

C A N A D A
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N°: 500-11-037071-095
Estate N°: 41-342155

S U P E R I O R C O U R T
CHAMBRE COMMERCIALE

ELISABETH DEUX
PAR LA GRACE DE DIEU, REINE DU
ROYAUME-UNI, DU CANADA ET DE
SES AUTRES ROYAUMES ET
TERRITOIRES, CHEF DU
COMMONWEALTH, DEFENSEUR DE LA
FOI

EARL JONES
Debtor

-and-

RSM RICHTER INC.
Syndic

EXAMINATION UNDER SECTION 163 OF THE
BANKRUPTCY AND INSOLVENCY ACT
DEPOSITION OF EARL JONES
EXAMINED BY Me NEIL H. STEIN

APPEARANCES:

Me NEIL H. STEIN,
Me DONALD R. MICHELIN
for the Trustee
Also present: Ms. Julie Korman

MR. GILLES ROBILLARD from RSM Richter, Inc., Trustee
Also present: MR. MATHIEU GIRARD, CECILE COMBRET, COURTNEY
CASTELINO, and MIREILLE CLOUTIER from RSM Richter, Inc.,
Trustee

Me ALEXANDER L. DE ZORDO, and
Me JULIA POMEREY
for the Royal Bank

Also present:
Mr. Lenny Lechman from the National Criminal Investigation
Service on behalf of Mr. Earl Jones

AR091208.A

ANNAGRET RINALDI, o.c.r.
December 8, 2009

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1 In the year of Our Lord, two thousand and nine (2009), on
2 this eighth (8th) day of December, PERSONALLY CAME AND
3 APPEARED:

4
5

6 EARL JONES, born June 24th, 1942, having an address at
7 c/o Jeff Boro, 500 Place d'Armes, Suite 2350, Montreal,
8 Province of Quebec;

9
10

11 WHO, after having solemnly affirmed, doth depose and say
12 as follows:

13
14

15 CONTINUATION OF EXAMINATION BY Me NEIL H. STEIN
16 on behalf of the Trustee:

17 1Q- Good morning, Mr. Jones.

18 A- Good morning.

19 2Q- Yesterday we dealt with various facets whereby you
20 acknowledged that various funds were taken out of
21 the Earl Jones In Trust account and used for your
22 own personal benefit or for the benefit of members
23 of your family et cetera.

24 And at a point in time you said that certain
25 matters were paid for by personal funds that you had

1 taken from your personal account as opposed to the
2 trust account.

3 My first question to you is the following. Mr.
4 Jones, did you ever keep any records of how much
5 money you were taking out of the in trust account
6 for your personal use?

7 A- No.

8 3Q- So throughout the entire period after you started
9 using funds from the trust account, at no time you
10 kept any record as to what funds were yours as
11 opposed to what funds belonged to the funds in the
12 in trust account of the people whose money had been
13 deposited to that in trust account?

14 A- Well, over the years from time to time on, I guess,
15 about every six (6) months or an annual basis I
16 would sit down and figure out what was owing from
17 the in trust account. And basically would conclude
18 that these are funds that some of which I have used,
19 but I didn't on a day-to-day basis record.

20 4Q- Did you...

21 A- Well, record. It was in the... in the trust account
22 the withdrawals that were made.

23 5Q- Okay. So is your answer that you would do that
24 verbally or would you do that in writing or...

25 A- I would do it sometimes just on a...

1 6Q- Scrap of paper?
2 A- Exactly, yes.
3 7Q- So those records were never kept, I...
4 A- No.
5 8Q- ... I assume?
6 A- No.
7 9Q- Okay. So at the end of the day, when I take a look
8 at exhibits... off the record for a second.
9
10 OFF RECORD
11
12 A- Can I request that I am -- as yesterday -- protected
13 under the Canadian Evidence Act...
14 Me NEIL H. STEIN:
15 10Q- Certainly.
16 A- ... and the Bankruptcy & Insolvency Act?
17 11Q- Certainly.
18
19 OFF RECORD
20
21 Me NEIL H. STEIN:
22 12Q- So at the end of the day, when you referred to this
23 thirty million dollars (\$30,000,000.00) in Exhibit
24 EJ-15, that was your, what I would call a
25 guesstimate...

1 A- You're right.

2 13Q- ... of what you thought...

3 A- You're right.

4 14Q- ... was taken from the in trust account?

5 A- Yes.

6 15Q- It could be more and it could be less?

7 A- Could be.

8 16Q- Okay. Now, what I would like to do is go through --

9 we won't go through every one of them because it

10 would be too time consuming -- but go through

11 certain years and try and understand what was used

12 for your personal purposes from the in trust account

13 and as compared to what your declared earnings were

14 on your income tax returns for the particular year.

15 And I think we'll start with the year nineteen

16 ninety-six (1996). And I'm going to provide you

17 with a summary of the various years.

18

19 OFF RECORD

20

21 Me NEIL H. STEIN:

22 17Q- Okay, we'll give you a summary for each one of the

23 years, and then we'll go year-by-year for the

24 particular cheques.

25 Okay. In nineteen ninety-six (1996), I show

1 identify that, and tell the Court what that cheque
2 was for?

3 A- That cheque was for my daughter's... would have been
4 for my daughter's fees at the Grow Program at
5 Riverview. And my, if I recall, I had received a
6 cheque from a scholarship fund for eight thousand
7 dollars (\$8,000.00), so I would have thought that
8 the... I could have put the eight thousand (8,000)
9 from the Canadian Scholarship Trust Fund into the
10 trust account and wrote this cheque, but that was
11 for part or all of my daughter's...

12 21Q- Okay. Well, we'll...

13 A- ... school fees at the Grow Program at Riverview
14 School.

15 22Q- Okay. The cheques which we're showing you all come
16 out of the Earl Jones In Trust account.

17 A- Right.

18 23Q- Okay. And so the first one is for your daughter's
19 school, eight thousand (8,000) U.S. We'll produce
20 all the cheques en liasse as Exhibit EJ-35...

21 MR. GILLES ROBILLARD:

22 For nineteen ninety-six (1996).

23 Me NEIL H. STEIN:

24 24Q- ... for nineteen ninety-six (1996).

25 Exhibit No. EJ-35

1 25Q- Okay, so that's number 1. The next one is ten
2 thousand dollars (\$10,000.00) to your wife. And she
3 explained to us that that was to pay for the
4 household expenses and various matters that she may
5 have been paying such as Visa cards, is that
6 correct?

7 A- I guess so.

8 26Q- Okay.

9 A- That's what she used it for. I see in the back it
10 marks "fees", so... I'm just wondering whether there
11 should have been a... that should have been drawn on
12 my company account, but...

13 27Q- Well, that's in your handwriting that you've marked
14 "fees", is that it?

15 A- Yes.

16 28Q- Okay. And...

17 A- Whether it came out of the wrong account, I don't
18 know.

19 29Q- The next one is a cheque made to yourself for five
20 thousand dollars (\$5,000.00).

21 A- Yes.

22 30Q- And that represented what?

23 A- I don't know.

24 31Q- Okay. The next one is to Earl Jones, your
25 corporation, for three thousand four forty-six

1 eighty-three (3,446.83). Would you tell us what
2 that represented?

3 A- These are fees from my clients. You'll see at the
4 bottom corner Heather Clark.

5 32Q- Okay. And what... three thousand four forty-six
6 (3,446) would represent what type of fees?

7 A- My management and annual management fee.

8 33Q- Okay. The next one is seven sixty-five (765) to
9 Golfside Management Inc.

10 A- That's an expense we paid on behalf of John Lafave,
11 who was one (1) of our clients.

12 34Q- Okay. The next one, for two hundred and thirty-five
13 dollars (\$235.00) to Earl Jones Corp.

14 A- That would be a fee as well. At the bottom you'll
15 see the invoice number.

16 35Q- Okay. The next one again is to your corporation for
17 two thousand seven thirty-four (2,734).

18 A- Again that's an administration fee.

19 36Q- Okay. Next one is for cash three thousand dollars
20 (\$3,000.00).

21 A- That was for a client, Sharon Lazar. She would have
22 probably had money with us and asked for a three
23 thousand dollar (\$3,000.00) payment.

24 37Q- And why would it have been made in "Cash"?

25 A- Because she would have requested that.

1 38Q- And I notice on the back...

2 A- K. Stewart would have went and got the cash at the

3 bank. It was Kathy Stewart. That was Debra

4 Stewart's mother who used to work for me.

5 39Q- All right. So the cheque would be made to "Cash",

6 and she would go to the bank and she would cash it?

7 A- That's right.

8 40Q- Okay. The next one, for six twenty-six seventy-five

9 (626.75), Earl Jones Corp. There's a notation

10 there.

11 A- That's the same thing. Margaret Davis.

12 41Q- That's fees?

13 A- That was a fee, yes.

14 42Q- Okay. The next one is for eight hundred dollars

15 (\$800.00) to Kathy Stewart.

16

17 OFF RECORD

18

19 A- I don't know what that would be for. It could...

20 I'm just... I don't know what it'd be for.

21 Me NEIL H. STEIN:

22 43Q- Okay.

23 A- I think I know what it is, but I don't know.

24 44Q- Now, I'm going to show you a series of cheques made

25 to your corporation. All of them have notations on

1 them. Would you tell me if these represented fees
2 or what they represented? There's one (1) more.

3 MR. GILLES ROBILLARD:

4 There's one (1) more.

5

6 OFF RECORD

7

8 A- These would all be fees.

9 Me NEIL H. STEIN:

10 45Q- Okay.

11 A- And this one here with the name John Lafave. John
12 was a client of ours. And I was appointed his
13 guardian by the courts. And that was a payment to
14 him from the monies that we were...

15 46Q- Now, this goes back quite a while to nineteen
16 ninety-six (1996), but in your mind in respect of
17 any of these people or some of these people, and
18 I'll give you examples, Mr. Mandl -- these names
19 would come to my memory quickly -- Bev Hamilton,
20 Babington, Kent, Davis, Beardmore, these people that
21 end up at the end of the day being part of the
22 victims and people whose money didn't, or won't get
23 returned to them, is that correct?

24 A- They are people... they are member... they are part
25 of the victims, yes.

1 47Q- Okay. Now, there are, you will see on the list that
2 you have in front of you -- this one over here...

3 A- Right.

4 48Q- ... at the end of every month on the bank statements
5 there are cash withdrawals from the in trust account
6 marked "ATM".

7 A- Right.

8 49Q- In this case, in January, twenty thousand four
9 hundred dollars (\$20,400.00) total withdrawn during
10 the month.

11 A- Right.

12 50Q- And we're going to show you in a moment those bank
13 statements. But I would like you to confirm that
14 those withdrawals would have been made on the debit
15 card that you had at the bank, is that correct?

16 A- I would think so, yes.

17 51Q- Okay. Now, let's go to February of nineteen ninety-
18 six (1996). The first cheque is one to Kristine
19 Jones. Take a look and tell us if you are able to
20 state what that cheque is for.

21 A- I don't know what that was for.

22 52Q- Okay.

23 A- I assume... it might have been education. I don't
24 know.

25 53Q- All right. Now, here are two (2) cheques made to

1 Ian Forrest, and the reverse side is marked
2 "personal loan". Would you take a look at those and
3 tell us if you're able to identify what they
4 represented?
5 A- These would have been loans made to Ian Forrest
6 utilizing his funds in the trust account and
7 probably allocated to a client who gave us some
8 monies.
9 MR. GILLES ROBILLARD:
10 54Q- Who is Ian Forrest?
11 A- Ian Forrest is a former... former client of mine.
12 His parents were clients.
13 Me NEIL H. STEIN:
14 55Q- So this is a loan that you are making to him or this
15 is repayment of the loan?
16 A- Well, it's a cheque to him, isn't it?
17 56Q- That's correct. But...
18 A- So...
19 57Q- So is it a loan being made to him or is a repayment
20 of a loan made to him?
21 MR. GILLES ROBILLARD:
22 Made by him.
23 Me NEIL H. STEIN:
24 58Q- Made by him.
25 A- I would say it's a loan we made to him.

1 59Q- A loan you made to him?
2 A- Yes.
3 60Q- And when it says "personal loan" on the other side,
4 does that refer to a personal loan being made by
5 yourself?
6 A- I think "personal loan" means personal to him
7 because at that time we probably were settling his
8 mother or father's estate. So it was probably
9 personal monies - his... that he was responsible
10 for.
11 61Q- Okay. And the next cheque is another cheque to your
12 wife for ten thousand dollars (\$10,000.00). That
13 again, I presume, represented, as you explained, it
14 represented amounts that she used to pay for
15 household expenditures.
16 62 The next cheque is a small amount of three
17 hundred and seventy dollars and fifty-nine cents
18 (\$370.59) made to Allied Pickfords. Can you tell us
19 what this represented?
20 A- No. It's... Allied Pickford is a moving company, as
21 you probably know.
22 63Q- No, I don't know.
23 A- And I have no...
24 64Q- All right. You don't know you don't know. Okay.
25 MR. GILLES ROBILLARD:

1 65Q- Did you move in nineteen ninety-six (1996) from one
2 house to another or... this is dated February
3 fifteenth (15th), and it doesn't mention any
4 specific clients.

5 A- We may have moved from the building that we are in.
6 We had three (3) different offices. So that may
7 have been a move from one office to another.

8 It may have been a client who we arranged a
9 move for...

10 Me NEIL H. STEIN:

11 66Q- Well, three hundred (300) and...

12 A- ... and the bill came in and...

13 67Q- Okay.

14 A- It's obviously not a huge bill.

15 68Q- All right. Let's not guess. Let's... you either
16 know or you don't know. If you don't know,
17 please...

18 A- I don't know.

19 69Q- ... as I mentioned to you before, don't guess. The
20 next cheque is for thirty thousand dollars
21 (\$30,000.00) to the Bank of Bermuda.

22 A- That was money that Brenda Moroz gave to us, which
23 we sent down on her behalf to the Bank of Bermuda
24 for an investment, as indicated on the back of the
25 cheque.

1 70Q- Okay. So Brenda Moroz was a client, is that it?

2 A- That's right.

3 71Q- Okay. Here is a series of cheques for five thousand
4 four twelve (5,412); two thousand two seventy-nine
5 (2,279); one thousand one thirty-six (1,136); one
6 thousand one thirty-nine (1,139); and four ninety-
7 five (495). They appear to be cheques for fees.
8 Would you just identify them as such.

9 A- I guess it would be fees here.

10 72Q- Okay. Cheque to Carol Lafave for five thousand
11 dollars (\$5,000.00). What would that represent?

12 A- That would have been monies that Carol had with us
13 or part of her mother's estate that we settled.

14 73Q- Okay.

15 MR. GILLES ROBILLARD:

16 Up here it would be John Lafave.

17 Me NEIL H. STEIN:

18 74Q- I'm showing you here three (3) more cheques. One
19 (1) made to Sciascia Fagnoli Poletto & Associates,
20 Hydro Quebec and Royal Bank. And the notation is
21 John Lafave. Would you tell us what those
22 represent?

23 A- These would represent payment of accounts...

24 75Q- Okay.

25 A- ... on behalf of Mr. Lafave, who we were looking

1 after.

2 76Q- The next one is to Dianne Gilker for a thousand one
3 seventy-two (1,172).

4 A- Yes, this was final distribution of her... a Mrs.
5 Boyle, who Dianne personally looked after. And we
6 were...

7 77Q- So why would it...

8 A- We were settling her estate. And...

9 78Q- So why would the cheque be made out to Dianne
10 Gilker?

11 A- I think Dianne had received a cash legacy or...
12 Dianne looked after her before she died.

13 79Q- Okay. Another cheque, to Scotia McLeod for thirty-
14 five hundred dollars (\$3,500.00), re: Kathy Stewart
15 RRSP.

16 A- Well, these are funds that were obviously given to
17 Kathy Stewart, who used to work for me. She...

18 80Q- Who...

19 A- ... put them in her RRSP.

20 81Q- Who would have given her the funds?

21 A- Well, I would have authorized the cheque to be
22 issued.

23 MR. GILLES ROBILLARD:

24 82Q- Was that part of her salary or...

25 A- It may have been. It may have been a bonus that I

1 would have given her. And then... and she looked
2 after all the banking and did it through the in
3 trust account. But I don't know.

4 Me NEIL H. STEIN:

5 83Q- I'm going to show you here some more. Four (4)
6 different cheques. Would you just confirm that
7 these represent fees as well to your corporation?

8 A- Yes, for fees.

9 84Q- Okay. And then at the end of that month, again the
10 bank statement indicates ten thousand three hundred
11 (10,300) total of cash withdrawals from the... I
12 presume it's the debit card, which we'll show you
13 afterwards.

14 Now, March nineteen ninety-six (1996). Cheque
15 for ten thousand (10,000) to yourself and your wife.
16 Appears to be endorsed by yourself and deposited by
17 your wife. There are three (3) cheques for ten
18 thousand dollars (\$10,000.00).

19 Let's go one (1) at a time. That's for ten
20 thousand (10,000) dated February nineteenth (19th),
21 nineteen ninety-six (1996).

22 A- Right.

23 85Q- Okay. That would be used for household purposes and
24 personal purposes?

25 A- I would think so.

1 86Q- Okay. Another one dated March eighth (8th),
2 nineteen ninety-six (1996) for ten thousand
3 (10,000). Again the same thing, is that correct?

4 Now, I notice on the back of these cheques
5 you're marking "EJ own funds". And you're going to
6 see that at the end of the year, although your
7 income being reported is forty-two thousand dollars
8 (\$42,000.00), you have cheques which are marked "EJ
9 own funds" which exceed this forty thousand dollars
10 (\$40,000.00).

11 I assume that -- and you'll correct me if I'm
12 wrong -- that the simple marking of "EJ own funds"
13 was really in effect fictitious, that those funds
14 were not your funds that were in the in trust
15 account, but were third party funds in the in trust
16 account?

17 A- They could be, all or part. Or I may have put some
18 of my own funds in the in trust account prior to
19 nineteen ninety-six (1996) or during the year
20 nineteen ninety-six (1996). And I assume that some
21 of these monies were actually my own personal monies
22 that went in the in trust account.

23 87Q- Well...

24 A- I don't know if there was any deposits in ninety-six
25 ('96) or earlier from my own monies.

1 MR. GILLES ROBILLARD:
2 88Q- If we go back to nineteen eighty-seven (1987), your
3 income has always been around the forty (40) to
4 thirty-five thousand (35,000) to forty thousand
5 dollar (\$40,000.00)...

6 A- Right.
7 89Q- ... level at that time.
8 A- Right.
9 90Q- The disbursements to yourself, your wife, schooling
10 and everything...
11 A- Right.
12 91Q- ... were way in excess of those income.
13 A- Right.
14 92Q- Have you ever had any other source of income to
15 justify all monies?
16 A- I know there was some monies made when we... when
17 that Clairehaven project was sold. And I'm not sure
18 where they went to.
19 93Q- But that again...
20 A- But other... as regular other streams of income, the
21 answer is no.
22 94Q- And there again, Clairehaven, I mean, the
23 substantial portion of the money that was made
24 was... went back to probably reimburse money that
25 was taken out of the trust account originally to pay

1 for it, no?

2 A- No, I would say there was... there was a net gain
3 from the Clairehaven. The Claire... I don't think
4 there was a lot of funds used for Clairehaven.

5 95Q- Okay.

6 Me NEIL H. STEIN:

7 96Q- Mr. Jones, in March of nineteen ninety-six (1996)
8 you'll see that there are cheques of thirty thousand
9 dollars (\$30,000.00) out of the in trust account in
10 that one (1) month alone, okay?

11 You didn't inherit any vast sums of money in
12 nineteen ninety-six (1996). You didn't have any
13 other major sources of income in nineteen ninety-six
14 (1996).

15 It would be fair, I would assume, to say that
16 your notation "EJ own funds" may be your reference
17 to the fact that you're taking out these monies for
18 your own personal benefit, but not that it
19 represented monies you had put into the trust
20 account?

21 A- It may be.

22 97Q- I show you here a cheque to Scotia McLeod for ten
23 thousand dollars (\$10,000.00). Would you tell us
24 what this represented?

25 A- This represented a deposit to my Registered

1 Retirement Savings Plan at our Scotia McLeod.

2 98Q- Okay. I show you here another one for five thousand
3 dollars (\$5,000.00) payable to Scotia McLeod. The
4 reference is "Pierre Courchesne nineteen ninety-five
5 (1995) RRSP". What did that represent?

6 A- That was a deposit to Mr. Courchesne's RRSP. And I
7 would assume that it was instead of paying his fees,
8 Kathy had sent it out as an RRSP. But that was a
9 payment to Mr. Courchesne's RRSP at Scotia McLeod.

10 99Q- Mr. Courchesne was, according to his testimony,
11 preparing the corporate tax returns for your
12 corporation. This would have represented payment in
13 respect of the corporation?

14 A- It... I'm saying it could have represented part of
15 the fees that we owed him, and Kathy may have paid
16 it in this manner as opposed to paying the fees
17 directly to Mr. Courchesne from the company account.

18 100Q-Okay.

19 A- It's an assumption I'm making.

20 101Q-Okay. A cheque for a thousand dollars (\$1,000.00)
21 to Kathy Stewart. Appears to be deposited to her
22 account.

23 A- I don't know what that's for.

24 102Q-Okay.

25 MR. GILLES ROBILLARD:

1 These are all fees.

2 Me NEIL H. STEIN:

3 103Q-A group of cheques made out to Earl Jones

4 Corporation. And most of them are indicated as

5 being invoices with respect to various clients.

6 A- Golfside Management is Mr. Lafave's, but...

7 104Q-Right. Golfside Management you've identified as

8 being cheques made on behalf of Mr. Lafave.

9 A- That's right.

10 105Q-They're all for small amounts. Seven sixty-five

11 (765).

12 A- That's his rent, yes.

13 106Q-Okay.

14 A- And the rest are all fees.

15 107Q-Okay. The next one is for Kathy Stewart. Another

16 two thousand dollars (\$2,000.00).

17 A- I don't know.

18 108Q-Okay. The next one is a thousand dollars

19 (\$1,000.00), Royal Bank Visa, re memo is Kathy

20 Stewart.

21 A- I don't know if that was a payment for her or for

22 one (1) of my Visa cards. I assume it's hers.

23 109Q-Another for a thousand five hundred (1,500), Kathy

24 Stewart.

25 A- Don't know.

1 110Q-Don't know. Earl Jones Corp., a thousand seven
2 hundred and nine (1,709). It looks like it's a fee.
3 A- That's a fee for Mr. Shewchuk, yes.
4 111Q-Okay.
5
6 OFF RECORD
7
8 Me NEIL H. STEIN:
9 112Q-Dorval Oldtimers, two hundred dollars (\$200.00).
10 A- That would have been a donation that was made.
11 113Q-Donation?
12 A- Yes.
13 114Q-Okay. Then at the end of that month there's cash
14 withdrawals of five thousand nine hundred dollars
15 (\$5,900.00). Okay. Excellent.
16 Okay. We have two (2) small cheques. One (1)
17 made... the memo is Marlene Lafave and the other is
18 John Lafave. I presume that those were payments
19 made on behalf of those two (2) clients.
20 A- That's correct.
21 115Q-Okay. Then we have one (1) to Scotia McLeod for
22 four thousand seven seven three (4,773). Tell me
23 what that represented?
24 A- I would think that's a deposit to my investment
25 account that I had with Scotia through Mr. Menard.

1 116Q-Okay. Now, you then have a cheque for a hundred and
2 twenty-five thousand (125,000) U.S. or a hundred and
3 seventy-one thousand three seventy-two (171,372)
4 Canadian made to... from the Earl Jones In Trust
5 account made to the Bank of Bermuda.

6 A- That would have been funds deposited in the Bank of
7 Bermuda for one (1) of our clients.

8 117Q-Are you able to identify which client?

9 A- I think it could have been Dr. and Mrs. -- not
10 doctor -- but McKenty.

11 118Q-Okay. A cheque for a thousand five hundred dollars
12 (\$1,500.00) to Patrick Mills.

13 A- No idea.

14 119Q-No idea?

15 A- No.

16 120Q-Marked "personal". You have no idea what... who is
17 Patrick Mills?

18 A- No.

19 121Q-A cheque to Robert Hausner for fifteen thousand
20 dollars (\$15,000.00), re personal Pointinvest.

21 A- I think this was a loan made to Mr. Hausner. And
22 the funds were allocated to a loan made from
23 Pointinvest, which I don't think was correct, but I
24 think there was a loan from the trust account to Mr.
25 Hausner.

1 122Q-Loan made from the trust account to Mr. Hausner?
2 A- Right.
3 123Q-I understood that Mr. Hausner was one (1) of the
4 people that was lending money to you.
5 A- Mr. Hausner borrowed money when he was -- I think
6 the amount could have been up to sixty thousand
7 dollars (\$60,000.00) -- when he was owner of Canada
8 Carpet, I think the company was. And we had... we
9 had loaned him, I think up to sixty thousand dollars
10 (\$60,000.00).
11 124Q-Okay. Was that loan fully paid back?
12 A- I don't think so.
13 125Q-Am I not correct in saying that at a point in time
14 he was part of the various so-called bridge loans
15 where he was advancing money?
16 A- Yes.
17 126Q-So he was advancing money to you for loans, and he
18 hadn't paid back his loan account to you?
19 A- I believe so.
20 127Q-Why would you allow that? Wouldn't you offset?
21 A- Well, I would, but, you know, I think we were going
22 to offset at a later date. But it was not offset at
23 this... at any time.
24 128Q-Golfside Management.
25 A- I think.

1 129Q-We know what that one's about. Okay. Kathy
2 Stewart's loan for a thousand dollars (\$1,000.00).
3 A- No idea.
4 130Q-No idea. And then Carol Lafave for three thousand
5 dollars (\$3,000.00).
6 A- That was monies from her mother's estate account.
7 131Q-Okay. And then at the end of that month again
8 there's forty-eight hundred dollars (\$4,800.00) in
9 cash withdrawals from the ATM machine.
10 Next month, May nineteen ninety-six (1996).
11 Again Allied Pickfords for three hundred and seventy
12 dollars (\$370.00). And the notation is "E. Jones
13 storage".
14
15 OFF RECORD
16
17 A- Those cheques for Kathy Stewart -- I think you're
18 looking at the cheque for Kathy Stewart?
19 Me NEIL H. STEIN:
20 132Q-No, no, he's looking at a cheque for Carol Lafave.
21 A- Allied Pickfords -- now... now I recall -- this is
22 a storage that we had out in Kirkland, which I
23 believe Mr. Robillard is aware of.
24 Mr. GILLES ROBILLARD:
25 133Q-Is that the one... there was one. Is that...

1 A- Yes, originally it was Allied Pickford, I think. I
2 don't... I think...

3 134Q-So that's... I don't think it's Allied Pickford
4 anymore.

5 A- Well, if it's with Allied Pickford Storage, then we
6 may have been paying on behalf of an account. I
7 don't... that's the only storage area that... it may
8 have been... I... I don't know.

9 135Q-Okay.

10 Me NEIL H. STEIN:

11 136Q-Okay. The next one is ten thousand dollars
12 (\$10,000.00). May first (1st), nineteen ninety-six
13 (1996) to your wife. And she explained that that
14 would have been used for household purposes.

15 And then we have a cheque for three thousand
16 (3,000) payable to Cash, which appears to be
17 endorsed by Kathy Stewart.

18 A- That... let me just go back on Kathy Stewart, this
19 comes to mind. This could have been monies that she
20 obtained for a client and given to a client.
21 There's no name on it, so I can't tell you, but that
22 wasn't uncommon, where a client would ask for and
23 she'd take a cheque over to the bank, get cash and
24 give it to a client.

25 But let me go back on some of the cheques to

1 Kathy, straight cheques. She had deposited with us
2 monies from her mother's estate from Chicago. And
3 some of those may have been the distribution of her
4 own funds.

5 137Q-Okay. The testimony, as I recall it, from some of
6 the employees were that they would try and reconcile
7 cheques into ledgers at the end of the month by
8 looking at the notations on the cheques, in other
9 words, the memo. So if there was cash withdrawn on
10 behalf of a client, the memo would read the name of
11 the client.

12 A- Right.

13 138Q-Was that the process that you would normally use to
14 try and keep the ledgers for the clients' accounts
15 correct?

16 A- It was the normal process. But I would think at
17 times, a cheque like this could have been written
18 and it could have been indicated in the ledger of
19 the client right away or there was no notation on
20 it.

21 139Q-Well, I mean, a sum of three thousand dollars
22 (\$3,000.00)... I can understand a sum of five (5),
23 six hundred (600), four hundred (400). This is in
24 nineteen ninety-six (1996). Sum of three thousand
25 dollars (\$3,000.00) is a fairly, or would have been

1 a fairly large amount in nineteen ninety-six (1996)
2 to withdraw in cash.

3 And you're telling us that this was the
4 procedure that was used from the very beginning to
5 obtain cash?

6 A- At times that procedure was used. And normally they
7 would have on the bottom left-hand corner they'd
8 have a notation, as my employees mentioned to you.

9 140Q-When the cash would be given to the client...

10 A- Right.

11 141Q-... would you obtain receipts from the client?

12 A- Most cases, no.

13 142Q-So was there any particular reason why a receipt
14 wouldn't be obtained?

15 A- We felt it was not necessary. It was indicated in
16 their account ledger. And our clients had been with
17 us for... ninety percent (90%) of our clients had
18 been with us for twenty (20) years plus. We had,
19 like I said, it's the relationship that we had.

20 143Q-So you had no fear of anybody coming back in the
21 future and saying, "I didn't receive this cash,"?

22 A- No.

23 144Q-Now, I'm going to show you a series of cheques, all
24 of which appear to be for fees charged to your
25 corporation. Just take a look at those and tell me

1 if that's correct. That's correct?

2 A- That's right.

3 145Q-Okay. Now, I'm going to show you three (3) more
4 cheques made to Cash. One (1) for two thousand
5 (2,000), one (1) for three thousand (3,000) and one
6 (1) for two thousand (2,000). All in the month of
7 May, all of which appear to be endorsed by Kathy
8 Stewart. Again, no mention on the memo as to what
9 they are for.

10 A- I would assume they're payments to clients.

11 146Q-Now, the next cheque is a thousand dollars
12 (\$1,000.00) made to Kathy Stewart. Why -- and again
13 endorsed by Kathy Stewart -- why would you at some
14 point in time make cheques to her name and at other
15 times make cheques to Cash and ask her to deposit?

16 A- As I said, this could be part of her funds from her
17 mother's estate account, her mother's account. So
18 they would be payable to her. When it's made to
19 Cash, basically she was getting cash from the bank.

20 147Q-Okay. Is Don Stewart in any way related to Kathy
21 Stewart?

22 A- No.

23 148Q-No, okay. There's a cheque for ten thousand dollars
24 (\$10,000.00) to Don Stewart.

25 A- This may... Don Stewart is the owner of that Hymus

1 II Brasserie. So it may have been related to a loan
2 to Mr. Stewart.

3 149Q-It would be a loan to him to run or to buy?

4 A- It may have been a personal loan to him.

5 150Q-I see there's a notation "loan" on the back.

6 A- Okay, so it was a loan of ten thousand dollars
7 (\$10,000.00) to him.

8 151Q-And the loan would have been made by yourself to
9 him, is that it?

10 A- It would have been made by funds in the in trust
11 account and allocated, I would think, to a client.

12 152Q-Would there of normal course be a loan agreement?

13 A- There probably would be, yes.

14 153Q-And how exactly would you do that? Because you've
15 mentioned that these bridge loans were basically
16 fictitious.

17 A- Not every one.

18 154Q-Not every one?

19 A- No.

20 155Q-There were certain ones that weren't and certain
21 ones that weren't?

22 A- That's right.

23 156Q-Okay. And how would you differentiate them?

24 A- Well, there would be indication in the clients'
25 files as to the actual loan made and the cheque

1 issued and...

2 157Q-Well, there's indications in all kinds of files as

3 to loans made, but they're all fictitious. And I'll

4 give you...

5 A- No, the ones...

6 158Q-... the perfect example is the Gibsons.

7 A- The ones that... in the case of this Don Stewart, I

8 think you'd find in his file that there is probably

9 a notation of the cheque issued to him and... and an

10 acknowledgement of that.

11 159Q-But who would have lent the money to Mr. Stewart?

12 A- I'm not sure.

13 160Q-You're not sure?

14 A- No.

15 161Q-You made the loan and you wouldn't remember Don

16 Stewart? You knew him well? He claims to know you

17 well.

18 A- Yes, I know him well...

19 162Q-Okay.

20 A- Yes.

21 163Q-So you wouldn't recall...

22 A- I don't know what account we would have allocated it

23 to, no.

24 164Q-I see. Okay. This is a small cheque for two

25 thousand three eighty-five (2,385) made to the City

1 of Dorval. The notation is C. Lafave. I presume
2 that's real estate taxes being paid on behalf of Mr.
3 Lafave?

4 A- This is real estate taxes being paid on behalf of...
5 of Carol Lafave's mother.

6 165Q-Okay. Here's a cheque to Royal Trust for five
7 hundred and sixty-one dollars seventy-four cents
8 (\$561.74). The notation is "mortgage payment".
9 Tell me whose mortgage payment that represented, if
10 you can tell.

11 A- No.

12 166Q-Okay.

13 A- Must have been a client's mortgage payment.

14 167Q-There's a cheque for three thousand nine fifteen
15 (3,915) to Rubin & Rubin Public Attorneys, re: John
16 Lafave. Tell me what that represented.

17 A- That was a U.S. firm, I believe, in... yes, he owned
18 property down in north of Jacksonville, Florida.

19 168Q-Okay. I have three (3) more cheques to Kathy
20 Stewart. One (1) for three twenty-five (325). No
21 indication. Another for two hundred (200).
22 Indication John Lafave. And another for a thousand
23 (1,000). No Indication.

24 A- These could, although there's no notation on it,
25 these could all relate to Mr. Lafave. Mr. Lafave

1 had a major, let me just say medical problem. And
2 which we were at times bailing him out of... of many
3 situations including dealing with the law
4 enforcement and God knows what.

5 And he had a bad habit, which, unfortunately,
6 people showed up at our door and demanded money. So
7 I would think a lot of that in and around that time
8 was Mr. Lafave's.

9 169Q-Requesting cash payments, is that it?

10 A- Yes.

11 170Q-Now, this cheque for nine thousand seven fifty
12 (9,750) to Peterson & Company in trust. And the
13 notation in the back is "subscription Southeastern
14 Resources Inc. B. Earl Jones".

15 A- I could only think it was an investment that I had
16 bought. I have no idea, to be honest.

17 171Q-Another five hundred dollars (\$500.00), Kathy
18 Stewart. No notation. Do you have any idea what
19 that is?

20 A- No. No, in the... in the ledger account of John
21 Lafave's that... that... those may be indicated.

22 172Q-But why is it that on certain cheques there are
23 memos as to payments being made for a particular
24 client and on certain cheques there are no memos?

25 A- The sloppiness on the part of, in this case I think

1 we're dealing with Kathy. She did all the
2 accounting and a lot of it was by hand in a... in
3 her own way.

4 And when you see... and we're talking here
5 about these cash be it a thousand (1,000) or five
6 hundred (500), in all around... about that time --
7 because John Lafave's name keep coming up -- I would
8 think that those who showed up at our door -- it was
9 pretty violent -- and I would think that Kathy had
10 written the cheques, got the cash and paid them and
11 got rid of them. So she may not have made a
12 notation.

13 173Q-In nineteen ninety-six (1996)...

14 A- That's assumption.

15 174Q-... you say it was...

16 A- That was assumption on... pardon?

17 175Q-You say it was violent. I'm not quite following
18 what you mean.

19 A- Well, Mr. Lafave, when he got into the people that
20 came to our office were... demanded the cash, his
21 cash were pretty violent.

22 176Q-He demanded his money back, is that what you mean?

23 A- Well, he wasn't demanding his money. I mean,
24 they... he told them, when... when they put him
25 against the wall, that, "Go see Jones and he'll

1 give you your money."

2 177Q-You lost me. He told who?

3 A- Mr. Lafave had a major problem with alcohol and got
4 into the utilization of ladies. And as a result
5 there was numerous times where, I guess you'd call
6 them pimps or whatever, would show up and demand the
7 money and would not leave. And there was times that
8 we had to phone the police. And there were times
9 that they had basically taken a knife to his neck
10 and so on.

11 And in order to save his life he would call and
12 say, "You've got to give these guys five hundred
13 (500)." "You've got to give them a thousand
14 (1,000)." "You've got to give them this." And
15 that's what occurred. And it was scary, especially
16 when the girls were in the office by themselves.

17 Marlene Lafave, whose name appears, that was
18 her husband. And the Court had asked me to assume
19 tutor and guardianship over him, which was a long
20 history. I've known him for many, many years.

21 So...

22 178Q-Okay.

23 A- ... anyway. So it's... in answer to your question,
24 I don't know why the memo wasn't put there.

25 179Q-Okay. Now, I'm going to show you three (3) cheques

1 made to your corporation. Again they appear to be
2 for fees. Just identify them as such.

3 A- Yes.

4 180Q-Now, how would you charge fees to estates? How
5 would you determine the fee?

6 A- On different bases. One (1) would... from my
7 experience, knowing what it would take to settle an
8 estate, I would quote a specific fee, which may be
9 a thousand (1,000) or five thousand (5,000).

10 In general, I would charge one percent (1%) of
11 the gross value. Again, subject to the assets. If
12 there was a two million dollar (\$2,000,000.00) life
13 insurance policy where he had to fill out one (1)
14 form, you'd certainly adjust accordingly.

15 181Q-And did you have signed contracts for each one of
16 these...

17 A- No.

18 182Q-... experiences?

19 A- No, no. There was some... some... I wouldn't call
20 a contract, a memo agreeing that the fee would be
21 five thousand dollars (\$5,000.00) or fifteen hundred
22 (1,500), what have you. But in general, the answer
23 is no.

24 183Q-So in general, the fee arrangement was verbal, is
25 that correct?

1 A- Yes, yes.

2 Mr. GILLES ROBILLARD:

3 184Q-If we look at these two (2), for example, two (2)

4 different estates...

5 A- Right.

6 185Q-... do you recall...

7 Me NEIL H. STEIN:

8 And just for purposes of identification, could

9 you just identify which cheques you're referring to?

10 Mr. GILLES ROBILLARD:

11 186Q-I'm referring to two (2) cheques in the amount of

12 five thousand six hundred and ninety-seven dollars

13 and seventy-five cents (\$5,697.75). One (1)

14 identified as the...

15 Me NEIL H. STEIN:

16 Estate.

17 Mr. GILLES ROBILLARD:

18 187Q-... estate of Pappin.

19 A- Yes.

20 188Q-And the other one the estate of Bush.

21 A- Yes.

22 189Q-Do you recall how those fees were determined? Given

23 that the amounts are somewhat higher than the other

24 fees we've looked at earlier.

25 A- They were determined on a general basis by myself.

1 I never in the file put down the hours that I work.
2 I made the assumption that the estate administration
3 fee was a five thousand dollar (\$5,000.00) fee. I
4 think the six ninety-seven (697) is the taxes.

5 And the client would be advised before of the
6 fee that was going to be charged either when the
7 estate came in or before the fee charge was made.

8 190Q-And those represent quarterly fees or...

9 A- No, that would.. there would... that would
10 represent, I would think, the estate administration
11 fee. The estate Evelyn Pappin. And then we carried
12 on in handling her two (2) physically... physically
13 disabled children.

14 191Q-Was there... was there an invoice sent to...

15 A- There would be an invoice either sent or in the
16 file.

17 192Q-So it would be a verbal notification to the clients
18 that this was how much fees was being taking out of
19 the account?

20 A- In many cases it was. The clients were fully aware
21 of it, of the fee that was being taken out. And in
22 this case here, the... in the Pappin, I would think
23 that there was probably not an invoice sent to the
24 two (2) Pappin... well, maybe to the older daughter,
25 there could have been an invoice sent. But there

1 was always invoices prepared. And copies of those
2 invoices, of course, went to Mr. Courchesne at the
3 end of the year for my company account.

4 193Q-And the third cheque is even higher, eleven thousand
5 three hundred and ninety-five fifty (11,395.50).

6 And is identifies as "Estate of Beardmore"?

7 A- Right.

8 194Q-Again, we're looking at a... an amount...

9 A- Well, you're looking at... when you... when you
10 settle estates, as you... I'm sure you well know,
11 the... the complexity of each estate is different
12 and the time involved is different.

13 In the case of Beardmore there was an awful lot
14 of time that I put into... into this estate working
15 with Dr. Harvey Beardmore. And also did a lot of
16 work for the property up in... in the Morin Heights
17 area for the Beardmores.

18 So the fee being higher would be one (1) of two
19 (2) things, mostly the time put in, the work
20 involved and, you know, sometimes if the... if the
21 amount were... like a trust company, you know, if
22 the fees... if the estate is worth two million
23 dollars (\$2,000,000.00) versus five hundred (500),
24 they get a higher fee.

25 195Q-Okay.

1 Me NEIL H. STEIN:

2 196Q-Now, at the end of that month there appears to be
3 twenty-eight thousand two hundred dollars
4 (\$28,200.00) which is taken out in cash. These cash
5 withdrawals that we see every month, you've
6 identified them as being taken vis-à-vis the debit
7 card on the account, what would you use those funds
8 for?

9 A- I know there were times that I had given my debit
10 card to Kathy Stewart to take out cash. And I'm not
11 sure whether that relates to payment of cash to some
12 clients. But in retrospect, the twenty-eight
13 thousand dollars (\$28,000.00) would be used for
14 my... my day-to-day cash needs, of buying gas for
15 the car. It may be also used for purchasing an item
16 or an article. I'm not sure.

17 197Q-All right. In June of nineteen ninety-six (1996),
18 again there are three (3) cheques to your wife. One
19 (1) for five thousand (5,000), one (1) for one
20 thousand five hundred (1,500) and another for five
21 thousand (5,000).

22 Take a look at those. Those again were
23 identified by your wife as for usage of family
24 personal matters.

25 This cheque for thirteen thousand six dollars

1 (\$13,006.00) the notation is "Mark Davis - made to
2 the Bank of Montreal".

3 A- This would have been money advanced to Mr. Davis
4 through his mother's account, Betty Davis.

5 198Q-And he would be an heir, is that it?

6 A- He's... no, Betty Davis is alive. Mark... Mark
7 Davis is one (1) of her sons who's alive. And it
8 was probably money that she was giving to him as a
9 gift.

10 199Q-I see. Okay. A small amount to Watson Poitvin.
11 The notation is John Lafave. I presume it had to do
12 with some notarial work.

13 A- That's right.

14 200Q-Okay. Small amounts paid on behalf of John Lafave.
15 And then this cheque again for cash, four thousand
16 six hundred (4,600), again endorsed by Kathy
17 Stewart.

18 A- It's for John Lafave.

19 201Q-There's no notation.

20 A- I... I don't know, but there was, I know, two (2) or
21 three (3) times for Mr. Lafave where we paid out
22 three (3), four thousand (4,000). One (1) time it
23 was six thousand dollars (\$6,000.00). So that could
24 have been relating to that.

25 202Q-And then a cheque to Kathy Stewart for forty-eight

1 hundred dollars (\$4,800.00).

2 A- I don't know.

3 203Q-Another one for a thousand dollars (\$1,000.00) to
4 Kathy Stewart.

5

6 OFF RECORD

7

8 Me NEIL H. STEIN:

9 204Q-Now, there's a series of cheques made to your
10 corporation, again with various notations, I would
11 ask you to take a look at and tell us what they
12 represented and how you arrived at the amounts.

13 MR. GILLES ROBILLARD:

14 Here, there's this one also.

15 A- These were the fees that were charged. And, as I
16 explained, I charged an annual fee and the fee was
17 charged every six (6) months. Some were charged in
18 January and in June, I guess. And some were charged
19 in February and August. And the fee was a
20 predetermined fee by myself, which was discussed
21 with the clients.

22 Mr. GILLES ROBILLARD:

23 205Q-These appear to be on a monthly basis.

24 A- The names there?

25 206Q-No, the cheques.

1 A- Yes, because what happened...
2 207Q-Similar...
3 A- ... is I spread my fees out over a twelve-month
4 basis. So if I charged someone in January, they
5 were also charged six (6) months later. And for
6 cash flow I had these going through every month for
7 twelve (12) months.
8 208Q-Okay.
9 Me NEIL H. STEIN:
10 209Q-And there's a cheque to Earl Jones Corp. for twenty-
11 three thousand nine thirty (23,930) marked "re:
12 Clairehaven Senior residence".
13 A- That would have been a fee that I charged the
14 individuals involved with Clairehaven for the work
15 that I did.
16 210Q-But why would you be getting paid out of the trust
17 account?
18 A- Because they had put some money in the trust account
19 originally when they were looking at developing that
20 property.
21 211Q-But weren't funds disbursed to help develop that
22 property from the trust?
23 A- No, because what happened, it was sold before it was
24 developed.
25 212Q-My recollection is that...

1 A- It could have been expenses that were... that was
2 distributed.

3 213Q-Yes.

4

5 OFF RECORD

6

7 Me NEIL H. STEIN:

8 214Q-If I take a look at the exhibit that we've produced
9 as EJ-21... well, first of all, can you tell me,
10 according to your recollection, how much would have
11 been deposited to the trust account for the
12 Clairehaven project?

13 A- The... we may have made a loan. I'm not too sure
14 how much was deposited on a personal basis. But we
15 may have made a loan from a client to the
16 Clairehaven Group.

17 215Q-And would the client have known about that loan?

18 A- Yes.

19 216Q-Who was the client?

20 A- I have no idea.

21 217Q-Well, I'm showing you here Exhibit EJ-21, which is
22 the Clairehaven Project, and I... we have shown you
23 cheques that have gone out for eleven thousand three
24 fifty (11,350) from the trust account; ten thousand
25 dollars (\$10,000.00); seven thousand two twenty-

1 three (7,223); two hundred thousand dollars
2 (\$200,000.00); eleven thousand (11,000); o six
3 (06)...

4 Mr. GILLES ROBILLARD:

5 That's the one.

6 Me NEIL H. STEIN:

7 That's the same one, sorry. Okay.

8 218Q-Five thousand three hundred and fifty (5,350);
9 nineteen thousand seven fifty (19,750), twenty-five
10 thousand (25,000), ten thousand o twenty-nine
11 (10,029); seven thousand two hundred (7,200); eight
12 thousand seventy-five (8,075); and five thousand
13 five thirty-three (5,533).

14 I haven't done the total, but my colleague here
15 has. It amounts to three hundred and seventy-eight
16 thousand dollars (\$378,000.00) that went out of the
17 trust account from...

18 A- And that...

19 219Q-... for the...

20 A- That would have...

21 220Q-... Clairehaven project.

22 A- That would have... that would have been the money
23 that was received from the sale of the property.

24 221Q-Well...

25 A- It was distributed to... it would have been

1 distributed to Mr. Henderson and Mr. Smith and I
2 would have retained the balance in the trust
3 account.

4 222Q-Okay. How much did you receive in payment?

5 A- How much... from... from what?

6 223Q-For Clairehaven. For the sale of the Clairehaven
7 project?

8 A- I think... I think it was three hundred thousand
9 (300,000).

10

11 SHORT RECESS

12

13 Me NEIL H. STEIN:

14 224Q-Now, you wanted to see... which exhibit was it that
15 you were...

16 A- You're looking at an exhibit related to...

17 Mr. GILLES ROBILLARD:

18 The one for Clairehaven.

19 A- ... Clairehaven.

20 Me NEIL H. STEIN:

21 Right here.

22 225Q-At the end of June there was a further nine thousand
23 two hundred (9,200) withdrawn in cash from the debit
24 card.

25 Now, July. A cheque for seventeen thousand two

1 twenty-one (17,221) written to Life Inc. I assume
2 it's for your daughter, is that correct? The
3 American equivalent was twelve thousand four fifty
4 (12,450).

5 A- That's correct.

6 Mr. GILLES ROBILLARD:

7 226Q-What was it for?

8 A- For her annual fees. How much was it?

9 227Q-Twelve thousand four fifty (12,450) U.S.

10 A- That would be for part of her fees. Or it could be
11 her annual fees.

12 228Q-Okay.

13 Me NEIL H. STEIN:

14 229Q-A cheque for ten thousand (10,000) to yourself and
15 your wife. That's the same thing, the personal
16 expenses that your wife has identified.

17 A cheque for one thousand two sixty-eight
18 (1,268) to a Mr. Yvon Barrette.

19 A- He was a handyman and did work at the office and
20 work at home for us.

21 230Q-Okay.

22 Mr. GILLES ROBILLARD:

23 231Q-There's -- so that we don't have to go over --
24 there's numerous amounts of money paid to Yvon
25 Barrette.

1 A- Right.

2 232Q-So it's all the same thing? It's all...

3 A- No, it could be... he did... he looked after

4 probably five (5) to ten (10) of our clients as

5 well. So there may be some cheques that we had paid

6 to him for his charges to our clients.

7 233Q-Okay.

8 Me NEIL H. STEIN:

9 234Q-Okay. A cheque for five thousand ninety-nine

10 (5,099) to Bedford Interiors, which your wife

11 identified as being for your personal homes.

12 A- Okay.

13 235Q-A cheque for four thousand dollars (\$4,000.00) to

14 your wife. Part of the monthly payments, I presume,

15 to your wife?

16 A- I guess if she identified them. Did she?

17 236Q-She's identified all of them, yes, as...

18 A- Okay.

19 237Q-... cheques which she's deposited to her account for

20 the personal purposes.

21 Another one for fifteen thousand (15,000) to

22 your wife. One (1) for five thousand (5,000) to

23 yourself.

24 A- I don't know what it was for.

25 238Q-Okay. A cheque to Yvon Barrette with the memo "BEJ"

1 for one thousand one seventy-seven (1,177).

2 A- It could have been, as I say, work at the office or

3 at home.

4 239Q-Okay. A cheque to Hilary Thomas Management for six

5 thousand nine twenty-two (6,922).

6 A- That's Hilary Hayden. She has a management company.

7 And she would have requested the funds.

8 240Q-She was a client?

9 A- Yes.

10 241Q-Okay. That's U.S. funds, right. She's in the

11 States or...

12 A- She has a Florida property on the west coast.

13 242Q-Okay. Cheque to your corporation for a thousand

14 seven o nine (1,709), "re: Estate Philpott", I

15 think it is.

16 A- That would be a fee for Dr. Philpott.

17 243Q-Philpott, okay. Cheque for two thousand four forty-

18 nine (2,449) to the Municipality de Mille Iles.

19 A- That would have been the taxes for the Beardmore

20 farm...

21 244Q-Okay.

22 A- ... in Morin Heights, Mille Isles area.

23 245Q-All right. And we have Golfside Management again.

24 A- That's for rent...

25 246Q-Right.

1 A- ... for Mr. Lafave.

2 247Q-Then we have a cheque that was used to purchase a

3 draft Royal Bank of Canada. No notation. For two

4 thousand seven sixty-seven (2,767).

5

6 OFF RECORD

7

8 Me DONALD R. MICHELIN:

9 248Q-What's the answer?

10 A- I don't know. I would think it's for a client.

11 Me NEIL H. STEIN:

12 249Q-For a client. You had no mention on the memo.

13 Another one to the Royal Bank of Canada for thirty-

14 four thousand one one four sixty-four (34,114.64).

15 A- Would these relate to the... to Kimberly's condo in

16 Cape Cod?

17 250Q-I... it's possible. We don't know. Could you take

18 a look at...

19 A- Well, I think you had yesterday a... didn't you have

20 a breakdown of the payment?

21 MR. GILLES ROBILLARD:

22 Oh, it may be the payments for the condo.

23 Me NEIL H. STEIN:

24 251Q-For the condo. Yes, it's possible. Another one for

25 the Royal Bank of Canada for four thousand one

1 fifty-one (4,151). Again no notation. That would
2 be the same answer? You...

3 A- Could be.

4 252Q-Yes.

5 A- I don't know.

6 253Q-Okay.

7 MR. GILLES ROBILLARD:

8 This is for a draft.

9 Me NEIL H. STEIN:

10 254Q-Another one for twelve thousand (12,000)... no, I'm
11 sorry, a hundred and twenty-five thousand
12 (125,000)...

13 A- That would have been...

14 255Q-... eight o six (806).

15 A- That could be the condo in Cape Cod.

16 256Q-That's the condo in Cape Cod.

17 A- Could be...

18 Mr. GILLES ROBILLARD:

19 257Q-Is it in nineteen ninety-six (1996) that it was...

20 A- I think so.

21

22 OFF RECORD

23

24 A- It could also be the purchase of the Hayden condo in
25 Fort Meyers, which we arranged to purchase.

1 Me DONALD R. MICHELIN:

2 258Q-Could that have been a condo for your daughter prior
3 to the acquisition of the Hyannis condo? Rental or
4 acquisition or utilization of some type of condo for
5 her while she was in Hyannis at that time, prior to
6 acquisition by the trust?

7 A- No, she didn't... prior to moving to Life to that
8 condo she... she actually rented a room. She was at
9 a Grow Program, and then she rented a room.

10 Me NEIL H. STEIN:

11 Do you have the file... okay, so it's not
12 there. All right.

13 259Q-So you don't know what that was used for?

14 A- Well, if it's U.S., right...

15 MR. GILLES ROBILLARD:

16 260Q-No, it's not U.S. It's Canadian.

17 A- No, it's Canadian.

18 261Q-It's Canadian.

19

20 OFF RECORD

21

22 Me NEIL H. STEIN:

23 262Q-Cheque for a hundred and fifty dollars (\$150.00) to
24 the Royal Bank of Canada. The notation is "re:
25 John Lafave line of credit".

1 A- That's right. We would have paid off his line of
2 credit for him.

3 263Q-Okay. Who's Jamie Stewart?

4 A- Jamie Stewart was Kathy's Stewart's daughter. She
5 used to come in and do some work for clients of
6 ours, like go and wash windows or paint. That could
7 have been a...

8 264Q-Five hundred dollars (\$500.00).

9 A- ... five hundred dollars (\$500.00), yes.

10 265Q-Okay. Twenty-five hundred dollars (\$2,500.00) to
11 Cash. Appears to be endorsed by Debra Stewart and
12 deposited...

13 A- I think that's my account, 3096...

14 266Q-Yes.

15 A- ... yes.

16 267Q-And deposited to your account.

17 A- Right.

18 268Q-Okay. Then there's a series of cheques that appear
19 to be for fees. Those are for fees?

20 A- Yes.

21 269Q-Okay. A small cheque for six hundred dollars
22 (\$600.00) to Kathy Stewart.

23 A- I don't know.

24 270Q-You don't know, okay. And there appears to be some
25 small expenses paid on behalf of clients. And then

1 there's a cheque for thirteen thousand three ninety-
2 nine (13,399) to Scotia McLeod.

3 A- Mr. Menard was with Scotia McLeod. A number of our
4 clients had an... had accounts with him. It could
5 have been a client or it could have been an account
6 that I had there. Don't... don't know.

7 271Q-Okay. Again there's no notation...

8 A- Notation.

9 272Q-... on the memo...

10 A- No.

11 273Q-... as to what it's for. A cheque to your
12 corporation for eight thousand two twenty-seven
13 (8,227). The memo is "CDF".

14 A- I would think that that's a fee from one (1) of our
15 clients. "CDF", I don't know. I don't know if it
16 was Dr. Forrest or... could be.

17 274Q-Another one for five hundred dollars (\$500.00) to
18 Kathy Stewart. Sorry.

19 A- No.

20 275Q-And then a ATM withdrawal...

21 A- These ones for Kathy Stewart, again, as I said
22 previously, I believe relate to monies that...
23 from... that she had deposited with us from her
24 mother's estate in Chicago, these periodic
25 withdrawals that she's taken.

1 276Q-All right. And then there's cash withdrawals at the
2 end of that month of ten thousand seven hundred
3 dollars (\$10,700.00).
4 Okay. June nineteen ninety-six (1996).
5 MR. GILLES ROBILLARD:
6 August. You're going backwards.
7 Me NEIL H. STEIN:
8 June nineteen ninety-six (1996).
9 MR. GILLES ROBILLARD:
10 Okay, sorry.
11 Me NEIL H. STEIN:
12 277Q-A cheque to the Bank of Bermuda for six thousand
13 nine eleven fifty (6,911.50). I can't read the
14 notation. Perhaps you can just tell us what it is?
15 A- Well, that's an account set up at the Bank of
16 Bermuda for Vera Dowd.
17 278Q-Okay. And then another one similar for the same
18 amount for Robert Hausner. The memo stated...
19 A- Right.
20 279Q-... Robert Hausner.
21 A- Right.
22 280Q-Okay. So that would be an account that you set up
23 at the Bank of Bermuda for him, is that it?
24 A- Yes, that's right.
25 281Q-Okay. Is there any particular reason that it would

1 be six thousand nine eleven fifty (6,911.50)? It
2 seems to be a very particular amount.

3 A- Isn't that the Canadian amount? It may have been...

4 282Q-I see, it's five thousand (5,000) U.S. That's it,
5 okay. Thank you.

6 A cheque from the trust account for eighteen
7 thousand two thirty-two (18,232) to Slapper
8 Investments Inc., "re: EJ auto".

9 A- That would be an auto... one (1) of my cars I
10 bought.

11 283Q-Okay. Allied Pickfords we covered.

12 A- I don't know what that Pickford is.

13 284Q-Okay. And Maxine Jones, fifteen thousand dollars
14 (\$15,000.00) July fifteenth (15th), nineteen ninety-
15 six (1996). Again, your wife identified that as
16 being personal and used for personal expenses.

17 Five thousand dollars (\$5,000.00) to yourself.
18 That would be personal use money again, I assume?

19 A- I would assume.

20 285Q-Ten thousand dollars (\$10,000.00) to your wife
21 again, which she identified as personal usage.

22 A cheque for eleven thousand two ninety-eight
23 (11,298) to Ma Baie. I presume that's Ma Baie
24 Construction. Maybe not. A certified cheque.

25 A- I don't know what that's for.

1 286Q-Okay.

2 A- It's not... Ma Baie... Ma Baie... Ma Baie... it was,
3 as you say, a construction company out in the West
4 Island, Ma Baie. They owned... I... I don't think
5 it relates to me at all, but I can't tell you what
6 client it is. I... I know...

7 287Q-Okay.

8 A- Yes.

9 288Q-There's a series of cheques which appear to be for
10 your fees and payable to your corporation. Just
11 identify those.

12 A- That's right.

13 289Q-Okay. And then there's a cheque to Guy Lefaiivre
14 Imports for four thousand dollars (\$4,000.00). What
15 would that relate to?

16 A- That would be a repayment of funds that he had
17 probably given to us. I think yesterday we talked
18 about Mr. Lefaiivre having...

19 MR. GILLES ROBILLARD:

20 290Q-Right.

21 A- Okay.

22 Me NEIL H. STEIN:

23 291Q-So this would be a... funds that you were investing
24 or a loan?

25 A- He... it's one (1) of two (2) things. He... he may

1 have given us funds to invest for him or to handle
2 for him. Or it may be the repayment of monies from
3 his estate that went into Guy Lefaivre Import. If
4 I recall, Guy Lefaivre Import when Guy died was
5 purchased by a gentleman by the name of Ron Jones,
6 who was in the shoe business as well. By doing that
7 he was able to obtain the quota that was in that
8 shoe business at that time.

9 292Q-So this would represent what?

10 A- I would think that just a represent... a
11 representative of monies going back to Guy Lefaivre
12 Import that... that we have handled.

13 293Q-Okay. A cheque for one thousand three ninety-one
14 (1,391) to Bank of Montreal. No memo on it.

15 A- No idea.

16 294Q-Sorry?

17 A- No idea.

18 295Q-No idea, okay. Then a cheque for forty-five
19 thousand zero zero six (45,006) to the Bank of
20 Montreal for the purchase of a draft.

21 A- I would think it's for a client, but I have no idea.

22 296Q-Okay. And again, two (2) cheques to Kathy Stewart.
23 One (1) for five hundred dollars (\$500.00). One (1)
24 for a thousand dollars (\$1,000.00). That relates to
25 the same thing, as you mentioned before?

1 A- This would be relating to, I think, either her
2 mother's monies or monies that she would have...
3 yes, her mother's monies because it went into her
4 account.

5 297Q-And then a cheque for five hundred dollars (\$500.00)
6 to Cash to "re: Debra Stewart".

7 A- I don't know.

8 298Q-Okay. And then at the end of that month there would
9 be six thousand (6,000) taken out of the account
10 from the ATM machine.

11 Okay, next month. August/September. Again ten
12 thousand dollars (\$10,000.00) to your wife, which
13 she's identified as being the monthly amount that
14 she would use for personal expenses.

15 Another three thousand five hundred (3,500) to
16 your wife, which she identified as personal
17 expenses. And another sixty-five hundred (6,500) to
18 your wife, which she identified as personal
19 expenses.

20 Okay. Then there are a group again which
21 appear -- cheques -- which appear to be for fees.
22 Take a look at those. Payable to your corporation.

23 A- Correct.

24 299Q-Okay. And then Yvon Barrette, "re: John Rozzini".
25 A- He was a client that...

1 300Q-Okay.

2 A- ... as I mentioned to you, Mr. Barrette did work for
3 clients.

4 301Q-Okay. And then Kathy Stewart again. Three (3)
5 cheques of two hundred (200), five hundred (500) and
6 five hundred dollars (\$500.00) here to be deposited
7 to her account.

8 And then for the month of September, cash
9 withdrawals of fifteen thousand zero seventy-three
10 ninety-seven cents (\$15,073.97).

11 MR. GILLES ROBILLARD:
12 No, six thousand (6,000).

13 Me NEIL H. STEIN:
14 No, we're down here.

15 MR. GILLES ROBILLARD:
16 We've just missed that month.

17 Me NEIL H. STEIN:
18 I'm sorry.

19 302Q-Okay, six thousand (6,000).

20 MR. GILLES ROBILLARD:
21 No, you were right.

22 Me NEIL H. STEIN:
23 No?

24 MR. GILLES ROBILLARD:
25 You were right.

1 Me NEIL H. STEIN:
2 Yes, fifteen thousand zero seventy-three
3 ninety-seven (15,073.97) is the correct number.
4 303Q-Okay.
5 A- M'hm.
6 304Q-Now, October. Cheque for five thousand (5,000) to
7 your wife again, which she identified as personal
8 expenses.
9 Another cheque to Ma Baie for eleven thousand
10 zero seventy-three (11,073). This time it's
11 identified as the Hymus II Project.
12 A- Yes. The... going back to... to the eleven thousand
13 two ninety-eight forty-three (11,298.43)...
14 305Q-Yes.
15 A- ... the August first (1st) and this cheque...
16 306Q-Yes.
17 A- ... they were monies that we loaned the Hymus II or
18 Don Stewart to pay the rent. This was his monthly
19 rent for the Hymus II, and it was paid to Ma Baie,
20 who owned the building.
21 307Q-I see.
22 A- And that was allocated to Mr. Stewart.
23 Mr. GILLES ROBILLARD:
24 308Q-Those were loans to Mr. Stewart?
25 A- They ended up as loans, yes. And they were repaid.

1 Me NEIL H. STEIN:
2 309Q-How did they end up as loans? In other words...
3 A- Well...
4 310Q-... he didn't have any funds on deposit with you, so
5 that loans were being made to him?
6 A- That's right. That's right. That's right.
7 311Q-Okay. And he repaid those amounts?
8 A- The amount was repaid through Mr. Peter Lindsay, who
9 is his brother-in-law. We talked about that
10 yesterday. And in Mr. Lindsay's file you'll see the
11 repayment of those... the rent. It was advanced to
12 Mr. Stewart.
13 312Q-Okay. But he... those amounts were repaid prior to
14 or after Mr. Lindsay's decease?
15 A- They were paid prior to, I believe.
16 313Q-Prior to.
17 A- Yes.
18 314Q-So Mr. Lindsay would have been reimbursing amounts
19 that were...
20 A- Yes.
21 315Q-... owed by his brother-in-law?
22 A- Yes, yes.
23 316Q-Okay. And was Mr. Lindsay aware?
24 A- Fully aware.
25 317Q-Is there any written document that evidences those

1 loans?

2 A- In Mr. Lindsay's... Mr. Lindsay's file there should
3 be documentation.

4 318Q-Okay. An amount of a hundred and seventeen thousand
5 three fifty-six (117,356) to Scotia McLeod. The
6 notation is "Anna Carol".

7 A- That would have been an account we set up for Anna
8 CarRoLl. And I would think that monies would have
9 been received from her and transferred to Scotia...
10 Scotia McLeod.

11 319Q-Cheque for two thousand (2,000) to Kathy Stewart.

12

13 OFF RECORD

14

15 Me NEIL H. STEIN:

16 320Q-How much money did Kathy Stewart have on deposit
17 with yourself?

18 A- I think up... I think it was... I would guesstimate
19 seventy (70) to ninety thousand (90,000), I think.
20 I think in that area.

21 Me DONALD R. MICHELIN:

22 321Q-When was it done, these deposits?

23 A- I really don't know.

24 322Q-You have an idea?

25 A- I have no idea when it was done. When her mother...

1 her mother died.

2 323Q-You have no idea...

3 A- I have no idea. There would be a file for Kathy
4 Stewart and it would be fully indicated in that
5 file.

6 Me NEIL H. STEIN:

7 324Q-Okay. Another cheque to Ma Baie for ten thousand
8 nine eighty-two (10,982). That would again be a
9 loan for Don Stewart?

10 A- That's right.

11 325Q-Okay. A cheque to your corporation for three
12 thousand four eighteen (3,418). The notation is
13 "Anna Carroll".

14 A- That would be an invoice. Fee.

15 326Q-Fee. Cheque for three thousand dollars (\$3,000.00)
16 to Cash. Deposited by Kathy Stewart at the Royal
17 Bank.

18 A- This may have been for a client.

19 327Q-Cheque for five thousand seven fifty (5,750).
20 Scotia McLeod. Reference Kathy Stewart.

21 A- I don't know.

22 328Q-Now, in November there are two (2) cheques to your
23 wife. One (1) for three thousand five hundred
24 (3,500). Another for seven thousand (7,000), which
25 she's identified as being used for personal

1 purposes, for you and her and your family.

2 And then a cheque for two thousand seven eight
3 (2,78-)...

4 MR. GILLES ROBILLARD:

5 It's two thousand (2,000) U.S.

6 Me NEIL H. STEIN:

7 329Q-... two thousand seven eighty-one fifty (2,781.50)

8 Canadian for the equivalent of two thousand (2,000)

9 U.S. made to your daughter Kim.

10 A- That would have been funds to Kimberly, yes.

11 330Q-For her personal use?

12 A- Yes.

13 331Q-Okay. And then just going through the... the next

14 cheque is one of five thousand (5,000) to yourself.

15 Take a look at it.

16

17 OFF RECORD

18

19 Me NEIL H. STEIN:

20 332Q-Okay. A cheque for Earl Jones Corp. which appears

21 to be fees, three (3) fees. Small amount.

22 A- Correct.

23 333Q-Okay. A cheque for thirteen thousand five ninety

24 (13,590) to the Bank of Bermuda. And another one

25 for thirteen hundred and seventy-one dollars and

1 fifty cents (\$1,371.50) to the Bank of Bermuda. The
2 notations on these cheques are, I believe, the names
3 of your clients. Is that correct?

4 A- That's correct.

5 334Q-Okay. And those would be deposited at the Bank of
6 Bermuda for their personal accounts?

7 A- That's right.

8 335Q-And they were aware of those accounts and opened
9 those accounts?

10 A- They were.

11 336Q-Okay. And another cheque for ten thousand eight
12 ninety sixty-four (10,890.64) to Ma Baie. That
13 again would be another loan...

14 A- That's correct.

15 337Q-... for Don Stewart?

16 A- Correct.

17 338Q-Okay. Then a series of cheques made to your
18 corporation re various clients. You'll identify
19 those, I believe, as being fees. Is that correct?

20 A- Yes.

21 339Q-And then at the end of that month there was a total
22 of twenty thousand two ninety (20,290) withdrawn
23 from the ATM machine.

24 Now, December of two thousand (2000)... of
25 nineteen ninety-six (1996). Two (2) cheques made to

1 your corporation which appear to be fees. Is that
2 correct?

3 A- Yes.

4 340Q-Okay. A cheque to... a thousand dollars (\$1,000.00)
5 to your daughter Kristine.

6 A- Yes... no, just for her personal use.

7 341Q-All right. Another one to Ma Baie Construction for
8 ten thousand seven ninety-eight ninety-seven
9 (10,798.97), re Hymus II.

10 A- That's right.

11 342Q-Is there any particular reason why you wouldn't
12 indicate "loan Don Stewart" as opposed to "Hymus
13 II"?

14 A- No.

15 Me DONALD R. MICHELIN:

16 343Q-Were you involved in Hymus II personally?

17 A- As I said yesterday, I owned a quarter of it for, I
18 think, a year or a year and a half.

19 344Q-But you were involved in that?

20 A- Yes.

21 Me NEIL H. STEIN:

22 345Q-What year would that have been?

23 A- The year it was purchased.

24 346Q-Do you recall the year?

25 A- What... what year is those cheques? Oh, this here

1 is ninety-six ('96).

2 347Q-These are ninety-six ('96).

3 A- I would say it was purchased in late ninety-four

4 ('94) or ninety-five ('95). Probably in ninety-five

5 ('95).

6 Me DONALD R. MICHELIN:

7 348Q-And you exited when?

8 A- Probably a couple of years later.

9 349Q-Okay.

10 A- It would be... it would be in all Mr. Lindsay's file

11 because...

12 350Q-What year?

13 A- I don't know.

14 351Q-A couple of years later?

15 A- Yes. Ninety-eight ('98)...

16 352Q-But within one (1) year?

17 A- ... ninety-nine ('99). I'm not sure.

18 353Q-And who just were the other partners again?

19 A- The original partners were Don Stewart and two (2)

20 of his friends, Bob and Rob... I forget their last

21 name, M-C... it's...

22 354Q-Who's the lawyer who handled this transaction?

23 Me NEIL H. STEIN:

24 Hold it. Let him...

25 A- Steven Hart.

1 355Q-Okay. A cheque for a hundred and forty-three
2 thousand zero ninety-one (143,091) to Jean-Guy
3 Savard in trust.

4 A- That would have been the purchase of Mrs. Marlene
5 Pinck's condo, I would think.

6 356Q-Okay. Who was Jean-Guy Savard? Is this a notary?
7 A- It'd be a notary, yes.

8 357Q-Okay. A series of cheques which are made to your
9 corporation which appear to be all fees. Is that
10 correct?
11 A- Yes.

12 358Q-Another cheque for ten thousand (10,000) to your
13 wife and another one for thirty-five hundred (3,500)
14 to your wife, which she has again identified as
15 being used for personal purposes.

16 Me DONALD R. MICHELIN:

17 359Q-Do you agree with her that ones she said is personal
18 purposes, it is personal purposes?
19 A- Yes, I think she probably brought in a book and
20 showed...

21 360Q-I asked you a question. Do you agree or you don't?
22 A- Yes.

23 361Q-Thank you.

24 Me NEIL H. STEIN:

25 362Q-A cheque for one thousand four hundred and seven

1 dollars (\$1,407.00) made to the Caisse Populaire
2 Desjardins. And it's marked "BEJ rent".

3 A- Oh, this is the condo in Dorval.

4 363Q-Okay. And then a cheque for a thousand dollars
5 (\$1,000.00) to Katherine Stewart. You answer would
6 be the same? That's a withdrawal of the fees, is
7 that correct... withdrawal of her funds?

8 A- I would think it's from her account, yes.

9 364Q-From her account. And then another one re: fees
10 Peter Lindsay for five sixty-nine (569) payable to
11 your corporation.

12 And then you have cash withdrawals from the ATM
13 account of eighteen thousand four ninety-eight
14 ninety-seven (18,498.97) for that month.

15 Now, can you just provide me with the bank
16 statements, so that we can identify the cash
17 withdrawals from...

18 MR. GILLES ROBILLARD:

19 So it starts here at January ninety-six ('96)
20 to December ninety-six ('96).

21 Me NEIL H. STEIN:

22 Okay.

23 365Q-Now, I show you here the statement, the bank
24 statement from the Royal Bank of Canada,
25 Beaconsfield branch, to B. Earl Jones In Trust.

1 And...

2

3 OFF RECORD

4

5 Me NEIL H. STEIN:

6 366Q-I'd ask you to take a look at the first statement
7 from the bank and, in particular, the notation where
8 it says "PTB", okay, which is, if we look at the
9 reverse side, "PTB" is personal touch banking, which
10 we are advised are the cash withdrawals from the
11 account.

12 And you'll see that there are numerous cash
13 withdrawals for January. Our calculation of those
14 cash withdrawals are twenty thousand four hundred
15 dollars (\$20,400.00) in that month.

16 I'm not asking you to do the addition, but just
17 assume for the moment that the accountants know how
18 to add.

19 A- I would assume they were cash withdrawals.

20 367Q-Okay. Who had access to the debit card?

21 A- I did.

22 368Q-Only you?

23 A- Yes.

24 369Q-Okay.

25 A- I... I may have... if any other person had access to

1 it, it would have been Kathy Stewart. Which I, you
2 know, may have given to her to go take out some cash
3 or so on. But basically myself.

4 370Q-Basically yourself, okay. All right.

5

6 OFF RECORD

7

8 Me DONALD R. MICHELIN:

9 371Q-How many cards were there? Just one (1)?

10 A- I believe so, yes.

11

12 OFF RECORD

13

14 Me DONALD R. MICHELIN:

15 372Q-For her to use the card, she'd have to have the PIN
16 number.

17 A- I would have given it to her.

18 373Q-There's only one (1) PIN number for this card?

19 A- Yes.

20 374Q-And you had that PIN number?

21 A- Yes.

22 375Q-And you were the one who used the card all the time?

23 A- Yes.

24

25 OFF RECORD

1 Me NEIL H. STEIN:

2 376Q-I show you here your federal income tax return for
3 the year nineteen ninety-seven (1997), which
4 indicates that you have total income for the year of
5 thirty-four thousand four sixty-four (34,464). Take
6 a look at that.

7 Would you produce that as Exhibit EJ-35...

8

9 OFF RECORD

10

11 Me NEIL H. STEIN:

12 Okay, so this will be EJ-36.

13 Exhibit No. EJ-36

14

15 OFF RECORD

16

17 Me NEIL H. STEIN:

18 377Q-The first cheque in nineteen ninety-seven (1997) is
19 one made to Amex Bank of Canada for eighteen
20 thousand five ninety-four seventy-six (18,594.76).
21 The notation is "BEJ". That was for payment of your
22 AMEX account, I presume?

23 A- I would think so.

24 378Q-Okay. The next one is to Life Condo for thirteen
25 thousand eight hundred and twenty dollars

1 (\$13,820.00). The indication is it's for your
2 daughter's condo in Hyannis. Would that be correct?
3 Ten thousand (10,000) U.S.

4 A- I would think so, yes.

5 379Q-Okay. The next one is to your corporation for
6 eleven thousand three ninety-five (11,395), and it's
7 marked "fees Rison Corporation". Can you tell us
8 what that is about?

9 A- That would be, I gather, a company that one (1) of
10 our clients owned.

11 380Q-But what would the cheque represent?

12 A- Fees.

13 381Q-Fees?

14 A- Yes.

15 382Q-What would you have done for the client for...

16 A- I really don't know. I don't recall the client's
17 name.

18 Me DONALD R. MICHELIN:

19 383Q-Rison, I-S-O-N. Doesn't ring a bell to you?

20 A- No.

21 Me NEIL H. STEIN:

22 Looks like Rison to me, R-I-S-O-H. "Fees Rison
23 Corp." Okay.

24 384Q-Cheque for three thousand (3,000) to Guy Lefaiivre
25 Imports. That again would represent according to

1 you what?

2 A- I... I would assume it's a representing...

3 representing funds repaid to Mr. Lefaivre, his

4 company.

5 385Q-A cheque for one thousand four o seven (1,407) to

6 Caisse Populaire, "re rent". That you've identified

7 as being the payment of your condominium, is that

8 correct, where you were staying?

9 A- The original condo that we...

10 386Q-Right.

11 A- ... moved into and rented, yes.

12 387Q-Okay. And then another for the same Caisse

13 Populaire, again identified as rental to the condo

14 for two thousand three hundred dollars (\$2,300.00).

15 It would be the same thing?

16 A- Yes.

17 388Q-Okay. Two (2) cheques to Lessard Investment for

18 forty-five hundred dollars (\$4,500.00) each. They

19 would have been, I think, interest payments from a

20 loan or funds that were advanced to us from Lessard

21 Investment, which is part of the Dressel Group.

22 A- Okay.

23 389Q-And Montreal Trust, "re tax shelter Niocan", thirty-

24 eight thousand nine fifty (38,950) and seventy-nine

25 thousand nine fifty (79,950).

1 A- Yes, these... this was a flow-through tax shares
2 that were bought for clients that are listed on the
3 back.

4 390Q-Okay. And then another cheque to Ma Baie. That
5 would represent rentals from... or paid on behalf of
6 Don Stewart, is that correct?

7 A- Right.

8 391Q-Golfside Management, John Lafave. Those we know.
9 And then a hundred thousand (100,000)...John Lafave,
10 two thousand dollars (\$2,000.00). That would
11 represent what?

12 A- That would be just cash for his problems that he had
13 that we would look after.

14 392Q-Okay.

15 A- Or he would have deposited to his... he deposited
16 that to his bank account.

17 393Q-A certified cheque to yourself for a hundred
18 thousand dollars (\$100,000.00).

19 A- I don't know what that was for. I think you'd
20 certainly see a withdrawal in my personal account.
21 I put it into my personal account, I think.

22 394Q-Yes.

23 A- Yes.

24 395Q-So that would be a deposit to your personal account
25 not a withdrawal?

1 A- No, but I think there would have been a payment from
2 my personal account reflecting that. That could
3 have also been monies that I had earned through the
4 sale of... of Clairehaven. I don't know.

5 MR. GILLES ROBILLARD:

6 396Q-Why certify the cheque made payable to yourself at
7 that point? proofread

8 A- Maybe I was making a personal cheque from my... my
9 personal account, so we did a certified cheque so
10 that the cheque would go through. I don't know.

11 Me NEIL H. STEIN:

12 397Q-Okay. And eighteen thousand eight o seven (18,807)
13 in cash withdrawals for the month.

14 A- I don't know.

15 398Q-Okay. The following month, in February. A
16 certified cheque to Ma Baie Construction for ten
17 thousand six fifteen (10,615).

18 Some of these cheques are certified to Ma Baie.

19 Was there a particular...

20 MR. GILLES ROBILLARD:

21 They're all...

22 Me NEIL H. STEIN:

23 H'm?

24 MR. GILLES ROBILLARD:

25 They're all certified.

1 Me NEIL H. STEIN:
2 399Q-They're all certified. Was there a particular
3 reason?
4 A- Yes, because the... he didn't pay the rent. Well,
5 they knew that he couldn't pay the rent, so they...
6 they basically said, "When you do pay the rent make
7 sure they're certified, if not, we'll throw you
8 out."
9 400Q-Okay. The series of cheques made to your
10 corporation for fees. Take a look at those.
11 A- Okay.
12 401Q-And cheques made to your wife for thirty-five
13 hundred (3,500) and five thousand (5,000), which
14 again she identified as being used for your personal
15 family business.
16 Was there any reason why the cheques made to
17 your wife are written by yourself, whereas the
18 others are not written by yourself?
19 A- No, she would just ask for an amount that was
20 required and I would write the cheque.
21 402Q-I see. Well, is that the way it worked or you
22 would... was there a sort of a fixed amount between
23 you and your wife...
24 A- No.
25 403Q-... that she would get every month?

1 A- No, there was no fixed amount.

2 404Q-So she would prepare a list as to what the needs
3 were for the month?

4 A- That's correct.

5 405Q-Okay. A cheque for twelve thousand (12,000) payable
6 to Cash marked "D. Dressel".

7 A- That's Mr. Dirk Dressel, is a client of ours, who
8 had money with us.

9 406Q-Just one second. And deposited by K. Stewart. And
10 on the back...

11 MR. GILLES ROBILLARD:
12 Cashed.

13 Me NEIL H. STEIN:

14 407Q-Cashed by K. Stewart. And on the back it's marked
15 a hundred and twenty times one hundred (120 x 100).
16 I presume that's the cash. Why would he be getting
17 that type of cash?

18 A- He travelled a lot. I am not sure. He probably
19 requested that payment through Kathy.

20 408Q-Why would you be getting cash for him of that
21 nature?

22 A- Well, because he...

23 409Q-That's a large amount of money...

24 A- He had...

25 410Q-... nineteen ninety-seven (1997).

1 A- He had monies invested with us, and that would have
2 been his interest owing. Some of his interest
3 owing. Again, that would all be documented in the
4 file.

5 411Q-But why wouldn't you issue him a cheque so that he
6 could get his own cash?

7 A- Because he would have asked... well, he would have
8 asked for us to give him cash, I guess.

9 412Q-Was there a particular reason why he would have
10 asked you to get him cash or...

11 A- No.

12 413Q-You wouldn't have told him that you have an easy way
13 of getting cash?

14 A- No.

15 414Q-No?

16 A- No.

17 415Q-You never mentioned that?

18 A- No.

19 MR. GILLES ROBILLARD:

20 416Q-For such an important sum of money, would he have
21 given a receipt?

22 A- Quite often, I think... yes, there could be a
23 receipt. I don't know. Yes, there could be.

24 Me NEIL H. STEIN:

25 417Q-If you don't know.

1 A- I don't know.

2 418Q-Don't guess please.

3 A- I don't know.

4 419Q-It serves no purpose to guess. Kathy Stewart five
5 hundred dollars (\$500.00). Same thing, I presume
6 your answer would be... or I shouldn't presume. I'm
7 starting to be like you. Presumption.

8 A- I would think it's from her own funds, yes.

9 420Q-Okay. A bill to Visa, Kathy Stewart, again for two
10 thousand (2,000).

11 A- Don't know.

12 421Q-Okay. Kathy Stewart, another five hundred dollars
13 (\$500.00).

14 A- I assume it's her monies.

15 422Q-Correct.

16 A- And also this Visa bill is probably her monies as
17 well, but she... just a cheque was sent directly to
18 Visa from her account.

19 423Q-Okay.

20 Mr. GILLES ROBILLARD:

21 424Q-Wasn't there a salary supplement also that was paid
22 cash or out of the trust account...

23 A- There was...

24 425Q-... to your employees?

25 A- There was some. But I'm not... I don't recall how

1 that... how... how much Kathy would have got. There
2 was to the other girls, yes.

3 Me NEIL H. STEIN:

4 426Q-Okay. Series of cheques which appear -- to your
5 corporation -- which again appear to be for fees.
6 The names of the clients are marked.

7 A cheque for twenty thousand dollars
8 (\$20,000.00) to your wife and yourself. Deposited
9 to your wife's account, which she has indicated were
10 used for family purposes.

11 Cheque for five thousand dollars (\$5,000.00)
12 payable to Cash. Deposited by Kathy Stewart. That
13 would be used for what?

14 A- I don't know. May have... might be some of her
15 money that she was withdrawing.

16 427Q-And then a cheque for the TD Visa, a thousand eight
17 fifty-one ninety-six (1,851.96), re Kathy Stewart.

18 A- That could be the same thing, her own monies.

19 428Q-Cheque for Earl Jones Corp. for eleven thousand nine
20 seventy (11,970) marked "re Estate Lorette
21 Tremblay".

22 A- That would have been a fee.

23 429Q-That would be a fee. And then there are eight
24 thousand two hundred dollars (\$8,200.00) worth of
25 cash withdrawals in that month.

1 Cheque for eleven thousand three ninety-five
2 fifty (11,395.50) to Centre de la Cité Pointe
3 Claire, marked "first instalment - rental of
4 offices".
5 A- Well, I would think that would be the... our rent
6 for our office.
7 430Q-Okay. A cheque for twenty thousand (20,000) to your
8 wife.
9 MR. GILLES ROBILLARD:
10 431Q-Why would you sometimes make cheques payable to your
11 wife and sometimes payable jointly to you and your
12 wife? Is there a reason?
13 A- No.
14 Me NEIL H. STEIN:
15 432Q-Cheque to your wife for seven thousand (7,000).
16 Cheque to Ma Baie, certified cheque for ten thousand
17 five twenty-three ninety-seven (10,523.97). Don
18 Stewart again?
19 A- That's correct.
20 433Q-And all this while Mr. Lindsay knew that these
21 cheques were going out?
22 A- That's correct.
23 434Q-There are various other small amounts, but then
24 there's a cheque for five thousand (5,000) to Scotia
25 McLeod marked "re Pierre Courchesne".

1 A- I would think we paid his... our RRSP contribution
2 as opposed to paying the fees maybe.

3 435Q-Okay. And then there's two (2) cheques to Scotia
4 McLeod. One (1) for three thousand three fourteen
5 (3,314) on behalf of Carol Lafave. And another one
6 for two thousand (2,000), re Kathy Stewart.

7 A- That would have been Carol's own money. And Kathy
8 Stewart, we paid her RRSP contribution.

9 436Q-A cheque of... sorry.

10

11 OFF RECORD

12

13 Me NEIL H. STEIN:

14 437Q-I have ten thousand (10,000) to McCarthy Tetrault,
15 re Clairehaven. And would you just take a look at
16 the memo, as I can't read it, and tell me what it
17 says? The three (3) names there.

18 A- Oh, it says Mendelson and Sterman and, of course,
19 Jones, Clairehaven. McCarthy Tetrault, as you know,
20 is a lawyer. I don't know. That may be Jones
21 Henderson. I don't know what the last one is.

22 That... that, I think, is the deposit that was
23 paid to the... to that company, the lawyers to hold
24 the land on Hymus Boulevard. The land was owned by
25 one of the Webster trusts... Webster family.

1 438Q-The Jones that's referred to there is you?
2 A- Yes.
3 439Q-Okay. Then there was seventy-six hundred (7,600)...
4 well, I'm sorry, there's Guy Lefaiivre Imports again,
5 thirty-five hundred dollars (\$3,500.00). That would
6 be?
7 A- It'd be repayment of his funds.
8 440Q-And then seventy-six hundred dollars (\$7,600.00) of
9 cash withdrawals for that month.
10 Now, the following month, again you have Ma
11 Baie for ten thousand four thirty-two thirty
12 (10,432.30), certified cheque, Don Stewart. You've
13 identified that.
14 Thirty-five hundred (3,500) to your wife
15 Maxine. And ten thousand (10,000) to yourself and
16 your wife. Again, she has identified those as being
17 used for personal purposes.
18 There are two (2) cheques to the... there's one
19 (1) for Cash of six thousand dollars (\$6,000.00).
20 The memo is "G. Matthew".
21 A- That's a client, Gwen Matthew.
22 441Q-Okay. Again, there are... there are fairly large
23 amounts that seem to be taken out on behalf of
24 clients in cash. Is there any particular reason why
25 you would be taking out cash on their behalf as

1 opposed to issuing them a cheque and they could get
2 their own cash?

3 A- They... they in most cases would request... ninety
4 percent (90%) going back, I guess Kathy was there,
5 that they wanted an amount in cash, which at times
6 they would give to their children or do whatever
7 with it.

8 442Q-No, I understand.

9 A- Yes.

10 443Q-What they would do with it is their business. But
11 what I'm trying to understand is why you seem to be
12 the one withdrawing the cash...

13 A- Well...

14 444Q-... as opposed to giving them a cheque where they
15 withdraw their own cash?

16 A- They requested it. And there's some agreements that
17 you will see where some of the interest is payable
18 by cheque and some is payable by cash at their
19 request.

20 445Q-You're referring to again bridge loans.

21 A- Yes.

22 446Q-Mr. Matthew, did he have a bridge loan with you?

23 A- This is Gwen Matthew. This is his mother.

24 447Q-Did she have...

25 A- And she... yes.

1 448Q-She had a bridge loan...

2 A- Yes.

3 449Q-... that she was aware of?

4 A- Yes.

5 450Q-So what was her loan? She was getting paid part

6 cash and part by cheque?

7 A- Could be. Could be. I don't...

8 451Q-Well, I'm not asking you to guess, Mr. Jones.

9 A- I would... I would think so.

10 452Q-You would think so?

11 A- Yes.

12 453Q-And she would be the one who was requesting that you

13 make payments of her interest in cash?

14 A- Yes.

15 454Q-How old a woman would she be?

16 A- She's now deceased, but when I started working with

17 her she would have been fifty (50), fifty-five (55).

18 Her sons would have been involved with her financial

19 affairs, Brent and David Matthew.

20 455Q-And you were preparing the tax returns on her behalf

21 or having them prepared?

22 A- Her tax returns would have been prepared... I think

23 we did them, yes.

24 456Q-And would you indicate the cash payment as interest

25 received?

1 A- I think we would have, yes. Kathy would... the
2 girls would pull all that together and give it to
3 her accountants, yes.

4 457Q-So what would be the point in having it in cash?

5 A- It's what they wanted. Some of them... some of
6 them, I don't... some of them did not report some of
7 the interest and some did.

8 458Q-Well, I understand it was you that was preparing and
9 giving the information to the various accountants in
10 respect to the tax returns.

11 A- And the clients were aware of the interest... the
12 information that we were giving to the accountants
13 and were aware of what was being reported and signed
14 their tax returns.

15 459Q-Now, it seems very -- just one second -- it seems
16 that you have a number of... a great number of cash
17 withdrawals from various accounts. How did you...
18 and the cash that is being withdrawn is not via
19 certified cheques. It's being withdrawn based on
20 cheques which are being deposited uncertified. How
21 did you manage to do that?

22 A- You mean getting the cash from the banks with
23 uncertified cheques?

24 460Q-Correct.

25 A- Because of the balance in our account and second of

1 all, of the... the banks, as I said yesterday how
2 crazy it sounds, I think they considered us a VIP
3 client.

4 461Q-So they just simply accommodated you...

5 A- That's right.

6 462Q-... is that it?

7 A- Right.

8 463Q-Now, there's two (2) further cheques made to the
9 Bank of Bermuda. One (1) for twenty-five thousand
10 (25,000) and one (1) for twelve thousand (12,000).
11 The indications are on the bottom. Brent Matthew
12 and John Hilton. These would have been payments
13 that you were making for what purpose?

14 A- They opened up accounts at Bank of... Bank of
15 Bermuda in their names.

16 464Q-What was the purpose of opening up these accounts in
17 the Bank of Bermuda? Was it -- and I'll be quite
18 blunt -- was it to hide the fact that interest was
19 being earned or investment income was being earned?

20 A- No. It... it started really with clients, some
21 clients coming to us and been advised by others that
22 they should put some money outside of Canada and
23 Quebec, in particular, because of the Quebec
24 situation.

25 And the...

1 465Q-This is...

2 A- ... interest or the interest or the income earned,
3 there were statements issued directly on a regular
4 basis by the Bank of Bermuda to... to our clients.
5 And I think... I think the interest was reported on
6 the tax returns.

7 466Q-This is in nineteen ninety-seven (1997). I mean...

8 A- M'hm.

9 467Q-... the big fear of Quebec from what I recall was in
10 nineteen sixty-seven (1967)... seventy-six ('76).

11 MR. GILLES ROBILLARD:
12 Seventy-six ('76).

13 Me NEIL H. STEIN:

14 468Q-Seventy-six ('76). November fifteenth (15th)... no
15 -- was it then -- anyway, in nineteen seventy-six
16 (1976). So your clients were still fearful in
17 nineteen ninety-seven (1997)?

18 A- Well, it wasn't only fearful, you know, this client,
19 Brent's a pretty, and John a... they work together.
20 They're pretty astute individuals. And during a
21 conversation that I may have had with them, whether
22 I brought up the fact that you could use the Bank of
23 Bermuda or they suggested or, you know, I'm not too
24 sure. But they...

25 469Q-Well, you had a... you developed a relationship

1 through the individual you mentioned yesterday with
2 the Bank of Bermuda, is that correct?

3 A- Right, but then... then I've dealt directly with the
4 Bank of Bermuda. If a client wanted to open up an
5 account, all the documents were sent to the client.
6 The client completed everything and the statements
7 for their accounts were sent directly to the client.

8 470Q-Was there any law firm involved or a lawyer involved
9 with respect to the Bank of Bermuda?

10 A- No.

11 471Q-Lawyer in Montreal?

12 A- No.

13 472Q-No?

14 A- No.

15 473Q-It's just strictly through this individual who you
16 named yesterday?

17 A- That's how it opened up, yes.

18 474Q-Okay. Okay, there's a further cheque for three
19 thousand (3,000) to Kathy Stewart. Your answer
20 would be the same as before?

21 A- Yes.

22 475Q-Cheque for five thousand dollars (\$5,000.00) to
23 yourself.

24 A- Assume it was for personal use.

25 476Q-And then a series of cheques to your corporation

1 which appear to be for fees as well.

2 A- Right.

3 477Q-And then...

4 A- Correct.

5 478Q-... cash withdrawals of nineteen thousand six

6 thirty-two (19,632).

7 Month of May. There's a cash cheque for one

8 thousand dollars (\$1,000.00). Notation is "Joan and

9 Kathy monthly REM". What does that represent?

10 A- Joan was an employee of ours. And this may have

11 been the monthly REM, maybe monthly... monthly

12 remittance. I know at times I was paying them some

13 travel time when they used their car to go to banks

14 or go to see clients and so on.

15 479Q-Okay. Again, ten thousand three forty sixty-four

16 (10,340.64) to Ma Baie. Again that would be Don

17 Stewart?

18 A- Right.

19 480Q-Cheque for thirty-five hundred dollars (\$3,500.00)

20 to your wife. A cheque for twenty thousand dollars

21 (\$20,000.00) to you and your wife. And would you

22 take a look at the notation on this one and tell me

23 what it's about?

24 A- This is "own funds".

25 481Q-"Own funds"?

1 A- Like my own funds.

2 482Q-Okay. Was that your identification of what you were
3 taking out on your own behalf from the trust, is
4 that it?

5 A- No, I... I was assuming that -- I wasn't assuming --
6 but I had put money into the trust accounts, so I...
7 I put that on indicating that the money that I put
8 in the trust account was...

9 483Q-Was being taken back now?

10 A- Exactly.

11 484Q-And you kept no record of what you put in and what
12 you took out?

13 A- No, it's in the trust account.

14 485Q-Cheque for one thousand five ninety-nine (1,599).

15 MR. GILLES ROBILLARD:

16 Sears.

17 Me NEIL H. STEIN:

18 Oh, Sears, okay.

19 A- I don't know. Kathy wrote it, so I assume it was
20 for a client, paying some... something for a client.

21 486Q-And we're going to skip the small ones so we can
22 move on, but there's a cheque for five thousand six
23 ninety-seven seventy-five (5,697.75) made to your
24 corporation. Again, re this Rison or Risoh
25 Corporation. How do you spell that, sir?

1 A- R-I-S... looks like R-I-S... R-I-S-O-N or O-H.
2 487Q-Okay. Do you know who Mira Jankovic is? A cheque,
3 four thousand six ninety-four (4,694).
4 A- Mira Jankovic. I believe she is a client.
5 488Q-So this would represent...
6 A- And...
7 489Q-... what?
8 A- Well, it looks like we had received a government
9 cheque on her behalf and we're just reimbursing her.
10 490Q-Okay.
11 Me DONALD R. MICHELIN:
12 491Q-Could that Rison have anything to do with your
13 company Terranet? Terranet?
14 A- My company Terranet?
15 492Q-There was that company involving environmental
16 contamination or decontamination...
17 A- Oh. Oh yes. Yes.
18 493Q-Is that what it is?
19 A- I don't know if it was that. Yes, that was... it
20 wasn't my company. That was a...
21 494Q-What do you mean it wasn't your company? You
22 weren't involved in that company?
23 A- I was involved in it, yes.
24 495Q-You were a partner in it?
25 A- It was... could I explain?

1 496Q-Were you a partner?

2 A- Can I explain?

3 Me NEIL H. STEIN:

4 Go ahead.

5 A- It was a company that I'm not sure, I guess it was

6 fully set up, that I'm guesstimating seven (7) or

7 eight (8) friends put in a couple of dollars and was

8 sold.

9 Me DONALD R. MICHELIN:

10 They each put in two dollars (\$2.00), sir?

11 A- No. They put... I don't know... we put in two

12 thousand (2,000) or something of this nature.

13 497Q-Did you put in?

14 A- I put in, yes.

15 498Q-And where did the money come from, sir?

16 A- That money would have come, I think, from my

17 personal account. I don't know. You'll see it in

18 my trust account, if it came from there.

19 Me NEIL H. STEIN:

20 499Q-Okay. A series of cheques made to the government in

21 respect of Pointevest Holdings Inc. Minister of

22 Revenue.

23 A- You know, this was this little company that Mr.

24 Henderson, Mr. Smith and myself had formed.

25 500Q-Okay.

1 A- And never really... never really got off the ground.
2 501Q-A cheque to David Martin for ten thousand dollars
3 (\$10,000.00) marked "personal loan".
4 A- That was a loan we made to David Martin.
5 502Q-"We" being?
6 A- We would have made it from the trust account and
7 allocated it to one (1) of our clients.
8 Me DONALD R. MICHELIN:
9 503Q-What do you mean when you say...
10 Me NEIL H. STEIN:
11 504Q-So why... why...
12 Me DONALD R. MICHELIN:
13 505Q-What do you mean when you say you "allocated it to
14 a client"?
15 A- Well, we would have... a client would have given us
16 money. And at times I would have discussed with a
17 client, "Another client is looking for ten thousand
18 dollars (\$10,000.00). Do you want to loan ten
19 (10)... ten thousand dollars (\$10,000.00)?"
20 Me NEIL H. STEIN:
21 CPQ-But you wouldn't even know if that client had ten
22 thousand dollars (\$10,000.00) in your account at
23 that point in time?
24 A- There would have been money originally in the
25 account, yes.

1 507Q-Originally, yes. But you had taken out so much
2 money...

3 A- Well, I don't know at that time.

4 508Q-... so you...

5 A- I just... the money could have come in from a client
6 in the trust account for ten thousand (10,000) and
7 went out to Dave Martin.

8 509Q-Let's not guess. If you know the answer...

9 A- I don't know.

10 510Q-... please say...

11 A- I don't know.

12 511Q-... what the answer is.

13 A- I don't know.

14 512Q-But let's not guess, all right? The cheque is
15 marked "Dave Martin personal loan", okay. "Advance
16 personal loan", which to me would indicate that the
17 loan is being made by yourself personally to Mr.
18 Martin.

19 A- It could also have been made by his mother Mary
20 Martin to him.

21 513Q-Well, why would it be marked "personal loan"?

22 A- Because it's personal to him.

23 514Q-Mr. Jones, you're writing the cheque to him. How
24 else could it be other than personal?

25 A- Well, I'm telling you, that's how we... that's how

1 we indicated it.

2 515Q-I see. So when you write a cheque to yourself for

3 three thousand dollars (\$3,000.00) and you mark

4 "personal", what does that mean? Here's a copy of

5 the cheque.

6 A- I assume that this was my personal money.

7 516Q-Your personal money coming out of the trust account?

8 A- Right.

9 517Q-Over and above what you had took out, these cash

10 withdrawals and these...

11 A- Right.

12 518Q-... all these payments?

13 A- Right.

14 519Q-Fiction of your imagination, correct?

15 A- No comment.

16 MR. GILLES ROBILLARD:

17 520Q-Thirty thousand dollars (\$30,000.00) goes a long

18 way.

19 Me NEIL H. STEIN:

20 521Q-Okay. A cheque for five thousand dollars

21 (\$5,000.00) to your wife and yourself. Again marked

22 "personal funds".

23 A- Right.

24 522Q-A cheque of five thousand dollars (\$5,000.00) marked

25 "Cash" with the memo Pierre Courchesne. What would

1 that represent?

2 A- That could represent his fees being paid to him in
3 cash.

4 523Q-And why would...

5 A- Or...

6 524Q-Yes, okay. Sorry, go ahead.

7 A- ... it might have been a loan to him. I'm not sure.

8 525Q-Cheque for five thousand dollars (\$5,000.00) payable
9 to Cash, memo "re Dressel".

10 A- That's cash paid to Mr. Dressel at his request.

11 526Q-Cheque of thirty-five hundred (3,500) to your wife
12 and another one for fifteen thousand (15,000) to you
13 and your wife, which your wife has identified were
14 used for personal purposes.

15 Another cheque of five thousand dollars
16 (\$5,000.00) for cash. No indication -- deposited by
17 Kathy Stewart -- no indication as to what this
18 amount represented.

19 A- I would assume that's her money.

20 527Q-Again, please don't assume. Cheque of five thousand
21 dollars (\$5,000.00) payable to Amex Bank of Canada,
22 American Express. Appears to be your account. Will
23 you look at that?

24 A- Yes.

25 528Q-Is it yours?

1 A- I agree.

2 529Q-Okay. Cheque to Bell Mobility for four hundred and
3 seventy-six dollars (\$476.00). Do you know what
4 that's about?

5 A- That's my cell phone.

6 530Q-Another one for five thousand (5,000) to AMEX to
7 your account again. Take a look at that.

8 A- Yes.

9 531Q-Okay. And then there were ATM withdrawals of
10 seventy-six hundred (7,600) that month.
11 July ninety-seven ('97). A cheque for four
12 thousand six seventy-three (4,673) to Ma Baie. That
13 again was for Mr. Stewart?

14 A- Yes.

15 532Q-And a cheque for five thousand six ninety-seven
16 (5,697) in respect of MacCallum to your corporation.

17 A- It would have been a fee.

18 533Q-Okay. Now, once we're talking about MacCallum... I
19 show you here a document which appears to be the
20 Last Will and Testament of Peggy MacCallum, executed
21 before Notary David Whitney. Take a look at this
22 Will and tell me if you recall as to whether that
23 was the Last Will and Testament that you used to
24 wind up her estate.

25 A- I think it is.

1 \LTQ-Okay. Can I see that for a second? Now, that Will
2 is dated January fourth (4th), two thousand (2000).
3 You'll note in that Will that you are left forty
4 thousand dollars (\$40,000.00). You are the
5 liquidator. And there is an addition to the Will
6 dated January fourth (4th), two thousand (2000)
7 where you are left what is referred to as "The
8 Pilot".

9 Is it true to say that "The Pilot" was a Pilot
10 painting that you were left?

11 A- It is a painting, yes.

12 535Q-By Mr. Robert Pilot?

13 A- I believe so. I've never had it verified.

14 536Q-Okay. Can you tell us what happened with that
15 painting?

16 A- The painting was in the condo at Dorval.

17 537Q-Okay.

18 A- And is now held by my wife.

19 538Q-I see. That she is using that...

20 A- Yes.

21 539Q-... you've given her the right to use it?

22 A- That's right.

23 540Q-Okay. All right. That's the -- so that we're clear
24 -- that is the painting that was referred to in
25 this...

1 A- Yes.
2 541Q-Okay. Would you produce a copy of this Will as
3 Exhibit EJ-38?
4 MS. JULIE KORMAN
5 37.
6 Me NEIL H. STEIN:
7 Okay. But we're going to...
8 MR. GILLES ROBILLARD:
9 The cheques are going to be 37.
10 Me NEIL H. STEIN:
11 ... produce all the cheques as EJ-37. So we
12 will produce the will as EJ-38.
13
14 Exhibit No. EJ-37
15 Exhibit No. EJ-38
16
17 OFF RECORD
18
19 Me NEIL H. STEIN:
20 542Q-I show you here a copy of a letter or a memorandum,
21 actually, dated December ninth (9th), nineteen
22 ninety-nine (1999) allegedly from yourself to Notary
23 David Whitney. Can you take a look at this and tell
24 me whether you recall sending that letter to Mr.
25 Whitney?

1 A- I don't recall sending it, but...

2 543Q-You don't recall sending it? Well, it was found in

3 the files of the MacCallum estate in your office.

4 I'd ask you to produce it as Exhibit EJ...

5 MR. GILLES ROBILLARD:

6 39.

7 MS. JULIE KORMAN:

8 39.

9 Me NEIL H. STEIN:

10 544Q-... 39. EJ-39.

11 Exhibit No. EJ-39

12

13 OFF RECORD

14

15 Me NEIL H. STEIN:

16 545Q-This particular letter refers to a fact that you

17 will be named as... or that there is an amount to be

18 added to the Will to be given to you as a specific

19 bequest.

20 How old was Mrs. MacCallum at... in December of

21 nineteen ninety-nine (1999); do you recall,

22 approximately?

23 A- In her mid-seventies (70s), late seventies (70s), I

24 would say.

25 546Q-Okay. And do you recall when she died?

1 A- I do not. Well, shortly there... I guess maybe a
2 year or two (2) later.

3 547Q-Years. Was she in good health when she met with you
4 in December of nineteen ninety-nine (1999)?

5 A- She had all her faculties, yes, yes.

6 548Q-Other than her faculties, was she in good health?

7 A- Physically she had a difficult time getting around
8 at times.

9 DOCQ-Okay. And you were administering her affairs while
10 she was having these difficulties?

11 A- That's correct.

12 550Q-Okay. And she had a lot of faith in you, I presume?

13 A- Yes.

14 551Q-Okay. And in the end, she ended up leaving you
15 forty thousand dollars (\$40,000.00) plus some other
16 matters, and you administered her estate, that's
17 correct?

18 A- Correct.

19 552Q-Okay. Now, getting back to the other cheques. A
20 cheque to your wife for thirty-five hundred dollars
21 (\$3,500.00) and another cheque to yourself and your
22 wife for ten thousand dollars (\$10,000.00). Again
23 those were personal expenditures your wife
24 explained.

25 A- Okay.

1 553Q-A cheque to Hart Saint-Pierre for eleven thousand
2 eight twenty-four sixty (11,824.60) and another for
3 eight thirty-nine ninety-five (839.95), both marked
4 "re Hymus II".
5 A- That was the legal bills.
6 554Q-For Mr...
7 A- Stewart.
8 555Q-... Stewart?
9 A- Yes.
10 556Q-A cheque for nine thousand one sixteen (9,116) to
11 Appel & Partners, accountants.
12 A- I don't know what that is.
13 557Q-Okay. And then a cheque to your corporation for
14 five thousand six ninety-seven (5,697) marked "fees
15 re Clairehaven".
16 A- Correct.
17 558Q-So those would... would be... can you tell the Court
18 approximately... or what was your arrangement in
19 terms of fees with respect to the Clairehaven
20 project?
21 A- I don't recall the... the arrangements per se, other
22 than any fees I charged I would have discussed with
23 Mr. Henderson and Mr. Smith.
24 559Q-And then there are a series of cheques which appear
25 again to be for either on behalf of clients, small

1 amounts, one or two hundred dollars (\$100.00 or
2 \$200.00), and the rest, which appear to be fees
3 taken from various estates. Just take a look at
4 those.

5

6 OFF RECORD

7

8 A- Okay.

9 Me NEIL H. STEIN:

10 560Q-Just going back to the MacCallum file again. If we
11 take a look at the bequests that are made to you,
12 the specific bequest, it appears to be one (1)...
13 it's marked "The Pilot" painting which, I assume,
14 was a Robert Pilot painting. Which is identified in
15 the appraisal report of Empire Auctioneers as number
16 10, Robert Wakeham Pilot, "View of a Farm".

17 A- I...

18 561Q-That's the painting that you refer to which your
19 wife presently has in wherever she's residing, is
20 that correct?

21 A- I believe so.

22 562Q-Okay. Now, there's another painting which is
23 identified as number 4 in the appraisal report as
24 James Lillie Graham, "Château Ramsey". Which as
25 well was found in your apartments... your condo.

1 A- Right.

2 563Q-Do you recognize that painting?

3 A- Yes.

4 564Q-Okay. In virtue of what did you end up getting that
5 painting?

6 A- I don't recall.

7 565Q-You don't recall?

8 A- No.

9

10 OFF RECORD

11

12 Me NEIL H. STEIN:

13 566Q-I show you here a copy of the estate inventory
14 prepared by V.I. Antiques & Fine Art Inc. which
15 lists that James L. Graham painting. Was this
16 inventory prepared at your request?

17 A- I believe it... I believe it was. I see our address
18 on it. In most cases.

19 567Q-Okay.

20 Mr. GILLES ROBILLARD:

21 568Q-How did that...

22 A- I can't recall.

23 569Q-How did that painting end up on your wall?

24 A- Pardon?

25 570Q-How did that painting that was in the MacCallum

1 estate end up on your wall in Dorval?

2 A- I don't know. I think it... I may have accepted
3 that as a... as a gift from her. What occurred --
4 and I don't recall the names of her nieces -- but
5 prior to her death she had asked her nieces and
6 myself to come to her house and gave them a lot of
7 furniture and gave them a lot of articles and... and
8 asked if I wanted stuff, which I... I never took
9 from clients or never accepted. But I think that is
10 a painting that was given to me over and above the
11 one in her Will.

12 Me NEIL H. STEIN:

13 571Q-But it was listed on the inventory that you did of
14 the estate.

15 A- Right.

16 572Q-So how... why would you have listed it on the
17 inventory of the estate if she had given it to you
18 prior to...

19 A- It would have been... it would have been left at...
20 left at the house and I would have just told him to
21 list whatever's in the house or the apartment, 4300.

22 573Q-August of ninety-seven ('97). A cheque to Guy
23 Lefaivre Imports. Again that's, I presume, the same
24 thing, you're repaying him?

25 A- Right.

1 574Q-Cheque for five thousand (5,000). Again the memo
2 was Dressel.
3 A- Right.
4 575Q-You were obtaining the cash for him. Kathy Stewart
5 deposits it. Another cheque for six hundred dollars
6 (\$600.00) marked "Cash"... yes, "Cash" "re Dirk
7 Dressel".
8 A- It's the same person, yes.
9 576Q-Same thing.
10
11 OFF RECORD
12
13 Me NEIL H. STEIN:
14 577Q-Mr. Jones you just said just prior to this you
15 believe that Mrs. MacCallum died when?
16 A- Well, what was the date of that inventory? I
17 don't...
18 578Q-The inventory...
19 A- I don't know, you know...
20 579Q-Well, I... you said, if my memory is correct,
21 approximately a year or so after the execution of
22 this Will, is that correct, that she was in good
23 health?
24 A- I don't know.
25 580Q-You don't know?

1 A- No.

2 581Q-Okay. I show you here a copy of an Act of Death...

3 A- Right.

4 582Q-... from the Quebec government.

5 A- Right.

6 583Q-Marion Fenwick Wilkinson, was that her maiden name?

7 A- I believe so.

8 584Q-Okay. As appears on the Will. The date and time of

9 death noted by the Quebec government is January

10 sixteenth (16th), two thousand (2000). This Will

11 was executed on January fourth (4th), two thousand

12 (2000).

13 You told us that she was in good health, had

14 her mental capacity. What did she die of; do you

15 know?

16 A- I don't know.

17 585Q-Okay. You don't find it strange that she's in good

18 health and several days later she dies? Is it

19 possible that she wasn't in such good health?

20 A- No, I don't think the notary would have taken...

21 586Q-That's not my question, whether the notary would

22 have executed the Will.

23 A- No...

24 587Q-I'm talking about from your perspective. You seemed

25 to be...

1 A- My perspective...

2 588Q-... administering her affairs...

3 A- My perspective, she would...

4 589Q-Let me finish the question first. You were

5 administering her affairs. You knew her affairs.

6 You send a letter on December nineteenth (19th) to

7 the notary in respect of changing her Will. The

8 Will is executed on January fourth (4th), two

9 thousand (2000) and she dies on January sixteenth

10 (16th), two thousand (2000). And you're telling us

11 she was in good health?

12 A- I'd said to... I said she had all her faculties,

13 meaning I believed mentally she was in good health.

14 She had a difficult time getting around physically.

15 590Q-Do you know whether she was receiving any

16 assistance, health assistance from any

17 professionals?

18 A- Her... some friends and relatives would help her.

19 And...

20 591Q-Was she seeing any doctors at the time?

21 A- Well, yes, she had doctors. I can't recall. She

22 was very involved with the Royal Victoria Hospital,

23 the MacCallum family. And when she did have medical

24 problems, she was always... went to the Royal

25 Victoria Hospital.

1 I don't... I don't know. She certainly had
2 doctors. Couldn't answer who they were or...
3 592Q-Will you produce this Death Certificate as Exhibit
4 EJ-39.

5 MS. JULIE KORMAN:

6 40.

7 Me NEIL H. STEIN:

8 593Q-I'm sorry, EJ-40. Do you have a copy?

9 MR. GILLES ROBILLARD:

10 No, we'll make a copy.

11 Exhibit No. EJ-40

12

13 OFF RECORD

14

15 Me NEIL H. STEIN:

16 594Q-Okay, let's move on here. Okay. I show you here
17 another cheque to your wife and yourself for five
18 thousand (5,000). Another one for thirty-five
19 hundred dollars (\$3,500.00) to your wife. Those
20 again were identified as personal usage.

21 A cheque for six hundred dollars (\$600.00) to
22 Lessard Investments. You've identified that was for
23 Clairehaven project, correct?

24 A- No, that was... that was Lessard Investments.
25 That's Mr. Dressel's account.

1 595Q-Well, the reference is Clairehaven on the cheque.

2 A- Okay. So that... I mentioned earlier that the group
3 for Clairehaven borrowed some money, and they would
4 have borrowed some from Claire... from Lessard and
5 Investments.

6 596Q-Another cheque for four thousand six seventy-three
7 (4,673) to Don Stewart for Hymus II. That would
8 represent what?

9 A- I think repairs to the brasserie.

10 597Q-Okay. Cheque to the Bank of Montreal for three
11 thousand one seventy-six (3,176).

12 A- No idea.

13 598Q-Another cheque to the Bank of Montreal for two
14 thousand three o four (2,304). No endorsement on
15 the back of either of these cheques.

16 A- No, no idea. I would think they were used to buy
17 drafts for clients. But I would assume there would
18 have been something on the back.

19 599Q-Another cheque for six thousand dollars (\$6,000.00)
20 payable to "Cash". Deposited by Kathy Stewart. Or
21 cash withdrawn by Kathy Stewart.

22 A- That could have been her own monies. I don't know.

23 600Q-Cheque for four thousand four sixty-two (4,462) to
24 the Royal Bank Visa. Take a look and see if that's
25 your Visa that's being talked about.

1 A- I don't know if this is my account number.

2 601Q-I cannot identify that as being either yours or
3 somebody else's. Would there be any particular
4 reason that you would pay somebody's Royal Bank Visa
5 out of the blue?

6 A- Yes.

7 602Q-What would that be?

8 A- Clients come in sometime and said they owe... they
9 owe money, "And I'm leaving town. Can you pay it?"
10 or "Would you pay it directly?"

11 603Q-Okay. Various cheques payable to Hart Saint-Pierre.
12 The first one is marked "Earl Jones personal", eight
13 hundred and seventy-seven dollars (\$877.00).

14 A- I don't know. I think this relates to his work on
15 the Hymus. He did work for the Hymus and did work
16 for the Clairehaven and also...

17 604Q-Okay. Another one to Hart Saint-Pierre marked
18 Clairehaven...

19 A- That's it.

20 605Q-... for a thousand seven fifteen (1,715).

21 A- Right.

22 606Q-Another one for the Golf Development, marked six
23 thousand zero thirty-eight (6,038).

24 A- Right.

25 607Q-And a cheque for twenty-three thousand zero eleven

1 (23,011) to Scotia McLeod, memo Lynn Grant, I
2 believe it says.

3 A- She's a client that has an account there...

4 608Q-Okay.

5 A- ... certainly.

6 609Q-And then a cheque to the Royal Bank of Canada for
7 two hundred and ten thousand six fifteen (210,615).
8 That we've already identified as being the... the
9 one which purchased the bank draft, I believe, for -
10 - is that the one -- for ninety-seven ('97), July
11 seventeenth (17th), ninety-seven ('97) to purchase
12 the bank draft...

13 Mr. GILLES ROBILLARD:

14 Yes, the bank draft for the condo.

15 Me NEIL H. STEIN:

16 610Q-... the condo in Hyannis.

17 Mr. GILLES ROBILLARD:

18 Hyannis.

19 Me NEIL H. STEIN:

20 611Q-And then a cheque for five hundred dollars (\$500.00)
21 cash. Again cashed by Kathy Stewart. And cash
22 withdrawals of eight thousand seventy-three dollars
23 and forty-seven cents (\$8,073.47).

24 Okay. Now, August... cheque to Notary Samuel
25 Gaskin In Trust for twenty-eight thousand six

1 thirty-five (28,635). Do you know what that
2 represented?

3 A- That's for David Martin. That was money advanced by
4 his mother Mary Martin when David bought a house.

5 612Q-Okay. A cheque for one thousand dollars (\$1,000.00)
6 to Queens University, marked "re Kristine Jones".

7 A- That would have been her fees.

8 613Q-Cheque for twenty thousand dollars (\$20,000.00) to
9 your wife and/or yourself. Again identified by your
10 wife as being used for personal purposes.

11 A cheque to Computer Centre for three thousand
12 five seventy-nine (3,579). Note "re Kristine
13 Jones". I presume that's for computer equipment for
14 your daughter. Is that correct?

15 A- Right.

16 614Q-A cheque to Elizabeth Edwards, Trustee for a
17 thousand eight twenty-eight sixty-three (1,828.63)
18 U.S., re your daughter Kim.

19 A- Relates to the condo.

20 615Q-That's for the condo. Another one to the same
21 trustee for five hundred dollars (\$500.00). Relates
22 to the condo, I presume.

23 A- Yes.

24 616Q-Okay. A cheque to the Bank of Montreal for seven
25 thousand seventy-three (7,073), "re David Stanbury".

1 A- That would be a distribution from his mother's
2 estate, Valerie.

3 617Q-Okay. A cheque to Visa, marked "re B. Earl Jones",
4 one thousand twenty-seven seventy-three (1,027.73).
5 That would be your personal Visa?

6 A- Yes.

7 618Q-Cheque to the Bank of Montreal for twenty-one
8 thousand fifty-eight (21,058), "re Karen"... I can't
9 make it out.

10 A- Karen Sadler.

11 619Q-Sadler, okay.

12 A- That's money advanced to Karen from her mother.

13 620Q-Okay. A cheque to Visa again for four thousand one
14 twenty-three (4,123), marked "re B. Earl Jones".
15 That's your Visa?

16 A- Yes.

17 621Q-Okay. A cheque to Marlene Jones for thirty-five
18 hundred (3,500). She's identified. A cheque to
19 Bell Mobility for three sixty (360), re yourself.
20 That's your cell phone. Is that correct?

21 A- Yes.

22 622Q-Cheque to "Cash" for a thousand dollars (\$1,000.00).
23 "Monthly cash J and K".

24 A- That would have been Joan and Kathy at the office.

25 623Q-Okay. A cheque to Cynthia DiMarco for twenty

1 thousand (20,000).

2 A- That's a distribution from her father's estate.

3 624Q-Okay. Cheque Amex Bank of Canada for fifteen

4 hundred dollars (\$1,500.00), marked re your account

5 at Amex Bank.

6 A- Okay.

7 625Q-A cheque for two thousand dollars (\$2,000.00) to

8 Amex Bank of Canada, marked again re yourself.

9 A- Okay.

10 626Q-A cheque to Patrick Mills for two thousand fourteen

11 dollars (\$2,014.00). What does that represent?

12 A- I don't know.

13 627Q-Maybe...

14 A- Her name come up before, I think. No, I don't

15 recall.

16 628Q-Okay. Cheque to the Bank of Montreal for thirteen

17 thousand nine ninety (13,990), marked re Karen, I

18 believe it's Sadler.

19 A- Same. It's...

20 629Q-Okay.

21 A- ... money from her mother's... Douglas.

22 630Q-Okay. Cheque to Kristine Jones for two thousand

23 dollars (\$2,000.00).

24 A- It's a personal...

25 631Q-Right. A cheque to Bank of Bermuda for three

1 thousand two eighty-seven (3,287), "re Gilardi".

2 A- That would have been an account that he opened up.

3 107Q-Okay. Another one for Bank of Bermuda for twenty-

4 five hundred (2,500) U.S., "re Andreas T."

5 A- That would have been an account of Sonia, yes.

6 633Q-Another one for three thousand (3,000), Bank of

7 Bermuda, "re Adelaide Richter".

8 A- Same thing.

9 634Q-And another one to Teasdale Associates Inc., three

10 hundred and sixty-six (366), marked "re Kim", U.S.

11 That would be for your daughter as well, correct?

12 A- I guess so, yes.

13 635Q-Okay. Another one's three thousand one forty

14 (3,140) in cash withdrawals. Okay.

15 Now, October. Again five thousand dollars

16 (\$5,000.00) to your wife. She's identified. A

17 thousand dollars (\$1,000.00) cash, marked "re John

18 Lindsay". K. Stewart. And all these... sorry.

19 A- That would have been Peter Lindsay's brother when he

20 visited Peter from England.

21 636Q-Okay. In all these cases where the individual's

22 name is marked you're absolutely positive that they

23 received the cash?

24 A- Definitely.

25 637Q-And you took no receipts from them?

1 A- There would be some receipts, but in general, no.
2 638Q-Cheque to the Bank of Montreal, six thousand nine
3 sixty (6,960), marked re... I can't make out the
4 name.
5 A- I don't recall the name. I would... certainly a
6 client, but I don't recall the name.
7 639Q-Okay. Cheque for the Bank of Bermuda for a thousand
8 dollars (\$1,000.00), marked "re Vicky Gullas".
9 A- Gullas.
10 640Q-Gullas, yes.
11 A- That was an account she opened up.
12 641Q-Account also. Cheque for a thousand dollars
13 (\$1,000.00) cash, "re K. Stewart", deposited by her.
14 Again that's what?
15 A- That would be, I believe, her own monies.
16 642Q-Cheque to yourself for five thousand dollars
17 (\$5,000.00).
18 A- That's right. Personal.
19 643Q-Personal. Bank of Bermuda for a thousand (1,000),
20 "re Ara Balian".
21 A- Ara Balian. That would have been an account he
22 opened up.
23 644Q-Okay. Cheque for thirty-five hundred (3,500) to
24 your wife, which she's identified. Another one for
25 ten thousand (10,000) to your wife, which she's

1 identified.

2 Cheque for eleven thousand three ninety-five
3 (11,395) for Centre de la Cité, "re Earl Jones..."
4 Take a look at that and tell me if you recognize
5 that.

6 A- That would have been relating to... that would have
7 been relating to a move in the building that we're
8 in from one office to the other.

9 645Q-That would be construction costs or...

10 A- No, a combination of construction and the rent.

11 646Q-Okay. Cheque to Don Stewart for four thousand six
12 seventy-three (4,673). That again would be a loan?

13 A- Yes, that would be relating to the Hymus, yes.

14 647Q-Bank of Montreal, fifty-five thousand (55,000), "re
15 K. Sadler". That would be what?

16 A- That's an advance from her mother, Joyce Douglas.

17 648Q-Cash of a thousand dollars (\$1,000.00), "advance
18 Joan and Kathy".

19 A- M'hm.

20 649Q-Joan and Kathy, sorry.

21 A- Yes, the girls at the office.

22 650Q-Earl Jones Corporation, "re the MacCallum Estate",
23 five thousand six ninety-seven seventy-five
24 (5,697.75). That would be what? Fees?

25 A- That would be a fee, yes.

1 651Q-Bank of Montreal, five thousand six fifteen (5,615).
2 I can't make out the notation.
3 A- That's Margaret Davis.
4 652Q-Okay. Margaret Davis. Bank of Bermuda for three
5 thousand (3,000) U.S., M. Davis. Same thing?
6 A- Right.
7 653Q-Riverview School, five thousand (5,000) U.S. That
8 would be for your daughter?
9 A- Yes.
10 654Q-It's marked "donation", actually. Is that correct?
11 A- Yes.
12 655Q-And then another one for three hundred (300.00)
13 U.S., marked "donation" again. For the same
14 Riverview School?
15 A- Yes.
16 656Q-And then a cheque for twelve thousand four fifty
17 (12,450) U.S. to Living Independently Forever Inc.
18 Again that's vis-à-vis your daughter, is that
19 correct?
20 A- Yes.
21 657Q-Okay. Then there's cash for the Dressel... for D.
22 Dressel, thirty-five hundred dollars (\$3,500.00).
23 A- Right.
24 658Q-And there's membership fee on behalf of John Lafave
25 at the Royal Montreal Golf Club.

1 A- Correct.

2 659Q-That would be for his...

3 A- That's correct.

4 660Q-Okay. And a thousand dollars U.S. (\$1,000.00 US) to

5 Cape Cod Community College, re your daughter,

6 Project Howard, I believe it is.

7 A- Project... Project Forward.

8 661Q-Project Forward.

9 A- Yes.

10 662Q-Okay. And then a cheque to yourself and your wife

11 for fifteen thousand (15,000). And another one to

12 yourself for a thousand dollars (\$1,000.00).

13 And cash withdrawals of three thousand one

14 forty (3,140).

15 MR. GILLES ROBILLARD:

16 That's November.

17 Me NEIL H. STEIN:

18 Okay.

19 663Q-Now, November. There's cash of five thousand

20 (5,000). Again re this Dirk Dressel.

21 A- Right.

22 664Q-Again that's for him?

23 A- Yes.

24 665Q-A thousand dollars (\$1,000.00) to Kristine Jones.

25 Your daughter?

1 A- Right.

2 666Q-Personal usage. Republic National Bank of New York,
3 four hundred and thirty-six dollars (\$436.00). Know
4 what that would that represent?

5 A- It says... it says Tim Clark, I think, doesn't it?

6 667 Q- Tim Clark, correct. "Interest to October
7 thirty-first (31st), ninety-seven ('97)".

8 A- Well, Tim's the son of one (1) of our... one (1) of
9 our clients, Mrs. Clark. So I guess she made a
10 payment for him.

11 668Q-Okay. Amex Bank of Canada, five thousand (5,000),
12 re your account.

13 A- Okay.

14 669Q-Cash of six thousand (6,000), re G. Matthew.

15 A- Right. That was her monies.

16 670Q-Okay. A cheque to yourself for seventy-five hundred
17 dollars (\$7,500.00)... yourself and your wife, I'm
18 sorry, for seventy-five (7,500). And a cheque to
19 your wife for thirty-five hundred (3,500).

20 A- Right.

21 671Q-Cheque to Hart Saint-Pierre for four thousand four
22 eighty-three (4,483), re Clairehaven.

23 A- Correct.

24 672Q-Cheque to yourself for... your corporation, rather,
25 for eleven thousand three ninety-five (11,395), "re

1 estate McMaster". That would be fees?

2 A- Yes.

3 673Q-Okay. Cheque for a hundred dollars U.S. (\$100.00
4 US) to Kim Jones, "re Project..." I'm sorry, not to
5 Kim Jones, but to Cape Cod Community College, "re
6 Project Forward". On behalf of your daughter,
7 correct?

8 A- Right.

9 674Q-Cheque to the Royal Bank Visa for three thousand
10 five seventy-eight (3,578). Know what that's about?

11 A- Well, there's a memo down here would be the card
12 number, whose ever card that was.

13 675Q-Okay. Cheque to Life Condo Trust for three hundred
14 and six dollars U.S. (\$306.00 US). Again I presume
15 it's for your daughter. Correct?

16 A- Right.

17 676Q-A cheque for one thousand seven forty (1,740) U.S.
18 to Life Condo Trust. I guess that also is for your
19 daughter?

20 A- Right.

21 677Q-A cheque to Hourik Koujayan Lonergan, one thousand
22 five hundred dollars (\$1,500.00).

23 A- I don't know.

24 67Q-Okay. Cheque to Scotia McLeod for two thousand
25 dollars (\$2,000.00), re Kristine.

1 A- Right.

2 679Q-That would be for your daughter?

3 A- Yes.

4 680Q-And a cheque for cash of two thousand dollars
5 (\$2,000.00), re Gordon, I believe it says.

6 A- Yes, Frankie Gordon. And that was her monies.

7 MR. GILLES ROBILLARD:
8 December.

9 Me NEIL H. STEIN:

10 681Q-And that month there was seven thousand nine
11 seventy-two thirty-eight (7,972.38) taken out in ATM
12 withdrawals.
13 Next month is November.

14 MR. GILLES ROBILLARD:
15 December.

16 Me NEIL H. STEIN:

17 682Q-December, I'm sorry. Nine thousand dollars
18 (\$9,000.00) to Amex Bank of Canada. The memo, it's
19 re yourself. That would be your personal...

20 A- I would think so.

21 683Q-Okay. Five thousand dollars (\$5,000.00) to Enervest
22 FTS Management, re C. Lafave. That would be what?

23 A- That was an investment... a flow through investment
24 bought for our client.

25 684Q-Okay. Small amount. Then there's a cheque for

1 thirty-five hundred (3,500) to your wife. And one
2 to you and your wife for fifteen thousand (15,000).
3 Again those have been identified by your wife.
4 A cheque to Notary Hébert for five thousand
5 dollars (\$5,000.00), "re condo Dorval". That's to
6 purchase which condo; do you recall?
7 A- I don't recall.
8 685Q-But it's marked "BEJ condo Dorval". So I presume
9 it's one (1) of the condos that...
10 A- Right.
11 686Q-... were purchased for your benefit, correct?
12 A- Right.
13 687Q-Cheque for... to Kathy Stewart for three thousand
14 four forty-nine thirty (3,449.30), marked "re M.
15 Horwath."
16 A- That, I believe, is her sister.
17 688Q-Okay.
18 Me DONALD R. MICHELIN:
19 689Q-Whose sister is that?
20 A- Kathy Stewart. I think that's her sister. When the
21 mother died... her mother died in Chicago and the
22 husband...
23 690Q-What was the name of your daughter's husband in
24 Boston? His last name?
25 A- Joey Herwitz.

1 691Q-Herwitz?
2 A- Herwitz, yes.
3 692Q-We're not talking about the same person?
4 A- No.
5 Me NEIL H. STEIN:
6 693Q-Okay. A cheque for cash of six thousand dollars
7 (\$6,000.00), marked "re Fisher and Pierre".
8 A- I don't know what that would be for.
9 694Q-Okay. A cheque for ninety-four thousand six eighty-
10 three (94,683) to the Bank of Montreal, notation
11 Earl Jones.
12 A- Is this listed on this here?
13 695Q-I'm sorry?
14 A- Is this listed on the... guess so. Oh, I see, yes.
15 I don't know. There was a draft made. It may have
16 been for a client. I don't know.
17 696Q-Okay. Cheque to cash for a thousand four forty-five
18 fifty (1,445.50), again marked re Dirk Dressel.
19 A- Right.
20 6:Q-So he would have received the cash?
21 A- Yes.
22 698Q-Cheque to Enervest FTS Management, re Bevan Jones.
23 That's your brother?
24 A- Yes. These are all... you can see all the cheques
25 for clients that bought this Enervest...

1 699Q-They're all the same. These are...

2 A- Yes. Yes.

3 700Q-This is a flow through investment...

4 A- Yes.

5 701Q-... for these clients?

6 A- Yes.

7 702Q-Okay. And then cash withdrawals of ten thousand

8 nine forty-one twenty-three (10,941.23) for total

9 amounts to your benefit and your wife in that year

10 of seven hundred and seventy-seven thousand five

11 twenty-four (777,524) with an income declared of

12 thirty-four thousand dollars (\$34,000.00). The

13 difference, or a good chunk of the difference,

14 obviously, was funds that didn't belong to you,

15 correct?

16 A- Yes.

17 703Q-Okay. Now, we can do the same exercise for each and

18 every year. I don't think it serves any further

19 purpose.

20 Mr. GILLES ROBILLARD:

21 No, I think we have... we have the picture.

22 Me NEIL H. STEIN:

23 704Q-We have the general picture.

24 A- You had mentioned that I'd be getting a package of

25 documents, is that correct?

1 705Q-When... what we will do is we're going to give all
2 the exhibits to the stenographer...

3 A- Yes.

4 706Q-... and she will eventually prepare a copy of all
5 the exhibits which will go into the transcript of
6 the evidence that is being given today. It will be
7 typed up in written form with these, as the exhibit
8 at the end...

9 A- Okay.

10 707Q-... exhibits at the end.

11 A- So I agree, it's probably not necessary to go
12 through the next five (5) or ten (10) years, but
13 then they would be included in the package, is that
14 correct?

15 708Q-No, they won't be. They're not exhibits.

16 A- Just what we went through?

17 709Q-Just what we went through.

18 A- Okay. Can I ask a question in general or...

19 710Q-Just... if you want, just off the record, unless you
20 want it on the record for some particular reason.

21 A- No.

22 711Q-Okay, so just off the record for a second.

23

24 OFF RECORD

25

1 Me NEIL H. STEIN:

2 712Q-Okay. We just have a couple of more questions and
3 then we're finished. Okay. Mr. Jones, do you
4 recall in the beginning of January two thousand and
5 nine (2009) ever requesting any of your clients to
6 make out cheques to their personal name as opposed
7 to cheques that they would make out to your name?

8 A- I do not recall.

9 713Q-Do you recall having Claire Foley make out a cheque
10 for the sum of ten thousand dollars (\$10,000.00) to
11 her name from her own account and do you recall her
12 giving you that cheque?

13 A- I do not.

14 714Q-Do you recall getting a cheque from Jack Jones
15 Holding Inc. for seventy-six thousand dollars
16 (\$76,000.00) made out to Jack Jones Holding Inc. in
17 February of o nine ('09)?

18 A- I do.

19 715Q-And why would that cheque be made out to the person
20 that was writing the cheque?

21 A- Jack Jones is my brother, as you probably know...

22 716Q-Yes.

23 A- ... and he was dissatisfied with the account at RBC
24 Dominion Securities and wanted to open up a
25 separate... the Royal Banks here, I think it's

1 called a Royal Bank Direct Investment Account, in
2 the name of Jack Jones Holdings.

3 And in his file you will see documentation that
4 was... Debra handled this. It was received from the
5 bank completed. And there was incorrect... the
6 original documents were incorrect because it was on
7 a personal basis as a holding company. And the
8 account never got opened.

9 717Q-But what happened with the cheque?

10 A- The cheque was deposited to our in trust account.

11 718Q-Was it you that would have requested that he make
12 the cheque out to his own company as opposed to Earl
13 Jones In Trust?

14 A- No. He made it out to his own company because the
15 monies came from his Jack Jones Holding account at
16 RBC Dominion Securities. And I would... I would
17 think he would have talked to his accountant Richard
18 Venner.

19 719Q-And you would just... was it you who just endorsed
20 the cheque and paid it over to...

21 A- With his... with his approval. In his file you'll
22 see there's a notation of... and Debra, if you had
23 asked her, he would... she would have said that Jack
24 had said, "Sign the cheque."

25 720Q-I see. Okay. Now, you... going back to the

1 MacCallum estate. I show you here a letter dated
2 September fifteenth (15th), nineteen ninety-eight
3 (1998) addressed to you... sorry, signed... sorry.
4 Made out by you to Notary Whitney, David Whitney.

5 A- Yes.

6 721Q-Requesting that Mrs. MacCallum's Will be changed.
7 That you be named a specific beneficiary of thirty
8 thousand dollars (\$30,000.00). Do you recall
9 sending that letter?

10 A- I don't recall, but...

11 722Q-You don't recall. This letter, you state the
12 following:

13 "Mrs. MacCallum is very anxious to
14 have this Will put in place, as she
15 has suffered some health setbacks."

16 So you were aware. This is in late nineteen ninety-
17 eight (1998) that Mrs. MacCallum had suffered health
18 setbacks.

19 A- As I said, physically she had. She had fallen in
20 the bathroom. And physically she had a very
21 difficult time in getting around.

22 723Q-And that's what you refer to as the "health
23 setbacks"?

24 A- That's correct.

25 724Q-The falling was a health setback?

1 A- That's correct.
2 725Q-We'll produce this letter as Exhibit EJ...
3 MS. JULIE KORMAN:
4 41.
5 Me NEIL H. STEIN:
6 726Q-... 41. Thank you.
7 Exhibit No. EJ-41
8 727Q-I don't have any further questions.
9 MR. GILLES ROBILLARD:
10 Me neither.
11 Me NEIL H. STEIN:
12 728Q-We don't have any further questions for the moment.
13 Thank you very much, Mr. Jones.
14 A- Thank you very much.
15 SUSPENDED
16