



DEPOSITION

D.C.'MIKE' KNEUBUHL

FIRST P.M.

DEPOSITION

Part II:

Douglas C. “Mike” Kneubuhl

May 15, 2014

Irvine , California

AFTERNOON SESSION

1 IN THE HIGH COURT OF AMERICAN SAMOA

2 TRIAL DIVISION

3

4 ROBIN KNEUBUHL ROUSH, FRANCES K.

5 OPELLE and BENJAMIN ("BEN")

6 KNEUBUHL, JR.,

7 Plaintiffs,

8 vs. HCCA No. 28-13

9 DOUGLAS CRANE "MIKE" KNEUBUHL,

10 DOUGLAS KNEUBUHL, JR., CARRIE

11 SUE KNEUBUHL LAVIGNE ECKERT and

12 KELLY KNEUBUHL NADINE FULTS,

13 Defendants.

14

15

16 DEPOSITION of DOUGLASS C. "MIKE" KNEUBUHL

17 Irvine, California

18 Thursday, May 15, 2014

19 Volume I

20 (Afternoon Session)

21 Reported by:

22 Kae F. Gernandt

23 RPR, CSR No. 5342

24 Job No. 1833354

25 PAGES 98 - 228

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13 Defendants.

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15

16 Deposition of DOUGLASS C. "MIKE" KNEUBUHL,

17 Volume I, taken on behalf of plaintiffs, at 20 Corporate

18 Park, Suite 350, Irvine, California, beginning at

19 1:27 p.m. and ending at 5:03 p.m., on Thursday, May 15,

20 2014, before Kae F. Gernandt, RPR, Certified Shorthand

21 Reporter No. 5342.

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1 I N D E X
2 VOLUME I, Afternoon Session

3
4 THURSDAY, MAY 15, 2014

5
6 WITNESS

7 DOUGLASS C. "MIKE" KNEUBUHL

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1 IRVINE, CALIFORNIA, THURSDAY, MAY 15, 2014

2 1:27 P.M.

3

4 DOUGLASS C. "MIKE" KNEUBUHL,

5 having been previously administered an oath, was

6 examined and testified as follows:

7

8 BY MR. SUNIA:

9 Q. We're back on the record, Mr. Kneubuhl.

10 I'll remind you that you're still under oath.

11 A. Yes.

12 MR. SUNIA: Before we forget, let me do this:

13 I'm going to -- can you mark this, please, as next.

14 What is that last one, OPL-3?

15 MR. HALL: Yes.

16 MR. SUNIA: Yes. OPL-4, please.

17 (Deposition Exhibit OPL-4 marked for

18 identification.)

19 BY MR. SUNIA:

20 Q. I'm going to show you, Mr. Kneubuhl, a

21 document that's been marked Exhibit OPL-4 to this

22 deposition. Showing Bates No. OPL_0075 and 0076.

23 That is a stipulated-to document, is a deed

24 to Lancasters for Fuamete that you and Frances signed in

25 2002; is that correct?

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1 A. I see Frances' signature. I see it on the

2 page.

3 Q. Your signature is not on there?

4 A. I don't see it.

5 Q. Okay.

6 A. I see my name. That's not my signature.

7 Q. Have you -- have you seen that document
8 before today?

9 A. I haven't seen this particular document, and
10 nor have I seen the survey. I know that the Lancasters
11 were buying my son Mark's home and about 1 acre or
12 one-half an acre. I don't know exactly how much of land
13 was supposedly land that I had given to my son Mark.
14 However, the surveys have since shown the home is not
15 quite on the land we were supposed to get. It is on a
16 part of it, but not all of it, so it has to be redone.

17 Q. This home and this land that's involved in
18 that Exhibit OPL-4 is Fuamete?

19 A. Yes.

20 Q. Now, do you know if that sale was ever
21 completed?

22 A. My son Mark had sent me A letter and said he
23 was paid for his house and land from the Lancasters and
24 that he was paying Frances her 1/6 share of the profit.

25 Q. Okay. Did he pay you 5/6 of the profits?

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1 A. No.

2 Q. Okay. That's still -- after that sale, as
3 reflected in that OPL-4 Exhibit, five acres still
4 remained of Fuamete --

5 A. Well, we --

6 Q. -- and continues to be in litigation now?

7 A. This is something that I think has to be
8 renegotiated with the Lancasters. And my intention
9 is -- and I think the proper way to handle this is to
10 see them about where the house is, their house is, how
11 it relates to the freehold land that we have surveyed
12 and the Court has recognized as freehold land that
13 belongs to Frances and I.

14 For example, the whole property has changed
15 down so that we are now right along the Malaeloa Road,
16 whereas it was up a little bit away from there. And so
17 that the Fuamete property that we now have since the
18 Court's decisions is much more valuable being alongside
19 the bay road as opposed to being away from it. Moved
20 quite aways, maybe 50 feet, 60 feet.

21 And that affected that survey of that house
22 that was up on top where Mark was. But clearly, when we
23 sold, or Mark sold, the house to the Lancasters, it was
24 with his understanding that that was within the land it
25 was supposed to have. But since the moving of the

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1 property quite a bit --

2 Q. So, what I'm interested in knowing from your
3 recollection is, even after the sale to the Lancasters

4 and even after we make the necessary adjustment -- you
5 make the necessary adjustment, is it still five acres
6 remaining of Fuamete?

7 A. Well, no, because we would have to settle
8 with them on that piece. I don't think it would be fair
9 to them to just say, "Hey, you know, you're not on the
10 land, so goodbye, thank you," give them back their money
11 or whatever. I'm sure they want to stay there, and so,
12 we have to come to some settlement for that.

13 As well as on the other side, the Godinets.
14 They're very nice people. They've been very
15 cooperative. They have sympathized with our side
16 against the Puletus. And I think some settlement has to
17 be -- has to happen there. They tried to buy some land
18 also at one time and actually deposited \$50,000 in
19 trust, was held in trust, first by -- it's not held in
20 trust by. It was held and transferred over to Roy's
21 trust account, and Roy finally -- we decided to release
22 the money back to them with all the law cases.

23 So, something has to be settled there.
24 They've been on the property for quite some time, and I
25 think that they're looking to increase the acreage that

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1 they're on. So, I think when all is settled and done,
2 hopefully we'll have 4 acres --

3 Q. Remaining?

4 A. -- remaining of freehold land to sell. Plus
5 we'll get some money from -- from Alex Godinet and their
6 family for what is sold to them, maybe half an acre, and
7 then the land -- the settlement with the Lancasters.

8 Q. The property that the Lancasters occupy now,
9 is that part of the property under litigation or not?

10 A. Under litigation?

11 Q. Or in the Fuamete case?

12 A. Yes.

13 Q. Okay.

14 A. But like I say, it's just the boundaries
15 have been moved. The house -- I don't think very little
16 of the house would be on -- my guess at this point is
17 that very little of that house is on the 5 acres we
18 have. So, you know, we have to come to some conclusion
19 with them.

20 Q. So, part of the house is someone else's
21 land; is that what you're saying?

22 A. Yes. It would be on -- I think it's on my
23 cousin, Fuiava, Billy Pritchard.

24 Q. Okay. Were you -- you were aware -- were
25 you aware that Mark was selling his home in --

1 A. Yes.

2 Q. -- at that point --

3 A. Yes.

4 Q. -- under the belief that part of Fuamete?

5 A. Yes.

6 Q. And you approved of his sale?

7 A. Yes.

8 Q. Were you aware that he was selling it for
9 \$100,000?

10 A. The property or the house?

11 Q. Both.

12 A. I -- I really can't recollect the exact
13 amount. But I -- I think it was somewhere around there.
14 I don't know.

15 Q. May I see the exhibits?

16 A. Could I ask a question here? I see my name
17 is here as grantor, but without -- whose signature is
18 this? It shows me as grantor.

19 Q. I was going to ask you that. Is that your
20 signature?

21 A. No.

22 Q. Well, do you know who worked on your son
23 Mark's sale of his home and his property?

24 A. I have no idea.

25 Q. Then maybe you should ask him.

1 A. But this is the first time I've seen this
2 document and also the first time I've noticed it. I
3 recognize Frances' signature, but this is not my
4 signature or my initials.

5 MR. SUNIA: Well, I'm sure before the end of this
6 process, we'll -- this litigation, we'll figure out who
7 signed it.

8 I'd like to mark those two in order. So, it
9 would be OPL-5 and OPL-6.

10 (Deposition Exhibit OPL-5 and Exhibit OPL-6
11 marked for identification.)

12 BY MR. SUNIA:

13 Q. Just to tie this up, Mr. Kneubuhl, you
14 testified that you had given your son Mark an acre of
15 Fuamete; is that --

16 A. Yes.

17 Q. Did you do that by deed or just a verbal --

18 A. Just a verbal.

19 Q. So, there's not a written conveyance?

20 A. Not to my knowledge.

21 Q. Do you know if -- did you share that with
22 Frances?

23 A. You know, I don't remember whether I did or
24 not. I know that Mark had contacted Frances also and
25 was talking about it. And Frances may have called me

1 and spoken to me about it. I don't, quite frankly,
2 remember.

3 Q. I'm going to -- I'm showing you what's been
4 marked as Exhibit OPL-5, which shows Bates numbers
5 OPL_0062 and 0063.

6 Now, if you look on that document, which
7 we've stipulated to, is your signature on that document?

8 A. Yes, it is.

9 Q. All right. And is that your signature as
10 you normally sign documents?

11 A. Looks like it, yeah.

12 Q. Okay. Now, have you seen that document
13 before today?

14 A. Could I read this?

15 Q. Sure.

16 A. You know, I can't vouch for my daughters'
17 signatures. Same date as mine, same date as Frances'.
18 I really can't vouch for my daughters' signature, but
19 that appears to be my signature, and I think that's
20 Frances' signature also.

21 Q. Okay. Well, that document, Exhibit OPL-4 --

22 A. OPL-5?

23 Q. -- OPL-5, I'm sorry, is a deed.

24 A. Uh-huh, "quickclaim deed."

— (11) —

25 Q. It's a "quickclaim," is what they called it,

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1 deed, that purports to convey land from you and Frances
2 to your daughters. Is that a fair representation of
3 what that document is?

4 A. Yes.

5 Q. Okay. Now, you know who wrote that deed?

6 A. No, I don't.

7 Q. Okay. Do you know -- the land that's
8 being -- that that deed seems to be conveying, is that
9 the land that you bought or paid Frances \$6,000 for?

10 A. I believe so.

11 Q. Okay. That's as shown on the earlier
12 Exhibit OPL-3 of the deposition, right?

13 A. Yes.

14 Q. Do you know why Frances' name appears on
15 that deed as a grantor if you -- if she had already
16 supposedly conveyed the land to you?

17 A. Well, I think that the idea was that whoever
18 prepared the deed wanted us to have Frances as the
19 guarantor also, because --

20 Q. You don't know who prepared the deed?

21 A. Well, the only thing I can think of is that
22 perhaps Roy might be able to answer the question
23 'cause -- I mean, Mr. Hall, as he was my attorney in

24 Samoa and probably knows more about this than I do.

25 I remember signing this deed. That's my

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1 signature and Frances' signature. The only thing I'm
2 not sure of are my daughters' signature on this piece of
3 paper. I obviously had seen this or else my signature
4 wouldn't be on there.

5 Q. If you'll turn to the second page of that
6 document, can you tell what that second page is?

7 A. It's Orange, I believe. Is that it? County
8 of Orange, California. It's not very clear. Before
9 me --

10 Q. Is it a verification of the signatures?

11 A. Yep -- yes. That's what it says.

12 Q. And they were verified here in California,
13 correct?

14 A. Yes.

15 Q. Now, the date on that document is what?

16 A. March 20, 2002.

17 Q. March 2002?

18 A. Yeah -- yes.

19 Q. Now I'm going to show you what's been marked
20 as Exhibit OPL-6 of this deposition, and it shows Bates
21 numbers 0073 and 0074 -- OPL_0073 and 0074.

22 All right. I'm showing you, Mr. Kneubuhl,

23 Exhibit OPL-6?

24 A. 6, yes.

25 MR. VARGAS: What's the number?

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1 MR. SUNIA: 0073 and 0074.

2 THE WITNESS: Yes.

3 BY MR. SUNIA:

4 Q. Okay. Have you seen that document before?

5 A. Yes, I think so.

6 Q. It's a deed, a quickclaim -- what's called a

7 quickclaim deed --

8 A. Uh-huh.

9 Q. -- on there, right?

10 A. Uh-huh, yes.

11 Q. And it purports to convey land from you to

12 your daughters, right?

13 A. Yes.

14 Q. Okay. Now, is the land that you're -- that

15 you're conveying under that deed, Exhibit OPL-6, is that

16 the land you paid Frances Opelle \$6,000 for?

17 A. I believe so.

18 Q. And how much did you charge or did your

19 daughters pay you for that?

20 A. I don't recall. It says here \$1 apiece.

21 Q. Okay. \$1?

22 A. Yes.

23 Q. Each -- each paid you a dollar?

24 A. Each one of them.

25 Q. Okay. When you paid Frances 6,000 for

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1 2 acres, I believe, one in 1999 and one in -- 1 acre in

2 1999 and 1 acre in 2000, is that -- do you recall that

3 as being the dates?

4 A. Yes.

5 Q. Were you thinking at the time that you were

6 eventually going to transfer that land to your

7 daughters?

8 A. Yes.

9 Q. So, your plan from the very beginning was to

10 get some land and then transfer it -- get land and

11 transfer it to your daughters, correct?

12 A. No. I had no plans of getting any land from

13 Olo.

14 Q. Okay.

15 A. When the land became available, I didn't

16 want any land in Olo, and that's why I transferred to --

17 first I bought 1 acre and then the second acre, and so I

18 decided, you know, I'll buy the second acre for my other

19 daughter, the two girls.

20 My one daughter at the time, the older one,

21 Carrie Sue, was married to Lavigne, who was trying to
22 establish -- he took over Samoa Air, and they were
23 trying to get into the airline business at the time.
24 They were going to build a home, et cetera.

25 Q. So, when this opportunity presented itself

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1 to you in 1999 for the first acre, the thinking was you
2 would acquire the acre and -- for your daughter?

3 A. No. I didn't know what -- when I bought the
4 land, I really had no idea what I was going to do. All
5 I knew is I didn't want it, and I expressed to Frances
6 my desire to give the property to the two girls when I
7 bought it. I'm pretty sure I expressed that opinion to
8 Frances.

9 It so happened that my daughter after that
10 went to Samoa. Shortly thereafter, Carrie and her
11 husband had this opportunity. He was a pilot with Air
12 Canada, and they had the opportunity to buy Samoa Air,
13 which they did. Their idea was to move down there
14 and -- and they did move there, and they ran it for a
15 while till -- then when this came about, they -- they
16 decided to start maybe building a house, and they built
17 a road to it, cleared the land, I know that, on the acre
18 closest to the gravesite.

19 Q. Why have you become so disinterested in

20 owning -- in having anything to do with Olo?

21 A. I suppose I was very bitter with certain
22 members of my family. Didn't want to have, really, much
23 to do with them except for maybe my older sister Marge
24 and, of course, my brother John; I got along with him
25 quite well. But I had -- I really didn't want to be a

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1 part of it anymore. I was kind of tired of the whole
2 scene.

3 The only concern I had, and that's very
4 clear in the agreement, was that I was concerned about
5 where my parents were buried, and now other members of
6 my family are buried there. And that 2 acres, I've
7 stated to everyone I'm going to make every effort to
8 preserve those, take care of them, ensure that the funds
9 are going to be coming in to take care of the gravesite,
10 et cetera, et cetera.

11 Q. Was it your understanding that the 1982
12 agreement, that when you -- when you divested yourself
13 of your interests in the property, in the trust on your
14 mother's trust property, that you didn't have any other
15 remaining interest on that land?

16 A. Other than the gravesite?

17 Q. Other than the gravesite.

18 A. Yes.

19 Q. Now, when you -- when you were acquiring the
20 Olo lands from Frances, your son Mark was living on
21 Fuamete at the time; is that --

22 A. Yes, I believe so.

23 Q. And was your son Mark also -- or were you
24 considering at the time selling -- selling off Fuamete
25 around that time period, 1999, 2000?

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1 A. I think around that time was when we were
2 thinking of doing it, yes.

3 Q. And you knew at the time that Fuamete would
4 probably yield you more than \$3,000 an acre, right?

5 MR. HALL: Objection. Argumentative.

6 THE WITNESS: I -- I don't know what I thought
7 the price was.

8 BY MR. SUNIA:

9 Q. Your son Mark told you, or he shared with
10 you, that he was going to -- he was trying to sell his
11 property, his house and whatever the acreage that you
12 gave him for \$100,000, right?

13 A. Uh-huh.

14 Q. Please say "yes" or "no."

15 A. Oh, excuse me. Yes.

16 Q. So, you had reason to know back then at that
17 time frame, 1999, 2000, that you could probably get

19 Q. Now, when you -- when you were acquiring the
20 Olo lands from Frances, your son Mark was living on
21 Fuamete at the time; is that --

22 A. Yes, I believe so.

23 Q. And was your son Mark also -- or were you
24 considering at the time selling -- selling off Fuamete
25 around that time period, 1999, 2000?

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11 property, his house and whatever the acreage that you
12 gave him for \$100,000, right?

13 A. Uh-huh.

14 Q. Please say "yes" or "no."

15 A. Oh, excuse me. Yes.

16 Q. So, you had reason to know back then at that
17 time frame, 1999, 2000, that you could probably get

18 \$100,000 for an acre of land, correct?

19 A. Probably, because Mark did state to me that
20 the house -- I believe he said that the house was going
21 to sell for 75,000, and the land was -- part of it was
22 going to be 25-. So, I don't -- you know, his
23 calculations, I guess an acre -- you say Fuamete?

24 Q. Yes.

25 A. By those calculations, he assumed that the

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1 price would be around 25,000 an acre. How he got that
2 figure, I don't know.

3 Q. But certainly more than \$3,000?

4 A. Oh, yes, I think so.

5 Q. Did that factor into your thinking when
6 Frances -- when you offered to buy Frances' money --
7 land?

8 A. Well, first of all, I didn't want to buy any
9 land from Frances, No. 1. No. 2, I didn't want to lend
10 her any more money. No. 3, I was having a lot of
11 trouble with my own wife with respect to giving Francie
12 any more money. The only way I could justify it to my
13 wife was to get land from Frances, which Frances offered
14 to sell me. I didn't ask Frances to buy land.

15 Q. What I'm asking is: Did you consider at
16 that time that this land was worth more than \$3,000?

18 \$100,000 for an acre of land, correct?

19 A. Probably, because Mark did state to me that
20 the house -- I believe he said that the house was going
21 to sell for 75,000, and the land was -- part of it was
22 going to be 25-. So, I don't -- you know, his
23 calculations, I guess an acre -- you say Fuamete?

24 Q. Yes.

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9 land from Frances, No. 1. No. 2, I didn't want to lend
10 her any more money. No. 3, I was having a lot of
11 trouble with my own wife with respect to giving Francie
12 any more money. The only way I could justify it to my
13 wife was to get land from Frances, which Frances offered
14 to sell me. I didn't ask Frances to buy land.

15 Q. What I'm asking is: Did you consider at
16 that time that this land was worth more than \$3,000?

17 A. I wasn't considering anything as far as
18 value.

19 Q. When you -- you've seen all of your mother's
20 properties probably, correct?

21 A. Oh, yes.

22 Q. If you compare Fuamete to Olo --

23 A. I compare Fuamete --

24 Q. To Olo.

25 A. -- to Olo.

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1 Q. -- which of the two is more valuable to you?

2 A. Now?

3 Q. No, then.

4 A. Then? I wasn't thinking of anything in
5 terms of value. I really wasn't.

6 Q. Okay. But do you know what they're worth
7 now?

8 A. I think so, pretty good idea.

9 Q. How much would an acre in Olo run about now?

10 A. Oh, I would say it's privately held land. I
11 would imagine that the front acreage along the road to
12 Taputimu from the main road to Leone, the front parcels
13 there could easily be worth 100,000, or maybe a little
14 bit more per acre, and line the main road. I would
15 imagine that the acreage further back would be less

16 money.

17 Q. The land that you believe to have acquired
18 from Frances, are they roadside or are they in the back?

19 A. Well, they're about, what, maybe a couple
20 hundred yards from the Taputimu Road.

21 Q. Did you -- you didn't tell -- did you
22 suggest to Frances in 1999 when she was looking for
23 money that her land was worth more than \$3,000?

24 A. Never discussed it.

25 Q. It didn't cross your mind?

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1 A. No.

2 Q. It didn't matter to you?

3 A. No.

4 Q. You saw it as a bargain, correct?

5 A. No.

6 MR. HALL: Objection. Argumentative.

7 BY MR. SUNIA:

8 Q. And you knew at the time that you acquired
9 this -- that you made this purchase from Frances, you
10 knew that she was experiencing some financial problems,
11 right?

12 A. Yes.

13 Q. And you've known it for a while before that
14 time, right?

15 A. I -- I don't remember how long before or
16 when before or whether I did or I didn't.

17 Q. Frances, according to your testimony, had
18 been borrowing money from you --

19 A. Yes.

20 Q. -- prior to that time?

21 A. Yes.

22 Q. And the reason she was borrowing money from
23 you was because she needed money, right?

24 A. Yes, I suppose.

25 Q. Right.

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1 So, you knew from her borrowings that she
2 had some financial issues, right?

3 A. Yes.

4 Q. Okay. So, at the time that you agreed to
5 buy an acre for 3,000 in 1999, you knew that Frances had
6 been experiencing some financial problems prior to then,
7 correct?

8 A. Well, she told me at that time that she
9 needed the money desperately.

10 Q. And I believe the first purchase you made
11 was in September of 1999; is that about right?

12 A. Yes, I suppose so.

13 Q. And then you later bought another acre for

14 \$3,000 a few months later?

15 A. Yes.

16 Q. If you had owned land at Olo at the time,
17 would you have sold an acre for 3,000?

18 A. I don't know.

19 MR. SUNIA: Okay. I'm going to ask to have this
20 marked, please, OPL-7.

21 (Deposition Exhibit OPL-7 marked for
22 identification.)

23 BY MR. SUNIA:

24 Q. Mr. Kneubuhl, I'm handing you a document
25 that's marked Exhibit OPL-7 for this deposition.

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1 I believe your attorney has agreed to the
2 document.

3 A. Yes.

4 Q. Okay. You recall receiving that letter from
5 Frances?

6 A. Yes.

7 Q. And what's the date on that letter?

8 A. September 25, 1999.

9 Q. Now, what is the -- that was -- why did you
10 receive that letter?

11 A. Why did I receive this letter?

12 Q. Yeah.

13 A. I don't know except it's -- it expresses
14 some -- some disappointment on my behavior, according to
15 the content of the letter, and her dissatisfaction with
16 getting the amount she was getting from me, I guess.

17 And she says here that she is upset, "our
18 last conversation, certain points that you should
19 consider." Apparently she's of the opinion that my
20 refusal to lend her any money was not too -- too good on
21 my part in my treatment of her. She says, and her son
22 Robert John was going to repay me.

23 Let's see. She said that she stood by me,
24 and I'm apparently the cause of all the problems that
25 she and my sister Marge and her husband have had. And

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1 also that my brother John -- somewhere in here it says
2 something about my -- am I reading the same letter? No.
3 So --

4 Q. You see on that letter where there is a
5 reference to your suggestion that Frances sell off her
6 middle house?

7 A. This is -- my suggestion?

8 Q. Yes. That's what the letter says, right?

9 A. Where? Where does it say that?

10 Where does it say that here?

11 MR. HALL: Here.

12 THE WITNESS: Beginning with, "We are reluctant
13 to sell the middle house for several -- for several
14 reasons." Okay. "It has always have been our intention
15 to have Robert John live there."

16 So, I don't see where I'm suggesting her
17 selling any of her houses to anyone.

18 BY MR. SUNIA:

19 Q. Did you suggest that she sell her house?

20 A. No.

21 Q. Did you suggest to her -- did you know that
22 she was under the threat of losing her home?

23 A. Only when she told me on the telephone the
24 day that we had to rush \$3,000 in cash down to her in
25 front of her bank, which I mentioned was delivered to

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1 her by Carmen Picon, a cousin of mine who was working
2 for me at the time.

3 Q. May I see the exhibit, please.

4 What was the date on that letter again,
5 please?

6 A. This is September 25, 1999.

7 MR. SUNIA: I'll have this marked, please.

8 (Deposition Exhibit OPL-8 marked for
9 identification.)

10 BY MR. SUNIA:

11 Q. All right, Mr. Kneubuhl, I'm handing you
12 what's been marked as Exhibit OPL-8 to this deposition.

13 Is that your signature on the document?

14 A. Yes.

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

17 A. This is September 27, 1999.

18 Q. And in that document you're agreeing to --
19 what are you -- who -- that was your letter, right, that
20 document?

21 A. Yes.

22 Q. And what were you agreeing to do in that
23 letter?

24 A. Well, I'm saying here that, "After careful
25 consideration of responsibility of my family, I decided

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1 I will not lend you the money but would purchase an acre
2 in Olo from you. Please fax me what you consider a fair
3 price."

4 Q. Now, up until that point, Frances had not
5 offered you any land for sale, right?

6 A. No.

7 Q. So, the idea of buying land as opposed to
8 lending money to Frances was your idea?

9 A. Idea of buying land instead of lending her

10 money was my idea?

11 Q. Yes.

12 A. No. That's what I'm trying to say. She
13 first approached me in a telephone conversation and
14 said, "Would you be interested in buying land?"

15 Q. Then how come that's not reflected in any --
16 in the letter that Frances wrote you which is marked as
17 Exhibit OPL --

18 A. I don't know.

19 Q. -- -7?

20 A. I have no idea. You know, you want to
21 remember, too, this is going back quite a long time ago.
22 But I do remember very distinctly it was Frances who
23 first offered if I would be interested in buying land
24 because I refused to give her any money.

25 Q. So, in that letter that's before you --

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1 Exhibit OPL-8, is it?

2 A. Yes.

3 Q. -- you're agreeing to buy land instead of
4 loaning money, correct?

5 A. Yes.

6 Q. And there's no dollar amount --

7 A. No.

8 Q. -- in there, right?

9 A. No.

10 Q. Now, at the very end, it makes a reference
11 to the -- to Olo Association. Do you see that?

12 A. It says here, "I'm prepared to do this prior
13 to receiving an agreement from the trustees of the Olo
14 Association, which is the only way land can be
15 transferred in title."

16 Q. Okay. At that time, was there an Olo
17 Association?

18 A. I believe so.

19 Q. Who was the -- who was the leader of
20 chairperson or the president of that association?

21 A. I don't know who was the leader, but I know
22 that it was an association between all of the siblings
23 that was written up, and there was an agreement in there
24 that you were not to sell any land without the approval
25 of the majority of the siblings. This was all -- I

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1 think it was a loose agreement that my brothers and I
2 had, and sisters, which there has to be a copy
3 someplace.

4 Q. Do you have a copy?

5 A. No.

6 Q. So, you knew when you read that letter that
7 even if you were to buy land from Frances, it wasn't

8 going to be a legal conveyance?

9 A. At the time, yes.

10 Q. 'Cause you had no approval from this

11 so-called Olo Association, right?

12 A. Yes.

13 Q. Did you ever receive approval from the Olo

14 Association for acquiring any one of the two acres of

15 land that you acquired from Frances?

16 A. I don't believe so.

17 Q. All right. Up to this date have you ever

18 received approval from the Olo Association?

19 A. I don't believe so.

20 Q. Was the land -- was it surveyed at the time?

21 A. At the time I purchased it?

22 Q. Correct.

23 A. Yes.

24 MR. SUNIA: Let me -- may I have this marked,

25 please.

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1 (Deposition Exhibit OPL-9 marked for
2 identification.)

3 MR. SUNIA: OPL-9.

4 BY MR. SUNIA:

5 Q. Mr. Kneubuhl, I'm showing you a document

6 that's been marked Exhibit OPL-9 of this deposition.

7 And again, it's been stipulated to by your attorney.

8 What's the date on that document?

9 A. September 27, 1999.

10 Q. Now, that document is a receipt of the
11 \$3,000 you paid Frances for an acre of her Olo land,
12 right?

13 A. Yes, yes.

14 Q. Do you see the two signatures on there. Can
15 you tell me who they are?

16 A. This is Frances Opelle dated September 27,
17 1999, and witness, Carmen Picon, same date,
18 September 27, 1999.

19 Q. Do you know who Carmen Picon is?

20 A. Yes.

21 Q. Who is she to you?

22 A. She's a cousin who was also an employee in
23 my company.

24 Q. Was she the person that arranged for the
25 money to be delivered to Frances?

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1 A. No. She's the person -- our accountant
2 arranged for the money. Picon was just a deliverer of
3 the money.

4 Q. Okay.

5 A. And she -- and she also became the witness.

6 She needed cash.

7 Q. I assume -- well, I'm not going to assume.

8 But did she take that receipt with her to have Frances
9 sign it?

10 A. Yes.

11 Q. Okay. So, you prepared that receipt?

12 A. My office -- someone in my office prepared
13 it.

14 Q. You see where -- on that receipt where it
15 says that a survey is going to be done later?

16 A. Yes.

17 Q. All right. So, you prepared a receipt and
18 indicated on it that a survey will be done later?

19 A. Yes.

20 Q. So, at the time that you bought this land,
21 that land hadn't been surveyed, that particular acre of
22 land?

23 A. Yes.

24 Q. Right.

25 Do you know if it was ever surveyed

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1 subsequent?

2 A. Yes.

3 Q. When it was surveyed subsequently, were you
4 physically down there in American Samoa during that

5 survey work?

6 A. No.

7 Q. All right. Was Frances physically down
8 there in American Samoa during the survey work?

9 A. No.

10 Q. Did you or an agent of yours arrange for the
11 survey to be done in American Samoa?

12 A. Yes.

13 Q. What agent did you use?

14 A. I believe that through Roy Hall's office, we
15 got somebody. And also, we looked at the maps, the
16 overall map of Fuamete. And the land that I described
17 to Frances that I would buy from her nearest my parents'
18 gravesite was adjacent to the land Frances -- we had
19 markings of the different properties. We had an overall
20 map of Olo. I looked at that map and property that was
21 adjacent to my brother John Kneubuhl and Jim Kneubuhl,
22 that was the land, that borderline of that land was the
23 two acres that we picked out, and with Frances'
24 approval, to survey.

25 Q. But Frances did not personally look at --

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1 A. No.

2 Q. -- this plot that you were picking out?

3 A. Yes.

4 Q. Correct?

5 A. Yes.

6 Q. So, essentially you picked out the acreage
7 to survey, right?

8 A. To the best of my ability, on the
9 boundaries. There may be gaps there, but to the best of
10 my knowledge, that's what we were trying to accomplish.
11 And I conveyed to Frances that this is what we were
12 going to do.

13 And at the time that we did it, she agreed
14 because this property was supposed to be adjacent, also,
15 to the property closer -- further on down toward the
16 road, which she had sold to my -- my son Mark. And Mark
17 bought the property, sold one of the acres to my son
18 Doug. That's how all that goes.

19 Q. Mark -- Mark's property was purchased after
20 you paid 6,000 to Frances, right?

21 A. I don't know. What -- when was Mark's
22 property purchased?

23 Q. I'll just show you Mark's property at some
24 point.

25 A. I forgot when he purchased it.

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1 MR. VARGAS: What are you looking for?

2 MR. SUNIA: I have it here somewhere. Right

3 here.

4 May I have this marked, please.

5 (Deposition Exhibit OPL-10 marked for
6 identification.)

7 BY MR. SUNIA:

8 Q. All right. Mr. Kneubuhl, I'm going to show
9 you what's been marked as Exhibit OPL-10 in this
10 deposition.

11 A. Uh-huh.

12 Q. And they reflect Bates Nos. OPL_0058 and
13 OPL_0059.

14 Sir, Mr. Kneubuhl, have you seen that
15 document, Exhibit OPL-10, before?

16 A. No. Excuse me. This is the first time I've
17 seen this, but I don't know if I've ever read it.

18 Yes, I think I did look -- see this at one
19 time.

20 Q. All right. That is the -- that document,
21 Exhibit OPL-10, is a deed from Frances to Mark?

22 A. Yes.

23 MR. HALL: Correction. I think the document says
24 "Quitclaim Deed."

25 MR. SUNIA: Quitclaim Deed.

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1 MR. HALL: Big difference.

2 BY MR. SUNIA:

3 Q. From Frances to Mark, your son Mark, right?

4 A. Yes, yes.

5 Q. What's the date on it?

6 A. The date on this document received at the

7 Office of the Registrar's Office, August 16, 2000.

8 Q. Now, what's the actual date of the agreement
9 between Frances and Mark? Does it show? What's the
10 first line?

11 A. Actually, the actual date -- I mean, the
12 first agreement? Says on the first line here -- I'm
13 sorry, I don't see a date here.

14 Q. Do you read the first line?

15 A. "Witness that the said first party with
16 consideration" --

17 Q. The beginning of the document, at the very
18 beginning of the document. What's the title of the
19 document?

20 A. Quitclaim deed executed this -- oh, I see,
21 there it is -- "this first day of August, 2000."

22 Q. Okay. So, August 2000.

23 Now, the receipt that you have in front of
24 you which is Exhibit OPL-9, that was a receipt done in
25 1999, correct?

1 A. September 27, 1999.

2 Q. All right. So, when you surveyed the
3 property -- or when you surveyed the property, that
4 Frances -- that you paid Frances for, Mark had not yet
5 purchased his property, right?

6 A. Yes, yes, correct.

7 Q. So, you couldn't have been surveying in
8 accordance with what Mark had acquired, correct?

9 A. Absolutely correct.

10 Q. All right. So, how is it that you knew you
11 were going to --

12 A. My confusion -- my confusion is related to
13 something that happened later on. But I did contact
14 Frances and say I was going to use the survey to the
15 furthest point of the land close boundary to the other
16 two plots: John's piece of property and I think my
17 brother Jim's piece of property, furthest down as close
18 as I could get, but as close as I could to -- I knew
19 that that piece of property was fairly close to the
20 gravesite.

21 Q. Was that the only time that you arranged to
22 survey the parcels that you --

23 A. Yes.

24 Q. -- acquired from Frances?

25 A. Yes.

1 Q. You've not done a retrace of those
2 surveys -- of that survey?

3 A. I don't believe so.

4 Q. Okay. Do you know the surveyor who did the
5 survey for you?

6 A. I believe it was Sumeo.

7 Is that his name, Roy?

8 MR. HALL: There is a surveyor named Sumeo. A
9 friend of yours.

10 THE WITNESS: He's a government surveyor, isn't
11 he, still?

12 MR. HALL: Yes, he is.

13 MR. SUNIA: May I have this marked, please.

14 (Deposition Exhibit OPL-11 marked for
15 identification.)

16 BY MR. SUNIA:

17 Q. Mr. Kneubuhl, I've handed you what's been
18 marked as Exhibit OPL-11 of this deposition.

19 A. Yes, I have it here.

20 Q. And I believe it bears Bates' No. OPL_0102 on
21 the bottom right-hand corner.

22 A. It says OPL -- deponent 11. Is that what
23 you're referring to?

24 MR. SUNIA: The bottom right-hand corner.

25 THE WITNESS: Oh, the Bates, down here.

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1 MR. VARGAS: He's reading the exhibit stamp.

2 THE WITNESS: Oh, this side? OPL-12, yes --

3 excuse me, 0102.

4 BY MR. SUNIA:

5 Q. All right. Okay. Is that -- have you seen

6 that survey before?

7 A. Yes, I have.

8 Q. Now, is that a the survey -- is that the

9 survey that you've been testifying to with the 2 acres

10 that you believe you acquired -- that you paid Frances

11 for?

12 A. Yes.

13 Q. What's the date on that -- on the stamp on

14 that survey?

15 A. This is 3 -- March -- March 2nd, 2000.

16 Q. Okay. And basically -- now, would you

17 please testify -- explain again, how did you show what

18 parcel to survey? How did you --

19 A. Well, we have an overall map of Olo. I

20 don't know if we have it here or anybody has it. But

21 from that map, I was very familiar with the property.

22 And the map was all laid out. And also, it showed where

23 the graveyard was. Gravesite was approximately up here

24 someplace (indicating).

25 This is the road that went off to -- down to

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1 the -- to the back of the property where my sister Marge

2 had the far corner, the last lot -- plot on the far side

3 back. But this is the area where the road divides off

4 just behind it, just behind that in the middle, steps

5 that led up to the gravesite.

6 And I looked at that map and saw where the

7 other two pieces of property were and tried to follow

8 that line, told the surveyor to follow that line so that

9 the least amount of property was -- 'cause it wasn't a

10 straight line --

11 Q. So --

12 A. -- to abound by -- to put this piece of

13 property as close to those boundaries as possible.

14 Q. So, you did this over the phone?

15 A. I don't recall.

16 Q. Or did you send an e-mail, or how did you do

17 it?

18 A. Well, I must have corresponded with -- it

19 may have been to someone in Mr. Hall's office or

20 Mr. Hall himself. I don't know. Also, I -- I may have

21 had some other assistance from somebody. I don't know.

22 Q. Well, I -- I'm just trying to get --

23 A. I also, I think, got some advice from my
24 sister Marge who was alive at the time.

25 Q. Just trying to get an understanding of how

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1 this process took place for you.

2 A. Yeah.

3 Q. So, are you saying that either you called or
4 you went through someone and say, "Okay, there is a line
5 there. There is steps over there. And just take
6 2 acres and plot out 2 acres and survey it"? Is that
7 how it worked?

8 A. I don't know if that was my exact words or
9 if that was exactly the way it went about. But I -- I
10 know I did consult with my sister Marge. I think maybe
11 my son Mark was down there at the time. He went and
12 looked at it. But -- but -- and I don't recall if I
13 spoke with Roy about it or had anything to do with their
14 office about the survey.

15 I know that I got some -- had someone down
16 there with some knowledge take a good serious look at it
17 because we did not want to encroach on the other
18 property that this was adjacent to. But that's what we
19 did.

20 MR. VARGAS: Can we go off the record for a
21 minute here.

22 (Discussion held off the record.)

23 BY MR. SUNIA:

24 Q. All right. Well, let me --

25 (Counsel and the deponent confer off the

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1 record out of the hearing of the reporter.)

2 MR. SUNIA: Mark these, please, 12 and 13.

3 (Deposition Exhibits OPL-12 and OPL-13

4 marked for identification.)

5 BY MR. SUNIA:

6 Q. I'm going to hand you these two documents

7 together. Exhibit OPL-12 which reflects Bates

8 No. OPL_0047, and Exhibit OPL-13, which is Bates stamped

9 OPL_0048. And I'll ask you to look at those together,

10 please.

11 He's got the other one. Okay, 12 and 13.

12 MR. HALL: These two.

13 BY MR. SUNIA:

14 Q. Okay. All right.

15 Mr. Kneubuhl, you now have in front of you

16 Exhibit OPL-12 and OPL-13 of your deposition, right?

17 A. Yes.

18 Q. Okay. OPL-12, can you -- do you recognize

19 that document as a letter from you to Frances?

20 A. Yes.

21 Q. All right. What date's on that letter?

22 A. The first one, OPL-12, is dated February 11,
23 2000.

24 Q. Okay. And now what is the gist of that
25 letter?

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1 A. Well, the gist of it is how to deliver the
2 money and get a receipt from Frances for the sale of the
3 first piece of land, I believe.

4 Q. First or the second piece?

5 A. I'm not sure. Let's see. Let's see. Okay.
6 This would be the second 1-acre piece.

7 Q. And that's in February of 2000, right?

8 A. Yes.

9 Q. And what was the price that you were paying
10 for the second acre?

11 A. Well, it was the same price as the first.

12 Q. \$3,000?

13 A. Yes.

14 Q. And then Exhibit OPL-13, what is that
15 document?

16 A. This is February 11, 2000. It's a bill of
17 sale and receipt.

18 Q. Who signed it?

19 A. Frances Opelle, Carmen.

20 Q. And it's a receipt for what?

21 A. It a receipt -- let's see. This is a 1-acre
22 parcel -- this was for the second -- "will be surveyed
23 and conveyed to me at the earliest possible time."

24 Q. Am I correct in saying that's a receipt of
25 the second --

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1 A. I believe so.

2 Q. -- of the \$3,000 that you paid for the --

3 A. For the second --

4 Q. -- second acre?

5 A. -- parcel, yes.

6 Q. And so, the survey that you've been
7 testifying about of the 2 acres came after the -- was
8 done after the payment of the second acre, correct?

9 A. I believe so. Let's see.

10 Q. Because the survey was done in August 2000?
11 March 2000?

12 A. It's stamped -- yeah, March 2000.

13 Q. Okay. And that bill of sale for the second
14 acre was February of 2000, right?

15 A. Yes.

16 Q. Okay. Now, on that second acre --

17 A. Yes.

18 Q. -- did Frances call you back for the sale of

19 more land or did you call Frances to buy more land?

20 A. I really don't remember whether she called

21 me or I called her. I don't -- I think she called me.

22 Q. Okay. And at that point, whether she called

23 you or you called her, for the second acre, had you

24 formed in your mind the notion of transferring -- strike

25 that.

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1 At the time that you made the second

2 acquisition, you had already formed in your mind the

3 notion of transferring the land to your daughters,

4 right?

5 A. Yes.

6 Q. Do you have any written correspondence that

7 you remember whereby you notified Frances of your

8 ultimate plan of transferring these 2 acres to your

9 daughters?

10 A. I don't know if I have anything in writing,

11 but I definitely have had a conversation with Frances to

12 that effect.

13 Q. Now --

14 A. Would you excuse me, please?

15 Q. Do you need to take a break for your phone

16 call?

17 A. Yeah. Could I?

18 MR. SUNIA: Sure.

19 (A brief recess was taken.)

20 MR. SUNIA: Would you read the question back,
21 please.

22 (The record was read.)

23 BY MR. SUNIA:

24 Q. Now, around that time, I believe -- I'm
25 sorry, I think you have Exhibit OPL -- marked the deed,

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1 the quitclaim?

2 A. Quitclaim deed?

3 MR. VARGAS: Six.

4 MR. HALL: From who to who?

5 MR. SUNIA: To Mark.

6 MR. VARGAS: No. 5. Either 5 or 6.

7 THE WITNESS: Quitclaim deed from Frances. What
8 number is it? Do you have a number? This is from Mark
9 or Frances?

10 MR. HALL: This is the one to Mark.

11 MR. SUNIA: Yeah.

12 MR. HALL: Okay.

13 MR. SUNIA: What's that exhibit number, please?

14 MR. HALL: Exhibit 10.

15 BY MR. SUNIA:

16 Q. Okay. Now, again, what's the date on

17 Exhibit OPL-10?

18 A. The date received in court?

19 Q. No, the date it was entered into.

20 A. Yeah, right here. Okay. That is June 15,
21 2001. That's down here.

22 Q. No, no, no. On the top, please.

23 A. On the top here? Okay. The date up here is
24 the 1st of August 2000.

25 Q. Okay, 1st of August, 2000. And that's the

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1 date that the quitclaim deed was between Frances and
2 your son Mark, correct?

3 A. Yes, yes.

4 Q. Now, at that time that you had made your
5 second purchase from Frances, did you advise your
6 children that you had made these acquisitions?

7 A. No.

8 Q. Did your daughters know about your
9 acquisitions?

10 A. I told my daughters.

11 Q. Did Mark know about your acquisitions?

12 A. No.

13 Q. Did Douglas know about your acquisitions?

14 A. No. Sometime shortly after I bought them, I
15 told them.

16 Q. Shortly after you got the --
17 A. The property from Frances for the girls.
18 Q. But when you -- you told Mark and Douglas
19 that you bought land from Frances?
20 A. Uh-huh.
21 Q. All right. Please say "yes" or "no," sir.
22 A. Oh, yeah. Pardon me. Yes.
23 Q. Okay. So, you told Mark and Doug -- do you
24 remember exactly when you told them?
25 A. I really don't remember the dates. It was

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1 sometime shortly after this.

2 Q. But before -- was it sometime before Mark
3 and Doug -- Douglas -- your son Doug acquired -- I'm
4 sorry. Strike that.

5 Was it sometime before your son Mark bought
6 land from Frances?

7 A. Sometime before? You mean before this date
8 here?

9 Q. Right.

10 A. No, I don't believe so. I mean, I -- I just
11 don't remember that far.

12 Q. But you do remember telling your sons that
13 you had --

14 A. Yes.

15 Q. Shortly after you acquired land from

16 Frances --

17 A. Yes.

18 Q. -- you remember telling your sons that you

19 bought land from Frances?

20 A. Yes.

21 Q. What's your understanding of what you

22 acquired from -- what kind of interest did you acquire

23 from Frances when you paid her \$3,000 an acre?

24 A. What kind of interest?

25 Q. Yeah. What kind of land interest?

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1 A. What kind of land it was?

2 Q. What kind of -- what kind of interest you

3 had in land? Did you own it?

4 A. I -- I believe I was buying land that she

5 received from the trust, the interest in trust, yes.

6 Q. But you also knew that -- that there was an

7 approval process from this Olo Association, correct?

8 A. Yes, definitely.

9 MR. SUNIA: Thank you for your patience,

10 Mr. Kneubuhl. We're almost there.

11 THE WITNESS: That's all right. Take all the

12 time you want.

13 MR. HALL: Up to 4:00.

14 MR. SUNIA: Your counsel in particular didn't
15 like that answer.

16 MR. HALL: Up to 4:00.

17 THE WITNESS: That's a good quitting time in
18 Samoa, right?

19 MR. HALL: Yeah.

20 MR. SUNIA: Okay.

21 BY MR. SUNIA:

22 Q. All right, sir. In this, Mr. Hall's binder,
23 I would like to talk with you about several documents
24 starting on Bates No. MK 20.

25 A. MK 20.

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1 Q. In the 200s.

2 A. Okay.

3 Q. And I'll start with --

4 MR. VARGAS: MK 200?

5 MR. SUNIA: I'm sorry. Strike that. I'm going
6 to start with MK 310 to 311, please.

7 THE WITNESS: 310?

8 MR. SUNIA: To 311.

9 Before we do that, could I have this marked,
10 please.

11 (Deposition Exhibit OPL-14 marked for
12 identification.)

13 MR. SUNIA: Before we do that, I want to -- let
14 me show you what's been marked as Exhibit OPL-14,
15 Bates-stamped OPL_0103.

16 THE WITNESS: I'm at page MK 310 here.

17 BY MR. SUNIA:

18 Q. Okay. I'll get to that in a minute.

19 A. Yes.

20 Q. I wonder if you could -- have you seen that
21 survey before?

22 A. I believe I have, yes.

23 Q. Okay. Now, what's the date on that survey,
24 the stamp date.

25 A. The stamp date here?

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1 Q. Yeah.

2 A. July 26, 2000.

3 Q. Okay. Now, that survey as shown on that
4 exhibit is for 3 acres of Olo that you supposedly owned.

5 Do you see that, where the description is?

6 A. I supposedly own this?

7 Q. I'm asking you, sir. 'Cause it says that
8 it's 3 acres of Olo land that you own. Can you clarify
9 that for me?

10 A. You mean this whole survey here is 3 acres?

11 Q. Well, the description is 3 acres on the

12 bottom. You see that?

13 A. Yes, I see the description. I can't verify
14 whether it's 3 acres or not. But if it -- you say that
15 this is -- this whole thing is 3 acres --

16 Q. Do you own any -- or did you own any land on
17 Olo other than the 2 acres that you purchased from
18 Frances after the settlement agreement, of course?

19 A. No.

20 Q. Okay. Yeah, I just wanted to clarify that.

21 A. I don't know if I've seen this before. I
22 know this -- I think this is the 2 acres I bought for
23 the girls. I don't know. I don't know where this
24 3 acres --

25 Q. Careful when you use those government

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1 surveyors.

2 A. I really --

3 MR. HALL: Talking about Sumeo. What is your
4 name for him?

5 MR. SUNIA: Infamous Sumeo.

6 BY MR. SUNIA:

7 Q. Okay. Now we're on to MK 3 -- the document
8 marked MK 310 and 311 --

9 A. Yes.

10 Q. -- produced to me by your attorney.

11 I assume you've seen that document?

12 A. Yes.

13 Q. All right. What is that document?

14 A. This is --

15 Q. And you're looking at MK 310?

16 A. Yes.

17 Q. Okay.

18 A. It is a document that seems to be the sale

19 of Francie's -- or between Frances Opelle and I of the

20 sale of her property to me in Olo, I think. No. Wait a

21 minute. Wait a minute.

22 This is -- this is conveyance in love, so

23 that's not the document I was thinking of. The

24 conveyance in love, that I recall the words "love," was

25 done for something else. So, you have to excuse me. I

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1 have to read this document now.

2 Uh-huh, yes, I know the property.

3 Q. All right. What property is that?

4 A. This is the property in -- Upolu, Samoa.

5 Q. And the name of the property?

6 A. Fagaoifu.

7 Q. Can you gave me the date on that document,

8 the date of that --

9 A. The date of this deed --

10 Q. -- deed in love?

11 A. -- deed in love was done 11 July 1984.

12 Q. Okay. Who wrote this deed?

13 A. Murray Drake. He was an attorney in the
14 firm of Jackson -- Jackson and Company, Jackson &
15 Associates.

16 Q. Is he --

17 A. -- of Apia.

18 Q. Is he still alive?

19 A. No. Mr. Jackson died many, many years ago.

20 Q. Mr. Drake?

21 A. Mr. Drake is still alive and still active

22 in -- in his practice.

23 Q. And what does this document purport to do?

24 A. It purports to give me her 1/6 interest in
25 the property of Fagaoifu in the area of Falelatai.

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1 I'll give you the spelling later.

2 MR. SUNIA: This was -- do you need the spelling
3 now?

4 THE REPORTER: No.

5 BY MR. SUNIA:

6 Q. This was -- this document was prepared after
7 the 1982 agreement, correct?

8 A. Yes.

9 Q. In the 1982 agreement, Frances retained her
10 1/6 interest in Fagaoifu?

11 A. Yes.

12 Q. And if I recall correctly, your earlier
13 testimony is that you didn't mind that Frances kept her
14 1/6 interest, right?

15 A. Yes.

16 Q. Now, when did you -- did you endeavor to --
17 was it your intent in the settlement agreement to
18 protect Frances' interest in your mother's properties by
19 not --

20 A. Was it my endeavor to protect --

21 Q. Right.

22 A. -- Frances in -- in getting the 1/6?

23 Q. No, no. In protecting her from -- from
24 giving up her -- her interests in your mother's
25 properties.

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1 A. Giving me --

2 Q. In the 19 --

3 A. -- her interest in what properties?

4 Q. In the 1982 agreement --

5 A. Yes.

6 Q. -- Frances retained her 1/6 interest in your
7 mother's properties that included Fagaoifu and

8 Talimatau, right?

9 A. Yes.

10 Q. And now, in reaching that agreement, did
11 you -- was it your purpose to make sure that Frances
12 kept that 1/6 and not assigned it over to you, like the
13 rest of your other brothers and sisters did?

14 A. For Fagaoifu, Talimatau, Taupau, Fuamete,
15 yes.

16 Q. Yes.

17 A. I had nothing to do with it. It was her
18 decision on her own.

19 Q. Okay. So, then this document, and we're
20 looking at -- that's before you, the MK 310, Bates No.
21 MK 310 --

22 A. Yes.

23 Q. -- purports to transfer to you her 1/6
24 interest in -- Frances' 1/6 interest in Fagaoifu?

25 A. Yes.

153

1 Q. How big was this property, Fagaoifu?

2 A. It was -- final survey, I believe, was 200
3 and -- 222 acres.

4 Q. So, Frances would have held a sixth of that,
5 right?

6 A. Yes.

7 Q. Which works out to approximately 37 acres,
8 if the math is right?

9 A. Whatever it comes to --

10 Q. Okay.

11 A. -- 1/6 of.

12 Q. In 1984, where was Frances living?

13 A. I believe she was here in San Juan
14 Capistrano.

15 Q. Now, that document, MK 310, it says it was
16 witnessed -- it was signed in the presence of Debbie
17 Sutton. Do you know who Debbie Sutton is?

18 A. Debbie Sutton?

19 Q. On the bottom of the document.

20 A. I don't know any Debbie Sutton. I really
21 don't. She must be someone that worked there in the --

22 Q. With Murray Drake?

23 A. I have no idea who this person is or where
24 it was signed by her.

25 Q. Can you make out who that supposed notary is

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1 there on the document in the bottom right corner?

2 A. No, I don't know who this is. I can't even
3 read the writing.

4 Q. Well, your testimony is that this document
5 was prepared by Murray Drake.

6 A. Well, he was the one that was handling this
7 matter.

8 Q. When did you first see this document?

9 A. When did I first see this document?

10 Q. Right.

11 A. When it was written in a deed form. It was
12 a small, little -- it was in form -- legal form, folded
13 over. It's in the courthouse in --

14 Q. Was it Murray Drake's advice to -- to
15 prepare this -- or to make this transfer in the form of
16 a gift?

17 A. I have no idea.

18 Q. You didn't pay any money for this assignment
19 or this transfer?

20 A. Did I pay Frances any money? No.

21 Q. Right, for transferring you her 1/6
22 interest?

23 A. No.

24 Q. There's no money involved in this, right?

25 A. No.

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1 Q. Frances was in California in this time
2 period --

3 A. Yes.

4 Q. -- in 1984?

5 Do you know how Murray Drake arranged for
6 Frances to sign this document if that is, in fact, her
7 signature?

8 A. If this is her -- her signature, you saying?

9 Q. No. I'm asking you how -- how do you -- do
10 you know how Murray Drake arranged to have this document
11 signed by Frances Opelle, assuming that this is Frances'
12 signature?

13 A. I have no idea.

14 Q. Did you personally take this document to
15 Frances for signature?

16 A. I don't believe so.

17 Q. Did any agent of yours in California take
18 this document to Frances for signature?

19 A. No.

20 Q. Do you know if Frances ever traveled to
21 Apia, Samoa for purposes of this document?

22 A. No.

23 Q. Did you pay Murray Drake an airfare to fly
24 over to California to --

25 A. Did I?

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1 Q. -- right --

2 A. No.

3 Q. -- to have this executed?

4 A. No.

5 Q. Did you personally see Frances sign this
6 document?

7 A. No.

8 Q. Now, coming off of the 1982 agreement, why
9 did you want to have Frances transfer you her interest
10 Fagaoifu?

11 A. Why did I want to?

12 Q. Right.

13 A. I didn't ask Frances to do it. She
14 volunteered to do it. And she volunteered to do it, and
15 I suppose because of, maybe, perhaps some guilt feelings
16 about money I had given her just before that, the
17 problem I uncovered -- I think the date is around the
18 same time as when this took place. Yeah, this would be
19 around the time when that last situation occurred with
20 the Latham & Watkins situation where I had to pay the
21 legal fees.

22 And, you know, our house was being put a
23 lien on our house because Frances -- Latham & Watkins
24 had put a lien on our home in Bay Shores because Opelle
25 had not paid the legal fees to Latham & Watkins.

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1 Q. At the time of this --

2 A. I think. I think that's what occurred. I'm

3 not sure.

4 Q. At the time of the 1982 agreement, did you
5 know the size of this Fagaoifu property?

6 A. Yes.

7 Q. You had already done some work and you knew
8 it was large?

9 A. Well, it was the largest piece of property
10 my mother has -- had at the time.

11 Q. And did your mother have any other -- now,
12 this piece of property, Fagaoifu, where is it situated
13 in Upolu?

14 A. Well, it's near the village. It borders on
15 the village of Falelatai, where I have my title as a
16 chief. Falelatai is approximately 15 miles from Apia.
17 The property is -- is a beautiful cove. It has about
18 440 yards pure white sand beach.

19 Q. It's a beach-front property?

20 A. Beautiful. And has --

21 Q. And it faces --

22 A. -- a river coming down.

23 Q. I'm sorry. Not to cut you off.

24 But it faces Savaii, correct?

25 A. It faces the -- trying to think. It

1 faces -- you can't see Savaii from there. But as soon

2 as you go out of the cove and look to your right, you
3 can see Manono and Apolima. And then you go further out
4 and you can see Savaii to the right.

5 Q. Now -- and you knew all of that at the time
6 of the 1982 agreement?

7 A. Oh, yeah. Beautiful piece of property. I
8 went there when I was 16 years old for the first time.

9 Q. Talimatau, on the other hand, wasn't
10 beach-front property?

11 A. Talimatau overlooked Apia. It was inland.

12 Q. Okay.

13 A. A good 3 miles, I'd say, or 4 miles inland.

14 High, so you can look down.

15 Q. And still in the Falelatai?

16 A. No.

17 Q. Where is it in Apia, in Savaii?

18 A. Well, it's toward the mountains. You know,
19 when you're looking -- when you're standing at Apia in
20 front of the clock tower and you look up to the
21 mountains and a little bit to the right, that's
22 Talimatau up there.

23 Q. So, now, when you asked for this -- in the
24 1982 agreement to exchange your interests in the Olo
25 property and the -- and your mother's trust properties

1 for her other properties that included Talimatau, did
2 you have plans at that time for development of that
3 property?

4 A. Did I have plans?

5 Q. Yes.

6 A. No, I had no plans for the property at all.

7 As I said, it was a very -- my attorney made the offer
8 to exchange my mother's lands for my interests in all of
9 B. F. Kneubuhl businesses.

10 Q. Now, at some point -- there was a point when
11 you went to Samoa and you were engaged in litigation
12 over Fagaoifu land, correct?

13 A. Yes, yes.

14 Q. You recall your affidavit that you submitted
15 in that litigation?

16 A. The litigation I had with the other chiefs
17 that claimed the land?

18 Q. Yes.

19 A. I don't remember exactly what I said or what
20 I did. My attorney at the time was Patrick Fupule'ai,
21 took care of that case for me.

22 Q. You don't remember --

23 A. What did I say?

24 Q. You don't remember telling the court there
25 that you had plans to develop a hotel?

1 A. Oh, definitely. I -- I definitely -- when I
2 got the property, I looked at it. Of course, I knew it
3 had tremendous beauty, and the only potential for it was
4 a development. And I did try to develop a hotel.

5 The government at the time were not too --
6 well, they wanted hotels to be built, but they were
7 unwilling to give the concessions that we needed, such
8 as tax holiday for certain number of years and
9 concessions of import, duties and things like that.

10 And I got a group together, and a couple of
11 the partners kind of dropped out and -- after all the
12 plans were built, et cetera, et cetera. So, it fell
13 apart. And so, I felt the best thing to do was just
14 leave it for a while, let it mature a little bit more
15 and see what happens. And to this day, I think it's
16 finally being developed.

17 Dave Haleck, who bought the property from
18 me, is beginning to develop it. As you know, the -- the
19 show "Survivor" was filmed there, and that brought a lot
20 of interest to the property.

21 Q. While at this point, how much did Dave
22 Haleck pay you for the property?

23 A. 2,400,000.

24 Q. U.S.?

25 A. U.S. dollars.

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1 Q. Is it fully paid?

2 A. Fully paid.

3 Q. When was the sale?

4 A. When was the sale? Two -- started, I think,
5 in 2008. Fully paid in 2012.

6 Q. Did Fupule'ai handle the matter for you in
7 Apia?

8 A. The sale of the property?

9 Q. Yes.

10 A. Yes.

11 Q. Did you have anyone in American Samoa assist
12 you with this sale?

13 A. No.

14 Q. Prior to the -- before the 1982 agreement,
15 your family, the Kneubuhl family, was researching the
16 potentials of its -- or the -- researching the -- what
17 property it had in -- in Upolu?

18 A. Yes.

19 Q. Right? You remember that?

20 A. Yes.

21 Q. And who was tasked to do that research?

22 A. Let's see. I got back involved in it when
23 my brother asked me to take over the -- his

24 responsibilities and be in charge of all their
25 businesses. I got back into it in 1978 or something,

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1 '75, somewhere in there.

2 And so, I know that my brother, one of the
3 things he wanted -- my oldest brother Jim, who is living
4 in -- in back east or in London at the time, he -- one
5 of the things he wanted to do was to get an assessment
6 of all the value of the properties that my mother had.
7 And Drake did a study of all the lands that belonged to
8 the Pritchard families in Upolu.

9 And there was so much land that Pritchards
10 owned at one time. But you had to get into all the
11 lands that Alfred J. Pritchard had, you know, was, for
12 example, the airport at Faleolo, my mother's father gave
13 almost the center section of the airport to the
14 government to build the airport there during the war.

15 And in Apia, some of the things we
16 discovered, I mean, you all know that area, so some of
17 the property was in Apia. I mean, they had hundreds of
18 acres near Apia. So, you know, with other Pritchards
19 too.

20 You know, George Pritchard was one of the
21 earliest LMS missionaries to go to Apia. Then he became
22 British council there too. But his sons: William,

23 George, Alene, my great-grandfather, they all had lands
24 and businesses. So, they held a lot of property at one
25 time.

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1 So, Jim was interested in finding out where
2 they were and what we were entitled to through my
3 grandfather, Alfred J. Pritchard. And one of the things
4 we found were Talimatau, a lot of property given to
5 people, and then Fagaoifu.

6 Q. Now, when --

7 A. And there was some values assessed at the
8 time.

9 Q. Was it just you doing that work --

10 A. Oh, no.

11 Q. -- doing the assessment?

12 A. Oh, no, no.

13 Q. Who else joined you in that assessment?

14 A. Well, I believe that my sister Marge did
15 some work. Jim, when he was down there, did it. I
16 believe that Roy's -- Roy Hall's firm did some work as
17 far as trying to get those assessments.

18 Q. And this was done as a family -- it was a
19 family project, if you will?

20 A. My oldest brother wanted to determine the
21 true value of those pieces of property that we owned.

22 Q. And then this -- I think you testified this
23 was in the '70s, do you remember?

24 A. I'm just trying to think back. I left in
25 '68. I went back -- my brother asked me to go back to

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1 do work there in the mid '70s, '74, '75, I forget, for
2 him.

3 Q. Sometime in the '70s?

4 A. It was -- yeah, it was in the '70s. Mid
5 '70s on that we did this work.

6 Q. And Mr. Hall was representing you --

7 A. I think he --

8 Q. -- was the legal counsel for --

9 A. I think he -- his firm also went over to try
10 to get -- to work with Drake and those people in trying
11 to find out where all the land was and what the values
12 were.

13 Q. As a family attorney, is that -- was
14 Mr. Hall representing your interests at that time or the
15 family's?

16 A. No, it's a B. F. Kneubuhl, Inc. --

17 Q. The family's business?

18 A. -- business. Yeah, the parent company, I
19 think, hired the attorneys at that time.

20 Q. Now, did you read any of the -- were there

21 any reports prepared as a result of that assessment?

22 A. Yes.

23 Q. All right. Have you read any of those

24 records?

25 A. Yes.

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1 Q. Who prepared the reports?

2 A. Drake.

3 Q. Was Drake the only attorney in Apia that

4 your family consulted on this assessment?

5 A. Yes. Because Jackson, who had been an

6 attorney there for many, many years, he was still alive

7 at the time, and Drake was one of the attorneys in his

8 office, newly from New Zealand.

9 Q. Now, do you remember any of -- of the

10 opinions or suggestions from the attorneys in Apia on --

11 on what to do with your mother's property?

12 A. Well, I think they were more on a mission

13 of -- to find out exactly what lands that our side of

14 the Pritchard family were entitled to. That was number

15 one. And they did determine that.

16 And then they tried to determine some kind

17 of valuation on those properties so we could use it for

18 tax purposes and valuation of our family business

19 assets.

20 Q. Mr. Hall was handling your family's land
21 matters back in those days in the 1970s; is that --

22 A. Well, I think --

23 Q. -- a correct statement?

24 A. I think when I went back again, I did have
25 meetings with Mr. Hall from time to time. And I think

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1 all of my brothers, Jim had meetings with him, as well
2 as Ben, who was in charge of the maritime business. But
3 I think he was more and more getting into the land
4 matters in Samoa too.

5 Q. I'm going to ask you, if you would, please,
6 turn to the document that's Bates stamped 211.

7 A. 211?

8 Q. MK 211.

9 A. Yes, I have it.

10 Q. Have you seen that before?

11 A. I don't believe I have. This was when?

12 Trying to get a date here for a reference.

13 Q. I don't know. It -- just give it to us from
14 your side of things.

15 MR. HALL: Why don't you go ahead and just
16 identify the document for the purpose of the record.

17 MR. SUNIA: I can do that.

18 All right. The document Bates stamped

19 MK 211, 212 appears to be a letter from the law firm of
20 G.T. Jackson & Clark in Samoa, Apia, Samoa to Roy Hall.

21 THE WITNESS: Uh-huh.

22 BY MR. SUNIA

23 Q. And the subject matter of it is Talimatau
24 and Fagaoifu?

25 A. Yes.

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1 Q. But you've not seen this document before,
2 right?

3 A. I don't believe so.

4 Q. Now, you said that you did see some reports
5 of the assessment of the property, the properties that
6 you went to look at in Samoa?

7 A. Yes.

8 Q. Do you recall what report you are referring
9 to?

10 A. I forget. I know that there was something
11 that was written that I did read. And it was more of a
12 statement, not on values, but on where the lands were
13 and the history of the lands.

14 MR. HALL: Can you go ahead and finish up
15 identifying this document in regards to the signature?

16 MR. SUNIA: Okay. Are you looking at MK 212?

17 THE WITNESS: Yes.

18 BY MR. VARGAS:

19 Q. All right. Do you recognize the signature?

20 A. Yes. Drake.

21 Q. Murray?

22 A. Murray Drake.

23 Q. Okay. Now, while you're on that page, do

24 you see -- were you aware that Mr. Drake was in favor of

25 straight gifting your mother's lands to her children as

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1 the best way of handling the property in Samoa?

2 A. I -- I was not aware of it at the time, no.

3 Q. Were you subsequently made aware of that by

4 Mr. Drake?

5 A. I think so. He must have mentioned it to

6 me.

7 Q. Is that the reason why he gifted it to,

8 Frances Opelle's 1/6 interest in Fagaoifu to you?

9 MR. HALL: I'm going to object it assumes

10 statements that were not -- or facts that were not in

11 Mr. Kneubuhl's testimony.

12 BY MR. SUNIA:

13 Q. Did Mr. Drake advise you that the best way

14 to -- for you to acquire Frances Opelle's interest in

15 Fagaoifu was by way of a gift deed?

16 A. No.

17 Q. That was something he did on his own without
18 your knowledge?

19 A. No. I -- I knew when it was done, but it
20 was part of the -- Francie's 1/6 ownership as a result
21 of the 1982 agreement. And that period was much further
22 down than this letter, I think.

23 Q. Right.

24 A. This letter was written by Drake in what
25 year? I don't know. But it's funny. I can't find any

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1 date here of this letter. I guess he didn't believe in
2 putting dates down.

3 Q. Well, you knew about the property, Fagaoifu
4 and Talimatau, before the 1982 agreement --

5 A. Oh, yes.

6 Q. -- by way of the assessment that you made --

7 A. Oh, yes.

8 Q. -- in Samoa --

9 A. Yes.

10 Q. -- right?

11 And Mr. Drake was handling that matter for
12 you personally or for your family?

13 A. No, it's the whole family.

14 Q. Just as Mr. Hall was handling it for the
15 whole family at the time, right?

16 A. Yes, yes.

17 Q. Okay. And so -- so, you knew before the
18 1982 agreement the value of the property in Samoa,
19 right?

20 A. I didn't know the value, no.

21 Q. But you knew it was valuable, right?

22 A. Well, I -- I don't think -- I -- let me --
23 let me just clarify something. I knew values in Apia
24 and in Upolu around town. I knew the value of when my
25 mother bought back from my brother John in the -- early,

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1 about 1965 or '69.

2 She had given the property to my brother
3 John Kneubuhl. And around that time, John decided that
4 he couldn't develop the land as he wanted to and sold it
5 back to my mother for \$10,000, 220 acres. That's the
6 value that he paid for it.

7 Q. In 19, what, 34?

8 A. No, I believe it was 19 -- John -- about
9 1965.

10 Q. He -- he paid -- your mother paid him -- who
11 paid who?

12 A. My mother, who gave the land to my brother
13 John, deeded it to him in full, bought it back from
14 John. John couldn't use it, sold it back to my mother

15 for \$10,000. 230 acres or 220.

16 Q. And then you got all of it except 1/6
17 through the 1982 agreement in exchange for your
18 divestiture of your interests in the Olo property?

19 A. Not just the Olo property --

20 Q. Okay.

21 A. -- but all of the businesses, including
22 Pacifica Foods, that I had ideas of making about 2 or
23 \$3 million a year on.

24 Q. And then you received the final 1/6 in 1984?

25 A. Excuse me?

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1 Q. And then presumably you received the final
2 1/6 of that property, Fagaoifu, in 1984 by way of a
3 gifting that cost you nothing, right?

4 A. Fagaoifu?

5 Q. Yes, Frances' share.

6 A. Frances' share was given -- yeah, Frances
7 went and decided, because of her love for me, to give me
8 that property --

9 Q. Did you --

10 A. -- for no money.

11 Q. When you sold your land for \$2.4 million to
12 Dave Haleck --

13 A. Uh-huh.

14 Q. -- did it cross your mind that maybe, just
15 maybe, you should give Frances something?

16 MR. HALL: Objection. Argumentative.

17 MR. SUNIA: I'm not arguing.

18 Well, you can answer the question.

19 THE WITNESS: Well, I'm going to tell you
20 something. A lot happened, a lot of family confusion, a
21 lot of family ill will, a lot of things Frances has done
22 that I disapprove of.

23 No, I have to say that a lot of love that I
24 had for Frances has disappeared. And certainly, and you
25 can repeat this to Robert John, for him, I have the

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1 greatest dislike of any human being on this earth.

2 BY MR. SUNIA:

3 Q. Well, you've not answered my question. The
4 question is: Did you consider paying Frances anything
5 out of the \$2.4 million that you received from Dave
6 Haleck?

7 A. Not at all.

8 Q. Just don't feel like being a brother
9 anymore?

10 MR. HALL: Objection. Argumentative.

11 One more remark like that, and I'm going to
12 ask that the deposition cease.

13 BY MR. SUNIA:

14 Q. Would you agree that if -- had Frances not
15 gifted you -- or had Frances supposed -- not assigned
16 you her Fagaoifu interest that her 1/6 share of
17 2.4 million would be 400,000? Is that -- the math
18 right?

19 A. I don't know what it comes out to, but
20 whatever it does, her 1/6 interest would have been paid
21 to her.

22 Q. Are you aware that your children are -- that
23 this litigation started as a result of your children's
24 attempt to sell property that they claimed to have
25 acquired from Frances?

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1 A. Yes.

2 Q. Okay. And you're also aware that the offer
3 for an acre is \$100,000?

4 A. Yes.

5 Q. Did you see this development happening back
6 in 2000, that land acquired from Frances by your
7 daughters through you would be offered for \$100,000 an
8 acre?

9 A. At the time I had no idea what values were
10 or what they could get.

11 Q. Did you see at that time that the land would

12 be sold at some point in the future by your children?

13 A. Well, one of my daughters was going to build
14 a home. My older daughter, Carrie, as I said before,
15 she and her husband were in the process of buying Samoa
16 Air and developing that airline. And that was the
17 reason they were going to move there.

18 My other daughter really had no interest,
19 Kelly, to my knowledge. Doug and Mark -- Mark, I
20 understand, has built three homes on his parcel. Doug
21 hasn't done anything with his and probably never will.
22 So, I think Doug wanted to sell his property. And the
23 two girls have decided to sell theirs too.

24 Q. Was it your understanding after the 1982
25 agreement that when you forfeited your interests in your

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1 mother's trust lands --

2 MR. HALL: I'm going to object to the use of the
3 word "forfeited."

4 BY MR. SUNIA:

5 Q. Okay. When you divested your interest in
6 your mother's trust lands, trust property, that the
7 divestiture encompassed your children's rights?

8 A. Did I know that?

9 Q. Did you know that in 1982?

10 A. No.

11 Q. Did you know in 1982 that the trust
12 instrument that your mother created was cut off at --
13 after her grandchildren?

14 A. After the death of her youngest grandchild,
15 yes.

16 Q. So, at the end of the grandchildren's lives,
17 the youngest grandchild --

18 A. Uh-huh.

19 Q. -- according to you, it's over, correct?

20 A. Yes, the trust is over.

21 Q. But when you -- so, you -- so, you knew in
22 the 1982 -- in the 1982 agreement that when you gave up
23 your interests in the Olo property, for example, that
24 you were, at the same time, giving up your children's
25 interest in your mother's trust property?

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1 A. My mother's trust lands.

2 Q. Yes.

3 A. Yes. Now, the exception to that, of course
4 as you know, is Fuamete.

5 MR. VARGAS: I'm sorry, I didn't hear that last
6 comment.

7 THE WITNESS: The exception to the question that
8 was asked by Mr. Fiti is Fuamete, Fuamete being freehold
9 land.

10 MR. VARGAS: Well, that was handled outside the
11 settlement anyhow.

12 BY MR. SUNIA:

13 Q. When you acquired property in 2000, paid
14 \$3,000 an acre to Frances, did you see that as an
15 opportunity for you and your children to reenter the Olo
16 property?

17 A. No.

18 Q. I'm sorry. Let me just back up. And I'm
19 almost done here. The -- the accounting -- on the sale
20 of Talimatau -- Talimatau, the accounting documents or
21 the -- your accounting of how that money was spent that
22 you testified to earlier, was that the only accounting
23 you've done of that sale?

24 A. Well, it's a rough accounting up to this
25 point, and it's an accounting of all the expenses on all

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1 the lands: Talimatau and Fuamete, up to that time.

2 Q. Had you --

3 A. So that most of the -- most of the legal
4 matters, I hope, are almost concluded. The only thing
5 we're waiting for now other than the pending cases that
6 are going now, which are incurring more expense, as far
7 as the situation goes with Mr. Hall, we -- we believe
8 that we're close to a conclusion on the Fuamete matter.

10 MR. VARGAS: Well, that was handled outside the
11 settlement anyhow.

12 BY MR. SUNIA:

13 Q. When you acquired property in 2000, paid
14 \$3,000 an acre to Frances, did you see that as an
15 opportunity for you and your children to reenter the Olo
16 property?

17 A. No.

18 Q. I'm sorry. Let me just back up. And I'm
19 almost done here. The -- the accounting -- on the sale
20 of Talimatau -- Talimatau, the accounting documents or
21 the -- your accounting of how that money was spent that
22 you testified to earlier, was that the only accounting
23 you've done of that sale?

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25 point, and it's an accounting of all the expenses on all

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2 Q. Had you --

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4 matters, I hope, are almost concluded. The only thing
5 we're waiting for now other than the pending cases that
6 are going now, which are incurring more expense, as far
7 as the situation goes with Mr. Hall, we -- we believe
8 that we're close to a conclusion on the Fuamete matter.

9 It's in appeal. It's been in appeal for almost
10 two years. It's just waiting for the appeal to be
11 concluded. When that's done, we can proceed with the
12 eviction of the people who are on the property, clearing
13 the property and selling it.

14 Q. Had you given any accounting, independent of
15 what you've testified to today, to Frances previously?

16 A. No, I haven't, other than the time when I
17 gave her an accounting of the -- of the sale of -- of
18 Talimatau, told her approximately what I thought was her
19 share. And then I gave her at that time also \$20,000,
20 holding something in reserve.

21 But then she had to pay my sister Marge
22 money for an overpayment of -- of funds that Marge had
23 given her on the sale of Satala. And Frances told me I
24 could go ahead and pay that to Marge to satisfy that
25 debt that she owed Marge, which was an additional 6,700

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1 or \$800. I forget. And with that, total funds gave to
2 Frances was 26,000-some-odd dollars. And -- and there
3 was nothing in reserve left for her. In fact, she was
4 overpaid funds coming to her as a result of that sale.

5 Q. When you transferred or conveyed the 2 acres
6 that you paid Frances \$6,000 for and conveyed it to your
7 daughters --

8 A. Uh-huh.

9 Q. -- did you receive approval from a trustee
10 of your mother's lands?

11 A. No.

12 Q. Did you receive approval from the Olo
13 Association --

14 A. No.

15 Q. -- that you referred to before?

16 A. No.

17 Q. Did you receive approval from a majority of
18 the beneficiaries or descendants of beneficiaries of
19 your mother's trust?

20 A. No. It was something done very quickly.
21 Frances was desperate for the money. And against my
22 wife's complaints, I went ahead with this thing. Even
23 the buying of the land for the girls, my wife was just
24 totally not in favor of it. She was quite upset with me
25 for doing it.

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1 Q. Your last comment there was "even the buying
2 of the land for the girls"?

3 A. My wife was totally against it.

4 Q. You're referring to the 2 acres?

5 A. Yes.

6 Q. You're testifying -- you're saying that you

7 bought those 2 acres for your girls?

8 A. Yes, of course. I will say that my wife

9 disapproved of even that purchase of land.

10 Q. Okay. Do you know that your daughters don't

11 hold title to those 2 acres?

12 A. That my daughters what?

13 Q. Don't have legal title to those 2 acres.

14 MR. HALL: I'm going to object. Calls for a

15 legal conclusion. You don't have to answer that.

16 BY MR. SUNIA:

17 Q. Do you know if your daughters hold title to

18 those 2 acres?

19 A. They do hold title, yes.

20 Q. What kind of title?

21 A. Through the courts in American Samoa. They

22 have deeds, I believe, quitclaim deeds.

23 Q. Exactly what do they hold?

24 A. 1 acre. Carrie has 1 acre. Kelly has 1

25 acre.

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1 Q. And if they were to sell that land to

2 someone, what are they selling?

3 MR. HALL: I'm going to object again. Calls for

4 a legal conclusion.

5 THE WITNESS: I-- I don't know.

6 Do I have to answer the question really? I

7 don't know how to answer the question.

8 MR. HALL: That's an answer.

9 BY MR. SUNIA:

10 Q. Are you aware that your old lawyer has
11 advised potential buyers that your daughters can only
12 sell equitable interest in the property?

13 A. Do I know that?

14 Q. Yes.

15 A. Yes.

16 Q. So, you do know what an equitable interest
17 is, right?

18 A. Yes.

19 Q. And the equitable interest isn't the entire
20 interest in the property, right? You understand that?

21 A. I know the difference between equitable
22 interest in trusts and legal interests.

23 Q. Okay. So, your daughters cannot sell legal
24 interests?

25 A. No. Neither can anybody else there.

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1 Q. Right.

2 So, I go back to my question: So, do you
3 agree, then, that your daughters only hold equitable
4 title to the acres that they each claim?

5 A. Yes, yes.

6 Q. And if you -- if you -- if we're able to
7 determine later -- if a court determines later the
8 validity of the -- of Frances' supposed transfer to you
9 of her interests in Fagaoifu and find it to be invalid,
10 are you prepared to pay her for her 1/6 interest of the
11 proceeds you received from Dave Haleck?

12 A. Could you repeat the question so I can
13 understand it? I don't quite understand what you're
14 saying.

15 Q. If the supposed transfer from Frances to you
16 of her 1/6 interest in Fagaoifu --

17 A. Yes.

18 Q. -- is determined to be invalid by a court --

19 A. The court is saying that she has no
20 interest, has no rights? Is that what you're saying?

21 Q. No. The court says that this transfer is
22 invalid.

23 A. The transfer of her 1/6 interest --

24 Q. Yes.

25 A. -- of Fagaoifu? Okay.

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1 Q. Are you prepared to pay her her 1/6 interest
2 in the 2.4 million that you received?

3 A. I don't think so. I need to think about it.

4 Q. So, what happens to her 1/6 interest?

5 MR. HALL: Objection. Question has been asked
6 and answered.

7 THE WITNESS: I need to think about it under
8 those circumstances.

9 BY MR. SUNIA:

10 Q. What is there to think about?

11 MR. HALL: The question has been asked and
12 answered. Don't answer any more.

13 MR. SUNIA: I didn't ask that one question
14 before.

15 MR. HALL: He's already told you he -- it's
16 something he has to think about.

17 BY MR. SUNIA:

18 Q. Then the question is: What is there to
19 think about?

20 MR. HALL: That's the argumentative part.

21 BY MR. SUNIA:

22 Q. So, are you saying you're not prepared to
23 pay her?

24 A. I am saying that if that came about, that
25 situation, which I very much doubt under the

1 circumstances, it would be something I would have to
2 think about, yes.

3 Q. When did you start negotiating the sale of
4 Fagaoifu?

5 A. Let's see. It sold in 2008. I believe we
6 started the attempt in 2002 or 2004, somewhere there.

7 Q. To the Halecks?

8 A. No. No, this was advertised in the papers.
9 We started out advertising it for 6.5 million, and there
10 was no road into the property. A lot of people didn't
11 like the idea there was no road.

12 A road could have been built, and I thought
13 about the idea. But had I built the road, the chances
14 are people would have been going into the property,
15 stealing all the coconuts, cutting up all the wood and
16 encroaching more on the property. It would have
17 realized -- also, some people would have realized the
18 size of the property. So, I preferred to low -- keep it
19 low key and keep it unavailable. That was the best
20 thing to do.

21 Q. After the 1982 agreement -- so, you're
22 saying that after the 1982 agreement and between that
23 time in 2002, 2004, you didn't do anything with the
24 property?

25 A. Nothing.

1 Q. It just sat there?

2 A. Well, I had to clarify certain things,
3 verify certain things, make sure that I had a good
4 chance of getting it surveyed, which I redid,
5 resurveyed. It's kind of important. A lot of people go
6 to a place 50 miles from Apia to survey their land and
7 they get chopped up before they're through. Certain
8 owners get shot.

9 It's a very tough village, Falelatai, and
10 they don't like you. And on a piece -- a big piece of
11 property like that, the approach had to be very careful.
12 It had to be very diplomatic. And as you know, I became
13 a chief. I must admit one of the reasons I had was to
14 protect that land.

15 Q. Did you ask Drake -- Murray Drake or Drake
16 Murray to go get Frances' 1/6 interest done, transferred
17 to you?

18 A. Did I ask him?

19 Q. Yes.

20 A. After Francie said that she wanted to do
21 this, we got Murray Drake as the attorney who knew the
22 land best to do all this stuff. He did all the work for
23 my mother. When my brother John resold the property
24 back to my mother, it was Murray Drake and Jackson firm
25 that did it.

1 Q. Did you take Frances to Falelatai and show
2 her this property?

3 A. No.

4 Q. Did she ever -- do you know if she ever went
5 there to look at the property?

6 A. I don't know. I doubt it. Frances was not
7 one to climb hills and walk over stuff. My older sister
8 Marge went into the property at least six times.

9 Q. Did you tell her it was beach-front
10 property?

11 A. She knew all about it.

12 Q. But she's never seen it?

13 A. Never seen it? She's seen pictures,
14 photographs.

15 Q. Did you tell her --

16 A. No, I don't remember if I did or didn't. I
17 probably did.

18 Q. Did you tell her its potential value?

19 A. Did I tell her a potential value? No. I
20 figured that she was a big girl, knew what she was doing
21 and could determine that herself. She certainly lived
22 there longer than I did.

23 Q. But you were older than her.

24 A. So? What difference does that make?

25 Q. I thought you considered yourself to be a

1 protector of your sister.

2 MR. HALL: Objection. That was not the statement
3 made by my client.

4 BY MR. SUNIA:

5 Q. I mean, you did consider --

6 MR. HALL: Argumentative.

7 BY MR. SUNIA:

8 Q. -- you considered yourself to be -- and your
9 role was -- according to your earlier testimony was
10 to -- you saw yourself as big brother to your sister,
11 right?

12 MR. HALL: I think he --

13 THE WITNESS: I think --

14 MR. HALL: I think he said older brother.

15 BY MR. SUNIA:

16 Q. Older brother.

17 A. I was her older brother, and I had a normal
18 relationship with my younger sister. I loved her and
19 she loved me. We had a good relationship growing up as
20 kids. And being her older brother, yes, I always did
21 try to watch over her and be concerned.

22 Q. Why did you want it all? Why did you want
23 it all?

24 MR. HALL: Objection. This is argumentative.

1 BY MR. SUNIA:

2 Q. In 1982, you received 5/6 interest. You
3 owned all but 1/6 of Fagaoifu. Did it matter to you to
4 go get the other 1/6?

5 A. It mattered to me?

6 Q. Yeah.

7 A. No, not necessarily at that time. I was --
8 you know, refer to the 1982 agreement. You got to
9 realize the context in which that agreement was made.
10 We had to settle major affairs in our family.

11 It was my attorney at the last minute
12 because he realized how much they thought they had a
13 chip in Pacifica Foods in which they knew I had great,
14 great interest and was the only one that knew anything
15 about what was happening in that business and the
16 potential of that business. And they knew I wanted that
17 business. And I created that business.

18 The only way we could resolve the impasse in
19 this thing that went on for three days was my attorneys
20 saying, "Okay, you can have all the businesses including
21 Pacifica Foods and the land Satala, and my client will
22 take all of Miss Kneubuhl's lands in American Samoa and
23 Samoa." That's how it came to be concluded.

24 I gave up all my interests in their
25 businesses and in Olo in order to get the other

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1 properties my mother had in American Samoa and -- and
2 Western Samoa.

3 And I'm going to tell you something, a lot
4 of people laughed at me, thinking this was the dumbest
5 thing you could ever do. Took many years to resolve
6 Talimatau, and it took many years still to try to settle
7 this Fuamete. And we had one piece of property we
8 haven't even attempted to do anything about that I
9 inherited called Taupau in American Samoa.

10 Q. But off of the 1982 agreement you -- you
11 received 5/6 of Fagaoifu back?

12 A. Yes.

13 Q. And 5/6 of Talimatau back?

14 A. Yes.

15 Q. Frances held on to her 1/6 of Talimatau
16 land, right?

17 A. Yes.

18 Q. She didn't sign over any deed of love, as
19 you claimed she did, with the Fagaoifu property, right?

20 A. In Talimatau?

21 Q. Yes.

22 A. No.

23 Q. So, I guess what I'm wondering about is:
24 Why did it matter to you to grab the 1/6 interest that
25 Frances held in Fagaoifu?

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1 MR. HALL: I'm going to object to the use of the
2 word "grab." I'm going to object to the argumentative
3 sense of the -- of the question itself.

4 BY MR. SUNIA:

5 Q. Well, let me rephrase my question.
6 Why did it matter to you to receive the 1/6
7 interest that Frances kept in Talimatau -- in Fagaoifu?
8 I'm sorry.

9 A. Why did it matter to me that she gave up her
10 1/6 interest in Fagaoifu?

11 Q. No. Why did it matter to you to receive it?

12 A. Why shouldn't it matter to me?

13 Q. You already had 5/6.

14 A. Well, what's wrong with receiving the other?

15 Q. You didn't make a similar play on the --

16 MR. HALL: Objection. Again, let's stop using
17 these words.

18 BY MR. SUNIA:

19 Q. You didn't make a -- you didn't receive a
20 similar transfer in Talimatau, right?

21 A. I don't know what was in Frances' mind when

22 she went and decided to do that. I didn't beg her. I
23 didn't hold a gun to her head or anything. It was on
24 her own account.

25 And it says very clearly -- and I have a

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1 letter, I think, somewhere where she wrote to Drake and
2 said "I want to give my 1/6 interest to my brother in
3 love" or whatever, and it states right there.

4 Q. Can you find that letter and --

5 A. I don't know where it is.

6 Q. If you find it, can you give it to me?

7 A. Absolutely, absolutely, if I can find it.

8 But it also is in the deed, isn't it?

9 Q. Well, we'll talk about the deed at some
10 other point.

11 A. And those are her words. And like I say,
12 she did it maybe because of all the help I had given her
13 and all the things I had done through the years for her.
14 Quite frankly, it was quite a bit. A lot of it I've
15 forgotten.

16 Q. You remarked that a lot of people laughed at
17 you when you took the Upolu lands?

18 A. Yes.

19 Q. Did you laugh at Frances when you received
20 the deed of love?

21 MR. HALL: Objection. That's -- that's
22 argumentative. And it's highly improper, Counsel. You
23 should know better.

24 MR. SUNIA: I'm going to turn you over to
25 Mr. Vargas --

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1 THE WITNESS: All right.

2 MR. SUNIA: -- and see what questions he has.

3 MR. VARGAS: Let's take about a five-minute break
4 so I can use the restroom.

5 MR. SUNIA: Sure.

6 (A brief recess was taken.)

7

8 EXAMINATION

9 BY MR. VARGAS:

10 Q. Mr. Kneubuhl, my name is David Vargas, and I
11 represent the plaintiffs in this case, in the first
12 action -- the civil action that Mr. Sunia represents,
13 and the land title action, they've been consolidated, so
14 that's why we're here together.

15 My interests are a little bit different than
16 Mr. Sunia's, and I'm really kind of interested in just a
17 little background about the trust that was set up with
18 the land, the settlement agreement in 1982, and how
19 things were changed around and things moving forward

20 just with respect to that land.

21 I do have a couple of questions I want to
22 clear up on Fuamete, if I might. Why don't we start
23 with that. As I understood your testimony, Fuamete has
24 not been settled yet; it's still in litigation?

25 A. Yes.

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1 Q. Okay. How was it that your son got the
2 piece of land there?

3 A. Well, we -- when it first -- first of all,
4 he went and lived in Fuamete before anything was really
5 settled. And how he did it was he went to my cousin,
6 Frank Pritchard, and they were living in Apia but he had
7 gone to Frank Pritchard. He was also known as Fuiava,
8 and he a -- they had a bakery out in there in Leone, and
9 Frank was in there all the time.

10 So, Mark went to see him, and Frank and I
11 are the same age. And he asked Frank if he could come
12 over and -- I mean, Billy. Billy was his name. Bill --
13 Bill Pritchard, and he was Fuiava, also known as Fuiava.

14 Anyway, Mark went to see him and asked if he
15 could build a home. And Bill said that, you know, we
16 have this acreage that he had surveyed for my mother
17 earlier and pointed it out roughly to Mark, and Mark
18 asked if he could build a house there. That's how it

19 happened.

20 Q. So, you just worked it out --

21 A. Between them --

22 Q. -- understanding that there were still some
23 issues that had to be resolved down the road about
24 title?

25 A. Yeah. But actually -- actually, Bill,

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1 Fuiava, he was under the impression, and he surveyed the
2 piece that he decided to give my mother. And it was in
3 that -- within the confines of that piece that Mark was
4 given the property to build his house by him, permission
5 to build his house.

6 Q. And that's the area that now has a problem
7 with respect to the survey where the house may not be
8 inside the survey?

9 A. Yes.

10 Q. Okay. And so, is it correct that that land
11 has since been transferred to others?

12 A. Well, Mark sold -- sold the land and the
13 house, and I forget what the exact, I think, as we
14 uncovered earlier he sold the land for.

15 Q. 75- and --

16 A. And the house for 100- or something -- or
17 50-. I forget --

18 Q. Right.

19 A. -- the total amount. But anyway, it was

20 something like that.

21 Q. I guess --

22 A. But supposedly, he sold 1 acre of land.

23 Q. I guess what I'm having trouble with is that

24 you said that this dispute over title to this land had

25 not been settled yet. I was wondering how you can sell

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1 the land with that kind of cloud hanging over the title.

2 MR. HALL: Well, for the record, he did not sell

3 the land.

4 MR. VARGAS: But he said he was talking to his

5 son in agreement -- in the negotiations. So, I want to

6 know if he knows anything about it.

7 THE WITNESS: Well, other than the very loose

8 thing between Bill Pritchard, my cousin, and Mark, my

9 son, what they did was very loose. And, of course, the

10 survey that was done by Bill for my mother to give my

11 mother her 5 acres, that survey has now been redefined

12 and redone according to a decision by Judge Richmond.

13 And so, the land has moved down alongside the road, you

14 know. The road that runs from the Leone road to

15 Malaeloa.

16 BY MR. VARGAS:

17 Q. So, there's still 5 acres that belong to

18 your side of the --

19 A. Yes.

20 Q. -- family?

21 A. Yes.

22 Q. And it's just a matter of at some point

23 straightening out the boundaries and figuring out how to

24 fix the problem with the house not being inside the

25 surveyed area?

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1 A. Or going through it or whatever.

2 Q. Okay. All right.

3 Now, the 1982 settlement agreements that we

4 talked about in some length already, was it your

5 understanding that, with the exception of the gravesite

6 in Olo, that you no longer had any interest in the trust

7 lands in that area?

8 A. That's right.

9 Q. And was it your understanding that there was

10 a desire on the part of your siblings to essentially

11 oust you from the land out there? Was that part of the

12 discussions that were going on?

13 A. I don't think so.

14 Q. You don't think so.

15 Was there a lot of acrimony between you and

16 your siblings during this timeframe, this 1982 --

17 A. Well, I think the only ones where we could
18 have had this type of situation was with my brother Jim,
19 the oldest, and with possibly Ben. I didn't have any
20 difficulties with John, nor with Marge or Frances.

21 Q. Now, in the 1982 agreement there referenced
22 several lawsuits that were ongoing at the time?

23 A. Yes.

24 Q. Okay. Now, were you the plaintiff in one of
25 the lawsuits against B. F. Kneubuhl, Inc. and Ben

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1 Kneubuhl, and it had to do with the house he was living
2 in, kind of an eviction action?

3 A. I don't know if it was exactly just the
4 house, but I remember having a lawsuit against
5 B. F. Kneubuhl, Inc. and Ben and Jim, the whole thing.
6 And then they had a counter-suit against me. So, that
7 was part of what we had to settle and get out of.

8 Q. And who was your attorney in this lawsuit?

9 A. My attorney was a firm up here.

10 Q. You had to have local counsel. That's one
11 of our rules down there. Did you have someone in Samoa
12 representing your interest as well or working together
13 with your off-island attorney?

14 A. I don't think so at the time.

15 Q. Does the name Michael Cruz ring a bell?

16 A. Michael Cruz was -- I think it -- yeah, it
17 could be Michael Cruz and Larry Arnold. But he went on
18 to become a judge, so --

19 Q. Who was representing B. F. Kneubuhl, Inc.
20 and Ben Kneubuhl and James Kneubuhl at the time?

21 A. I think at the time it could have been
22 Latham & Watkins.

23 Q. And who was their American Samoa attorney?

24 A. They did a lot of work with a gentleman by
25 the name of Roy Hall.

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1 Q. Okay. I see.

2 A. I think.

3 Q. Do you have any independent recollection
4 that Mr. Hall was acting on behalf of B. F. Kneubuhl,
5 Inc. and Ben Kneubuhl and James Kneubuhl?

6 A. Did I have what?

7 Q. Any independent recollection that that was
8 the case?

9 A. Independent recollection -- I'm trying to
10 figure out what you're trying to say.

11 Q. So, you said --

12 A. Sorry.

13 Q. -- that he did some work from time to time

14 for the family. I was wondering, do you know in your
15 own mind that he was acting for Ben Kneubuhl at that
16 time?

17 A. Not really.

18 Q. Okay. Fair enough.

19 Let's talk a little bit about the lawsuit
20 that was initiated by Margaret, and I think Ben was
21 involved, and you were involved against Lillian Alai?

22 A. Yes.

23 Q. And Frances Opelle?

24 A. Yes.

25 Q. I got the impression that this lawsuit was

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1 kind of orchestrated to help Frances out with her
2 situation with the low rent with the --

3 A. Low lease.

4 Q. What's that?

5 A. Low lease money.

6 Q. Low payments?

7 A. Yes.

8 Q. And is it correct that you paid the legal
9 fees for that lawsuit?

10 A. Yes.

11 Q. Did you get any help from anybody else?

12 A. No.

13 What I did was I asked my older brother Jim
14 if he would join just in name only and Margaret in name
15 only to give support to the lawsuit against Frances.

16 Q. And --

17 A. Lawsuit against Lillian.

18 Q. Right. But Frances was a named defendant?

19 A. Yes.

20 Q. And she didn't appear and was pretty much a
21 default with respect to her, but --

22 MR. HALL: I'm going to object. I'm not --

23 MR. VARGAS: Okay.

24 MR. HALL: Not sure if Counsel can testify as to
25 the history of this case.

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1 BY MR. VARGAS:

2 Q. Let me back up then.

3 Okay. So, you ended up paying Marshall
4 Ashley's office a lot of money to prosecute that legal
5 action?

6 A. Yes. Whatever the amount was, yeah.

7 Q. Yeah. It's in the records.

8 And it's your recollection that Jeff Waller
9 handled your case the whole time?

10 A. Well, there was another gentleman there too.
11 I forget his name. Marshall, I think, was involved to

12 some degree. I don't know how much. And I think there
13 was another man there, but I don't remember his name.

14 Q. Paul Miller?

15 A. Was there another gentleman, used to be in
16 the attorney general's office down there at the time.
17 He went from there to Ashley's office. Anyway --

18 Q. It's okay.

19 A. But I know that Waller was in there and
20 started working on the land. And so, that's why, when
21 he left and couldn't take the case, I called Roy, and he
22 accepted him and the case. And so, that's how we got
23 together again with Roy.

24 Q. Now, these transactions that we've been
25 discussing, some of them have involved you, where you've

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1 got 2 acres from Frances and some acreage from Mark and
2 to Doug.

3 To your knowledge, did any of those
4 transactions get the blessing or approval of a -- the --
5 a trustee for the Lena Kneubuhl trust?

6 A. I'm really not aware how my son Doug's
7 transactions -- I mean, how Mark's transactions went,
8 who he spoke to. And I'm not aware of what happened
9 with my son Doug, because apparently he bought his
10 1 acre from Mark.

11 But my understanding was that Mark bought
12 3 acres from Frances, that he kept 2 and sold 1 to --
13 and who in the family that was there that Mark spoke to
14 and -- I have no idea.

15 Q. But as far as your 2 acres that went to your
16 two daughters --

17 A. Yes.

18 Q. -- that was never approved by a trustee?

19 A. No.

20 Q. And it was never approved by a majority of
21 the beneficiaries?

22 A. No.

23 Q. Okay. Getting back to the kind of a global
24 settlement that occurred in 1982 with the various
25 lawsuits that were filed, do you recall whether Frances

200

1 was actively involved in that lawsuit or was she just
2 there in name only?

3 A. I don't -- I don't know. I don't remember
4 whether Frances was involved in name or anything.

5 Q. Did you ever talk to her about that lawsuit
6 during that timeframe?

7 MR. HALL: What lawsuit? You're talking about
8 settlement.

9 BY MR. VARGAS:

10 Q. Well, I'm sorry, the settlement agreement.

11 Did you ever talk to her about the 1982 settlement
12 agreement?

13 A. 1982 settlement agreement, no.

14 Q. Do you know if anyone did?

15 A. Well, I'm sure her husband and her had
16 discussions.

17 Q. This transaction that took place over in a
18 Upolu, I believe you said that Fupule'ai was your
19 attorney at the time?

20 A. Yes, Fupule'ai.

21 Q. Do you know who represented Dave Haleck?

22 A. No, I don't.

23 Q. Okay. You mentioned that reports were
24 obtained concerning the properties in Upolu?

25 A. Yes.

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1 Q. And you saw those reports?

2 A. Yes.

3 Q. Did they give an assessment about the
4 quality of the land, the quantity of the land, the state
5 of the title, or what did they essentially say?

6 A. Mostly, I think what they were trying to do
7 is determine where the land was.

8 Q. Okay.

9 A. And then what the condition of the title,
10 who had the title or whether we had a clean title or
11 not. And after those findings, they found that it was
12 this un- -- you know, this piece of property where we
13 held a one -- a 1/5 interest of the Pritchard --
14 Alfred J. Pritchard siblings. We had 1/5 interest.

15 But that was unsettled, and it had -- and
16 the estate had to be closed and settled. We had a hard
17 time doing that when I started working on it. It wasn't
18 settled when -- when my mother died.

19 Q. I don't know that Mr. Sunia asked you this,
20 but after you got out of college, where was the first
21 place that you were employed? Was that the
22 San Francisco job?

23 A. Yes.

24 Q. Okay.

25 A. That was with the Matson Navigation Company.

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1 Q. Okay. And then you were there three years?

2 A. Yes.

3 Q. And then you went to --

4 A. I went to a company called Ramallah
5 Wholesale, working in their merchandising sales
6 marketing.

7 Q. What kind of stuff did they market?

8 A. Well, they were distributors for Cannon,
9 sheets and towels and blankets and all that stuff. And
10 he was the -- he was Armenian. And he came up with the
11 bright idea that, instead of having a million dollars
12 sitting in a warehouse full of towels and sheets and
13 pillows and all kinds of stuff, he'd rather put it in
14 the stores. And he got pretty sick of department stores
15 owing him money and never paying and sending goods back,
16 et cetera, et cetera.

17 So, he conceived the idea of trying to
18 market through supermarkets in aisles on consignment.
19 So, there were three of us that were assigned certain
20 groups of stores, chain stores, up in the Bay Area. And
21 I had my -- my chain stores. The idea was to go sell
22 them on the idea of consignments, putting the
23 merchandise in for a week or two on -- in aisles with
24 the displays and all. Our people would come in, set
25 this stuff up; at the end of the period, take it out.

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1 Every week we'd come and count the inventory. They'd
2 give us a check.

3 It was fast-moving, but boy, we cleaned out
4 that warehouse that was sitting real fast, and he had
5 merchandise moving in instead of -- moving in the
6 warehouse instead of moving to the -- sitting in the

7 department stores.

8 Q. So, that Armenian --

9 A. Very successful.

10 Q. That Armenian wasn't too bad then, huh?

11 A. No. He started making a lot of money, and
12 it was a new concept, and a lot of people copied him.

13 Q. You went to -- you were in Tucson. Were you
14 going to one of the state colleges down there?

15 A. I went to the University of Arizona in
16 Tucson.

17 Q. Okay. And that was the Sun Devils or is
18 that the --

19 A. Wildcats.

20 Q. Wildcats. Okay.

21 And did you get a degree from there?

22 A. Yes.

23 Q. In?

24 A. Business administration.

25 Q. And you didn't take that on to get anything

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1 beyond the -- I take it you got a bachelor's?

2 A. Yes.

3 Q. Okay. How would you -- how would you
4 describe your relationship with William Opelle?

5 A. William Opelle was basically a very nice

6 man, a decent man. Unfortunately, he was not a good
7 businessman. He -- anybody could sell Bob Opelle on any
8 idea that made millions and millions of dollars with
9 very little investment. And he was very gullable,
10 always believed anybody. I liked Bob. He would have
11 made a great professor, or he could have been a very
12 good priest.

13 Q. Not much of a businessman?

14 A. Very poor businessman.

15 Q. Now, at or about the time that things came
16 to -- where people were bumping heads there in 1982, how
17 was the business financially at that time?

18 A. It was on a downward path. And I don't know
19 how long after that agreement was made that they got out
20 of business, but definitely was -- was losing ground.

21 Q. Now, the -- as I understand it, you were --
22 you were promoting the Pacifica Foods end of things down
23 there.

24 A. Well, first when I went there, I had a lot
25 to do with the -- with that business.

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1 Q. You were the one that got USDA certified,
2 right?

3 A. Yes. And I also, you know, started Pacifica
4 Foods. And then we made an attempt at doing the canned

5 corned beef, which the formulation wasn't quite right,
6 but that could have been done.

7 But the main idea that we had was, by
8 getting that certification of the USDA, we knew that we
9 could buy big, big quantities of mutton, cut them up
10 into quarter pieces, you know, maybe 3 inches by
11 3 inches, repack them as a product of American Samoa and
12 get that USDA stamp on it and ship it into this country
13 at such a competitive price that we had orders for 10,
14 20 -- building up to 20 containers a month. It was
15 about 40,000 pounds to a container. It was all set,
16 pretty well ready to go.

17 Q. How long was that company actively making
18 product and putting it on the market?

19 A. Well, let's see. I started that thing in
20 19, I don't know, '75 or '76. And so, it was going
21 while we had the separation agreement. So, I don't know
22 how long after. I knew it was in operations and
23 building for five years or -- let's see, six years at
24 least.

25 Q. Were you involved in the decision to do the

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1 Xerox copiers down here?

2 A. No.

3 Q. Whose -- who was that? Was that Ben or

4 James?

5 A. Ben. Ben, I believe.

6 Q. And that was pretty much a bust too?

7 A. I don't know anything about it.

8 Q. Okay. How about the stevedoring business,
9 was that pretty much on the downturn in 1982 as well?

10 A. I really don't know.

11 Q. Who was running that, Ben?

12 A. That was Ben.

13 Q. Okay. So, you pretty much stayed with the
14 Pacifica Foods?

15 A. Pacifica Foods and the merchandising side.

16 You know, as a businessperson, I always felt that the
17 best way you can grow any business is to make sure you
18 have the very best people in positions of authority. I
19 did not feel that Ben was one of the best people to run
20 Kneubuhl Maritime. And I felt that, you know, a lot
21 more could have been done to work with the canneries.

22 Q. When you say "merchandising," are you
23 talking about the store that --

24 A. Yes.

25 Q. The family store?

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1 A. Yeah.

2 Q. Okay. You didn't bring in the things for

3 wholesale.

4 A. Oh, yes.

5 Q. Oh, you did?

6 A. Yeah.

7 Q. Okay.

8 A. That all disappeared.

9 Q. Was the stevedoring business, say, before
10 your father died in 1964, was that a thriving business?

11 A. Big, big, big thriving business. He had
12 most of all of the major steamship companies we were
13 general agents for. We did all of the -- the
14 stevedoring.

15 Q. So, you had a lot -- the company had a lot
16 of rolling stock at the company?

17 A. Yeah.

18 Q. I saw some of it out at the house. Not
19 rolling too fast anymore, but a lot of it there.

20 A. Well, it's all rotting away. That's another
21 poor decision.

22 Q. Did that start going downhill after your
23 father died, or was it --

24 A. Yeah.

25 Q. -- a combination of things?

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1 A. It was not too long after my dad died,

2 and -- yeah.

3 Q. Okay. You think that the downturn in the
4 business in that timeframe is what led to this -- what
5 was the word you used? Call it difficulties, but I
6 don't think that's the word you used.

7 What was the word used?

8 MR. SUNIA: Disruption.

9 MR. VARGAS: Disruption.

10 THE WITNESS: Well, I think a lot of it was the
11 fact that, you know, I -- I went down there. I was
12 asked by my older brother to go down there after I had
13 left the company and started my own company again --
14 started moving ahead with that and asked by them to come
15 back and manage this.

16 And I told my older brother, you know, my
17 wife didn't want me to do it. I couldn't live on the
18 salary that they -- they were willing to pay me after I
19 came back. I had to continue my business here too. And
20 flying back and forth was not easy. I had two little
21 girls at the house, you know.

22 BY MR. VARGAS:

23 Q. So, your family stayed back here?

24 A. My wife stayed here with the kids, yeah. I
25 was commuting.

1 Q. You were the commuter then.

2 A. Yeah.

3 Q. Okay.

4 A. And so, you know, that wasn't too pleasant
5 for her.

6 Q. Did your wife ever live in American Samoa?

7 A. Oh, yeah.

8 Q. For how long?

9 A. She lived there from 1964 till 19-- -- I
10 mean -- yeah, 1964 to 1968.

11 Q. And so, I take it, then, your girls were
12 there?

13 A. My youngest daughter was born here but came
14 back to Samoa as a child of four weeks old. She came up
15 here to have the baby.

16 Q. You mentioned earlier that you thought that
17 Kelly had no interest in building a home on her land in
18 American Samoa?

19 A. That's correct.

20 Q. But that Carrie Sue had definitely made
21 plans to do that?

22 A. Yes.

23 Q. And did those plans change after her and
24 Mr. Lavigne got a divorce?

25 A. Well, actually, it changed when the airline

1 thing down there fell through. Actually, they -- as I
2 understand it, I was good friends with Tauese, Governor
3 Tauese, so I was trying also to help. And I'd go in
4 there and see him, and he was very much in support of
5 the airline, in getting it going. And they had
6 something going through the government that he had
7 mentioned where he thought some money could be brought
8 in to help support or whatever. He was behind the whole
9 idea.

10 Of course, when he passed away -- and I
11 forget what year that was, when that happened, of
12 course, the big support for the airline kind of fell
13 down. And the new governor, of course, was very much
14 with SPIA, and he didn't care much for Samoa Air. So,
15 everything was politics down there.

16 Q. Haven't changed much since then.

17 A. Yeah.

18 Q. Just one final question. I think this is
19 all I'm going to have. When the land in Samoa was sold
20 to the Haleck family, was it sold to a Haleck business
21 or was it sold to an individual person?

22 A. I think it was sold to Haleck Investment.

23 Q. Okay. And that was for \$2.4 million?

24 A. Yes.

25 Q. And was it paid in lump sum, or was it paid

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1 in installments?

2 A. It was paid in quarterly.

3 Q. So, they started paying in 2012?

4 A. No, they started paying in 2009, 2010, 2011

5 and then 2012.

6 Q. And completed in 2012?

7 A. Yes.

8 MR. VARGAS: Okay. All right, Mr. Kneubuhl.

9 That's all I have. Thank you for your time.

10 THE WITNESS: Thank you, Attorney Vargas.

11 MR. HALL: Can I have your exhibits? Thank you.

12

13 EXAMINATION

14 BY MR. HALL:

15 Q. Mike, I'm going to show you what's been

16 marked as OPL No. 1 and which we've -- we have been

17 referring to this as the 1982 agreement.

18 A. Yes.

19 Q. I want to just have you go to page 11,

20 Section 12 of that document.

21 A. Page 12?

22 Q. Yes.

23 A. Okay.

24 Q. Page 11, Section 12.

25 A. Oh, page 11. Okay. Section 12, yes.

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1 Q. Okay. Can you look at Section 12 and tell
2 me what that section is all about?

3 A. Well, it's part of the conditions of the
4 agreement and it says that, "B. F. Kneubuhl, Inc. shall
5 issue a promissory note in the amount of \$45,000."

6 Q. To who?

7 A. Payable to me, Douglass Crane Kneubuhl.
8 "The note shall be senior to all debts of BFK, Inc. and
9 its subsidiaries except bank debt, shall bear interest
10 at the rate of 9 percent per annum and shall include no
11 prepayment penalty."

12 Q. And did you ever receive this payment of
13 \$45,000 --

14 A. No.

15 Q. -- from BFK?

16 A. No.

17 Q. Also look at page 13 to 14, right at the
18 bottom where it starts with -- page 13.

19 A. Oh.

20 Q. Right at the bottom, the last line, "If
21 any." Could you read that provision?

22 A. Okay. "If any individual party takes,

23 causes to be taken any contrary position in any judicial
24 proceeding, he or she shall immediately -- immediately
25 forfeit all right, title and interest to any and all

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1 assets held by the August 15, 1960 trust, and such
2 interests shall be divided equally among the other
3 beneficiaries of that trust."

4 Q. Thank you.

5 And what do you -- what is your
6 interpretation of that provision, of that section?

7 A. Well, I -- I take that to mean that if -- if
8 anyone causes a suit --

9 Q. Is this "anyone" is who?

10 A. Any of the beneficiaries.

11 Q. And these would be --

12 A. This would be James Kneubuhl, Ben Kneubuhl,
13 John Kneubuhl, Margaret Landrigan, myself, Douglass
14 Kneubuhl, or my sister Frances. If anyone should cause
15 a suit to be taken that disputes or is in disagreement
16 with the conditions of the trust that they shall lose
17 their interest as beneficiaries in the trust -- that's
18 how I interpret that -- and that those interests will be
19 divided among the other beneficiaries.

20 Q. Okay. Thank you.

21 You had testified that there was a Olo

22 Association. Did you ever attend any meetings of any

23 Olo Association?

24 A. Yes.

25 Q. And what was your recollection of the

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1 purpose of the Olo Association -- well, let me ask you
2 this: Who would be the members of the Olo Association?

3 A. Well, I was there when we first wrote the
4 articles. And it was written, I think, around 1961,
5 '62. And the people who participated in it was myself,
6 Bob Opelle, my mother, Ben. It had to be 1962, 'cause
7 Ben came down in 1962. My brother John was not there
8 and neither was Jim. Frances was there.

9 So, we wrote this thing up. Bob Opelle was
10 involved also. And the idea was -- as it was written,
11 the whole idea was that everyone should have their
12 parcel or piece of land and give each peace and harmony
13 for the rest of our lives. And we had certain little
14 rules about making sure that everyone's property was
15 going to be well kept, et cetera, et cetera.

16 I don't think it was very much in the way of
17 legal language or legal considerations at the time such
18 as right-of-ways or pipelines or whatever. Each person
19 basically was to take care of their own parcel and make
20 sure it was never to disturb anybody else. Everything

21 was for the beautification of Olo. That was the
22 concept.

23 Since then, it's been improved. Since that
24 first one, it was improved later on. And then when --
25 when the 1982 agreement was signed and so forth, I think

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1 the Olo Association was pretty well thrown in the
2 bucket, in the waste bucket, and no one paid much
3 attention to it anymore.

4 Q. Is there a -- let me just start it this way:

5 The Lena Kneubuhl trust of 1960 talks of a trustee.

6 A. Yes.

7 Q. Is there a trustee for the Lena Kneubuhl
8 1960 trust today?

9 A. I believe so.

10 Q. And do you remember who that is?

11 A. It's now Abe Belai.

12 Q. And do you know when he was appointed?

13 A. Let's see. Well, Hans Langklide was the
14 first one. And -- jeez. When is this? Abe Belai was
15 appointed in 2012, I believe.

16 Q. So, it's fairly recent?

17 A. Yeah.

18 Q. And you talked to -- about the 2 acres that
19 you would -- and Frances had transferred to your

20 daughters, Carrie and Kelly, and that they had sought to
21 sell the property -- an acre of that property.

22 A. Yeah.

23 Q. And it was -- what is the price that, if you
24 know, for the sale of that property?

25 A. I think they were asking \$100,000.

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1 Q. And do you remember who the buyer was?

2 A. Yes.

3 Q. And who was -- what's the name of the buyer?

4 A. Toau, I think.

5 Q. Richard Toau?

6 A. Richard Toau, and his wife.

7 Q. All right.

8 A. They're school teachers.

9 Q. And what's the status of that sale today?

10 A. Well, I think it's still a viable sale.

11 Unfortunately, I think they ran into some difficulties
12 with the -- with the bank development -- the Veterans
13 Bank in that the Veterans Bank decided that they needed
14 more than interest in the trust, conversion of -- of the
15 interest in trust to legal ownership.

16 Q. So, the sale has not gone through?

17 A. No. And it won't, as long as legal
18 ownership can be conveyed. In my opinion, all the land

1 Q. And do you remember who the buyer was?

2 A. Yes.

3 Q. And who was -- what's the name of the buyer?

4 A. Toau, I think.

5 Q. Richard Toau?

6 A. Richard Toau, and his wife.

7 Q. All right.

8 A. They're school teachers.

9 Q. And what's the status of that sale today?

10 A. Well, I think it's still a viable sale.

11 Unfortunately, I think they ran into some difficulties

12 with the -- with the bank development -- the Veterans

13 Bank in that the Veterans Bank decided that they needed

14 more than interest in the trust, conversion of -- of the

15 interest in trust to legal ownership.

16 Q. So, the sale has not gone through?

17 A. No. And it won't, as long as legal

18 ownership can be conveyed. In my opinion, all the land

19 there is going to be hard to sell without that legal

20 conveyance.

21 Q. And this is the -- the legal interests which

22 the counsel -- other counsel have talked about that

23 needs to be signed by the trustee?

24 A. Yes.

25 Q. And also, they had covered that part of

217

1 that -- there's requirement of sale of the legal title
2 signed by the trustee has to be first approved by the
3 majority of the beneficiaries?

4 A. Yes. That's the legal -- legal ownership,
5 right?

6 Q. Yes.

7 A. Yes.

8 Q. In regards to the -- the property Fuamete,
9 you had testified that there was \$50,000 placed in a
10 trust for the -- by Mr. Alex Godinet. Can you tell us
11 again what happened to that deposit?

12 A. Well, he -- very early on, I think very
13 early, 2002, 2003, somewhere in there, he wanted to --
14 he wanted to buy the property on which their home is in
15 Fuamete, which happens to sit in the 5 acres that has
16 been since designated as legal freehold land.

17 And that -- when he built his home there,
18 that Mafoa, I think was his name, he -- Mafoa was the
19 father of Alex Godinet, and his brother -- and I don't
20 know how many are in the family, but Alex asked if they
21 could buy that property, and so, he put 50,000 in escrow
22 to buy a half an acre.

23 And unfortunately, the Puletus and so forth
24 started the objections and so forth, so he couldn't

25 conclude the transactions. So, that's when those funds

18 that Mafoa, I think was his name, he -- Mafoa was the
19 father of Alex Godinet, and his brother -- and I don't
20 know how many are in the family, but Alex asked if they
21 could buy that property, and so, he put 50,000 in escrow
22 to buy a half an acre.

23 And unfortunately, the Puletus and so forth
24 started the objections and so forth, so he couldn't
25 conclude the transactions. So, that's when those funds

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1 were sent to you to hold in trust, and then subsequently
2 we decided to give it back to him.

3 MR. HALL: Okay. I wish to have this marked as
4 Defendants No. 1. And --

5 MR. VARGAS: I'd like to take a look at it real
6 quick here.

7 (Defendants' Exhibit 1 marked for
8 identification.)

9 MR. HALL: And for the record, the defendants who
10 I'm -- for the purpose of this deposition, I represent
11 Douglass Mike Kneubuhl, Carrie and Kelly and Doug Jr. I
12 do not represent Mark Kneubuhl.

13 BY MR. HALL:

14 Q. Mike, I'm showing you what I've marked as
15 Defendants' Exhibit No. 1.

16 A. Yes.

17 Q. Can you tell me what that is?

18 A. Well, this is the money that was put in
19 trust by -- that you are returning to Alex for \$50,000.
20 And the date on this is April of -- April 8th, '09,
21 for \$50,000.

22 Q. Okay. Thank you very much.

23 And in regards to Exhibit OPL -- the gift
24 deed for the Fagaoifu property -- is it there?

25 MR. SUNIA: Let me see.

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1 MR. VARGAS: What are you looking for?

2 MR. HALL: The gift deed for the Fagaoifu
3 property.

4 MR. VARGAS: I don't think it was marked. I
5 think we just referred it to -- on the document number.

6 MR. HALL: And that was MK --

7 MR. SUNIA: 310.

8 MR. VARGAS: And the last document that we marked
9 was Exhibit 14, and then you marked your first one. But
10 the reference is MK 310.

11 THE WITNESS: I saw that.

12 BY MR. HALL:

13 Q. It's on the -- let's see if I have a copy.

14 A. Is that OPL-10?

15 MR. SUNIA: No. It's -- Roy has it.

1 MR. VARGAS: What are you looking for?

2 MR. HALL: The gift deed for the Fagaoifu
3 property.

4 MR. VARGAS: I don't think it was marked. I
5 think we just referred it to -- on the document number.

6 MR. HALL: And that was MK --

7 MR. SUNIA: 310.

8 MR. VARGAS: And the last document that we marked
9 was Exhibit 14, and then you marked your first one. But
10 the reference is MK 310.

11 THE WITNESS: I saw that.

12 BY MR. HALL:

13 Q. It's on the -- let's see if I have a copy.

14 A. Is that OPL-10?

15 MR. SUNIA: No. It's -- Roy has it.

16 MR. HALL: I'm going to have this one marked as
17 the named Defendants' Exhibit No. 2.

18 (Defendants' Exhibit 2 marked for
19 identification.)

20 BY MR. HALL:

21 Q. If you could take a look at that. That had
22 been shown to you as a separate exhibit off the
23 production of documents which we had referred to.

24 A. Yes.

25 Q. Can you tell me what that is?

1 A. This is a register of land. It's a -- it's
2 a deed of conveyance.

3 Q. Is that the gift deed from Frances to
4 yourself of her 1/6 interest?

5 A. Yes, I believe it is.

6 Q. Turn the page.

7 Can you confirm that that is the gift deed?

8 A. Yes, it is.

9 Q. And looking at the signature here, are you
10 familiar with Frances Kneubuhl Opelle's signature?

11 A. Yes.

12 Q. You've seen it often?

13 A. Not often.

14 Q. Can you tell me, though, is that Frances
15 Kneubuhl Opelle's signature, in your opinion?

16 A. Roy, I am not that familiar with Frances'
17 signature. But it -- it looks like it to me.

18 MR. HALL: Okay. Thank you. I have nothing
19 further.

20 MR. SUNIA: You're going to do all three pages?

21 MR. HALL: That's what it is. It needs to be
22 stapled.

23 MR. VARGAS: Can I see it? You going to ask a
24 question?

25 MR. SUNIA: Are you done, Roy?

1 MR. HALL: Yeah.

2 MR. SUNIA: No, I have no questions.

3

4 FURTHER EXAMINATION

5 BY MR. VARGAS:

6 Q. Mr. Kneubuhl, let's go to page 3 of Exhibit
7 No. 2 for the defense. There's an exhibit note there,
8 and it refers to an affidavit of Mike -- Douglas Mike
9 Kneubuhl.

10 A. Yes.

11 Q. Did you prepare an affidavit in connection
12 with this gift deed?

13 A. Yes, I think I did.

14 Q. And what was the purpose of that affidavit?

15 A. To -- to confirm to Drake the transfer of
16 title.

17 Q. What kind of information did you put in your
18 affidavit?

19 A. Well, I think -- I don't have a copy of it,
20 but whatever was necessary. He then sent it to me to
21 sign to send back to him.

22 Q. Who did, Murray?

23 A. Murray Drake did.

24 Q. So, he sent you an affidavit, and you sent
25 it back after it was signed?

15 Kneubuhl Opelle's signature, in your opinion?

16 A. Roy, I am not that familiar with Frances'

17 signature. But it -- it looks like it to me.

18 MR. HALL: Okay. Thank you. I have nothing

19 further.

20 MR. SUNIA: You're going to do all three pages?

21 MR. HALL: That's what it is. It needs to be

22 stapled.

23 MR. VARGAS: Can I see it? You going to ask a

24 question?

25 MR. SUNIA: Are you done, Roy?

221

1 MR. HALL: Yeah.

2 MR. SUNIA: No, I have no questions.

3

4 FURTHER EXAMINATION

5 BY MR. VARGAS:

6 Q. Mr. Kneubuhl, let's go to page 3 of Exhibit

7 No. 2 for the defense. There's an exhibit note there,

8 and it refers to an affidavit of Mike -- Douglas Mike

9 Kneubuhl.

10 A. Yes.

11 Q. Did you prepare an affidavit in connection

12 with this gift deed?

13 A. Yes, I think I did.

14 Q. And what was the purpose of that affidavit?

15 A. To -- to confirm to Drake the transfer of
16 title.

17 Q. What kind of information did you put in your
18 affidavit?

19 A. Well, I think -- I don't have a copy of it,
20 but whatever was necessary. He then sent it to me to
21 sign to send back to him.

22 Q. Who did, Murray?

23 A. Murray Drake did.

24 Q. So, he sent you an affidavit, and you sent
25 it back after it was signed?

222

1 A. Yes, I did.

2 Q. Did you keep a copy?

3 A. I think I did.

4 MR. VARGAS: Do we have a copy? Is it in -- we
5 have it?

6 MR. HALL: It should be. I gave you all that I
7 had.

8 BY MR. VARGAS:

9 Q. Okay. There's a lot of documents that are
10 referenced as your affidavit, and apparently some of
11 these documents were copied and submitted along with the
12 affidavit. And that was for purposes of registering

13 this transaction, or do you know?

14 A. It was for the purpose of concluding the
15 transfer of title from Frances to me of her 1/6 interest
16 in -- in Fagaoifu.

17 Q. And that was something that the people up
18 here required before they would register this
19 conveyance?

20 A. I would think so. Because I -- I really
21 don't know what the law is there, but I know whatever he
22 asked me to do, I did.

23 Q. So, he didn't tell you why you needed to do
24 it, just do it?

25 A. Well, I -- I mean --

223

1 MR. HALL: Well, I think that's not what he said.

2 THE WITNESS: Stated something to the effect that
3 it had to do with the conveyance of title.

4 BY MR. VARGAS:

5 Q. Do you recall what you said in the
6 affidavit?

7 A. What I said?

8 Q. Yeah.

9 A. No.

10 Q. Okay.

11 A. I have to see it again.

12 Q. Apparently you were referencing documents
13 that were attached to the affidavit?

14 A. I think so. I mean, you've got to remember,
15 this was, what, 30 -- 30 years ago.

16 Q. Okay.

17 A. About 30 years ago, so it's kind of -- what
18 is it?

19 MR. VARGAS: I have nothing further.

20 MR. SUNIA: Want to close?

21 MR. VARGAS: Yeah. I guess what we need to do is
22 we need to have a stipulation with respect to handling
23 of the original. You'll need to get -- you want her to
24 contact you, or can she contact Mr. Kneubuhl directly to
25 let him know that his deposition is ready to be reviewed

224

1 and signed, or you want her to go through you? I don't
2 have a preference one way or the other.

3 MR. HALL: When it's ready to be signed, why
4 don't you notice me and notice Mr. Kneubuhl, and then we
5 will arrange a date and time for him to review.

6 MR. VARGAS: The usual stipulation is 30 days to
7 sign it after you're notified of the availability, and
8 then if it's not signed within that time, the
9 original -- an unsigned copy can be used as though it
10 had been signed. That's the normal stipulation.

11 MR. HALL: We'll get it signed. Just contact us.

12 And you're looking at me?

13 MR. VARGAS: I thought you were shooting at me.

14 I heard that crack over there.

15 So, that's going to be the stipulation?

16 MR. HALL: I'll accept that.

17 MR. VARGAS: Okay. And so, you're going to be

18 contacting Mr. Hall's office, and he will get in touch

19 with Mr. Kneubuhl and have him come down and take a look

20 at it.

21 And the one thing that wasn't explained to

22 you earlier on is that it's important for you to review

23 your transcript to make sure what you said is accurate.

24 You have an opportunity to change that. But if you do

25 make changes, the attorneys can jump all over that and

225

1 make a mess of things. But anyhow, if you see something

2 that's wrong in your transcript, fix it.

3 THE WITNESS: All right. Thank you.

4 MR. HALL: All right.

5 (TIME NOTED: 5:03 p.m.)

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2 I, DOUGLASS C. "MIKE" KNEUBUHL, do hereby declare
3 under penalty of perjury that I have read the foregoing
4 transcript; that I have made any corrections as appear
5 noted, in ink, initialed by me, or attached hereto; that
6 my testimony as contained herein, as corrected, is true
7 and accurate.

8

9 EXECUTED this _____ day of _____ 2014, at
10 _____.

11 (City) (State)

12

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DOUGLASS C. "MIKE" KNEUBUHL

18

VOLUME I

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1

2 I, the undersigned, a Certified Shorthand

3 Reporter of the State of California, do hereby certify:

4 That the foregoing proceedings were taken before

5 me at the time and place herein set forth; that any

6 witnesses in the foregoing proceedings, prior to

7 testifying, were placed under oath; that a verbatim

8 record of the proceedings was made by me using machine
9 shorthand which was thereafter transcribed under my
10 direction; further, that the foregoing is an accurate
11 transcription thereof.

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

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

17

18 Dated: May 15, 2014

19

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Kae F. Gernandt

23

CSR No. 5342

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