

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. JEAN-FRANCOIS GIGNAC, MR. MATHIEU GIRARD,  
and MS. CECILE COMBRET from RSM Richter Inc., Trustee

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

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

AR091207.A

ANNAGRET RINALDI, o.c.r.  
December 7, 2009

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1 In the year of our Lord two thousand and nine (2009) on  
2 this seventh (7th) day of December, PERSONALLY CAME AND  
3 APPEARED:

4  
5 EARL JONES, born June 24th, 1942, having an address at  
6 c/o Jeff Boro, 500 Place d'Armes, Suite 2350, Montreal,  
7 Province of Quebec,

8  
9 WHO, after having solemnly affirmed, doth depose and say  
10 as follows:

11  
12

13 EXAMINATION BY Me NEIL H. STEIN

14 on behalf of the Trustee:

15 1Q- Good morning, Mr. Jones.

16 A- Just if I may, can I make a couple of comments  
17 before I start? I have been advised to --

18 2Q- Just let me - before you start, just let me say what  
19 I have to say, and then you can say what you have to  
20 say, alright.

21 Mr. Jones, I see that you are not represented  
22 by a lawyer in respect of this Examination, and I  
23 have been in touch with Me Boro on your behalf, who  
24 has advised me that you either do not want or cannot  
25 afford or don't need a lawyer present at the present

1 Examination.

2 That having been said, the trustee is a Court  
3 appointed officer, and I have been advised by your  
4 legal counsel, your criminal legal counsel, that you  
5 wish to make certain representations. Go ahead.

6 A- Well, I'd like to be protected under the Canadian  
7 Evidence Act and the Bankruptcy and Insolvency Act.  
8 And I'm here to cooperate fully. However, as you  
9 said, I do not have legal counsel, and I will answer  
10 all the questions to the best of my abilities, but  
11 there may be some which I may have difficulty in  
12 doing, and may want to defray them until I talk to  
13 my legal counsel. Mr. Boro has said to me that if  
14 I'm in a situation where I don't know or don't  
15 understand what's happening is to communicate with  
16 him. So...

17 3Q- Alright, well, we'll proceed --

18 A- I'll do the best I can.

19 4Q- Okay.

20 A- Yes.

21 5Q- I appreciate that. We will proceed question by  
22 question. If there is any question which you don't  
23 understand and you want me to attempt to explain it  
24 to you or repeat it, please feel free to say so.  
25 Mr. Jones, could you please give us a little bit of

1           the - your history in terms of your educational  
2           background?

3           A-   Educational background, high school at Westdale High  
4           School in N.D.G., and then I went on to Sir George  
5           Williams University at night for some, I think,  
6           seven (7) or eight (8) years and never completed my  
7           degree. And, originally, I was working with  
8           Montreal Trust Company for some sixteen (16) years,  
9           and took numerous courses in financial, other  
10          administration or planning over those years.

11          6Q-   So, the courses that you would have taken at Sir  
12          George Williams University were in the commerce  
13          faculty or --

14          A-   Yes.

15          7Q-   In the commerce faculty, all with a view to  
16          obtaining a degree in commerce, I presume.

17          A-   Yes.

18          8Q-   And you stated that they were primarily with respect  
19          to was it finance or administration or --

20          A-   It was a combination of administration and  
21          economics, finance, yeah.

22          9Q-   Okay, you stated that you took those courses at  
23          night. So, I presume that, during the day, you were  
24          working. Is that correct?

25          A-   I was working at Montreal Trust, yes.



1 10Q- Is that the first place where you started to work?  
2 A- Yes, yes.  
3 11Q- Okay, can you explain to the Court what - first of  
4 all, how long you were at Montreal Trust, and then,  
5 secondly, what was the nature of your position or  
6 positions at Montreal Trust?  
7 A- I was there for some sixteen (16) years. And over  
8 the sixteen (16) years, I worked probably at about  
9 eight (8) to ten (10) different divisions either as  
10 manager or work in the administration, and that  
11 included estates and trust administration and  
12 investment management, portfolio investment  
13 management. I was manager of the bank, oversaw the  
14 investment funds, manager of business development,  
15 estate will planning, manager of the mortgage  
16 department.  
17 12Q- Okay, now, first of all, what period of time was  
18 that?  
19 A- That was from - deduct thirty (30) years from what -  
20 what's today?  
21 13Q- Today is --  
22 A- '09, so, thirty (30) --  
23 14Q- December, 2009.  
24 A- Thirty (30) years from '09 would be...  
25

1 MR. GILLES ROBILLARD:  
2 '79.  
3 A- '79, less sixteen (16) from there.  
4 Me NEIL H. STEIN:  
5 15Q- So, you left Montreal Trust --  
6 A- I was eighteen (18). I'm sixty-seven (67) years of  
7 age, and I was eighteen (18) when I started at  
8 Montreal Trust.  
9 16Q- Okay, and you left Montreal Trust when?  
10 A- I left Montreal Trust some thirty (30) years ago.  
11 17Q- And when you left Montreal Trust, what position did  
12 you occupy at Montreal Trust?  
13 A- I was manager of the mortgage department for eastern  
14 Canada.  
15 18Q- Okay, and, prior thereto, you stated that you had  
16 worked in the trust and estate administration.  
17 A- I started off in the banking area, and then went up  
18 into estate administration, and then into investment  
19 portfolio and management, and then became manager of  
20 the savings department and business development  
21 department, which included estate planning, and  
22 ended up at - in the mortgage department.  
23 19Q- When you said you worked in the bank part of  
24 Montreal Trust, what exactly did you mean by that?  
25 A- Montreal Trust had a savings division, banking

1 savings division, on the main floor in Place Ville  
2 Marie, and I was the manager of the bank.

3 20Q- Okay, and why did you leave Montreal Trust?

4 A- I had an opportunity at London Life Insurance, which  
5 I went and spent a couple of weeks and really didn't  
6 like it. I thought it would be a better opportunity  
7 for me. And then, from there, I was hired by  
8 Guaranteed, Guaranteed Trust up in Ottawa, and spent  
9 six (6) months there.

10 And as a result of personal family problems,  
11 the birth of our babies and my wife's sickness and  
12 problems in selling the house in Montreal, I came  
13 back to Montreal and started a business in will  
14 planning, estate and will planning.

15 21Q- Okay, when you were at Guaranteed Trust, what was  
16 your function at that time?

17 A- I was going to be assistant manager of the Ottawa  
18 office under Mr. David Bolder.

19 22Q- And the primary business of Guaranteed Trust was  
20 what in Ottawa?

21 A- It was similar to Montreal Trust, but it was at a  
22 smaller scale. They did estate and trust work and -  
23 in a bank, basic trust.

24 23Q- Alright, so, you said that, six (6) months later,  
25 you came back to Montreal, and you started your own

1           business.

2           A-    Right.

3           24Q- When you started your own business, did you start it  
4           in your own name, or was it in the name of a  
5           corporation?

6           A-    It was, I believe, a registered company, Earl Jones  
7           & Associates.

8           25Q- When you say a registered company, in other words,  
9           you were operating under that trade name.

10          A-    That's right.

11          26Q- Okay.

12          A-    I don't think it was incorporated, you know.

13          27Q- Okay, well, for purposes of the record, I'll show  
14          you here what is referred to as the CIDREQ  
15          registration in Quebec, which shows that the  
16          corporation Earl Jones - in French, it's La  
17          Corporation Earl Jones, conseiller administratif,  
18          which is the incorporated company, was incorporated  
19          on May 16th, 1984. I'll show you here --

20          A-    That was the - that's - that was the company that  
21          exists today. Is that correct?

22          28Q- That's correct, yes.

23          A-    Okay, before that, there was a company which, I  
24          believe, was not incorporated. It was called Earl  
25          Jones & Associates.

1 29Q- Correct, that's --

2 A- Yeah.

3 30Q- That's the distinction --

4 A- And then, there was a new company formed, Earl Jones  
5 Consultant and Administration Corporation.

6 31Q- Correct, and I will show you here and we'll produce  
7 as Exhibit P-1, which is, as I say, the CIDREQ - not  
8 P-1, but EJ-1, the CIDREQ registration for the  
9 second company.

10 A- Right.

11 32Q- Okay, that's the one which exists today.

12 A- It did exist. Is it?

13 33Q- It still exists. It's bankrupt, but it still  
14 exists.

15 A- Okay.

16 34Q- Would you produce that as Exhibit EJ-1? And if you  
17 don't mind, we'll just put all the Exhibits right in  
18 the centre, so that the Stenographer can take copies  
19 of them. Okay, now, when you first started in  
20 business under your own name prior to incorporation,  
21 can you tell the Court where you opened up your  
22 accounts, your bank accounts, I'm referring to?

23 A- When I first started?

24 35Q- Yes.

25 A- The National Bank - National Trust on the corner of

1 Crescent and Sherbrooke.

2 36Q- Okay, and at a point in time, you opened up an  
3 account - alright, let me rephrase that. Where, at  
4 the time, did you have your personal accounts?

5 A- I would think, at that time, my personal accounts  
6 would have been, I guess, at the National Trust or  
7 maybe out in Beaconsfield where we were living.

8 37Q- Well --

9 A- I would assume we would have been at National Trust.

10 38Q- Okay, at a point in time, you opened up bank  
11 accounts at the Bank of Montreal. Do you recall  
12 that?

13 A- That may have been when I moved to Westmount, when  
14 I moved my office to Westmount. It could have been  
15 on Claremont - it could have been on Sherbrooke  
16 and...

17 39Q- Well, let me refresh your memory. According to our  
18 records, and I'll show you a copy of the account in  
19 a moment, you had a personal account --

20 A- Yes.

21 40Q- At the Bank of Montreal in Pointe Claire, number  
22 3090-654, that was opened on February 3rd, 1988.

23 A- And what was the - what branch was that? What  
24 address?

25 41Q- Well, just hold on. I'll get that.

1 A- Oh, is that the one that was opened at Hymus, on  
2 Hymus?

3 42Q- I believe it's on Hymus.

4 A- Okay, and that was opened when? May, '82?

5 43Q- The first one is February 3rd, 1988, yes, at Hymus  
6 Boulevard, Pointe Claire.

7 A- Okay.

8 44Q- I'm showing you here a copy of that. Just take a  
9 look at the first few pages, and you'll see that -  
10 if you turn to the next page, you'll see that  
11 there's a power of attorney, and the branch is  
12 marked as 183K Hymus Boulevard, Pointe Claire.

13 A- Right, I would agree that this account was opened,  
14 yes.

15 45Q- Okay, now, just out of curiosity, once we're dealing  
16 with that, you'll notice on the second page there  
17 was a power of attorney given to a Dianne Gilker.

18 A- Right, she was an employee of mine.

19 46Q- Okay, is there any family relationship to you or  
20 your wife?

21 A- She's my sister-in-law.

22 47Q- So, she's your wife's sister.

23 A- That's right.

24 48Q- Okay, and how long did she work for you?

25 A- I believe she worked for sixteen (16) years.

1 49Q- And what was her function when she was working for  
2 you?  
3 A- She did administration, settled estates, and dealt  
4 with clients.  
5 50Q- Did she do any accounting for you?  
6 A- Basic accounting, yeah.  
7 51Q- Can you explain what type of accounting she would  
8 have done?  
9 A- Just the recording of the estate administrations on  
10 the estates that were done, and I'm not sure whether  
11 there was an in trust account at that time. If  
12 there was, then she would have done the accounting  
13 for that.  
14 52Q- And how would she record the accounting?  
15 A- She would record it through - I'm going back in  
16 those days, and I don't know the exact years, but we  
17 had those - didn't have the computers, originally.  
18 We had the electronic - I'm saying electronic -  
19 typewriters or whatever they were. And that's how  
20 it would have been recorded, and/or she could have  
21 also been recording it by hand in a ledger book.  
22 53Q- Do you recall if at any time in the operation of  
23 your business --  
24 A- Right.  
25 54Q- There was ever an accountant that either audited or



1           verified your trust account --

2           A-    No.

3           55Q- The account which you --

4           A-    No.

5           56Q- Called as a trust account?

6           A-    No, no.

7           57Q- No, you never had anybody verify.

8           A-    No, no.

9           58Q- Okay, the - I just want to just finish with Diane

10           Gilker for a moment. You said she worked for you

11           for approximately sixteen (16) years. Do you recall

12           why she left?

13           A-    Well, she told me that she wanted to retire and set

14           up her own little business, which she's working in

15           now with her daughter and making - goes into

16           people's house and does, you know, curtains and

17           stuff for kids' rooms and so on. She's a very good

18           sewer.

19           59Q- Okay.

20           A-    Yeah.

21           60Q- Is it true to say that she became concerned with

22           certain transactions that were going on in your

23           business at the time that she retired?

24           A-    I would believe she would have been concerned, yes.

25           61Q- What was the nature of her concern?

1 A- The nature of the concern was that there was monies  
2 in our trust account that were being utilized, and  
3 I think she was - I think she was concerned. We  
4 never sat and talked about it, but that, you know,  
5 the - it was not the right thing to be doing.

6 62Q- Okay, when you say it wasn't the right thing to be  
7 doing, you mean that you were using --

8 A- Yes.

9 63Q- Funds in the trust account for your personal  
10 purposes --

11 A- Right.

12 64Q- Or for various family --

13 A- Yes.

14 65Q- Purposes.

15 A- Yes.

16 66Q- Okay, do you recall the year that she left?

17 A- She started with me when I opened my business, about  
18 six (6) months after I opened my business. And as  
19 I said, I think it was sixteen (16) years she had  
20 worked with me. So, I can't really recall the year  
21 she...

22 67Q- Is she your wife's older sister or younger?

23 A- She's my wife's older sister, yes.

24 68Q- Older sister.

25 A- Yeah.

1           69Q- And she presently lives where?  
2           A- She lives in Chambly.  
3           70Q- In Chambly.  
4           A- Hmm-hmm.  
5           71Q- And your wife is close with her, or there's no...  
6           A- Yeah, I think they're - they're sisters. She's -  
7           Maxine would be closer to her younger sister.  
8           72Q- Now, getting back to the nature of your business  
9           when you left Guaranteed Trust, you set out to run  
10          a business to do exactly what?  
11          A- I set out to run a business which I did for many  
12          years, to simply do will and estate planning, where  
13          I would meet individuals. And in those days, there  
14          was succession duties, and my experience at Montreal  
15          Trust allowed me to be, I think, somewhere of a  
16          knowledgeable person in that field. I would sit  
17          down and plan a person's or a couple's will, and  
18          then I would get a lawyer or a notary to actually  
19          draw up the documents.  
20          73Q- And in addition to the preparation or what seems to  
21          be a type of estate planning, was there any other  
22          functions of your business?  
23          A- I started settling estates. This was the initial,  
24          I guess, I would say, first two (2), three (3), four  
25          (4) years, yeah.

1 74Q- And as the business grew, would it be fair to say  
2 that you started administering various estates and  
3 various trusts that were created by wills?

4 A- Yes.

5 75Q- Would it be fair to say that, in addition to that,  
6 you would handle various investments that people -  
7 or funds for people who would want to invest their  
8 monies?

9 A- I never bought stocks and bonds or anything of this  
10 nature, but I oversaw people's investments, where  
11 they were. Again, my experience at Montreal Trust,  
12 where I was in investment portfolio and people that  
13 I knew, I would oversee that. And then, through the  
14 trust account that was opened, monies were held in  
15 there.

16 76Q- Okay, and would it be fair to say that, at a point  
17 in time, you also started to solicit loans from  
18 various people and would effectively either act as  
19 a borrower or the administrator on behalf of a  
20 borrower?

21 A- I guess to a small extent. A lot of those loans  
22 that you see were more of - yeah, there was  
23 individuals who, you know, said I got "x" number of  
24 dollars, and do you know anyone who wants to borrow  
25 it or - but I think, in a lot of cases, they were -

1           it was more used for the cash flow.

2       77Q- Okay, but --

3       A-    Yeah.

4       78Q- We'll come to that, but I just want to understand

5           the nature of your business and --

6       A-    I didn't go out knocking on doors looking to - you

7           know, for Joe Smith to loan me a hundred thousand

8           (\$100,000.00) and loan it to, you know, Joe Brown or

9           anything of this nature --

10      79Q- Okay.

11      A-    You know.

12      80Q- Well, we'll come to that. I'm just trying to

13           understand the nature of the business. So far, we

14           have - just if I can recap, we have the - we'll call

15           it the estate planning, having people's wills set

16           up. The next part is the estate and trust

17           administration.

18      A-    Right.

19      81Q- After somebody would die, you would administer the

20           estate --

21      A-    Right.

22      82Q- Wind up the estate, and handle, if there was a trust

23           created pursuant to the will, the dispositions

24           pursuant to the trust. And then, a third element,

25           as I see it, is that, from time to time, you would

1           act as an advisor to people who would give you money  
2           for investment purposes. In other words, I'll give  
3           you an example, the Gibson's --

4       A-    Right.

5       83Q- You know the Gibson's. They have given you certain  
6           funds to administer --

7       A-    Right.

8       84Q- On their behalf. And then, the last element is, to  
9           a certain degree, you would act either as a borrower  
10          or on behalf of a borrower in terms of loans which  
11          were made.

12      A-    Right.

13      85Q- Okay, is there any other facet of your business that  
14          we should be aware of?

15      A-    No.

16      86Q- Okay, at a point in time, there were various  
17          mortgages taken at the Montreal Trust in Ste.  
18          Thérèse and others --

19      A-    Bank of Montreal.

20      87Q- I'm sorry, Bank of Montreal in Ste. Thérèse and  
21          Maple Trust, which is now the Bank of Nova Scotia.

22      A-    Right.

23      88Q- Were these mortgages solicited by you on behalf of  
24          clients?

25      A-    Either I would - they were not solicited by me.

1           They were discussed with clients, who wanted to take  
2           mortgages. They were recommended, you know, in the  
3           case of a client who needed more income, rightly or  
4           wrong, obviously. They were paying four (4) or five  
5           percent (5%) at the Bank of Montreal, and I was  
6           giving them eight percent (8%). So, there was maybe  
7           a net benefit to them, which was, you know,  
8           beneficial for their income, but I would not use the  
9           word "solicit".

10         89Q- Alright, let me change the word from solicit to  
11           recommend, the word which you used --

12         A- Yes, at times, I would, yes, yeah.

13         90Q- Okay, you were the one who seems to have been  
14           recommending to various clients, whose either funds  
15           or estates you were administering, that - not whose  
16           estates, whose, in most cases, husband's estates you  
17           were administering, that they mortgage their  
18           properties. These are primarily elderly people.  
19           They mortgage their properties, and they do what  
20           with the mortgage proceeds?

21         A- At, I think, most cases - well, I shouldn't say most  
22           cases. Some people utilized the money however,  
23           whether it's through gifts to children, but, in many  
24           of the cases, the money stayed with me, period.

25         91Q- Alright, so, they would give you the money --

1 A- Right.

2 92Q- And you would assure them that you would be paying  
3 them a higher return --

4 A- Right.

5 93Q- Than they would have to be paying on their  
6 mortgages.

7 A- Right.

8 94Q- And you would have deposited that money to, for the  
9 time being, in the most part, the trust account that  
10 you held at the Royal Bank. Is that correct?

11 A- Right.

12 95Q- Okay, now, do you recall when you - let's take this  
13 back for a second. I've showed you the first  
14 account, which, I believe, we have in your name at  
15 the Bank of Montreal, which was dated February 3rd,  
16 1988.

17 A- That was in my personal name.

18 96Q- That was in your personal name, and we will come  
19 later to when you open up other accounts at the Bank  
20 of Montreal, but my understanding is that, at a  
21 point in time, you opened up accounts at the Royal  
22 Bank of Canada. Do you recall that?

23 A- Yes.

24 97Q- Okay, just let me get those for a second. Perhaps  
25 before I get there, can you tell the Court - you



1           described what your business was. Can you tell the  
2           Court how you would go about soliciting clients for  
3           your business?

4           A- Never solicited clients. Every one of my clients  
5           came in as a referral. I never knocked on doors.  
6           I never called cold calls, period.

7           98Q- And did you ever go to various funerals of people?

8           A- No.

9           99Q- You never went to any funerals.

10          A- Well, if a client died, but, no, I didn't chase  
11          ambulances around or - if that's what you're  
12          referring to, no.

13          100Q-Alright, so, according to you, all your clients came  
14          by referral.

15          A- Strictly referrals, yeah.

16          101Q-Strictly by referrals.

17          A- Yeah.

18          102Q-Would you ever, on a social basis, go out with  
19          clients or invite them to your home?

20          A- Sure, I would - you know, I was invited out for  
21          lunch or - with clients. Inviting clients to my  
22          home, I can't recall. Certainly, if it was, like I  
23          can't recall.

24          103Q-You can't recall.

25          A- No, you know, a particular client inviting to the

1           house for business or anything of this nature; if it  
2           was, it was strictly social.

3           104Q-Most of the clients that we've talked to seem to say  
4           that they had a very friendly relationship with you,  
5           that, in certain instances, they considered you as  
6           part of their family. Can you tell the Court how  
7           you think that feeling would have been developed?

8           A- It's one of the most difficult situations. It's  
9           just me, that my personality likes to help people.  
10          It - and, quite frankly, I knew most of my clients  
11          better than their kids knew them, and did more for  
12          them than their kids and their families. It doesn't  
13          make me any better person, but that's the type of  
14          person you're looking at.

15          105Q-So, for the most part, your clients were people that  
16          you knew.

17          A- They were people that were recommended to me and  
18          people that I knew, some of them, yeah, but they  
19          were recommended to me. They weren't --

20          106Q-And --

21          A- Solicited. I never called and said, you know, come  
22          in and I'll do this or --

23          107Q-There's nothing --

24          A- No.

25          108Q-Wrong with soliciting.

1 A- I know. I know, but I just --  
2 109Q-Okay --  
3 A- But I --  
4 110Q-I'm not trying to say that there is, okay. And as  
5 you said, most of them were friends or referred by  
6 friends, and there was family as well --  
7 A- From client to client.  
8 111Q-Client to client, and they had a tremendous amount  
9 of faith in you.  
10 A- Yes.  
11 112Q-Okay.  
12 A- Very much so.  
13 113Q-Okay, now, I'd like to get back to the Royal Bank.  
14 At a point in time, you opened up a trust account at  
15 the Royal Bank of Canada in your personal name. Do  
16 you recall that?  
17 A- Earl Jones in trust?  
18 114Q-Correct.  
19 A- Right.  
20 115Q-Earl Jones in trust.  
21 A- I think that originally - can I speak, or do you  
22 want --  
23 116Q-Certainly, go ahead.  
24 A- I think that originally started - my office was on  
25 Crescent and Sherbrooke, originally. Then, I moved

1 to Claremont in Westmount. And I think the first  
2 account that I opened was with Royal Trust in trust.  
3 And then, the Royal Bank bought Royal Bank - bought  
4 Royal Trust, and I think it was switched to the  
5 Royal Bank.

6 117Q-Right, the first --

7 A- I think that - anyway...

8 118Q-The first account which the Royal Bank has provided  
9 us with for the Earl Jones in trust account --

10 A- Right.

11 119Q-Is dated June 21st, 1988, and is at the Beaconsfield  
12 Shopping Centre in Beaconsfield. I think it's 50  
13 St. Charles Boulevard, Suite 2. I'll show you here  
14 a copy of it. Alright, do you recognize your  
15 signature on the --

16 A- I do.

17 120Q-Signature card?

18 A- I do.

19 121Q-Okay, for purposes of the record, we will  
20 eventually, when we make a copy of all this, produce  
21 this first account as Exhibit EJ-2. Now, that  
22 account was opened up, as I say, June 21st, 1988.  
23 Can you tell the Court do you recall opening that  
24 account, first of all?

25 A- I think there was another Royal Bank account or a

1           Royal Trust account that - I may be wrong, but it  
2           was basically transferred there, and a new account  
3           was opened at that branch. Do I recall opening it?  
4           No, but I did open it.

5           122Q-Okay.

6           A- Yeah.

7           123Q-And do you recall whom you might have met with at  
8           that time at the Royal Bank or Royal Trust?

9           A- No, at that time, I would think the process would  
10          have been that Diane, I guess, if she was working  
11          with me, Diane Gilker, if she was there, would have  
12          arranged to open it, and I would have went into the  
13          bank and signed it, signed the card.

14          124Q-When you opened --

15          A- When I have - as I say, I do have a feeling that  
16          there was an - there was another Royal Bank or Royal  
17          Trust account opened prior to that, and that was the  
18          switch when I moved from Westmount out to the West  
19          Island.

20          125Q-Well, when - this account is in 1988.

21          A- Right.

22          126Q-So, in 1988, would you have moved your office from  
23          Westmount to the West Island?

24          A- I would say probably in that area, yes.

25          127Q-Okay, do you recall whom you would have been dealing

1                   with at the Royal Bank branch at that --

2           A-    No.

3           128Q-Time?

4           A-    No.

5           129Q-Alright, did anybody - when you opened this account,

6                   this in trust account --

7           A-    Right.

8           130Q-Ask you why you were opening an in trust --

9           A-    No.

10          131Q-Account? Well, how did --

11          A-    Not that I know of.

12          132Q-How did it come about that you were opening an in

13                   trust account? What was the purpose?

14          A-    As I say, I think the original in trust account was

15                   opened when I was in Westmount which, I think, it

16                   was a branch of the Royal Trust Company on the

17                   corner of Claremont and Sherbrooke. And when I

18                   moved out to - that may have been switched to a

19                   Royal Bank. And when I moved out to the West

20                   Island, we simply arranged to open up a similar type

21                   of account at the Royal Bank.

22          133Q-What was the purpose of the account?

23          A-    The purpose of the account was to utilize it for, as

24                   we discussed, the settlement of estates where money

25                   would be put in and clients' monies.

1 134Q-Alright, but you understood that a trust account was  
2 distinct from your own personal account. In trust  
3 means --  
4 A- Yes.  
5 135Q-In effect --  
6 A- Yes.  
7 136Q-That it's for and on behalf of another individual or  
8 individuals.  
9 A- My understanding was I personally could open up an  
10 in trust account for my own purpose as well.  
11 137Q-What exactly do you mean by your own personal  
12 purpose?  
13 A- Well, you know, my understanding is that, and even  
14 today, and maybe I'm wrong, but you can go in and  
15 open up an account in Earl Jones in trust for your  
16 own purposes, which may be for, I guess, depositing  
17 children's money or so on. I don't know, but...  
18 138Q-But the in trust is, in effect, on - for and on  
19 behalf of somebody else --  
20 A- Yes, yeah.  
21 139Q-Not for your personal benefit.  
22 A- Yeah, yeah.  
23 140Q-So, you're depositing --  
24 A- Well, and you --  
25 141Q-You deposit --

1 A- Well, as you no doubt have determined, you've seen  
2 that I used that on a personal basis as well, where  
3 I put in my own money and so on.

4 142Q-I understand you've used it on a personal basis.

5 A- Right.

6 143Q-We'll come to that in a second, okay, but the - you  
7 understood that an in trust account - that this  
8 particular in trust account was not for your  
9 personal purposes, but was for, as you said, the  
10 administration of various estate money or trust  
11 money, etc. You're nodding your head, yes. You  
12 have --

13 A- Well --

14 144Q-To speak for the Stenographer --

15 A- Yeah, to a great extent, yes.

16 145Q-Okay, this account with the Royal Bank was - your in  
17 trust account, Earl Jones in trust account, was used  
18 at the Royal Bank up until approximately August of  
19 2008. Do you recall, prior to the summer of 2008,  
20 anybody at the Royal Bank questioning your use of  
21 this trust account?

22 A- No, I got calls, numerous calls, from the Royal Bank  
23 indicating that, you know, you've got "x" number of  
24 dollars in there. You're not getting any interest,  
25 and, you know, we can set up a different type of



1 account, but I don't - prior to that date, and  
2 because that account was switched, as you know --  
3 146Q-Yes, but I'm talking about prior to --  
4 A- Maybe a month or two (2) before, I would have got a  
5 call from the Royal Bank saying that, look, we have  
6 to change the format of your account.  
7 147Q-Okay.  
8 A- Yeah.  
9 148Q-Once we're at that juncture, in the summer of 2008,  
10 from what we see, there was a change with respect to  
11 this in trust account.  
12 A- Right.  
13 149Q-Can you tell the Court what happened vis-à-vis the  
14 bank and yourself and this trust account?  
15 A- We were approached by the Royal Bank through, I  
16 think it was, a Mr. Colette, the name is - I think  
17 it sounds right, anyway - saying that - basically  
18 saying that they had to change the format of the  
19 account, and that they wanted to get together and  
20 discuss what various options were available to me.  
21 I never did meet with them.  
22 They then came back and said that we're going  
23 to - we want to close that in trust account and open  
24 up an account Earl Jones Consultant and  
25 Administration Corporation. And that's - you know,

1           they gave us the various documents, and they were -  
2           I signed them, and that was it.

3           150Q-Now, do you recall, at that point in time, that  
4           somebody at the Royal Bank would have said to you we  
5           feel that you're using this in trust account for the  
6           operational purposes of your business?

7           A-    No.

8           151Q-It never happened.

9           A-    No.

10          152Q-Okay, can you tell me whether the Royal Bank, at any  
11          point in time, advised you that they had certain  
12          rules and regulations vis-à-vis these trust  
13          accounts?

14          A-    In, I guess, the August or month or two (2) before,  
15          they came and said that - or they - through  
16          telephone conversations that, in their opinion, it  
17          wasn't appropriate to have an in trust account the  
18          way I was using it or - and they wanted to switch it  
19          to another account. That was it.

20          153Q-What did they explain to you was inappropriate?

21          A-    Nothing.

22          154Q-Nothing.

23          A-    Nothing.

24          155Q-Did they provide you with what their rules and  
25          regulations --

1 A- No.

2 156Q-Were?

3 A- No.

4 157Q-They never did. At the time of the changeover of  
5 your account in the summer of 2008, you wrote a  
6 letter to the Royal Bank. I'm showing you a copy of  
7 a fax memo dated July 23rd, 2008, from Debra Stewart  
8 of your office --

9 A- Right.

10 158Q-To Jennifer at the Royal Bank, and you'll see the -  
11 there's a letter which is annexed to that fax, which  
12 is signed by yourself.

13 A- Right.

14 159Q-Alright, now, in the second paragraph, it states -  
15 and this is you writing to Oriana at the Royal Bank.  
16 Who is Oriana? Do you know?

17 A- She was, I think, the assistant manager or one of  
18 the managers at the bank.

19 160Q-Okay, and she was the one with whom you were  
20 speaking at the time?

21 A- She would have been talking with probably Debra  
22 Stewart.

23 161Q-Okay, but you mentioned a Mr. Click, did you not?

24 A- Mr. Colette was the - he had called me representing  
25 the Royal Bank. His title, I believe, was Business

1           Development Manager for the West Island and, you  
2           know, wanted to come over and see me about other  
3           businesses or other business that the Royal Bank  
4           could help me with.

5           162Q-But was he the one that mentioned to you that they  
6           believed there was - it was inappropriate to use the  
7           trust account for the purposes of your business the  
8           way you were operating it?

9           A-    You know, I don't recall ever being told it was  
10           inappropriate. I recall saying that we have to  
11           change the format of your account.

12           163Q-Alright, well, let's take a look at the second  
13           paragraph of --

14           A-    Right.

15           164Q-Your letter. You state in this letter to Oriana:

16                        "It is most advantageous for me to  
17                        operate an in trust account. We  
18                        understand the rules and regulations  
19                        that you have given my assistant,  
20                        Debra Stewart, and certainly will  
21                        abide by them".

22           A-    Right.

23           165Q-What exactly are you referring to?

24           A-    Honestly, I don't - she would have dealt directly  
25           with Debra Stewart, and I don't recall what rules

1 and regulations. Debra would have said to me that  
2 we have to change the format of the account, and I,  
3 quite frankly, was really not interested in meeting  
4 with this person. And that letter was sent out, but  
5 I really truthfully don't recall the Royal Bank  
6 saying to me personally that, you know, we have to  
7 change the format for specific reasons.

8 166Q-Well, let's read on. You say:

9 "It is my understanding that an in  
10 trust account can be operated.  
11 However, the account has to be set  
12 up under a new account number for  
13 specific classifications in the  
14 records of the Royal Bank. I  
15 certainly will concur with this  
16 necessity, and would ask that this  
17 change be made".

18 A- Right.

19 167Q-So, that's the classification that you are referring  
20 to?

21 A- Yeah, it was my understanding that the account could  
22 continue on and - I don't want to throw this at  
23 Debra Stewart, but it was - you know, the girls did  
24 ninety percent (90%), ninety-nine percent (99%) of  
25 all the banking, that they would have basically told

1           her that, look, under the circumstances, the account  
2           can't be set up in that name, and we need to change  
3           the name. That's what it was, really.

4           168Q-Right, let me ask you a question, Mr. Jones. When  
5           you were at the Montreal Trust and Guaranteed Trust  
6           --

7           A- Right.

8           169Q-And you were administering estates or trusts, would  
9           it be fair to say that you would open distinct trust  
10          accounts for each one of the estates or trusts?

11          A- There would be a separate estate account within the  
12          records of those specific trust companies, yes.

13          170Q-Alright, and there would be distinct accounts.

14          A- Yes.

15          171Q-Okay.

16          A- Yes.

17          172Q-In your case, when you set out in business, you were  
18          using one account for all - depositing of all the  
19          funds from --

20          A- No --

21          173Q-All the trusts --

22          A- The majority of them, there were separate accounts  
23          that were opened and closed when distributions were  
24          made, but not --

25          174Q-Which --

1 A- On a regular basis. That's right.

2 175Q-Well, from the testimony of Debra Stewart, she - and  
3 the other employees, they stated that there was only  
4 this one trust account.

5 A- They were - the separate accounts would have been  
6 opened before they joined me, these employees.

7 176Q-Well, let me just --

8 A- It goes back many years ago.

9 177Q-Alright, so, you, for the most part, would have co-  
10 mingled all the various estates and trust money in  
11 this one account.

12 A- That's right.

13 178Q-Okay, was there any reason why you did not open  
14 distinct accounts?

15 A- No, it was easier to operate this way for us, and  
16 clients accepted it, and --

17 179Q-Well, clients accepted it. Clients thought their  
18 money was being held in trust.

19 A- Right.

20 180Q-And --

21 A- Right.

22 181Q-That nobody was dipping into the trust account.

23 A- Right.

24 182Q-Now, if you go to the third paragraph of that letter  
25 which you're sending, you - let's perhaps read it:

1 "As for an account that we would  
2 require pertaining to, for example,  
3 our estates and our trusts that we  
4 administer to, I would like to know  
5 and set up the type of account that  
6 will allow us to deposit and  
7 withdraw transactions relating to  
8 the various trusts and estates that  
9 we have under our administration.  
10 In all cases, I am either a trustee  
11 and/or executor and/or officially  
12 appointed the administrator for the  
13 trustees and/or the executors.  
14 Documentation is held at our office.  
15 One specific account would be  
16 required, as we do at any one time  
17 administer to some twenty-five (25)  
18 to thirty (30) estates, and have  
19 well over fifty (50) trusts that we  
20 are administering to at any one  
21 time. Our Debra Stewart advised me  
22 that you felt a specific type of  
23 account could be opened. However,  
24 when depositing cheques payable to a  
25 specific estate, a special notation



1                   would have to be placed on the  
2                   reverse side of the cheque".

3                   And you go on:

4                   "We do receive cheques from our  
5                   clients payable..."

6                   or let's stop there for a moment. Was there any  
7                   issue in your mind, at that time, as to the bank  
8                   saying to you that you cannot co-mingle all these  
9                   estate cheques from different estates and trusts  
10                  into one account?

11                 A- No.

12                 183Q-Because you seem to be referring to the fact where  
13                   somebody as - you're requesting that one account be  
14                   opened, but that the cheques somehow be specifically  
15                   notated.

16                 A- Well --

17                 184Q-What did you mean by that?

18                 A- I think what they wanted was to, in the back, put on  
19                   the - put on a notation that - which we were doing  
20                   before, that I was the executor/trustee of the  
21                   estate and signing for it, but I really don't recall  
22                   what the notation - that particular notation was.  
23                   The - all I know is that the bank came and said we  
24                   have to change the format.

25                   And to deposit cheques like we did prior, if it

1           was payable to an estate, if I was the administrator  
2           or if I was the executor, I would put on the back  
3           administrator of the estate, and I would sign it,  
4           and that was accepted by the bank, or  
5           executor/trustee and...

6       185Q-Well, we'll come to that --

7       A-    That I know --

8       186Q-That's the next paragraph --

9       A-    I can't --

10      187Q-That you're dealing with --

11      A-    I can't recall what --

12      OCQ-But this paragraph, in terms of the account, you  
13           were asking them, it appears, if they would open up  
14           a trust account --

15      A-    Right.

16      189Q-To allow you to continue to deposit all your cheques  
17           from the various trusts and estates into --

18      A-    Right.

19      190Q-This one account.

20      A-    Right.

21      191Q-Okay, my understanding, and you'll correct me if I'm  
22           wrong, is that the bank did not open up another  
23           trust account. They opened up a personal - not a  
24           personal, an account in the name of Earl Jones  
25           Consultant and Administration Corp., a business

1           account effectively.

2           A-    That's correct.

3           192Q-Okay, and no new so-called in trust account was

4           thereafter opened at the Royal Bank.  Is that

5           correct?

6           A-    That's correct.

7           193Q-And you seem to be requesting it here.

8           A-    Yeah, because I - you know, I wanted to carry on the

9           same type of account, where we were able to deposit

10          and withdraw the monies on a similar basis as we did

11          in the in trust account.

12          194Q-So, at the end of the day, they refused to do what

13          you were requesting.

14          A-    They were still accepting deposits.  And, of course,

15          they had given us cheques that we could obviously

16          write cheques, if there was money in the account,

17          but they were still accepting deposits.  And I think

18          there were some other conditions, but, to be honest

19          with you, I can't recall what those conditions were.

20          195Q-Well --

21          A-    It wasn't, let's say, as --

22          196Q-After August --

23          A-    Without trying to be, you know, slang here, it

24          wasn't as loose as it was before.

25          197Q-Alright, it wasn't as loose as it was before.

1 A- Right.

2 198Q-Now, obviously, at that point in time, from what I

3 have seen - I shouldn't say obviously. From what we

4 have seen, at that point in time, the funds that

5 were in this in trust account were transferred to

6 the Earl Jones Consultant and Administration Corp.

7 account. Do you recall that?

8 A- Yes, because I believe they closed the in trust

9 account.

10 199Q-They closed the in trust account.

11 A- Yes.

12 200Q-And they would not open up a new one for you.

13 A- No, that's right.

14 201Q-Okay, and what did you do when that happened?

15 A- We had an in trust account at the Bank of Montreal,

16 which was utilized as well

17 202Q-Well, isn't it a fact that you opened an in trust

18 account at the Bank of Montreal at that time?

19 A- It could be, yes.

20 203Q-Okay, you didn't have one prior thereto.

21 A- No, the company account was there, right, right.

22 204Q-Now, let's just for a moment deal with this letter

23 that you have in front of you.

24 A- Right.

25 205Q-The next paragraph refers to another issue. You

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25

say:  
"We do receive cheques from our clients payable to themselves, and we have commenced working with them to have these cheques made payable to Earl Jones in trust and/or to the name of the new account that would be opened...",  
I guess, it's  
"...as requested above".

A- Right.

206Q-Alright, now, just tell me if - I'm going to explain to you what I think the issue was here, and you can tell me - well, let me rephrase. What was the issue that you were addressing here?

A- Well, when the cheques - obviously, when the cheques came in from clients, I wanted to be able to put the money into a specific account similar to what was done in the Earl Jones in trust.

207Q-Okay, but as I understand it, what you're referring to here and what must have been an issue with the bank was that cheques were coming in payable to the name of your clients, and you were certainly - not certainly, you were simply endorsing the name of the client, stamping it pay over to Earl Jones in trust,

1           and depositing it to your trust account.

2           A-    Right.

3           208Q-That was the issue, was it not?

4           A-    Yes, that was the issue.

5           209Q-Okay, and, the bank, did they advise you that they

6           had no way of verifying the first signature --

7           A-    No.

8           210Q-To determine - they never advised you.

9           A-    No.

10          211Q-Did they tell you that this process was irregular?

11          A-    No.

12          212Q-Well, what was the issue?  Why was there an issue

13          then?

14          A-    I recall them telling me that the format in which

15          you are using this in trust account is no longer

16          accepted by the Royal Bank, and that the new account

17          would have to be opened under the name of Earl Jones

18          Consultant and Administration.  Did anyone get on

19          the phone and say what you just asked me?  The

20          question or the answer is no.

21          213Q-Well, what are you addressing --

22          A-    The Royal Bank --

23          214Q-When you say --

24          A-    I'm just - I'm saying to them --

25          215Q-Here your --

1 A- The type of account that we would like opened is -  
2 whether it's in the name of Earl Jones Consultant  
3 and Administration or Earl Jones in trust, I would  
4 like the same --

5 216Q-Well, that's --

6 A- Privileges of doing what I did before.

7 217Q-Let's look at the paragraph, okay, and be very  
8 careful. You say:

9 "We do receive cheques from our  
10 clients payable to themselves..."

11 A- Right.

12 218Q-Okay, the cheque is then payable to your clients --

13 A- Right.

14 219Q-Not to yourself, okay.

15 "...and we have commenced working  
16 with them to have these cheques made  
17 payable to Earl Jones in trust  
18 and/or to the name of the new  
19 account that would be opened..."

20 A- Right.

21 220Q-Now, it's clear to me, if I take a look and I'll  
22 show you various examples, what was happening was  
23 cheques were coming in payable to your clients.

24 A- Right.

25 221Q-You were endorsing their name and then stamping it

1           pay over to Earl Jones in trust and depositing to  
2           the trust account.

3       A-    Right.

4       222Q-Is that not fair to say what was - what seemed to be  
5           problem?

6       A-    Right, well, it's - it obviously was the problem.  
7           You asked me though is did the Royal Bank tell me  
8           that there was a problem, and I answered you and say  
9           no.

10       223Q-Well, somebody must have told you there's an issue -  
11           -

12       A-    Well, they --

13       224Q-Because you're writing them describing the issue.

14       A-    I would suggest that - or I would think that maybe  
15           Oriana told or Oriana told Debra, and Debra would  
16           have told me, and I wrote to confirm that.

17       225Q-Alright, so, you may not have had the direct  
18           communication --

19       A-    Right.

20       226Q-But somebody at the Royal Bank communicated with  
21           somebody at your office, telling them that they were  
22           having a problem with the endorsement of these  
23           cheques.

24       A-    I really don't know. I would - I really don't know.

25       227Q-Now, if you turn to the next page of that letter,



1           you'll see that Robin Whitrod stamps as Commissioner  
2           of Oaths --

3       A-    Right.

4       228Q-And signs as a witness.  What was the purpose of  
5           that?

6       A-    I don't know.  They may have asked for this letter,  
7           and they wanted a witness, and I would have had  
8           Robin just to witness my signature, but in no way is  
9           Robin, you know, was aware of or involved with this  
10          at all.

11       229Q-Well, I'm not suggesting he is, but I --

12       A-    I have no idea.  I would think that they needed a  
13          witness for my signature and..

14       230Q-Who would have requested a witness for your  
15          signature?  This is a letter which you sent --

16       A-    I can only think --

17       231Q-This is not a bank document.

18       A-    I can only think the Royal Bank requested it, or I  
19          decided to ask - get Robin to witness my signature  
20          for whatever reason.

21       232Q-Okay, Mr. Jones, I'm going to ask you to deposit  
22          that letter - sorry, just give me that for a moment,  
23          a letter dated July 23rd, 2008, with the fax sheet  
24          together with various pieces of identification of  
25          Mr. Jones, Debra Stewart, and Nancy Wynands as

1 Exhibit EJ-3.

2 Now, Mr. Jones, you mentioned before that you  
3 had started to encroach upon this trust account for  
4 your own personal usage. Can you tell the Court  
5 when you first started to use the trust account for  
6 your own personal benefit?

7 A- I'm guessing three (3) to five (5) years after I  
8 started my business, so, some twenty-five (25) years  
9 ago.

10 233Q-And you knew when you started using the funds from  
11 that trust account for your own personal business,  
12 that you were commencing to deceive your clients.  
13 Is that correct?

14 A- Originally, I had set up, I think, some agreements  
15 between the clients and myself, but, you know,  
16 realistically, I guess the answer is yes.

17 234Q-Okay, and that continued on until the - until when?

18 A- Well, till you closed every - till I was closed  
19 down.

20 235Q-Okay, and over the years, the encroachment became  
21 larger and larger. Would that be correct?

22 A- The encroachment became larger and larger because of  
23 the cash flow that I had to pay out to clients.

24 236Q-Okay, well, how would the encroachment become  
25 larger, if you had to pay out?

1 A- Well, because I was giving them, you know, interest.  
2 I wasn't receiving any interest, and I was paying  
3 them interest.

4 237Q-But I mean, by encroachment, use for your personal  
5 purposes.

6 A- I guess if I'm paying out people, you refer that's  
7 for my personal reason as well or...

8 238Q-Well, we've seen --

9 A- You know, if I took in money --

10 239Q-We've seen --

11 A- And I took in money --

12 240Q-Just let me - so that we're clear, when I'm talking  
13 about encroachment for your personal purposes, I'm  
14 talking about the withdrawing of cash from the  
15 account for usage for travel, for usage for payment  
16 of your Visa cards, payment of American Express  
17 cards, payment of household items, payment of funds  
18 for - uses of funds for anything of a personal  
19 nature, which wouldn't be for the benefit of the  
20 people whose money were placed in that trust  
21 account.

22 All I'm saying to you is, from what we see, the  
23 amount of personal usage from the trust account  
24 became greater as the years went on. Presumably,  
25 you had more estates and more money that was in

1           there.

2           A-    Yes.

3           241Q-That's correct to say that?

4           A-    Yes.

5           242Q-Okay, now, when did you first realize that you were

6           going to have a problem carrying on in terms of

7           being able to pay out the monies from this trust

8           account that you were required to pay out, and not

9           having enough funds to do that?

10          A-    I guess about a year ago it really was - the cash

11          flow was obviously not, you know, coming in to

12          cover.

13          243Q-And what did you do when that happened?

14          A-    At the end, I couldn't do anything.

15          244Q-At the end, I understand --

16          A-    Yeah.

17          245Q-But did you start soliciting loans? I'm using the

18          word "soliciting". It's the wrong word. Did you

19          attempt to obtain loans from various people to fund?

20          A-    I guess yes and no. Clients would - you know,

21          estates came in. Clients received money and brought

22          money in. And on other occasions, I had asked, you

23          know, clients if they wanted to invest monies or

24          deposit monies.

25          246Q-Okay, so, what did you do? My question is: When

1           did you really try, or maybe you didn't, but did  
2           you, at any point in time, try and raise additional  
3           monies to keep the scheme going?

4       A-    When did I do or...

5       247Q-Yes, when would you - as you said, about a year ago,  
6           you started --

7       A-    Yeah, it was --

8       248Q-To realize --

9       A-    It was basically, you know, ongoing. It just - you  
10           know, it built up and built up to the point where,  
11           especially as I say, the last year or six (6)  
12           months, but I couldn't carry on, but - so, when an  
13           opportunity did arise that there was funds  
14           available, then certainly I tried to have clients  
15           deposit their monies with us.

16       249Q-And did you encourage people to mortgage their homes  
17           in order to bring in more money?

18       A-    I didn't encourage people. A lot of those mortgages  
19           that were taken out at Maple and at the Bank of  
20           Montreal, many times there were families who were  
21           involved. And, you know, the concept was that they  
22           would receive additional income over and above what  
23           they were paying in their mortgage. And so, it was  
24           a combination of some clients coming to me and with  
25           that idea of doing it, some of them that I

1           solicited. Well, I've used the word "solicit"  
2           and...

3           250Q-I understand that, at a point in time, Mr. Jones,  
4           and probably fairly early in the process, the manner  
5           in which you would, again I'll use the word, solicit  
6           clients or one of the schemes in which you would try  
7           and solicit clients was you would tell them that you  
8           had a pooled account of money at the Royal Bank of  
9           Canada locked in at a high rate because of your  
10          long-time relationship with the Royal Bank. Do you  
11          recall that?

12          A- I told them that there was - I had an in trust  
13          account where I was getting a specific rate of  
14          interest, yes. That's where I deposited their  
15          cheques.

16          251Q-And, in effect, you never had such a --

17          A- No.

18          252Q-Just let me finish the question.

19          A- Okay.

20          253Q-Okay, you never had such an account, and you never  
21          had a - what is referred to or what you referred to  
22          as a pooled account at the Royal Bank yielding eight  
23          percent (8%) interest.

24          A- No.

25          254Q-Now, would it be true to say that, in various

1 instances, you would have, in addition, sent  
2 statements to your clients showing that they were  
3 earning this eight percent (8%) interest at the  
4 Royal Bank?

5 A- Yes.

6 255Q-Okay, and that also was totally fictitious.

7 A- Yes.

8 256Q-I'd like to, for purposes of the record, just  
9 elaborate on the various schemes which you may have  
10 used to deceive your clients over the period of your  
11 operation, and you can just tell me whether these  
12 were part of the scheme which you used.

13 Number 1, would you ever endorse cheques which  
14 were made out to clients, endorse their name on  
15 cheques and deposit it to your in trust account at  
16 the Royal Bank?

17 A- I would, but in the majority, if not all cases, we  
18 would ask a client if a cheque is coming in, can we  
19 sign your name, and the clients would have said yes.  
20 In some cases, I was the power of attorney for some  
21 of them.

22 257Q-Okay, so --

23 A- But the answer is - did we endorse? The answer is  
24 yes.

25 258Q-Not only endorse, but sign their name.

1 A- Yes.

2 259Q-Okay, and from what we have seen, a lot of these

3 people have said they never authorized you to sign

4 their name, and were never contacted in that respect

5 by you. Would that be true according to --

6 A- I would disagree to that.

7 260Q-Okay, you would, of course, advise these people that

8 their money was going into a trust account.

9 A- We would acknowledge that I was putting it into the

10 specific account that we had for them, yeah.

11 261Q-And you would have advised them that that account is

12 what you referred to as an in trust account to --

13 A- Yes.

14 262Q-To --

15 A- Sorry.

16 263Q-It's okay, and they would, in turn, believe that

17 their money was going into an in trust account.

18 A- I would believe so, yes, yes.

19 264Q-Well, you would have advised them of that --

20 A- Yes.

21 265Q-That their money was going --

22 A- Yes.

23 266Q-Into a trust account --

24 A- Yes.

25 267Q-As if it was a lawyer's or a notary's trust account.



1 A- Right.

2 268Q-Okay.

3 A- Can I get some water?

4 269Q-Sure, sir.

5

6

OFF RECORD REMARKS

7

8 Me NEIL H. STEIN:

9 270Q-Another method you would use, as we mentioned

10 before, was soliciting money on the basis that you  
11 had this pooled account that was going to - or a  
12 special pooled account that was going to yield a  
13 high interest rate at the Royal Bank. That you have  
14 already said was one of the schemes.

15 Another was that you would send fictitious  
16 statements to the clients showing that they were  
17 earning eight percent (8%) interest. Is that  
18 correct?

19 A- That's correct.

20 271Q-Okay, would you create fictitious loan agreements in  
21 the name of various individuals?

22 A- Yes.

23 272Q-Okay, I'm going to just show you for purposes of the  
24 record an example. I'm showing you here a document  
25 entitled "Summary of Bridge Financing between Mary

1 Sue and Robert Gibson of Montreal and Robert Hausner  
2 as of May 1st, 2005", which I'd ask you to take a  
3 look at for a moment.

4            Alright, this purports to be a summary of a  
5 loan for the sum of a hundred and twenty-five  
6 thousand dollars (\$125,000.00), where the lender is  
7 Robert Hausner and the borrower is Mary Sue and  
8 Robert Gibson. This contract has been produced in  
9 the bankruptcy hearing as Exhibit P-4, but we're  
10 going to produce it here as EJ-4.

11           And you'll note, on the last page, there is  
12 purportedly the signature of Mary Sue Gibson and  
13 Robert Gibson, both of whom have said that is not  
14 their signature, and Robert Hausner. Now, you're  
15 aware that - is this an example of one of the  
16 fictitious loan agreements that you're referring to?

17 A- Yes.

18 273Q-Okay, do you know who wrote the signatures on behalf  
19 of Mary Sue Gibson and Robert Gibson?

20 A- No, I don't know who would have done that.

21 274Q-It would have been somebody in your office?

22 A- I would think so, yes.

23 275Q-Okay, and who normally would be doing that?

24 A- 2005, you know, I don't - it could have been Debra  
25 Stewart, or it could have been me.

1 276Q-Okay, and if it was Debra Stewart, it was as a  
2 result of your asking her to do that. Is that  
3 correct? Okay, and --  
4 A- That's correct.  
5 277Q-You just said it could have been you. The signature  
6 of Robert Hausner, was that a valid signature as  
7 well?  
8 A- I think that's his signature, yes.  
9 278Q-So, Mr. Hausner thought he was making a loan to Mary  
10 Sue and Robert Gibson of a hundred and twenty-five  
11 thousand dollars (\$125,000.00). Did he advance the  
12 money to you?  
13 A- To me?  
14 279Q-Well, to...  
15 A- Yes, he would have.  
16 280Q-He would have advanced a hundred and twenty-five  
17 thousand dollars (\$125,000.00).  
18 A- Yes, I think so.  
19 281Q-Alright.  
20 A- Yes.  
21 282Q-And Mary Sue Gibson and Robert Gibson would have  
22 never known that there was a loan supposedly being  
23 made to themselves.  
24 A- Probably not.  
25 283Q-Okay, and what would you do with the funds?

1 A- They would have gone into my trust account.  
2 284Q-Okay, would you produce - it would not have gone to,  
3 however, Mary Sue and Robert Gibson.  
4 A- No.  
5 285Q-Okay, would you produce that as Exhibit EJ-4? Thank  
6 you; now, I show you another summary of a collateral  
7 financing between Dr. Brent Matthew and the Ross  
8 estate family trust as of February 9th, 2009, for a  
9 hundred and fifty thousand dollars (\$150,000.00).  
10 Again, if you look at the last page, there are  
11 various signatures for the Ross family, all of whom  
12 have denied that those are their signatures.  
13 A- Right.  
14 286Q-Alright, this again would be another example of  
15 fictitious loans being made.  
16 A- Yes.  
17 287Q-Is that correct?  
18 A- Yes.  
19 288Q-And what would you have done with the hundred and  
20 fifty thousand dollars (\$150,000.00)?  
21 A- It would have gone into my trust account.  
22 289Q-And it would never have gone to the Ross estate --  
23 A- No.  
24 290Q-Is that correct? Okay, would you produce that as  
25 Exhibit EJ-5? Now, do you recall ever sending

1           people statements showing that you were earning  
2           interest at the rate of fifteen percent (15%) for  
3           them?  
4       A-    Yes.  
5       291Q-And do you recall whom you would have sent those  
6           statements to?  
7       A-    No.  
8       292Q-Okay, let me show you some of them.  I show you here  
9           a statement sent to Christiane Jackson.  
10      A-    Alright.  
11      293Q-As of April, 2009.  
12      A-    Hmm-hmm.  
13      294Q-Where you show at the very first line or second line  
14           Christiane Jackson, fifteen percent (15%), and then,  
15           further down, U.S. account, Christiane Jackson,  
16           fifteen percent (15%), and then:  
17                   "Special term investments, assume  
18                   fourteen percent (14%) not including  
19                   bonuses".  
20           So, these fifteen percent (15%) interests that are  
21           being shown on the Canadian and U.S. account in  
22           supposedly thirty (30) locked-in commitments are  
23           fictitious.  Is that correct?  
24      A-    That's correct.  
25      295Q-And the special term investments where we see

1           Coughlan, fifty thousand (\$50,000.00), and Matthew,  
2           a hundred thousand (\$100,000.00), assuming a  
3           fourteen percent (14%) not including bonuses are as  
4           well fictitious.

5           A- I would say yes.

6           296Q-Okay, now, one other thing, if you'll turn to the  
7           second page --

8           A- Alright.

9           297Q-Of that document, another method which you seemed to  
10          use to keep your clients happy is that the statement  
11          is certified correct. Then, we see B. Earl Jones  
12          and Pierre Courchesne, accountants, and you will use  
13          your stamp as a Commissioner of the Oaths to certify  
14          it correct. Mr. Courchesne has told us he has never  
15          seen any of these statements, and he never verified  
16          any statements. Would that be correct?

17          A- That's correct.

18          298Q-When you were certifying this statement correct as  
19          a Commissioner of the Oaths, you understood that you  
20          were falsely certifying --

21          A- Yes.

22          299Q-The statement.

23          A- Yes.

24          300Q-Okay, would you produce that as Exhibit EJ-6? I  
25          show you here, and we're just using these as

1 examples, a statement dated March 31st, 2009, sent  
2 to Dominique Jackson, showing special investments  
3 that I presume her money is invested at the rate of  
4 thirteen percent (13%) with the Neal family and with  
5 the Spencer family and from your trust account.  
6 These - that thirteen percent (13%) interest was  
7 obviously fictitious and - I shouldn't say  
8 obviously. Was that thirteen percent (13%) interest  
9 fictitious?

10 A- Yes.

11 301Q-And the statement which went out to Dominique  
12 Jackson from the Royal Bank or what you refer to as  
13 the Royal Bank in trust account, the second page,  
14 showing a thirteen percent (13%) on U.S. funds, that  
15 also was fictitious.

16 A- Yes.

17 302Q-Would you produce that as Exhibit EJ-7? Would it be  
18 true to say, Mr. Jones, that the statements which  
19 you sent out to your clients over the years were  
20 basically internally made-up documents that at no  
21 time resembled reality, in the sense that you were  
22 showing earnings, you were showing investments, you  
23 were showing - I shouldn't say earnings - you were  
24 showing interest earnings, you were showing various  
25 investments, when, in effect, they never existed?

1 A- In general, I would say, yeah.

2 303Q-In general.

3 A- I'm sure there's - going back over the years,  
4 there's specific ones that would be correct.

5 304Q-Alright, and it was you who came up with the idea  
6 that you would send out these statements, even  
7 though they were fictitious, to lead your clients to  
8 believe that they were earning a good return on the  
9 money they had with you.

10 A- Yes.

11 305Q-Okay, and can you tell the Court did you ever keep  
12 a specific accounting of the so-called Earl Jones in  
13 trust account? You're nodding. You have to answer.

14 A- Yeah, I know. No, no, I'm just --

15 306Q-Yes.

16 A- Years ago, I guess the first five (5) years or so,  
17 I would say Diane probably kept a handwritten  
18 ledger, but over the last - I don't know, maybe the  
19 last ten (10), fifteen (15) years or - there wasn't  
20 a specific accounting ledger. Although in the last  
21 couple of years, one of the employees, Louise...

22 307Q-Voyer?

23 A- Yeah, she started getting into a...

24 308Q-Well, from what she told us, she started to develop  
25 a system --



1 A- Right.

2 309Q-To determine what you had to pay out on a monthly  
3 basis.

4 A- Right.

5 310Q-But she didn't do any accounting of the in trust  
6 account. In other words, she didn't balance the in  
7 trust account to make sure that the amounts in your  
8 trust account corresponded with the statements that  
9 you were sending out to your clients, showing the  
10 total amount in trust.

11 A- She did not.

12 311Q-Okay, and it could never balance, because, from what  
13 we have seen, you had millions of dollars you were  
14 holding in trust, but your bank in trust account,  
15 for all intents and purposes, never showed millions  
16 of dollars.

17 A- Correct.

18 312Q-Can you tell the Court how the statements would be  
19 prepared that you sent out to your clients?

20 A- They were prepared by the office staff.

21 313Q-No, but how would they physically prepare them?  
22 Would they --

23 A- With a computer.

24 314Q-I'm sorry?

25 A- By the way of the computer.

1 315Q-Well, the computer only does what you tell it to do.  
2 So --  
3 A- Well, that's right --  
4 316Q-Who would give the instructions to the employees to  
5 what should go on these statements?  
6 A- I would give them the instructions. And the deposit  
7 came in, and we opened up an account, and we said  
8 that the account was going to get eight percent  
9 (8%), it would be basically automatic. If we made  
10 any payments to - as you no doubt have seen, we used  
11 to pay a lot of bills and so on. That would be  
12 recorded in each person's account.  
13 317Q-Well, from what I understand from the employees,  
14 they would simply keep or try to keep a ledger as to  
15 what you were paying out, but the other side of the  
16 balance sheet, what was being earned, was a function  
17 of what you were telling them.  
18 A- Well, if we opened up a statement, an account, put  
19 the person's name in, and said there was - the  
20 interest was eight percent (8%) --  
21 318Q-You just simply calculated the eight percent (8%) --  
22 A- Exactly.  
23 319Q-Whether you were paying it or not --  
24 A- Exactly, so, if the girls pulled off a statement, it  
25 would automatically show eight percent (8%)

1 interest.

2 320Q-Alright, so, but it didn't - it was a fictitious

3 eight percent (8%).

4 A- Right.

5 321Q-It was just a figure put into the calculation.

6 A- Right, right.

7 322Q-Okay.

8 MR. GILLES ROBILLARD

9 from the Trustee:

10 Can I ask...

11 Me NEIL H. STEIN:

12 Yes, sure.

13 MR. GILLES ROBILLARD:

14 323Q-We only found those statements for the, let's say,

15 last three (3) years: 2006, '07, and '08. Was

16 there any statements prior to that on the computer,

17 or was that just set up in the past three (3) years?

18 A- No, it was on the computer. There's no question

19 about that.

20 324Q-Okay.

21 A- No question, I don't have any idea why you wouldn't

22 have found them.

23 325Q-Okay.

24 A- I was asked by the provincial police about that. I

25 personally - and I don't know if the girls say it.

1 I have no idea how to operate the computer, never  
2 used the computer, and I would have no idea why that  
3 is not on the - not available.

4 326Q-Okay.

5 Me NEIL H. STEIN:

6 327Q-So, another method or thing which I'd like you to  
7 comment on in terms of where the deception lay was  
8 the use of this stamp that you had, which said pay  
9 over to Earl Jones in trust, and I'm just going to  
10 show you an example of that. I show you here a  
11 series of cheques payable to Virginia Nelles  
12 Tetrault --

13 A- Right.

14 328Q-Donald Tetrault - Donald Nelles, I'm sorry. They  
15 appear to all be made out to either one of the two  
16 (2). And if you'll take a look at the - both sides  
17 of the cheques on one page, there is a stamp which  
18 says pay over to Earl Jones in trust for deposit  
19 only to Royal Bank account 5266622, which is your -  
20 the Earl Jones in trust account at the Royal Bank.

21 Some of those cheques, if you take a look, only  
22 bear your signature. Some of them, one of them at  
23 least or two (2) of them, at least appear to bear  
24 the signature Virginia Nelles. And the ones made to  
25 Donald Nelles appear to bear his signature.

1 Donald Nelles and Virginia Nelles have told us  
2 that they never endorsed over those cheques. They  
3 never - that's not their signature which appears.  
4 Would it be true to say that you just simply signed  
5 their signature, used the stamp, and deposited it  
6 into your account?

7 A- That would be correct, but in many, if not all  
8 cases, they would have been notified that a cheque  
9 came in, and they were going to sign their name, and  
10 they would have signed it. The way you phrase the  
11 question, the answer is yes.

12 329Q-Okay, the stamp - and I would like to understand  
13 what you would do with these cheques. You would  
14 bring them where, or you would have your staff bring  
15 them where?

16 A- To the Royal Bank.

17 330Q-Did the Royal Bank, at any time, ever question the  
18 fact that the cheque was made to Virginia Nelles,  
19 and we have no way of verifying that this is  
20 Virginia Nelles' signature?

21 A- No.

22 331Q-You never had a problem.

23 A- No.

24 332Q-Okay, and that, would you say, was throughout the  
25 history of the account?

1 A- Yes.

2 333Q-Did that at all surprise you, you being a former  
3 banker?

4 A- Yes, it surprised me that they - but it was accepted  
5 for so many years.

6 334Q-So, you knew that you could get away with it  
7 basically, because it had been done so often, and  
8 nobody was questioning it. Is that correct?

9 A- When we did it, yes, yeah.

10 335Q-Okay, I show you here as well - alright, would you  
11 produce as Exhibit EJ-8 a series of cheques with the  
12 stamp on it? So, that would be another method that  
13 you would use.

14 A- Another method I would use, but basically there was  
15 a method. If there was cheques coming in, they went  
16 into the trust account.

17 336Q-Now, would it true to say that, in various  
18 instances, you had as well sent out statements to  
19 your clients supposedly certified by Pierre  
20 Courchesne and signed by Pierre Courchesne, the  
21 accountant?

22 A- There are a few statements in the last two (2) or  
23 three (3) months that I put Pierre's name on.  
24 Pierre Courchesne had nothing, nothing to do with  
25 this.

1 337Q-No, I acknowledge that. He has testified that --  
2 A- Okay.  
3 338Q-The signature was not his.  
4 A- Then, that's --  
5 339Q-The point that I'm trying to make is that you signed  
6 his --  
7 A- Yes.  
8 340Q-Name, and you certified in his name as if it was he  
9 as an accountant certifying that the statement --  
10 A- Yes.  
11 341Q-Was true.  
12 A- Yes.  
13 342Q-Okay, let me just see if I can find an example of  
14 that. I'm showing you here a series of statements,  
15 which purport - oh, I'm sorry. It's not a series of  
16 statements. I'm incorrect in that statement. There  
17 are various statements here, but we'll go one by  
18 one. The first one is to Estate David Brunet, and  
19 it's certified on May of 2009 by yourself. That's  
20 your signature which appears there?  
21 A- Well, that's my initial, yeah.  
22 343Q-Your initial, well, whose signature is the one next  
23 to it that --  
24 A- There's no signature. That's Pierre's initials.  
25 344Q-Okay, well, let's go step by step.

1 A- These are three (3) initials, three (3) --  
2 345Q-This is not a signature, and I'm --  
3 A- No, that's my initials.  
4 346Q-Okay, so, the first I'll call it scribble, if you  
5 don't mind --  
6 A- Yes, okay.  
7 347Q-Is your initials.  
8 A- Yes.  
9 348Q-And then, the second set of initials is supposed to  
10 be that of --  
11 A- Pierre.  
12 349Q-Pierre Courchesne.  
13 A- Yes.  
14 350Q-Now, I also see at the bottom D. Stewart, account --  
15 MR. GILLES ROBILLARD:  
16 351Q-That would be the third scribble.  
17 A- That was the third.  
18 Me NEIL H. STEIN:  
19 352Q-Oh, that's the third --  
20 MR. GILLES ROBILLARD:  
21 Yes.  
22 Me NEIL H. STEIN:  
23 353Q-Scribble. So, there's three (3) scribbles, all of  
24 which would have been placed on that document by  
25 yourself.



1 A- Yes.

2 354Q-Is that correct? Okay, now, the next document in  
3 that package that you have before you is the summary  
4 of a bridge financing between Richard Broughton --

5 A- Yes.

6 355Q-And the Dressel family.

7 A- Right.

8 356Q-As of March 1st, 2009. And if you turn to page 4 of  
9 that statement --

10 A- Yes.

11 357Q-You're going to see the signatures Richard  
12 Broughton.

13 A- Right.

14 358Q-I presume that's a real signature. Is that correct?

15 A- I believe so, yes.

16 359Q-Okay, and then B. Earl Jones, administrator for the  
17 Estate Dirk Dressel, that's your signature.

18 A- Yes.

19 360Q-And then, I see Pierre Courchesne.

20 A- Right.

21 361Q-And that is not his signature.

22 A- That's not his signature, no.

23 362Q-And who would have put his name and signature there?

24 A- Either myself or maybe I'd ask one of the girls to  
25 do it.

1 363Q-And what was the purpose of putting his name there?

2 A- In this particular case, the individual who was

3 involved with Richard Broughton, Tony Gilardi,

4 wanted to know that Pierre Courchesne was overseeing

5 all of this.

6 364Q-Well, what is the relationship between Tony Gilardi

7 and Richard Broughton?

8 A- Tony Gilardi is - and Richard Broughton, Tony's

9 mother-in-law, Sonia Christian, and Richard

10 Broughton lived together.

11 365Q-I see.

12 A- Husband and wife or boyfriend and girlfriend.

13 366Q-Okay, so, this would have been given as well to Mr.

14 Gilardi --

15 A- Yes.

16 367Q-To reassure him --

17 A- Yes.

18 368Q-That this was a real loan, okay. Now, turn to the

19 next page, please. Keep going, one more. Oh, no,

20 yes, here you go, okay. This is a statement as of

21 January, 2009, sent to Johanna and Robert Earle --

22 A- Right.

23 369Q-Supposedly showing them a statement of their assets

24 and income. We see at the bottom of it a

25 Commissioner of Oaths stamp in your name and then

1 certified correct January, 2009, Pierre Courchesne,  
2 something accountant. Can you read what it's  
3 supposed to say?

4 A- That's an auditor. I think it's audit --

5 370Q-Oh, auditor --

6 A- Accountant.

7 371Q-Accountant.

8 A- Yes.

9 372Q-Okay, again, the signatures or initials that appear  
10 there are yours and those imposed by yourself in  
11 respect of Pierre Courchesne. Is that correct?

12 A- Yes, that's right.

13 373Q-Similarly, if you continue on and you come to a  
14 statement of assets and liabilities in respect of  
15 Estate Myrle Emblem --

16 A- Right.

17 374Q-April 30th, 2009 --

18 A- Right.

19 375Q-We see your Commissioner of Oaths stamp, certified  
20 correct, April, '09. And then, we see your  
21 signature or your initials, rather, supposedly the  
22 initials of Pierre Courchesne again, accountant  
23 auditor, and then supposedly the signature or  
24 initials of Debra Stewart. And then, we see a  
25 Commissioner of Oaths stamped Debra Stewart.

1 A- Right.

2 376Q-In this case, would it be true to say that you

3 fictitiously wrote the initials of Pierre Courchesne

4 and Debra Stewart?

5 A- Yes.

6 377Q-And can you tell the Court how the Commissioner

7 stamp of Debra Stewart appeared on this statement?

8 A- I probably put it on.

9 378Q-Would she have been aware?

10 A- I don't think so, unless, you know, a copy of this

11 was - came across her desk, and she gave it to the

12 Emblem family, but...

13 379Q-Well, how would these statements be sent out?

14 A- Some would be sent out at the request of clients,

15 and some were sent out every month or every quarter.

16 In a lot of cases, clients came in and picked up

17 their statements and through meetings.

18 380Q-Well, the Estate Myrle Emblem, would they come in or

19 would you send the statement?

20 A- They would come in.

21 381Q-They would come in.

22 A- Yeah.

23 382Q-And who would give them the statement?

24 A- In most cases, they would meet with me, and I would

25 give them the statement, but in time - sometimes

1           where I wasn't there that the client - the client  
2           would come in and ask for copies of statement, and  
3           the girls would pull a statement off the computer.  
4   383Q-Okay, do you recall in this case who would have  
5           given them the statement?  
6   A-   I probably gave them the statement.  
7   384Q-Now, if we turn to the next page, again we see your  
8           Commissioner of Oaths stamp, and we see the same  
9           thing, Earl Jones, Debra Stewart, Pierre Courchesne.  
10          And, here, we see the reference to this pool fund  
11          account --  
12   A-   Right.  
13   385Q-Earl Jones in trust, balance April 1st, 2009, a  
14          million two fifty-eight three seventy  
15          (\$1,258,370.00).  
16   A-   Right.  
17   386Q-That was totally fictitious as well.  
18   A-   Right.  
19   387Q-And, again, the signatures or the initials are  
20          simply those that you imposed.  
21   A-   Right.  
22   388Q-And I'd ask you to take a look at the rest, so that  
23          we don't have to spend an hour going through them,  
24          the rest of the statements, and just confirm to me  
25          that, once again, all the certifications were

1           imposed by yourself, and the initials that are  
2           written were those initials imposed by yourself.

3           A-    I confirm that I did it.

4           LT1Q-Thank you; would you produce that as Exhibit EJ-9?

5           Now, another method which I believe you used to  
6           deceive your clients, you referred to before in  
7           respect of the mortgaging of various properties.  
8           The mortgages, you said that, in certain instances,  
9           if I'm correct, you would recommend to the client  
10          that they mortgage their homes in order that you  
11          would pay them a higher interest rate than they  
12          would be - they would have to pay in respect of  
13          their mortgage. Did you ever at any time advise  
14          them that they would be paying income tax on the  
15          amount that you were supposedly paying them?

16          A-    Yes, I would have.

17          390Q-And would it be true to say that, in every instance  
18          or in almost every instance where the homes were  
19          mortgaged at the Bank of Montreal in Ste. Thérèse  
20          and with Maple Trust, that these various clients  
21          remitted to you, if not all the mortgage proceeds,  
22          a good part of the mortgage proceeds to be invested  
23          at this higher interest rate?

24          A-    In most cases, yes.

25          391Q-Okay, and those funds, you led them to believe, were

1           deposited into a safe in trust account yielding this  
2           higher interest rate.

3           A-    Right.

4           392Q-Okay, now, in respect of the Bank of Montreal at  
5           Ste. Thérèse, can you explain to the Court what - I  
6           understood that you had a bank account on the West  
7           Island with the Bank of Montreal. What was your  
8           relationship with the Bank of Montreal in Ste.  
9           Thérèse?

10          A-    There was a mortgage officer that worked out of the  
11          Bank of Montreal in Pointe Claire on Donegani, and  
12          I'm just trying to think of her name, the Bank of  
13          Montreal, and we utilized her - our clients utilized  
14          her for many years. And she was transferred to the  
15          Bank of Montreal in Ste. Thérèse, and I utilized  
16          her, because she did work for us in the past.

17          393Q-When you say she did work for you in the past --

18          A-    Well, for clients who, you know, may have mortgaged  
19          their properties and...

20          394Q-Was she familiar with your business from the past?

21          A-    Well, she knew what we did. I wouldn't go that far  
22          to say that she was totally familiar, no. She was,  
23          you know - we approached her to obtain mortgages for  
24          clients and...

25          395Q-And on what basis would you have approached her?

1           What would you have told her?

2           A-   Well, we had told her that a client would want a  
3           mortgage for "x" number of dollars, and she would  
4           give us the documents that were required to be  
5           completed by the Bank of Montreal to get the  
6           mortgage, which we would give to her, and they would  
7           approve of it.

8           396Q-So, you would prepare the documentation on behalf of  
9           the Bank of Montreal, the required documentation.

10          A-   Well, whatever they wanted, we would get the  
11          documents for the Bank of Montreal, and our clients  
12          would sign the application form and so on and so  
13          forth.

14          397Q-Alright, do you recall whether, during that process,  
15          there would be a personal meeting with the Bank of  
16          Montreal and the client?

17          A-   Not in particular, the Bank - what happened is the  
18          mortgages that were issued from the Bank of Montreal  
19          in Ste. Thérèse, the clients would meet with the  
20          Bank of Montreal - a Bank of Montreal officer in  
21          Pointe Claire and Hymus to sign all the  
22          documentation and to accept or approve of the  
23          mortgage.

24          398Q-And was there one officer in particular?

25          A-   No, I don't think - you know, I would say no. The



1 Bank of Montreal knew us and...

2 399Q-Was there any other reason that you would use the  
3 Bank of Montreal?

4 A- No, no, other than that this girl was very  
5 efficient, and I would think she was - may have been  
6 recommended by the Bank of Montreal in Pointe Claire  
7 when she was working in the mortgage department on  
8 Donegani. And going back many years ago, I think I  
9 may have had a mortgage at the Bank of Montreal on  
10 a personal basis, which I may have got through the  
11 Bank of Montreal through her.

12 400Q-Was there ever an issue of the Bank of Montreal  
13 questioning the age of any of these people that were  
14 mortgaging their properties?

15 A- No, no.

16 401Q-Do you recall what type of verification the Bank of  
17 Montreal would do with respect to these?

18 A- The standard verification that they would ask you or  
19 anyone else for.

20 402Q-Well, what --

21 A- Which would be, you know, personal information,  
22 income tax returns.

23 403Q-As part of that verification, certainly one of the  
24 things the bank always looks to is what the income  
25 or the ability to repay of the person is.

1 A- And they would utilize the income tax returns that  
2 were submitted to them.

3 404Q-And would they - those income tax returns, as I  
4 understand, were prepared in the most part at your  
5 request through either Robin Whitrod or I believe  
6 it's Elmore Shapiro.

7 A- Well, Mr. Shapiro did a certain amount of returns,  
8 and Mr. Courchesne did a certain amount of returns.

9 405Q-And Mr. Whitrod did a certain amount of returns.

10 A- Yeah, in the last number of years, Robin did most of  
11 them, yeah.

12 406Q-Okay, and the information which was provided for  
13 those returns --

14 A- Right.

15 407Q-Showing the income --

16 A- Right.

17 408Q-Would primarily come from yourself.

18 A- It would come from ourselves to them, yes, and then  
19 the clients would - you know, would get copies of  
20 the tax returns and so on.

21 409Q-I understand but --

22 A- Yeah.

23 410Q-The income --

24 A- Yes.

25 411Q-Which you were showing --

1 A- Yes.

2 412Q-The eight percent (8%) interest --

3 A- Yeah.

4 413Q-The fifteen percent (15%) interest --

5 A- Yeah.

6 414Q-And that they were paying taxes on --

7 A- Right.

8 415Q-Was fictitious income.

9 A- But they were receiving the income. We were paying

10 it out.

11 416Q-Well, you weren't paying out the fifteen percent

12 (15%) and the eight percent (8%).

13 A- Sure, we were. The clients were getting monthly

14 remittances at time, and the eight percent (8%) was

15 going out.

16 417Q-You would never pay out fifteen percent (15%), Mr.

17 Jones, from what we've seen, and you would never pay

18 out fourteen percent (14%) --

19 A- No --

20 418Q-On these accounts.

21 A- I'm sorry, but you showed me a statement for

22 Jackson.

23 419Q-Yes.

24 A- And she would have got fifteen percent (15%).

25 420Q-So, you're telling us that the statements you were

1            sending out were correct, when you're showing that  
2            they've earned this interest? You said before --

3            A- Well, the statements --

4            421Q-They were fictitious.

5            A- The statements were correct, but the - and many of  
6            them, if not all, were getting monthly remittances,  
7            as I'm sure Louise Voyer referred to. And so, in  
8            effect, they were getting the interest.

9            422Q-But the interest you told us that you were showing  
10           was simply a calculation on the computer. It was  
11           fictitious.

12           A- I was sending out the interest to them.

13           423Q-So, you were sending out the interest --

14           A- That's why they --

15           424Q-That was shown --

16           A- That's why --

17           425Q-On --

18           A- That's why --

19           426Q-The statement?

20           A- That's why the cash flow was a problem.

21           427Q-You were sending out the interest which was shown on  
22           the statement.

23           A- Sure, sure, some people didn't. Some people  
24           accumulated it, but, in effect, they did. Some of  
25           these loan agreements that you showed me, they got

1 interest. They had postdated cheques.

2 428Q-Well, I'm not talking about loan agreements --

3 A- Okay, well, just --

4 429Q-I'm talking about --

5 A- Let's go back here.

6 430Q-People whose statements --

7 A- Yeah.

8 431Q-You're showing their monies are in pooled accounts

9 at eight percent (8%).

10 A- Many of them, if not - the majority of them received

11 interest, the interest.

12 432Q-Part of or all?

13 A- The majority received their monthly or whatever the

14 interest was. In the case of this here - I'm just

15 looking - the interest accumulated in there, because

16 it was an estate, but Mrs. Brunet, I guess, if you

17 go through, you'd see that there was payments made

18 to her. She asked for ten thousand dollars

19 (\$10,000.00). We'd send out - give her ten thousand

20 dollars (\$10,000.00).

21 433Q-Alright, so, are you saying that the tax returns

22 that were given to the Bank of Montreal were

23 accurate?

24 A- I would say so. Some of them may...

25 434Q-You're aware that Mr. Whitrod is in the process of

1                   amending all those tax returns, because he believes  
2                   the interest is fictitious.

3           A-     Well, ask --

4           435Q-Are you aware of that?

5           A-     No, is there a chance I could have a break and go --

6           436Q-Yes, sure.

7           A-     To the little men's room?

8           437Q-Yes, certainly.

9

10                                       SHORT ADJOURNMENT

11

12           Me NEIL H. STEIN:

13           438Q-Okay, Mr. Jones, you started to explain that certain  
14                 people were getting what you refer to as their  
15                 interest, but in many cases, in effect, all they  
16                 were doing is getting back their capital, because  
17                 they never ended up getting their capital at the end  
18                 of the day. Isn't that correct?

19           A-     It's one way of looking at it, yes.

20           439Q-Alright, so, the calculation of the income that was  
21                 being shown on those tax returns was fictitious, I  
22                 submit to you. Now, did you, in addition, advise  
23                 people to cash in life insurance policies, so that  
24                 they could provide you with funds, so that you could  
25                 provide them with a higher return than on their life

1 insurance policies?

2 A- There may have been times where I've suggested to  
3 take the cash from an insurance policy, which was  
4 doing nothing.

5 440Q-I show you here, Mr. Jones, a cheque made from  
6 Manulife Financial to Mrs. Marjorie Curtis for the  
7 sum of thirty-eight thousand dollars (\$38,000.00).

8 A- Right.

9 441Q-Would this be an example of one of the cases where  
10 you would have recommended to your client to cash in  
11 her insurance policy, and provide you with the funds  
12 for investment purposes?

13 A- The decision would have been made in her best  
14 interest with the options that she was given to take  
15 the money. The money did come to me, but the  
16 initiation wasn't that I would necessarily end up  
17 with the money.

18 442Q-But the options that you were giving her were that  
19 you would invest the money for her at a specific  
20 return.

21 A- The money would be added to her account, yes.

22 443Q-And if I take a look at her statement which is  
23 attached to that cheque --

24 A- Right.

25 444Q-You'll see that you were showing that you were

1           earning eight percent (8%) interest --

2           A-    Right.

3           445Q-For her.

4           A-    Right.

5           446Q-So, it would only be normal that she would be

6           cashing this in at your recommendation that you were

7           going to provide her with an eight percent (8%)

8           return.  Isn't that correct?

9           A-    No.

10          447Q-That's not correct.

11          A-    No.

12          448Q-Okay, so, what is it?

13          A-    It's related, if I recall, to a pension that she had

14          through the Bell Telephone that her husband had

15          years ago, and they gave her an option which was

16          beneficial tax wise.  The initial decision was it

17          was better off for her to cash in and take her

18          money.

19          449Q-And who dropped this cheque off at your office?

20          A-    She would have.

21          450Q-And what would you - what were you supposed to do

22          with the cheque?

23          A-    Well, we'd deposit it.  We told her that we would

24          deposit it into her in trust account as shown here.

25          451Q-And give her eight percent (8%) interest on it.



1 A- That's right.

2 452Q-When you knew that was fictitious.

3 A- Yes.

4 453Q-Okay, would you produce a copy of that as Exhibit

5 EJ...

6 MR. GILLES ROBILLARD:

7 Ten (10).

8 Me NEIL H. STEIN:

9 454Q-...-10? Now, would you do the same - would you have

10 recommended in various instances that people cash in

11 their RRSP's and give you the proceeds for purposes

12 of investment?

13 A- At times, yes.

14 455Q-Okay, and I show you here a copy of - just ignore

15 the - the first page is a letter dated October 5th,

16 2009, to Scotia McLeod just requesting a copy of the

17 cheque in question. The cheque in question is a

18 cheque dated November 22nd, 2004, in the sum of

19 sixty-one thousand zero eighty-eight sixty-one

20 (\$61,088.61), which was a full withdrawal of this

21 individual's RRSP.

22 A- Right.

23 456Q-You would have recommended that this individual do

24 that for what purpose?

25 A- She was having a difficult time living financially

1 living where she resides, and wanted to stay there.  
2 And I would have explained to her that she could  
3 keep her RRSP, but if she dies, she's going to pay  
4 fifty percent (50%) tax on it, or she could take her  
5 money out and utilize her money to enjoy life, if  
6 she so desired, along with certain family vacations  
7 that she could not afford that she wanted to carry  
8 on with.

9 457Q-So, you advised her to redeem her RRSP and --

10 A- Well, when we looked - when we sat down and went  
11 through, that was her only option if she wanted to  
12 carry on with her station of life that she was used  
13 to living in.

14 458Q-Alright, but --

15 A- That's the only funds she had.

16 459Q-I'm saying if I take a look at the next document in  
17 that package --

18 A- Right.

19 460Q-You'll see there's a letter by Susan Brown to Scotia  
20 McLeod --

21 A- Right.

22 461Q-November 2nd, 2004 --

23 A- Right.

24 462Q-Explaining the circumstances that she met with her  
25 financial administrator, Mr. Earl Jones --

1 A- Right.

2 463Q- "...who reviewed in depth my current  
3 financial situation now and in the  
4 future..."

5 And as you say, for purposes of cash liquidity and  
6 personal reasons, she stated that she was going to  
7 withdraw her RRSP held at Scotia McLeod. And can  
8 you tell us what happened with the funds?

9 A- Well, it went into her trust account.

10 464Q-At?

11 A- With us.

12 465Q-And you were promising to --

13 A- I would think. I don't know. I would think so.

14 466Q-Well, if you take a look at the endorsement on the  
15 cheque, do you see D. Stewart?

16 A- Yes.

17 467Q-Okay, it would lead me to believe that it was  
18 deposited to - or if I take a look at the last page  
19 --

20 A- Yeah, it was deposited to --

21 468Q-Deposited to your trust account.

22 A- Yeah.

23 469Q-Okay.

24 A- Yeah.

25 470Q-So, you would have promised her what interest with

1                   respect to that?

2           A-    The rate that she was getting in her regular account

3                   that was open, which could be eight percent (8%).

4           471Q-Okay, and would you produce that as Exhibit EJ-10?

5           MR. GILLES ROBILLARD:

6                   Eleven (11).

7           MS. JULIE KORMAN

8                   Eleven (11).

9           Me NEIL H. STEIN:

10          .DOQ-I'm sorry, EJ-11. I show you here as well a letter

11                   from Mr. Sangster --

12          A-    Right.

13          473Q-To ClaricO Investment Company Inc. Again, would

14                   this be an example of where you had recommended that

15                   this individual cash in his RRSP and provide you

16                   with the funds for investment purposes?

17          A-    Well, I would not say cash it in and give me the

18                   money. In this case here, Mr. Sangster is a single

19                   person, and I recall that he needed - he wanted some

20                   money. He travels a lot. He's a scientist. And

21                   the bottom line is that he could keep it, not

22                   married, and if he died, he'd be paying "x" number

23                   of dollars, or he takes his money out and utilizes

24                   the funds. And, yes, the money went into our

25                   account.

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474Q-Your account with him which was supposed to provide  
him with a certain return.

A- That's right.

475Q-Okay, would you produce that as Exhibit...

MR. GILLES ROBILLARD:

Twelve (12).

Me NEIL H. STEIN:

476Q-EJ-12? Now, this letter that we just looked at and  
the one that we looked at with respect to Exhibit  
EJ-11, both refer to the fact that you were  
overlooking the financial affairs of these people,  
and that you were their financial "administerer".  
Were you at any time registered with the Autorité  
des Marchés Financiers to act as a financial  
advisor?

A- No, I was not. I was advised a number of years ago  
- I believe there was a change in the rules and  
regulations for individuals providing financial  
consulting, not a financial administrator, but  
financial consulting, my understanding. And subject  
to when you started your business was subject to  
whether or not you had to go and be licensed. And  
my understanding at that time was that starting when  
I did, I did not require a licence.

1 477Q-So, your understanding at the end and in the last  
2 number of years was even though you acted as a  
3 financial administrator or advisor, you did not have  
4 to be licensed.  
5 A- Right.  
6 478Q-Okay, did you ever verify in the last number of  
7 years with the Autorité des Marchés Financiers --  
8 A- No, I don't recall --  
9 479Q-Or the Securities Commission beforehand --  
10 A- I don't recall doing that, no.  
11 480Q-Did you ever verify with the predecessor,  
12 Securities Commission, as to whether you had to be  
13 licensed or not?  
14 A- Years ago, and I don't know when it was, when there  
15 was a change, and there was new stipulations, I  
16 recall being advised that subject to when you  
17 started your practice, it was like being  
18 grandfathered, and I didn't need a licence.  
19 481Q-So, you were of the opinion that you never needed a  
20 licence.  
21 A- Yes.  
22 482Q-Okay, would it be fair to say that you knew the  
23 difference between having funds invested in  
24 guaranteed investments, guaranteed by either the  
25 province or the federal government, and the funds

1           that were invested in your trust account?

2       A-    Yes.

3       483Q-Okay, you, at all times, knew that there was a very

4           big distinction.

5       A-    Yes.

6       484Q-Okay, when you were at Montreal Trust, funds that

7           you were administering, for the most part, would be

8           put into government guaranteed type of investments

9           on behalf of estates in trust.  Is that correct?

10      A-    Correct.

11      485Q-Okay, why was the same not done with respect to your

12           trust account?

13      A-    As a result of requiring monies to take in "x"

14           number of dollars from a client and saying I'm going

15           to give you eight percent (8%), which I wasn't

16           getting, and paying out that eight percent (8%) --

17      486Q-So, that put you in a --

18      A-    There was a cash flow - yeah.

19      487Q-That put you in a position where you could really

20           never make any true investments.  You had to

21           continuously use new money coming in --

22      A-    Well, not --

23      488Q-To support --

24      A-    Not at all times, no, there's many times where

25           monies come in, and funds - for many, many years I

1 worked with RBC Dominion Securities, and they  
2 handled a lot of our clients. And funds would come  
3 in, which were transferred to them. There was other  
4 brokers. I - when I say financial administrator, in  
5 the majority of instances, and I underline the word  
6 "majority", when it came to an insurance issue, when  
7 it came to an investment or buying stocks or bonds,  
8 I always referred to other people.

9 489Q-That would be for specific --

10 A- At times.

11 490Q-Investments for specific clients --

12 A- Yes.

13 491Q-Correct?

14 A- Yeah.

15 492Q-Okay, the vast majority of the funds --

16 A- In the last number of years, stayed in our trust  
17 account.

18 493Q-Stayed in your trust account.

19 A- Yes.

20 494Q-Okay, when do you recall is the last time that you  
21 made a specific investment for a specific client  
22 with either RBC Dominion Securities or Scotia  
23 McLeod?

24 A- I wouldn't make - I want to be clear here. I  
25 wouldn't make the investment per se. I wouldn't say



1 buy, you know, ABC bond fund. I would go to an  
2 investment fund and say a client has got twenty  
3 thousand (\$20,000.00) or fifty thousand  
4 (\$50,000.00). They want to invest it, and we would  
5 send the money to them. The client would meet with  
6 that particular company, and it could be RBC  
7 Dominion Securities. The Gibson's are with another  
8 company that I introduced them to, but I never went  
9 out and said buy this stock or that stock or that --  
10 495Q-I'm not suggesting you did, but you would refer them  
11 to the broker, correct?  
12 A- At times, yes.  
13 496Q-You referred a fair amount of people to Mr. Menard.  
14 A- Mr. Menard or Leclerc.  
15 497Q-Or Leclerc?  
16 A- Yeah.  
17 498Q-Why? Was there any particular reason that you would  
18 refer to them?  
19 A- J.P., well, J.P. and I, Menard, knew each other at  
20 Montreal Trust, and I utilized J.P.'s services,  
21 different brokers where he was, and RBC for thirty  
22 (30) years, thirty-five (35) years. Many of our  
23 clients are still there.  
24 499Q-Okay, and was there any benefit to you in so doing?  
25 A- That I would receive a benefit?

1 500Q-Yes.

2 A- No.

3 501Q-You never received --

4 A- No.

5 502Q-Any benefits of whatsoever nature.

6 A- No.

7 503Q-Okay, did you, at any time, advise any of your  
8 clients that you were using the proceeds of this in  
9 trust account for your own personal purposes?

10 A- I don't recall, no.

11 504Q-You don't recall or you - you don't recall whether  
12 you advised them, or you don't recall advising them  
13 that you were?

14 A- Generally, the answer would be no. There may have  
15 been a time where I would say that, you know, I  
16 wanted to borrow ten thousand (\$10,000.00)  
17 personally or whatever it might be, but, generally  
18 speaking, the answer is no.

19 505Q-Mr. Pierre Courchesne was the accountant for your  
20 corporation.

21 A- Yes.

22 506Q-Can you tell the Court why, at no time, did you show  
23 him the in trust account?

24 A- Well, he would not accept what was happening.  
25 That's why.

1 507Q-You knew he would not accept it.

2 A- I would believe he would not accept what would be  
3 happening, yes.

4 508Q-Okay, and that would have gone right back to day 1  
5 when he started acting for you or almost day 1?

6 A- Yeah, I would - well, I didn't use the trust account  
7 for, you know, I gather, a good three (3) to five  
8 (5) years, but he was the original accountant that  
9 did the books, and the information was given to him  
10 by our staff.

11 509Q-But he, at a certain point in time, received funds  
12 from the in trust account in payment of what he  
13 referred to as his fees for work on behalf of the  
14 corporation.

15 A- Yes, right, of clients, because - well, yes, yes,  
16 well, I would think his bills would have been paid  
17 by the company account.

18 510Q-Well, from what we've seen, his bills were paid from  
19 the in trust account, and, moreover, what we've seen  
20 is he borrowed certain monies from the in trust  
21 account.

22 A- Right.

23 511Q-You recall making him a loan?

24 A- Yes.

25 512Q-Okay, so, he would have received at least one cheque

1                   from the in trust account.

2           A-    Yes, I would think so.

3           513Q-Did he ever ask any questions as to what this in  
4                   trust account is about?

5           A-    No, he never really asked any questions.  I think he  
6                   - well, he never asked any questions.

7           514Q-Would it be true to say, Mr. Jones, that, at certain  
8                   times, you would deposit fees that you would earn to  
9                   the in trust account as opposed to the corporate  
10                  account?  And I'm referring in particular to the  
11                  Brasserie - what was it called?  The...

12          A-    Hymus.

13          515Q-Hymus, right.

14          MR. GILLES ROBILLARD:

15                    Le Manoir.

16          Me NEIL H. STEIN:

17          516Q-Manoir.

18          A-    Well, Le Manoir, yeah, that was the last cheque I  
19                  received, I think, in March or April, and I think it  
20                  was deposited to the in trust account instead of the  
21                  company account.

22          517Q-Right, and you would not have paid any tax on that  
23                  by depositing it to the in trust account.

24          A-    Well, it would have been paid when the company  
25                  returns were filed this year.

1 518Q-I see. So, to date, it hasn't been declared as  
2 income.  
3 A- No.  
4 519Q-Okay, now, your wife received on a regular monthly  
5 basis cheques from the in trust account, correct?  
6 A- I - yes, she did, yeah.  
7 520Q-Okay, did she ever receive cheques from your  
8 corporate account?  
9 A- I would think she did. I would believe she did.  
10 521Q-And when?  
11 A- No idea.  
12 522Q-No idea.  
13 A- It might have been three (3) or four (4) years ago  
14 or what have you.  
15 523Q-Well, we've gone through. We don't see them.  
16 A- Okay.  
17 524Q-I can tell you that much. What was the reason you  
18 were paying her from the in trust account as opposed  
19 to the corporate account?  
20 A- The corporate account didn't have enough monies.  
21 525Q-Okay, was there any other reason?  
22 A- No.  
23 526Q-There was no other reason, for example, that she  
24 would have had to have paid tax on the money coming  
25 out of the in trust - coming out of the corporate

1 account?

2 A- If I had made a cheque to her out of the corporate  
3 account, it would have been classified as a draw on  
4 my behalf.

5 527Q-So, you would have had to pay --

6 A- Yes.

7 528Q-Money on it.

8 A- Yeah.

9 529Q-Okay.

10 A- I would think so, yeah.

11 530Q-Okay, and by doing these payments through the in  
12 trust account, neither you nor her paid taxes on  
13 those amounts.

14 A- I did not pay taxes, and she would not have paid  
15 taxes on it.

16 531Q-Right.

17 A- No, it was the utilization of other people's monies,  
18 obviously.

19 532Q-Now, there was various cheques from the in trust  
20 account on a regular basis made out to employees for  
21 cash. Do you recall that?

22 A- Yes.

23 533Q-What was the purpose of that?

24 A- That was bonuses that I was paying them.

25 534Q-Aside from bonuses that were being paid to them in

1 cash, there seems to be other regular monthly  
2 amounts that were cheques made to cash, which  
3 employees said they would go and cash at the bank.

4 A- Right.

5 535Q-What was the purpose of those funds?

6 A- That was additional monies over and above their  
7 regular salary.

8 536Q-Well, they claim that it was not for them. They  
9 claim that a certain amount of this cash would be  
10 kept by you.

11 A- Well --

12 537Q-Is that true?

13 A- There's monies that, from time to time, they would  
14 go and get cash for me on a personal basis, but  
15 there was also cash paid to some of our clients.

16 538Q-Okay.

17 A- Instead of getting a cheque for their interest, they  
18 wanted it in cash.

19 539Q-Okay, who would have wanted their interest in cash?

20 A- Some clients, some clients would have wanted it in  
21 cash.

22 540Q-Well, who would be distributing this money to them  
23 in cash?

24 A- We would. I would. I would distribute it to them,  
25 or the girls would get it and give it to them in

1 cash. Clients would sometimes come in and say,  
2 look, I need a thousand dollars (\$1,000.00) for this  
3 or I need "x" number of dollars a quarter, and I'd  
4 like it in cash.

5 541Q-Your employees said that, in respect of these cash  
6 payments, these cheques made to cash, that they were  
7 receiving the cash, that there would always be a  
8 surplus that you would keep in a safe.

9 A- We kept some - well, we kept a couple of dollars in  
10 the safe, five hundred (\$500.00) or a thousand  
11 dollars (\$1,000.00), nothing extraordinary and --

12 542Q-And what happened with that cash?

13 A- That cash was used for clients who would come in and  
14 --

15 543Q-And did you ever use any of that cash for yourself?

16 A- There's times that I used cash out of the in trust  
17 account. It was mostly from my Royal Bank in trust  
18 card, my debit card.

19 544Q-Okay, would it be true to say that almost your  
20 entire lifestyle was paid from funds over the years  
21 out of the in trust account? And when I'm talking  
22 about your lifestyle, I'm talking about the support  
23 of your condominium here in Montreal, Mont  
24 Tremblant, Florida, the support of the condominium  
25 in Hyannis for your daughter.



1 A- Well, if you - you can see from the trust account,  
2 I have put quite a bit of money back in through  
3 remortgaging and --

4 545Q-Well, you purchased with trust account money.

5 A- Yeah.

6 546Q-You supported the mortgages with trust account  
7 money.

8 A- Right.

9 547Q-You paid the condominium fees with trust account  
10 money.

11 A- Right.

12 548Q-You then went and remortgaged the property, and used  
13 some of it or all of it and put it back into the  
14 trust account to continue to use it.

15 A- Right, well, I wouldn't say all of my living costs  
16 came from the trust account. There's money that  
17 came out of the corporate account. I used to have  
18 a draw. I recall thirty (\$30,000.00), sixty  
19 thousand (\$60,000.00) a year, whatever it was.

20 549Q-Thirty (\$30,000.00) or sixty thousand (\$60,000.00),  
21 but your --

22 A- Or sixty thousand (\$60,000.00) a year, but the rest  
23 would have come from the trust account.

24 550Q-Alright, now, your lifestyle that we're talking  
25 about was the support of a condominium in Dorval in

1 later years, the support of a property in Mont  
2 Tremblant, the support of a condominium in Florida,  
3 in Boca Raton, the support of your daughter's  
4 condominium in Hyannis, the payment of your personal  
5 clothing and furnishings of these homes, the payment  
6 of your travel to and from Boca Raton, to and from  
7 Boston and Hyannis. All that would be coming out of  
8 the in trust account.

9 A- A lot of it did.

10 551Q-Okay, the payment of your golf courses would come  
11 out of the trust account. Is that correct?

12 A- At times, yeah.

13 552Q-Okay, now, you mentioned that you had a Royal Bank  
14 Visa account or debit account, I'm sorry, debit  
15 card.

16 A- That's right.

17 553Q-Is that correct? Can you explain to the Court what  
18 was this debit card that you're talking about?

19 A- The Royal Bank debit card on the Earl Jones in trust  
20 account.

21 554Q-And when was that debit card issued? Do you recall  
22 in what year?

23 A- When I opened up the account going back probably -  
24 it was 1988, you said, the trust account was opened?

25 555Q-In 1988.

1 A- I would have got a debit card then.

2 556Q-Right away.

3 A- They would have given me - I think so.

4 557Q-Okay, and you had no problem taking out funds in

5 cash with that debit card from the beginning right

6 up until the end. Is that --

7 A- No.

8 558Q-Correct? Is that correct?

9 A- That's correct.

10 559Q-Okay, did you have any other types of credit cards

11 that were being paid from by this trust account?

12 A- No, the monies that I gave my wife, she would pay

13 for the cards that we had.

14 560Q-Well, let's go through the cards that you had.

15 A- There may have an American Express that I --

16 561Q-Well, there's --

17 A- A card.

18 562Q-There's more than one American Express.

19 A- That's right.

20 563Q-Okay, one second, we'll turn to those right now.

21 Okay, the first American Express card which I see is

22 a gold card in your name, account number 3735627306-

23 22006. Do you recall that card?

24 A- I don't recall the number, but the gold card I do.

25 564Q-Okay, well, we have various summaries for various

1           years, and you can flip through them very quickly  
2           and see the summaries for travel, for rental of car,  
3           for lodging, for meals, etc. And you've got the  
4           years 2000, 2001, '02, '03, '04, '05, '06, '07, and  
5           the last statement is in 2008. Just take a look at  
6           that for a moment. Were those accounts paid from  
7           the in trust account?

8           A- The gold card, I used to pay at times from the in  
9           trust account, and the other cards I used --

10          565Q-Well, we'll come - one by one, we'll --

11          A- Is this the gold card here?

12          566Q-That's the gold card.

13          A- At times, I paid it from the in trust account.

14          567Q-If I take a look very briefly at these accounts, and  
15               we're not going to go through them right now item by  
16               item, but if I take a look at the last one, which is  
17               January, '08, up until September, '09, I see on the  
18               first page of January, '08, as an example, 40 West  
19               Sources Road, I presume, in Pointe Claire. That's  
20               a restaurant, I believe, on the West Island. Is  
21               that correct?

22          A- I believe so, yeah.

23          568Q-A bill of seven hundred and fifty-nine dollars and  
24               sixty-four cents (\$759.64).

25          A- What date was that?

1 569Q-That is December 19th, 2000 and... - I presume 2007.  
2 A- Right.  
3 570Q-Alright.  
4 A- Hmm-hmm.  
5 571Q-And we see various --  
6 A- It would have been a Christmas party for the office.  
7 572Q-Okay, then we see various other things such as  
8 Rendez-Vous Mont Tremblant. We see IGA Mont  
9 Tremblant. We see Marché Chèvrefils Mont Tremblant.  
10 Then, we see Delta Airlines, Air Canada, either to  
11 Fort Lauderdale or to Boston Logan. And then, we  
12 see various car rentals, etc. All of that would be  
13 for your personal use. Is that correct? When you  
14 went to Florida, it was for your personal  
15 condominium. And when you went to Boston, it was to  
16 see your daughter, I presume, in Cape Cod.  
17 A- It was - at times, I was chairman of the - two (2)  
18 of the programs for the learning disabled down  
19 there. So, I, at times, went to various meetings.  
20 And other times, it would have been to see Kim,  
21 yeah, my daughter.  
22 573Q-Okay, but it's all personal. It's not - nothing  
23 related to the in trust account.  
24 A- Business --  
25 574Q-It's nothing that you're going on behalf of clients

1           who have money in the in trust account.

2           A-   Not really, no.

3           575Q-Okay, and then when I see purchases at Talbots  
4           stores in Boston or Puritan stores on Cape Cod,  
5           those would be for purchases for you and your wife  
6           of clothing, I presume, or for your children.  Is  
7           that correct?

8           A-   Personal, yes.

9           576Q-Yes, and Palm Beach Golf Club in Boca Raton, that  
10          would be for yourself personally.

11          A-   Yes.

12          577Q-And Club Link Corporation, I presume, which deals  
13          with golf clubs, that would again be personal.

14          A-   Yes.

15          578Q-Okay, Ritz Carlton Hotel in New York, what would  
16          that have been about?

17          A-   That was a special family event.

18          579Q-That was your family event?

19          A-   Yes.

20          580Q-Okay.

21

22

OFF RECORD REMARKS

23

24          Me NEIL H. STEIN:

25          581Q-Now, when I see in May of 2008 Air Canada to

1 Vancouver and Pan Pacific Vancouver, can you explain  
2 to the Court what that was about?

3 A- That was a personal trip, a personal family trip.

4 582Q-And that had to --

5 A- My brothers, my brothers, yeah.

6 583Q-Okay, that had to do with a cruise that was being  
7 taken?

8 A- That's right.

9 584Q-So, when I see Diamond Princess, Los Angeles, for  
10 seven thousand two hundred and seventy-nine  
11 (\$7,279.00) or seven thousand ninety-seven  
12 (\$7,097.00) U.S., that has to do with that personal  
13 cruise?

14 A- Yes.

15 585Q-And all this was paid from the in trust account.

16 A- Well, as I say, some of - I used to pay some from  
17 the company account, and my wife would pay it from -  
18 so, I gather it's - most of it was from the trust  
19 account.

20 586Q-Now, Mr. Jones, you personally had various insurance  
21 policies. Do you recall that?

22 A- Yes.

23 587Q-Okay, at various times in your life, okay.

24 A- Right.

25 588Q-Can you tell the Court when you started cashing in

1           those insurance policies?

2       A-    Over the last two (2) or three (3) years.

3       589Q-And why would you have started to cash in those

4           insurance --

5       A-    Because I needed money.

6       590Q-You needed money?

7       A-    Yeah.

8       591Q-Okay, so, it would be true to say that, in the last

9           two (2) or three (3) years, you knew that you were

10          starting to have problems --

11       A-    Yes.

12       592Q-And could not carry on --

13       A-    Yes.

14       593Q-What I'd refer to as basically a Ponzi scheme,

15          correct?

16       A-    I was having problems.

17       594Q-Yes, now, Mr. Jones, I show you here a list of

18          insurance policies, and I'm not quite sure who

19          prepared this, but could you tell us who would have

20          prepared this list?

21       A-    I would think London Life prepared it.

22       595Q-London Life prepared it for you?

23       A-    I would think so, not to me, probably to Bob

24          Spencer, my insurance broker.

25       596Q-Okay, do you recall if you would have asked for this



1           printout to be prepared?

2       A-    Do you know the date of it?

3       597Q-No, I don't.

4       A-    Well, but I guess three (3), four (4) months ago.

5            I was working directly with London Life to see what

6            cash was available.  They may have pulled it off

7            then.

8       598Q-Okay.

9       A-    And may have sent it to Bob, Bob Spencer.

10       599Q-Well, I see in the last column, which is "Comments",

11            it refers to the cash loan balances --

12       A-    Right.

13       600Q-At various dates --

14       A-    Right.

15       :\Q-Which run up to June 23rd, 2009.

16       A-    Right.

17       602Q-Do you recall whether this would have been done

18            prior to or after June of 2009, June 10th of 2009 -

19            June 23rd of 2009?

20       A-    June 23rd, was that the last date that was on there?

21       603Q-Well, if I see the third comment down --

22       A-    I would say that it was done - I approached London

23            Life after the business was closed to cash in or to

24            determine what was available, what options I had, to

25            keep these policies in force.  So, I would have

1           thought they'd pull that off at that time, and I  
2           don't recall getting a copy of that.

3           604Q-Okay, would you produce that list of insurance  
4           policies as Exhibit EJ-13?

5           A- Am I allowed to ask a question?

6           605Q-Certainly.

7           A- Have they all been cashed in now, these, or...

8           MR. GILLES ROBILLARD:

9           606Q-Yes, yes, they have.

10          Me NEIL H. STEIN:

11          607Q-Now, do you recall an insurance policy that you had  
12          with Standard Life?

13          A- Standard Life could have been an insurance, or it  
14          could have been an RRSP. I don't know.

15          608Q-Okay, well, I show you here a copy of a cheque from  
16          Standard Life to yourself --

17          A- Right.

18          609Q-Dated - what's the date on this? It seems to be  
19          June - I can't really - the processing date, I  
20          believe, is June 23rd, 2009, in the sum of twenty-  
21          three thousand seven twenty-one (\$23,721.00) made to  
22          yourself.

23          A- That would have been an RRSP withdrawal.

24          610Q-Okay, and would you take a look at this cheque for  
25          a moment?

1 A- Hmm-hmm.

2 611Q-And look at the endorsement on the cheque.

3 A- Yeah.

4 612Q-What does it read?

5 A- "Pay over to Maxine Jones."

6 613Q-Pay over, okay, that's the word, pay over to Maxine

7 Jones.

8 A- Yeah.

9 614Q-Can you tell me what you would have done with this

10 cheque?

11 A- Well, it indicates there. Maxine deposited it to

12 account 5022015, which would have been probably the

13 Royal Bank at Dorval Shopping Centre.

14 615Q-So, that would be her account. Is that correct?

15 A- Yeah, but she had - I believe she had her own

16 personal account, and she had a joint account. That

17 could be a joint account.

18 616Q-Well, let's check. 50229 is her personal account.

19 502205 appears to be your joint account with her.

20 I believe this would --

21 A- So, this was the joint account.

22 617Q-This is for the joint account.

23 A- Yeah.

24 618Q-Okay, can you tell the Court what happened with this

25 money?

1 A- Well, it went into the account. I would think she  
2 used it to pay the Visa bill or bills that we had to  
3 pay.  
4 619Q-So, she was the one who would issue cheques on that  
5 account?  
6 A- Yeah.  
7 620Q-Okay, never you?  
8 A- I never had a chequebook or anything.  
9 621Q-Okay.  
10 A- Well, I mean she may have given me a cheque which I  
11 may have signed, but would I issue - would I utilize  
12 the account or issue cheques? No.  
13 622Q-Okay, would you produce a copy of that as EJ-14?  
14 MR. GILLES ROBILLARD:  
15 Yes.  
16 Me NEIL H. STEIN:  
17 623Q-Now, Great West Life, did they hold your RRSP - I'm  
18 sorry, they were --  
19 A- They held our general health insurance plan for our  
20 company.  
21 624Q-Okay, did they hold any other insurance for you?  
22 A- Well, it was a package where you had disability,  
23 health insurance, and life insurance, and dental.  
24 625Q-Okay, Great West issued various cheques to you.  
25 A- They would have been paying Maxine's prescriptions

1                   and so on.

2           626Q-In December of '08 for nineteen thousand dollars

3                   (\$19,000.00), I show you here --

4           A-    December of '08 would have been - December of '08

5                   could have been her accident we had in Florida,

6                   where she was - we would have made a claim there.

7           627Q-Okay, so, that's related to a claim. That has

8                   nothing to do with cashing in of insurance policies.

9           A-    No, no, no, no, this had - I don't recall having any

10                  insurance policies or anything with Great Life.

11          628Q-When did you first advise your wife that you were

12                  having financial difficulties?

13          A-    When - I guess June of this year, when they - when

14                  I closed the door.

15          629Q-Before that, you never had any discussions with her?

16          A-    No, no.

17          630Q-None whatsoever.

18          A-    None whatsoever.

19          631Q-I'm going to request that we stop for the morning

20                  now and come back, as opposed to two o'clock (2:00),

21                  come back - it's quarter to twelve (11:45), maybe a

22                  quarter to two (1:45), if that's okay with you.

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OFF RECORD DISCUSSION

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THE WITNESS:

I don't know if this should be said, but I would like to say a couple of personal things. I mean it could be documented, but you know I have a problem in travel. I mean I have a problem with numerous threats, alright. So, I'd like to, you know, know what's - you know, what is happening, whether people have been advised or creditors have been advised, you know.

OFF RECORD DISCUSSION

N O O N R E C E S S

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A F T E R N O O N S E S S I O N

THE WITNESS IS UNDER THE SAME OATH.

CONTINUATION OF EXAMINATION BY Me NEIL H. STEIN

on behalf of the Trustee:

632Q-Mr. Jones, do you recall, in the latter part of the operation of your business or perhaps just after you stopped operating your business, preparing a letter

1           that you entitled a "Letter of Help"? First of all,  
2           I'm showing you here a handwritten one (1), two (2),  
3           three (3), four (4), five (5), six (6), seven (7)  
4           page document, which appears to be in your  
5           handwriting.

6           A- Yes.

7           633Q-Do you identify that as your handwriting?

8           A- I do.

9           634Q-Okay.

10          A- Can I ask a question?

11          635Q-Yes.

12          A- Where was this obtained?

13          636Q-This was obtained from one of your files in the  
14           office.

15          MR. GILLES ROBILLARD:

16                        No.

17          A- No, it was not.

18          Me NEIL H. STEIN:

19                        No?

20          MR. GILLES ROBILLARD:

21                        It was obtained from a series of files that  
22           were taken from the condo.

23          A- Or was it obtained from the photocopy?

24          637Q-No, it was taken from - there was a series --

25          A- The fax machine?

1 638Q-No, there was a series of files in your condo --  
2 A- Okay.  
3 639Q-In Dorval.  
4 A- Okay.  
5 640Q-That is where the document was.  
6 A- This letter I did write, and it never went out.  
7 Me NEIL H. STEIN:  
8 641Q-Okay, but let's look at the first page, which isn't  
9 the letter, which seems to be a summary of various  
10 things. One, I see at the top E.J., which I presume  
11 is yourself. And then, I can't read the writing.  
12 A- For follow-up.  
13 642Q-Oh, for follow-up, is that what it is? Okay, the  
14 first thing is Kim. I presume that refers to your  
15 daughter --  
16 A- Right.  
17 643Q-In Hyannis. There are certain numbers there, a  
18 phone number and certain names.  
19 A- Yes.  
20 644Q-And would you tell me what the follow-up was to be  
21 with respect to this individual?  
22 A- Bill McKelvie took over as chairman. I was chairman  
23 of the Life program, and Bill was vice-chair. So,  
24 I had talked to Bill about obviously resigning. And  
25 Ken Nickerson, who is on your far right, he was - he



1           and I were very instrumental in turning around that  
2           program. And Ken has a personal foundation in the  
3           U.S.A., and basically I had asked Ken if he could  
4           help in somehow, some way, looking after some of the  
5           expenses outstanding for Kimberly.

6           645Q-Okay, would you tell me when this document was  
7           prepared?

8           A- The document was prepared at the condo. When did  
9           you ask me to leave the condo? Do you remember?

10          MR. GILLES ROBILLARD:

11          646Q-September 11th, I believe.

12          A- It would have been prepared in August, I would say.

13          Me NEIL H. STEIN:

14          647Q-In August of 2009.

15          A- Yes.

16          648Q-Okay, alright, so, now, under that, we have a dollar  
17          sign, then owing, status, and options. I presume --

18          A- That related to Kim's. At --

19          649Q-Right.

20          A- Kim's program, there was cheques that I had wrote,  
21          and the Royal Bank had put stop payments on them.  
22          So, there was some fees outstanding and some condo  
23          expenses, I think some taxes or condo fees. And the  
24          status and option was that I was going to ask Bill,  
25          which I did, quite frankly, if there was anything

1           that the Life program could do to be able to keep  
2           our daughter there for the rest of the year.

3           650Q-Okay, under that, you have condo and contents and  
4           then tainted. It's marked tainted with two (2)  
5           question marks.

6           A- That's a comment that - as you know, I first went to  
7           see Richard Shadley, and what came up at - my first  
8           lawyer was Richard Shadley.

9           651Q-Right.

10          A- And then, that came --

11          MR. GILLES ROBILLARD:

12                            Hold on a second.

13          A- Anyway, what you've - the contents and the condo,  
14           when I say tainted was Richard, then his staff, and  
15           then Jeff after that said, you know, whether it's  
16           any of the condos or contents of the condos, they're  
17           bought with tainted money.

18          Me NEIL H. STEIN:

19          652Q-Okay.

20          A- And there was a question mark as to whether they  
21           were or not, in my opinion.

22          653Q-Okay, then, MPJ, that --

23          A- That's Maxine.

24          654Q-I presume is Maxine.

25          A- Yes.

1 655Q-And the first item on it is divorce.

2 A- It was suggested when I went to see Norton Segal.

3 It was recommended by Richard Shadley that - I had

4 a half an hour appointment with him. A comment was

5 made it's probably better off your wife gets a

6 divorce.

7 656Q-And probably better off your wife gets a divorce

8 from you for what particular reason?

9 A- You know what? At that time, I didn't - his

10 comments were: You'll have a heart attack, your

11 family will leave you, and your wife will divorce

12 you, and maybe it's better off, so...

13 657Q-Alright, and then we see houses again tainted. So,

14 that refers to the houses, I presume, in Dorval,

15 Mont Tremblant --

16 A- Yeah.

17 658Q-And --

18 A- Yeah.

19 659Q-Boca Raton.

20 A- Yeah.

21 660Q-Okay, and also you have furniture, apartment, and --

22 A- Yeah, that was just --

23 661Q-Auto in Florida.

24 A- Yeah.

25 662Q-Okay, then we see B.E.J., and that I presume is you.

1 A- That's right.

2 663Q-What is the first --

3 A- Legal Aid.

4 664Q-Worth something it says. Worth, is that what it

5 says? No, Legal Aid I saw. Then, there's Chaplan,

6 Chaplan, I believe.

7 A- Worth, it was a personal comment I made going all

8 through --

9 665Q-Oh, worth.

10 A- Yes, it's the personal situation, you know.

11 666Q-Okay, past, present, and future, and then dollars,

12 rental, rental, is that it?

13 A- Rent, lawyer.

14 667Q-Rent, lawyer, okay.

15 A- That was the result of the letter, I think, you sent

16 me saying that if I stayed at the condo, I would

17 have to pay rent.

18 668Q-Okay, and then place to stay and hospital - back;

19 okay, now, if we come to the next - what I refer to

20 as the letter of help, this was a letter which you

21 drafted. There are various references in there to

22 the wrongful hurt that you've caused, etc. This

23 letter almost sounds like it's a confession of your

24 crimes, so to speak, that you wanted to send out to

25 various people. What was the purpose of this

1 letter?

2 A- The purpose of the letter which, in retrospect, was  
3 probably ridiculous, was to - I was looking to  
4 sending it out to people that I considered very  
5 close friends, especially that related to Riverview  
6 School where my daughter went and for the Life  
7 program, with the hope that they would maybe rally  
8 around me and put some money in to pay my victims.  
9 That's the purpose of the letter.

10 669Q-I see, okay. And you say, so, this was never - you  
11 never sent this letter out to any person.

12 A- No.

13 670Q-Okay, would you produce - well, mind you, before you  
14 produce it, I'm going to ask you to produce that as  
15 part of several letters. There was another letter  
16 or another part of that letter, which I'm going to  
17 show you, which I presume was a list of the people  
18 whom you partially intended to send this letter to.  
19 And at the bottom of the letter, you purport to want  
20 to raise about thirty (30) million dollars.

21 A- Right.

22 671Q-If I see at the bottom, three hundred (300) times  
23 one hundred thousand (\$100,000.00). Was that your  
24 guesstimate of the amount of damage that had been  
25 caused and funds lost?

1 A- Yes.

2 672Q-Okay.

3 A- I think so. Yeah, I guess so.

4 673Q-Okay, would you produce those two (2) documents, en  
5 liasse, as Exhibit...

6 MR. GILLES ROBILLARD:  
7 Fifteen (15).

8 MS. JULIE KORMAN:  
9 Fifteen (15).

10 Me NEIL H. STEIN:  
11 674Q-Fifteen (15), EJ-15? In this letter, you state that  
12 you'll face your punishment for the crimes that  
13 you've committed. The crimes that you're referring  
14 to were obviously the use of other people's money.  
15 Is that what you were referring to there?

16 A- That's right.

17 675Q-Now, Mr. Jones, I want to go back to the issue of  
18 the banks. Can you tell the Court what banks you  
19 dealt with in the latter years of your business?

20 A- The Royal Bank, the Royal Bank in trust account, the  
21 Bank of Montreal, which was my corporate account,  
22 and the last year or last six (6) months, there was  
23 an in trust account at the Bank of Montreal.

24 676Q-Okay, we'll come to that in a second. If I can just  
25 perhaps list the accounts --

1 A- Yes.

2 677Q-Because I have a list of them, and you can tell me  
3 if we're talking about the same accounts. You had  
4 a personal account at the Bank of Montreal, Pointe  
5 Claire branch, number 3090654, that appears to be  
6 opened February 3rd, 1988. That would have been  
7 your personal account for your personal affairs. Is  
8 that correct?

9 A- I had a personal account there. I'm not sure of the  
10 numbers, but I would say it's correct.

11 678Q-Okay, there then was another account called the Earl  
12 Jones Consultant and Administration Corp. account at  
13 the Bank of Montreal, Pointe Claire branch, number  
14 1021241. That account was opened on August 25th,  
15 2008. Do you recall that?

16 A- Well, I recall that we have an Earl Jones - that's  
17 Earl Jones Consultant and Administration?

18 679Q-That's your corporate.

19 A- Yes, corporate account.

20 680Q-Earl Jones Consultant and Administration Corp. --

21 A- But I thought that was opened far ahead than 2008.

22 681Q-I'll show it to you in two (2) seconds. I'm just  
23 going to run through --

24 A- I'm not saying --

25 682Q-No, no --

1 A- No, no --

2 683Q-I'm just going to run through the accounts --

3 A- Okay --

4 684Q-And then, I will show you --

5 A- There was an account --

6 685Q-And we'll go through them one by one. The next one

7 was you had an Earl Jones and Maxine Jones joint

8 account at the Royal Bank of Canada, number 5022025.

9 That's the one that you referred to before.

10 A- Yes.

11 686Q-Then, your wife Maxine had an account at the Royal

12 Bank of Canada, number 500229. Then, we had the

13 Earl Jones in trust account at the Royal Bank of

14 Canada, and that one was number 5266622.

15 A- Yes.

16 687Q-That's the primary account that we've been talking

17 about.

18 A- Yes.

19 688Q-Okay, where most of the funds up until August of

20 2008 were deposited.

21 A- Yes.

22 689Q-Correct? Okay, then you had an Earl Jones

23 Consultant and Administration Corp. at the Royal

24 Bank of Canada, Beaconsfield, number 101-235.

25 A- That was opened early in August of '08 or '09 or



1           something. That was opened for maybe a year. That  
2           was the one that --

3           690Q-Correct --

4           A- Was supposed to replace the in trust account.

5           691Q-Correct.

6           A- Yes.

7           692Q-Then, you had an account, and this one we'll come to  
8           in a second, an account at the Bank of Montreal  
9           which was opened August 25th, 2008. The account,  
10          from the documents we've seen, are opened in the  
11          name of Earl Jones Consultant and Administration  
12          Corp., yet your cheques which bear that number bear  
13          the name Earl Jones in trust, and I'll come to the  
14          documents in a second. So, that is the account that  
15          you're saying was the new, according to you, Earl  
16          Jones in trust account at --

17          A- That's right.

18          693Q-The Bank of Montreal?

19          A- That's right.

20          694Q-Okay, then you had another account, Earl Jones  
21          Consultant and Administration Corp., opened at the  
22          Bank of Montreal on August 25th, 2008, under number  
23          1021241. So, there were two (2) accounts that  
24          appeared to be opened at the Bank of Montreal in  
25          August of '08. Both, according to the records we

1           have, are corporate accounts, although, one of them,  
2           the cheques are printed Earl Jones in trust.

3           A-    Right.

4           695Q-So, we'll come to that in a second.  Now, did you  
5           have any affairs with the Bank of Bermuda?

6           A-    Yes, many, many years ago.

7           696Q-Okay, and did you have an account at the Bank of  
8           Bermuda?

9           A-    Many years ago.

10          697Q-And the account was in your name and your wife's  
11          name?

12          A-    I believe so.

13          698Q-Okay, and can you tell the Court what that account  
14          was about?

15          A-    A number of our clients came to me and wanted to put  
16          money offshore.  I think it was around the time  
17          where Quebec was going through the initial  
18          referendum, separation issue.  And I worked with an  
19          investment firm salesperson in Montreal, who did a  
20          lot of offshore accounts, and ended up, I believe,  
21          in England.  I have no idea where he is now or what  
22          he's doing.  And he opened up a number of accounts  
23          for clients, which were all documented by the  
24          clients and since closed.

25                           And unknown to me, he opened up an account for

1 me and put in, I think, something like three  
2 thousand dollars (\$3,000.00). And I remember  
3 getting the statement and saying, you know, what's  
4 this all about, and he says, oh, well, you had  
5 given me some good referrals. So, I thought I'd do  
6 you a favour and open up the account. That account  
7 was closed and --

8 699Q-When was that account closed?

9 A- I'm saying a good five (5) to ten (10) - five (5)  
10 years, ten (10) years ago. The Bank of Bermuda, and  
11 I'm not an offshore account expert, quite frankly,  
12 but the Bank of Bermuda, because of apparently  
13 offshore tax laws, transferred their - and I'm  
14 saying, their head office to the Bank of Bermuda  
15 Ireland, where I think a lot of offshore accounts  
16 operate. And at that particular time, all those  
17 accounts were closed.

18 700Q-Okay, statements for that account were sent to your  
19 house on a regular basis?

20 A- Yes.

21 701Q-Okay, do you remember the name of the person who  
22 referred you to the Bank of Bermuda?

23 A- Mr. Lemus, Frank Lemus.

24 702Q-Okay.

25

1 Me DONALD R. MICHELIN:

2 703Q-From where? Where does he leave?

3 A- I have no idea. The last time I knew, he was in  
4 Europe. And the last time I probably talked to him  
5 or heard about him was twenty (20) years ago.

6 Me NEIL H. STEIN:

7 704Q-Now, we'll deal with the actual accounts for the  
8 moment. And these, unfortunately, I did not make  
9 copies of, because they are so voluminous, but we  
10 will, for purposes of the record, after this  
11 Examination, produce copies of them.

12 The first document that I'm going to show you  
13 is when you originally opened up the Earl Jones in  
14 trust account at the Royal Bank of Canada, and we've  
15 referred to it before, on June 21st, 1988. And I  
16 would just ask you - we produced that as - we're  
17 going to be producing that as EJ-2. Would you just  
18 identify your signature?

19 A- That's my signature.

20 705Q-Okay, the rest is internal stuff from the bank.

21 Again, so that the record is clear, when you opened  
22 this account, you said you didn't recall whether it  
23 was first opened up at the Royal Trust and then it  
24 was shifted over to the Royal Bank when they  
25 acquired the Royal Trust. Just to be clear, when

1           you signed this signature card, do you recall  
2           whether you went to the branch to sign it?  
3       A-    Yes, I would - I believe I went to the branch to  
4           sign it.  
5       706Q-Okay, and do you recall whom you would have met at  
6           the time?  
7       A-    No, the staff, which I'm sure you appreciate,  
8           changes hands so much.  
9       707Q-I'm sure.  Okay, when you opened this account, again  
10           for purposes of the record to be clear, did anybody  
11           ask you what this account was for?  
12       A-    No.  
13       708Q-Did you, at any time, tell them what --  
14       A-    No.  
15       709Q-This account was for?  
16       A-    No.  
17       710Q-Did you, from the period June 21st, 1988, up until  
18           the summer of 2008, ever have an inquiry from  
19           anybody as to what this account was for?  
20       A-    No.  
21       711Q-Did you, during that entire period, ever have  
22           anybody question any of the deposits being made to  
23           the account?  
24       A-    No.  
25       712Q-Did you have any questions from anybody with respect

1           to amounts being withdrawn from the account?

2           A-    No.

3           713Q-Did you - do you recall, and I think your answer

4           this morning was that you thought it was from the

5           beginning, when you received the debit card on this

6           account?

7           A-    The debit card, I would have received it about two

8           (2) weeks maybe after I opened the account.

9           714Q-Okay, and nobody ever questioned you as to why you

10          need a debit card on a trust account.

11          A-    No, it was offered to me.

12          715Q-It was offered to you.

13          A-    Yes.

14          716Q-At the time that you opened the account?

15          A-    Yes.

16          717Q-Well, how do you recall that as opposed to not

17          recalling --

18          A-    Because the girls I recall saying: Do you want a

19          debit card? They offered you a debit card.

20          718Q-Okay.

21          A-    I mean that's, to a great extent, no different than

22          what you see today. You open an account, and the

23          next day you get Visa cards and debit cards, but

24          anyway...

25          719Q-Well, I know when we open our trust account, we

1 don't get debit cards on the trust account.

2 A- Okay.

3 720Q-Were you surprised to receive a debit card on the  
4 trust account?

5 A- No.

6 721Q-Okay, were you at any - I'm sorry? Were you, at any  
7 time, asked to complete what is referred to as a  
8 Know Your Client form, KYC form, with respect to  
9 this account?

10 A- No, I don't recall.

11 722Q-You don't recall if you were, or you don't recall  
12 ever completing one?

13 A- I don't recall ever completing, and I don't recall  
14 ever being asked.

15 723Q-Okay.

16 A- There were calls that I received from the Royal  
17 Bank, and mostly it was, you know, you've got a  
18 large balance in this account. You're not getting  
19 any interest. Why don't you come in and see us, and  
20 maybe we could set up some - there's some way we can  
21 give you interest on the account? That was the only  
22 - that was the main crux.

23 724Q-Okay, and would anybody have ever said to you these  
24 monies are being held in trust and - or it was just  
25 a reference to this account was as if it was your

1 account?

2 A- No one ever said anything to that effect to me.

3 725Q-Okay, when was the first time you opened or  
4 requested to open a corporate account at the Royal  
5 Bank of Canada?

6 A- The first time was when they told me - was it  
7 August, August, '08, or whatever it was --

8 726Q-August --

9 A- When they told us that they had to change the  
10 format, and that's when the corporate account was  
11 opened thereafter, whatever date. I don't know.

12 727Q-Okay, I show you here a Royal Bank - excuse me, off  
13 the record for a second.

14

15 OFF RECORD DISCUSSION

16

17 Me NEIL H. STEIN:

18 728Q-Okay, I show you here, Mr. Jones, what is referred  
19 to as the Royal Bank of Canada Client Agreement,  
20 several pages, completed on behalf of Earl Jones  
21 Consultant and Administration Corporation dated July  
22 24th, 2008. Would you tell me if that's your  
23 signature on the first page?

24 A- Yes, it is.

25 729Q-Okay, would you tell me if that is your signature --



1 A- Yes, it is.  
2 730Q-On the third page, and whose signatures appear under  
3 that?  
4 A- That's Debra Stewart and...  
5 731Q-Nancy Wynands.  
6 A- Nancy, yeah.  
7 732Q-Okay, and that is the corporate account that was  
8 opened in the summer of 2008 at the Royal Bank of  
9 Canada, which you say the Royal Bank requested that  
10 you open.  
11 A- Yes.  
12 733Q-Okay, I'd ask you to produce that account as  
13 Exhibit...  
14 MS. JULIE KORMAN:  
15 EJ-16.  
16 Me NEIL H. STEIN:  
17 734Q-EJ-16; at the time of opening up that account, do  
18 you recall receiving from the Royal Bank of Canada  
19 this disclosure and agreements related to personal  
20 deposit accounts?  
21 A- I don't recall receiving this. It may have been  
22 received by the girls at the office. I've never  
23 seen that.  
24 735Q-You've never seen that.  
25 A- No.

1 736Q-Okay, do you recall seeing what is referred to as  
2 the Royal Bank business service agreement?

3 A- No.

4 737Q-You don't recall ever seeing that. Do you know  
5 whether your office received these two (2)  
6 documents?

7 A- I would say the girls would have shown it to me, but  
8 I can't answer that.

9 738Q-Now, can you tell the Court did the bank ask you,  
10 when you opened up these accounts in July, August,  
11 2008, to deposit the funds that were in the Earl  
12 Jones in trust account to the corporate account, or  
13 do you recall what happened with those funds?

14 A- My understanding, I would think they were utilized,  
15 or if there was at a balance, it could have been  
16 transferred.

17 739Q-Okay, were there any other agreements that the bank  
18 had that were attached through the Earl Jones in  
19 trust account? For example, you had an RBC gold  
20 preferred - I guess it's a Visa account that had  
21 what is called a balance protector attached to it.  
22 Do you recall where that was paid out of for that  
23 protection, what account that protection was paid  
24 out of?

25 A- My wife paid the Visa card. So, she would have - if

1           there was an amount owing on the Visa, she would  
2           have paid it. Are you asking whether there was a  
3           separate payment for that protection?  
4       740Q-That's correct.  
5       A- No, I don't remember. I don't recall that at all.  
6       741Q-Alright.  
7       A- In fact, to be honest with you, I didn't even know  
8           I had a protection.  
9       742Q-Okay, it's referred to as a balance protector  
10           premium.  
11       A- No.  
12       743Q-There's a premium for that. So, you don't know --  
13       A- No.  
14       744Q-What it was paid out of. Now, if I take a look at  
15           the Royal account Visa Gold Preferred account, I  
16           notice your daughter's name on that account as well.  
17       A- Right.  
18       745Q-Kristine.  
19       A- Yes.  
20       746Q-Take a look at that.  
21       A- Hmm-hmm.  
22       747Q-Can you explain to me why we see the reference to  
23           your daughter?  
24       A- We were trying to get Visa cards for Kristine and  
25           for Kimberly. And I think the process we went

1 through was opening a Visa account where we'd get a  
2 card for Kristine and a card for Kimberly, but  
3 Kimberly was in the U.S.A. and living, and I believe  
4 we never got a card for Kimberly. Kristine got a  
5 card.

6 748Q-Was this --

7 A- And it may even go back to the days where she was in  
8 college, and we wanted her to have a card. I don't  
9 know when that account was - when that Visa was  
10 opened.

11 749Q-But this appears - is this a joint account - a joint  
12 card --

13 A- Yes.

14 750Q-With you and your daughter?

15 A- She has no responsibility for it. She wouldn't have  
16 - that's personally my account. Kristine had  
17 nothing to do with that.

18 751Q-Now, now, you said that your wife would pay this  
19 card?

20 A- My wife usually paid the Visa bills from the funds  
21 that I gave her or monies that - yeah.

22 752Q-The monies that were coming out of the in trust  
23 account --

24 A- I don't think they always came out of the in trust  
25 account. I think there were times that I gave her

1           cheques from the company account or maybe cheques  
2           from my own personal account.

3       753Q-Mr. Jones, I can show you the payments going to your  
4           wife, and we're going to come to them. They average  
5           from ten thousand (\$10,000.00) to thirty-five  
6           thousand (\$35,000.00) per month for years and years  
7           and years. We'll go over them. Were you able to  
8           write or can you explain to me what a Visa cheque  
9           is?

10       A- Well, when you get your Visa card, they give you  
11           four (4) or five (5) cheques that you write. It's  
12           debited to your Visa account.

13       754Q-So, when I see a Visa cheque for fifteen thousand  
14           dollars (\$15,000.00), that I'm showing you here in  
15           May of '06 --

16       A- Right.

17       755Q-That would represent what?

18       A- It was a cheque that I wrote against my credit line  
19           on the Visa.

20       756Q-And do you know - you don't recall today, I presume,  
21           where you would be writing that cheque to.

22       A- What date was that?

23       757Q-That's in May 17th, 2006.

24       A- No.

25       758Q-In July of 2007, there's another Visa cheque for ten

1           thousand dollars (\$10,000.00). Would you use Visa  
2           cheques from this account for any particular  
3           purpose? There's various other ones which we'll  
4           come to: for eight thousand (\$8,000.00) in  
5           September, '07; ten thousand (\$10,000.00), January,  
6           '08.

7           A- I may have put them into our trust account.

8           759Q-Put them into your trust account --

9           A- I could have --

10          760Q-Deposited to your trust account?

11          A- Right, could have or I could have given them to  
12           Maxine to deposit to our Royal Bank account. In all  
13           likelihood, they were utilized for expenses or debt.

14          761Q-Expenses --

15          A- Or debt.

16          762Q-How about to RBC Centura?

17          A- That's the U.S.

18          763Q-That's your U.S. account?

19          A- I believe so, yes.

20          07.Q-And that was used for what?

21          A- When was that?

22          765Q-Well, if I show you here a cheque dated April - I'm  
23           sorry, March 20th, 2008, for ten thousand five  
24           thirty twenty-seven (\$10,530.27), well, actually,  
25           it's cash, RBC Centura. Would that be a withdrawal

1                   of cash?

2           A-    I don't think I would withdraw ten thousand dollars  
3                   (\$10,000.00) cash, no.  No, it may have been for  
4                   some kind of expenses down in Florida, but I  
5                   certainly wouldn't draw ten thousand dollars  
6                   (\$10,000.00) cash.

7           766Q-Alright, so, you wouldn't withdraw cash.  So, if I  
8                   show you on November 7th, 2008, a cash advance of  
9                   fourteen thousand dollars (\$14,000.00) coming out of  
10                  this account, you would say the same thing?

11          A-    If you're talking cash cash, is this Centura?

12          767Q-No, that's right out of the Visa account.

13          A-    I would - I really would say it wasn't cash.  To go  
14                  pick up cash at a bank, they don't really give you  
15                  anything more than three (\$3,000.00) or four  
16                  thousand dollars (\$4,000.00) at any one time anyway.

17          768Q-So, you have no explanation as to what a cash  
18                  advance is?

19          A-    No, the Royal Bank would.  Maybe they treat  
20                  utilizing the Visa cheque as a cash advance as  
21                  opposed to a regular cheque.

22          769Q-Alright, so, at the Royal Bank, you had this Visa  
23                  Gold Preferred account.  Did you have any other Visa  
24                  accounts with the Royal Bank?

25          A-    I believe we did, yes.

1 770Q-I show you here what is referred to as the Visa Gold  
2 Preferred account, which is in your name and in your  
3 wife's name.  
4 A- That's right.  
5 771Q-Take a look at that. Is that the other account, the  
6 other Visa account, that you're referring to?  
7 A- I would say so, yes.  
8 772Q-Were there any other accounts that you had with the  
9 Royal Bank?  
10 A- No.  
11 773Q-Okay, in this particular gold preferred account,  
12 it's in both your name and in your wife's name.  
13 Either one of you had the right to use it. Is that  
14 correct?  
15 A- That's correct.  
16 774Q-Okay, I show you here a transaction in December 5th  
17 of '08 at Birks for six hundred and ninety-six  
18 dollars (\$696.00) and then, on December 18th, at  
19 Birks for a thousand seven forty-six seventy-five  
20 (\$1,746.75), and then, on January 4th, there's a  
21 credit note, two hundred and eighty-two dollars  
22 (\$282.00). Can you tell us what --  
23 A- That was in December?  
24 775Q-December, correct.  
25 A- They would have been Christmas gifts for my wife



1                   from me.

2           776Q-Okay, so, that would be Christmas gifts from?

3           A-    From myself to my wife.

4           777Q-Okay, and this account was paid for again from the

5                   in trust account.  Is that correct?

6           A-    I would say so.

7           778Q-Okay, do you recall what the gift was that you

8                   bought?

9           A-    I think I bought her a necklace.

10          779Q-Can you tell us what the amount of the line of

11                   credit was on each one of these Visa accounts?  Do

12                   you recall?

13          A-    I don't know exactly.  I think one was twelve

14                   thousand (\$12,000.00) or fourteen (\$14,000.00), and

15                   one was fifteen (\$15,000.00) or sixteen thousand

16                   (\$16,000.00), or eighteen thousand (\$18,000.00), I

17                   think, was one, and one was fifteen thousand

18                   (\$15,000.00).

19          780Q-Was there ever any question about the bank - or from

20                   the bank on any of the cash withdrawals or these

21                   withdrawals that were being made from these

22                   accounts?

23          A-    No.

24          781Q-During the period that you operated your in trust

25                   account with the Royal Bank of Canada, did anybody

1 at any point in time from the Royal Bank come and  
2 visit your premises to see your operation?

3 A- No, not when I was there, I think that - I think in  
4 the - I'm not sure whether Mr. - I use the word "Mr.  
5 Colette". I'm not sure if that was his first name  
6 or his second name, but I'm not sure whether he  
7 dropped in in 2009 to say hello, but I - no one ever  
8 visited me in answer to your question.

9 782Q-Do you recall, in the year 2001, ever having anybody  
10 from the Royal Bank call you with respect to the  
11 operation of the Earl Jones in trust account?

12 A- The only - not in regard - regarding the operation,  
13 the only calls I got from the Royal Bank were always  
14 to say that we could get you an account where you'd  
15 get some interest, and that was it.

16 783Q-Okay, can you tell the Court, the Earl Jones  
17 Consultant and Administration Corporation, what  
18 funds would be deposited to that account as opposed  
19 to the in trust account?

20 A- It would be the fees that clients paid us.

21 784Q-So, the fees would be paid to the corporate account  
22 on what sort of basis? Was it monthly or --

23 A- Half yearly.

24 785Q-How would you fund payroll, rent, telephones, etc.,  
25 on a regular basis?

1 A- From the corporate account.

2 786Q-Okay, but did it have sufficient funds from the fees

3 that were being paid less the amount of --

4 A- I believe so --

5 787Q-Draw that you were taking out?

6 A- I believe so. The girls looked after that, yes.

7 788Q-So, they would simply draw funds from the in trust

8 account when needed to pay the bills in --

9 A- Well, what they would do is they would - if we had

10 an in trust account where we indicated was the

11 client's monies, and the client owed us fees, quite

12 often the fees came out of that particular ledger

13 and then went into the corporation.

14 789Q-Did the corporation ever have a loan or line of

15 credit?

16 A- No.

17 790Q-With the Royal Bank?

18 A- No.

19 791Q-Your in trust account, obviously you didn't have a

20 line of credit on it.

21 A- That's right.

22 792Q-Okay, the corporate account didn't have a line of

23 credit.

24 A- No.

25 793Q-Did you have any other lines of credit for your

1           business?

2           A-    No.

3           794Q-So, when you needed money, if there was a situation

4           where you needed money, it would simply be always

5           withdrawn from the in trust account. It was

6           effectively your line of --

7           A-    Not always withdrawn, number 1, what was withdrawn

8           from the trust account was designated for the

9           clients, because that's what they owed us. And,

10          second of all, clients also sent in their own

11          cheques.

12          795Q-But they would send it to the corporation?

13          A-    That's right.

14          796Q-Okay, so, you always had sufficient funds in the

15          corporate account that you never needed to borrow?

16          A-    That's right.

17          797Q-You were always cash flow positive.

18          A-    Yeah.

19          798Q-Okay, did anyone at any time from the bank - did you

20          personally have a line of credit?

21          A-    No.

22          799Q-Okay.

23          MR. GILLES ROBILLARD:

24          800Q-Did your wife have any line of credit?

25          A-    No.

1 801Q-Okay.

2 Me NEIL H. STEIN:

3 802Q-Throughout the entire period that you had this in  
4 trust account with the Royal Bank, and I don't want  
5 to repeat myself, but I'm asking it for a very  
6 particular reason, did anyone at the Royal Bank ever  
7 tell you that you appeared to be using this trust  
8 account as if you were a lawyer or a notary?

9 A- No.

10 803Q-Okay, I would like to now turn to the Bank of  
11 Montreal account. The first account that you had  
12 with the Bank of Montreal was February 3rd, 1988,  
13 and it appears to be an account in your own personal  
14 name. I'm showing you here a copy of the New  
15 Account Application form. Would you identify your  
16 signature on that?

17 A- That's my signature.

18 804Q-Okay, I'm going to ask you to - we're going to make  
19 copies of this, to produce this as Exhibit EJ-17.  
20 Now, it appears from the Bank of Montreal documents  
21 that, on August 25th, 2008, you opened a corporate  
22 account under the name of Earl Jones Consultant and  
23 Administration Corporation.

24 A- In 2008, you said?

25 805Q-2008, and that is account number 1037-139, and I'll

1           ask you to take a look at those documents. Is that  
2           your signature which appears on that?

3           A- Yes, it is.

4           806Q-Okay, and I'm going to show you the certificate of  
5           an authorization for your incorporated company,  
6           which goes with that, done on the date of August  
7           25th, and just tell me if that's your signature  
8           again.

9           A- That's my signature, yeah.

10          807Q-Okay, I'll ask you to produce that as Exhibit EJ...

11          MS. JULIE KORMAN:

12                         Eighteen (18).

13          Me NEIL H. STEIN:

14          808Q-Eighteen (18), en liasse, and we'll get somebody to  
15           make copies of that. Now, I'm going to show you  
16           cheques which bear that account number.

17          A- This account number?

18          809Q-This account number.

19          A- Okay.

20          810Q-Okay, just let me find them. I'm going to show you  
21           a series of cheques that have already been produced  
22           as part of the petition in bankruptcy. The first  
23           one is difficult to read, but I assure you it's the  
24           same account number as all the balance of them. If  
25           we take a look at these cheques which are made out

1           to the Ross family for various amounts, they are  
2           cheques which come from the Earl Jones in trust  
3           account at the Bank of Montreal --  
4        A-    Right.  
5        811Q-And bear the account number 1037-139, which is the  
6           corporate account at the Bank of Montreal.  
7        A-    Right.  
8        812Q-Can you tell me who printed these cheques?  
9        A-    The Bank of Montreal.  
10       813Q-At whose request?  
11       A-    Our girls opened up the account, and I know that  
12           they did open up an account Earl Jones in trust.  
13           Why it would be under the company, I have no idea.  
14       814Q-So, you have no idea as to --  
15       A-    No.  
16       815Q-Why there's this inconsistency --  
17       A-    No.  
18       816Q-That the bank records show that it's a corporate  
19           account, yet your cheques, which you're signing,  
20           appear to be a personal --  
21       A-    That's right.  
22       817Q-Account, okay.  
23       A-    These were issued by the Bank of Montreal.  
24       818Q-Okay, and the same thing - I'll show you another  
25           series of cheques made to - also produced in the

1 Court record in the bankruptcy record, made to a  
2 Noah Gibson and a Mary Sue Gibson, all of which as  
3 well come from - I'm sorry, these are not the same.  
4 No, I withdraw that. These are not the same. So,  
5 you have no idea. Would you produce those series of  
6 cheques as Exhibit...

7 MS. JULIE KORMAN:

8 EJ-19.

9 Me NEIL H. STEIN:

10 819Q-EJ-19? So, it would be true to say that, throughout  
11 the entire history of this account, which was opened  
12 in August or on August 25th, 2008, until your  
13 business was closed, you continued to issue cheques  
14 Earl Jones in trust on this corporate account.

15 A- Yes.

16 820Q-Now, you referred a moment ago to the fact that you  
17 didn't have any lines of credit. I'm showing you  
18 here a cheque Earl Jones in trust dated July 27th,  
19 '06, for five thousand dollars (\$5,000.00) payable  
20 to the Bank of Montreal, and the back of it seems to  
21 be marked line of credit. Could you take a look at  
22 that?

23 A- That would have been drawn on the Visa account. I  
24 don't recall ever having a line of credit per se in  
25 my name. I looked at my line of credit being what



1           my Visa account gave me, and they would send out  
2           cheques periodically on the Royal Bank Visa.

3       821Q-So, this would be to pay the Visa bill in effect,  
4           correct?

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

6       822Q-Okay, you have no idea, okay.

7       A-    Who was it payable to?

8       823Q-The Bank of Montreal.

9       MR. GILLES ROBILLARD:

10      824Q-Didn't you have a line of credit with Wachovia?

11      A-    Yes, that's - I'm sorry, yes. I am not sure - if I  
12           recall, I think I asked for additional mortgage, and  
13           they put the - they set it up as a line of credit.  
14           I apologize, but you're right.

15      Me NEIL H. STEIN:

16      825Q-Did the Bank of Montreal, at any time, question the  
17           usage of your so-called in trust account with them?

18      A-    No.

19      826Q-Okay, did the Bank of Montreal, at any time,  
20           question any transactions that were going through  
21           the Bank of Montreal in respect of in trust account  
22           cheques from the Royal Bank?

23      A-    The last two (2), three (3) weeks or month, there  
24           was cheques between the Royal Bank/Bank of Montreal,  
25           Bank of Montreal/Royal Bank, and a few of them

1           bounced. And as a result, they started to hold back  
2           funds, but prior to the last, say, couple of weeks  
3           or what have you, they never questioned anything,  
4           no.

5           827Q-I'm showing you here a letter dated December 10th,  
6           2006, addressed to the Bank of Montreal. Would you  
7           tell me if that's your signature in that letter?

8           A- Yes.

9           828Q-Would you read the letter, and if you can just  
10          explain to me what that letter --

11          A- Clients --

12          829Q-Was for?

13          A- Clients, at times - when I was saying earlier we  
14          would be paying them monthly interest, clients, at  
15          times, would want a draft or a money order.

16          830Q-Okay.

17          A- Instead of a cheque, and that's what it was for.  
18          Louise would go over and get the money order or the  
19          draft.

20          831Q-Okay, but this is a letter addressed to the Bank of  
21          Montreal, and what you're saying, I believe, is --

22          A- The reason being is instead of going from where our  
23          office was to the Royal Bank, the Bank of Montreal  
24          were allowing us to do it.

25          832Q-To do what?

1 A- To go in and say here's a Royal Bank cheque on our  
2 trust account with the Royal Bank. Could you issue  
3 a draft or money order? So, Louise would go there,  
4 because it was easier just to basically go across  
5 the street instead of going down to the bank.

6 833Q-Okay, would these Royal Bank of Canada in trust  
7 accounts be - in trust cheques be certified, or they  
8 would be non-certified?

9 A- Bank of Montreal?

10 834Q-When you were issuing the cheque, the in trust  
11 account cheque --

12 A- No, no.

13 835Q-They would not be certified.

14 A- No.

15 836Q-So, the bank was issuing a draft against a non-  
16 certified --

17 A- That's right.

18 837Q-Cheque.

19 A- That's right.

20 838Q-And do you have any reason why they would do that?

21 A- It's stupid to say, but we were sort of a V.I.P.  
22 client, in their opinion.

23 839Q-I see.

24 A- We never had any banking problems before. It was  
25 only the last, as I say, two (2) weeks or month,

1                   when any transactions that went through.

2           840Q-Did you ever have anybody at the Bank of Montreal,  
3                   at any time, question the fact that your cheques on  
4                   this account number 1037-139 were not properly, for  
5                   lack of a better word, labelled?

6           A-    No.

7           841Q-And all the cheques simply went through.  Until the  
8                   end, you never had a problem.

9           A-    No.

10          842Q-Okay.

11          A-    Now, let me just go back.  They may have made a  
12                   comment to one of the girls at the office, but I  
13                   never heard it.  So, my answer is --

14          843Q-Well, I don't want you to guess, okay.  You --

15          A-    No.

16          844Q-Either know --

17          A-    No.

18          845Q-Or you don't know.

19          A-    No.

20          846Q-Okay, I'm going to turn to another subject now, Mr.  
21                   Jones, and that deals with various investment  
22                   projects that went on during the period of your  
23                   operating your business.  Do you recall a project  
24                   referred to - just let me put these away for a  
25                   moment.  Do you recall, in the period 1988 to

1           approximately 1997, being involved in any investment  
2           projects relating to golf?

3           A-    Yeah.

4           847Q-Okay, can you tell the Court what those projects  
5           were?

6           A-    There was a project that myself and two (2) other  
7           individuals got involved with out at Vaudreuil, and  
8           it - date wise, I guess it could go back to 1988,  
9           but not certainly up to - what date do you have  
10          there?

11          848Q-Well, actually, 1993, I would say.

12          A-    Yeah, it could have --

13          849Q-1992.

14          A-    It could have went five (5) years --

15          850Q-Yes.

16          A-    Where we were looking at building a golf course.

17          851Q-Okay, and do you recall where the funds came from  
18          with respect to various development costs for this  
19          project?

20          A-    The funds could have come from the in trust account,  
21          but also there could have been deposits made by Mr.  
22          Larry Smith, who is now deceased, who was one of the  
23          partners, and Mr. Sandy Henderson. So, they may  
24          have given us cheques, which we had put into the in  
25          trust account, and we could have issued the cheques

1 from the trust account.

2 852Q-Why would you be putting cheques in the in trust  
3 account for these particular investments? These  
4 weren't estates that you were administering or  
5 trusts that you were administering.

6 A- No, I used the account as a general account, I  
7 guess. Even though it was indicated as a trust, I  
8 used it as a general account. So, I would - so, for  
9 convenience sake, the cheques could have went in,  
10 and we wrote cheques against it.

11 853Q-I show you here - well, can you explain to the Court  
12 what this project was in Vaudreuil?

13 A- The project was to - the obtainment of a large piece  
14 of property, which I believe we had put down, I  
15 guess, some funds to retain the property, and we had  
16 a group from Hong Kong that was interested in buying  
17 it. It went to the re-zoning once, twice, and it  
18 was refused. The third time it was approved, and  
19 the people from Hong Kong decided that they had  
20 enough, and they ended up putting their money with  
21 a group in Toronto, a golf course.

22 854Q-Well, I show you here a series of cheques over the  
23 period in question, which appear to be in relation  
24 to this golf course project, which I'd ask you to  
25 take a look at.

1 A- It would be cheques probably to - Martin Vanderop,  
2 I think, was the "adronomous".

3 855Q-Do you want to look at the cheque? Do those cheques  
4 appear to be for that project?

5 A- Can I see them again?

6 856Q-Sure.

7 A- Well, these cheques like golf for Earl Jones Corp.  
8 would have been fees that I would have charged this  
9 group. I think that should be in my corporate  
10 account in those years.

11 857Q-I don't --

12 A- Mr. Henderson and Mr. Smith, if I recall, I funded  
13 some of these expenses, which I would have put the  
14 money into the in trust account.

15 858Q-So, you would put --

16 A- I believe --

17 859Q-The fees into the in trust account? Is that it? I  
18 don't - oh, your Earl Jones Corp., that's a cheque  
19 made --

20 A- Right.

21 860Q-From the trust to yourself. That would be for fees?

22 A- Right.

23 861Q-Another one for seven thousand (\$7,000.00) would be  
24 for fees.

25 A- That would be recorded in the company account.

1 862Q-And then, another one for ten thousand (\$10,000.00)  
2 would be for fees, another one for ten thousand  
3 (\$10,000.00) for fees, another one for ten thousand  
4 two sixty-five (\$10,265.00) for fees. What was the  
5 total investment in this project?  
6 A- I don't recall. It wasn't a great investment. The  
7 investment was more from the expenses that we paid  
8 in trying to getting it re-zoned. And Graham Cooke  
9 had done a design of it, and lawyers got involved.  
10 Hart St-Pierre got involved with trying to pull it  
11 together, and pull up different pieces of land and  
12 so on.  
13 863Q-Was the project held in the name of a corporation?  
14 A- The project never got off the ground. All it was  
15 was a big large piece of land, which we had tied up  
16 and --  
17 864Q-You had tied up by way of options?  
18 A- By way of options, yeah.  
19 865Q-And the options were held in whose name?  
20 A- The options probably were held in the name of - it  
21 could have been the name of the three (3) of us.  
22 I'm not - I don't recall.  
23 866Q-And do you recall if there was a corporation created  
24 for --  
25 A- No, no, there was no --



1 867Q-There was never.

2 A- No, not that I recall, I don't - I'm not sure  
3 whether Stephen Hart, he incorporated a company or  
4 not. I'm not sure.

5 DOCQ-Does Amenagement et Gestion LNPD ring a bell?

6 A- Can I see that?

7 869Q-Sure.

8 A- We had Lavalin. I'm not sure if that's the  
9 abbreviation for Lavalin Corporation, but there was  
10 a gentleman from Lavalin that started off in the  
11 first re-zoning. And, of course, he used various  
12 people to pull together all the documents to go in  
13 front of the tribunal. And then, we used a  
14 gentleman out in the South Shore, who used to be  
15 with Robillard - with Lavalin. And then, the last  
16 person was a Mr. Martin Vanderop.

17 870Q-Okay, so, this project never got off the ground.

18 A- Never got off the ground, no.

19 871Q-Okay, now, were there any other projects?

20 A- Not that I recall.

21 872Q-Do you recall a company by the name of, and this may  
22 be the name of the corporation, 2552-7755 Quebec  
23 Inc.?

24 A- Yeah.

25 873Q-Is that the same project?

1 A- Yeah, Urgel Delisle is - Hart St-Pierre Development,  
2 yeah, Hebert Denault was a lawyer who did a lot of  
3 the background work. Graham Cooke, as you probably  
4 know, is a golf designer. There may have been a  
5 corporation set up.

6 874Q-So, again, all these cheques that are attached to  
7 that to these various people from the in trust  
8 account, they refer to this particular project.  
9 That's the same project, the same golf project.

10 A- It would be the same golf project in...

11 875Q-Okay.

12 A- Vaudreuil, yeah.

13 876Q-Would you produce those, en liasse, as Exhibit...

14 MS. JULIE KORMAN:

15 EJ-20.

16 Me NEIL H. STEIN:

17 877Q-EJ-20? Now, can you explain to the Court what the  
18 Clairehaven project was?

19 A- The Clairehaven project was across the street from  
20 our office, the corner of St. John's Boulevard and  
21 Hymus. Clairehaven was a senior residence. The  
22 same three (3) gentlemen I mentioned, Mr. Henderson,  
23 Mr. Smith, and myself, looked into building a senior  
24 residence, and we took an option, if I recall, for  
25 ten thousand dollars (\$10,000.00) on a piece of

1 property. And, eventually, we disbanded it. It was  
2 a group from Manitoba that came in apparently and  
3 came in and bought it and built the residence that's  
4 there now. It's called The Welsley.

5 878Q-It's called the what, sorry?

6 A- It's called The Welsley.

7 879Q-So, I show you here a series of cheques again from  
8 the in trust account with a schedule. Would you  
9 tell me whether all these cheques from the in trust  
10 account were used for that project?

11 A- Where it mentions Clairehaven on the back, it was.  
12 The money to Mr. Henderson, it's here, the two  
13 hundred thousand dollars (\$200,000.00).

14 880Q-Yes.

15 A- That was the proceeds. We had sold the project to  
16 the group in Manitoba, and there should have been a  
17 deposit made to the in trust account, and then funds  
18 distributed to Mr. Henderson and Mr. Smith, and I  
19 probably left the money in the in trust account.

20 881Q-The funds which originally came out for the project  
21 itself prior to your selling it, the project was for  
22 whose benefit?

23 A- It was for the benefit of Mr. Henderson, Smith, and  
24 myself.

25 882Q-Okay, and the funds that were used to do or to try

1           and do this development, the in trust funds came  
2           from the in trust account?

3       A-    They did, but I would think that there was deposits  
4           made by Mr. Henderson and Mr. Smith that I would  
5           have put in the in trust account to cover some of  
6           those.

7       883Q-To cover some of them?

8       A-    Yeah.

9       884Q-Okay, would you produce as Exhibit EJ-21 the  
10           schedule of cheques which come out of the trust  
11           account for this project?  The Clairehaven project,  
12           do you know whether there was a corporation set up  
13           for that?

14       A-    I would think - well, you don't want me to - you  
15           want me to say yes or no, right?

16       Me DONALD R. MICHELIN:

17       885Q-He wants you to answer.

18       A-    I would think --

19       886Q-Correctly --

20       A-    I would think --

21       887Q-Truthfully --

22       A-    I would think that there was, because Stephen Hart  
23           of Hart St-Pierre was involved and very efficient.  
24           He was - he negotiated the sale.  I can't recall if  
25           there was or not.

1 Me NEIL H. STEIN:  
2 888Q-Now, do you recall another project known as Hymus  
3 II?  
4 A- That's the brasserie, yes.  
5 889Q-Okay, was there a distinct corporation set up for  
6 this project?  
7 A- There already was a corporation set up for the -  
8 yes, there was a corporation set up, yes.  
9 890Q-Okay, what was this project?  
10 A- It was the purchase of the Hymus Brasserie or Hymus  
11 Brasserie II on Hymus Boulevard.  
12 PTQ-I show you here again a schedule prepared by  
13 Richter, together with various cheques from your in  
14 trust account in respect of this project. Would you  
15 examine these cheques and again tell me if these  
16 pertain, first of all, to this project?  
17 A- Yes, they do.  
18 892Q-Okay, now, you said that there was a corporation  
19 that was set up or existed for this project. What  
20 was this project? It was, you said, a purchase of  
21 the - of a brasserie?  
22 A- Yes.  
23 893Q-And you were purchasing the shares or the assets of  
24 the brasserie?  
25 A- There was four (4) individuals purchasing the

1 shares, and the day that it was - and I was - and I  
2 coordinated whether - they had come to me and asked,  
3 in my opinion, whether it was worthwhile purchasing.  
4 And, in fact, Richter was - I'm just trying to think  
5 of the gentleman who handled the audit. They came  
6 in to see if it was viable. The answer was yes.

7 When we went to sign in Stephen Hart's office,  
8 the fourth partner didn't show up. So, I went in  
9 and was reimbursed for my investment - I don't know  
10 - two (2) or three (3) years later by a Mr. Pierre  
11 Lindsay, who was the brother-in-law of Don Stewart,  
12 and also reimbursed for these monies that I paid  
13 out, a lot of which was rent to keep it open. So,  
14 in the files of Mr. Lindsay, you'll see the  
15 reimbursements going through in the account.

16 894Q-Let's get back to the acquisition, because you lost  
17 me. The original acquisition was to be for four (4)  
18 individuals, you've said, in respect of the shares  
19 of this corporation.

20 A- Right.

21 895Q-Okay, you say that, closing, one of them didn't show  
22 up, and you were there to replace him. Is that it?

23 A- I did replace him, yeah.

24 896Q-You replaced him.

25 A- Yeah.

1 897Q-And the funds that you used to put into the project  
2 --  
3 A- I probably wrote a cheque on the in trust account.  
4 898Q-From the in trust --  
5 A- Fifty thousand (\$50,000.00) or I thought it was  
6 fifty (\$50,000.00), but I see here there's an amount  
7 of seventy-five (\$75,000.00). So, I don't know.  
8 899Q-Okay, so, again, funds were used from the in trust  
9 account --  
10 A- Right.  
11 900Q-To purchase your interest --  
12 A- Right.  
13 901Q-In the project, okay.  
14 A- And they would have come back to the trust account.  
15 902Q-When would they have come back to the trust account?  
16 A- They would have come back - there's - in the files  
17 of Mr. Peter Lindsay, there would be entries of when  
18 they would have come back into the trust account,  
19 offsetting entries.  
20 903Q-Peter Lindsay --  
21 A- Because Peter --  
22 904Q-Would have bought you out?  
23 A- That's right.  
24 905Q-Is that it?  
25 A- That's right, yeah.

1 906Q-And he would have bought you out over what time  
2 period?  
3 A- Like we - it was a settlement done over a certain  
4 period of time. I forget when we agreed that he  
5 would buy my shares.  
6 907Q-I'm not following you. Peter Lindsay was an  
7 original investor?  
8 A- He was not an original investor.  
9 908Q-Okay, so, how did he --  
10 A- There's a gentleman in here by the name of Don  
11 Stewart, and Peter Lindsay is Don Stewart - they  
12 were brother-in-laws. And I said I would go in just  
13 to - so they could finalize the transaction. I went  
14 in, and they had problems. I advanced some money  
15 for the rent. And then, I went to Peter Lindsay two  
16 (2) or three (3) years later and said, look, I want  
17 out, and Peter paid me.  
18 909Q-But Peter wasn't one of he --  
19 A- No.  
20 910Q-Original investors.  
21 A- No.  
22 911Q-So --  
23 A- No.  
24 912Q-When you say you wanted out, why would you be coming  
25 to him? He wasn't an investor.



1 A- Because he wanted to buy. He was buying. He was  
2 actually going to buy the brasserie for his brother-  
3 in-law. His brother-in-law was married to his  
4 sister, Pam Lindsay. So, he was buying this  
5 brasserie, so that Donnie would always have a job.  
6 Peter was a paraplegic, a very close friend of mine.  
7 We played hockey together. And Donnie was very good  
8 to him, and he wanted Donnie to have something when  
9 he died, when Peter died.

10 913Q-But you got paid out before he died or --

11 A- Yes.

12 914Q-After he died?

13 A- I believe it was before. There was some adjustments  
14 after he died, but I believe it was before that I  
15 was paid out.

16 915Q-Would you produce these cheques and reconciliation  
17 as EJ-22?

18 A- Peter also bought out the other partners, which are  
19 cheques in here for Bob McCrae and Doug McCrae, and  
20 that would be in Peter's trust account that I  
21 operated, the account I operated for Peter.

22 916Q-When Peter Lindsay was alive, did you manage his  
23 funds for him?

24 A- Yes.

25 917Q-Okay, and after his decease, you also managed --

1 A- Yes.

2 918Q-His estate?

3 A- Yes.

4 919Q-And can you tell the Court approximately how much

5 money was, for lack of a better word, dissipated

6 from his funds?

7 A- I would say three (3) to four (4) million.

8 920Q-Three (3) to four (4) million that was spent

9 effectively by yourself, is that correct?

10 A- Spent effectively in the paying of interest for the

11 clients that I had their money, so if that means,

12 yes, I spent it, I guess that's...

13 Me DONALD R. MICHELIN:

14 Good friend.

15 Me NEIL H. STEIN:

16 921Q-Now, there was another project by the name of

17 Manoir, what is referred to as the Manoir project,

18 or is that the same one as the --

19 MR. GILLES ROBILLARD:

20 It seems to be Brasserie de Manoir.

21 A- The Manoir, Brasserie de Manoir.

22 Me NEIL H. STEIN:

23 922Q-I see.

24 A- I had nothing to do with that other than I sold it.

25 923Q-Okay.

1 Me ALEXANDER L. DE ZORDO:  
2 924Q-I'm sorry, is that the same project? I just want to  
3 understand.  
4 A- It's a different project.  
5 Me NEIL H. STEIN:  
6 925Q-It's different.  
7 A- It's not - yeah, but it's not a project. It was  
8 just a the Manoir Brasserie, which --  
9 926Q-Which you sold.  
10 A- Sold.  
11 927Q-Okay, and you received a fee for that.  
12 A- That's right.  
13 928Q-And you deposited that fee to the trust account. Is  
14 that correct?  
15 A- It would be deposited to the trust account. It  
16 should have gone into the company account, but...  
17 929Q-There was another project known as the Pointevest  
18 Holdings project. Can you tell the Court what that  
19 is about?  
20 A- Pointevest again started with Henderson and Smith,  
21 and there was nothing ever done. It was Mr. Smith  
22 used to be an engineer with CP. And, ideally, it  
23 was set up to explore the idea of building senior  
24 residences, but it never got off the ground.  
25 930Q-Okay, I show you here certain cheques from your

1 trust account again that appear to be in relation to  
2 this project, one to - well, you'll take a look at  
3 them.

4 A- The seventy-five thousand (\$75,000.00), I can only  
5 believe, was money that we put aside to utilize,  
6 which was never utilized, and it was borrowed from  
7 these people at the bottom of the list here.

8 931Q-So, you were reimbursing them from the trust  
9 account. Is that it?

10 A- Yeah.

11 932Q-All these cheques --

12 A- I believe so.

13 933Q-These cheques are from the trust account.

14 A- But the Pointevest - really, I can't recall. It  
15 could have been tied into that Clairehaven. I'm not  
16 sure.

17 934Q-Well, I see a cheque --

18 A- But we --

19 935Q-Sorry.

20 A- Sorry.

21 936Q-Go ahead.

22 A- You go ahead.

23 937Q-I see a cheque of twenty-four thousand (\$24,000.00)  
24 to Pointevest Holdings Inc. That would have been  
25 the corporation that was set up for this venture.

1 A- I would think there was a corporation set up, and  
2 Mr. Smith would have controlled that.

3 938Q-I notice here this one is marked E.J. funds coming  
4 out of the Earl Jones in trust account. Would that  
5 have been really been your funds, or you would have  
6 been using other people's funds again?

7 A- Well, there were times where I put money in in my  
8 own name in the Earl Jones in trust. And if I wrote  
9 a cheque for twenty-four (\$24,000.00), I guess I  
10 assumed that I was using my money, but --

11 939Q-But why --

12 A- The bottom line was that, you know, I guess you look  
13 at it and say, you know, you used all this money  
14 yet, and you put some money in, but, you know, the  
15 bottom line is this is what you owe.

16 940Q-No, but the point that I'm trying to understand is  
17 if you were - had your own money --

18 A- Right.

19 941Q-Why would you not just simply write a cheque from  
20 your own account?

21 A- I don't recall.

22 942Q-Would you produce these cheques and this summary as  
23 Exhibit EJ-23? Now, Mr. Jones, I'm going to ask you  
24 to explain your relationships with various people.  
25

1 Me DONALD R. MICHELIN:

2 Could we have a break at this point?

3 Me NEIL H. STEIN:

4 You want to have a break?

5 Me DONALD R. MICHELIN:

6 Yes.

7 Me NEIL H. STEIN:

8 Okay, five (5) minutes, not too long.

9

10 SHORT ADJOURNMENT

11

12 Me NEIL H. STEIN:

13 943Q-Okay, Mr. Jones, can you tell the Court who Mr. Kim

14 Whitehead is and what his relationship was?

15 A- Kim Whitehead is a mortgage broker, and he was

16 representing, well, now, the Bank of Nova Scotia.

17 944Q-And he was representing, in your dealings with him,

18 Maple Trust. Is that correct?

19 A- That's right. That's right.

20 945Q-And what role did he play vis-à-vis Maple Trust?

21 A- He was recommended to me by a notary by the name of

22 Linda Frazer as a mortgage broker, and we utilized

23 his services to obtain mortgages for clients.

24 946Q-And did you also utilize Maple Trust to do your own

25 mortgages?

1 A- Yes.

2 947Q-And why would you need to use a mortgage broker with  
3 respect to these clients?

4 A- I found that mortgage brokers were more aggressive  
5 in getting a better rate, getting better terms, and,  
6 you know, quite frankly, working with the Royal Bank  
7 would take - I don't know - two (2) weeks, three (3)  
8 weeks, as opposed to Kim Whitehead doing it more  
9 efficiently.

10 948Q-And was there any benefit to you other than what  
11 you've described --

12 A- Absolutely not.

13 949Q-From Mr. Whitehead or from Maple Trust?

14 A- Absolutely not.

15 950Q-Nothing whatsoever.

16 A- Nothing whatsoever.

17 951Q-Okay, the woman at the Bank of Montreal, Ste.  
18 Thérèse de Blainville branch, which you referred to,  
19 I believe her first name is Petra.

20 A- Petra Courcy, I think it is.

21 952Q-Okay, can you tell the Court when you first met her?  
22 And I think you already said you had met her  
23 previously at - when she was in the West Island.

24 A- I could have met Petra - I don't know - some ten  
25 (10), fifteen (15), twenty (20) years ago, but some

1 of the Bank of Montreal mortgages were done by way  
2 of phone, and the only time I met her was, I'd say,  
3 maybe two (2) Christmases ago or, you know, a couple  
4 of years ago. I went to visit her at the bank and  
5 met the manager of the bank, and that was it.

6 953Q-You went to visit her in Ste. Thérèse de Blainville?

7 A- Yes, right.

8 954Q-When you say the mortgages were done over the phone,  
9 what exactly do you mean?

10 A- Well, we - you know, not me in particular, but Debra  
11 or - would call and say that a client wants to  
12 mortgage her property, and they would fax the  
13 information that they required. We would send it  
14 back to them. They would do all their credit checks  
15 or whatever they normally do and say yes or no. And  
16 if it was a yes, they would have the documents  
17 prepared for signing at the Bank of Montreal most  
18 convenient to our client.

19 955Q-And the mortgages were eventually prepared by which  
20 notary? Did it vary or...

21 A- Yeah, Linda Frazer did a lot over the last couple of  
22 years, but it would - it could or would vary.

23 956Q-And you mentioned that the only reason you used the  
24 Bank of Montreal. Was there any reason why you used  
25 the Bank of Montreal as opposed to Maple Trust or



1 vice versa?

2 A- Some of the mortgages - well, if a client wanted a  
3 certain amount of money, and the Bank of Montreal  
4 wouldn't give that amount, we would look elsewhere.  
5 And Whitehead's group was more aggressive in issuing  
6 the monies and...

7 957Q-You could leverage more is what you mean --

8 A- Yeah.

9 958Q-With the - with Maple Trust?

10 A- In most times, yes, yeah.

11 959Q-Do you recall what percentage of value Maple Trust  
12 was prepared to go to?

13 A- They would do one of two (2) things. One was  
14 regular mortgage that would go probably up to  
15 seventy-five percent (75%), and then they would also  
16 do equity on top of that. So, in effect, one could  
17 maybe get as high as eighty-five (85) or ninety  
18 (90). They would also do an equity mortgage where  
19 your basic income on a month-to-month basis wouldn't  
20 qualify, but if there was income coming into a  
21 company that you owned, they would issue mortgages  
22 of this nature.

23 960Q-So, it was easier and more convenient to work with  
24 Mr. Whitehead than --

25 A- Yes.

1 961Q-Than the Bank of --  
2 A- Montreal.  
3 962Q-Montreal.  
4 A- Yes.  
5 963Q-And the people that you were bringing for these  
6 mortgages were, for the most part, your regular  
7 customers in terms - or clients in terms of you were  
8 either managing their money or estate money on their  
9 behalf.  
10 A- Right, you know, there was times where, you know,  
11 some friend - I can't recall the names or so on -  
12 would ask, you know, if I knew of a mortgage broker,  
13 and I'd say call Kim Whitehead, but I never  
14 necessarily got involved or anything.  
15 964Q-Okay, you'll recall that, in 2006, you remortgaged  
16 your Dorval condominium and your Mont Tremblant  
17 property. Do you recall that?  
18 A- I do.  
19 965Q-Why did you remortgage the properties at that point?  
20 A- I needed money.  
21 966Q-You needed money to operate?  
22 A- I needed money basically, yeah, to operate and for  
23 the trust account and my own day-to-day expenses.  
24 967Q-Did you need any money to - for purposes of your  
25 daughter's trust in Hyannis or in Cape Cod,

1                   wherever?

2           A-    She doesn't have a - well, she has a - the house was  
3                   purchased under a trust, but she doesn't have a  
4                   trust per se.  It was a - if I recall, it's under  
5                   the - I think it was Jones Realty Trust or it's a  
6                   trust, anyway, but did I need the money for that?  
7                   There were times that I used money which, I think,  
8                   you referred to before from the trust account for  
9                   her fees.

10           968Q-I'm not referring to that, because what I'm  
11                   referring to is the Maple Trust documents for...

12

13   OFF RECORD DISCUSSION

14

15           Me NEIL H. STEIN:

16           969Q-I show you here the mortgage loan summary and  
17                   approval of Maple Trust for your Dorval condo.  And  
18                   if you notice on the second page, the second  
19                   paragraph states:

20   "Clients are looking to refinance  
21   their BMO mortgage, a hundred  
22   thousand (\$100,000.00), to top up  
23   the family trust, support to follow  
24   confirming trust".

25           A-    I was working with a lawyer, with Burns & Levinson

1 in Boston, and we were in the initial stages of  
2 setting up a Jones family Trust that money was to be  
3 deposited, underlining the word "was". Nothing ever  
4 went into it, and the documents were never  
5 completed. They were prepared, but never signed,  
6 and the trust was never established. And the idea  
7 was to take some of the money from the Dorval and  
8 the country property and put it into a trust for Kim  
9 for future years. As you know, she's an adult with  
10 learning disabilities.

11 970Q-Alright, so, that never happened --

12 A- No.

13 971Q-Is what you say. Okay, would you produce that as  
14 Exhibit EJ-24, please? In respect of that trust  
15 that you just referred to that was never set up --

16 A- Right.

17 972Q-Or completed, I'm going to show you three (3) other  
18 documents, and I would like you just to confirm that  
19 this was the trust that you were referring to, which  
20 was never either formalized or set up that is being  
21 referred to in these documents.

22 A- This one here refers to, I think --

23 973Q-Let's just identify it for purposes of the record.

24 You're referring to an e-mail from Dianne Frade  
25 December 10th, 2004, to yourself re the Jones Realty

1 Trust. That's the trust which owns the property in  
2 Hyannis --

3 A- Yes.

4 974Q-Correct? Okay, so, this was in respect of your  
5 daughter's will, power of attorney, etc., and it  
6 refers to the tax implication for removing the  
7 property from the trust, given its deficiencies.

8 A- Yes.

9 975Q-Do you know what were the deficiencies?

10 A- Dianne Frade, when she received the documents, was  
11 under the opinion that this was incorrectly - it was  
12 an incorrect trust or incorrectly completed when the  
13 house was purchased. And as a result of the type of  
14 trust that was set up, the Jones Realty Trust, she  
15 believed that if that property is sold and/or  
16 transferred into another trust, you could be  
17 susceptible to capital gains. So, that's where it  
18 is. That's where it was, where she said I'm going  
19 to take a look and see what we can do. She did feel  
20 that there was some options available, but we never  
21 got that far.

22 976Q-Okay, the next letter, which is December 1st, 2006,  
23 or actually the next letter is January 23rd, 2006,  
24 again refers to removing Kim's condo out of this,  
25 the Jones Realty Trust, to a new trust. That never

1           happened.

2           A-   That's right.  It never happened.

3           977Q-Okay, and subsequent to that, you'll see the third

4           letter or e-mail from Dianne Frade December 1st,

5           2006.

6           A-   Right.

7           978Q-"A Trust for Kimberly's Benefit" is the title.

8                        "This e-mail will serve to confirm

9                        that your family has prepared a

10                      trust for your daughter Kimberly's

11                      benefit.  Based on my discussions

12                      with your family, in particular with

13                      you, it is my understanding that you

14                      will be funding the trust with funds

15                      during the year 2006."

16           So, that was the contemplated funding that was

17           referred to in the Maple Trust application?

18           A-   That's correct.

19           979Q-Okay, would you produce those three (3) letters, en

20           liasse, as Exhibit EJ-25?  And nothing was

21           established, you say.

22           A-   No, no deposits were ever made in any way, shape, or

23           form.

24           980Q-Nothing was established, and no deposits were made,

25           correct?

1 A- No, that's correct. Those documents that are in  
2 there have been prepared, but nothing has ever been  
3 completed or anything.

4 981Q-I understand. When the mortgage proceeds were  
5 received from the mortgaging of the Dorval and the  
6 Mont Tremblant property, can you tell the Court  
7 where you deposited those monies?

8 A- I believe they went into the E.J. Trust account.

9 982Q-Okay, now, can you tell the Court what your  
10 relationship was, if any, with a Mr. Tom Goldberg?

11 A- Tom was - he had - Tom was part of the Hausner  
12 family. He was the son-in-law of Mrs. Hausner, and  
13 Tom had made some personal investments through us  
14 or, you know, gave us money.

15 983Q-How did you come to know him? Did he --

16 A- I met Tom through the Hausner family, Mrs. Hausner,  
17 Robert Hausner.

18 984Q-Did he refer you any clients? I understand he  
19 worked for a time at Tri-Global.

20 A- That's right.

21 985Q-Which is a mutual fund company, and then, after  
22 that, he was in the insurance business.

23 A- He was at Tri-Global, and then he was with Manulife,  
24 I believe.

25 986Q-Or Manulife.

1 A- He didn't refer me any clients. He did invest some  
2 monies in some of these so-called...  
3 987Q-Bridge loans?  
4 A- Bridge loans, and some was his - I think his - it  
5 may have been his brother and sister-in-law and his  
6 wife or something. I can't recall what was there.  
7 988Q-Tony Gilardi --  
8 A- Yes.  
9 989Q-Okay, can you explain the relationship that you had  
10 with Tony Gilardi?  
11 A- Tony has again given us some of his family's funds.  
12 I think earlier I referred to him. Tony was - he  
13 would work for Bob Spencer. He was in the insurance  
14 business that did some of our insurance for our  
15 clients. And then, he was with an investment fund  
16 company, I believe, on Cote de Liesse or something.  
17 I'm not sure. He oversaw a lot of his family's  
18 funds.  
19 990Q-Did he refer any clients as well?  
20 A- Just family, family - no, yeah, I guess there was a  
21 couple of clients, yes.  
22 991Q-Okay, just one moment, I show you here, Mr. Jones,  
23 a document entitled "September 28th Trailers and  
24 Finders Fees".  
25 A- That's Mr. Gilardi, yes.



1 992Q-When you say that's Mr. Gilardi, what do you mean  
2 that's Mr. Gilardi?  
3 A- Well, he had brought us in these funds. Most of all  
4 were relatives, and he had asked that we pay him a  
5 fee.  
6 993Q-And you were paying him a commission for these?  
7 A- Yes.  
8 994Q-And did these people know that a commission was  
9 being paid?  
10 A- I don't think so, no.  
11 995Q-Okay, would you produce a copy of that as Exhibit...  
12 MS. JULIE KORMAN:  
13 EJ-26.  
14 Me NEIL H. STEIN:  
15 996Q-EJ-26? I notice that the investment start date on  
16 some of these investments is 2004 to 2005 and 2007.  
17 Were the finder's or trailer finder's fees paid from  
18 the inception?  
19 A- I don't think they were paid from the inception, but  
20 certainly over the last two (2) or three (3) years.  
21 997Q-I show you another document which is entitled "Tony  
22 Gilardi/Earl Jones Summary of Clients".  
23 A- These are the ones that are on here.  
24 998Q-Those are the same?  
25 A- Yeah.

1 999Q-The same clients.

2 A- Yes.

3 1000Q-Okay, and there's a - do you have three (3) sheets

4 there or --

5 A- I have three (3) --

6 A- You have three sheets?

7 A- Yeah.

8 1001Q-Okay, and here's a fourth sheet which is May, 2009.

9 The first three (3) are March, '07. They refer to,

10 I presume, if I take a look at the last sheet, the

11 last sheet refers to various investment terms where

12 monies are supposedly invested at ten percent (10%)

13 and twelve percent (12%) and fourteen percent (14%).

14 A- Right.

15 1002Q-Were those funds or those investments ever paid out,

16 the interest, or they were simply accrued to the

17 account, to the ledger account?

18 A- No, they were paid out in most cases, yeah.

19 1003Q-They were paid out?

20 A- Hmm-hmm.

21 1004Q-Would you produce as Exhibit EJ-27 the summaries of

22 those clients? Do you know a Mr. William Beatty?

23 A- William Beatty.

24 1005Q-No?

25 A- Maybe you can tell me a little bit about him.

1 1006Q-No, I just wanted to know if you know him, because  
2 his name came up in one of the transactions. It may  
3 well be that you don't know him.

4 A- I really can't recall, no.

5 1007Q-Okay, Notary Linda Frazer, what was your  
6 relationship with her?

7 A- She did a lot of the mortgages that were issued as  
8 a notary. She would receive the documents from the  
9 Bank of Montreal and/or Bank of Nova Scotia or Maple  
10 Trust.

11 1008Q-She was the notary --

12 A- She saw the clients, and she did a lot of our wills  
13 and our PA's, and did a lot of notarial work for us  
14 relating to estates and so on.

15 1009Q-How did you come to know her? Were you referred to  
16 her by anybody?

17 A- I was referred to Linda. I'm just trying to think  
18 of the notary in the building next door a few years  
19 ago. The Courts asked me to settle an estate with  
20 a notary, and he introduced me to Linda Frazer.

21 1010Q-So, you have been dealing with her for what time  
22 period?

23 A- Oh, I would say probably three (3) years plus, I  
24 guess.

25 1011Q-Okay, what's your relationship to lawyer, I think

1           it's Johnston?

2       A-    Bob Johnston?

3       1012Q-Yes.

4       A-    Bob, when I first started in business and left -

5           well, I said I left Montreal Trust and went to

6           London Life and went up to Ottawa.  When I came back

7           from Ottawa, Gordon McGilton and Bob Johnston were

8           partners, and they had basically given me an office

9           and staff to use when I set up this will planning

10          business.  And Bob did - Bob and Gordon - of course,

11          Gordon, you may know, was disbarred for various

12          reasons, but they did ninety percent (90%) of the

13          wills that we - that I did, wills and PA's.

14       1013Q-PA's, you're referring to powers of attorney?

15       A-    Power of attorneys and wills, yes, and, on a general

16          basis, Bob did - you know, if the clients had a

17          problem with separations, divorces, I would refer

18          them to Bob.

19       1014Q-I see.  What was your relationship with a Mr.

20          Richard Daoust?

21       A-    Richard Daoust was - he had given us some monies to

22          invest, and he was fully repaid.  He's the son-in-

23          law of one of my clients by the name of Mrs. Winnie

24          Aziz.

25       1015Q-Okay, now, Mr. Daoust, you say he was fully repaid.

1 Do you recall when Mr. Daoust was repaid?

2 A- I would say September, October of last year. Yeah,

3 I would say the fall of last year.

4 1016Q-First of all, when was the loan - what were the

5 loans that were made and when were they made?

6 A- He had made an investment, I believe, of twenty

7 (\$20,000.00) or thirty thousand (\$30,000.00). Then,

8 he increased it to fifty (\$50,000.00). And that was

9 repaid. He did - he was doing some work. I

10 referred Tony Gilardi to him. So, Tony was doing

11 his investment funds, and Bob Spencer was doing his

12 insurance, but the monies that Richard Daoust had

13 given us were repaid.

14 1017Q-No, I understand that, but I want to understand what

15 happened. He - from what I can see, there was a

16 deposit to the in trust account from Richard Daoust

17 of fifty thousand (\$50,000.00) in June of 2007.

18 A- Okay.

19 1018Q-Okay, can you tell me did he increase that loan?

20 A- He did increase the amount. I'm not sure if he

21 increased it from thirty (\$30,000.00) or forty

22 (\$40,000.00) to fifty (\$50,000.00) or fifty

23 (\$50,000.00) to seventy (\$70,000.00). I really

24 don't recall.

25 1019Q-Do you recall what interest he received on the loan?

1 A- I would say twelve percent (12%).

2 1020Q-And you said he was repaid in October of '09.

3 A- I think it was in the fall.

4 1021Q-Fall of '09.

5 A- I think so, yes.

6 1022Q-Was it at his request that --

7 A- Yes.

8 1023Q-He be repaid?

9 A- Yes.

10 Me ALEXANDER L. DE ZORDO:

11 Fall of '09 is now.

12 MR. GILLES ROBILLARD:

13 '08.

14 A- '08, yes.

15 Me NEIL H. STEIN:

16 1024Q-I show you here --

17 A- I think it was or in December. I'm not sure.

18 1025Q-How about in March of '09?

19 A- It could be.

20 1026Q-Okay.

21 A- I'm not trying to be funny here, but the investment

22 - I'm not trying to be smart, I'm sorry --

23 1027Q-No, I--

24 A- I apologize to the Court. The investment he had

25 made for a certain period of time and then, all of

1 a sudden, wanted his money early. And the  
2 investment was arranged through Mr. Gilardi, and he  
3 was told that there was a maturity on this  
4 particular investment, and he had to wait. So,  
5 there - anyway...

6 1028Q-Alright, well, let's just look at the cheques, okay.

7 We have a cheque dated June 19th, 2007, to Earl  
8 Jones in trust for fifty thousand dollars  
9 (\$50,000.00) from Mr. Richard Daoust or Mrs. Carole  
10 Daoust signed by Richard Daoust. Take a look at  
11 that.

12 A- Yes.

13 1029Q-Is that the loan --

14 A- Yes.

15 1030Q-That you're talking about? Okay, we then have a  
16 cheque going back to - no, I'm sorry, we have a  
17 cheque from Earl Jones to London Life on behalf of  
18 Daoust for three thousand six hundred dollars  
19 (\$3,600.00). That cheque is October 24th, 2007.

20 A- That is an insurance policy that was bought on the  
21 life of his son, who has got some disabilities like  
22 our daughter, and it was bought through Bob Spencer.  
23 And we paid the premium, but that amount would have  
24 come out of Mrs. Aziz's account.

25 1031Q-That came out of Mrs. Aziz's account.

1 A- Right.  
2 1032Q-Okay, then we have a cheque to Mr. Daoust on the  
3 date of...  
4 MR. GILLES ROBILLARD:  
5 September 11, '08.  
6 Me NEIL H. STEIN:  
7 1033Q-For fifteen thousand two ten (\$15,210.00).  
8 A- That would have been the repayment. That would have  
9 been the repayment of part. He wanted part of his  
10 investment returned.  
11 1034Q-Okay.  
12 Me DONALD R. MICHELIN:  
13 What was the date?  
14 MR. GILLES ROBILLARD:  
15 September 11, 2008.  
16 Me NEIL H. STEIN:  
17 September 11th, 2008, for fifteen thousand two  
18 ten (\$15,210.00).  
19 (Addressing the Witness)  
20 1035Q-Then, we have another one dated September 3rd.  
21 MR. GILLES ROBILLARD:  
22 September 18th, 2008.  
23 Me NEIL H. STEIN:  
24 1036Q-For eighty-five hundred dollars (\$8,500.00).  
25 A- Payable to?



1 MR. GILLES ROBILLARD:  
2 1037Q-Richard Daoust.  
3 A- Yeah, these would have been partially payments of  
4 his loan.  
5 Me NEIL H. STEIN:  
6 1038Q-Okay, we'll just go - I just want to understand what  
7 he got repaid, and then another one for fifty  
8 thousand (\$50,000.00).  
9 A- That would have been the final payment, I would  
10 think.  
11 1039Q-September 8th, I believe, September 18th, sorry,  
12 2008, for fifty thousand (\$50,000.00).  
13 A- Okay.  
14 1040Q-Okay, then, we have another one March 10th, 2009,  
15 for seventy-one thousand three fifty-five  
16 (\$71,355.00).  
17 A- My understanding was the seventy-one three fifty-  
18 five (\$71,355.00) would have been the repayment,  
19 repayment of his loan. I don't recall that he had  
20 seventy (\$70,000.00) and fifty thousand (\$50,000.00)  
21 with us. Maybe he did, but I don't recall. Let me  
22 just see this. Well, he did. Here's Richard  
23 Gilardi - here's Tony Daoust here, and this is  
24 prepared as of what date? September, '08, and his  
25 amount outstanding with us was one thirty-six

1           (\$136,000.00), so, seventy-five (\$75,000.00) and  
2           fifty (\$50,000.00) plus the interest.

3           MR. GILLES ROBILLARD:

4           1041Q-So, he would have put in an additional seventy-five  
5           thousand (\$75,000.00), that's what you are saying?

6           A-   Probably, yes.

7           Me NEIL H. STEIN:

8           1042Q-When would he have put in the additional seventy  
9           (\$70,000.00) to seventy-five thousand (\$75,000.00)  
10          or seventy (\$70,000.00), I guess it is. Do you have  
11          any idea?

12          MR. GILLES ROBILLARD:

13                    Oh, I see. It just shows redeemed on them.

14          A-   Well, on this here, it shows that there was fifty  
15          thousand (\$50,000.00) September, right?

16          Me NEIL H. STEIN:

17          1043Q-Yes.

18          A-   And then, down here, it added fifty thousand  
19          (\$50,000.00).

20          1044Q-You're referring to Exhibit, just so that we can  
21          identify it --

22          A-   Richard Daoust.

23          1045Q-Okay, Exhibit EJ-27, under the heading "Richard  
24          Daoust", there are various amounts there for a  
25          hundred and seventeen thousand (\$117,000.00).

1 A- That's right, and the interest was reinvested. So,  
2 this was in - that was September. That was '07.  
3 1046Q-Correct, and these loans appear to be in '05 and  
4 '06.  
5 A- So that I would think that these are the amounts he  
6 put it, and then the interest was accumulated, and  
7 it turned out to be that one thirty-six  
8 (\$136,000.00) that we see here.  
9 1047Q-So, was there a specific ledger account kept for  
10 these loans?  
11 A- You've probably seen - no.  
12 1048Q-How would you know what you owed the individuals?  
13 A- From the statements, this type of statement or the  
14 agreements that we had set up and - the summary  
15 statements and the agreements we set up.  
16 1049Q-But these loans that appear to be made to Dr. Harvey  
17 Beardmore family trust, these were really fictitious  
18 loans.  
19 A- Yes.  
20 1050Q-The money went into your in trust account and was  
21 used.  
22 A- Yeah.  
23 1051Q-Okay.  
24 A- Over the years, there probably is some loans that  
25 were not fictitious, but, yes, most of them were.

1 1052Q-But this particular group of loans --

2 A- Yes.

3 1053Q-To Beardmore, okay, so, you paid him the interest

4 and the - you paid back his capital. In March of

5 '09, you paid back a good chunk of his capital. In

6 March of '09, was - were you repaying anybody else

7 their loan?

8 A- Could be.

9 1054Q-Well, I'm not asking if it could be. Do you recall

10 if you were or you weren't?

11 A- I can't recall.

12 1055Q-Okay, certainly in March of '09, you were starting

13 to have problems.

14 A- Yes.

15 1056Q-Okay, was there any particular reason why you repaid

16 Richard Daoust's loan?

17 A- No, he had requested the repayment of it, and the

18 funds were there, and we repaid it.

19 1057Q-Okay, would you produce this as Exhibit EJ-28?

20 MR. GILLES ROBILLARD:

21 1058Q-Didn't you say earlier that that was prior to the

22 maturity of the loan?

23 A- In the - the March, '09, I think, was the maturity.

24 1059Q-It was the maturity.

25 A- But I think we made partial payment before that.

1 1060Q-Okay.

2 A- He had bought a car or something and...

3 Me NEIL H. STEIN:

4 1061Q-I'm going to show you a cheque. I can't pronounce  
5 her name. That's why I'm going to show you the  
6 cheque. Perhaps you can pronounce the name, Maria  
7 Szkwarkowska.

8 A- Right.

9 1062Q-S-z-k-w-a-r-k-o-w-s-k-a --

10 A- Right.

11 1063Q-For the Stenographer. I'm showing you here two (2)  
12 cheques made to her: one for a hundred and fifty-  
13 seven thousand (\$157,000.00) from your personal  
14 account, and the other for thirty-three thousand  
15 three ninety-nine (\$33,399.00) from the in trust  
16 account. Can you tell me, first of all, who this  
17 woman was, and what this represented?

18 A- She, I believe, is a client of Tony Gilardi's. Wait  
19 a second. There's a cheque in the back going back  
20 to '05. I don't know.

21 1064Q-You have no idea what these cheques are?

22 A- No, I just - I don't recall the name and the cheque,  
23 why it would be from my personal account. I really -  
24 -

25 1065Q-On the first one, there's a notation PER SP and then

1           your initials.

2       A-    I don't know what SP would be for.

3       1066Q-SP or SD, I'm not sure.  So, you have no idea who

4           this woman is and what these --

5       A-    No, and that's - you know, to come out of my

6           personal account, I guess there was a deposit made.

7           That's very unusual.  I'm not - obviously, my

8           signature is there, and I...

9       1067Q-There's a notation on the second cheque endorsement.

10           Maybe this will help you.

11                   "Deposit for beneficiary of Jon

12                   Dressel."

13       A-    Oh, oh, oh, oh, okay, alright, Jon Dressel is the

14           trustee in the estate Dirk Dressel, and this was a

15           payment that he asked us to make to his first wife,

16           Audrielle.

17       1068Q-Payment from the estate you're talking about or --

18       A-    It came - I think it came out of - that would be out

19           of the estate, and I'm not sure.  It came out of

20           fees or - he's a beneficiary of the income.  I think

21           he had ten (10) or fifteen percent (15%) income,

22           which wasn't paid, but that money would have been

23           transferred from the trust account to my personal

24           account and paid out of that.

25       1069Q-Why would it be transferred to your personal

1 account?

2 A- I really don't - I can't recall. I really - I can't  
3 recall, but it would have - that was the  
4 transaction.

5 1070Q-It would certainly be unusual for you to transfer  
6 money to your personal account, and then pay out an  
7 individual from your personal account.

8 A- Yeah, I'm not - I really don't know why that was  
9 done that way. What was the date of that cheque?

10 MR. GILLES ROBILLARD:

11 1071Q-The one fifty-seven (\$157,000.00)? March 31st,  
12 2008.

13 Me NEIL H. STEIN:

14 1072Q-Yes, it's deposited March 28th, 2008. It looks like  
15 eight (8). Is it eight (8) --

16 MR. GILLES ROBILLARD:

17 Yes.

18 Me NEIL H. STEIN:

19 Or three (3)?

20 MR. GILLES ROBILLARD:

21 Eight (8), March 28th, but the cheque is dated  
22 March 31st.

23 Me NEIL H. STEIN:

24 Yes, eight (8), yes.

25 (Addressing the Witness)

1 1073Q-I'm going to produce that as EJ-29. You lived next  
2 door to an individual by the name of Guy Lefaivre  
3 or...

4 A- Guy Lefaivre?

5 OCPQ-Guy Lefaivre, do you recall that?

6 A- Yes, in Gables Court.

7 1075Q-Correct, Guy Lefaivre Imports...

8 A- Yes.

9 1076Q-Do you know what that - what business was that?

10 A- Guy Lefaivre Imports was shoes, and he was - when he  
11 went in the shoe business, would have known Guy and  
12 his father. He had quotas that he could bring in  
13 shoes from throughout the world.

14 1077Q-And for what reason would you be paying Guy Lefaivre  
15 from your trust account?

16 A- That was many years ago. I would have no idea. I  
17 don't know what you - how much you're speaking about  
18 or the date. I think I settled his estate when he  
19 died.

20 1078Q-I show you here a summary of cheques that came from  
21 your trust account for the period December, '01 -  
22 I'm sorry, September, '93, to December, '01, for  
23 various amounts.

24 A- He had put some money with us, and it was a  
25 repayment of what funds that he had with us.



1 1079Q-So, he had lent you money. Is that it or --  
2 A- Yes.  
3 1080Q-Do you recall how much he lent you?  
4 A- Whatever is on there, I would think, is the amount.  
5 1081Q-Well, how long - it appears to be a fairly long  
6 period of time, '93 to 2001. Do you recall - well,  
7 actually, to 2002, do you recall when he died?  
8 A- No, when was the last date there, 2001?  
9 1082Q-Well, it - the last one is May 31st, 2002, to estate  
10 Guy Lefaivre. So --  
11 A- Okay.  
12 1083Q-He was definitely dead by then.  
13 A- He died in '01 or '02, and it would have been funds  
14 that we had on his behalf and repaid.  
15 1084Q-So, these were loans, loan repayments.  
16 A- Yes.  
17 1085Q-Plus interest or just --  
18 A- Yes.  
19 1086Q-Okay, I show you here a donation made to the  
20 Lakeshore General Hospital in April of 2008 from the  
21 in trust account.  
22 A- Yes.  
23 1087Q-Take a look at that.  
24 A- Hmm-hmm.  
25 1088Q-That again was funds from the in trust account that

1           did not belong to you. Is that correct?

2           A- That's correct.

3           1089Q-Okay, and --

4           A- Now, there was - the answer is yes.

5           1090Q-Okay, I show you here a memo addressed or a letter

6           addressed by you to the Lakeshore General Hospital

7           asking that tax receipts be issued in the name of

8           Mr. Corey and Kristine Velan for ten thousand

9           (\$10,000.00) for 2007 and five thousand (\$5,000.00)

10          for 2007 and five thousand (\$5,000.00) for 2008 to

11          yourself.

12          A- Right.

13          1091Q-Do you recall whether the hospital issued those tax

14          receipts?

15          A- Yes, they did.

16          1092Q-Would you produce those as Exhibit EJ-30, en liasse?

17          A- The tax refunds that were received by my daughter

18          and son-in-law were reimbursed to me. The original

19          amount, I had two (2) or three (3) clients who were

20          supposed to make those donations and decided not to.

21          The cheque was already sent.

22          1093Q-Kristine Jones Velan is your daughter. That's

23          correct?

24          A- That's right.

25          1094Q-Okay, I show you here a cheque from your personal

1 account at the Bank of Montreal for fifty thousand  
2 dollars (\$50,000.00) --

3 A- Right.

4 1095Q-Made to your daughter Kristine on March 21st, 2007.

5 A- Right.

6 1096Q-Can you tell us what that cheque was made for?

7 A- That cheque was a gift to, as it says here, to  
8 Corey, and it was a redemption of her investment  
9 funds that were at London Life that both her and Kim  
10 had when they were children, when they were  
11 children, very young.

12 1097Q-Why would it be a gift, if it was in her name in the  
13 first place?

14 A- Because it was in her name, but I was the owner or  
15 controller of the account. These are funds that  
16 were taken out when they were born.

17 1098Q-And what exactly were they?

18 A- Investment funds.

19 1099Q-Funds that came from where? I didn't --

20 A- London Life or Standard Life, one of the two (2).

21 1100Q-And those were funds that you advanced yourself?

22 A- Yes.

23 1101Q-Is that it?

24 A- Yes.

25 1102Q-And the funds were deposited to your account, even

1            though they were in your children's names?

2            A-    The funds would have been deposited to my Bank of  
3            Montreal account, and I issued the cheque.  And I  
4            think the reason the cheque was issued that way is  
5            because I was the owner of the account --

6            1103Q-Would you have a copy of this account that you're  
7            referring to?

8            A-    A copy of the investment funds?

9            1104Q-Right.

10           A-    No.

11           1105Q-Who would have a copy of the investment funds?

12           A-    The - Standard Life or London Life.

13           1106Q-Well, would you undertake to tell us where, whether  
14           it's Standard Life or London Life?

15           A-    I would - I can't recall, to be perfectly honest  
16           with you.  I would think it's London Life, sorry.  
17           It's London Life or Standard.

18           1107Q-Well, can you explain to me the type of investment  
19           that it was?

20           A-    It was investment funds.  I paid money on a monthly  
21           basis for the children when they were born, like I  
22           did for their scholarship trust funds, and the money  
23           accumulated.

24           1108Q-And the money accumulated in whose name?

25           A-    In - well, there was an account for Kristine, and

1           there was an account for Kimberly, but I think it  
2           was Earl Jones for Kimberly and Earl Jones for  
3           Kristine.

4           1109Q-So, when the cheques came in, they were made to your  
5           order.

6           A- I believe so.

7           1110Q-And this was made to her for what purpose? She was  
8           purchasing a house --

9           A- I think so, yes.

10          1111Q-At that time?

11          A- I think so, yes.

12          1112Q-I'm going to show you here some other cheques:  
13                  April 19th, 2004, from Earl Jones in trust to your  
14                  daughter for a thousand five hundred (\$1,500.00).  
15                  Do you know what that represents?

16          A- I would just - I would assume it was a gift to her,  
17                  monies I gave her, fifteen hundred dollars  
18                  (\$1,500.00).

19          1113Q-From the in trust account, of course.

20          A- Yes.

21          1114Q-September, '01, for five thousand dollars  
22                  (\$5,000.00).

23          A- I don't know what that was. September, '01, that  
24                  was eight (8) years ago. I don't know what that was  
25                  for, maybe some monies that I had received from some

1           of her investment funds or insurance policies, and  
2           it may have been used for her education. I really  
3           don't know.

4           1115Q-So, why would you, in certain cases, deposit it to  
5           the in trust account and, in certain cases, to your  
6           personal account? What would be the difference?

7           A- I'm not sure.

8           1116Q-Okay.

9           A- I'm not sure, sorry.

10          1117Q-Slapper Investments re Kimberly Jones for eleven  
11          thousand three ninety-five fifty (\$11,395.50) from  
12          Earl Jones in trust, what would that be for?

13          A- Slapper Investments, he sells cars.

14          1118Q-So, would you have purchased a car for your daughter  
15          from the trust fund?

16          A- I think there was a transaction that I - that we  
17          made in selling one car to Slapper, and then the -  
18          and Kristine bought it. So, it could have been a  
19          car that - one of our old cars that was traded in,  
20          and then...

21          1119Q-Yes, but the funds were used to purchase a car.

22          A- It looks like it, yes.

23          1120Q-This could be the differential from --

24          A- It looks like it, yeah.

25          1121Q-Okay, from Earl Jones in trust to Kristine Jones,

1           seven thousand (\$7,000.00), August, '99.

2           A- Well, this was payable back to Maxine, as you can  
3           see from the back. So, I'm not sure if it's money  
4           that Kristine owed us, or again monies from her  
5           investment funds or insurance policies that had cash  
6           value to them.

7           1122Q-So, this one you would deposit to the in trust  
8           account, and then --

9           A- No, no, it went over. It could be.

10          1123Q-Well, if you don't know, don't --

11          A- I don't know.

12          1124Q-Okay, you don't know, okay, and ten thousand dollars  
13          (\$10,000.00) to Kristine Jones June 7th, '99.

14          A- I don't know.

15          1125Q-You don't know.

16          A- No.

17          1126Q-Okay, now, just to get back to that first cheque of  
18          fifty thousand (\$50,000.00), I show you here a memo  
19          from yourself to your daughter, where you seem to  
20          have included some sort of calculation, and you've  
21          annexed certain capitals gains and losses. Take a  
22          look at that, and tell me if what you find there  
23          adds up to the fifty thousand (\$50,000.00).

24          A- That's twelve (\$12,000.00), fifteen (\$15,000.00),  
25          fifteen (\$15,000.00) and thirty (\$30,000.00). It's

1           about forty-five thousand (\$45,000.00), it seems,  
2           give or take.

3           1127Q-Alright, how do you get that? Where do you see  
4           fifteen (\$15,000.00)?

5           A- The Canadian regular account was five (\$5,000.00).  
6           Then, this amount from the RRSP was five six  
7           (\$5,600.00). Then, there's two thousand  
8           (\$2,000.00). So, that's ten (\$10,000.00), let's  
9           say, eleven (\$11,000.00), thirteen (\$13,000.00),  
10          then twenty-eight (\$28,000.00). That's what?  
11          Forty-one (\$41,000.00), and I think what I may have  
12          done is --

13          1128Q-That's not twenty-eight thousand (\$28,000.00). It's  
14          twenty-eight hundred (\$2,800.00).

15          A- Oh, okay.

16          MR. GILLES ROBILLARD:

17          1129Q-Plus you have a calculation at the bottom that shows  
18          seventeen thousand nine seventy-six (\$17,976.00).  
19          A- Cheque to Kristine, well, these were some stocks  
20          that I sold, too, at RBC Dominion Securities. You  
21          see, over here, you have sixteen thousand  
22          (\$16,000.00) and thirteen (\$13,000.00) on a page.  
23          And there was some investment funds sold, and there  
24          was some stock, BC Emerges, BC Emerges, and Franklin  
25          U.S. Fall Fund.



1 Me NEIL H. STEIN:  
2 1130Q-And all those funds came from her personal proceeds.  
3 A- That's right, Scotia McLeod.  
4 1131Q-No, I know the accounts are in her name, but I'm  
5 talking about the original deposit --  
6 A- Yes.  
7 1132Q-Okay, would you produce those cheques, en liasse, as  
8 Exhibit...  
9 MS. JULIE KORMAN:  
10 EJ-31.  
11 Me NEIL H. STEIN:  
12 1133Q-EJ-31? I'm going to include with that the  
13 calculation and the cheque for fifty thousand  
14 (\$50,000.00) as well. Oh, I'm sorry - yes, that's  
15 correct. That's correct. And what was your  
16 relationship with Mr. Bob Spencer? You mentioned  
17 before he was your insurance --  
18 A- Bob spencer is a licensed insurance investment fund,  
19 and he did a lot of - when we recommended insurance  
20 to clients, he - we would use him, and he did some  
21 investment funds for some of our clients as well.  
22 1134Q-Okay, and there was no referral fees or anything of  
23 that nature --  
24 A- No.  
25 1135Q-For Mr. Spencer?

1 A- No.

2 1136Q-Okay, Robin Whitrod you referred to before.

3 MR. GILLES ROBILLARD:

4 Bob Spencer, are you done with that?

5 Me NEIL H. STEIN:

6 Go ahead.

7 MR. GILLES ROBILLARD:

8 1137Q-Was he involved in some loans also, some of those --

9 A- Some of the - some funds we owe here, yes.

10 1138Q-You still owe him or --

11 A- Yes, yeah.

12 1139Q-Do you recall how much was going to...

13 A- How much he gave us?

14 1140Q-Yes.

15 A- It was, I think, about a hundred and fifty

16 (\$150,000.00), I think, or a hundred and twenty-five

17 (\$125,000.00).

18 1141Q-And how much are owed?

19 A- That's what we owe him.

20 1142Q-You owe him the full amount, but there's some

21 payments, important payments, that were made to him

22 still.

23 A- There were - there was payments. There were

24 payments we paid to him, and I think he gave us back

25 some other monies.

1 Me NEIL H. STEIN:  
2 1143Q-I show you here a statement prepared by the trustee  
3 in respect of payments made to R.J. Spencer  
4 Financial Services Inc., Robert Spencer Family  
5 Holdings, and Robert or Bob Spencer. Would you take  
6 a look at those, please?  
7 A- These are monies that he gave us?  
8 1144Q-The cheques are attached there. These are monies  
9 which you gave him.  
10 A- Yeah, that would be correct, and some of these  
11 aren't his.  
12 1145Q-Well, the ones that are underlined in yellow,  
13 obviously.  
14 A- Okay, the ones that have his name on them, thirty-  
15 five (35), these were - well, the cheques that are  
16 here, correct.  
17 1146Q-And they represent what?  
18 A- Bob would have loaned us money, and then we would  
19 have repaid him periodically different loans when  
20 they came due and...  
21 MR. GILLES ROBILLARD:  
22 1147Q-How would you know what to reimburse and how much is  
23 owing?  
24 A- Well, we had separate agreements for each amount,  
25 and we had a summary for each amount. So, Bob - it

1           was with Bob. He would have agreements, and he  
2           would have had a summary that was given to him.

3           Me NEIL H. STEIN:

4           1148Q-When it's marked personal on the Earl Jones in trust  
5           account, does that mean that the loan was personal?

6           A- Where is it marked personal? At the bottom?

7           1149Q-I believe it says personal.

8           A- That would have been funds that I borrowed for some  
9           reason and repaid. It was probably repaid to him.

10          1150Q-Well, there's a couple of cheques that are marked  
11          personal.

12          A- Well, the other - it may also refer to - Bob has a  
13          family holding company as his company, and some of  
14          the cheques he gave us were personal cheques. So,  
15          it may be a repayment of this money on a personal  
16          basis.

17          1151Q-Well, we have one cheque - let's go cheque by cheque  
18          for a moment. The first one is R.J. Spencer  
19          Financial Services Inc., fifteen hundred and twenty-  
20          eight dollars (\$1,528.00), December - I believe it's  
21          12th, 2008. So, R.J. Spencer Financial Services  
22          would be lending you money?

23          A- Yes, he would give us - he would have given us a  
24          cheque from that particular...

25          1152Q-The next one is December 24th, 2008, Robert Spencer

1           Family Holdings. So, he would have a holding  
2           company that would be giving you money --

3           A- That's right.

4           1153Q-Lending you money? And then, we have Robert Spencer  
5           personally from Earl Jones in trust in 2006, thirty-  
6           five thousand (\$35,000.00). That would be a  
7           personal loan, is it?

8           A- Yes.

9           1154Q-June 15th, 2006, thirty-five thousand (\$35,000.00),  
10           personal, and March 23rd, 2006, thirty thousand  
11           (\$30,000.00), personal.

12           A- And are they going to Bob, or are they coming to me?

13           1155Q-They're going from your Earl Jones in trust account  
14           to Robert Spencer personally.

15           A- Okay, that's right.

16           1156Q-You were paying...

17           A- Funds that he loaned on a personal basis.

18           1157Q-Well, how many loans would he have made to you?

19           A- Well, he may have made one loan of thirty-five  
20           (\$35,000.00), and it could have been repaid thirty  
21           (30) days later. And then, there could have been  
22           another one, so...

23           1158Q-Would you produce these cheques and the summary paid  
24           to Mr. Bob Spencer and various companies on his  
25           behalf as Exhibit EJ-32? Okay, Mr. Jones, the

1 purchase of the condominium for your daughter  
2 Kimberly in Hyannis, do you recall how that  
3 happened, how that unit was purchased?  
4 A- I believe I utilized my own funds, but the answer is  
5 no.  
6 1159Q-Okay, well, let's go step by step. I show you here  
7 a letter dated December 11th, 1996, that I want you  
8 to take a look at. It's the offer - enclosed is the  
9 offer to purchase. Okay, if I take a look, that's  
10 a letter to Living Independently together with the  
11 offer to purchase. That's your signature on the  
12 offer. Then, there's a cheque attached to that.  
13 A- Yes.  
14 1160Q-The cheque is from Earl Jones in trust --  
15 A- Right.  
16 1161Q-December 4th, 1996, for ten thousand dollars  
17 (\$10,000.00).  
18 A- Right.  
19 1162Q-Would you produce that - well, we'll produce all  
20 this together. That's how we start, okay, number 1.  
21 Number 2, I show you here a letter dated July 3rd,  
22 1997, to Mr. Richard Dalton, lawyer, whereby you say  
23 you're going to be purchasing this unit outright  
24 with:  
25 "No mortgage will be placed on this

1                   resident, and that it should be  
2                   registered either in the name of my  
3                   wife, Mrs. Maxine Pamela Jones in  
4                   trust for Kim or in my name as well  
5                   as my wife's name".

6                   I'd like to speak to you about that. Could you just  
7                   put that together with the other letter?

8                   A- Right.

9                   1163Q-I show you here now a letter dated July 3rd, 1997,  
10                  Lipman Drummond Freeman, attorneys in Barnstable,  
11                  Massachusetts, and it refers:

12                  "I will arrange with Mr. Dalton the  
13                  transferring of the funds to his  
14                  trust and/or escrow account for the  
15                  purchase and the releasing of some  
16                  five thousand five hundred dollars  
17                  (\$5,500.00)".

18                  Would you put that together? And I show you here a  
19                  bank draft from the Royal Bank of Canada in the sum  
20                  of a hundred and fifty-two thousand eight thirty and  
21                  fifty-four cents (\$152,830.54) made out to E.  
22                  Edward, trustee, Lincoln Road, Realty Trust,  
23                  together with a cheque for the Canadian equivalent  
24                  of those U.S. funds from the Earl Jones in trust  
25                  account. Take a look at this, and there's a memo

1           attached whereby this sum is being forwarded for, I  
2           believe, the purchase of that unit. Is that  
3           correct?

4           A-    What was the question?

5           1164Q-Well, are these the funds that were used to purchase  
6           that unit?

7           A-    I would say yes, but my understanding and I couldn't  
8           answer the question is that you would know by the  
9           trust account that I may have put some of my own  
10          money in the trust before making these payments.  
11          And if there's nothing there, then the answer is  
12          yes.

13          1165Q-We don't see any reference to you putting personal  
14          money in the trust account for payment of this  
15          particular bank draft. Now, I show you here --

16          Me DONALD R. MICHELIN:

17                    Are you going to file it?

18          Me NEIL H. STEIN:

19                    Yes, we're going to file them all together.

20          Me DONALD R. MICHELIN:

21                    Oh, okay.

22          Me NEIL H. STEIN:

23          1166Q-I show you here a copy of a declaration of trust  
24          establishing the Jones Realty Trust, and the trustee  
25          is your wife, Maxine Jones. This was the trust that



1           was set up to purchase that condominium unit, and it  
2           was July 21st, 1997.

3           A- I believe this is the trust, yes.

4           1167Q-Okay, who organized the setting up of the trust and  
5           advised you to put the condominium or the unit in  
6           the name of this trust?

7           A- It was advised by the Life Organization in general  
8           that because of the disabilities of these young  
9           adults, that real estate property be put in a trust,  
10          number 1. Number 2, Mr. Freeman, is it, Peter  
11          Freeman is a lawyer that - yeah, Peter Freeman, the  
12          lawyer, and also the gentleman who did the trust,  
13          you said, was a Mr. Dalton, those three (3)  
14          individuals were the ones that recommended that a  
15          trust be established.

16          1168Q-Was there any other trust established, or this was  
17          the sole trust that was established?

18          A- This was the sole trust, I believe, yes.

19          1169Q-And the unit still is in the name of this trust --

20          A- Yes.

21          1170Q-As I understand it.

22          A- Yes.

23          1171Q-And your daughter is still living there, as I  
24          understand it. Is that correct?

25          A- Well, until the end of December.

1 1172Q-Okay, but that's the - is she coming back here or...

2 A- No, we were able to rent a one-room apartment with

3 another resident there.

4 1173Q-I see.

5 A- For a few months to see how she gets along.

6 1174Q-Okay, would you produce all of those documents, en

7 liasse, as Exhibit EJ-33? The expenses over the

8 years from 1997 to date for this unit were paid how?

9 A- I would say on a personal basis and also from the

10 E.J. in trust account.

11 1175Q-Okay, and your daughter's school expenses were paid

12 how?

13 A- Well, going back to the first school she was at was

14 at Riverview, and that was paid to a great extent on

15 a personal basis, and I had an educational trust

16 here in Quebec that I bought for them years ago,

17 but, at Life, I would say it would be a combination

18 of from the E.J. in trust account and personal.

19 1176Q-Okay.

20 MR. GILLES ROBILLARD:

21 Can I just...

22 Me NEIL H. STEIN:

23 Yes, go ahead.

24 MR. GILLES ROBILLARD:

25 1177Q-How much was the tuition approximately per year?

1 A- At Life where she is.

2 1178Q-Am I wrong at about fifty (\$50,000.00) to sixty  
3 thousand dollars (\$60,000.00) U.S.?

4 A- No, you're wrong, yes. The tuition is - right now,  
5 it's twenty-five thousand dollars (\$25,000.00). So,  
6 going back, Kim has been there for - I don't know -  
7 seven (7), eight (8) years, or six (6) years. When  
8 was this bought?

9 Me NEIL H. STEIN:

10 1179Q-This was bought in 1999.

11 MR. GILLES ROBILLARD:

12 1180Q-'99.

13 A- In '99, so, it was probably about eight thousand  
14 (\$8,000.00), twelve thousand (\$12,000.00), in that  
15 area. It jumped up very quickly.

16 1181Q-But if we look at the entire expenses and you're  
17 saying --

18 A- Well, if you add in the condo fees, which were three  
19 hundred dollars (\$300.00) a month, and the taxes,  
20 and there were some renovations done like the new  
21 kitchen floor, that type of thing.

22 1182Q-We're going to be looking at later on your personal  
23 tax returns, but, in those days, we're looking at  
24 thirty (\$30,000.00) to sixty thousand dollars  
25 (\$60,000.00). Where was the money coming from, if

1           you say it's from personal funds? And all the  
2           cheques are drawn on the in trust account?

3       A-    Well, that's what I said. I think there was some  
4           from personal, but the majority was from the E.J. in  
5           trust.

6       1183Q-Okay, because that's different than what you said  
7           earlier. You said it came from personal funds.

8       A-    There's some entries in the E.J. in trust that -  
9           deposits that I had made. And, at times, I would  
10          look and say, okay, I have deposited five thousand  
11          (\$5,000.00), and I wrote a cheque for five thousand  
12          (\$5,000.00), but the bottom line is that, you know,  
13          what went in and what went out is - whatever the  
14          difference is is attributed to myself.

15       1184Q-But wasn't a lot of the funds that were going back  
16          in funds that you had originally drawn from that  
17          account, anyways?

18       A-    Yeah, some of it was, yeah.

19       1185Q-So, it wasn't personal funds. It was really still  
20          clients' funds that were being used.

21       A-    Well, it was - I guess so.

22       Me NEIL H. STEIN:

23       1186Q-As an example, if we take a look at your taxable  
24          income in the year 1998, your total income --  
25

1 MR. GILLES ROBILLARD:  
2 Taxable income is forty-two thousand dollars  
3 (\$42,000.00).  
4 Me NEIL H. STEIN:  
5 1187Q-Forty-two thousand zero twenty-seven forty-nine  
6 (\$42,027.49).  
7 A- Right.  
8 1188Q-Alright, so, in 1997, your taxable income was forty-  
9 two thousand dollars (\$42,000.00). Obviously, you  
10 didn't have the hundred and...  
11 MR. GILLES ROBILLARD:  
12 ...fifty-two thousand (\$152,000.00).  
13 Me NEIL H. STEIN:  
14 1189Q-A hundred and fifty-two thousand dollars  
15 (\$152,000.00) --  
16 MR. GILLES ROBILLARD:  
17 U.S.  
18 Me NEIL H. STEIN:  
19 1190Q-U.S. to pay. Would that be a fair statement?  
20 A- It's a fair statement.

21  
22  
23  
24  
25

OFF RECORD DISCUSSION

SHORT ADJOURNMENT

1 Me NEIL H. STEIN:  
2 1191Q-Mr. Jones, you purchased the property at 78 Gables  
3 Court on September 19th, '81. I show you here a  
4 copy of the deed. Okay, the purchase price, as I  
5 understand it, for that home was two hundred and  
6 twenty thousand dollars (\$220,000.00), and let me  
7 just look at the - paragraph 30 of the deed refers  
8 to the consideration being two hundred and twenty  
9 thousand dollars (\$220,000.00). Do you recall how  
10 the purchase price was paid?  
11 A- The money came from a house I had in, I think it  
12 was, Rosedale in the Windermere area of  
13 Beaconsfield.  
14 1192Q-Okay, and there was how much paid in cash and how  
15 much paid by way of mortgage? Do you recall?  
16 A- I think I assumed - and this is where the Bank of  
17 Montreal comes in, I think, now. I think I assumed  
18 the Bank of Montreal mortgage that was on there. I  
19 can't recall, but the proceeds would have been from  
20 the sale of --  
21 1193Q-Well, it says:  
22 "This property is free and clear of  
23 all encumbrances with the exception  
24 of the hypothec subsisting in favour  
25 of Le Permanent, which the vendor

1 binds and obliges himself to have  
2 discharged forthwith at his own  
3 expense".

4 A- I guess I didn't. I really don't recall.

5 1194Q-Okay, if I tell you that the purchase price was two  
6 twenty (\$220,000.00), that the amount paid in cash  
7 was one sixty-one (\$161,000.00), and you had a  
8 mortgage of fifty-nine thousand dollars (\$59,000.00)  
9 with the Bank of Montreal, would that sound --

10 A- That's correct.

11 1195Q-Correct?

12 A- Right.

13 1196Q-Now, the money which you said was paid in cash, the  
14 hundred and sixty-one thousand (\$161,000.00), you  
15 said, came from a prior property.

16 A- That's right.

17 1197Q-And where did the money for the prior property come  
18 from?

19 A- We had bought a property on Beacon. I think it was  
20 Beacon Road in Beaconsfield for some twelve  
21 (\$12,000.00), thirteen thousand dollars  
22 (\$13,000.00), and sold it, I think, up in the  
23 fifties or sixties, and we bought the one on  
24 Windermere the day that the referendum was being  
25 signed here or voted on, and the people didn't show

1 up. And the money we got from the Beacon, we put it  
2 into the Windermere one on Rosedale, and the money  
3 from Rosedale went into the Gables Court.

4 1198Q-Well --

5 A- So, it was money we made from the selling of  
6 personal houses.

7 1199Q-And would you say that all the money which went into  
8 each one of those properties came from your personal  
9 monies, or were there funds which came from the  
10 trust account?

11 A- It came from personal.

12 1200Q-Everything?

13 A- The original house on Beacon, well, some family  
14 members helped me make the down payment, and then  
15 what I had. And I was at Montreal Trust at that  
16 time, and I got a mortgage through Montreal Trust

17 Me DONALD R. MICHELIN:

18 1201Q-What was the correct address of that house?

19 A- What?

20 1202Q-The correct address on Beacon and the correct  
21 address --

22 A- I think --

23 1203Q-On Windermere.

24 A- I think it was 128 on --

25 1204Q-On Beacon?



1 A- Beacon, and --  
2 1205Q-Windermere?  
3 A- Windermere, it wouldn't - I think it was on Rosedale  
4 in the Windermere area in Beaconsfield.  
5 1206Q-So, on Rosedale.  
6 A- Again, I think it was - it may have been 128.  
7 1207Q-So, 128 was for both of them?  
8 A- No, 128 Rosedale.  
9 1208Q-And on Beacon, what was the address?  
10 A- I think - you know what? I really don't know. I  
11 can't recall. My wife would know them. If you want  
12 me to get them for you, I'll get them.  
13 Me NEIL H. STEIN:  
14 1209Q-Now, apartment number N3 at 850 Lakeshore Road --  
15 A- Yes.  
16 1210Q-In Dorval, you have that...

17  
18 OFF RECORD DISCUSSION  
19

20 Me NEIL H. STEIN:  
21 1211Q-Okay, apartment number N3 was purchased by you and  
22 your wife on December 1st, 1997. The purchase price  
23 was three hundred and ten thousand dollars  
24 (\$310,000.00), of which you paid ninety-seven  
25 thousand dollars (\$97,000.00) down, and you assumed

1 a two hundred and twelve thousand dollar  
2 (\$212,000.00) mortgage at the Bank of Montreal. Do  
3 you recall that?

4 A- Yes.

5 1212Q-Do you recall that the cheques were - and I can give  
6 you the dates and the cheque numbers, were all drawn  
7 on the Earl Jones in trust account?

8 A- What cheques?

9 1213Q-Sorry?

10 A- What cheques?

11 1214Q-Cheque number 501 --

12 A- But what cheque is it? For the purchase price or  
13 for the monthly payments?

14 1215Q-Just let me - thank you; cheque number 501, December  
15 1st, 1996, Caisse Populaire Desjardins for fourteen  
16 hundred and seven dollars (\$1,407.00); cheque number  
17 589, January 1, 1997, Caisse Populaire Desjardins,  
18 two thousand three hundred (\$2,300.00); and then,  
19 cheque number 812, November 27th, 1997, the Bank of  
20 Montreal for a Canadian draft of ninety-four  
21 thousand six eighty-three forty-eight (\$94,683.48),  
22 do you recall that that was the total cash paid of  
23 ninety-seven thousand two oh two (\$97,202.00), and  
24 then you assumed the...

25 A- I know we assumed a mortgage, because there was a

1           foreclosure on the property, and that's why we  
2           bought it.

3           1216Q-Right, but the money --

4           A- I thought the mortgage was with the Caisse Populaire  
5           or Banque Nationale or something, but anyway I - we  
6           may have transferred it over to the Bank of  
7           Montreal. I don't know.

8           1217Q-Well, it says in the deed that the balance of sale  
9           is by way of assumption of a two hundred and twelve  
10          thousand dollar (\$212,000.00) mortgage in favour of  
11          the Bank of Montreal, but the point that I'm trying  
12          to make is the purchase price came from the in trust  
13          account, the cash part of the purchase price. Do  
14          you recollect --

15          A- It was? I don't recall.

16          1218Q-You don't recall.

17          A- No.

18          1001Q-Okay.

19          A- I would assume we used the money from the Gables  
20          Court. We moved into N3 on a rental basis, and we  
21          retained the money from Gables Court. Then, the  
22          bailiff came and told us we have to get out, because  
23          it was being - there was a foreclosure, and we  
24          decided to buy it.

25          1220Q-X3, the unit number X3 --

1 A- Yes.  
2 1221Q-At 870 Lakeshore Drive --  
3 A- Yes.  
4 1222Q-Again, that was purchased on October 22nd, 1999, by  
5 you and your wife. The purchase price was three  
6 hundred and twenty-nine thousand four twenty-eight  
7 (\$329,428.00).  
8 A- Right.  
9 1223Q-And the vendor acknowledged receiving, both before  
10 and at the execution of the deed of sale, the total  
11 sum of three hundred and seventy thousand dollars  
12 (\$370,000.00).  
13 A- Right.  
14 1224Q-The payments were made again from the trust account  
15 to Notary André Hébert. There was first a December  
16 15th, 1997 cheque for five thousand (\$5,000.00) as  
17 the first deposit; March 25th, 1998, cheque number  
18 491, eleven thousand four seventy-one (\$11,471.00);  
19 July 1, 1998, cheque number 510 to Notary André  
20 Hébert for thirty-two thousand nine forty-two  
21 (\$32,942.00); November 9th, 1998, cheque number 266  
22 to Notary André Hébert for thirty-two thousand nine  
23 forty-two (\$32,942.00); January 20th, 1999, cheque  
24 number 265 to Notary André Hébert for thirty-two  
25 thousand nine forty-two (\$32,942.00) for a total of

1 a hundred and fifteen thousand two ninety-seven  
2 (\$115,297.00) paid to Notary Hébert, all again from  
3 the in trust account.

4 There was a further cheque of thirty-three nine  
5 sixteen seventy-six (\$33,916.76) to Notary Hébert  
6 dated October 22nd, 1999, also from the trust  
7 account for a total of a hundred and forty-nine  
8 thousand two thirteen seventy-six (\$149,213.76).

9 The amount that was paid in cash was a hundred  
10 and fifteen thousand two ninety-seven (\$115,297.00),  
11 and there was a Bank of Montreal mortgage of two  
12 hundred and fifty-four thousand seven oh three  
13 (\$254,703.00) for a total of three seventy  
14 (\$370,000.00). Again, the cash part of the purchase  
15 price appears to all have come from the in trust  
16 account.

17 A- It may have come from the in trust account, or I  
18 would assume it was, as you say it appears to have  
19 come.

20 1225Q-Well, we have the cheques --

21 A- But when I sold - okay, when I sold N3 to Mr. Hugh  
22 Whalen, who, I believe, is on your list, Mr.  
23 Robillard, the three hundred and thirty thousand  
24 (\$330,000.00) which I believe he paid me for N3  
25 would have gone into my trust account. The thirty

1           thousand (\$30,000.00) or the twenty thousand's  
2           (\$20,000.00's) that were advanced to Notary Hébert  
3           was advanced in accordance with the building being  
4           built and being finished.

5           MR. GILLES ROBILLARD:

6           1226Q-But most of those payments were made prior to the  
7           sale of N3.

8           A-    The - prior to --

9           1227Q-Given that --

10          A-    Prior to the effective date of the sale of N3.

11          MR. GILLES ROBILLARD:

12          1228Q-Prior to the payment of the proceeds on N3.

13          A-    Yes, it would have been, yeah, but I knew that the  
14          sale --

15          1229Q-Because there were --

16          A-    Was going through.

17          1230Q-There were partial payments of approximately thirty  
18          thousand (\$30,000.00) on a regular basis --

19          A-    Right.

20          1231Q-As the condo was --

21          A-    Right.

22          1232Q-Being built.

23          A-    Right, and then I reimbursed the in trust account  
24          with the three thirty (\$330,000.00) that Mr. Whalen  
25          paid.

1 Me NEIL H. STEIN:  
2 1233Q-Alright, so, you first took out of the trust account  
3 and then reimbursed it.  
4 A- Yes.  
5 1234Q-Okay.  
6 A- Now, all of that monies relating to the Beacon and  
7 the Rosedale, to the Gables Court, and to the  
8 Dorval, all originated from the original purchase of  
9 the Beaconsfield bungalow subject to some other  
10 monies, I guess.  
11 1235Q-Well, when would you deposit monies to the trust  
12 account, and when would you deposit monies to your  
13 personal account? Why would you continuously co-  
14 mingle?  
15 A- I - you know, I really don't have an answer for  
16 that. It was very sloppy on my part, to be honest  
17 with you. The trust account, I - it was a  
18 convenient way, because I very, very seldom - I  
19 don't know if the girls had told you - ever went to  
20 the bank and did any banking. And if I had a  
21 transaction, the girls at the office were able to go  
22 and do everything for me. So, it was --  
23 1236Q-But they were able to do it for your personal  
24 account as well as the so-called in trust account.  
25 A- Yeah, I just - it was - well, in this case here,

1           because I had paid money from the trust account, it  
2           was my - I was reimbursing the trust account by  
3           putting that proceeds from the sale of N3 into it.  
4       1237Q-Alright, so, your position is that you would have  
5           taken advances from the trust account --  
6       A-    Right.  
7       1238Q-And then reimbursed it --  
8       A-    Right.  
9       1239Q-When you sold the property.  
10      A-    Exactly.  
11      1240Q-But on a - did you have any sort of thought process  
12           that you would use as to when funds would go to the  
13           trust account, as to when funds would go to your  
14           personal account? I showed you a cheque from your  
15           personal account to your daughter, which you said  
16           represented funds that were coming in from  
17           investments for your daughter.  
18      A-    Right.  
19      1241Q-And why would you have those funds deposited to your  
20           personal account and, in other instances, deposited  
21           to the trust account?  
22      A-    I really don't know. There may have been cheques  
23           that I put in, because the trust account was a  
24           little short, and I put some money in. Regarding  
25           the cheque to my daughter, I think that was from my



1           personal account, wasn't it?

2           1242Q-Correct.

3           A-    Yeah, so, I would have thought that the insurance or

4           the investment fund cheque could have been made

5           payable to me, because I was the owner of that

6           contract.  And I would have endorsed the cheque and

7           put it into my personal account, and then wrote a

8           cheque from my personal account to Kristine.

9           1243Q-And yet when you're purchasing these properties,

10          you're again - and we'll come to the others, the

11          same situation with the other properties that you

12          purchased, it's always out of the trust account,

13          never from your personal account.  Is there any

14          reason why you wouldn't take money from the trust

15          account --

16          A-    Well, I didn't have a --

17          0107Q-If it belonged to you --

18          A-    I didn't have - you know, when you're talking about

19          Gables, because that's what we're looking at now,

20          you know, I didn't have in my personal account

21          thirty (\$30,000.00), thirty (\$30,000.00), thirty

22          thousand dollars (\$30,000.00).

23          1245Q-I see.  So, that's why it came out of the trust

24          account.

25          A-    Right, knowing that I was - the sale was going

1 through, and I would get three hundred and thirty  
2 thousand (\$330,000.00). I think if you look in the  
3 trust account, you'll see a deposit of that amount.

4 1246Q-Okay, now, you purchased a --

5 MR. GILLES ROBILLARD:

6 1247Q-Well, there was a two hundred and thirteen thousand  
7 dollar (\$213,000.00) mortgage on the N3.

8 A- Right.

9 1248Q-Was that paid? Had you finished paying that  
10 mortgage at the time of the sale of N3?

11 A- I don't recall.

12 1249Q-So, we see only a deposit for the difference.

13 A- It could be.

14 Me NEIL H. STEIN:

15 1250Q-Over the years, the payments for Gables Court and  
16 for the condos at Dorval, the taxes, the insurance,  
17 the condo fees, the repairs, the renovations, the  
18 furnishing, those, from the Examination of your  
19 wife, appear to be made again from the trust account  
20 by way of cheques going to your wife or cheques  
21 going directly from the trust account in payment of  
22 those matters. Was there anything that was paid  
23 from your personal account in respect of those?

24 A- Well, I believe going back a number of years ago,  
25 the - I would take a fee and from my - I would take

1 a fee, put it in the company account, and I would  
2 take a draw from the company account, usually five  
3 thousand (\$5,000.00) or so on a month, and put it  
4 into my personal account. And a lot of the - and  
5 Maxine used to get some cheques from my personal  
6 account at times.

7 1251Q-Well, the cheques which we've seen, okay, and which  
8 she said she received are all from the in trust  
9 account. And she doesn't seem to have - she told us  
10 she never received cheques from your corporate  
11 account, and she didn't refer to any cheques from  
12 your personal account, not from what I recollect, in  
13 any event.

14 A- Well, what - you know, what you've seen in the in  
15 trust account obviously is accurate, because you  
16 have copies of the cheques.

17 1252Q-Right.

18 A- Right, and in order to determine what I could have  
19 paid her - I'll use the word - from my company  
20 account, which would have been a personal cheque,  
21 because she didn't work for the company, and/or from  
22 my own personal account, I guess those accounts  
23 would show.

24 1253Q-Alright, so, you would have the records to show from  
25 your personal account --

1 A- I don't have any records whatsoever. Every single  
2 file was taken from either my office or from my  
3 home. I have no records whatsoever.  
4 1254Q-You have no records whatsoever.  
5 A- No, nothing.  
6 1255Q-Okay.  
7 A- No.  
8 MR. GILLES ROBILLARD:  
9 1256Q-We have quite a bit.  
10 A- I'm sure you do.  
11 1257Q-We have the corporate and some of the personal.  
12 A- Yeah.  
13 1258Q-And we don't see many personal expenses paid out of  
14 those accounts. The majority, furniture, door  
15 repairs, window repairs, carpet, everything seems to  
16 be cheques from the trust account, all of it.  
17 A- Right.  
18 1259Q-From there, not from the - either the personal nor  
19 the joint account.  
20 A- Well, he asked me a question, and I answered it. I  
21 think that I did pay.  
22 1260Q-Okay.  
23 Me NEIL H. STEIN:  
24 1261Q-The property in Boca Raton, do you recall how that  
25 was paid for?

1 A- That was - it was a - I think the purchase price was  
2 a hundred and twenty thousand (\$120,000.00) or a  
3 hundred and thirty (\$130,000.00). I'm not sure, and  
4 there was a problem at the end that may not be  
5 reflected in the deed, that the owners would not  
6 show up, and the lawyer that was doing it, he ended  
7 up, I think, getting five (\$5,000.00) or ten  
8 thousand (\$10,000.00) off the purchase price, but I  
9 think the deeds and everything were already done.  
10 There was a hundred thousand dollar (\$100,000.00)  
11 mortgage put on there by...

12 MR. GILLES ROBILLARD:

13 1262Q-Wachovia?

14 A- No, the company before Wachovia bought.

15 Me DONALD R. MICHELIN:

16 1263Q-First Union.

17 A- Yeah, I think so, yeah.

18 MR. GILLES ROBILLARD:

19 First Union National Bank.

20 Me NEIL H. STEIN:

21 1264Q-First Union National Bank.

22 A- Then, it went to Royal Savings or whatever.

23 Me DONALD R. MICHELIN:

24 1265Q-Royal Savings.

25 A- So, the only amount that was put down on that place

1           would have been the difference between the hundred  
2           thousand dollar (\$100,000.00) mortgage and...

3           Me NEIL H. STEIN:

4           1266Q-Well, the purchase price is supposed to be a hundred  
5           and forty thousand (\$140,000.00) U.S.

6           A-    Right.

7           1267Q-Do you recall where the money came from to purchase  
8           that?

9           A-    No.

10          1268Q-Okay.

11          A-    I know, at one forty (\$140,000.00), I don't know if  
12           it really mattered, but as I said, I think there was  
13           a ten thousand dollar (\$10,000.00) reduction which  
14           was not reflected, anyway.

15          1269Q-Okay, once again, the cheques which we have, which  
16           are - we have a reconciliation of the numbers, and  
17           the transfers all appear to come from the in trust  
18           account. Do you recall?

19          A-    You have copies of those cheques?

20          1270Q-Yes, we do.

21          A-    Yeah.

22          1271Q-Do you recall yourself whether you had any personal  
23           money that was put into that?

24          A-    I think there was.

25          1272Q-Those are the cheques.

1 A- I think there was, but I don't recall. It was  
2 actually a family purchase that my brothers begged  
3 out at the last minute, so. I think I would have  
4 put some personal money in, but I can't --  
5 1273Q-Alright, well --  
6 A- I can't recall.  
7 1274Q-Just so that you can see the cheques, you can take  
8 a look at the cheques and the transfers, and you'll  
9 see that they all come from the in trust account.  
10 No personal cheques there?  
11 A- There doesn't appear to be.  
12 1275Q-The Village de soleil or des soleils --  
13 A- Yes.  
14 1276Q-Condos, do you recall purchasing a condo there?  
15 A- Yes.  
16 1277Q-Okay, do you recall the purchase price?  
17 A- The original condo I purchased there, I think, was  
18 for sixty-seven thousand (\$67,000.00) or fifty-seven  
19 thousand (\$57,000.00). Then, I sold that, I think,  
20 for a hundred and twenty-five (\$125,000.00) or a  
21 hundred and fifty (\$150,000.00), and I used that  
22 money to purchase the second condo.  
23 1278Q-Okay, I show you here a purchase - well, a cheque to  
24 Village des soleils from your in trust account March  
25 8th, 1989, for a hundred and twenty-two thousand one

1           fifty (\$122,150.00). Does this represent the  
2           purchase of the last condo?

3           A-    Yeah, this would be the purchase of the last condo.  
4           I had a two (2) bedroom condo before, which was  
5           sold. I believe it was for a hundred and twenty-  
6           five thousand (\$125,000.00). And then, I used that  
7           money to purchase the three (3) bedroom. So, it may  
8           have gone into the trust account, the money I got  
9           from the sale.

10          1279Q-Now, you then purchased a property at 40 Allée Becs  
11           Scies --

12          A-    Right.

13          1280Q-In Mont Tremblant. There were three (3) condos, I  
14           believe, at the Village des soleils. Do you recall  
15           that, that were purchased?

16          A-    There was - I purchased one condo, sold it. Then,  
17           I think I repurchased it, and then my - we had  
18           purchased - I think I purchased another condo with  
19           a friend, which we shared, and then it was sold.

20          1281Q-And what were the proceeds used - or what did you do  
21           with the sale proceeds?

22          A-    I would have put them into our in trust account, I  
23           would say. I'm not sure whether there was any  
24           profit at all, because Village des soleils took off.  
25           Then, it came down and...



1 1282Q-Okay, the last purchases at Mont Tremblant, the  
2 Allée Becs Scies, 49 Allée Becs Scies, do you recall  
3 that purchase?  
4 A- Yes.  
5 1283Q-Okay, again, from what we see, all the cheques come  
6 from the in trust account and a bank draft purchased  
7 from the in trust account.  
8 A- There would have been a deposit in the in trust  
9 account from a notary in Three Rivers for the sale  
10 of that --  
11 1284Q-Well, the first cheque is July 28th, 2003, to Dupré  
12 Bédard in trust --  
13 A- Right.  
14 1285Q-For thirty-one thousand eight eighty-eight  
15 (\$31,888.00), cheque number 6631 from the in trust  
16 account. There was another one to the same notaries  
17 July 28th, 2003, for sixteen four four four  
18 (\$16,444.00), the same trust account; another one  
19 the same date, July 28th, 2003, the same notaries,  
20 another sixteen thousand four four four  
21 (\$16,444.00). Was there any particular reason for  
22 three (3) cheques being written on --  
23 A- That's the same idea as the Dorval apartment. When  
24 they were building the complex, you had to pay a  
25 certain amount when the sides go up and the roof

1                    goes up.

2                    1286Q-No, but those three (3) cheques were all written on

3                    the same date.

4                    A- For the same people?

5                    1287Q-The same people.

6                    A- I don't know why there was three (3) cheques written

7                    on the same date to the same people. The only

8                    thing, that particular unit was, I think, pretty

9                    well finished on the outside and the roof. So, they

10                   may have asked for three (3) separate cheques to...

11                   1288Q-Okay, again, the monies for this condo came from

12                   where, according to you?

13                   A- Village des soleils.

14                   1289Q-Well, how much money did you have from the Village

15                   des soleils?

16                   A- It was one eighty-four (\$184,000.00) - one eighty-

17                   eight (\$188,000.00) I sold the condo in Grey Rocks.

18                   1290Q-And, here, you put down two hundred and twenty

19                   thousand seven seventy-six (\$220,776.00). Plus, you

20                   paid some other postdated cheques. Take a look at

21                   the cheques. I'll ask you to take a look at the

22                   cheques. They all come out of the trust account.

23                   A- I used the in trust account in advancing those

24                   monies against the money that I got from Grey Rocks,

25                   but there's obviously a difference between the sale

1 price of Grey Rocks and the purchase price there,  
2 plus other expenses that I...

3 1291Q-Again, the support of that condominium or that unit,  
4 rather, the taxes, furnishings, etc., appear to have  
5 come out of the trust account. Would that be  
6 accurate?

7 A- Some of it would have, I believe. Others, I think  
8 I could have paid from my own personal account or  
9 monies, but certainly the cheques you showed me are  
10 from the trust accounts.

11 1292Q-Okay, we'll stop there for tonight at twenty to six  
12 (5:40).

13 MR. GILLES ROBILLARD:

14 We'll resume tomorrow morning.

15 Me NEIL H. STEIN:

16 Tomorrow morning, and we shouldn't be more than  
17 half a day at max.

18 (Addressing the Witness)

19 1293Q-Alright, thank you very much.

20

21 AND FURTHER DEPONENT SAITH NOT.

22

23 -----