



DEPOSITION

DOUGLAS KNEUBUHL, Jr.

DEPOSITION

Douglas C. “Doug” Kneubuhl, Jr.

Irvine, California

May 16, 2014

Including:

Annotated Comparison of this Deposition with
the Deposition of Mark Kneubuhl

1 IN THE HIGH COURT OF AMERICAN SAMOA
2 TRIAL DIVISION

3 _____
4 ROBIN KNEUBUHL, ROUSH,
5 FRANCES K. OPELLE and
6 BENJAMIN ("BEN") KNEUBUHL,
7 JR.,

8 Plaintiffs,

9 vs.

10 DOUGLAS CRANE "MIKE"
11 KNEUBUHL, DOUGLAS KNEUBUHL,
12 JR., CARRIE SUE KNEUBUHL
13 LAVIGNE ECKERT, and KELLY
14 KNEUBUHL NADINE FULTS,

15 Defendants.

HCCA No.: 28-13

16 DEPOSITION OF DOUGLAS C. KNEUBUHL, JR.

17 Irvine, California

18 Friday, May 16, 2014

19 Volume I

20
21 Reported by:
22 DENISE BARDSLEY
23 CSR No. 11241

24 Job No. 1833360A

25 PAGES 1 - 99

1 IN THE HIGH COURT OF AMERICAN SAMOA
2 TRIAL DIVISION

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4 ROBIN KNEUBUHL, ROUSH,
5 FRANCES K. OPELLE and
6 BENJAMIN ("BEN") KNEUBUHL,

6 JR.,
 7 Plaintiffs,
 8 vs. HCCA No.: 28-13
 9 DOUGLAS CRANE "MIKE"
 10 KNEUBUHL, DOUGLAS KNEUBUHL,
 11 JR., CARRIE SUE KNEUBUHL
 12 LAVIGNE ECKERT, and KELLY
 KNEUBUHL NADINE FULTS,
 Defendants.

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Deposition of DOUGLAS C. KNEUBUHL, JR.,
 Volume I, taken on behalf of Plaintiffs, at 20
 Corporate Park, suite 350, Irvine, California,
 beginning at 9:20 a.m. and ending at 12:15 p.m. on
 Friday, May 16, 2014, before DENISE BARDSLEY,
 Certified Shorthand Reporter No. 11241.

♀

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Irvine, California, Friday, May 16, 2014
Page 5

2 9:20 a.m.

3

4 DOUGLAS C. KNEUBUHL, JR.,
5 having been administered an oath, was examined and
6 testified as follows:

7

8 EXAMINATION

9 BY MR. VARGAS:

10 Q Good morning, Mr. Kneubuhl.

11 My name is David Vargas. I'm an attorney
12 in American Samoa representing Ben Kneubuhl, Frances
13 Kneubuhl and Robin Roush, also known as Robin
14 Alexander Kneubuhl, in the matter involving the
15 lawsuit filed down there concerning the Lena
16 Kneubuhl trust.

17 With me today is Fiti Sunia, who represents
18 Frances Opelle in an action that's been consolidated
19 with this one. And, of course, you know Mr. Hall,
20 your attorney.

21 Have you ever had your deposition taken
22 before?

23 A No.

24 Q Have you had an opportunity to discuss the
25 procedure with Mr. Hall before coming in here?

7

1 A Yes.

2 Q Just see that we're clear, here are a few
3 ground rules we like to follow. This is an
4 important proceeding that the court reporter has
5 administered an oath. It is like you're testifying
6 in a court of law.

7 Do you understand that?

8 A Understood.

9 Q This is a question-and-answer session.

10 Each of the attorneys will be allowed to ask you
11 questions concerning the controversy that resulted
12 from the lawsuit that's been filed.

13 I'd ask that if you, at all possible,
14 answer audibly, because the court reporter, to your
15 right, is taking down everything verbatim that is
16 said here today.

17 So if you use words such as uh-huh or
18 huh-uh or you shake or nod your head, it leaves the
19 court reporter the task of trying to interpret what
20 your response is. So I would ask that you provide
21 us with a verbal response today.

22 A Understood.

23 Q Okay. If you don't understand a question
24 that is posed to you, please let us know and we'll
25 try to rephrase it so that you do understand it. If

8

1 you don't let us know that and proceed to answer the
2 question, we'll assume that you understood the
3 question and answered it appropriately. Okay?

4 A (No audible response.)

5 Q No one wants you to guess or speculate as
6 to an answer here today. We want you to provide an
7 answer based on what you know, not what you think or
8 what you might believe. Okay?

9 A Understood.

10 Q Okay. Having said that, a lot of times we
11 might ask you a question with regard to space,
12 distance or time. And even though you don't have a

13 precise answer, we're entitled to your best estimate
14 of that. Okay?

15 A Yes.

16 Q And if you don't recall or you don't know,
17 those are perfectly good responses, so feel free to
18 use them when appropriate.

19 At the completion of your deposition, the
20 court reporter will prepare what's known as a
21 deposition transcript. And you'll be allowed to
22 review that transcript and will be asked to sign it
23 stating that it is your testimony.

24 At that time you will be allowed to make
25 any changes or corrections to your testimony.

9

1 If you do make any changes or corrections
2 and that materially alters or contradicts what you
3 said here today, any of the attorneys involved can
4 comment on that at trial or any proceeding, and it
5 could affect your credibility.

6 Do you understand that?

7 A I understand that.

8 Q Are you taking any medications that might
9 affect your memory to recall events in the past?

10 A No.

11 Q Is there any other reason why you can't
12 proceed today?

13 A No.

14 Q Mr. Sunia will be asking the questions
15 first and I will be following up.

16 Do you have anything to add?

17 MR. SUNIA: No.

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18 MR. HALL: Appearances?
19 MR. SUNIA: Fiti Sunia for Frances Opelle.
20 MR. HALL: Ray J.D. Hall, Jr., the attorney
21 for Defendants Mike Kneubuhl, Carrie Eckert, Kelly
22 Fults and Douglas Kneubuhl, Jr.
23 And, for the record, I do not represent
24 defendant Mark Kneubuhl in the consolidated action
25 LT 20-30 and CA 28-13.

10

♀
1 And if I refer to defendant or defendants,
2 it does not include Mark Kneubuhl.

3 MR. SUNIA: Those are the only two
4 documents that you may not have in your -- produced
5 in your production that I intend to use.

6

7 EXAMINATION

8 BY MR. SUNIA:

9 Q Good morning, sir.

10 A Good morning.

11 MR. HALL: I'll stipulate to it.

12 That's two, right?

13 BY MR. SUNIA:

14 Q Please state your name.

15 A Douglas Crane Kneubuhl.

16 Q How old are you, sir?

17 A I am 60.

18 Q Where do you live now?

19 A 8104 Pacific Cove Drive, Las Vegas, Nevada.

20 Q What's your birth date?

21 A October 3rd, 1953.

22 Q And where were you born?

23 A In San Mateo County, California.

24 Q Your parents, their names, please?
25 A Douglas Crane Kneubuhl and Jaclyn Phillips.
11

1 Q Your father is the same person also known
2 as Mike Kneubuhl?

3 A That's correct.

4 Q How long have you been living in your
5 current address?

6 A Approximately 14 years.

7 Q Prior to that, where were you living?

8 A In Honolulu, Hawaii.

9 Q How long did you live in Honolulu?

10 A Three years.

11 Q Before that where did you live?

12 A Moraga, California.

13 Q Did you live in American Samoa at any
14 point?

15 A Yes. Between 19-- late '78, early '79
16 and 1980. I was a pilot for SPIA, South Pacific
17 Island Airways.

18 Q Do you still fly?

19 A Yes. I'm a professional pilot.

20 Q Who do you work for?

21 A Allimar, LLC. I fly corporate jets.

22 Q And how long have you been doing that?

23 A Since I've been a pilot for 34, 35 years,
24 continuously.

25 Q Did you do any other kind of work?

12

1 A No.

2 Q Where did you go to school?

3 A I did my undergraduate at the University of
4 California Berkeley, and I did my graduate work at
5 California State University Chico.

6 Q High school?

7 A In Mountain View, California.

8 Q Did you do any of your schooling in
9 American Samoa?

10 A No.

11 Q So basically you've lived in the States
12 pretty much all of your life?

13 A Yes. As far as a legal address, other than
14 my time in working for SPIA, yes.

15 Q Are you married?

16 A Yes.

17 Q How long?

18 A I can't recall. 29 years, possibly.

19 Q Do you have children?

20 A Two.

21 Q How old are they?

22 A 26 and 24. The last one just graduated
23 from college.

24 Q Where is your wife from?

25 A Originally, Bellingham -- excuse me,

13

1 Winahatchie, Washington.

2 Q Does she have any part Samoan?

3 A No.

4 Q Your home in Las Vegas, you own it?

5 A Yes.

6 Q Your children, are they finished with
7 school? Are they in school?

8 A Yes, my youngest one just graduated in the

9 University of Nevada with a degree in finance. He
10 is now working in the finance department for
11 Viceroy. It is a hotel group in Santa Monica.

12 And my daughter is vice president or
13 general manager of guest services for the Tao,
14 T-a-o, Group. They are out of New York, but their
15 corporate headquarters has now moved into Las Vegas.

16 Q Are they, your children, married?

17 A No.

18 Q Do you know if your children have any
19 intention of moving to Samoa?

20 A They would like to. Both have been to
21 American Samoa.

22 Q How long have they been -- how long have
23 your children been working -- one is just one year
24 out of college?

25 A Graduated in May, and he started work

14

1 sometime at the end of the summer.

2 And my other, daughter, when she came back
3 from Australia, where she did a business internship,
4 immediately got a job with the Tao Group. I can't
5 recall, but it was shortly thereafter she graduated
6 from college.

7 Q Did you ever own a home in American Samoa?

8 A No, I've never owned a home in American
9 Samoa.

10 Q You know Frances Opelle, correct?

11 A Yes.

12 Q Who is she?

13 A She's my aunt.

14 Q How is she your aunt?

15 A She is my father's sister.

16 Q When is the last time you spoke or saw her?

17 A I can't recall. It could have been two,
18 three, four years ago. But when I spoke with her, I
19 believe it was shortly after her husband,
20 Bob Opelle, passed away. And I called to offer
21 condolences.

22 Q About four years ago?

23 A If that would be the time, yes.

24 Q And prior to offering her condolences, how
25 frequent were your communications with her?

15

♀
1 A Our paths crossed starting when I graduated
2 from high school in 1971. I would go down almost
3 every summer, if not every other summer. My parents
4 were divorced. So if I was not down visiting my
5 father here in Newport, Balboa, I was in Samoa.

6 In 1971, my aunt and Bob Opelle had a duty
7 free store at Mamalahoa, so I would see her quite
8 often.

9 And then once they were in San Juan
10 Capistrano, whenever there was the opportunity or
11 event or the families got together, we would
12 interact. Whether that was every three years or
13 five years, I can't recall.

14 Q But you mentioned your parents divorced.
15 How many siblings do you have from your -- how many
16 siblings do you have?

17 A Siblings meaning full, adopted, half? Can
18 you clarify that?

19 Q Full.

20 A Full. Three others. I have an older
21 sister who resides in Chico, California, as a school
22 teacher, a younger brother, Mark, who resides in
23 American Samoa, and a younger sister, Stacy, who
24 resides in SoCal, California.

25 Q Do you have half brothers and sisters?

16

1 A Yes. I have a half sister who lives in
2 SoCal, California, I have a half brother who lives
3 in San Jose, California, and I have a half sister
4 who resides in Corona Del Mar, California.

5 Q What are the names of your half siblings?

6 A My half siblings, Jenny Bobamiski in
7 Northern California. Joseph Cantrell in San Jose,
8 California. Kelly Kneubuhl, who resides in Corona
9 Del Mar. And I have a -- I don't know where I would
10 classify my other sister, Carrie Eckert. She's
11 adopted by my father, so I wouldn't know where you
12 want to place her in that line.

13 Q Adopted sister?

14 A Adopted sister.

15 Q Do you know Adrian Kneubuhl?

16 A Never heard -- I take that back, I've heard
17 of him, yes.

18 Q Have you met him?

19 A No, no.

20 Q So you wouldn't consider him a sibling?

21 A No.

22 Q You acquired an acre of land from your
23 brother Mark, the Olo land in Taputimu; is that
24 correct?

25 A douglas0516db1 kneubuhl.txt
That's correct.

17

1 Q Do you recall when you acquired that acre
2 of land from your brother?

3 A Approximately. It was in -- approximately
4 May of 2000.

5 Q How much did you pay for -- how much did
6 you pay for that 1 acre?

7 A \$5,000.

8 MR. SUNIA: I'm going to ask to have this
9 marked next in order as 15.

10 (Plaintiffs' Exhibit OPL-15 was marked
11 for identification by the court
12 reporter and is attached hereto.)

13 BY MR. SUNIA:

14 Q Mr. Kneubuhl, I'm going to show you what's
15 been marked as Exhibit OPL-15. It bears Bates
16 number 00405.

17 And I'll ask you to have a look at it.
18 Do you recognize that document?

19 A I do.

20 Q Have a look at that document again.

21 Is that your signature on that document?
22 Do you see your signature on that document?

23 A I'm looking for it.

24 No, I do not.

25 Q Whose signature -- do you recognize any

18

1 signature on that document?

2 A That possibly could be my brother's
3 signature on the top. But, no, I'm unfamiliar with
4 his signature.

5 Q But you do recognize the document, right?

6 A Yes, I do. I recognize it.

7 Q Can you describe what that document is?

8 A Let me read it. It is a quitclaim deed
9 from my brother Mark Kneubuhl, and I am listed as
10 the grantee with my correct address. Just reading
11 from the title, it is a quitclaim deed.

12 Q Does it say how much land your brother was
13 conveying to you in that deed?

14 A If you take a look at the coordinates on
15 the map, it is approximately 1 acre.

16 Q All right. Does it recite how much money
17 you paid for it?

18 A For the good consideration, the sum of
19 \$5,000.

20 Q Do you know when -- do you recall when your
21 brother or know when your brother acquired land from
22 Frances?

23 A This specific property, somewhere in or
24 about May of 2000.

25 Q What's the date on that document you have?
19

1 A This would be in July, if I'm reading on
2 the bottom correctly, July 2000. And it looks like
3 it is either circled or it is that part of the
4 signature down below. It could be 2001, it could be
5 2000. I need some clarification.

6 Q Is there a date on the beginning of that
7 document?

8 A 2001.

9 Q All right. Your acquisition through that

10 document was a little over a year after your brother
11 bought land from Frances.

12 Q Is that a fair statement?

13 A Correct. When we bought land, that would
14 be a correct statement.

15 Q Can you explain why your deed from your
16 brother to you was in 2001 but your brother had
17 acquired this land from Frances in 2000? Can you
18 explain that?

19 A You mean explain the time differential?

20 Q Right.

21 A There's probably a couple explanations.

22 One, if you know how difficult it is to get
23 a surveyor out to your property in Samoa, that takes
24 a period of time; two, I was in no hurry; and,
25 three, we had, not a number of discussions, but he

20

1 wasn't quite sure on how we were going to take this
2 parcel of land and orientate the parcels.

3 And in 2001, it wasn't a top -- 2000 to
4 2001, it wasn't a top priority for me. I was
5 literally flying -- I was just very, very busy,
6 businesswise, careerwise.

7 Q You just mentioned that you and your
8 brother bought land from Frances.

9 Do you have a written deed conveying land
10 from Frances to you and your brother?

11 A No. Let me clarify that. My Grandmother
12 Phillips died just prior to May. She left both my
13 brother and I a small amount of cash. So my brother
14 and I discussed purchasing property together.

15 And I let my brother pretty much, since he

16 was living down there, lives down there in American
17 Samoa, select the property and go from there.

18 So that was my mistake. I don't have the
19 document, but it was understood that it was always
20 going to be 1 acre that was going to be for me.

21 Q So I'll ask you again, do you have a -- is
22 there a deed conveying land from Frances, your
23 Aunt Frances, to you and your brother?

24 A No.

25 Q When did you pay the money for your 1 acre?
21

1 A Initially, sometime after May I had written
2 a check to Frances. And, at her request, to a
3 different address than her residence.

4 Q What year?

5 A In the year 2000.

6 And then I wrote -- the amount was paid in
7 three increments.

8 The second increment was in May of -- the
9 21st of 2000 and the third was September 29th of
10 2000.

11 Q So your 5,000 was paid in --

12 A Three increments.

13 Q All in the year 2000?

14 A Correct.

15 Q You said your grandmother passed away. Was
16 it Phillips?

17 A Grandmother Phillips, yes.

18 Q Would she be your --

19 A My mother's mother.

20 Q Your mother's mother.

21 Was that here in California?

22 A Yes, here in Newport Beach.

23 Q What year was that?

24 A Well, I'm not sure, but it was shortly
25 before we purchased the property. So it would

22

1 either be 2000 or 1999. I'd have to check the date
2 of her passing away.

3 Q You may have answered, I'm sorry, I don't
4 remember, why did you and your brother want to buy
5 land in American Samoa?

6 A We wanted to live there -- my brother
7 wanted to live there, I wanted to build there.

8 Q In the year 2000, what were you doing
9 workwise?

10 A I was flying for Corporate Flight
11 International.

12 Q Is that the same company you're working for
13 now?

14 A No.

15 Q And at that point, how long had you been
16 working for Corporate Flight International?

17 A We had just relocated from Honolulu back
18 to -- excuse me, not back to -- but to Las Vegas.
19 So it was a relatively new employer.

20 Q At that point in 2000 you were living in
21 Las Vegas, correct?

22 A Correct.

23 Q And your intention to building in American
24 Samoa or somewhere in American Samoa was -- was it
25 for rental properties?

23

1 A No. It was for a personal home.

2 Q For who? For you?

3 A Of course for me, yes.

4 Q You alluded to survey work.

5 How did you and your brother decide on the
6 parcel to convey to you?

7 A I relied on my brother, who had an intimate
8 knowledge of the property. I was familiar with it.

9 I had been out there countless times, but I
10 was unfamiliar with the exact parcel that he was
11 looking at and that Frances wanted to sell.

12 Q How did you know Frances wanted to sell?

13 A Well, I told her in 1971 when I was working
14 down there for Satala and for Kneubuhl Maritime
15 during the summer. They had a home where they had
16 their duty free shops. I specifically remember
17 telling Francie one day that I would like to buy
18 property in Samoa. I was in high school at the
19 time, I graduated from high school in 1971.

20 She said -- at the particular time she
21 said, "when you're ready and when you are an adult,
22 I will have property for you."

23 And upon almost every meeting I had with
24 her -- correction, not meeting -- gathering or
25 opportunity to see her, family, which was

24

1 infrequent, but frequent, three to five years -- I
2 would remind her and she's always been a very loving
3 aunt to me, and I've never had a cross word.

4 We've always mentioned that some day we'd
5 like to buy -- "I'd like to buy some property from

6 you."

7 Q Were you aware that your father had
8 property that your brother Mark was living on in
9 American Samoa?

10 A Yes.

11 Q Did you ask your father for a piece of that
12 property to build a home?

13 A I didn't care for that property.

14 Q When was the last time that you saw the
15 property that your father owned in American Samoa?

16 A I'd have to check. My last trip down there
17 was maybe three years ago, but I'm not sure. That's
18 the last time I saw the property.

19 Q Three years ago would have been 2011,
20 right?

21 A Yes. That could have been. Yeah, it could
22 have been. That was my last trip down there.
23 Somewhere. I would have to check my records.

24 Q Prior to 2001 when you acquired the acre
25 from your brother Mark, when was the last time you

25

1 had taken a look at the property your father owned?

2 A Are we talking about the property behind
3 the bakery in Leone? Is that what you're referring
4 to?

5 Q Does your father own any other property in
6 American Samoa at that time?

7 MR. HALL: Counsel, he asked you a
8 question. If you just answer that, yes, that's the
9 property behind the bakery or near the bakery, or,
10 no, it's not.

11 BY MR. SUNIA:

12 Q Are you familiar with the names of the
13 properties?

14 A No, I'm not. Not the property behind the
15 bakery in Leone.

16 Q Well, the property in the vicinity of the
17 bakery in Leone --

18 MR. HALL: Thank you.

19 BY MR. SUNIA:

20 Q -- when was the last time that you looked
21 at that property prior to acquiring the acre of
22 Frances' land from your brother?

23 A Oh, yes, my brother Mark had a house back
24 there.

25 Q Correct. The property your brother lived 26

1 on?

2 A Correct.

3 Q Did you ask your father for a piece of that
4 property to build a home?

5 A No.

6 Q And I think you justified that you didn't
7 particularly care for it?

8 A No.

9 Q When was the last time you saw that
10 property prior to acquiring this acre from your
11 brother?

12 A Probably just previous to when I acquired
13 it. I mean, I was going down there on a regular
14 basis. And that's where my brother lived, so I will
15 always be at my brother's house, stop and say hello,
16 so I would see that property.

17 Q When were you working for SPIA?

18 A It would be late '78, early '79 through
19 1980, somewhere in there. I'd have to check my
20 logbooks.

21 Q Were you working for SPIA --

22 A A couple years.

23 Q 20, 21 years prior buying property from
24 your brother Mark?

25 Is that a fair statement?

27

1 A Okay. I'd say I was in my 20s.

2 I'd have to do the math, but I'll defer to
3 you on that.

4 Q Again, when did you work for SPIA?

5 A In the late '70s, ballpark figure, late
6 '70s through 1980.

7 Q So about 30 years?

8 A Yes.

9 Q And that was the only time that you
10 actually spent an extended period of time in
11 American Samoa; is that right?

12 A No. That's incorrect.

13 From 1971 I spent four months working for
14 Kneubuhl Maritime and for Satala Foods in the family
15 business. And, as a young boy, every other summer I
16 would be -- spend time in Samoa with my father.
17 That was the arrangement as a young boy.

18 Q Do you have any recorded communication with
19 your Aunt Frances right before Mark, your brother
20 Mark, bought land?

21 A Yes, yes.

22 Q Do you have that on you? Do you have it

23 with?

24 A I'm sorry. Recorded, no. Verbally, yes.

25 Q Let's talk about this verbal communication.
28

1 what verbal?

2 A well, I would call her and I let her know
3 that -- I thanked her very much for the offer on the
4 property that she was selling to Mark. And she was
5 very happy for me.

6 She had also called me back and gave me
7 specific mailing instructions on my payments to her.
8 She wanted my payments sent to a separate mailing
9 address than her home address.

10 Q When you say "thank you for the offer,"
11 what is your understanding? Your Aunt Frances
12 called up Mark and offered to sell him land; is that
13 your --

14 A There's been a standing offer for years and
15 years. I'm not sure if it was a specific phone
16 call. But I went -- Mark made me aware that they
17 had been in communication. And I followed up, out
18 of common courtesy, and thanked her.

19 Q A standing offer from whom?

20 A From Frances to sell her property.

21 Q To who?

22 A To Mark or myself or both.

23 Q And how long was that offer standing?

24 A I had been talking, as I mentioned before,
25 since 1971, about one day I would like to buy some
29

1 property, and Aunt Frances' response was, "Dougie,

2 whenever you're ready to buy some property, we'll
3 talk." This was when I was 17 years old.

4 Q When was the last time you spoke with your
5 brother Mark?

6 A Sunday.

7 Q This past Sunday?

8 A Uh-huh.

9 Q Did you talk to your brother about the fact
10 that you're giving a deposition today?

11 A No.

12 Q When you and your brother Mark considered
13 buying property from Frances, did you or both of you
14 or your brother, to your knowledge, notify any of
15 the kneubuhl family members or a trustee -- let me
16 back up.

17 Are you familiar with your Grandmother Lena
18 kneubuhl's trust?

19 A I have seen it.

20 Q You've seen it. You are aware that in that
21 trust she placed some property that included the
22 property that you and your brother bought from your
23 Aunt Frances?

24 A I am aware of that.

25 Q So when you and your brother considered

30

1 buying property from your Aunt Frances, did you or
2 both of you or your brother, to your knowledge,
3 notify beneficiaries of that trust of your
4 grandmother's trust or a trustee of your
5 grandmother's trust of this purchase?

6 A Not to my knowledge, my brother. I'm
7 speaking of my brother since it was collectively the

8 3 acres purchased by my brother. And not to my
9 knowledge did he do that.

10 Q Did you do that?

11 A No.

12 Q Did you consult your father prior to making
13 this acquisition from your Aunt Frances?

14 A No.

15 Q Now, what do you -- were you aware that
16 around that time your father had acquired land from
17 your Aunt Frances?

18 A No.

19 Q How often do you talk with your father?

20 A Often.

21 Q Like how often? Daily?

22 A No, no.

23 Q Weekly?

24 A No. Biweekly.

25 Q What about your sisters Carrie and Kelly, ³¹

1 how often did you talk to them?

2 A When we were living in Honolulu or when we
3 were living in California, I would check in maybe
4 once a month, maybe sometimes twice a month, maybe
5 sometimes three times a month.

6 Q Around the time of your -- of this
7 acquisition by you and your brother, how frequent
8 were you in contact with Frances?

9 A As I previously said, I called to thank her
10 for the property. And there might have been --
11 there definitely was one, possibly two
12 conversations, of which she gave me mailing

13 instructions for the monies to be mailed to her
14 specifically.

15 Q Did you know what Frances' living situation
16 was at that time?

17 A No, I did not. I knew they lived on the
18 same address that they lived forever. I wasn't
19 quite sure if she had an in-law still living with
20 her at that time, but, no.

21 Q Who decided on the price of the land? You
22 or Mark?

23 A Well, I am not quite sure. I don't think
24 we decided. I think Francie decided. Previously
25 there had been horse swapping, and \$3,000 an acre

32

1 seemed to be among family members the going rate.
2 But that price was not set by Mark or myself. I was
3 just told it was \$5,000 an acre.

4 Q Where did you get this \$3,000 an acre --
5 where did you learn of the \$3,000 an acre rate for
6 family members?

7 A You know, possibly I had heard it, and it
8 is not as fact, but in the course of 1971 in high
9 school and being close to the rest of the family
10 members down there, I may have heard it from my Aunt
11 Marge that, you know, sometimes there -- I may have.
12 But somehow that number stuck. And it wasn't a hard
13 fact in the back of my mind; it was just -- it was a
14 number that just -- I had just kind of stored.

15 Q Are you -- were you aware at that time of
16 any particular land transaction that went for \$3,000
17 an acre?

18 A No. I wasn't aware of any transactions

19 that were occurring at that time down there.

20 Q When did you hear of this 3,000? Can you
21 give us a time frame?

22 A No, I couldn't. I couldn't give you a time
23 frame, because I can't remember a specific
24 incidence. It could have been over a beer at my
25 brother's house in the 1970s or it could have been

33

1 in the 1980s.

2 Somehow it is just a number which may or
3 may not be correct. But I just kind of understood
4 among family members that was a number that was out
5 there.

6 Q Can you explain what you mean by "horse
7 trading" in one of your earlier statements?

8 A It is just a term that I use among family
9 members.

10 Q Help me understand what you mean by horse
11 trading.

12 A All right. I will lend you my car for a
13 week if you take care of this particular task for
14 me. I would do that with one of my sisters. That's
15 a horse-trading-type term.

16 Q Was there, similarly, land-type trading
17 with your mother's trust property that you are aware
18 of?

19 A I've heard, but I am unfamiliar with it.

20 Q What did you hear?

21 A I can't recall.

22 Q But you recall it was horse trading?

23 A Not specifically horse trading. I

24 understand -- maybe it was an incorrect choice of
25 diction. I understand properties exchanged between
34

1 family members.

2 Q Do you have knowledge of the 1982
3 settlement agreement among your father's siblings?

4 A Only by title. I'm not familiar with the
5 content.

6 Q Did you similarly hear around the time
7 period of your land acquisition of Frances'
8 financial condition?

9 A I knew sometime in the year 2000 -- excuse
10 me -- to 2000 and -- for that decade that she was
11 financially in trouble. Not specifically the year
12 2000. It could have been 2003, it could have been
13 2005. But someone made me aware, and it possibly
14 could have been when she moved out of her home -- on
15 Lookout Court or Lookout Point Court in San Juan
16 Capistrano.

17 That might have been the first time that I
18 had heard that they were having financial troubles.

19 Q Did you consider that 5,000 an acre seemed
20 a better price or a fair price, given the \$3,000
21 that you previously heard of as the going rate?

22 A That wasn't part of my thought process. I
23 was just happy at this time to finally have acquired
24 a piece of property.

25 Q At that point had you purchased any

35

1 property in the States?

2 A I have a rental piece of property. I'm
3 trying to see how the dates work.

4 No, that would have been my first
5 acquisition.

6 Q Were you renting at that time?

7 A You mean excluding my house? No, I've been
8 purchasing homes -- my first home was purchased in
9 1984.

10 Q At the time that you acquired land from
11 your brother he bought from Frances, you had already
12 purchased your home?

13 A A number of homes, yes.

14 Q Since the acquisition, what have you done
15 with the property, if anything?

16 A A lot of thinking about the property. I've
17 had a surveyor go out there and take a look at the
18 possibility of a road and how that would fit into
19 the property.

20 Q Can you name that surveyor?

21 A There were two or three. Offhand, no. I
22 have those records. One of them, I believe, was a
23 fellow by the name of Sumia. Another fellow worked
24 for the government and did it part time. So I would
25 have to get those names and provide them to you.

36

1 Q When did you make this contact with these
2 surveyors?

3 A I'd have to look and get the dates. I
4 can't tell you. It wasn't immediately after the
5 purchase of the property, I can tell you that.

6 Q Was it fairly recent or -- was it fairly
7 close to the purchase of the property in 2001 or was
8 it fairly recent, like closer to the deposition that

9 we are at today?

10 A No, not close -- it has been quite some
11 time. I would have to take a look. It wasn't close
12 to the acquisition of the property and it is
13 certainly not close to the deposition. It's been
14 years.

15 Q Okay. Any other activity that you
16 attempted to take with respect to this property
17 other than the survey work?

18 A What type of activity? I'm sorry.

19 Q Had you visited the plot since you acquired
20 it?

21 A Yeah, I've visited it and looked at
22 potential clearing of it and had some minor clearing
23 done of it so I could walk it. It's bush.

24 Q If you can recall, since the acquisition in
25 the year 2000, how many times have you been down to
37

1 American Samoa?

2 A Three or four.

3 Q Do you remember the years?

4 A I could take a look at my passport and find
5 out.

6 Typically what I was doing was hopping on
7 an Air New Zealand flight out of L.A. to Fale'olo
8 and then I would sneak over.

9 The last time I was down there in business
10 was just down in Fale'olo.

11 Q Do you have business in Samoa?

12 A I did, so --

13 Q What kind of business did you have there?

14 A I was looking at an air cargo project for

15 the Central South Pacific. And I was doing some
16 work analysis at looking at turbo prop freight
17 operations between American Samoa, Fale'olo, Vava'u,
18 Tonga, primarily agriculture and shipping with
19 Hawaiian Airlines.

20 Q Did you establish a business?

21 A No, this was all analysis.

22 Q You were exploring possibilities there?

23 A Exploring and hoping.

24 MR. SUNIA: I'm going to ask to have this
25 marked, please.

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1 (Plaintiffs' Exhibit OPL-16 was marked
2 for identification by the court
3 reporter and is attached hereto.)

4 BY MR. SUNIA:

5 Q Mr. Kneubuhl, I'm handing you what's been
6 marked as Exhibit OPL-16.

7 This document, for the record, has no Bates
8 numbers.

9 Sir, I'm going to ask you to have a look at
10 that, please.

11 Have you seen that document before?

12 A I don't know. Let me kind of go through it
13 here.

14 Yes.

15 Q Okay. And what's the date on that
16 document?

17 A That date is the -- it was sent July 6th,
18 2012.

19 Q And what is that document?

20 A I am notifying -- I am sending this to
21 family members -- actually, yeah, I'm sending it to
22 family members advising my intent to sell the
23 property. I should come up with a different name of
24 what this would be called.

25 Q The property in that document, the property ³⁹

1 you are giving notice of your attempt to sell, is
2 that the property that you acquired from your
3 brother Mark in 2000?

4 A Yes, the 1 acre.

5 Q And the property that you're referring to
6 is the acre that you acquired through the quitclaim
7 deed that's been marked as Exhibit OPL-15 of this
8 deposition?

9 A Yes.

10 Q Before I get to OPL-16, how did you
11 determine the boundaries of your property that you
12 acquired from your brother Mark?

13 A I relied on my brother to divide up the
14 property. He selected two of the 3 acres. And the
15 third acre that was left was mine.

16 Q Do you have knowledge -- your claim is that
17 the original acquisition by Mark from Frances was
18 actually an acquisition for both of you?

19 A That was a verbal agreement my brother and
20 I had that we would own 3.

21 Q Do you know how the 3 acres, its location
22 and its boundaries, were determined when Mark
23 acquired it?

24 A I do not specifically know, no.

25 Q Do you know, if you have knowledge, whether

♀

1 that acquisition by Mark from Frances was approved
2 by the beneficiaries of your grandmother's trust or
3 the trustee of your grandmother's trust?

4 A No.

5 Q Back to Exhibit OPL-16, did you attempt to
6 sell this property prior to 2012 as shown on that
7 Exhibit OPL-16?

8 A You know, I may have.

9 Q Okay. I know you're not sure, but if you
10 may have tried to sell this property prior to 2012
11 how would you have gone about soliciting buyers?

12 A There was either one or two occasions. One
13 of the occasions my brother had an individual who
14 was living on the property and was going to build a
15 home and who was going to get financial assistance
16 from his father.

17 So that was one of the reasons I flew on a
18 specific day from Los Angeles on an Air New Zealand
19 flight down to Fale'olo. I met his father in Apia
20 and we talked about the transaction, and they didn't
21 follow through financially.

22 So that was one specific instance.

23 Q Do you recall the name of that person?

24 A It was Parellini.

25 Q The Parellini -- how do you know Parellini?
41

♀

1 A He was a friend of my brother's.

2 Q This Parellini, was he living in American
3 Samoa?

4 A The younger, the son, was living in

5 American Samoa.

6 Q The Parellini you are referring to was the
7 father?

8 A The one I met in Apia, yes, was the father.

9 Q And that potential sale sort of fell
10 through?

11 A Yes, they weren't able to perform.

12 Q Do you remember the year that happened?

13 A I'd have to go back, and I don't remember
14 the year. It wasn't recently, and it wasn't after,
15 immediately, the sale. So sometime six, seven years
16 ago, possibly.

17 MR. VARGAS: What was that? Seven?

18 THE WITNESS: I'd have to recall. It
19 wasn't recently and it wasn't immediately after the
20 sale, so it was somewhere in there.

21 BY MR. SUNIA:

22 Q Do you know where Parellini was living at
23 the time that you met him at --

24 A Senior? Parellini, Sr.?

25 Q Yes.

42

1 A I believe he was working in Apia.

2 Q Do you also know Parellini the son?

3 A No. He was my brother's friend.

4 Q Did you advertise to sell this property in
5 a local newspaper?

6 A Yes, yes.

7 Q Do you remember when that happened?

8 A No. But I have the dates when I could
9 provide it. I think I ran an ad for the property on
10 two occasions.

11 Q Does the year 2007 -- is that about right?
12 A I'd have to defer to -- I've got the dates,
13 but that sounds about right.
14 Q Do you recall whether you disclosed your
15 name in connection with the advertisement that was
16 done?
17 A I might have listed an e-mail address as a
18 contact. I can't specifically remember the ad, but
19 I do remember -- I take that back. There possibly
20 could be a phone number with a 702 area code. I
21 can't visualize the ad.
22 Q Does the e-mail address maxtroom@aol.com
23 make sense to you, ring a bell to you?
24 A Yes, that's my junk e-mail.
25 MR. SUNIA: Off the record.

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♀
1 (Discussion off the record.)
2 (Plaintiffs' Exhibit OPL-17 was marked
3 for identification by the court
4 reporter and is attached hereto.)

5 BY MR. SUNIA:

6 Q Mr. Kneubuhl, I'm handing you a document
7 that's been marked Exhibit OPL-17 for this
8 deposition, and I'll ask you to have a look.

9 A Sure.

10 MR. SUNIA: Can I have this marked as the
11 next one.

12 THE REPORTER: 18.

13 (Plaintiffs' Exhibit 18 was marked for
14 identification by the court reporter
15 and is attached hereto.)

16 BY MR. SUNIA:

17 Q Okay?

18 A Yes.

19 Q All right.

20 Now, I'll ask you to turn to the second
21 page on that document Exhibit OPL-17.

22 At the top portion of that page, is that
23 your e-mail address, maxtroom@aol.com?

24 A That's correct.

25 Q Does that reflect your understanding after
44

1 the period of an advertisement --

2 A It does, yes.

3 Q Now, you were -- according to that
4 e-mail -- is that your e-mail?

5 A It could be. I'd have to double-check. I
6 have copies, but that's my junk e-mail address.

7 Q According to that e-mail, you were selling
8 land for \$100,000?

9 A Correct.

10 Q Was that an advertisement for the property
11 as reflected on your deed from your brother Mark --

12 A Yes.

13 Q -- that's been marked OPL-15 in this
14 deposition?

15 A Yes.

16 Q There is a reference in the e-mail to a
17 local attorney.

18 A Uh-huh.

19 Q Did you have an attorney back in American
20 Samoa?

21 A I've had a number of attorneys. Not me
Page 37

22 personally.

23 Q Do you recall the local attorney?

24 A Well, someone who helped me out here could

25 have been Larry Arnold. It could have been Steve

45

1 watson before he moved over to banking. But I was
2 going to go through an attorney I was familiar with.

3 Q I think your e-mail said that you -- can
4 you read that part of the e-mail for me?

5 A Yes.

6 "This piece of property is on a
7 family estate of 40 plus acres with a
8 few homes located on the property.
9 This is a premier piece of real estate
10 located at Taputimu, just a few
11 minutes form the village of Leone.
12 The selling price is \$100,000 firm.
13 This is family land that the courts
14 recently ruled in favor of transfer.
15 There is a local attorney who has
16 handled these family members for many
17 years who can provide additional
18 information."

19 Q All right. So you're not talking about
20 Larry Arnold or Steve Watson or any other lawyer you
21 had who had been handling your family's business for
22 a long time, correct?

23 A No. It's incorrect. It could be Steve
24 Watson. Larry Arnold handled some personal work for
25 me here in Newport Beach. He could have been a

46

1 possibility to go to.

2 So I was not -- I did not have an attorney
3 that I had retained until -- let me put it this way.
4 I did not go to the expense of retaining an attorney
5 until I had a qualified buyer.

6 And, at that time, I was receiving an
7 number of e-mails from Samoa and, because it was
8 online, I was getting inquiries a lot from Utah and
9 a lot throughout the country that were kind of
10 quirky. And I suspect I was getting some from
11 family members too.

12 So that's why I went through this e-mail
13 address versus one of my other e-mail addresses
14 which is DCKPacific because it identifies me.

15 Q Are you saying that at that time when you
16 said "local attorney" you weren't thinking of any
17 local attorney in particular? Is that your
18 testimony?

19 A That's correct.

20 Q Now, how did you determine that you would
21 offer this property for \$100,000, this 1 acre?

22 A It seemed like a fair price for an acre in
23 a beautiful part of the island.

24 Q Now, did you review any records of recent
25 land sales?

47

1 A You know, I did. But most of it was
2 commercial down in Butale or in the industrial park.
3 There just wasn't any comparables.

4 Q Where did you review those records?

5 A Samoa Times (sic) exclusively.

6 MR. VARGAS: I'm sorry. Samoa Times?
Page 39

7 THE WITNESS: Samoa News, whatever it would
8 be.

9 MR. VARGAS: I think we both understood it,
10 but we want to make a clear record here.

11 THE WITNESS: Thank you.

12 The local American Samoan newspaper.

13 BY MR. SUNIA:

14 Q What was your thinking at the time? Why
15 did you choose to keep the name anonymous?

16 A No different than I would in advertising
17 property up here. I just typically don't put my
18 name in print.

19 Q Also in your e-mail you alluded to a court
20 ruling. Your words were, "the courts recently ruled
21 in favor of transfer."

22 where did you acquire that knowledge from?

23 A You know, I can't recall where I acquired
24 that knowledge from.

25 There was some reason for me to put it in
48

1 there, and I can't recall what was transpiring with
2 the rest of the family at that time, but I
3 understood it was positive, and I made reference to
4 it.

5 Q Your sale to -- the attempted sale to
6 Parellini, was that -- was that one of the responses
7 to your advertisement?

8 A No. That was -- I believe Parellini was
9 pre-advertisement.

10 Q Do you know how, if you can recall, much
11 sooner than the advertisement that you spoke with

12 Parellini?

13 A You know, I can't. However, I remember
14 that whole process with the Parellinis went over an
15 extended period of time. Being my brother's friend,
16 I gave him the benefit of the doubt. So at the time
17 I believe he was working for a survey company down
18 there and -- anyway, I gave him an extended period
19 of time to perform.

20 Q How much was Parellini offering to buy your
21 property for?

22 A You know, I think we brought it down to
23 90,000.

24 Q I want to have you take a look at
25 Exhibit 18, OPL-18. Have a look at that.

49

1 what is the date of that document, Exhibit
2 OPL-18?

3 A November 13, 2006.

4 Q Now, that document appears to be a letter
5 to you from Robin Roush.

6 who signed that letter, if you know?

7 A Robin Roush.

8 Q who is that letter addressed to?

9 A It's addressed to me.

10 Q Did you receive that letter?

11 A I don't recall it at all.

12 Q Was the address on the letter the correct
13 address for you in 2006?

14 A There is no address on this letter.

15 Q There's no street address?

16 A None.

17 Q Back to my question, then, on your e-mail,
Page 41

18 so you wouldn't have -- you don't -- how did you
19 learn of the court ruling in favor of selling the
20 property?

21 A It possibly could have been verbally.

22 I had a personal communication with Robin
23 on a number of occasions. I had trips to New York
24 and I had not met her as an adult. And I decided to
25 have dinner with her once, I think, in either

50

1 New Jersey or New York when I had a flight back
2 there.

3 As a result of those at least two dinners
4 over the course of a couple years, we developed a
5 phone relationship.

6 Now, granted, my background is a little
7 more technical, not legalese, but possibly in those
8 phone conversations, which, typically, resulted
9 always in talking about family members and
10 existing -- what's going on.

11 So it could have been that. It wasn't in
12 any type of written communication. I would remember
13 that letter.

14 Q And the dinners that you had with her in
15 New Jersey -- with Robin Roush in New Jersey, would
16 have preceded the 2007 advertisement in the Samoa
17 news?

18 A Yes, they would have. I had one dinner in
19 New Jersey and one in Connecticut. There may have
20 been another one.

21 Q So the phone relationship you developed
22 since those dinners would have preceded the 2007

23 advertisements in the Samoa News?

24 A Correct.

25 Q Quite possibly you may have heard from

51

1 Robin Roush on the court rulings?

2 A Possibly, yes.

3 Q Do you have an understanding of the ruling,

4 on the court's ruling, on the ability to sell

5 property of your grandmother's trust?

6 A I'd have to have it explained to me and

7 read again.

8 Q Do you have just a general understanding

9 right now?

10 A No.

11 Q Do you have an understanding of what title

12 you would be selling, if you do sell this land?

13 A No. I just have to refer to counsel on

14 something like that.

15 Q When did you begin -- when did you retain

16 the services of Mr. Hall?

17 A You mean recently?

18 Q Anytime.

19 A I'd have to go back and take a look at that

20 date. I personally -- I'd have to take a look at

21 what dates my father retained Mr. Hall.

22 Q All right. For the matter that we're here

23 today on, or is it a different matter?

24 A No, for the matter that we're here for

25 today.

52

1 Q Now, are you sharing legal fees with your

2 father for Mr. Hall?

3 A Yes, I am.

4 Q I'm just curious, how are you splitting the
5 fees?

6 A That's a family matter. Geez.

7 MR. HALL: I'll object at this time that it
8 goes to an attorney-client relationship which I feel
9 is none of your business.

10 BY MR. SUNIA:

11 Q I'm not trying to get into your business.
12 We had had a document yesterday on the accounting --

13 MR. HALL: If you can produce a document
14 which has Mr. Doug Kneubuhl's name on it that has
15 those kind of sharing, then, fine, but I think it is
16 improper at this time.

17 BY MR. SUNIA:

18 Q I'm going to have a look at your document
19 Bates number MK 074.

20 MR. HALL: We've got it.

21 BY MR. SUNIA:

22 Q Okay. I'd ask you to look at that
23 document.

24 A Uh-huh.

25 Q Do you recognize that document?

53

1 A I do.

2 Q That document, which is Bates number MK
3 074, what's the date on that document?

4 A March 16th, 2012.

5 Q And what is that document?

6 A There were two individuals who contacted me
7 about the property at 010. And these people were

8 looking at property which was owned by my sisters.

9 So I acted as an intermediary to pass along the
10 information to Mr. Hall.

11 Q So you were simply forwarding by this what
12 appears to be -- is that an e-mail or a letter?

13 A You know, it probably would have been an
14 e-mail.

15 Q Okay. You were simply forwarding to
16 Mr. Hall people interested in buying land from, your
17 testimony, your sisters?

18 A Correct. They were not interested in my
19 property.

20 Q All right. Now, if you'll then flip over
21 to the document Bates number MK 083.

22 A Okay. I remember that.

23 Q Okay. What's the date on that document,
24 Bates number --

25 A May 3rd, 2012.

54

1 Q All right. And we are talking about a
2 document Bates-numbered MK 083.

3 Now, what is that document?

4 A I'm not sure what it was. I had -- I don't
5 believe I had legal counsel at that time and Roy was
6 representing my dad, Mr. Hall was representing my
7 dad, so I think I was asking him, possibly, for
8 counsel. And he was not able to provide it.

9 Q Okay. That -- was that e-mail or letter?

10 A This looks like it is five attachments --
11 unless this is part of a scan.

12 It looks like it is an e-mail.

13 Q Now, that letter references a sale

14 agreement between you and a person named Manu.

15 Do you see that?

16 A Oh, I see it. Okay. Correct, Manu.

17 Q Was that one of the people that you had
18 e-mailed Mr. Hall earlier forwarding his name as a
19 potential buyer for your sisters?

20 A I'm not sure if Manu -- no, Manu was
21 separate from the previous document, the previous
22 couple. This was another individual party who was
23 interested.

24 Q Can you flip back to MK 047.

25 MR. HALL: I don't work for you.

55

‡

1 THE WITNESS: I remember Manu separate from
2 the previous.

3 BY MR. SUNIA:

4 Q Who is Manu?

5 A You know, he came back retired military. I
6 believe he lived in Leone and he was living with
7 aiga and just wanted his own place. He wanted to
8 stay close. And he was someone who -- yeah, Manu --

9 You know, he may or may not have been
10 related to the couple above that. It could have
11 been a family member.

12 Q You're now looking at document MK 074 --

13 A Correct.

14 Q -- the March 16th, 2012 e-mail you sent
15 Mr. Hall, right?

16 A Correct.

17 Q And it does show a person named Manu?

18 A It does.

19 Q Now, is that the same Manu that you had a
20 sale agreement with?

21 A I had spoken with Manu. And I believe --
22 my recollection on this is vague -- my primary
23 contact was Lisa.

24 Q Do you have a copy of that sale agreement?

25 A No, I don't.

56

1 Q Do you remember how much you were going to
2 sell it to --

3 A 100,000.

4 Q Finally, if Mr. Hall would oblige me, MK
5 108 --

6 MR. HALL: Please?

7 MR. SUNIA: -- please.

8 MR. HALL: The number again?

9 MR. SUNIA: MK 108.

10 Thanks, Roy.

11 THE WITNESS: Okay.

12 BY MR. SUNIA:

13 Q All right. Now, what is the date on that
14 document MK -- Bates number MK 108?

15 A December 26th, 2012.

16 Q Okay. And what is that document?

17 A I don't know. I didn't write it.

18 Q Do you remember receiving -- well, let me
19 back up.

20 Mr. Hall did not represent you in your
21 attempt to sell --

22 A No.

23 Q -- property, right?

24 A Right.

25 Q He couldn't do that for you, right?

57

1 A He responded he could not.

2 Q I just wanted to clear that up. That's not
3 my interest in this right now.

4 Have you seen this document before?

5 A No.

6 Q No? Okay.

7 Did you ever ask Mr. Hall to explain to you
8 what your legal -- what your title is with respect
9 to the property you acquired from your brother Mark?

10 A No.

11 Q Had you asked any other attorney in
12 American Samoa or elsewhere for an opinion?

13 A No.

14 Q Since the advertisement you placed in the
15 Samoan News and your telephone relationship with
16 Robin Roush, had you ever -- had you read the
17 opinion, any opinion, of any court of the record in
18 Samoa with respect to trust property of your
19 grandmother?

20 A Yes, I have. And I can't recall the dates,
21 but it was an old document. It could have been the
22 early 19- -- and I don't want to be held to a date,
23 but I think there was an early trust agreement dated
24 '60, early '60s, that I have a copy of as far as
25 just all family documents.

58

1 It was not all necessarily pertaining --
2 most of them not necessarily pertaining to land,
3 just old family memorabilia.

4 Q As far as a more recent court decision,
5 have you seen anything?

6 A I am familiar, if you mentioned it, the
7 title of the document, but I haven't read any court
8 proceedings or recent documents.

9 Q Are you actively seeking to sell your 1
10 acre of Olo property?

11 A I may or may not.

12 Q Since the acquisition from your brother
13 Mark, had you developed any building plans or things
14 like that for the home?

15 A Yes.

16 Q Do you have those available?

17 A Yeah, I can ship them to you, if you would
18 like.

19 Q Okay.

20 MR. HALL: Through me.

21 THE WITNESS: Through Roy.

22 BY MR. SUNIA:

23 Q Can you describe the type of building you
24 were --

25 A Yes, they are Topsider Homes out of North 59

1 Carolina. They are prefab. They can all be shipped
2 in one container. All you need is a slab and so
3 forth. There are over 28 different models. And I
4 discovered them in the Caribbean on a trip. And all
5 the wood is pre-done so you just don't have any --
6 there's another word for it. But they are designed
7 to withstand up to 160 knots of wind. They are
8 octagon in shape, and they range anywhere from 1,200
9 to 3,200 square feet. And I was looking at an

10 elevated, off-the-ground model of which I actually
11 flew back to -- I think it is Ashlin or Ashville,
12 North Carolina, and did a walk-through on one.

13 Q When did you do that?

14 A Oh, years ago.

15 Q More recently, though, as recent as 2012,
16 your interests appear to have changed?

17 A Well, since all this, they have appeared to
18 change. But, generally, I haven't decided whether
19 I'm going to sell it or not. My primary focus in
20 selling the property when I did was I had two
21 children going into school, and our college fund was
22 lacking. I underestimated it. So that was going to
23 supplement it.

24 So my desires on the property have gone in
25 two different directions.

60

1 Q What made you -- I'm sorry. Back up.

2 When you contacted Counsel Hall with
3 potential buyers, interested buyers of your sisters'
4 property --

5 A Uh-huh.

6 Q -- was it at the time you knew that your
7 sisters were interested in selling the land?

8 A That may or may not have been the case. I
9 just passed along the information.

10 Q How did these people that you referenced in
11 your communication to Counsel Hall, how did they
12 contact you?

13 A I believe it was either by phone. It
14 possibly could have been phone, it possibly could

15 have been e-mail. I just can't recall.

16 Q Would you have known where they obtained
17 your contact information?

18 A It would have been from the advertisement,
19 possibly. That would have been the only -- unless
20 they contacted somebody who had my contact
21 information down there.

22 I mean, when I lived in Samoa and when I'm
23 down there, I mean, I have family members still down
24 there in Leone, both at the bakery and through other
25 friends that I developed in the late '70s flying for
61

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1 SPIA living out there.

2 Q In that year, 2012, were you assisting your
3 sisters with the possible sale of their lands?

4 A In respect to if anybody -- I mean, their
5 property is a more desirable piece than mine. If
6 somebody had expressed an interest, I would have
7 passed along their name to them.

8 Q When did you learn that your sisters
9 acquired land, Olo land, from your father?

10 A I can't recall.

11 Q Was it shortly after they acquired it, long
12 after they acquired it?

13 A I would have to know the dates they
14 acquired it, but I can't remember when they acquired
15 it.

16 Q But you did learn at some point --

17 A Yes, at some point I knew they had
18 property.

19 Q Is it fair to say you were possibly helping
20 them sell their property in 2012?

21 A Yeah, I was passing along information,
22 however you interpret that, yes, for somebody that
23 was interested in that property versus this
24 property.

25 Q The e-mail of your notifying family members ⁶²

1 of the possible sale of your property, which is
2 dated July 6th, 2012, Exhibit OPL-16, that was done
3 around the same time that your sisters were also
4 trying to sell their property, right?

5 A I can't recall. I was interested in my
6 property selling.

7 Q The document you referred to where you were
8 referring to potential buyers for your sisters'
9 property, that was also in 2000, right?

10 A What document is that?

11 Q I believe the document number was MK 074
12 where you passed on Manu's -- somebody named Manu
13 and a couple, name of a couple to Mr. Hall?

14 A Do you have that? May I see it?

15 MR. SUNIA: Please, Mr. Hall --

16 THE WITNESS: Have I looked at that
17 already?

18 BY MR. SUNIA:

19 Q Yes.

20 Thank you, Mr. Hall.

21 MR. HALL: You're welcome.

22 THE WITNESS: Okay. Sorry about that.

23 BY MR. SUNIA:

24 Q So that was in 2012?

25 A Yes.

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1 Q You were just looking at document MK 074.
2 So, again, you were trying to sell your
3 property in 2012 at the same time that your sisters
4 were considering selling their property, right?

5 A That is why I passed on the information.

6 Q Okay. So do you know if -- what was your
7 reason for trying to sell in 2012?

8 A My reason?

9 Q Yes.

10 A As previously stated, we spent more on our
11 children's college fund than we had budgeted for.
12 Both my children graduated debt free. At that
13 point, building up our financial well-being was more
14 important than building a home in Samoa.

15 Q Do you know how much your sisters were
16 looking to sell their properties for?

17 A No. You would have to ask them.

18 MR. SUNIA: Thank you, sir. No more
19 questions.

20 (Recess.)

21

22 FURTHER EXAMINATION

23 BY MR. VARGAS:

24 Q As I indicated in the beginning, my name is
25 David Vargas, and I represent the plaintiffs in the
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1 civil action. I have a few follow-up questions for
2 clarification. I think Mr. Sunia covered pretty
3 much everything.

4 Now, when you were talking with your
5 Aunt Frances way back when in the '70s about

6 possibly buying a piece of land, did you have any
7 specific size or amount of acreage involved? Or you
8 were just speaking in general terms at that point?

9 A In 1971 when I first talked about it, it
10 was general terms.

11 Q And then later did you discuss the
12 quantity?

13 A I can't recall, but, offhand, I would say
14 no, just the property that was out there at Olo.

15 Q And when you originally formulated this
16 idea about buying into the Olo property, was there
17 an intent to building on Olo?

18 A Yes.

19 Q And that would remain your intent for a
20 while, and it has since changed because of the
21 financial circumstances involving the college and
22 children?

23 A Correct.

24 Q And so when was it that you first decided
25 to place your property on the market?

65

1 A You know, I could provide you with that
2 date. I'd have to go back and look at when my
3 advertisement went into the paper.

4 Q Okay. So the decision was made right about
5 the time that you ran the ad for the sale?

6 A Yeah, prior to. I mean --

7 Q Right in the general time?

8 A In the general time frame.

9 Q Okay. And when you first put it on the
10 market, did you have an amount in mind? Of course

11 everyone wants to get as much as they can for that,
12 but did you have a range in mind and you settled on
13 the hundred thousand?

14 A Yes.

15 Q And when you were talking to Mr. Sunia
16 about the Parellini deal, you mentioned that you
17 think the price was discounted to \$90,000?

18 A It wasn't discounted. I lowered the price
19 to 90,000 because he was my brother's friend.

20 Q But that was discounted from the original
21 goal --

22 A 100,000.

23 Q Right.

24 At the time you discussed the sale of
25 \$90,000 to the Parellinis, who was going to be

66

1 buying that property? Was it Mr. Parellini, Sr., or
2 his son in American Samoa, or did you get that far?

3 A We got that far. And it was my impression
4 that my trip to Apia was to conclude the deal with
5 senior.

6 Q So senior was going to pay for this
7 property purchase?

8 A I don't know that as a fact, but that's the
9 impression I got.

10 Q And did you take a look at Parellini,
11 Sr.'s, financials?

12 A That was the purpose of my trip to
13 Fale'olo -- I mean to Apia.

14 Q And apparently it was lacking, and that's
15 why the deal didn't go through?

16 A He never followed up.

17 Q So you left it with the \$90,000 on the
18 table and he never got back to you on it?

19 A No. We were to conclude the arrangement,
20 and he simply just didn't perform with what he said
21 he was going to do.

22 Q How was that structure -- was that a
23 straight cash purchase?

24 A Cash purchase.

25 Q And you think that was sometime around

67

1 2001, 2002 time frame or was it later on?

2 A You know, I could provide you the specific
3 dates. I'd just check my passport on it.

4 Q So how many different times have you
5 advertised for the sale of this property?

6 A As previously mentioned, I believe twice in
7 news print.

8 Q Around 2006, 2007 and again in 2012?

9 A I'd have to take a look at those dates, but
10 I have them because I have the actual copies of the
11 newspaper.

12 Q And the contact information to respond to
13 the ad, was that to your troom e-mail in both
14 situations?

15 A I'm not sure. I would have to look at the
16 ad. I know the one we just saw was maxtroom, the
17 first one. And the second one may or may not have
18 been. I'd have to look.

19 Q Did both ads reflect that the asking price
20 was \$100,000?

21 A I believe so, yes.

22 Q AS I understand your testimony from the
23 questions posed by Mr. Sunia, you didn't really do
24 comparables. You just arrived at it because you
25 felt it was a prime location?

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1 A Well, as I mentioned before, it is tough to
2 go take look at a piece of property and open the
3 real estate page in the Samoa paper and look at what
4 the comparables are. They are not consistent, as
5 you well know.

6 So the few pieces of property over a period
7 of time that I looked at were either in the
8 industrial parkway, some over in Nu'uuli, some down
9 in Pago, and they all seemed to be commercial or
10 quarter acres.

11 So this and just conversations that I can
12 recall. Nobody, specifically, came up with that
13 number.

14 Q Did you ever have any discussion with
15 anybody prior to setting your price about what a
16 quarter acre of similar land would be sold for in
17 American Samoa?

18 A No.

19 Q But you did check the Samoan News?

20 A Yes, I took a look.

21 Q What did you see a quarter acre sell for?

22 A You know, I saw some stuff in Autoville,
23 but that wasn't a comparable piece of property. It
24 was a development. I saw a quarter acre in.
25 Nu'uuli, which, you know --

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1 Q What was the last listing price for the
Page 57

2 quarter acre in Nu'uuli?

3 A I couldn't recall. And I didn't pay
4 attention because I knew where the property was. If
5 I had a dog, I wouldn't let him live there.

6 Q You actually went out to your property
7 after the survey had been conducted by Sumia, or
8 whatever?

9 A Uh-huh.

10 Q Is that a yes?

11 A I'm sorry. Yes.

12 Q And were you shown the survey marker that
13 delineated your particular property?

14 A I saw the ones that were on the road. The
15 rest were so deep, and it was in the rain one day
16 when I was out there with either Sumia or the other
17 surveyor, that we just couldn't get in there.

18 Q The other surveyor, was he a government
19 employee working part time?

20 A I believe both were government employees
21 and both had part-time work on the side.

22 Q Does the name Meko ring a bell?

23 A No.

24 Q The surveyor you had do your 1 acre, did
25 you check his credentials?

70

1 A I feel I must have. He had some type of
2 certification, or I was assured by -- but did I ask
3 for an ID? No. I think he was registered
4 somewhere.

5 Q As a surveyor?

6 A Yes, but I can't recall.

7 Q How did you come up with his name?

8 A There weren't that many on the island.

9 Q But it had to come from somewhere?

10 A The name was provided to me by someone. It
11 might have been, possibly, my brother.

12 Q When they provided the name, did they
13 recommend him because he had done some work for him
14 before?

15 A I believe so, or done some work on the
16 property.

17 Q If you go to the property today, you
18 couldn't walk to the four corners where I assume it
19 is a relatively -- according to the map --

20 A Long, thin. I could find the first two
21 markers on the road.

22 Q On the road?

23 A And I eventually, it might take me three
24 months, but I could probably get back and find the
25 back two markers.

71

1 Q But you did see two markers for your
2 property on the road?

3 A I saw where they were marked, yes.

4 Q And was that recent? Did they appear to be
5 recently installed or were they referring to some
6 old survey markers, or do you know?

7 A I don't know.

8 Q As I understand in prior testimony your
9 current plan for this land is up in the air at this
10 point?

11 A It is.

12 Q That's because of the presence of this

13 lawsuit? Is that part of it?

14 A No. It is because I graduated both kids
15 debt free.

16 Q So the need --

17 A The need has disappeared.

18 Q Now, over the years you remained in contact
19 with Frances Opelle, your aunt, in family
20 get-togethers over the years?

21 A It was whenever there was a function that
22 our paths crossed.

23 Q And you traveled down to her place in San
24 Juan Capistrano?

25 A I've been to her home in San Juan

72

1 Capistrano, yes.

2 Q That's when your Uncle Bob Opelle, was
3 still alive?

4 A Yes, he was.

5 Q You organized the purchase of this land in
6 2000 or about 2000?

7 A My brother organized the purchase.

8 Q But you discussed it with him?

9 A Yes.

10 Q And you told him that you wanted a piece?

11 A Yes.

12 Q Okay. And did you tell him how much you
13 wanted?

14 A I just told him I wanted 1 acre.

15 Q And he ended up giving you 3 acres?

16 A Total.

17 Q And one went to you and two went to him?

18 A Yes.

19 Q Okay. And are you still on good terms with
20 your Aunt Frances?

21 A I haven't spoken to her. I've never had a
22 cross word with her. I haven't spoken with her
23 since she moved up to -- I may have spoken to her
24 once when she went to Hawaii.

25 Q When is the last time you think you might
73

1 have spoken to her?

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

3 Q Prior to the last time had you maintained
4 regular contact?

5 A Not regular, but irregular contact.
6 As I mentioned, I spoke to her after
7 Bob Opelle passed away.

8 I may have spoken to her after that, but,
9 certainly, nothing related to these matters.

10 Q So you never had any communications with
11 her concerning the land that you acquired along with
12 your brother Mark?

13 A I'm sorry. Can you rephrase that?

14 Q Yes.

15 A I did when I bought it.

16 Q Yeah, but after the purchase, did you have
17 any conversations with her about this particular
18 piece of land?

19 A No.

20 Q So from year 2000 to the present, you have
21 not discussed this land with your Aunt Frances?

22 A I don't believe so, no.

23 Q Did you ever receive any communications

24 from her children concerning this land after you
25 purchased it?

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1 A She has an adopted son by the name of
2 Robert John, and he had called me in Vegas a couple
3 times. And I wasn't quite sure of the purpose of
4 the call. It was more like somebody venting that I
5 was selling the property.

6 At one time maybe three or four years ago I
7 reached out to Robert John and asked to meet on one
8 of my trips down here in Orange County, because I
9 just felt this telephone conversation thing wasn't
10 working.

11 And I attempted to meet with him on two or
12 three different occasions, and his schedule was such
13 that he was never able to make any of these
14 meetings.

15 Q Have you ever received any correspondence
16 from either Robert John or Marie, his sister,
17 wherein they requested the title to this particular
18 land?

19 A No.

20 Q When was the first time that you heard from
21 any source that someone was saying that the
22 transaction that you had with your brother who had
23 with Frances --

24 A It was probably Robin. In fact, I'm sure
25 it was Robin.

75

1 Q Do you recall that time frame?

2 A No.

3 Q Was it within the last two to three years?

4 A Oh, yes, before that, I'm sure. It was
5 probably initially after I mentioned I was going
6 to -- I advertised.

7 Q So sometime around 2006, 2007?

8 A Whenever the first time that she was made
9 aware of it, she would have said something.

10 Q Do you have any understanding of the nature
11 of the entitlement that either Robert John or Marie
12 has to this land in Taputimu?

13 A No.

14 Q Do you have any understanding of the nature
15 of the title that you have in this particular piece
16 of land?

17 A No.

18 Q You do understand that you can't sell it
19 without majority approval?

20 A That was the purpose of my correspondence.

21 Q Right. So you understand that, right?

22 A I understood that part of it --

23 Q Right.

24 A -- and that's why I hired people like you
25 to explain it to me.

76

1 Q Okay. And you said you've seen the copy of
2 the trust agreement that Lena Kneubuhl put this land
3 into the land trust?

4 A If I'm referring to the document I'm
5 thinking of, it was an early 1962 possible
6 agreement. I've seen a copy of that and I have one.

7 Q Let me just make a representation to you
8 that August 15th, 1960 Lena Kneubuhl created this

9 trust that put this land into the land trust. So
10 you're pretty close.

11 A Okay.

12 Q Do you recall seeing that document and
13 reading the contents as to how things were
14 allocated?

15 A At one time.

16 Q And are you aware of the lawsuit that
17 occurred in 2004 where Frances filed a lawsuit
18 against her siblings about her ability to sell the
19 land?

20 A I vaguely, yes, am familiar with that. I'm
21 not sure what the title of that lawsuit was.

22 Q Do you ever recall getting a copy of the
23 decision in that lawsuit from Robin Kneubuhl?

24 A I got a lot of things from Robin Kneubuhl,
25 so I can't differentiate.

77

1 Q The reason I ask is that in one of your ads
2 you talk about a favorable court decision.

3 A Right.

4 Q So I was wondering if that's --

5 A You know, I can't recall what my thinking
6 was at that time.

7 Q Let me ask you it a different way.

8 Do you recall sitting down and reading any
9 decisions from the High Court of American Samoa
10 concerning the Taputimu land?

11 A I can't recall, honestly. I may have, but
12 I can't recall.

13 Q Do you recall from reading any documents or

14 any discussion with anybody that when Lena put this
15 land in the trust, each of the children -- her
16 children received a specific share of that land?

17 A I recall having discussions, but not
18 reading.

19 Q Okay.

20 A And they weren't specific discussions.

21 Q Okay. And during those discussions did you
22 learn that the grandchildren of Lena Kneubuhl also
23 had an interest in that Taputimu land?

24 A I remember having discussions about that,
25 but not reading it.

78

1 Q Okay. But you had discussions?

2 A Yes.

3 Q Who did you have those discussions with?

4 A I can't recall. These are just in general
5 over a long period of time I have a recollection of
6 hearing that. It would have been with family
7 members.

8 Q Do you recall the gist of the conversations
9 that you had?

10 A No.

11 Q So do you understand that from discussions
12 or reading or any source that the beneficiary to the
13 Lena Kneubuhl land trust are allowed to sell their
14 respective beneficial interests?

15 A I would have to look at it and get
16 counsel's advice on that.

17 Q You don't recall having those discussions
18 with anybody?

19 A I do, but not specific individuals. It's

20 just something over time that you just -- it just
21 builds up as a foundation of knowledge that you
22 can't go back to pick out where you got it from or
23 where you read it.

24 Q I think you mentioned that in talking with
25 Mr. Sunia that you have written documents that were
79

1 prepared in contemplation of the proposed sale in
2 2006 or 2007?

3 A To?

4 Q To whoever you were thinking about selling
5 to at the time.

6 A (No audible response.)

7 Q If you don't recall, as I mentioned before,
8 that's a perfectly good answer.

9 A Yeah, I can't recall.

10 Q Let's move forward to 2012 when you started
11 to offer this land again.

12 A Okay.

13 Q So did you prepare any documents with
14 respect to the offer to sell and said in that
15 document what was being sold?

16 A To the best of my recollection, it was an
17 advertisement, and I don't believe I did. I didn't
18 want to get the cart in front of the horse. I just
19 wanted to see if there was any interest.

20 Q When you were having these conversations
21 with Mr. Parellini, did you have any document in
22 hand that would reflect the terms of the transaction
23 or was that too early?

24 A You know, I may or may not have. As I

25 mentioned before, I believed any agreement on the 80

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1 property would have come from Parellini, Sr., who --

2 Q You did circulate a notice to the
3 beneficiaries of the Lena Kneubuhl trust concerning
4 the proposed sale in 2012, correct?

5 A Yes.

6 Q And did you submit, along with that, a firm
7 offer from a prospective buyer?

8 A I can't recall the -- I do recall sending
9 out a packet to everyone. I can't recall the exact
10 content of that packet.

11 Q So you sent a package of documents to the
12 prospective purchaser or to the beneficiaries?

13 A The beneficiaries.

14 Q Did those documents generally provide the
15 terms of the sale that was under consideration?

16 A Yes.

17 Q And did you have a firm offer at that time?

18 A Yes.

19 Q And that offer was from?

20 A I can't recall.

21 Q But the firm offer, was it in the form of a
22 written communication to you saying that we are
23 making this firm offer and these are the terms?

24 A I would have to go back and take a look. I
25 wouldn't have sent that out to beneficiaries unless 81

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1 I had a firm offer that I felt was qualified.

2 Q And the information that you circulated to
3 the beneficiaries in the package that you sent out,
4 did you prepare those documents or did you have

5 someone else prepare those documents?

6 A I had somebody -- I don't type, so I had
7 somebody else prepare it.

8 Q who would have prepared those documents?

9 A Probably my wife.

10 Q Do you know what source of information your
11 wife would have used to propose the detailed sale?

12 A I would have handwritten it and she would
13 have copied it.

14 Q what would be the source of your
15 information for that distribution?

16 A Could you rephrase the question?

17 Q Yes.

18 You put this package out. Okay. And, in
19 specific, that was outlying the terms of the sale
20 that you had a firm offer, right?

21 A First right of refusal.

22 Q Right. And you were giving the
23 beneficiaries a right to step in and say, yes or to
24 decline?

25 A Right, correct.

82

1 Q And what I'm trying to find out,
2 Mr. Kneubuhl, is what -- what was the source of your
3 information for you to prepare those documents?

4 I mean, was this just something you made up
5 as you went along? Did you have a checklist? What
6 did you rely on when you prepared that?

7 A Common courtesy. I wanted to notify the
8 beneficiaries that I had an offer on the property,
9 and I wanted to give them first right of refusal and

10 an opportunity to respond to any concerns they had.

11 Q Why was it that you did that?

12 A Because it is part of my general
13 understanding of the agreement, the Lena Kneubuhl
14 trust agreement, from this base of knowledge,
15 nothing specifically, is you offer your family first
16 right of refusal.

17 Q And did you include in that the names of
18 the prospective buyers?

19 A No.

20 Q Did you indicate in there the nature of the
21 interests you were planning to convey?

22 A Possibly. I would have to go back and look
23 at the document.

24 Q Were those documents, by chance, provided
25 to Mr. Hall in anticipation of this deposition or in
83

1 response to discovery requests made from either
2 Mr. Sunia or myself?

3 A No.

4 Q Did you ever receive a copy of the
5 discovery requests that were prepared by plaintiffs
6 in this case?

7 A What document would that be? I believe I
8 received one.

9 Q Okay. It is called "Request for Production
10 of Documents."

11 A I can't recall.

12 Q Let me ask it a different way.

13 Within the last 60 days, were you asked by
14 Mr. Hall to provide to him certain documents
15 concerning --

16 A No.

17 Q Have you, since being served with a summons
18 and complaint in this matter, discussed this lawsuit
19 with your brother Mark Kneubuhl?

20 A Just in passing, as far as family
21 conversation. So -- I think the only comment made,
22 his oldest son is getting married in La Quinta next
23 month, and I called and had some questions regarding
24 the wedding.

25 And I think I made a joke that we can do

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1 the seating arrangement by plaintiffs on one side
2 and defendants on the other.

3 Q And when was the last time you were in
4 American Samoa?

5 A I'd have to look.

6 Q I think you said --

7 A Three or four --

8 Q I think you said three --

9 A -- closer to three. I have to look.

10 Q You haven't lived there since 1980,
11 roughly?

12 A Correct.

13 Q At the time you and Mark negotiated the
14 purchase of your 1 acre and his 2 acres, were you
15 aware of Frances Kneubuhl's financial difficulties?

16 A No.

17 Q When did you first learn about that?

18 A I can't recall.

19 Q So after you bought in 2000, when was the
20 first time you ever contemplated the sale of that

21 property?

22 A Probably a few months, as I mentioned
23 before, prior to my first advertisement.

24 Q So somewhere in the 2006, 2007 time frame?

25 A Yes. If that corresponds with that date, 85

1 then, yes.

2 MR. VARGAS: I'm going to show you what
3 we'll mark as next in order, Exhibit 19. It is
4 Bates number 0264, and it consists of five pages.
5 It is a letter, and it bears your name on the top of
6 it.

7 (Plaintiffs' Exhibit OPL-19 was marked
8 for identification by the court
9 reporter and is attached hereto.)

10 MR. HALL: Do you want me to stipulate to
11 that document?

12 MR. VARGAS: Yes. It was produced by your
13 office.

14 MR. HALL: It doesn't matter. It is
15 introduced by you now.

16 MR. VARGAS: Let me back off on that. That
17 is a document I provided to you that I've seen.

18 MR. HALL: I stipulate that it is a
19 document that you can use.

20 (Discussion off the report.)

21 BY MR. VARGAS:

22 Q You looked at Exhibit OPL-19.

23 Does it look familiar to you, something
24 you've seen before?

25 A In all honesty, I receive an overwhelming 86

1 amount of communication from Robin.

2 The last packet was yea thick, which came
3 certified mail and I refused it.

4 So did I ever see this?

5 Q You don't know?

6 A I don't recall.

7 Q You were engaged in communications with
8 Robin by e-mail and telephone for several years,
9 correct?

10 A Early years, yes.

11 Q And you went back and had --

12 A 2004 to 2006, yes.

13 Q And she's been sending you a lot of
14 correspondence over the years?

15 A Correct.

16 Q And did a lot of that correspondence have
17 to do with the Lena Kneubuhl trust lands?

18 A Exclusively.

19 Q You mentioned earlier that you have agreed
20 to share the expenses of the litigation with your
21 father?

22 A Yes.

23 Q Have you paid any money towards that at
24 this point?

25 A There is not a final bill yet.

87

1 Q I didn't ask about the final.

2 Have you paid anything yet?

3 A No.

4 Q Have you ever heard of the term "voice of
5 olo"?

6 A No.

7 Q Have you ever been made aware of an
8 agreement that was made between the beneficiaries
9 concerning the development of property in the Lena
10 kneubuhl trust?

11 A You know, one time I can recall reading a
12 phrase, and it might have been in that previous
13 agreement, the Adeline trust 1960 agreement, where
14 the property -- I interpret it cannot be developed
15 for commercial use, but I can't recall the specific
16 phrase that was used.

17 Q So the name "the voice of Olo" doesn't ring
18 a bell to you?

19 A Never heard of it.

20 Q Have you ever seen any of the documents
21 that were created for the trust in 1960 trust
22 agreement for the Taputimu land?

23 A No.

24 Q Do you ever recall seeing a 1974 agreement
25 that modified the terms of the trust agreement?

88

1 A Is that what it would have been labeled,
2 modified --

3 Q Well, I think it just says "Agreement."

4 But, in essence, the document that
5 discussed the changes in allocation to one of
6 general allocation to all of the six beneficiaries
7 to where each of the beneficiaries were given a
8 separate portion of the trust lands.

9 A If you have a copy, I might --

10 Q I'm just asking you.

11 A No.

12 Q When you decided to put your property on
13 the market, did you research any of the land records
14 for this particular property for background for what
15 you were contemplating?

16 A I relied on just the original agreement you
17 talked about in the 1960s, and I had some old maps
18 that the family and my Auntie Marge and Keith
19 Landrigan, my uncle, had provided years and years
20 ago, which outlined where everyone's property was
21 and accepted it.

22 Q Prior to the time you first decided to
23 purchase this land with your brother from Frances
24 Opelle, did you do any research of the land?

25 A No. I relied on my brother, who selected 89

1 the 3 acres and chose them.

2 Q To your knowledge, did he conduct an
3 investigation about this land prior to purchase?

4 A Not to my knowledge.

5 I mean, it wouldn't have been something we
6 discussed. I know he was discussing the property
7 specifically with Francie.

8 Q Are you aware that in 1982 your father
9 signed an agreement where he relinquished all of his
10 rights in specific portions of the Olo property?

11 A Yes.

12 Q How did you learn of that?

13 A I learned about it, I don't believe, on the
14 exact date. It wasn't that important. This isn't
15 something that drives our lives. I eventually heard
16 he had no more interest in Olo.

17 Q Did you and he discuss this development?

18 A I don't believe so.

19 Q He never told you that he essentially was
20 removed from Olo and, in return, he received
21 property?

22 A He would have been the one that
23 communicated that to me, but I'm not sure when that
24 date was. At that time, from 1980 through 1989, I
25 was a chief pilot for western Growers Association.

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1 Other than '84, I spent a year in the Pacific
2 working for PanAm world services, so I was gone a
3 lot.

4 But at some point there wouldn't have been
5 any other individual who told me that, except maybe
6 my Aunt Francie, but I can't recall.

7 Q What was your relationship with Margaret
8 Landrigan?

9 A One of the greatest aunts in the world.

10 Q You spent a lot of time with her?

11 A Yes.

12 Q Did she ever talk to you about the Olo
13 property?

14 A My Auntie Francie talked to me -- Auntie
15 Marge talked to me about a lot of things. So, no,
16 not really. Not really.

17 Q You purchased a piece of property at Olo
18 and it is 1 acre. Do you have any plans as far as
19 leaving that land to your children going forward?

20 A I may or may not have.

21 Q Right now you don't have?

22 A Right now everything is on the table.

23 Q So you don't have any testamentary
24 instruments that designate this parcel of land to be
25 set aside for your children?

91

1 A Other than our general will, no.

2 Q I won't get into that, that's a little
3 personal. I'm talking if you had a specific plan.

4 A No.

5 Q What kind of relationship did you have with
6 Ben Kneubuhl?

7 A Good.

8 Q And Jim?

9 A Well, Jim was on the East Coast and
10 primarily out of sight. The only time I met Jim as
11 an adult was when my grandmother, Adeline, passed
12 away.

13 Q In 1960?

14 A No, that was my grandfather. My
15 grandmother would have been in 1980.

16 Q Okay.

17 A And he came down for the funeral.

18 But, Ben, I spoke to in -- he's living with
19 my cousin Karen. I think we spoke just a couple
20 years ago on the phone, and we talked for almost, I
21 don't know, 45 minutes, maybe.

22 Q Is that when Buzzy passed away?

23 A No, it was before Buzzy passed away. It
24 was one of these talks. We talked about nothing
25 else other than he missed Samoa and didn't really

92

1 care for where he was living. Just general

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2 conversation two family members.

3 I used to go down to Samoa on my trips and
4 I would bring him copies of Aviation Week and Space
5 Technology and he would love to sit on the porch and
6 we'd just talk in general. Never any conversations
7 about family members, ever.

8 I worked for him for a while over in Satala
9 when he had the office up there when I was a young
10 kid. I bought my first truck from him over there to
11 use on the islands for SPIA when I was flying. So
12 we've always had -- his wife, Gege, was a favorite
13 of mine.

14 Q How about John Kneubuhl, did you know him
15 well at all?

16 A Yes, I knew him and Aunt Dots very well.
17 As a young boy on alternate summers when I wasn't
18 with my father, I would be down here in Balboa, and
19 Uncle John used to take me to baseball games, Dodger
20 games. This was when he was in Hollywood. I would
21 come down in high school and I would stay out there
22 with him and his adopted son Ceone. He was a great
23 uncle.

24 Q When you went back to the East Coast to
25 meet with Robin, did you see Jim during that trip or
93

1 not?

2 A No. I did -- on one of those trips I went
3 up to New Haven, Connecticut, and stayed at a
4 bed-and-breakfast inn. I met with Robin on this
5 particular trip. This was our second or third
6 dinner. It was just an absolute coincidence that
7 directly -- this was Connecticut in the fall,

8 gorgeous. And there was a small church across the
9 way. And there was a wall on the church where
10 people who died had been placed, their ashes. And
11 just by coincidence, Jim's wife was buried there.
12 So I guess that's where Jim is buried now.

13 Q You mentioned Larry Arnold early on
14 concerning somebody you might have contacted
15 regarding a land issue. His office is in Orange
16 County somewhere?

17 A It is, Latham & Watkins.

18 Q And you mentioned Steve Watson as a
19 possible person you might have contacted as well?

20 A Uh-huh.

21 Q But you don't have any specific
22 recollection?

23 A I don't. I've always relied on contacts.
24 And they were the two attorneys that -- Larry Arnold
25 was the son of Daryl Arnold. And Darryl Arnold was
94

1 the president of Western Growers Association where I
2 flew for nine, ten years. So that's how I kind of
3 put those two together.

4 MR. VARGAS: Didn't you go to school
5 with --

6 MR. HALL: No. We were in the same city at
7 the same time, but another law school.

8 BY MR. VARGAS:

9 Q One more question. Either prior to or
10 during the time of when you were marketing your
11 property in 2006, 2007 or 2012, did you seek legal
12 guidance for the paperwork you might need for those

13 transactions?

14 A No. My plan on it was, one, to identify a
15 buyer first, so as not to incur any legal expense
16 that was unnecessary prior to.

17 MR. VARGAS: I have nothing further. Thank
18 you for your time.

19 MR. HALL: Can we take a two-minute break
20 while I consult with the client?

21 MR. VARGAS: Sure.

22 (Recess.)

23 MR. HALL: Back on the record.

24 //

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1 EXAMINATION

2 BY MR. HALL:

3 Q Doug, I just want to show you something
4 which is marked on my set of exhibits for discovery
5 as MK 090. It's an e-mail dated May 3rd, 2012.

6 Can you tell me if you've seen this before?

7 A Yes.

8 Q And who is the e-mail from?

9 A The e-mail is from Counsel Roy Hall.

10 Q And who is it sent to?

11 A Doug Kneubuhl.

12 Q And can you read the e-mail that I sent to
13 you?

14 A Yes.

15 "I am sorry that I will not be
16 able to represent you in this matter
17 because I represent one of the
18 beneficiaries. Regards, Roy."

19 Q And this is in response to your earlier
20 e-mail of the same day?

21 A Correct.

22 Q Requesting for my services?

23 A That's correct.

24 MR. HALL: I have nothing further.

25 MR. VARGAS: With respect to the handling 96

1 of the original deposition transcript, same
2 stipulation, that the court reporter will contact
3 Mr. Hall and have Mr. Kneubuhl come in and review
4 and make any changes that everything is appropriate
5 and sign the deposition transcript.

6 If the deposition transcript is not signed
7 within the time allowed, an unsigned copy can be
8 used as though it had been signed.

9 So the point of that, Mr. Kneubuhl, you
10 probably should make an effort to go down and take a
11 look at your transcript and make any changes,
12 otherwise it remains as it is. Okay?

13 THE WITNESS: Thank you.

14 (TIME NOTED: 12:15 p.m.)

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I, DOUGLAS C. KNEUBUHL, JR., do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this ____day of _____, 2013, at _____, _____.
(City) (State)

DOUGLAS C. KNEUBUHL, JR.
Volume I

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

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4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were placed under oath; that a
8 true and correct record of the proceedings was made
9 by me using machine shorthand which was thereafter
10 transcribed under my direction; further, that the
11 foregoing is an accurate transcription thereof.

12 I further certify that I am neither
13 financially interested in the action nor a relative
14 or employee of any attorney of any of the parties.

15 IN WITNESS WHEREOF, I have this date
16 subscribed my name.

17 Dated: _____

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DENISE BARDSLEY
CSR No. 11241

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DEPOSITION

Douglas C. "Doug" Kneubuhl, Jr.

Annotated Comparison of this Deposition with
the Deposition of *Mark*

Doug always wanted land at Olo since high school, FKO promised it to him, because he loved . . . always wanted a home . . . and changed his mind only when college bills arrived...

Doug spent happy summers there, even at John's House with Sione ??

p. 88 Never heard of the Voice of Olo (6-19)

p. 5 My brother chose the land (5-11)

p. 73 My brother organized the purchase, I got one acre (5-14)

p. 21 But it was understood that it was always going to be one acre for me. (18-24)

p. 21 Deed was not my priority (9-11)

p. 31 Unaware father purchased land (15-24)

p. 31. Did not consult Dad, though talked to him bi-weekly. (12-18, 24)

p. 33 Denies awareness of \$3,000 transactions down there (from Mike to daughters) (15-18)

p. 62. Can't recall when he learned his sisters acquired their property

p. 70 Can't recall who referred the surveyor "maybe my brother" (10-11)

Mark was brought down to run Fagaiofu, Talimatau, then Fuamete.

p. 30 Mark became aware Mike bought 2 acres (20-23) and decided to pursue a similar acquisition at Olo; (15-19) [and also sell Fuamete]

p. 37-38 Once Mark had "secured a place at Olo" they could sell Fuamete

p. 59 "My father had sold it off [Olo] yeah because he bought it prior to that, the outer boundaries of the land. . ." 16-22.

p. 32, "Today is the first time I have ever heard" of Mike's survey [at Olo] 1-4 (but see below where he uses Mike's pins for his Meko survey)

No Q re: of Voice of Olo

Deed: Exhibit 8, "My brother and I"

Mark arranged the Meko Survey

p. 27 Learned in 2000 of \$3,000 purchases, thought "wonderful" after inheritance from GM

p. 28 talked about inheritance with Douglas (4-5). 28, I am almost 100% sure Doug talked to Dad. I didn't (19-21)

p.. 27 Learned in 2000 of \$3,000 (sisters) purchases, thought "how wonderful" after inheritance from his GM

p. 25 Mark arranged the Olo survey with Meko (6-10)

p. 31 "Unaware of Mike's survey", though quit claim deed is identical (11-18), p. 32, 1-16

p. 59 but direct's Meko to take bearings from Mike's pins... "I told Meko to measure off the rectangle" [for 3 acres] (23-3) along that boundary that he bought."

p. 32 Frances determined the price (21-25)

p. 32, 1-3, 21-25 paid the going rate for family members, price not set by Mark or me (1-3)

p. 34-35 Has little recall of the land trades and properties exchanged between family members (21 over to 1)

p. 33 I was just told the price was \$5 the family price was \$3,000 (1-25)

p. 33 cannot pinpoint from whom he learned of "family prices."

p. 34 It was a number just 'out there understood' by family members.

p. 35 did not consider \$5 or \$3,000 "better or more fair" (19-24)

p. 44 OPL 17, selling at \$100,000 per acre

p. 28 Acknowledged price was not 1/10 the real value of the land (4-15)

p. 45 agreed on price of \$5 not \$3,000 (12-17); also 28 (4-5)

p. 47 I discussed price with my bother (15-17)

p. 44 learned of family prices from aunt, uncle and father, not shocked at all (not asked which)

p. 45 we didn't pay full price, it was too valuable and we didn't have it (7-9)

p. 46 we did not take advantage (21-22)

p. 43 I know nothing about inadequate consideration (1-11)

p. 47 I don't agree consideration was inadequate (1-5)

p. 48 We did not take advantage never heard a single complaint (9-12)

p. 57 Land is worth \$25,000 for ¼ Acre (17-22)

p. 59 [They] turned down \$30,000 an acre shortly thereafter, after Katrina(1-9) see also 26-27

p. 55 Offered to buy the Coke House, greater price compared (2009, after Tsunami); see also Fuamete

p. 43 we obtained a great benefit considering price 19-25);

p. 44 agree great benefit with regard to 3rd parties (resale) (18-23)

p. 44 benefit is from or last name (18-23)[FKO

p. 32 Douglas Jr. did not know of Frances' hard times (15-17)

p. 35 "First I heard of Frances' hard times was when she moved out of San Juan Capistrano" [time frame? 2007 after trial] (6-24)

p. 85 Not aware of Frances' hard times. (13, 14,

p. 85 Firm NO again (16)

p. 24 Frances was suffering very hard times, the negotiating period was very short (22-23)

p. 30 I do believe she had "severe financial difficulties in 1999-2005"

p. 28 I told Douglas of FKO's hard times (5-14)

p. 58, Having hard times, extensive discussion of \$3,000 - \$5,000 to establish why they would pay more than Mike did. Because of her hard times.

p. 30 I have seen the trust, property is in trust (24);

p. 88 I have NEVER seen the 1960 trust (23)

p. 76 Douglas states he "Understands he cannot sell land without majority approval... I understand that part of it (18-22)

p. 35 I am not familiar with 1982 Agreement (2-5)

p. 52. He has NO understanding of title (13-14)

p. 76. He has NO understanding of the nature of the title of RJ and Marie (13) or his own (17)

p. 58 Never asked NO Hall to explain title (7).

p. 58 denies reading the 2006 ruling (16-25)

p. 31 Neither he nor Mark notified anyone of their purchases, hence no ROFR/Majority approval. (1-5, 14)

Mark did NOT ask Frances to make sure she offered ROFR

p. 77 I vaguely remember the 2004-2006 court case (20)

p. 48 re Doug's ad where "courts have recently ruled in favor of transfer" (19-21)

p. 52 Firm NO as to knowledge of the ruling 2006 where he says "the courts have recently ruled in favor of transfer" (3-10);

p. 58 denies reading 2006 in general (16-25)

p. 59 Denies reading court docs in general

p. 77 Robin "may have sent it" (24) can't remember reading 8, or differentiating it 24, "there must have been a reason why I put that in the ad...."

p. 41 This is the first I have heard I don't own the land (13-16)

p. 17 Emphasizes "I have a family right," ignoring trust questions (3-8)

[Note above: we have the benefit because of our name, not because of the trust]

p. 36 I do what my father asks out of family duty not legal agency (15-23)

p. 17 I rely on my grandmother's promise(3-4 6-20)

p. 17 I have no idea what an equitable interest is (21-25)

p. 41 COMPLETELY evades whether the blood statute trust or deeds apply to him

p. 56 The blood statute means" I have a portion of the land" (1-8)

p. 18 I do not want copies of anything (11-16)

p. 18 I operate in Ostrich Mode (11-16); I do not want Robin to send me info

p. 38 Mike explained 1982 to me, more or less looked after the 1982 Agreement [it] (5-8)

p. 37 My father was Frances' Trustee and his own too (22-25)

p. 40 I don't even know that [2004- 2006] court case (13-25, 40 (1)[even if my wife was there]

p. 41 We live in court; sometimes I get a copy of the decision sometimes not (13-16)

p. 33 I did not ask Frances to offer ROFR to the others (13-20)

p. 33 Unaware of ROFR rules (13-20)