the bank never said anything.
(6) I had funds if it were necessary to make them.
(7) Q: Did you get any kind of statement from the bank
(8) indicating payments were being made?
(9) A: No.
(10) Q: Any kind of documentation, whatsoever, indicating
(11) payments were being made?
(12) A: No.
(13) Q: Did you understand that the payments were being
(14) made, not by Mr. Hamilton individually, but by Pacific
(15) Recreation?
(16) A: No.
(17) Q: When did you learn that the payments had been made
(18) by Pacific Recreation?
(19) A: Just recently.
(20) Q: How recently?
(21) A: Within the last - I can't give you an exact time.
(22) I am going to say within the last two or three months.
(23) Q: How did you learn that?
(24) A: Actually, I asked him. I think you subpoenaed the
(25) banks records, something to that effect. I can't remember

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(1) precisely, but he gave me a copy of the payment schedule
(2) that they got from someplace. It was a recent time.
(3) Q: How, in the course of that conversation, did you
(4) learn that the payments had been made by Pacific Recreation?
(5) A: I looked at the payment schedule, and it says on
(6) there - I don't know if it is automatic payment or check,
(7) but there is some indication on there that they are made by
(8) Pacific Recreation.
(9) Q: Did you discuss with Mr. Hamilton the fact that
(10) Pacific Recreation had booked these payments as an expense,
(11) as opposed to a gift?
(12) A: I did not know that at the time.
(13) Q: Did you subsequently learn that?
(14) A: I subsequently learned that.
(15) Q: When did you learn that?
(16) A: About the same time that I learned that payments
(17) were - how the payments were being made.
(18) Q: And from whom did you learn it?
(19) A: From him.
(20) Q: What did he say?
(21) A: Something to the effect - I said - I can't
(22) remember the conversation, but he said, "Yeah, well, that is
(23) how I handle it is my affair," something to that effect.
(24) Q: Were you surprised?
(25) A: Yes.

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(1) Q: What did you say to him?
(2) A: I said, you know, "Bill" - because before that, we
(3) had had the conversation that led up to the affidavit where
(4) he said it was a gift. And I thought it was a gift. And I
(5) had discussed it with my accountant that it was a gift. And
(6) I don't know that he said much of anything except that is
(7) the way I chose to do it.
(8) Q: Who is your accountant?
(9) A: Kevin Iverson.
(10) Q: When did you discuss the Cadillac payments with
(11) Mr. Iverson?
(12) A: I can't tell you, some time ago, I think when I
(13) was doing my income tax return or sometime thereabouts.
(14) Q: Was it near the time that Pacific Recreation first
(15) began making payments, or was it sometime after that?
(16) A: It would be sometime after that.
(17) Q: Why were you discussing it with your accountant?
(18) A: Because I think it was probably a year after that,
(19) when I was doing my income tax for '93; so it was probably
(20) in '94. I can't tell you the timing.
(21) Q: So, you were aware, at the time you were doing
(22) your '93 tax returns, that these payments were coming in on
(23) an ongoing basis?
(24) A: Yeah. I assumed that they were.
(25) Q: You had a question for your accountant as to

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(1) whether these payments were income to you?
(2) A: Yes, that would have been the gist of the
(3) discussion.
(4) Q: What did your accountant say?
(5) A: He said - I am going to paraphrase now because I
(6) think the question went along the line: Did you do anything
(7) for him; did you bill for him; are they income - did you
(8) consider them as income to you? I said no. I had asked and
(9) they were a gift. He asked whether I considered them as a
(10) gift. And he basically said: Fine; don't worry about it.
(11) Q: Did you ever report the fact of these payments on
(12) your public disclosure forms?
(13) A: I don't believe I did.
(14) Q: Why not?
(15) A: As I read that, it said on - I can't remember
(16) what it said on there precisely, but it was to the effect,
(17) if they are gifts that are not made to influence -
(18) legitimate gifts not made for purposes of influence or
(19) gaining stature or position, they were not necessarily
(20) reportable.
(21) Q: In connection with making that determination, did
(22) you also consult the Code on Judicial Conduct?
(23) A: I don't know that I did.
(24) Q: Did you personally fill out your public disclosure
(25) forms over the years, or did you delegate that task to

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(1) someone?
(2) A: No. You say did I delegate it, did I fill it
(3) out. Yes, I wrote them out, in part, and then either - I
(4) can't tell you who typed it. I expect my wife did at least
(5) - I think my wife typed it.
(6) Q: Did you read them before you signed them?
(7) A: I am sure I did.
(8) Q: You wanted them to be accurate?
(9) A: Yes.
(10) Q: Now, these payments began in early 1993; is that
(11) right?
(12) A: That would have been correct.
(13) Q: And they continued throughout all of 1993?
(14) A: Yes.
(15) Q: And, in the fall of 1993, you were still serving
(16) as president of Hoffman-Stevenson Incorporated?
(17) A: Yes.
(18) Q: And, in the fall of 1993, Hoffman-Stevenson sold
(19) certain bowling-alley-related assets to Pacific Recreation,
(20) correct?
(21) A: Yes.
(22) Q: And during the pendency of that sale, you were
(23) receiving payments from Pacific Recreation?
(24) A: I was - the sale had taken place back in 1992 or
(25) early - mid '92, I believe. I was technically president

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(1) in '93 for purposes of wrapping things up. Mr. Fisher did
(2) all of the negotiations; all of the representing of any
(3) Hoffman-Stevenson interests. The only thing that I did was
(4) sign, early on, some documents that had been negotiated by
(5) myself before going on the bench - to clean things up and,
(6) later on, when Mr. Fisher said, "We have concluded whatever
(7) we are doing; sign the deed," I did. And I had no
(8) participation whatsoever in the sale after 1992 with the
(9) exception of signing some documents.
(10) Q: As president of Hoffman-Stevenson Incorporated,
(11) at the time of the final sale in the fall of 1993, did you
(12) make any effort to determine the nuts and bolts and terms
(13) and conditions of the documents that you were signing on
(14) behalf of Hoffman-Stevenson, Inc.?
(15) A: Only to the extent Mr. Fisher told me, as trustee
(16) of the Hoffman trust, that he had negotiated with
(17) Mr. Hamilton, had been in contact with the hospital board
(18) and whoever I think - that is all I can recollect - and
(19) that things were - they had agreed to take a discount and
(20) things were completed. I knew that - I just didn't sign
(21) them blindly, but I had no participation in how they got
(22) there.
(23) Q: Did you disclose to Mr. Fisher the fact that
(24) payments on your part were being made by Mr. Hamilton and/or
(25) an entity controlled by Mr. Hamilton?

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(1) A: I don't know that. Not that I recollect, but I
(2) don't recall.
(3) Q: Did you tell anyone?
(4) A: Perhaps my wife.
(5) Q: Other than your wife, did you tell anyone else?
(6) A: Not that I can recall.
(7) Q: Why not?
(8) A: That was my business. Did I tell anybody else -
(9) I did tell my lawyer who represented me in my dissolution.
(10) Q: That is Bill Rush?
(11) A: Yes.
(12) Q: Why did you not tell Mr. Fisher?
(13) A: I don't know that I did or didn't, but I didn't
(14) know that it was anybody's business.
(15) Q: As a fiduciary to Hoffman-Stevenson, Inc., did you
(16) not feel an obligation to disclose to the trustee that you
(17) were receiving payments from someone with whom
(18) Hoffman-Stevenson, Inc., was transacting business?
(19) A: I was not - I was a fiduciary only in the sense
(20) that he asked me to stay on to sign the documents. In fact,
(21) he said, when he took over the trustee, as trustee, when the
(22) estate was closed, that there were several negotiations,
(23) deals, that had been struck relative to the condos,
(24) particularly, in the operation down there, and, he said, "Do
(25) you know what they are?" He said, "I don't specifically

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(1) know what they are." He said, "I would like you to stay on
(2) to, at least, sign them."
(3) And, I told him, "I can't and won't take any
(4) responsibility for operating or negotiating," and, he says,
(5) "That is fine; I will take all of that."
(6) Q: My question, though, was -
(7) A: Did I feel an obligation to? I don't know that it
(8) - it didn't make any difference. I don't - I guess I
(9) didn't feel any compunction to - it didn't make any
(10) difference. I wasn't doing anything at that juncture,
(11) forward and afterwards, I mean, after Mr. Hamilton made that
(12) offer, and, in fact, did it.
(13) About the only thing that I did in that
(14) relationship with him is, in fact, sign the deed, and I
(15) believe that Mr. Fisher indicated that, after the - after
(16) things had initially settled down, I frankly did not get
(17) around to removing me as president, if that is the right
(18) word, or accepting a resignation, and I just kind of coasted
(19) on the books for a period of time. All a sudden, when they
(20) made their - completed their negotiations and he said,
(21) "Grant, you are still the president. Sign these documents
(22) and then resign"; that is what I did.
(23) Q: How about in February and March of 1993, you were
(24) receiving payments on your Cadillac from Mr. Hamilton at
(25) that time, correct?

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(1) A: Probably. I would say yes.
(2) Q: You were also actively negotiating with him
(3) concerning price adjustments on the Pacific Lanes sale, were
(4) you not?
(5) A: No. I don't believe so. Not that I recall.
(6) (Exhibit 1 marked
(7) for identification.)
(8) Q: Do you know whose writing appears on Exhibit No. 1?
(9) A: No.
(10) Q: Have you ever seen Exhibit No. 1?
(11) A: I don't know that I have, and I don't know that I
(12) haven't. I have no recollection of seeing it.
(13) Q: Do you have a recollection of being involved in
(14) discussions that are apparently reflected on Exhibit No. 1?
(15) A: Not that would have taken place after in March.
(16) Any discussions that might have taken place would have been
(17) prior to that, at the time of sale in '92, when he took over
(18) operation of the lanes for a period of time when the liquor
(19) license and the gambling license - and I think those were
(20) the two primary licenses - were being transferred, and
(21) there was a period of time when that was to - necessary and
(22) the accountant made the adjustments afterwards. It was some
(23) adjustments that would be taking place after the operation,
(24) depending on the profit or loss during that period of
(25) operation, until closing.

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(1) And I may have had discussions early on at that
(2) closing time in '92, but, after that, these would have been,
(3) as near as I could tell, accounting adjustments by the
(4) accountant at some later date, and it says "March." I would
(5) have no reason to question that.
(6) Q: Up at the top, it says "Pacific Lanes Purchase
(7) Price Adjustments Per Discussions With Grant Anderson and
(8) Bill Hamilton?"
(9) A: Yes, I see that.
(10) Q: Did you have any such discussions after January 1,
(11) 1993?
(12) A: I don't believe so, not to my knowledge.
(13) Q: Is it your recollection that the discussions
(14) reflected herein took place prior to December 31st of 1992?
(15) A: Yes.
(16) Q: Now, some of these entries reflect events that
(17) took place after January 1 of 1993. For example, "Really
(18) took possession January 1, 1993; installment on the First
(19) Interstate loan; January Mildred Hoffman payment." Does
(20) that refresh your recollection as to whether you had any
(21) discussions relating to this after January 1, 1993?
(22) A: No, I don't think I did. I really think those
(23) were things that he was going to do in the operation and
(24) that the accountant made these adjustments. I do not recall
(25) any discussions with him that took place after January '93

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(1) that would have even been reflected on here. There were
(2) some operational discussions that took place of what he was
(3) going to do during the operating period that would be
(4) adjusted up to closing. I guess you would call it.
(5) Q: Who was this accountant?
(6) A: This accountant?
(7) Q: Yes.
(8) A: I am not sure whether it would be Gary Friend or
(9) Kevin Iverson. I don't know.
(10) Q: As I understand this sheet - and maybe you can
(11) help me - the original purchase price was \$300,000, and
(12) these are adjustments?
(13) A: That is what they appear to be.
(14) Q: On the "Add Back" entries, what is the purpose of
(15) those?
(16) A: Which is that?
(17) Q: If you look below "September Through December
(18) Profit," there are three line items under "Add Back: Fair
(19) market rent, depreciation (non-cash)"; what are those?
(20) A: I don't know. I mean, I truly do not know.
(21) Q: Who was in charge of this issue for
(22) Hoffman-Stevenson, Inc., if not you as president?
(23) A: Mr. Fisher was doing all of the operating and
(24) negotiating - if that is what the word is, and I don't know
(25) if there was, at this juncture, negotiating. These were I

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(1) want to say accounting adjustments. I don't -
(2) Q: There is an entry for "Excess Legal and
(3) Accounting." I am not a transactional lawyer, but that
(4) strikes me as an unusual entry for an adjustment. Do you
(5) know what that is?
(6) A: I am going to guess at this point.
(7) MR. BULMER: Don't guess.
(8) A: I guess I cannot guess then.
(9) Q: Do you have any idea what that represents?
(10) A: It may - I don't know.
(11) Q: By some point did Pacific Recreation stop making
(12) payments on the Cadillac?
(13) A: Yes.
(14) Q: How did that happen?
(15) A: Mr. Hamilton one day said, "You know, you are in a
(16) dissolution. I know both you and your wife. I know she
(17) thinks I am part to blame" or some such thing and "I don't
(18) want to be in the middle of it; I want to terminate what I
(19) was doing."
(20) I said, "Thank you."
(21) Q: When he said terminate what he was doing, what did
(22) he mean?
(23) A: Quit making the payments. And, I said, "Fine. I
(24) will pay off the balance," and he said, "I sure give me a
(25) number." And I believe he did. And I think it was near

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(1) putting things back together. I think it was right near the
(2) end of May. It was at the Memorial Day period. I was
(3) leaving for Arizona. I did leave for Arizona and went down
(4) and spent I think it was a week or ten days, some period of
(5) time, with my brother and came back and then I - he said,
(6) the balance, I think, was \$8,000 - strikes me, and I said
(7) "Fine," and I paid him.
(8) Q: You paid him?
(9) A: Yes.
(10) Q: Who made the final payment on the car then to the
(11) bank?
(12) A: Mr. Hamilton did. I gave Mr. Hamilton the money.
(13) Q: So you gave Mr. Hamilton the money?
(14) A: Yes.
(15) Q: And then he paid the bank?
(16) A: One way or the other. I don't know who paid who
(17) when. As I recall, seeing the payment record, he probably
(18) paid it first, and I paid him later, but that was kind of
(19) loose when I went to - because I was leaving for Arizona
(20) when we had our conversation or close to it. And I did.
(21) And when I came back. He says \$8,000 and I gave him the
(22) cash and that was it.
(23) Q: If he had told you he no longer wanted to be
(24) involved, why did he make the final payment, final lump-sum
(25) payment?

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(1) A: I don't know. You know, I just said to him, "That
(2) is fine; I will pay it off. You give me a number." And, he
(3) said, "Yes, I will." And he did. And I can't remember
(4) whether he said, "I have paid it" or whatever, and, I said,
(5) "Fine," and I gave him the money.
(6) Q: Where did you get the funds that you gave to
(7) Mr. -
(8) A: Part of it was cash that I had. Some - most of
(9) it was cash that came from the lady that I was in - the
(10) principal person in my life.
(11) Q: How did that work?
(12) A: How did it work?
(13) Q: What happened?
(14) A: She gave me cash. She was, frankly, living with me.
(15) I had - in my dissolution process, my wife had - backing
(16) up, had indicated that, you know, she had - I had the car.
(17) There is a value to the car in that process. She says, "I
(18) know there is money owed on it, but I also know Mr. Hamilton
(19) is paying."
(20) So, I said, "Just take that out of the picture. We
(21) will put the car in at full value and forget any
(22) obligation on the deduct side over here." When I made those
(23) comments to her, I had no idea that he was going to stop
(24) making payments or otherwise because he had no obligation to
(25) do that.

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(1) And, she says, "We will keep it clean. I have some
(2) money." I had done work on her home. I had paid for the
(3) trip to Arizona. It was kind of a quid pro quo. It was a
(4) long-term relationship and still is.
(5) Q: How did your wife know that Mr. Hamilton had been
(6) making payments on the Cadillac?
(7) A: I told her.
(8) Q: When he first began making payments on the
(9) Cadillac, did you tell her at that point?
(10) A: I expect I did.
(11) Q: What did you tell her?
(12) A: I just told her - I can't remember precisely. I
(13) probably said, you know, "Bill said he is going to pick up
(14) the payments," something to that effect. I don't know
(15) precisely what I told her.
(16) Q: The final \$8,000, did you pay that to Mr. Hamilton
(17) or did Ms. Kelbaugh pay that?
(18) A: No, I did.
(19) Q: You are sure about that?
(20) A: Yeah, I am.
(21) Q: Is it possible Ms. Kelbaugh made the payments and
(22) you repaid her?
(23) A: Had she made payments? You mean, made the payment
(24) and I repaid her?
(25) Q: Made the payment to Mr. Hamilton.

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(1) A: I have not - when you say "repaid her," that is a
(2) nebulous term. I have not written checks back to her for
(3) any sum of money. As I said, I have paid for her travel. I
(4) have paid living expenses. I have worked on her home,
(5) provided some remodeling expenses; paid some expenses.
(6) Q: Is it correct that, of the \$8,000 that you paid to
(7) Mr. Hamilton, that Ms. Kelbaugh was the source of some of
(8) those funds?
(9) A: Yes.
(10) Q: You didn't repay her?
(11) A: Not directly, no. Not in terms of did I pay her
(12) back checks, no.
(13) Q: Did you ever tell your wife that the Cadillac
(14) payments were a commission as to the sale of Pacific Lanes
(15) to Mr. Hamilton?
(16) A: No, because they weren't.
(17) Q: Did you ever make any statements to that effect to
(18) your wife?
(19) A: Not that I am aware of. I don't know why I would
(20) have because they were not.
(21) Q: When Mr. Hamilton originally told you he would be
(22) making payments on the Cadillac, did he say for what
(23) duration or what time period?
(24) A: No, he did not.
(25) Q: Did he tell you he would be making payments for

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(1) one year?
(2) A: I don't recall any period of time. I mean, he had
(3) no obligation to make any payments.
(4) Q: Was Mr. Hamilton the person who first told you
(5) that this dealership had this particular Cadillac for sale?
(6) A: No. This particular Cadillac, I think, came out
(7) of inventory someplace else. I looked out there before -
(8) I don't know where it came from.
(9) Q: Did Mr. Hamilton tell you you would be able to
(10) obtain a good deal if you went to this dealership to
(11) purchase a Cadillac?
(12) A: You say "good deal" - I don't know that I could get
(13) any better deal there than I could any other place. Like I
(14) say, they are the only one in Pierce County - not in Pierce
(15) County; they may be the only one in Pierce County, the only
(16) one in Tacoma; the only one that I would consider dealing
(17) with, for service purposes, and otherwise.
(18) Q: I understand that. Did Mr. Hamilton tell you you
(19) would be able to obtain a good deal on a Cadillac from this
(20) dealership?
(21) A: I don't recall that he ever said that. He may
(22) have, but not that I recall.
(23) Q: The conversation where Mr. Hamilton told you he
(24) was going to discontinue making payments on the Cadillac,
(25) where did that take place?

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(1) A: I believe that took place in his office.
(2) Q: How was the meeting arranged?
(3) A: They are not arranged. Sometimes, if I go out to
(4) the bank, I just see if he is in. He happened to be in. I
(5) mean, I don't know that he called or made an appointment or
(6) anything of that nature. It just took place.
(7) Q: How did the subject come up?
(8) A: He brought it up.
(9) Q: Tell me, as best you can recall, what he said.
(10) A: Something to the effect, "Grant, you know, I have
(11) been doing this. We have been friends. Diane has been a
(12) friend. I don't want to get drug into the dissolution. In
(13) fact, I am, you know, not going to be making any more
(14) payments."
(15) I said, "Fine. I really appreciate it. Thank
(16) you very much. Can you give me the pay-off figure so I can
(17) make arrangements to pay it off?"
(18) Q: Did he say he would be making the final lump-sum
(19) payment?
(20) A: I don't recall that he said that he would make the
(21) lump-sum final payment.
(22) Q: When did you learn that he had made the final
(23) payment through Pacific Recreation?
(24) A: I don't know how - that he made it through
(25) Pacific Recreation? I didn't learn that until recently.

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(1) Q: Putting aside the issue of which person actually
(2) made the final payment, as between Bill Hamilton or Pacific
(3) Recreation, when did you learn that the final lump-sum
(4) payment had been made -
(5) A: I think I probably -
(6) MR. BULMER: Let him finish his question.
(7) Q: When did you learn that the final lump-sum payment
(8) had been made?
(9) A: I believe when I got back from Arizona.
(10) Q: How did you learn that?
(11) A: I think he told me.
(12) Q: Did he tell you why he had made that payment -
(13) A: No. No.
(14) Q: Let me finish my question.
(15) A: I'm sorry.
(16) MR. BULMER: Now both of us have told you
(17) that. That is twice.
(18) Q: Did he tell you why the final payment had been
(19) made after he told you that he was not going to make any
(20) more payments?
(21) A: No.
(22) Q: Did you ask him to make that final lump-sum
(23) payment?
(24) A: No.
(25) Q: Do you know why he made that final lump-sum

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(1) payment of \$8,000?
(2) A: No.
(3) Q: I may have asked this: Did you ask him why he
(4) made the final \$8,000 lump-sum payment?
(5) A: No.
(6) Q: Did you even discuss that with him?
(7) A: Just the fact he said he had.
(8) Q: How did it come up that you would pay him back for
(9) that?
(10) A: I knew, before I left for Arizona, that I was
(11) going to pay off whatever it was, and he may have, at that
(12) time, given me an \$8,000 figure. I don't precisely recall.
(13) I know I had the number in mind. When I got back, I went
(14) out to pay it, and, he said, "I have taken care of it. You
(15) owe me," and, I said, "Fine."
(16) Q: Did you pay the 8,000 to him individually?
(17) A: Yes.
(18) Q: Not to the corporation?
(19) A: When you say individually, I had in cash. I
(20) don't know what he did with the money.
(21) Q: So, you paid him in cash, as opposed to a check?
(22) A: Yes. Yes.
(23) Q: Did you ever disclose the fact of these payments
(24) to Mildred Hoffman?
(25) A: Not that I can recall.

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(1) Q: Did you ever disclose the payment to anyone who
(2) was to be a beneficiary under the will and trust of
(3) Mr. Hoffman?
(4) A: Not that I can recall.
(5) Q: Why didn't you tell them?
(6) A: Who - I am not sure -
(7) Q: Mrs. Hoffman, for example, why didn't you tell
(8) her?
(9) A: Millie was very old, almost - not senile but
(10) bordering on it. She couldn't drive. I was just trying to
(11) keep her happy, placated. I never really discussed too much
(12) of anything with her about the operation.
(13) Q: Do you know Mr. Duncan McMillan?
(14) A: Yes.
(15) Q: How do you know Mr. Duncan McMillan?
(16) A: I can't tell you when or where. I have known him
(17) for years. I think I probably knew him at least in part
(18) through Mr. Hoffman down at the condos. I probably have
(19) known him at least passingly socially. I can't tell you
(20) whether or what - where I first met Mr. McMillan.
(21) Q: Were you aware when he originally acquired an
(22) interest in Unit 132 of the Surfside?
(23) A: I am not sure of the unit number. I can't tell
(24) you the number. In a general sense, I can only tell you
(25) what I had an understanding of before my time or when I was

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(1) operating - or when I was representing Mr. Hoffman but
(2) didn't necessarily have full knowledge of everything that he
(3) did.
(4) Q: What understanding did you acquire?
(5) A: Well, my understanding was that he gave him -
(6) MR. BULMER: He?
(7) A: Mr. Hoffman gave Mr. McMillan some - I am going
(8) to say use of some units, put them in his name, so that
(9) Mr. McMillan could be on the board directors of the owners'
(10) association with the idea, when he was no longer on the
(11) board of directors, it would be given back.
(12) Q: To your understanding, why did Mr. Hoffman want
(13) Mr. McMillan on the board of directors if he wasn't an owner
(14) of any units?
(15) A: It goes back many years. Mr. Hoffman built those
(16) condos. It was kind of his dream down there. He built the
(17) restaurant and the pool facility first. Then, subsequently,
(18) he built the condos, sold them, making all kinds, probably,
(19) of statements, at least implied warranties, warranties,
(20) what-have-you, to various folks, most of which he never
(21) carried through on. The buildings were getting in bad
(22) shape, ready to slide into the ocean - maybe not quite
(23) literally, but figuratively, but just about. He went round
(24) and round for several years with the owners' association
(25) with the people he had sold units to.

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(1) More than once he would send me to the annual
(2) meetings with his proxy because he literally didn't dare
(3) show up. With his proxy and the units he had, he could do
(4) anything that he wanted. I mean, it was one person, one
(5) vote. And that was it.
(6) There was one time, historically, he said, "The
(7) heck with them. Let them put on whoever they want," and
(8) they did. Somebody got on one week here and one week there,
(9) and it was the devil for him to deal with because these
(10) folks had their own agendas, and they wanted to sell
(11) computers to the condos and somebody else wanted to do
(12) something and nobody had any real interest in it. So he
(13) said that won't work. I want, for lack of a better word, I
(14) want - I will almost call him a puppet - somebody who will
(15) kind of do what I want to do and not be an obstructionist
(16) and not get in the way.
(17) Q: You understood, in effect, Mr. Duncan McMillan was
(18) a strawman for Mr. Hoffman?
(19) A: I suppose effectively, after the fact, is what I
(20) understood, yes.
(21) Q: When did you acquire that understanding?
(22) A: I can't tell you if it was before or after
(23) Mr. Hoffman died and Mr. McMillan was telling me "I am
(24) giving these back to you because I am not on the board and
(25) this is what happened." I am not sure if I learned it from

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(1) him or I might have learned it from Mr. Hoffman beforehand.
(2) I don't recall learning it from Mr. Hoffman. I remember, it
(3) seems to me, Mr. McMillan told me that after Mr. Hoffman
(4) died, and he said, "I have no use for them anymore. I will
(5) give them back." And that is when we transferred them.
(6) Q: That conversation took place within a few days of
(7) Mr. Hoffman's death?
(8) A: When you say "within a few days," within some
(9) relative period of time around there, yes. I can't tell you
(10) precisely.
(11) Q: On March 9, 1989 - Mr. Hoffman died when, on the
(12) 7th?
(13) A: It was March '89. That is all I can remember.
(14) Q: On March 9 of '89, you spoke to Mr. McMillan for
(15) 20 minutes about the Surfside units. Is that the
(16) conversation?
(17) A: That may have been the conversation. When you
(18) tell me that, if that is what the time record shows, then I
(19) probably did. I don't have any independent recollection at
(20) this time.
(21) Q: So you learned apparently, in that conversation,
(22) that Mr. McMillan's ownership of units had been as a
(23) strawman for Mr. Hoffman?
(24) A: I would suspect so.
(25) Q: Did you form a judgment at that time as to the

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(1) propriety of Mr. McMillan's acquisition of an ownership
(2) interest in those units or in the unit?
(3) MR. BULMER: Propriety?
(4) A: I don't think it was proper, if that is what you
(5) are asking me. I am not sure what you are saying when you
(6) say "the propriety."
(7) Q: You formed a judgment that would have been
(8) improper?
(9) A: Yeah. I would not have done the same thing, let's
(10) put it that way.
(11) Q: And you knew Mr. McMillan had not paid any money
(12) for his interest?
(13) A: That is what I found out at that time.
(14) Q: Are you absolutely certain you didn't know about
(15) his acquisition of an interest contemporaneous with the
(16) acquisition of the interest?
(17) A: Oh, you mean, way before that time?
(18) Q: Back in '85.
(19) A: I don't have any recollection of it. I don't
(20) believe so, not that I am aware of.
(21) Q: You arranged that Mr. McMillan would give back his
(22) interest in the unit to Hoffman-Stevenson, Inc.?
(23) A: Yeah, I think that was a mutual agreement. He
(24) said, "You know, they weren't mine really to begin with and
(25) I don't have any" -

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[1] Q: Okay. It was agreed there would be no payment by
[2] Hoffman-Stevenson, Inc., to Mr. McMillan for that interest?
[3] A: The only expense I think there would have been
[4] would have been probably some transfer fees.
[5] Q: You did not negotiate to pay him \$14,100?
[6] A: Did not.
[7] Q: And Hoffman-Stevenson did not pay him
[8] \$14,100?
[9] A: Did not. Not to my recollection, I don't believe
[10] so.
[11] (Exhibit 2 marked
[12] for identification.)
[13] Q: Do you recognize Exhibit No. 2?
[14] A: Yes, I do.
[15] MR. BULMER: Look at all of it. Don't just
[16] look at the cover. At least look at more than the first
[17] page.
[18] Q: Do you recognize the first page of Exhibit No. 2?
[19] A: Yes, I do.
[20] Q: That is your signature on it?
[21] A: Yes, it is.
[22] Q: And this was filled out before you signed it?
[23] A: Yes, it was.
[24] Q: And you read it before you signed it?
[25] A: I am sure I did. I have no independent

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[1] recollection of any of that, but typically, I would not sign
[2] them in blank, so -
[3] Q: And you represent there that the sales price was
[4] \$14,100?
[5] A: That is what it says.
[6] Q: Yes.
[7] A: I don't recall - typically, I talk to the excise
[8] tax people. Whether that was assessed value or whether that
[9] was - I don't know where that number came from.
[10] Q: Is it correct there was no gross sales price of
[11] \$14,100?
[12] A: That is true.
[13] Q: Is it correct that that entry is incorrect?
[14] A: It is not on a closing statement that shows - it
[15] shows a sales price. That may have and often is, when you
[16] are dealing with sales tax and those rules and regulations,
[17] change or have changed over the years, whether you are
[18] forgiving an indebtedness or whether it is real or not. I
[19] have a totally unrelated transaction where I have a partner
[20] - we have got an undivided half-interest in a unit, and
[21] then we each bought an undivided half-interest in one and we
[22] wanted to quitclaim each other's to clean them up.
[23] That was in Lewis County and the excise tax says,
[24] no, you have to pay excise tax on the full assessed value of
[25] each conveyance, one to the other, even though it is a

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[1] cashless transaction and that may well have been the
[2] situation there. That is a number that the excise tax
[3] people said, for whatever purpose, you have to pay tax on.
[4] Q: At the time that you signed this Exhibit No. 2,
[5] the first page, you knew that no sales price had been paid?
[6] A: Yes.
[7] Q: You, nonetheless, signed it?
[8] A: When you say "sales price" -
[9] Q: Let me rephrase.
[10] A: It says "taxable sale price." That might be
[11] different than an actual sale price.
[12] Q: Let me rephrase. You knew, at the time that you
[13] signed this, that no money had been paid to Mr. McMillan?
[14] A: Yes.
[15] Q: And you knew, at the time that you signed this, that
[16] you were representing that there was a gross sales price of
[17] \$14,100?
[18] A: Again, I talked to, as I indicated to you - I
[19] would think at that time I talked to the excise tax people.
[20] If I put down zero, they would say that is not acceptable
[21] because there is something or some rule or some forgiveness
[22] because there was a request for reconveyance of the deed of
[23] trust that went with it. There is some - I am looking for
[24] the right word - some consideration. And that was the
[25] consideration that they indicated, whether - and, as I

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[1] said, I don't know whether that in fact was the assessed
[2] value which I know some counties - and I don't have any
[3] independent recollection here - use when they do these
[4] transactions and they are cashless transactions. They are
[5] interested in collecting their tax. If they say the
[6] assessed value is this, we will multiply it times six,
[7] whatever the number of units were, and that is the number we
[8] will use. If that is the number they used, we said, "Fine,
[9] we will pay the tax based on that and we will sign it."
[10] Q: Do you recall who you talked to?
[11] A: No, I do not. I mostly talked with Charlie Mills
[12] at Pacific Title, Pacific County Title.
[13] Q: Did you disclose to anyone that this transaction
[14] was intended to remove a strawman from the board?
[15] A: I don't know. I probably did, but I don't know
[16] whether I told Charlie Mills that or whether I told anybody
[17] that. I, frankly, don't recall. I don't think it was any
[18] secret, but you say did I disclose? I can't remember that
[19] I talked to anybody and said this is what happened. I was
[20] just trying to clean things up because they were in such a
[21] bad state.
[22] Q: Did you disclose to anyone on the board of
[23] directors that you were trying to get a strawman off the
[24] board?
[25] A: He was off the board before then.

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[1] Q: Did you disclose to the board of directors that
[2] his tenure on the board had been in the capacity of a
[3] strawman for Mr. Hoffman?
[4] A: I don't know whether I did or didn't.
[5] Q: Why was the transaction, whereby Mr. McMillan
[6] returned the units, why was it done as a quitclaim deed?
[7] A: I can't tell you at this time.
[8] Q: Was that a function of the fact that his initial
[9] acquisition had been under questionable circumstances?
[10] A: I don't have a clue. What I do see is it was
[11] notarized by Cathy Livingston who was down at the - the
[12] manager at the ocean. She may have typed it up when she was
[13] - when he was down there and he probably signed it down
[14] there if she notarized it when he was down there for some
[15] purpose.
[16] Q: Isn't it correct you would have been the one who
[17] determined it would be done as a quitclaim deed as opposed
[18] to a warranty?
[19] A: I suppose, if I had been asked, I might have.
[20] Q: Do you believe you were asked?
[21] A: I don't - I don't believe I was. I believe I
[22] checked with the title company and they said - which I did
[23] regularly when I went down to the ocean, which I often did
[24] in the early days, particularly - I regularly stopped by
[25] the title company and tried to clear up, a piece at a time,

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[1] a number of the units that had problems. And Mr. Mills
[2] would often go back and pull the files on the spot and say,
[3] "Our records show that." I have no independent
[4] recollection. Mr. McMillan was saying, you know, "I got it
[5] for free, and I am going to give it back for free, and I am
[6] not warranting anything."
[7] Q: How was this transaction handled on
[8] Hoffman-Stevenson's books?
[9] A: I don't recall.
[10] Q: Would you have been the one who would have taken
[11] care of that?
[12] A: Did I make entries? No. Did I give the
[13] information to the accountants? Yes. Do I have an
[14] independent recollection of how it was handled? No.
[15] Q: When we met with you approximately two months ago,
[16] you told us you had no recollection, whatsoever, of this
[17] transaction. What did you do to refresh yourself, refresh
[18] your recollection, as to this transaction?
[19] A: Looked at these documents from when you had asked
[20] Mr. Bulmer for documents regarding this. He went through or
[21] requested, I think, the Fisher, Koppe office to get
[22] documents and they got these documents and I looked at them.
[23] Q: Who actually prepared the first page of Exhibit
[24] No. 2?
[25] A: I don't - the excise tax statement?

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(1) Q: Excise tax affidavit.
(2) A: Affidavit - I don't know.
(3) Q: Would it have been someone who acted under your
(4) direction?
(5) A: Probably or could - I mean, it could have been in
(6) my office. It could have been at the beach by
(7) Ms. Livingston, or it could have been the title company. I
(8) just don't know.
(9) Q: Putting aside this particular transaction, you are
(10) aware that the excise tax affidavits are then filed in the
(11) county in which the transaction took place -
(12) A: Yes.
(13) Q: - and that anybody can take a look at these and
(14) determine the purchase price?
(15) A: When you say "determine the purchase price," I
(16) suppose, if you want to say that is the purchase price, that
(17) is the number that I put down that the excise tax people
(18) said was the appropriate number to pay tax on and that, to
(19) their minds, was the appropriate consideration and that is
(20) what went down. I don't know that they are put down there
(21) for the purpose of telling other people values.
(22) Q: You are aware, though, that other potential
(23) purchasers sometimes look to these to see what prices have
(24) been paid?
(25) A: I assume they can. I don't know.

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(1) Q: I have looked at the prices that were being paid
(2) at or around this time period for these units, time-share
(3) interests. This price appears to be substantially higher
(4) than any other price that was being paid. Do you know why
(5) that is?
(6) A: No. Do you know the assessed value at that time?
(7) Q: Not off the top of my head.
(8) A: Okay. That is the only one that sticks in my mind
(9) as a possible. I have no idea where the dollar figure came
(10) from, other than potentially that.
(11) Q: Ultimately, you individually ended up owning some
(12) of the time-share intervals in 132 that Mr. McMillan
(13) conveyed back to Hoffman-Stevenson and you acquired those
(14) from Louise Pagni?
(15) A: Yes.
(16) Q: What form of payment did you make to Ms. Pagni for
(17) those interests?
(18) A: I gave her a check for \$4,000.
(19) Q: And you would still have the cancelled check?
(20) A: I can get a copy of it. My particular account
(21) does not give back checks, but I am sure I can.
(22) Q: All right.
(23) MR. BULMER: Is this a good time to take a
(24) short break?
(25) MR. TAYLOR: That is just fine.

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(1) (Short recess.)
(2) Q: Going back to the excise tax affidavit, the person
(3) who gave you the \$14,100 number, did you tell them the
(4) circumstances of the transaction?
(5) A: I would probably have told them it was a cashless
(6) transaction. I don't know if I would have explained the
(7) basis or why. I do not recall at this time.
(8) Q: Did you tell them Mr. McMillan never had a
(9) legitimate ownership interest in the first instance?
(10) A: I am not sure I would have gone into that kind of
(11) detail with anybody. Just that it was cashless; he was
(12) giving it back.
(13) Q: Is it fair to say that whoever you had secured
(14) that number from was not given the complete information
(15) about the nature of the transaction?
(16) A: When you say "complete information," whoever "they"
(17) might have been was given sufficient information for
(18) whatever the determination was.
(19) Q: Whatever information you gave them, you did not
(20) tell them of your judgment that he had not properly acquired
(21) an ownership interest in the first instance?
(22) A: You are putting words in my mouth because I am not
(23) sure he did improperly acquire one, either. I am not sure
(24) it is improper for somebody to give somebody a unit. I
(25) didn't make that - I am going to back up from what I said a

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(1) little bit ago. I may have made that statement, but I am
(2) not sure it was or wasn't improper. It was a fact; it was
(3) done; it was history by the time I got there. I was getting
(4) units back for the estate. He said, "I have no interest in
(5) them. It is cashless. I am just going to give them to
(6) you"; end of story. Did I make a federal case out of it?
(7) No.
(8) Q: The fee affidavit that you submitted, in December
(9) of 1992, was that supposed to represent all the attorney's
(10) time that had been devoted to the matter of the estate?
(11) A: It represented all of the time that I wrote down.
(12) I probably missed a lot of time. This particular estate
(13) ended up having more worms than most, by far, and I am sure
(14) I missed a lot of time, but that that I wrote down was
(15) included in that affidavit.
(16) Q: Were there any types of time or segments of time
(17) that were devoted to this that were intentionally excluded
(18) from the fee affidavit?
(19) A: Not intentionally excluded, no.
(20) Q: The management fees that were charged to
(21) Hoffman-Stevenson/Surfside Pacific, were those attorneys'
(22) fees?
(23) A: Yes. Yes. Those were all - yes, included within
(24) that fee.
(25) Q: Within this fee?

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(1) A: Whatever got approved ultimately, yes.
(2) Q: How do you mean "included"?
(3) A: When we accounted for the final fee in the end,
(4) all of those fees that had been paid, on an ongoing basis,
(5) all along were deducted.
(6) Q: The order approving the fees authorized the
(7) payment of - the decree of distribution authorized payment
(8) of \$112,094.25.
(9) A: Uh-huh.
(10) Q: Let me ask it this way: Following the entry of
(11) the decree, how much money was paid?
(12) A: I can't tell you. I mean, from an accounting
(13) standpoint, it was not a check for \$112,000 or whatever that
(14) number was. It was that number less the monies that had
(15) been paid all along out of the estate on an ongoing basis.
(16) And if there was a balance, it was paid.
(17) Q: So, the ongoing management fees were deducted from
(18) the \$112,000?
(19) A: Yes.
(20) Q: Is that typical, in an estate situation, that you
(21) are paid on an ongoing basis without approval from the
(22) court?
(23) A: I don't know that it was typical and that I had
(24) that many that do that. This was an ongoing one. There was
(25) a lot of ongoing work. It was a corporation; we called them

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(1) corporate fees. They were monies that were earned. That is
(2) the way I chose to do it.
(3) Q: I am still trying to understand this. Had the 866
(4) hours, as represented by the printouts that were attached,
(5) the ongoing management fees, the flat monthly fees, were
(6) those tied to any particular hours? How were those numbers
(7) arrived at?
(8) A: They were kind of ongoing estimates. I don't know
(9) - they were not tied to an hourly billing rate, no. It was
(10) just - and I can't remember whether it was a thousand or
(11) 1500 a month or some number that was paid by the corporation
(12) to the law firm against fees or potential fees or approved
(13) fees. I assume, if the court had said I'm sorry you are
(14) going to - if the court had said we won't approve that
(15) much; we will approve something less than what you have
(16) taken out, there would have been a payback, but there
(17) wasn't.
(18) Q: Let me see if I understand this then. You kept
(19) your time on an ongoing basis; you asked your partners and
(20) associates and employees. And, at the same time, you were
(21) receiving a flat monthly fee from each of three
(22) corporations?
(23) A: I can't remember whether I received it from all
(24) three or just from one.
(25) Q: My analysis shows all three.

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(1) A: Okay. I don't know why I would have, out of -
(2) the Surfside Inn Corporation but whatever - I don't recall
(3) where I received it and I don't recall from Surfside
(4) Inn Corporation because there was not much money or any
(5) money in there to receive something from.
(6) Q: The estate was open for two and a half years,
(7) approximately?
(8) A: Yeah, probably three. I am not sure.
(9) Q: Actually, it would have been open for a little bit
(10) longer than three years. He died in March of '89.
(11) A: March of '89.
(12) Q: And it closed in December of '92?
(13) A: Yes. Yes, it would have been just a little
(14) bit over.
(15) MR. BULMER: 30, 45 months. No, not quite;
(16) 42 months.
(17) Q: I don't have complete records of the retainers
(18) that were being paid or the management fees being paid, but
(19) I have seen bits and pieces of a monthly fee being paid by
(20) Hoffman-Stevenson; a monthly fee being paid by the Surfside
(21) and a monthly fee being paid by Pacific in amounts ranging
(22) from a thousand to 1500. Once those were in place, did they
(23) ever stop the monthly fees?
(24) A: What do you mean "did they ever stop"?
(25) Q: Did you ever stop collecting a monthly fee?

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(1) A: I think I - I don't know that I got, from all of
(2) those places, however much, but I think I got a monthly fee
(3) continuously through the period of the probate.
(4) Q: Where would I find how much money was actually
(5) paid following the entry of the decree?
(6) A: I would think those books will be still retained
(7) in the - probably the office that is now Tuell & Couture.
(8) Q: The entry should be a check paid to, what, your
(9) firm or you individually?
(10) A: Not to me individually, to the firm.
(11) (Exhibit 3 marked
(12) for identification.)
(13) Q: Page 3 of Exhibit 3, under the "Fees and Costs,"
(14) the entries for Steve Fisher and for Robyn Koppe, attorneys'
(15) fees, re: management of estate assets, there is an entry
(16) there that says "Waived." Do you know what that means?
(17) A: It means that, even though they were contained on
(18) the billing sheets, they were not charged to anyone.
(19) Q: Why not?
(20) A: Well, it had to do with the time when we were
(21) putting together the final accounting, having in mind, I
(22) believe, the federal estate tax estimate and what appeared
(23) fair, that that was it; that would have been another, what,
(24) 16-, \$17,000 and we just waived it, the firm.
(25) Q: Who made that decision?

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(1) A: I can't tell you whether - it was probably a
(2) joint decision.
(3) Q: How did you come up with those particular numbers?
(4) A: What, that were waived?
(5) Q: \$12,431.15.
(6) A: Which number? I'm sorry.
(7) Q: For example, the Stephen Fisher amount that was
(8) waived, \$12,431.15?
(9) A: I would assume that that was charges that
(10) Mr. Fisher made on his time sheets for work done on the
(11) estate, as I am sure the other one would be Robyn Koppe's
(12) time sheets for work that she had performed for the estate.
(13) I have got to assume those are based on a billing - or of
(14) hours kept.
(15) Q: Did you form a belief that a petition for fees of
(16) 129,000 would be viewed as too much?
(17) A: I probably - to be perfectly honest with you, I
(18) probably could have put it up there, and it would have been
(19) absolutely approved and adequate. It was my sense of what I
(20) thought was fair and reasonable at the time. That was the
(21) decision that we made. Do I think it was too much? No.
(22) MR. BULMER: May I ask one question. The
(23) handwriting on there, was that on the original or -
(24) MR. TAYLOR: That is on the document as it
(25) came to me.

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(1) MR. BULMER: We don't know if that was on the
(2) document as filed in court?
(3) MR. TAYLOR: No.
(4) MR. BULMER: Thank you.
(5) Q: The ongoing management fees that are being paid,
(6) was the fact of those payments disclosed to Mrs. Hoffman or
(7) her attorney?
(8) A: I don't know that it was disclosed to Mrs. Hoffman
(9) at that juncture. At the initial juncture, I don't know
(10) that she had an attorney. I don't recall - I don't recall
(11) that she had an attorney that I discussed any of that with.
(12) Whether I did with her or not, I don't recall.
(13) Q: Who made the decision to approve the ongoing
(14) management fees?
(15) A: I did.
(16) Q: Did you consult with anyone about that decision?
(17) A: I may have talked to my partners in the firm.
(18) Probably did.
(19) Q: Was any effort made to correlate those fees with
(20) the amounts of time actually being expended?
(21) A: They, as I recall, they always seemed to be less
(22) than the amount of time being expended.
(23) Q: As you sit here today, do you have any
(24) recollection of how much the firm actually received
(25) following the decree?

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(1) A: No, I do not. "Following the decree," you mean the
(2) balance?
(3) Q: In response to the decree.
(4) A: No, I do not.
(5) Q: You talked about or you testified about the
(6) meetings that you had periodically with Mr. Hamilton, lunch,
(7) breakfast, the like. Did you ever tell him that you could
(8) no longer have such meetings?
(9) A: Yes.
(10) Q: When was that?
(11) A: On or about the time after I was elected and when
(12) I was going on the bench. I was using that as an
(13) opportunity to get some fresh starts, if you want to call it
(14) that, I got off the State Board of Education - a lot of my
(15) involvements with civic activities or that could be
(16) classified as political, and also I probably wasn't sure
(17) where - or what involvements were proper or not proper, as a
(18) judge, and I was getting out of the, quote, business world,
(19) whether it is the legal business or otherwise, and that I
(20) still would have breakfast with him. That was okay. But
(21) that I would be troubleshooting or sharpshooting his deals,
(22) that was not to be done.
(23) Q: When is the first time anyone expressed interest
(24) in purchasing the bowling alley?
(25) A: Anybody expressed interest?

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(1) Q: Yes, or initiated any contact.
(2) A: I had talked to - I think I talked to AME I
(3) talked to Brunswick. I can't remember. It seems to me I
(4) had an inquiry from Stevenson. Hoffman-Stevenson were the
(5) pair that initially built the alley and they had a
(6) falling-out, my understanding is. It was long before my
(7) time. Hoffman bought out Stevenson, and Stevenson has a
(8) little bowling alley in Tacoma over in the Lincoln district.
(9) Nothing came to fruition, though.
(10) I talked to some folks at - what do they call it
(11) - Murray or McMurray. I think it is Murray & Swift who
(12) were business brokers. Nobody that I talked to had any
(13) sense of wanting to buy or knowing much about the business.
(14) Of course, they want a list because they get a 10 percent
(15) commission. That is the first thing they jumped up and
(16) said they would do. But did they have a clue as to what
(17) they might do or how they might approach it? No.
(18) Q: When did your discussions with Mr. Hamilton first
(19) start?
(20) A: Probably my general recollection is I might have
(21) started with him in early to mid - maybe mid '92 about
(22) suggestions for selling, moving, doing something with it. I
(23) was aware - I had developed an awareness of many problems
(24) with the alley, primarily the structural problems, and the
(25) asbestos was my greatest fear. I think I talked with First

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(1) Interstate, the bank, commercial lenders, and they were all
(2) indicating to me that, before there would be any lending or
(3) any borrowing or anything available for anybody to buy, it
(4) would require environmental - I don't know if they called
(5) it evaluation or checklist or something of that nature and
(6) that perhaps structurally, but more on the environmental
(7) side, they would be extremely interested in the asbestos.
(8) It is like buying a gas station with the tanks or something
(9) of that nature. It would be near impossible under the
(10) circumstances.
(11) I was trying to get ideas, approaches, and he
(12) looked at the numbers for the last two or three years. I
(13) can't remember, a period of time, that I might have had, and
(14) his son was getting out or about to graduate from college
(15) and it was someplace - and I can't tell you when in the
(16) summer - he said, you know, "I might be interested in buying
(17) this for my son," in a nutshell.
(18) Q: What did you say?
(19) A: I said, "Well, let's talk." We talked.
(20) Q: What was discussed?
(21) A: Oh, he looked at the books. He had the books. I
(22) am not sure who went through the books from an accounting
(23) standpoint or looked at them from a cash flow analysis. We
(24) talked price. We talked terms. I wanted - I had, in my
(25) mind, that I had to have a fair price, but I was also trying

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(1) to dodge a lot of problems that were out there, the structural
(2) problems and the asbestos problems. I indicated to him
(3) anything was as-is/where-is; you see it, you get it. If it
(4) goes sour, you fix it. We ultimately came to what ended up
(5) being the deal.
(6) Q: How much negotiation was there over the price?
(7) A: A fair amount. When you say that, we talked price
(8) and terms and they went kind of hand in hand and what can
(9) the facility sustain and what kind of problems are you
(10) looking at. I know that I had told him that, all in all, in
(11) my estimation, it could not be less than a million dollars.
(12) Q: Where did you come up with that figure?
(13) A: My - I suppose I had two or three points that I
(14) come from or looked at. One of them is I might have had an
(15) initial appraisal as a starting point that I had gotten when
(16) the estate - when I filed a federal estate tax return, I
(17) was looking at commissions that I would not have to pay that
(18) I could take off. I was also looking at problems that I
(19) knew that were out there in the - particularly in the
(20) asbestos area because I had made inquiries and had my
(21) bowling ally manager have people in there to look at the
(22) removal, and the estimates were all in the neighborhood of,
(23) I am going to say, 200,000, substantial numbers.
(24) Q: When you say "structural problems" in addition to
(25) the asbestos, what are you talking about?

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(1) A: They were more than - ultimately ended up worse
(2) than I thought. I knew there were wiring problems. I was
(3) aware of some beams that had been cracked up in the attic
(4) and jerry-rigged together with two-by-fours. I did not
(5) appreciate the extent of those problems which came out
(6) later.
(7) Q: Did you disclose that to Mr. Hamilton?
(8) A: I think I did; I mean, I said go up and look
(9) around. I didn't know what you were looking at and I don't
(10) know that he did, either. I know that I did not fully
(11) appreciate what I was looking at. I knew there had been
(12) problems with the roof. The roof had been in a terrible
(13) state of repair. I had to hire somebody to stay there all
(14) night to empty buckets, the water was running in so fast and
(15) we had to close some lanes. I spent, I am going to say,
(16) 30,000-plus to fix the flat roof. The barrel was in need of
(17) replacement. It was not leaking at the moment, but it was
(18) not looking good. The floors were getting thin in terms of
(19) the wood.
(20) You understand, in a bowling alley, when they
(21) build the lanes, they have wood - and I can't tell you how
(22) thick it is, four inches, five inches; they are maple lanes
(23) that they put down there. Each year they finish them, and
(24) every other year they sand them. As you sand them, as you
(25) go over the years, each one gets a little thinner and a

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(1) little thinner. It was getting down to where you had - and
(2) I relied on the person who did that every year for the most
(3) - there are only two or three people in the whole U.S. who
(4) do most of those things. And I can't remember; he said
(5) maybe we had six, eight, maybe ten years or something. But
(6) when they are gone, big expense. But it was getting - the
(7) lanes had been in effect for a long time and those were
(8) getting down to the thin line.
(9) Q: After Mr. Hamilton made the offer, did you
(10) attempt to shop the offer to anyone, or did you put the
(11) facility up on the market?
(12) A: When you say, had I shopped it, I had been trying
(13) to shop it informally for quite awhile. My sense of doing
(14) business is I don't get an offer from you and then I run
(15) around saying, "Can you beat this; can you beat this; can
(16) you beat that." We make a deal, we make a deal. I don't
(17) know where I would shop it, to begin with.
(18) Q: Did you make any efforts of due diligence on
(19) behalf of the estate to find out was this an appropriate
(20) amount of money for a facility of this nature?
(21) A: I said, from the - I am not sure what you mean by
(22) "due diligence." In terms of my understanding of business and
(23) I have bought and sold - not businesses, mostly real estate
(24) that I have dealt with. I have represented clients in
(25) business I guess that I had talked to some and - and it

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(1) just sticks in my mind and I can't tell you what - when I
(2) talked to AMF, those folks were aware of the facility. They
(3) were in the bowling circles; they are out doing the leagues
(4) and that sort of thing. They knew it had not been in a good
(5) state of repair.
(6) Q: The appraisal that you had done on it in '89 had a
(7) value of 1,334,000?
(8) A: Yes.
(9) Q: How is it that you determined that a million
(10) dollars was the number that you were looking for?
(11) A: When you looked at that appraisal, if you look at
(12) - and I just did looked at it a bit ago - there is a
(13) caveat in there on the description that he would have - I
(14) think he said an electrical and asbestos - I am not sure
(15) what word he used -
(16) Q: Sealed?
(17) A: - evaluation.
(18) Q: Given his appraisal of a million three, how did
(19) you get down to a million dollars as being what you
(20) thought -
(21) A: If you take off 10 percent and if you take off the
(22) asbestos and the other potential structural problems, which I
(23) knew were out there, including the lanes, which I knew he
(24) looked at but may not be aware of and with the
(25) as-is/where-is without - wanting to avoid repercussions of

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(1) lawsuits and/or having to expend possible sums of money to
(2) fix or repair things, that was my judgment.
(3) Q: When you were elected to the Superior Court, did
(4) you win it in the primaries?
(5) A: Yes.
(6) Q: Or did you have to win it in the general?
(7) A: No, the primaries.
(8) Q: That would have been held in August?
(9) A: I should know that. I want to say September.
(10) Q: What was it about this time period, after the
(11) estate has been opened for over three years, why was it at
(12) that point that you were selling the bowling alley?
(13) A: I had - there was a whole bunch of balls that
(14) were in the air being juggled on behalf of the estate. The
(15) condos being part of them and the bowling alley being the
(16) other one. I had started with what I call a pile of worms,
(17) an ant hill, something that was atrocious. It was fraught
(18) with problems, mismanagement, in my estimation, where they
(19) were taking cash flow or whatever it was out of the bowling
(20) alley to subsidize operations at the beach, at the condo
(21) development. And I kind of took it as a personal challenge
(22) to put this thing altogether to get them all sold out, and
(23) I did.
(24) The timing just happened to be along about that
(25) time when they were going together. I had done all I could

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(1) with the bowling alley within the frame of the funds that
(2) were available and what was there, short of expending
(3) substantial sums of money, which I did not think would ever
(4) or potentially would not ever be recaptured.
(5) The same down at the beach in terms of getting
(6) those cleaned up, brought up to a salable position, trying
(7) to get out from under all of the worms and the bad decisions
(8) that had been made and get it all cleaned up and get it out
(9) and get the assets cleanly available and ready for sale and
(10) get a smooth operation going and it was just up getting -
(11) that was just the time.
(12) Q: The original deal with the bowling alley, on the
(13) dirt and the building, there was a lease with an option to
(14) purchase?
(15) A: Uh-huh.
(16) Q: Then there was the purchase of the business
(17) itself. The fall of 1993, that deal changed. Why was that?
(18) A: I had nothing to do with it. I don't know.
(19) Q: Were you involved in any aspect of the
(20) negotiations that led to the reformulated deal in 1993?
(21) A: No.
(22) Q: Who was involved in that?
(23) A: I believe Mr. Fisher and Mr. Hamilton and probably
(24) the board at the hospital. Beyond that, I don't know. It
(25) was not me.

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(1) Q: Did you have any discussions at all with regard to
(2) the bowling alley with Mr. Hamilton in 1993?
(3) A: Only in the generalist sense that I had stuck it
(4) to him, not in a literal sense, but in the sense that
(5) things, if they could go wrong, they did go wrong.
(6) Structurally - did I have any discussions? I probably had
(7) some general discussions, but I don't think I had much
(8) beyond that.
(9) I also knew, in my experience with Mr. Hamilton,
(10) when he put down a hundred thousand dollars, which he did,
(11) that, in my estimation, he would chase that hundred thousand
(12) dollars to complete the transaction or complete the deal.
(13) Q: After you began on the Superior Court bench, you
(14) continued as president of Hoffman-Stevenson?
(15) A: Yes, I did.
(16) Q: And it is my understanding that you did so at the
(17) request of Mr. Fisher?
(18) A: He said, "I don't want to do it. I do not want to
(19) take over" - the estate is closed, but it was basically
(20) moving it into the trust. "At this juncture, I will take
(21) over as the trustee. I will do all of the business. But I
(22) want you to be technically the president to sign the
(23) documents to see that they are what we thought they were or as
(24) you thought they were when the deal was made before you went
(25) on the bench, and I don't want to do it."

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(1) At that juncture, there was no reasonable way that
(2) I knew, outside of saying, "Here, I quit; I am just walking
(3) out of here," which I suppose I could have. But that did
(4) not appear to me to be reasonable for the estate or anything
(5) else, so I stayed to that limited extent.
(6) Q: So you stayed on as president at his request but
(7) you did not have any involvement in the affairs of
(8) Hoffman-Stevenson?
(9) A: In the shares or the operation? The affairs, I am
(10) sorry.
(11) Not as concerns the bowling alley. I may have
(12) given him some - at the ocean, there might have been some
(13) minor advice, but I don't recall. Let's put it this way, I
(14) never received any compensation from anybody for anything
(15) that I may have done or followed through on.
(16) Q: So, to learn why the deal was reformulated in
(17) 1993, I would have to talk to Mr. Hamilton or Mr. Fisher?
(18) A: Yes.
(19) Q: And you have no information about that?
(20) A: No.
(21) Q: When you were presented with a series of documents,
(22) in October of 1993, in connection with the revised
(23) transaction, did you ask any questions about the
(24) transaction?
(25) A: I don't recall that I asked questions. I do

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(1) recall there was a discussion so I understood I had an
(2) understanding of what had gone on to get there.
(3) Q: Who was that discussion with?
(4) A: Probably with Mr. Fisher. I can't sit here and
(5) tell you I just signed documents in blank, and I knew
(6) absolutely nothing because that is not true.
(7) Q: You did talk about it with Mr. Fisher but not with
(8) Mr. Hamilton?
(9) A: I may have even discussed it with him at the time
(10) after the deal was done, but I had no part of the deal. I
(11) did not go to the board. I did not have any discussion as
(12) to discounts or amounts or why.
(13) Q: Didn't Mr. Fisher talk to you about this revised
(14) transaction on an ongoing basis?
(15) A: No.
(16) Q: He was working for McClellan Slate (ph.) then?
(17) A: Yeah. He knew what the deal was going in because,
(18) obviously, there was a lease option and there was a sale
(19) agreement and he knew what they were. Did he talk to me as
(20) to what I thought was right, wrong or otherwise? The answer
(21) is no.
(22) Q: Do you have any knowledge as to how, in November
(23) of 1993, Mr. Hamilton was able to use the dirt in the
(24) building as security for a \$900,000 loan?
(25) MR. BULMER: The dirt, you said?

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(1) MR. TAYLOR: The real property.
(2) MR. BULMER: I thought literally. Excuse me.
(3) A: No.
(4) (Discussion off the record.)
(5) Q: Over the course of your administration of the
(6) estate, you were involved in trying to sell units -
(7) A: Yes.
(8) Q: - to various entities?
(9) A: Yes.
(10) MR. BULMER: We are talking about the condo
(11) units?
(12) MR. TAYLOR: Yes, Surfside.
(13) A: Surfside time-share units.
(14) Q: Yes. And it was in the estate's interest to sell
(15) as many as possible?
(16) A: Yes.
(17) Q: Was it in the estate's interest also to have
(18) individual owners selling their whole units to Trendwest,
(19) for example, so you offered Trendwest a larger number of
(20) units?
(21) A: Probably to benefit - the only way I would say it
(22) would benefit the estate was that you would have a better -
(23) I don't know if it is the right word - a better class of
(24) owner, an owner who was professional and more interested in
(25) it and paying, as opposed to folks who bought it on the come

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(1) from Mr. Hoffman and had what were basically losers on
(2) their hands and not interested in doing any more than they
(3) had to do.
(4) Q: For example, individual unit owners who sold their
(5) units to Trendwest -
(6) A: Uh-huh.
(7) Q: - was that designed to benefit the estate or did
(8) that benefit the estate?
(9) A: Only indirectly, and it made the overall - those
(10) units that were sold were probably - you would probably
(11) say that Trendwest - I hate to say a better class of owner
(12) - but somebody who was more interested in the facility than
(13) the folks that were selling, and that would make the
(14) remainder of the single units better or potentially more
(15) attractive.
(16) Q: To Trendwest?
(17) A: No. No, to other individual owners to sell.
(18) Trendwest was only buying wholly-owned units.
(19) Q: Ultimately, units that were wholly owned by the
(20) estate were conveyed to Trendwest?
(21) A: Yes. Yes.
(22) Q: The fact that units were owned by people - units
(23) owned by other than the estate were also sold to Trendwest?
(24) A: Yes.
(25) Q: As I understand it then, the sale of those units

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(1) made the overall package more attractive to Trendwest?
(2) A: Not necessarily to Trendwest. It might have been
(3) to Trendwest, too. I don't think they cared. They did not
(4) - they didn't - I sold all of the estate - everything
(5) that I could fix up and put together from the estate to them
(6) first. It wouldn't have made any difference to them whether
(7) they bought more or less. Their involvement in more, as
(8) opposed to less, probably benefited the other units that
(9) were already divided up, had divided ownerships.
(10) Q: You were being paid, in your capacity as attorney
(11) for the estate, to find a buyer or buyers for units owned by
(12) the estate?
(13) A: Yes.
(14) Q: And, in connection with that, you did a
(15) substantial amount of work -
(16) A: I did work.
(17) Q: - for which you were paid by the estate?
(18) A: I would say yes.
(19) Q: Why is it that, when individual owners sold their
(20) units, you charged a real estate commission?
(21) A: I had done everything for the estate. The estate
(22) had gotten the full benefit from all of the work that I had
(23) done on their behalf in terms of buying. I had made other
(24) efforts to sell the estate units to other places that did
(25) not work out. Trendwest happened to be the one that was -

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(1) that was ultimately successful. After the estate was
(2) completed, the other folks, who had whole units down there,
(3) who, for the most part, I believe, purchased them from
(4) Mr. Hoffman on the come, get in on the ground floor; make
(5) lots of money, do - whatever the reasons, it did not work
(6) out - and they said we want out. Afterwards, when the
(7) estate part was done, as part of a follow-up on that, I
(8) said, you know, I have a buyer; there is a ready price; the
(9) commission is fair and they all said go.
(10) Q: When you say "after the estate part was done," what
(11) do you mean?
(12) A: I did not short the estate any sales to - so I
(13) could sell to somebody else so I could make a commission out
(14) here and not -
(15) Q: Are you saying that the sale by the estate of
(16) units to Trendwest was completed before these individual
(17) owners started selling?
(18) A: I don't know. I can't tell you - I can't tell
(19) you the exact timing. Every one of them was committed for,
(20) yes.
(21) Q: Approximately when did the deal with Trendwest
(22) close?
(23) A: I can't tell you.
(24) Q: Was it in '92?
(25) A: I don't have a - I think it was before '92, but,

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(1) you know, you have the deeds and the dates in there. I just
(2) frankly don't have an independent memory on the timing on
(3) that.
(4) Q: In connection with the final distribution under
(5) the decree, final distribution of attorneys' fees, did you
(6) deduct from that the commissions that you had charged?
(7) A: No.
(8) Q: Why not?
(9) A: Those were - over and above, those were for folks
(10) in kind of the regular course of the spinout of the business
(11) that had come to me and said, "If you can sell my unit, if
(12) you can find somebody, please do. They started this back
(13) in day one. After everything was done with the
(14) estate, I went back to them. I can't remember whether I
(15) went back to them or they called me or whatever it was -
(16) but, I said, "I have a buyer, they are ready to go. That was
(17) over and above what I had done for the estate; charged them
(18) a commission; did not charge the estate for the work that I
(19) had done or did in closing those transactions."
(20) Q: Are you sure about that?
(21) A: If I did, I did not knowingly or I don't remember
(22) doing that. I was pretty sure that I did not. If you find
(23) some time entry there that - there might be some, I don't
(24) know.
(25) Q: Frankly, I do find some time entries billing the

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(1) estate for legal work in connection with what appears to be
(2) units on which you have charged a commission.
(3) (Exhibit 4 marked
(4) for identification.)
(5) A: You are going to have to direct me.
(6) Q: Page 24 of the printout. Why don't you take a
(7) look at the entries beginning about 12-5-91.
(8) If you see the first entry for 12-5-91,
(9) timekeeper two, that is you, I believe; is that correct?
(10) A: I am looking back at the code -
(11) Q: I think I can find it here.
(12) A: I probably am two.
(13) Q: Yes, that would be you.
(14) Do you see the entry for 12-5-91 for five hours:
(15) "Work on documents re selling additional units, including
(16) numerous indenture agreements, earnest monies, et cetera"?
(17) Those would have been sales of units owned by people other
(18) than the estate?
(19) A: I don't know. I mean, I would have to go back and
(20) - in terms of the time - time frame, I don't -
(21) Q: If you look at 12-6-91, the entry includes,
(22) "Office conference with Ian McMillan and Michael Pate;
(23) telephone conferences with McMillan and Pate," and then
(24) Mr. McMillan's unit sold right around that same time period.
(25) Do you believe those conversations were in connection with

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(1) the sale by Mr. McMillan?
(2) A: I don't know.
(3) Q: How would I be able to determine that?
(4) A: I can't tell you. I know Michael Pate who is,
(5) unfortunately, deceased, what, a month ago; Mr. McMillan, I
(6) don't know if he has any memory, and I don't have any
(7) independent memory, other than what is written on here.
(8) Q: Look down at December 11 of '91, "Telephone
(9) conference with Ian McMillan re signing papers"?
(10) A: And "Jackie Pagni re signing papers" -
(11) Q: Is it your best recollection that that was a
(12) conference in connection with the sale of his unit to
(13) Trendwest?
(14) A: I don't know that I have any independent
(15) recollection. Jackie Pagni was also part of that, and
(16) Jackie was - she is kind of one of those in-between status
(17) things because she was also involved with Chuck. She had
(18) worked at the bowling alley for a number of years and was a
(19) valued employee, and I had worked to sell her unit or units
(20) that she was involved with to Trendwest. I don't know.
(21) That is what it says. I don't have any independent
(22) recollection of it.
(23) Q: Did you tell Mrs. Hoffman or her attorney that you
(24) were charging real estate commissions?
(25) A: I don't recall that I ever talked to Mrs.

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(1) Hoffman's attorney as to any part of this. She never - she
(2) never had - if she had an attorney - and I recall
(3) someplace down the line that she may have gone to some other
(4) attorney to do a will and he may have talked to me
(5) tangentially, but there was no attorney to talk to me
(6) relative to my handling the estate on her behalf. Whether I
(7) told her or not, I don't recall.
(8) Q: Did you tell Mr. Fisher that you were charging
(9) commissions?
(10) A: I am sure I did.
(11) Q: The commission payments, did they go to you or to
(12) your firm?
(13) A: To the firm.
(14) Q: What legal work, if any, did the firm do to earn
(15) those commissions?
(16) A: It would have been, when you say "legal work," as
(17) opposed to other type of work -
(18) Q: Uh-huh.
(19) A: - they had found a buyer or seller; they had
(20) people that - and part of it was these folks were saying
(21) get me out of a bad deal that Mr. Hoffman had gotten me
(22) into. I will accept the deal. You know, I oversaw the
(23) drafting of the papers, got them signed, submitted them to
(24) probate - not probate but escrow or to the title company.
(25) Q: Did you disclose to the court, in connection with

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(1) your fee petition, the fact that you had received
(2) commissions?
(3) A: I do not think I did.
(4) Q: Why was that?
(5) A: I don't think it struck me at the time that it was
(6) part of the estate work. If I picked up some hours in
(7) here - and I may have; I don't think I did. I don't recall
(8) doing it. But I don't know what these particular times are,
(9) if there was some inadvertence but I don't believe so. I
(10) just did not.
(11) Q: Was that a conscious decision?
(12) A: Did I say should I or should I or should I or
(13) shouldn't I or did I flip a coin and do it, I don't recall
(14) ever doing that. I just recall that these were over and
(15) above or different from the estate work. These were for
(16) folks that were out there that said help me; I did it, made
(17) a deal with them for the commission and got the commission
(18) and -
(19) Q: Is it correct that, but for your work on the
(20) estate, you would never have been in the position to serve
(21) as the broker, if you will, for these sales?
(22) A: I don't know, might or might not have.
(23) Q: In your practice at around this same time, were
(24) you also involved in other deals while you were charging
(25) people real estate commissions?

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(1) A: If I participated in them, I was not acting as a
(2) real estate broker or listing things, but, if I did get
(3) involved in the sale of real estate that was kind of
(4) tangential to the business that I was doing, I probably did
(5) charge a commission.
(6) Q: Did you review the particular line entries on the
(7) fee petition before submitting them?
(8) A: To the court?
(9) Q: Yes.
(10) A: I expect not.
(11) Q: Did you have someone do that?
(12) A: These were kept on an ongoing basis and at that
(13) time they were transcribed from time sheets, I believe, on
(14) to the computer by whoever we had doing transcription or
(15) doing this at the time. Did I have anybody each day go
(16) through and say, "What was this?" I don't think so. Did I
(17) add them up; did we discuss the bottom lines relative to
(18) fairness, that sort of stuff, before we made a determination
(19) of the final fee to ask the court for approval or yes that
(20) is when we wrote off or - not wrote off - is the wrong
(21) word but - when Fisher & Koppe forewent or waived the fee
(22) - forewaived or waived the time that they had expended on
(23) Hoffman-Stevenson or on Hoffman-related matters.
(24) Q: Ms. Louise Pagni, once upon a time, had loaned
(25) Pacific Lanes \$42,000 back in '82 or so. There was a series

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(1) of transactions in which she sold Unit 332 to
(2) Hoffman-Stevenson. She received some paper back, an
(3) interest in Unit 132, four weeks. And then, in March of
(4) '92, HSI paid her cash to take her out of the note. How
(5) much cash was that?
(6) A: I don't know.
(7) Q: Was it 5,000 or 50,000 or 100,000?
(8) A: My recollection - and I don't know how much cash
(9) - you asked me, and I truly don't know.
(10) Q: Ballpark?
(11) A: I don't even know ballpark. Let me just back up
(12) and put you into the transaction, if I can. She had worked
(13) for Mr. Hoffman for 25 years or more. She was his right
(14) hand at the bowling alley. Be that as it may, he leaned on
(15) her awfully heavy to do his bidding when he wanted it done,
(16) almost to the point where some people cringed that she
(17) would stay, but that is not my call. That was what the
(18) observation was on the outside. If he knew she had money
(19) - and my understanding was that she sold a house or had
(20) some \$40,000, plus or minus, and "If you want to keep your
(21) job and stay on, it would be a good thing if you loan me the
(22) money." He gave her a note that was in vogue at the time
(23) and had a variable interest rate on that note. He never
(24) made any payments on the principal. I can't remember the
(25) number but he made some flat number each month on interest,

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(1) but it never varied. It never went up; it never went down;
(2) it never went any place. It was just kind of there and so it
(3) kind of grew.
(4) When it got to the end of the line, I went to the
(5) accountant and I said, "We got this note and it is several
(6) years old. I don't even know how to calculate where the
(7) interest is or isn't because of the" - I don't remember -
(8) it was tied to the Consumer Price Index or something else.
(9) The accountant, I am going to say, did some magic numbers
(10) and did the calculator a bit and he said, "Grant, I think
(11) this is a fair number. Whether it is absolutely exact or
(12) not, it would take us mountains of time to go back and
(13) recalculate and run computer runouts. It sticks in my mind
(14) the number was in the low 50,000 area. Whether I paid her
(15) that or whether I traded out part of it and paid her part
(16) off in cash, which is what I think happened, but I don't
(17) know what the cash pay was ultimately. I just don't have
(18) a recollection.
(19) Q: Particularly, I want to ask you about, in November
(20) of '91, Ms. Pagni sold Unit 332 to Hoffman-Stevenson. In
(21) exchange, one of the things she got was four weeks in Unit
(22) 132.
(23) A: I think that is what the documents seem to
(24) reflect.
(25) Q: The same four weeks that came from Duncan

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(1) McMillan?
(2) A: They were part of the same because Duncan, I
(3) think, had six weeks, if I recall.
(4) Q: The conveyance to Ms. Pagni was by quitclaim, as
(5) opposed to the warranty deeds that typically were used in
(6) these conveyances. Why was that?
(7) A: I don't know that there weren't warranty deeds.
(8) If you look back -
(9) Q: Indentures?
(10) A: There were indentures which was a more - because
(11) this was really a interest in a lease -
(12) Q: Leasehold?
(13) A: - leasehold interest, underlying leasehold
(14) interest. Sometimes it was easier just to do a quitclaim
(15) and say, "Here, I will give you what I have got in this unit
(16) because I can't give you a full title," and they were used
(17) interchangeably on occasion. I think that is all I can
(18) tell you.
(19) Q: Do you recall any specific reason why it was a
(20) quitclaim with regard to those units?
(21) A: No, I do not.
(22) Q: When you then received those units from Ms. Pagni,
(23) what was the conveyancing instrument?
(24) A: I don't know. I mean, I truly don't. I would
(25) have to go look. You may have a copy of it. I don't,

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(1) frankly, know whether it was quitclaim and/or indenture.
(2) Q: The sale of interest in Unit 132 to various of
(3) your partners and staff in December 1992, how did those come
(4) about?
(5) A: Again, it was getting time to wind things up. If
(6) you understand time-share unit sales, they are relatively
(7) complicated, and they are very expensive. If you look back
(8) in early years, and, if you look like at a Trendwest sales
(9) or anything that is out in the business, their sales
(10) expenses are very high, ranging from 50 to 85 percent. When
(11) You have drop boxes, when you have prizes, when you have
(12) people living on or being present on the grounds to show
(13) things, and that just wasn't worked.
(14) I had tried those approaches, and I basically
(15) wholesaled all of the whole units off to Trendwest, and I
(16) had as many as I could sell otherwise. But each year then
(17) you had to file a public offering statement with the
(18) Department of Licensing which was not a minor document. It
(19) was a very thick document that had to get approval. You had
(20) to keep somebody around - it is not a real estate license.
(21) It is a special license for selling time-share units.
(22) Realtors usually don't understand - don't want to bother
(23) because the numbers are so small, they don't get enough
(24) commission; they don't understand what they are selling, to
(25) begin with.

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(1) It got to the point we had an odd week here and
(2) there, and, even though there were 140, -50 weeks, out of
(3) 2300 weeks, that wasn't a big deal. I had resurrected PRI,
(4) Pacific Recreation - not Pacific - Pacific Resorts, Inc.,
(5) I think, who, in the initial stages, had indicated an
(6) interest. They, in the industry, in my estimation, were a
(7) little shaky. They didn't have great management and I had
(8) had a bad experience with them trying to buy early on, and
(9) that fell apart. But I checked with some folks who were out
(10) there, and, they said, "Well, they have got new management,
(11) and they are getting things together and we will approach
(12) them."
(13) They came in, and they did some negotiating and,
(14) frankly, they said, "We will take everything that you have
(15) left, wherever it is at." I think their initial offer was
(16) \$550 a week. Yeah, 550 a week, something of that nature.
(17) We did some negotiating and finally it was - it ended up at
(18) someplace over 800. I don't remember, 800-plus, but give or
(19) take, in the 800 area in which I assumed contracts which
(20) means - and by continuing and the estate continuing to own
(21) - if an estate continues to own units, they have to pay the
(22) taxes on those units. They have to pay the annual
(23) maintenance fees, which can be substantial when you get that
(24) big multiplier. It is best to get them out of the stream;
(25) get them sold, get an interest income coming in and get done

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(1) with them. The best price that I could get from anybody for
(2) cleaning things up - and you just can't clean those things
(3) up; they don't go away. They kind of sit there and rot. It
(4) was \$800 a week.
(5) 132 is not a good location. It is on the ground
(6) bottom floor but it is a two-bedroom, as opposed to a one.
(7) They are - it was the only one that was a little nicer
(8) unit. Basically, I sold all of the one-bedroom units to
(9) PRI, and there was - I don't know how many. I am going to
(10) say 20 for lack of a better number, 20 time-share units, and
(11) 132 was a little nicer. And I, frankly, went back to
(12) friends saying - or people that I knew or people that knew
(13) about the facility, if I can get a little more for them than
(14) the 800, I am doing the estate a benefit and I am doing the
(15) people a benefit because I think it is a fair deal. It is
(16) what I paid for it myself, and that is exactly what
(17) happened.
(18) If I had went out and put them on the market,
(19) everybody is going to look at me like who are you kidding.
(20) You are just trying to sell something else. There are no
(21) commissions. I got them out of the stream and made a few
(22) more bucks for the estate, and people just basically took my
(23) word for it.
(24) Q: The weeks in 132, prior to the sales to your staff
(25) and partners -

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(1) A: Uh-huh.
(2) Q: - who owned those weeks, other than HSI?
(3) A: There were other - which weeks now?
(4) Q: I assume, prior to the sale -
(5) A: If there were 20 - and I am not sure of the
(6) numbers - if there were 20 weeks left and there are 48
(7) total weeks and they are for sale, somebody else owned the
(8) other 28 weeks who are just general people. I can't tell
(9) you who they are.
(10) Q: What I want to know is why wasn't any effort made
(11) to sell 132 as a whole unit to either Trendwest or Pacific?
(12) A: Oh, because there were too many people involved,
(13) too many units out there. If I had a unit that had one or
(14) two or three or four - I think was the max - different
(15) owners in it and I did on some of them - I cleaned them
(16) up. I either bought them back and/or traded them, or if
(17) they were on the first floor, I said, "I will give you a
(18) unit on the third floor," so I could get them and go.
(19) But there were a number of owners. I can't tell you whether
(20) there were ten, 15 or 20 in 132, but there were too many and
(21) no place to go with them. No place to give them any vantage
(22) or any better. I could have sold them to PRI for the \$800.
(23) They said they will take them for the 800, no more, or
(24) whatever that final number was.
(25) Q: How did you first broach these potential sales

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(1) with your staff and partners?
(2) A: Oh, I just - they were all aware, obviously, for
(3) the time period. Most of them had been down there at one
(4) time or another. I just said I had an option to sell them
(5) all for 800; there is a few weeks left. A fair price is a
(6) thousand, no commission. And they said fine. I mean, it
(7) was just almost that simple. I mean, it wasn't any heavy
(8) negotiating. It wasn't anything.
(9) Q: Was there anybody, among your partners or staff,
(10) that didn't buy an interest in 132?
(11) A: Yes.
(12) Q: Approximately how many people?
(13) A: When you say that, "staff," I can think Debbie - I
(14) think her name was Prout. I am not sure what it is now.
(15) She is remarried. But she did not buy one. I don't think
(16) Rick Hoffell, who was an associate who worked for us, did
(17) not buy one, H-o-f-f-e-l-l, I believe. Maybe there is one
(18) "F" And I can't remember beyond that. My partner, Dave Tuell,
(19) bought one. His son did not buy one who worked in our firm.
(20) I can't remember.
(21) Q: Was there any compensation given to the staff that
(22) in any way reimbursed them for these purchases?
(23) A: No.
(24) Q: Did you pay Christmas bonuses at that time?
(25) A: I don't know whether we did that year. We have,

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(1) in the past, paid Christmas bonuses on occasion. I don't
(2) recall that year because it was the final year, whether it
(3) was or wasn't, and, very frankly, that year the firm was -
(4) it was acknowledged that I was leaving; the firm was
(5) splitting up. The firm did split up into two firms.
(6) Whether there were any bonuses paid, I don't know. I would
(7) guess not, but I don't know.
(8) Q: When did you first come upon the idea of selling
(9) interests to your staff and your partners?
(10) A: Oh, actually, when - it was probably when I was
(11) entered in the final negotiation, and I could not get any
(12) more for the units from PRI. I couldn't get them to give me
(13) any more for the two-bedroom, as opposed - like I said,
(14) the location was worse but the unit was a little nicer. I
(15) thought it was worth a little more than that. It is just
(16) one of those things when I said, you know, "I have got a few
(17) units. You have been down there. You have seen it. You
(18) have seen what we have done. A thousand bucks, that is what
(19) I paid. Do you want one? Okay."
(20) And they basically said "Okay." And, as you know,
(21) Monica Schmidt bought - a couple of weeks she had been down
(22) there with the state board, and there were a lot of people
(23) that promoted and assisted and tried to generate revenue to
(24) keep it going.
(25) MR. TAYLOR: Why don't we break for lunch and

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(1) break until 1 o'clock. I don't anticipate I will have that
(2) long after lunch.
(3) (The noon recess was taken
(4) at 11:55 a.m.)
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(1) SEATTLE, WASHINGTON; TUESDAY, DECEMBER 17, 1996
(2) 1:00 P.M.
(3)
(4)
(5) EXAMINATION (CONTINUED)
(6) BY MR. TAYLOR:
(7) Q: Going back to the final payment on the Cadillac,
(8) Pacific Recreation paid the bank and you repaid
(9) Mr. Hamilton?
(10) A: That's right.
(11) Q: And you did so in cash?
(12) A: Yes.
(13) Q: Part of the funds were obtained from Ms. Kelbaugh?
(14) A: Yes.
(15) (Exhibit 5 marked
(16) for identification.)
(17) Q: Do you recognize Exhibit 5?
(18) A: It looks to me like part of the letter from my
(19) counsel in the dissolution relative to cleanup of the
(20) resolution of that matter.
(21) Q: Take a look at the last page of Exhibit 5, please.
(22) MR. BULMER: The long page?
(23) MR. TAYLOR: Yes.
(24) Q: Is that your handwriting on the bottom?
(25) A: It looks like part of it is.

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(1) Q: Which part?
(2) A: There are some asterisks or dollar signs or - I
(3) think most of it is my handwriting.
(4) Q: Why is there no entry in here reflecting the
(5) payment to Mr. Hamilton?
(6) A: As I indicated earlier when we talked, I just took
(7) that out of the transaction altogether at that time, and I
(8) told her that, and I said, "Forget it." I mean, it was just
(9) part of our negotiations.
(10) Q: I am not understanding that I guess is my problem.
(11) Was the Cadillac treated as community property?
(12) A: Yes.
(13) Q: And it was seeded, if you will, to you or
(14) allocated to you?
(15) A: Yes.
(16) Q: And, based on that, you made the final \$8,000
(17) payment and did not seek a credit out of the community?
(18) A: That's right. I mean, early on, before we got
(19) down to this end point, she knew that Mr. Hamilton was
(20) making the payments or assumed he was, and there was some
(21) concern about it. And, I said, "Just take that out
(22) altogether, and we will put the car in at full value and
(23) forget the obligation," in terms of a credit back, if you
(24) want to call it that or deduction, and that was that simple.
(25) MR. TAYLOR: Could we have that read back,

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(1) please.
(2) (The answer was read.)
(3) Q: What concerns did your ex-wife express about the
(4) Cadillac?
(5) A: The concerns were that I was going to get
(6) something - that if she, knowing that the payments were
(7) being made, if I deducted the obligation and then didn't pay,
(8) the obligation, that I would be coming out ahead of her in
(9) the split. And I said "Take that out of the equation."
(10) Q: When you say "take that out of the equation," how
(11) did you mean that?
(12) A: Just exactly what I said. The Cadillac went in at
(13) full value in our negotiations or relatively close thereto,
(14) and there was no deduction for any obligation on the other
(15) - on the debit side or deduct side.
(16) Q: Were there any other concerns that she expressed
(17) about the Cadillac?
(18) A: Oh, she might - I am going back now. She might
(19) have expressed an income tax concern.
(20) Q: In what respect?
(21) A: Whether there was taxable income that could have
(22) come - could come back later to haunt you and she would be
(23) stuck with a portion of it or not.
(24) Q: What did you say?
(25) A: I think I said - frankly, I don't fully remember.

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(1) I think I said I will take responsibility for that someplace
(2) in here, if I recall, if that were to come to be.
(3) I think, as I look at the language here, it is on
(4) - we ended up - let me see. Looking back in the letter
(5) here.
(6) Q: Is that the part about "each party shall bear the
(7) tax liability"?
(8) A: Yeah, I think that is where we ended up.
(9) Q: Your testimony also was she knew or assumed that
(10) Hamilton was making payments on the Cadillac. Why the
(11) qualification?
(12) A: Well, I mean, she did. She handled some parts of
(13) the finances. I handled other parts of the finances. She
(14) did not always know - in fact, often did not know and chose
(15) not to know business transactions, if you want to call it
(16) that, or what I did with my monies and when I bought and
(17) sold property or leased property or had transactions of
(18) those natures. I mean, if it was the household expenses, I
(19) brought enough money for her to pay the bills. She said, "I
(20) need \$2,000" or whatever the number was and -
(21) Q: Why would she have assumed that Hamilton was
(22) making the payments?
(23) A: I expect I told her.
(24) Q: Do you recall attending a meeting, on October 3rd,
(25) 1995, with Bill Rush, Cam Hall, your ex-wife and yourself?

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(1) It was at Bill Rush's office.
(2) A: There was a meeting in Bill Rush's office. I am
(3) not sure of the date, but that was probably right.
(4) Q: Do you recall either you or Mr. Rush making a
(5) statement that title didn't shift to you in the Cadillac
(6) until the final payment was made?
(7) A: No, not true. Well, except, when you say "shift
(8) to" me, the only way it would not shift to me is if the
(9) bank held the title as security. But in terms of - the
(10) title was always in my name with the - and I am not sure
(11) they held it. I think I had the title and then, after they
(12) were paid off, I went down and paid the fee and got it
(13) cleared off. In fact, I think I did that.
(14) Q: Are you still living with Ms. Kelbaugh?
(15) A: Yes.
(16) Q: Are you married to her?
(17) A: Not yet.
(18) Q: Engaged? Maybe I shouldn't commit you on the
(19) record.
(20) A: Not formally.
(21) Q: In 1993, you were continuing to serve as president
(22) of the Surfside Inn Company; is that correct?
(23) A: I am going to say yes. My recollection is that
(24) the Surfside Inn Company maybe was all but dormant. I don't
(25) recall. My recollection is, at some point, the

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(1) accountant said, for tax purposes, we are doing a
(2) consolidated return, in any event. So, technically, the
(3) company, if it was operational, I was probably still
(4) president. I frankly don't recall.
(5) As I recall, they melded Surfside Inn into
(6) probably Hoffman-Stevenson, and, then, at some time, melded
(7) the other two, Pacific Lanes and Hoffman-Stevenson together,
(8) at least for tax purposes.
(9) Q: And Hoffman-Stevenson, Inc., you were continuing
(10) to serve as president in 1993?
(11) A: I did.
(12) Q: And that was not an inactive corporation, was it?
(13) A: No.
(14) Q: It was an active, ongoing entity?
(15) A: At that juncture, yes.
(16) Q: It had the right to receive substantial amounts of
(17) money, pursuant to agreements entered into with Mr. Hamilton
(18) or entities that he controlled?
(19) A: When you say "substantial," I don't know how you
(20) qualify that. But, yes, they had the right to receive
(21) money.
(22) Q: When did you resign as president of
(23) Hoffman-Stevenson, Inc.?
(24) A: I believe it would have been in late 1993, maybe
(25) November-December.

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(1) Q: After the closure of the final sale?
(2) A: Yes.
(3) Q: Why was it at that point that you resigned?
(4) A: Frankly, there was coming a hiatus between - when
(5) I had done anything early on in '93, in terms of buttoning
(6) up or trying to assist in button up, or at least of the
(7) things that I had negotiated before that, and Mr. Fisher
(8) saying, "You are still president and the final deal has been
(9) made and here are the documents." As I say, I have got to
(10) be out of here. I had not had any active part in anything
(11) prior to that. I did sign the documents and thereafter
(12) asked him, I think, to prepare the appropriate minutes of
(13) resignation which I think he did.
(14) Q: Given that Mr. Fisher was the trustee by 1993, why
(15) did you stay on as president of HSI?
(16) A: Initially, he did not want to be president of HSI.
(17) He just said, "Grant, you made those transactions or
(18) negotiated the deals and there are some final signatures to
(19) be finished off. I don't know who else would go on." I
(20) said, "I really don't want on; I want off." But he said
(21) "I don't want it either," and it was one of those things, in
(22) the best interest of the estate, that I stay on for a short
(23) period of time which is what I anticipated doing.
(24) Q: Why didn't he want to become president of HSI?
(25) A: You would have to ask him that. My understanding

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(1) was that he was taking over a lot of responsibility. He
(2) wanted somebody to at least check the documents when they
(3) were signed to make sure that they were in conjunction with
(4) the terms that had been negotiated prior to my going on the
(5) bench, so he wasn't handling it cold.
(6) Q: The documents ultimately signed were negotiated by
(7) Mr. Fisher?
(8) A: All of those relative to Mr. Hamilton, yes.
(9) Q: What else was going on with Hoffman-Stevenson?
(10) A: Mostly, there were two or three things, as I
(11) recall, down at the ocean with the lease of the restaurant,
(12) and I don't know if there was anything else. There was a
(13) restaurant, and there had been the - I think they were all
(14) completed about that time. There was the pool, well,
(15) tertiary treatment plant and some concerns about the water
(16) system.
(17) Q: Those issues remained in place following your
(18) resignation as president, did they not?
(19) A: Which?
(20) Q: Some of the issues you just described having to do
(21) with the Surfside.
(22) A: No, I don't believe so. Excuse me, following -
(23) Q: As of 1994, you were no longer president of -
(24) A: That's right.
(25)

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(1) (Exhibit 6 marked
(2) for identification.)
(3) Q: What I am trying to understand, your Honor, is I
(4) had understood your motivation for staying on as president
(5) was that there were a few things that needed to be cleaned
(6) up, but it appears as though those issues remained ongoing
(7) and you continued to participate after they were cleaned up
(8) or after you resigned as president.
(9) A: No. What - I had negotiated a lease with Cathy
(10) Moore, relative to the operation of the restaurant facility
(11) at the ocean. It was negotiated prior to my going on the
(12) bench, but she did not want to start that until three or
(13) four months - I can't remember the exact time - into the
(14) year because winter is just a dead loser time there. After
(15) that, and on this, Mr. Fisher was selling to or trying to
(16) sell - everything was in place, in terms of the lease,
(17) between the association, the tertiary treatment plant, the
(18) water was being provided; this lease to Cathy Moore was in
(19) place. I was out of there.
(20) Then Mr. Fisher was trying to sell the remaining
(21) property, and that package included the restaurant, pool,
(22) tertiary treatment plant and the remainder of the property
(23) as a block. One weekend when I was down there, he asked me
(24) - and I was down there visiting, and, he says, "Grant" -
(25) and as you see this -

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(1) (Discussion off the record.)
(2) A: As I look at this letter - and I remember
(3) Mr. Christianson, Mr. Fisher asked me, "If you are down
(4) here, Grant" - and I was - "can you at least talk with him
(5) about the history of what went on; how we got to where we
(6) got; how the water is supplied; what the restaurant lease
(7) is; why it was there." He was interested in potentially
(8) building some more condominiums or adding to the resort or
(9) something to that effect.
(10) Q: Who succeeded you as president of
(11) Hoffman-Stevenson?
(12) A: I don't know. I don't know.
(13) Q: Other than supply them a history of what went on,
(14) I was not involved at all.
(15) (Exhibit 7 marked
(16) for identification.)
(17) Q: The second paragraph says, "Would the
(18) Hoffman-Stevenson interest sign some type of letter or
(19) document acknowledging and accepting the 'Non-disturbance
(20) Agreement' that you and I negotiated earlier this year?"
(21) Do you see that?
(22) A: Uh-huh.
(23) Q: Let me ask it this way: What did you do in
(24) response to this letter?
(25) A: I don't think I did anything but perhaps tell

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(1) Mr. Fisher - sometimes people didn't understand there are
(2) two parts of what goes on down there. One was
(3) Hoffman-Stevenson and what they owned and their underlying
(4) interest, and the other is the association, the non-profit
(5) - the Surfside Inn Owners Condo Association. And I stayed
(6) active. After I got off of Hoffman-Stevenson, I was active
(7) in that association and on the board. And I had the - I
(8) had recalled earlier that I got a call from him saying, you
(9) know, "We are registering in Hawaii," and, you know, "if
(10) something goes haywire, are you going to kick us all out of
(11) the units?" That is what they were afraid of. I said,
(12) "No." It was nothing more or less than that as a Condo
(13) Association. I don't believe I did anything except perhaps
(14) give the letter to Mr. Fisher.
(15) Q: What is the non-disturbance agreement that he
(16) references that you and he negotiated?
(17) A: Well, "negotiating" is the wrong word because I
(18) never negotiated anything with him. He called me on the
(19) phone and said if - there is an underlying lease because
(20) this property was built on a leasehold interest which I
(21) can't tell you how many years. I want to say 120 years or
(22) something, some number, that requires an annual payment of
(23) the lease. And the concern of people in Hawaii is, if the
(24) association does not make the lease payment and if there
(25) were a foreclosure, would that cut the people who bought

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(1) time-share interests, who did make their annual payments or
(2) maintenance payments, would they be cut out of further usage
(3) of their unit or their shares.
(4) Q: What was the -
(5) A: You know, he just said, "I want something that
(6) says that, as long as Trendwest is in there and pays its
(7) fair share, our usage isn't going to be disturbed." I said,
(8) "It sounds fair to me."
(9) I had no reason not to. I didn't negotiate
(10) anything with him. There were no dollars and cents. It was
(11) just a matter of him wanting some assurance for their
(12) registering to sell I think it is the points that they sell
(13) in Hawaii.
(14) Q: Did you respond to this letter?
(15) A: I don't know. Not that I recall.
(16) Q: Did you forward it to anyone else to respond to?
(17) A: I think I would have probably forwarded it to
(18) Mr. Fisher. And I am looking down here, and it says, "And
(19) further acknowledging that the non-profit association to
(20) which the leasehold interest was deeded is the same
(21) corporation that now survives under a different name as the
(22) Condo Association."
(23) I think he was asking me a bit about what is the
(24) structure and I want some assurance. You understand that I
(25) was the biggest part of history down there that had any

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(1) ongoing knowledge of what had gone on for any period of
(2) time.
(3) Q: When he called you earlier in 1994, why didn't you
(4) refer him to Mr. Fisher at that time?
(5) A: I think I probably did.
(6) Q: I am missing something when he says "the
(7) non-disturbance agreement that you and I negotiated earlier
(8) this year," whether "negotiate" is the proper term, that
(9) suggests - and you tell me if I am wrong - that you and
(10) he had a discussion about that issue and reached a
(11) resolution?
(12) A: He just said, "This is what I would like to do,"
(13) and I said, "It sounds fair to me." The Condo Association,
(14) in some instances, it has been referred to as the Surfside
(15) Condo Association, Surfside Inn Condo Number One
(16) Association, Surfside Inn Association. In different
(17) documents, legal documents, there were different titles
(18) used, whether they were proper or improper, and some of them
(19) - some were improper. Frankly, I think it is legally the
(20) Surfside Inn Condo Number One Association because it was
(21) anticipated that there would be another 48 units built, and
(22) that would be the Condo Number Two Association. And
(23) Mr. Hoffman, in his grand plan, had another 64 units beyond
(24) that that was going to be built.
(25) Q: In your conversation with Mr. Feichtinger, that

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(1) preceded this letter, were you speaking to him on behalf of
(2) Hoffman-Stevenson Incorporated?
(3) A: No. I didn't have any authority, any power, or
(4) anything. I just had a little history that I could explain
(5) to him what went on.
(6) Q: You said you indicated that what he had proposed
(7) sounded fair and you said that is okay?
(8) A: Yeah.
(9) Q: In what capacity were you speaking and on whose
(10) behalf?
(11) A: At most, I would have been speaking on behalf of
(12) the condo associations.
(13) Q: He had asked you, though, about the application of
(14) the non-disturbance agreement in the event of foreclosure in
(15) favor of Hoffman-Stevenson.
(16) MR. BULMER: Let's make sure the record is
(17) clear. There is a comment and it goes on to talk about as
(18) it has been assigned to the association. A fair reading of
(19) the letter is he is saying, "Look-it; that lease has been
(20) assigned to the association so is the association going to
(21) sign this agreement on the non-disclosure. It is no longer
(22) in Hoffman-Stevenson's hands. It is in the Condo
(23) Association's hands.
(24) MR. TAYLOR: The record and letter will speak
(25) for itself.

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(1) Q: Let me ask it this way: Did Hoffman-Stevenson, at
(2) that point, hold some kind of deed of trust or mortgage
(3) interest in the Surfside property?
(4) A: I don't know.
(5) Q: To wrap this up then, as I understand it, in your
(6) dealings with Mr. Feichtinger, as represented in Exhibit 7,
(7) you were in no way purporting to act or acting on behalf of
(8) Hoffman-Stevenson, Incorporated?
(9) A: No.
(10) Q: My notes, in our original meeting a couple of
(11) months ago, indicate that you had told us that you had made
(12) the payments on the Cadillac in response to questions from
(13) me about whether Sound Bank made the payments. Were my
(14) notes accurate as to what you told us?
(15) A: No. I was fully prepared to answer fully any
(16) question that you asked accurately, and I did.
(17) Q: When Mr. Hamilton prepared his affidavit in April
(18) of 1996, did you assist him in preparing that?
(19) A: No. Did I see it? Yes.
(20) Q: Did you see it before he signed it?
(21) A: I probably did. I don't know that I did or
(22) didn't, but I probably did.
(23) Q: Did you make suggestions as to the wording or
(24) language?
(25) A: No. Mr. Bulmer was in contact with his attorney,

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(1) and I think they hashed it out, if that is the right word,
(2) the preparations.
(3) (Exhibit 8 marked
(4) for identification.)
(5) Q: The second page of Exhibit 8, the paragraph that
(6) begins "The monthly payments I made for Grant," would you
(7) read that paragraph, please.
(8) A: "Monthly payments I made for Grant -
(9) Q: To yourself.
(10) A: Okay.
(11) Q: Is that paragraph accurate, particularly the last
(12) sentence?
(13) A: Is it accurate?
(14) Q: Yes.
(15) A: I would say, as far as it goes, it is accurate. I
(16) paid off - this says "paid off the balance of the loan,
(17) some \$8,000," which I did. I paid it to him. What it
(18) doesn't say is who paid it to the bank or how it got paid,
(19) and that was the end of the matter.
(20) Q: Did you discuss this language with Mr. Hamilton or
(21) a representative of Mr. Hamilton before he signed this?
(22) A: No.
(23) Q: Did you resign the presidency of Pacific Lanes,
(24) Hoffman-Stevenson and Surfside Inn all at the same time?
(25) A: I suspect I did, but I don't recall, to be

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(1) perfectly honest with you.
(2) While he is looking over that, I am going to go
(3) down the hall.
(4) (Short recess.)
(5) Q: One last question, your Honor.
(6) Have you been able to give any more thought to the
(7) source of the \$14,100 figure that you put on the excise tax
(8) affidavit in connection with Mr. Duncan McMillan?
(9) A: I have given some thought to it. Have I come up
(10) with any answer? The answer is no. I guess - and it would
(11) be a best guess - it would be an assessment because of
(12) excise tax purposes.
(13) From a business standpoint, I can envision, as you
(14) indicated, sometimes people look at them for value. Without
(15) knowing - without knowing the background and what is behind
(16) them, perhaps it would have been beneficial to put a number
(17) on there to bolster the value, if you want to call it that,
(18) for potential buyers thereafter. That is a possible but I
(19) don't think so. I think that really - I think the excise
(20) tax people, for some reason or other, said that is the number,
(21) and, rather than argue or fight with them, it is easier to
(22) pay \$225 and go about business.
(23) MR. TAYLOR: Could I have that read back,
(24) please.
(25) (The answer was read.)

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(1) Q: Was your selection of the \$14,100 figure in any
(2) way, shape, or form motivated by a desire to bolster the
(3) value of this property from the perspective of
(4) later purchasers?
(5) A: I have told you I don't have a clue where that
(6) number came from. That would have been a possible, but I
(7) don't think so. I believe - I just don't believe so.
(8) Q: Let me ask it a different way, your Honor, and
(9) bear me with me, please.
(10) Can you deny that the \$14,100 figure was chosen in
(11) an effort to bolster the value of the property from the
(12) perspective of -
(13) A: I told you I can't tell you anything about the
(14) selection of that number at this juncture. That would not
(15) be my normal - I would not normally do that. I don't think
(16) I ever have because I never thought of it as a - I didn't
(17) think of it as people going down to check those values when
(18) they buy. Most people who buy time shares buy from salesmen
(19) or because they are impressed with a place or for whatever
(20) reason.
(21) Q: By the time the McMillan transaction was recorded,
(22) were you dealing with any entity, such as Trendwest or
(23) Pacific Recreation, Pacific Resorts International, any of
(24) those?
(25) A: I can't tell you the time frame at the time. I

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(1) may have been - Trendwest, I dealt with them very early on,
(2) and it could have been at or about that time. They took a
(3) look at it. They turned it down. They turned down any
(4) purchase. Their needs - their inventory needs were not
(5) sufficient; the place was run down and not looking
(6) attractive to them. I resurrected them - it was a year and
(7) a half or two later, some period of time, at which time it
(8) had obviously been repaired, upgraded somewhat. Their
(9) inventory need was up and then we could negotiate the deal.

(10) Q: Exhibit 2, my recollection is it was not recorded
(11) for approximately two months after the transaction. Do you
(12) know why that would be?

(13) A: It could be because it sat around the file. It
(14) never got sent down to South Bend or I sometimes would take
(15) them with me and drop them off with Mr. Mills at the title
(16) company to record. It could be any number of reasons. I
(17) don't - I, frankly, don't have a clue.

(18) Q: In the normal course of business, as a
(19) transactional attorney, it certainly would be your practice
(20) to record things promptly?

(21) A: Usually, yes.

(22) Q: Did you discuss the excise tax affidavit with
(23) Duncan McMillan?

(24) A: When?

(25) Q: At any time.

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(1) A: The only discussion I have had was Duncan called
(2) me, I am going to say, last week and said that you had
(3) called him and he asked some question about that, and, I said,
(4) "Thank you" and "goodbye," and that was it.

(5) Q: What did he ask you about?

(6) A: Nothing. He just said, you know, "I told him you
(7) were a good guy," and he mentioned that, and, he said, "I
(8) don't know anything about it," and I think that was
(9) literally it. I mean, it was a short conversation. I had
(10) - acting under advice of counsel, I have not talked,
(11) discussed with -

(12) Q: Did you tell him prior to preparing and filing
(13) this affidavit that you were going to file something with
(14) the government indicating that he had received \$14,100?
(15) MR. BULMER: Objection.

(16) A: I don't think it says that, and I don't know what
(17) I told him. I probably gave him a copy of things. That was
(18) an excise tax affidavit for purpose of paying excise tax,
(19) for whatever reason they determined it. There are a number
(20) of reasons that they are paying an excise tax, and those
(21) have changed over the years, as I am sure you know, as a
(22) practitioner, including whether it is forgiveness of
(23) indebtedness or whether there is actual cash or whether
(24) there is trades or, as I indicated, even sometimes actions
(25) that are cashless, they still take assessed values because

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(1) they want to collect excise tax.

(2) Q: Let me rephrase my question. Did you tell him you
(3) were filing something that reported or assigned a number to
(4) the transaction?

(5) A: I don't have - at this juncture, I don't have a
(6) clue.

(7) MR. TAYLOR: I don't have anything further.

(8) Thank you for your time.

(9) (The deposition concluded
(10) at 1:48 p.m.)

(11) (Signature was not waived.)

(12)

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AFFIDAVIT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I have read my within deposition,
and the same is true and correct, save and
except for changes and/or corrections, if any,
as indicated by me on the "CORRECTIONS" flyleaf
page hereof.

GRANT L. ANDERSON
SUBSCRIBED AND SWORN to before me
this _____ day of _____, 1997.
NOTARY PUBLIC in and for
the State of Washington,
residing at _____.
My commission expires _____

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CERTIFICATE

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, the undersigned officer of the Court,
under my commission as a Notary Public in and for
the State of Washington, hereby certify that the
foregoing deposition upon oral examination of the
witness named herein was taken stenographically
before me and thereafter transcribed under my
direction;

That the witness before examination was
first duly sworn by me to testify truthfully; that
the transcript of the deposition is a full, true
and correct transcript of the testimony, including
questions and answers and all objections, motions,
and exceptions of counsel made and taken at the
time of the foregoing examination;

That I am neither attorney for, nor a
relative or employee of any of the parties to the
action; further, that I am not a relative or
employee of any attorney or counsel employed by the
parties hereto, nor financially interested in its
outcome.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this 10th day of January, 1997.

Patrice E. Starkovich
NOTARY PUBLIC in and for the
State of Washington, residing
at Seattle.
My Commission Expires 5-31-2000.

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PATRICE STARKOVICH
REPORTING SERVICES
P.O. BOX 22884
SEATTLE, WASHINGTON 98122
(206) 323-0919
January 10, 1997

To: Judge Grant Anderson
c/o Kurt M. Bulmer
201 Westlake Avenue North
Seattle, Washington 98109

Re: In re the Matter of: The Commission on Judicial
Conduct

Deposition of: Grant Anderson
Date Taken: December 17, 1996
Cause No.: No. 96-2179

PLEASE TAKE NOTICE THAT:

The above deposition is hereby forwarded to you for your
reading and signing. Please do not write on the transcript
itself, but note any changes on the enclosed Correction
Sheet; then sign the "Affidavit" page before a Notary
Public. Please return all documents by ____.

Thank you for your assistance in obtaining signature.

By: Patrice E. Starkovich, RPR, CSR
cc: Paul R. Taylor

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