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SC SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Roger M. Young
Case No. 2011-CP-400

Unpublished Opinion No. 2015-UP-491
Filed October 14, 2015

Jacquelin S. Bennett, Genevieve S. Felder and Kathleen S. Turner, individually, as Co-Trustees and beneficiaries of the Marital Trust and the Qualified Terminable Interest Trust created by the Thomas Stevenson Will, and Jacquelin S. Bennett, and Kathleen S. Turner, as Co-Personal Representatives on behalf of the Estate of Jacquelin K. Stevenson

Respondents,

v.

T. Heyward Carter, Jr.; Evans, Carter; Kunes & Bennett, P.A.; Dixon-Hughes f/k/a Pratt-Thomas Gumb & Co., P.A.; and Lynne L. Kerrison

Defendants,

Of Whom

Dixon-Hughes and Lynne L. Kerrison are

Petitioners.

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI
Volume VI, Supplemental Record on Appeal

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STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Roger M. Young
Case No. 2011-CP-10-400

Jacquelin S. Bennett, Genevieve S. Felder and Kathleen S. Turner, individually,
as Co-Trustees and beneficiaries of the Marital Trust and the Qualified
Terminable Interest Trust created by the Thomas Stevenson Will, and
Jacquelin S. Bennett, and Kathleen S. Turner, as Co-Personal Representatives
on behalf of the Estate of Jacquelin K. Stevenson,

Appellants,

v.

T. Heyward Carter, Jr.; Evans, Carter; Kunes & Bennett, P.A.; Douglas Capital
Management, Inc.; Dixon-Hughes f/k/a Pratt-Thomas Gumb & Co., P.A.; and
Lynne L. Kerrison.

Defendants,

Of Whom

Dixon-Hughes f/k/a Pratt-Thomas Gumb & Co., P.A.; and
Lynne L. Kerrison are

Respondents.

SUPPLEMENTAL RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA

2 COUNTY OF CHARLESTON

COURT OF COMMON PLEAS

3 IN RE: The Estate of Jacquelin
4 K. Stevenson, Deceased and the
5 Estate of Thomas C. Stevenson,
6 Deceased.

7 Jacquelin S. Bennett, Genevieve S.
8 Felder and Kathleen S. Turner,
9 individually, as Co-Trustees and
10 beneficiaries of the Marital Trust
11 and the Qualified Terminable Interest
12 Trust created by the Thomas Stevenson
13 Will, and Jacquelin S. Bennett, and
14 Kathleen S. Turner, as Co-Personal
15 Representatives on behalf of the
16 Estate of Jacquelin K. Stevenson,

17 Plaintiff(s),

18 vs.

Case No: 2011-CP-10-400

19 T. Heyward Carter, Jr.; Evans, Carter,
20 Kunes & Bennett, P.A.; Douglas Capital
21 Management, Inc.; Dixon-Hughes f/k/a
22 Pratt-Thomas Gumb & Co., P.A.; and
23 Lynne L. Kerrison.

24 Defendant(s).

25 D E P O S I T I O N

WITNESS: T. HEYWARD CARTER, JR., ESQUIRE

DATE: July 14, 2011

TIME: 10:00 a.m.

LOCATION: Barnwell Whaley Patterson & Helms, LLC
885 Island Park Drive
Charleston, South Carolina

TAKEN BY: Attorneys for the Plaintiffs

REPORTED BY: HEATHER M. CURLIN
Professional Court Reporter

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23 ALSO PRESENT: Mr. Heyward Grimball

24

25

1 (The deponent waives reading and signing of
2 the deposition transcript.)

3 - - - - -

4 T. HEYWARD CARTER, JR., ESQUIRE, being
5 first duly sworn, testified as follows:

6 EXAMINATION

7 BY MR. LEWIS:

8 Q. Give us your name, please.

9 A. T. Heyward Carter, Jr.

10 Q. Mr. Carter, have you had your deposition
11 taken before?

12 A. I have.

13 Q. So you understand that when I ask you a
14 question and you don't understand that, you're to
15 tell me that, and I'll try to clarify it; otherwise
16 that will be your answer?

17 A. I understand.

18 Q. And you understand you're allowed to finish
19 your answer; and if I interrupt you or get excited,
20 you're supposed to tell me and I'll stop, hopefully,
21 and you'll be able to finish your answer?

22 A. I do understand.

23 Q. And do you understand that you can read and
24 sign. Do you know what that means?

25 A. I do.

1 Q. And you can tell your lawyer so she can
2 tell the court reporter if you want to read and
3 sign. And you know you don't change yeses to no's?

4 A. I understand.

5 Q. All right. And I get to ask the questions
6 and even though you'll want to ask me a question,
7 you don't get to do that. Do you understand that?

8 A. I do.

9 Q. All right. Now, you know what we're here
10 on. It's with reference to the Stevensons -- when I
11 say "Stevensons," I mean Tom, Dan, the three sisters
12 and the trusts and Mrs. Stevenson, that whole
13 scenario. You understand that?

14 A. I understand how the case is styled, yes.
15 I understand who the plaintiffs are.

16 Q. And you understand what it's about?

17 A. Yes, I believe I do.

18 Q. All right. And you understand that your
19 deposition was taken in a prior case concerning the
20 same subject matter?

21 A. Correct.

22 Q. Now, what did you do to prepare for this?

23 A. I looked over some documents. I met with
24 my attorneys.

25 Q. You met with your attorney and you looked

1 over some documents. Was one of the documents your
2 prior deposition?

3 A. I have looked through that in the past.

4 Q. Okay. And what documents did you look at?

5 A. A number of documents that have been -- I
6 would consider relevant to this matter.

7 Q. Okay. What --

8 A. I can't recall all of the documents.

9 Q. Can you recall any of them?

10 A. There have been some letters. At one
11 time --

12 Q. What letters?

13 A. What letters. My billing record. Letters
14 would have included a letter to -- from me to Howell
15 Morrison, a letter from Howell Morrison to me. I
16 can't recall specifically what others.

17 Q. Okay. Those are the only ones that come to
18 mind?

19 A. Yes.

20 Q. Okay. Now, your billing record, that's
21 already --

22 MR. LEWIS: Is that in evidence, Mary?

23 MS. LEWIS: I believe you put it in
24 yesterday with Kerrison.

25 MR. SHARPLESS: Kerrison 4.

1 MS. LEWIS: Yeah.

2 BY MR. LEWIS:

3 Q. Kerrison 4. This is Kerrison 4. Is that
4 the billing record you looked at?

5 A. Yes, I believe it is.

6 Q. Okay. Now, and why did you look at that?
7 What was the purpose of looking at that?

8 A. To refresh my memory as to dates and
9 sequence of events.

10 Q. So your dates and sequence of events would
11 come from Kerrison 4?

12 A. In part, yes.

13 Q. Do you have any different ones that you
14 remember other than these?

15 A. Do I have any different what?

16 Q. Events other than these that you see here.

17 A. None that I recall.

18 Q. Okay. And do you have a different date for
19 the events that are on here that would mean that
20 they happened at another time?

21 A. Not that I'm aware of.

22 Q. And when I say "this," that's Kerrison 4.
23 That's the exhibit. Do you understand?

24 A. I understand.

25 Q. And you said there was a letter that you

1 wrote to Howell. Now, that's a --

2 MR. LEWIS: Would you mark this as Exhibit
3 Number 1.

4 (Exhibit No. 1 was marked.)

5 BY MR. LEWIS:

6 Q. Is that the letter you were referring to?

7 A. This is the letter I was referring to.

8 Q. All right. And you wrote to Mr. Howell
9 Morrison, right?

10 A. That's correct.

11 Q. Now, who was Mr. Morrison representing?

12 A. Mr. Morrison was representing Dan Stevenson
13 and Tom Stevenson, I believe, as trustees.

14 Q. He was representing them as trustees. Who
15 was representing them as individuals?

16 A. I don't know. The letter says: "I was
17 glad to learn at our recent meeting that you are
18 representing Tom and Dan Stevenson as trustees of
19 the trusts for their mother under their father's
20 will."

21 Q. Okay. So that was -- did you know who was
22 representing Dan and Tom as themselves, as
23 individuals? You didn't know that? You don't know
24 who that was?

25 A. I don't know if they had individual

1 representation.

2 Q. Now, who were you representing?

3 A. I was representing their mother,
4 Mrs. Jacquelin Stevenson.

5 Q. And did you know at this time that there
6 were powers of attorney?

7 A. Yes.

8 Q. So were you not representing Kathleen and
9 Dan, the two powers of attorney also?

10 A. Definitely not.

11 Q. Well, it's your position that when you
12 represent Mrs. Stevenson, you have no obligation to
13 the powers of attorney for Mrs. Stevenson?

14 A. That's correct.

15 Q. So if someone is taking money from
16 Mrs. Stevenson, stealing from her, do you have an
17 obligation to tell the powers of attorney?

18 A. I think that's a hypothetical. I don't
19 know that I can answer that.

20 Q. Well, it is a hypothetical. And it's --
21 just assume that it's true; people are stealing from
22 Mrs. -- that there are people stealing from
23 Jacquelin Stevenson. And do you have an obligation
24 to tell the powers of attorney?

25 A. I understand that you're asking me the

1 hypothetical if someone is stealing from
2 Mrs. Stevenson.

3 Q. Yeah.

4 A. Depends on the circumstances.

5 Q. Oh, it does. Well, let's suppose it's the
6 housekeeper. The housekeeper is stealing from
7 Mrs. Stevenson. Do you have an obligation to tell
8 the powers of attorney?

9 A. I think it would depend on the
10 circumstances.

11 Q. What circumstances do you need to know
12 other than the housekeeper is stealing?

13 A. Well, it depends on who else might be
14 available to tell that would be better than the
15 powers of attorney. It depends on whether I feel
16 that it needs to be discussed directly with
17 Ms. Stevenson or someone else or handled in some
18 other way.

19 Q. Well, was Ms. Stevenson, how was her health
20 at this time in January of 2003?

21 A. She was in her 80s. As far as I know, her
22 health was okay for somebody in their 80s.

23 Q. Okay. You understand that sometimes people
24 in their 80s -- housekeepers will take things from
25 them, don't you?

1 A. Yeah, I suppose that's the case.

2 Q. And now, let's suppose that's the case
3 here. Would you have told the powers of attorneys?
4 Would you have told them? Did you have an
5 obligation to tell them?

6 A. You know, you've already asked me that
7 question.

8 Q. You haven't answered it.

9 A. I answered it depends on what the
10 circumstances are.

11 Q. All right. They're stealing the silver.
12 They're just -- they're taking two forks a day from
13 the house and they're taking them when they leave
14 the house. Then they come back the next day, the
15 little maid, and she steals two more. And you find
16 out about it. Do you tell the powers of attorney?

17 A. Depends on the circumstances --

18 Q. What other circumstances do you want?

19 A. Well, you have to tell me what
20 circumstances there are.

21 Q. The circumstances are she works for
22 Mrs. Stevenson, Mrs. Stevensons is in her 80s, and
23 she's stealing two forks a day. And, of course,
24 Mrs. -- do you tell the POAs?

25 A. Well, let me give you a hypothetical.

1 Q. No, sir. You don't get to ask me.

2 A. No, I'm not asking you anything.

3 Q. You don't get to give me anything. I'm
4 asking you the question. Just answer it, please.
5 If you can't answer it, say, I can't answer it.

6 MS. WALL: Objection.

7 A. The answer is it depends on the
8 circumstances.

9 Q. All right. That's fine. Let's suppose
10 what's her name, Pat -- was that the bookkeeper?

11 A. Yesterday that's what Lynne Kerrison said.

12 Q. All right. Let's suppose Pat is writing
13 herself checks out of the account. Do you tell the
14 POAs that Pat's taking money out of Mrs. Stevenson's
15 accounts?

16 A. Do I tell the POAs? Depends on the
17 circumstances.

18 Q. What other circumstances do you need,
19 Mr. Carter, other than she's stealing?

20 A. There could be plenty of other
21 circumstances.

22 Q. Name them. Name them for me, and we'll
23 create them. What are they? Circumstances.

24 A. Mrs. Stevenson's relationship with Pat;
25 past dealings with Pat --

1 Q. Wait a minute. Wait. Relationship.

2 A. Other people that -- other people that --

3 Q. Relationship. Does relationship --

4 A. -- perhaps ought to be informed.

5 MS. WALL: Let him finish his answer,
6 please.

7 MR. LEWIS: I want to write them down.

8 BY MR. LEWIS:

9 Q. Does the relationship allow Pat to steal?

10 A. Depends on the circumstances.

11 Q. Okay.

12 A. If Mrs. Stevenson has a kind of a
13 relationship with Pat that she knows that Pat has
14 been taking things or unauthorized use of funds but
15 that's something that she sanctioned, that's a
16 circumstance.

17 Q. Okay. Now, let's suppose Mrs. Stevenson,
18 who is 80-something years old has a -- you think she
19 sanctioned Pat stealing money?

20 A. I didn't say that.

21 Q. Well, let's -- you said sanctioned her
22 unauthorized taking money.

23 A. I said if that were a circumstance. You
24 asked for --

25 Q. All right. Let's assume --

1 A. -- examples of circumstances --

2 Q. -- that's the circumstance.

3 A. -- and that's a circumstance.

4 Q. Let's assume that's a circumstance. An
5 80-year-old woman is -- bookkeeper is without
6 authorization taking money from her account,
7 Mrs. Stevenson, do you have an obligation to tell
8 the POA?

9 A. You know, again, it depends on the
10 circumstances.

11 Q. All right. Look at Exhibit Number 1. Why
12 didn't you send a copy of that to Mrs. Turner?

13 A. Based on the information I had at the time,
14 I had no basis to send it to Mrs. Turner.

15 Q. What would you have -- what basis would you
16 have needed to send to Mrs. Turner?

17 MS. WALL: Object to the form.

18 A. Well, I don't know how to answer that
19 question. But at this point, Dan and Tom Stevenson
20 had an attorney to advise them. I didn't see that
21 there was any -- sending it to Mrs. Turner would not
22 have forwarded what was being done.

23 Q. What was being done?

24 A. Getting Dan and Tom Stevenson to an
25 attorney -- to their attorney to advise them on

1 trust matters.

2 Q. And why did you want to get them to
3 somebody on the trust matters?

4 A. Because there had been loans that they had
5 been taking to themselves from the trusts, and I was
6 trying to handle that in the way, using my best
7 judgment, I thought proper.

8 Q. Now, those loans -- you wanted to get them
9 to their own attorney. Why didn't you tell Kathleen
10 about those loans?

11 A. Well, I spent a great deal of time and
12 effort trying to get Kathleen informed, which
13 eventually I accomplished.

14 Q. Well, let me ask you something. Did you
15 have a phone?

16 A. Oh, yeah, I have a phone in my office.

17 Q. Could you have picked it up and called
18 Kathleen?

19 A. Well, physically, I could have --

20 Q. Thank you.

21 A. -- but ethically, I may not have been
22 allowed to do that.

23 Q. Why?

24 A. Well, if you take a look at the ABA Rules
25 of Professional Conduct and the South Carolina Bar

1 Rules of Professional Conduct and the American
2 College of Trusts and Estate Counsel Commentaries on
3 those rules, you'll see that there's a whole body of
4 law about advising and dealing with a client with
5 and for a client who may be under a disability.
6 There are also such a thing as attorney-client
7 privilege.

8 Q. All right. Now, but don't the POAs step in
9 the shoes of the client?

10 A. In certain circumstances.

11 Q. In all circumstances, in this case. Tell
12 me what circumstance under this -- let me give it to
13 you. Look at Exhibit 8.

14 MR. LEWIS: Do we have Exhibit 8 right
15 there?

16 BY MR. LEWIS:

17 Q. Look at Exhibit 8. Is that the Kerrison?
18 Is that right? Is that the Exhibit 8 to Kerrison?

19 Mr. Carter, is that Exhibit 8 to Kerrison?

20 A. To Kerrison's deposition?

21 Q. Yeah.

22 A. It is, yes.

23 Q. All right. Now, look at that. Tell me
24 what limitations that power of attorney gives so you
25 can't talk to Kathleen Turner.

1 A. This is a broad power of attorney, but I
2 wouldn't use a power of attorney the client has
3 given someone unless that client has authorized me
4 to.

5 Q. Well --

6 A. It doesn't mean -- giving someone a power
7 of attorney doesn't mean that they're free to go out
8 and do anything with that client's assets or get any
9 of that client's information they want to. That's
10 up to the client.

11 Q. That's why they give a power of attorney,
12 so that they don't have to go ask every time. If
13 you ask every time, you don't need a power of
14 attorney. Isn't that right?

15 MS. WALL: Object to the form.

16 A. No, that's not right.

17 BY MR. LEWIS:

18 Q. So the reason you didn't call Kathleen
19 Turner and tell her is because you don't think the
20 power of attorney allowed you to?

21 MS. WALL: Object to the form.

22 A. No. I didn't say that.

23 BY MR. LEWIS:

24 Q. Well, why didn't you then?

25 A. Because I thought there was a better way to

1 handle the situation.

2 Q. And that better way didn't work for five
3 years, did it?

4 A. No, I don't agree with that.

5 Q. And the better way was to let the boys
6 tell?

7 A. Better way was to -- I thought in light of
8 Mrs. Stevenson's age, condition, past history of her
9 dealings with her children, that the better way was
10 to have the family handle the matter.

11 Q. Okay. And the family to handle the matter,
12 Dan and Tom had to start the process, didn't they?

13 A. I thought it was best that they inform
14 Kathleen so they or Kathleen could discuss it with
15 the siblings.

16 Q. So what you did is you, Mr. Carter, made
17 the decision that was better to have the crooks tell
18 on themselves than for you to inform Kathleen
19 Turner, correct?

20 MS. WALL: Object to the form.

21 A. What crook -- well, I'm not sure who you
22 mean by crooks.

23 Q. The two boys who were taking the money, Dan
24 and Tom.

25 A. I don't know that anybody had been

1 convicted of being crooks.

2 Q. Okay. Then the people that were taking the
3 money, Dan and Tom, were supposed to tell Kathleen
4 that Dan and Tom were taking the money. Is that
5 right?

6 A. Using my best judgment --

7 Q. Is that right?

8 A. I'm trying to answer the question.

9 Q. No, you're not. It's a yes or no question.

10 A. No, it's not.

11 Q. It isn't?

12 A. If you'll listen to me, you'll find out it
13 isn't.

14 Q. Well, I want you to listen to me,
15 Mr. Carter. We're going to have a long day. I
16 thought you'd stand up and be straight. And I want
17 you to answer my questions. If I ask a yes and no,
18 do you think you might be able to answer them?

19 MS. WALL: Object to the form.

20 A. Possibly. If it's a yes --

21 BY MR. LEWIS:

22 Q. All right.

23 A. -- or no question.

24 Q. Okay. Did you want Dan and Tom to start
25 the process --

1 A. I thought --

2 Q. -- of telling Kathleen?

3 A. I thought it would be best, in light of my
4 judgment as to Mrs. Stevenson's situation, the
5 family history, my knowledge of the family history,
6 the pertinent rules of conduct, that they discuss it
7 with Kathleen and then discuss it with their
8 sibling.

9 Q. Okay. And were Dan and Tom the ones that
10 were taking money from the trusts for which they
11 were trustees?

12 A. Yes. They had taken money from the trusts
13 that were characterized as loans.

14 Q. Okay. And you felt no obligation upon
15 yourself to tell Kathleen?

16 A. I felt not a legal obligation, but I felt
17 that it would be best for the family if Kathleen
18 were told. And in fact, Kathleen was told. She was
19 told in the spring of 2003, and she was told again
20 in 2006.

21 Q. Were you at the meeting in the spring of
22 2003?

23 A. No, I wasn't.

24 Q. So you don't know what she was told; that's
25 just what you understand?

1 A. That's what I understand.

2 Q. But you just said she was told. Now, would
3 you please, when you answer a question, let me know
4 what you understand and what you heard. Because
5 what you understand is a lot different than what you
6 hear. Okay?

7 A. I understand.

8 MS. WALL: Object to the form.

9 BY MR. LEWIS:

10 Q. Was Tom at that meeting?

11 A. What meeting?

12 Q. With Ms. Stevenson in 2003.

13 A. Meeting -- there was -- I don't know what
14 meeting --

15 Q. With Ms. Turner. The one you just talked
16 about.

17 A. Now, when you said "Ms. Stevenson," you
18 mean Ms. Turner?

19 Q. Yeah, Ms. Turner. I'm sorry.

20 A. Okay. I don't know. It's my
21 understanding, my understanding -- I wasn't there --

22 Q. And you --

23 A. -- but it was my understanding that he was
24 at that meeting.

25 Q. That's great. And you understood that your

1 understanding about that meeting comes from Tom?

2 A. I believe that's what he testified to.

3 Q. So what you would do if we want to find out
4 what happened at that meeting from someone that was
5 there, we would read Tom's deposition, wouldn't we?

6 A. I think you would look at whatever
7 information is available about that meeting.

8 Q. And Tom's deposition would be one of them,
9 wouldn't it?

10 A. That would be.

11 Q. Now, your deposition -- here it is right
12 here. Do you want to -- have you reviewed it?

13 A. I've looked it over.

14 Q. Do you want to change anything?

15 A. No. I mean, as far as -- as far as I knew
16 at the time, it's accurate.

17 Q. Is it still accurate today?

18 A. As far as I know.

19 Q. So we can adopt this deposition for this --
20 for purposes of today.

21 MR. LEWIS: Would you mark that as an
22 exhibit. What number is it?

23 THE COURT REPORTER: 2.

24 (Exhibit No. 2 was marked.)

25 BY MR. LEWIS:

1 Q. Look at Exhibit Number 6, please, from
2 Kerrison. We looked at that Exhibit 6 from
3 Kerrison, and it looks like a fax or an e-mail from
4 you to Lynne Kerrison. Is that right?

5 A. That's what it appears to be. Yeah.

6 Q. Well, did you send that fax and that
7 attachment on March 23rd?

8 A. I believe I did.

9 Q. 2006. Huh?

10 A. I believe I did.

11 Q. And you wrote that letter?

12 A. Yes, I think I did.

13 Q. Did you ever sign that letter?

14 A. I can't recall if I did or not.

15 Q. Did you know if this letter was ever sent?

16 A. I can't recall.

17 Q. Did Ms. Kerrison sign it?

18 A. I don't remember.

19 Q. Why did you want Ms. Kerrison to sign it?

20 A. You know, I can't remember my exact
21 thinking at the time.

22 Q. Okay. The circumstances on why you say
23 that letter is being written existed prior to March
24 2006, didn't it?

25 A. I don't understand the question.

1 Q. Well, the fact is that there were matters
2 that would affect Mrs. Stevenson's financial
3 situation all the way back to 2001 that you knew
4 about. Isn't that true?

5 A. Well, what the letter says is that I was
6 writing them to apprise them of a matter which may
7 affect their mother's financial situation. In fact,
8 I don't believe it ever did affect her mother's
9 financial situation.

10 Q. Well, you say -- you wrote them because you
11 thought it may?

12 A. That's correct.

13 Q. And the same circumstances that may have
14 affected her financial situation, you knew, were
15 also there in 2001. Isn't that true?

16 A. Well, you'll have to tell me what you mean
17 by "the same circumstances."

18 Q. Loans to -- by the boys, the trustees, out
19 of the trusts to themselves. You knew that in 2001,
20 2002, 2003, 2004, 2005, and then you write them in
21 2006. Isn't that true?

22 A. I did know in 2001 that there had been some
23 loans. I knew that in 2003. I did not know that in
24 2004, '5, until '6 that there are additional loans.

25 Q. I know. But you knew that there were

1 loans. Then you found out there were additional
2 loans, right?

3 A. I knew there had been loans in 2001 and, I
4 believe, additional loans in 2002.

5 Q. Okay.

6 A. And then again in -- prior to 2006.

7 Q. You didn't --

8 A. I did not know about the loans between 2002
9 or '3 and 2006.

10 Q. Before that, though, 2003, you advised them
11 to tell Kathleen, didn't you? The boys.

12 A. I did. So did their attorney.

13 Q. And you never followed up to see that they
14 did?

15 A. Their attorney told me that they were
16 telling Kathleen.

17 Q. They were going to. Did he ever tell you
18 they did tell them? Did that attorney ever tell
19 you, We told Kathleen about these loans?

20 A. I don't believe so. He told me that it was
21 being done and --

22 Q. I understand that.

23 A. -- I relied on what he told me. He's a
24 reputable attorney.

25 Q. So when he said it's being done, you felt

1 no more obligation?

2 A. No. After he said that, I heard no more
3 about it for three years.

4 Q. Did you look into it?

5 A. Felt no need to, based on what I knew at
6 the time.

7 Q. You understood that the loans to the boys
8 posed risk to the beneficiary of the trusts, didn't
9 you?

10 A. I'll have to see what -- what document
11 you're --

12 Q. No, you don't.

13 A. -- quoting that from.

14 Q. I'm just asking a question. It's my note
15 to myself. Let me ask it again. You understood
16 that the loans that the boys were taking from the
17 trusts posed risk to the beneficiaries of the
18 trusts, didn't you?

19 A. I think I understood that it was possible
20 that it would pose a risk to my client who was a
21 beneficiary of the trusts.

22 Q. Okay. And, of course, there were other
23 beneficiaries, too, weren't there?

24 A. There were. There were remainder
25 beneficiaries of those trusts.

1 Q. And they stood to be injured, too, didn't
2 they?

3 A. That's possible. But they were not my
4 clients.

5 Q. Why does Tom say you're his lawyer?

6 A. I don't know that Tom has -- I have no
7 information he's ever said that.

8 Q. Well, he says that you were his lawyer. Is
9 that a big fib?

10 MS. WALL: Object to the form.

11 A. I don't know -- the first time I've ever
12 heard that Tom said I was his lawyer.

13 BY MR. LEWIS:

14 Q. Well, if he thinks you were his lawyer, do
15 you think you were his lawyer?

16 A. I absolutely was not his lawyer.

17 Q. All right.

18 A. Never was.

19 Q. Okay. You considered that Dan and Tom
20 Stevenson's behavior constituted a breach of trust,
21 didn't you?

22 A. I thought it breached fiduciary conduct.

23 Q. And the fiduciary -- the breach was the
24 fact that they were self-dealing. Is that correct?

25 A. That they were distributing money to

1 themselves from the trusts without authorization, as
2 far as I knew the facts at the time.

3 Q. And when did you first became -- you became
4 aware of that in 2001, right?

5 A. I believe that's correct.

6 Q. And you understood that the boys, that is,
7 Dan and Tom, were -- avoided disclosing their
8 actions to their siblings for as long as they could.
9 You said that, didn't you?

10 A. That's what they appeared to be doing at
11 one point to me.

12 (Exhibit No. 3 was marked.)

13 BY MR. LEWIS:

14 Q. See Exhibit Number 3, Mr. Carter?

15 A. I do.

16 Q. Those are your notes?

17 A. Yes, they are.

18 Q. And they're from 1/5/01?

19 A. Yeah. That's what they're marked.

20 Q. And teleconference -- or telephone call
21 with Dan Stevenson?

22 A. That's correct.

23 Q. Who placed the call?

24 A. I don't recall.

25 Q. What was the subject matter of the call?

1 A. I believe that it was in preparation for a
2 meeting with some of the Stevenson siblings.

3 Q. All right. And who were the siblings that
4 you are speaking of?

5 A. I think at that meeting were Dan and Tom,
6 Jacquelin Bennett, and Kathleen Turner. I believe
7 that's correct.

8 Q. And that was the -- this was a telephone
9 conference with Dan in preparation for that meeting?

10 A. Yes. I think that's right.

11 Q. All right. And what are these numbers
12 here?

13 A. These are -- as I recall, I believe that
14 Dan was giving me information about his mother's
15 assets. I had been -- or was being asked by the
16 siblings or some of the siblings to make some estate
17 planning recommendations for Mrs. Stevenson.

18 Q. So make sure I understand that. Some
19 people who were not your clients were asking you to
20 make estate planning recommendations to
21 Mrs. Stevenson, who you say was your client?

22 A. Yes. She had --

23 Q. Is that correct?

24 A. I just said yes.

25 Q. Thank you.

1 A. She had, for some time before this meeting,
2 more or less turned over her financial affairs, at
3 least to some degree, to her son, Dan. She had met,
4 I know, several times with -- I had met several
5 times in previous years with Mrs. Stevenson and Dan
6 to discuss her will, changes to her will, estate
7 planning matters. So she, to some extent, turned
8 over that area of her business to Dan. And so it
9 was not unusual for her children to be asking for
10 advice for her in these areas.

11 Q. And it wasn't unusual for you to give the
12 children what you thought was best?

13 A. Well, at that meeting --

14 Q. Is that right or not? Was it unusual for
15 you to tell the children what you thought was best
16 for Mrs. Stevenson?

17 A. At that meeting, I gave them the
18 information as to her assets, which I had been
19 given; told them there was other information that
20 was privileged because it had not been given to me
21 by them; and gave them what I thought were some
22 estate planning suggestions or recommendations.

23 Q. What did you -- was that at a time when the
24 power of attorney was in existence?

25 A. I can't -- there were two -- the first

1 power of attorney, I recall, was signed in 2001.

2 Let me see -- here's a copy of it. Let me see
3 whether -- yeah. Apparently she had signed the
4 power of attorney very shortly before the meeting.

5 Q. And, of course, the power of attorney --
6 you thought Dan had the right to speak for her. Is
7 that right?

8 A. I'm not saying Dan had the right to speak
9 for her. Dan was handling certain things for her
10 and giving me information at least in this regard.

11 Q. He was also her power of attorney?

12 A. He was. Co-power of attorney with
13 Kathleen.

14 Q. Now, co-power of attorney, does that mean
15 both of them have to agree, or does that mean one
16 can act and the other one doesn't have to act? When
17 it says co-power of attorney, does that mean
18 anything they do, they both have to act together?

19 A. Well, it depends on how the power of
20 attorney is written.

21 Q. How is that one written?

22 A. This one is written -- it says that holders
23 Kathleen and Dan act jointly and together.

24 Q. So that they have to act jointly?

25 A. When using the power of attorney.

1 Q. Okay. Now, when Dan was taking -- or
2 removing monies from his mother's estate and he
3 was -- what you call them, loans, and everything,
4 was he doing that as a power of attorney?

5 MS. WALL: Object to the form.

6 A. I'm not sure what money Dan had been
7 removing from his mother's estate.

8 BY MR. LEWIS:

9 Q. How about the trusts?

10 A. So what's the question?

11 Q. When he was removing monies from the
12 trusts, was he doing that as a -- under the power of
13 attorney?

14 A. I don't know how he thought he was doing
15 it.

16 Q. Well, did it bother you that you should --
17 or did you look into it?

18 A. Yes, of course, I did. You know I did.

19 Q. And when you looked into it, did you come
20 up with whether or not he was doing it as a power of
21 attorney or some other -- under some other status?

22 A. I didn't understand that he thought he was
23 doing it under power of attorney.

24 Q. Now, he had -- this power of attorney, you
25 had to both be -- act as -- both of them had to act

1 as -- to something to be able to operate under it,
2 right?

3 MS. WALL: Objection.

4 A. That's the way it's written.

5 BY MR. LEWIS:

6 Q. All right. Now, when you tell somebody
7 something that is a -- he is one of the powers of
8 attorney, can you tell just one and meet your
9 obligation, or do you have to tell two?

10 A. I'm -- you know, I would have to say it
11 depends on the circumstances. That's a pretty broad
12 question.

13 Q. Well, I mean, it says you have to act as
14 a -- together. Okay? If you had an obligation to
15 tell the power of attorney something -- I don't care
16 what it is -- would you be able just to tell one of
17 them and meet your obligation, or did you have to
18 tell both of them?

19 MS. WALL: Object to the form.

20 A. I'm trying to think of how to -- it's an
21 odd question. If I'm speaking to somebody who has a
22 power of attorney -- I don't think I have to speak
23 to both of them at the same time.

24 BY MR. LEWIS:

25 Q. Well, let's suppose you got information

1 that someone is, well, taking money from
2 Mrs. Stevenson. Can you tell one power of attorney
3 and that will meet your obligation, or do you have
4 to tell both of them?

5 A. Again, I don't think I'd have an
6 obligation. It depends on the circumstances whether
7 I'd have to tell either one of them.

8 Q. I see.

9 All right. What if one of the people
10 taking the money is one of the powers of attorney,
11 do you have the obligation to tell the other power
12 of attorney that the co-power of attorney is taking
13 money?

14 A. You know, in this particular situation, I
15 don't think the power of attorney entered into it.
16 As I said, I don't think that Dan thought that he
17 was taking these withdrawals from the trusts under
18 the power of attorney.

19 Q. Well, do you know what Dan was thinking?
20 Are you in his head?

21 A. No, I don't know what Dan was thinking.
22 But that never occurred to me at the time. That's
23 not what I thought at the time..

24 Q. Of course not. Because you decided -- did
25 you make a conscious decision not to tell Kathleen

1 Turner?

2 A. I made a conscious decision that I thought
3 it was best for Mrs. Stevenson's situation that
4 Kathleen be told. I thought the best way to have
5 that done was by family members themselves rather
6 than getting the lawyers involved.

7 Q. You know, but there was about a little over
8 a four-year span that that didn't happen. Do you
9 understand that?

10 A. Well -- no. The only reason that Kathleen
11 wound up being told, I believe, was because of my
12 efforts.

13 Q. Okay. But I mean, your efforts took over
14 four years. Isn't that true?

15 A. Well, in 2001, when I initially learned of
16 these loans, they were documented as loans with
17 promissory notes. When I found out that they had
18 continued, I got them with their lawyer, was assured
19 that they were discussing them with Kathleen. They
20 did, in fact, meet with Kathleen. I don't know of
21 any reason other than to give her information on the
22 trusts; I wasn't there.

23 I was assured by their lawyer that it was
24 being handled. I didn't hear anything more about it
25 for three years. And when I did, I made sure that

1 they did meet with Kathleen again, and this time I
2 was present to make sure what was discussed.

3 Q. Okay. So you, for some period of time --
4 and the dates are in your deposition -- you agree
5 that Kathleen needs to be told. And you made the
6 decision that the -- Dan and Tom or just Dan should
7 tell her?

8 A. I was trying to get both of the brothers to
9 speak with their sister.

10 Q. So you were going to get both of the
11 brothers to speak with their sister or their
12 sisters?

13 A. Well, what I thought was the best way to be
14 handled was that they discuss it with Kathleen and
15 that they all discuss it with their siblings
16 together.

17 Q. And the reason you picked Kathleen was
18 because she had a power of attorney, right?

19 A. Yes. That seemed to be logical at that
20 point.

21 Q. Did you ever instruct Dan and Tom not to
22 make loans to themselves, stop making loans to
23 themselves?

24 A. I don't recall if I specifically said, You
25 have to stop making loans to yourselves. I did, I

1 believe, tell them that I thought what they had
2 done, taking money from the trusts without
3 beneficiaries' consent or knowledge, was a breach of
4 fiduciary duties and that they needed to get their
5 attorney to advise them on how to proceed.

6 Q. Now, when you first learned of this, it was
7 in 2001, right?

8 A. Learned of what?

9 Q. Of these loans. When Ms. Kerrison called
10 you.

11 A. Well, yeah. These particular loans, she
12 called me in late 2001. There had been a series of
13 loans previously when -- when I first got involved
14 with Mrs. Stevenson, it was back in 1991 when her --

15 Q. I'm sorry. I would like you to --

16 MS. WALL: He can finish his answer.

17 MR. LEWIS: No. If he'd answer my
18 question. He just wants to give speeches, and I'm
19 not going to do it.

20 BY MR. LEWIS:

21 Q. I'm not going to sit here and let you give
22 speeches, Mr. Carter.

23 MS. WALL: You're entitled to finish your
24 answer. Please do so.

25 A. You know, you said you're entitled to ask

1 the questions, and I'm entitled to give the answers.

2 BY MR. LEWIS:

3 Q. Yes, but you need to answer my question.

4 That's all I'm --

5 MS. WALL: Go ahead and finish your answer
6 again.

7 BY MR. LEWIS:

8 Q. I'm going to start all over again. Ready?

9 MS. WALL: No. Let him finish his answer.

10 Go ahead.

11 MR. LEWIS: We'll be here all day.

12 MS. WALL: Well . . .

13 Go ahead.

14 A. When I first became involved with
15 Mrs. Stevenson in 1991 when her CPA, Henry Buist,
16 called me and said that she had made a number of
17 loans --

18 MS. WALL: Go ahead. He doesn't have to
19 listen.

20 A. -- to her son, Tom Stevenson, and needed
21 some tax advice on how to handle those loans,
22 specifically, how to forgive those loans with the
23 minimum of tax effect. And I worked with Henry for
24 some time and, in the process of that, met
25 Mrs. Stevenson and talked to her about drawing a

1 will. Those notes were forgiven over a period of a
2 couple of years, and I think that there were some
3 later notes to loans that she had made to them or
4 sums that she had given to them. So I had some
5 prior knowledge and prior history of her loans.

6 With the loans in 2001, I first found out
7 about from Lynne Kerrison in late 2001.

8 BY MR. LEWIS:

9 Q. Okay. You found out in late 2001 from
10 Lynne Kerrison about the loans to the boys from the
11 trusts in which they were the trustees?

12 A. Correct.

13 Q. All right. And so you learned of those
14 loans in 2000 -- do you remember, late 2001?

15 A. Yes. Lynne Kerrison called me in late --

16 Q. Say, October?

17 A. Probably October of 2001.

18 Q. Okay. October 2001. Okay. When did the
19 boys go -- when is that letter that you sent to
20 Mr. Morrison about this -- to the boys? When is
21 that?

22 A. That's -- I think -- let me find that. I
23 think it was early 2003. Yes. January 2003.

24 Q. Okay. January 2003?

25 MR. SHARPLESS: I'm sorry. Can we have an

1 identification of the document that Mr. Carter just
2 looked at?

3 MS. WALL: Exhibit 1.

4 BY MR. LEWIS:

5 Q. So for all of 2002, you didn't --
6 nothing -- you didn't do anything?

7 A. Of course, I did. I had --

8 Q. What?

9 A. I had notes drawn to document the loans.
10 Those notes were signed, put in place.

11 Q. But you didn't do anything to let
12 Ms. Kathleen Turner know, did you?

13 A. I -- I did not speak with Kathleen Turner.
14 I told her brothers that I -- that they needed to
15 speak with Kathleen Turner.

16 Q. And you could have easily picked up the
17 phone and called her?

18 A. Again, you asked --

19 Q. Couldn't you have?

20 A. -- the question before. Physically, yes, I
21 could have.

22 Q. Thank you.

23 A. There's certain ethical restraints, which I
24 spent a good deal of time looking into, that led me
25 to conclude that that was not the thing to do.

1 Q. Was there any ethical restraint for you
2 calling Kathleen Turner and telling her that there
3 were loans from the trusts to Dan and Tom?

4 A. I believe there were. In addition to that,
5 I did not think that it was the best thing to do,
6 that I call Kathleen, best thing to do in her
7 mother's interest using my best judgment as to what
8 was known at the time.

9 Q. I know the best judgment rule. You can say
10 that all you want to. That's fine.

11 A. Thank you.

12 Q. What I'm trying to do is find out -- okay? --
13 what ethical rules you think apply to you telling
14 Kathleen what you learned from Lynne Kerrison. I
15 don't understand what -- do you represent Lynne
16 Kerrison?

17 A. Absolutely not.

18 Q. Do you represent the trusts?

19 A. Absolutely not.

20 Q. Lynne Kerrison gave you information about
21 the trusts, did she not?

22 A. She gave me information about loans -- or
23 funds being distributed to Dan and Tom.

24 Q. From the trusts?

25 A. From the trusts.

1 Q. Okay. What ethical considerations kept you
2 from telling Kathleen that information? I want you
3 to tell it to me.

4 A. This was basically Mrs. Stevenson's
5 business, because she was -- Lynne Kerrison was
6 letting me know this as Mrs. Stevenson's lawyer.
7 There are -- my responsibility as Mrs. Stevenson's
8 lawyer was to make sure that she wasn't financially
9 or emotionally damaged. She was an
10 80-something-year-old woman who was in, as I said,
11 probably okay physical shape for an
12 80-something-year-old woman, which is not generally
13 great shape. And my responsibility was to make sure
14 that she was taken care of with the least trauma, so
15 to speak, to her.

16 Also, as an additional answer to your
17 question, the ABA Model Rules of Professional
18 Conduct, South Carolina Rules of Professional
19 Conduct, and the American College of Trusts and
20 Estate Counsel Commentaries on those rules in
21 Section 1.14 discuss dealing with a client who may
22 be disabled or -- or -- I can't remember exactly the
23 title, but it's dealing with a client who may have a
24 disability.

25 Q. When you have a client that may have a

1 disability, that heightens your requirement to
2 protect that client. Isn't that what it says?

3 A. I don't know that it says it heightens that
4 requirement. There are other considerations that
5 have to be taken into account.

6 Q. But it heightens it. It makes you more
7 responsible to make sure nothing happens to them
8 because they can't operate themselves. Isn't that
9 what that rule says?

10 A. Well, that's your interpretation of it.

11 Q. All right. Thank you.

12 A. And --

13 Q. It's not your interpretation?

14 A. In general, it leaves it to the lawyer's
15 best judgment based on his history with the client
16 and his knowledge of the facts at the time.

17 Q. But doesn't it put more responsibility on
18 you to make sure something doesn't hurt that client?
19 Isn't that what you do? Isn't that what it says?

20 A. I don't know that it heightens the
21 responsibility, but that was my job, to make sure
22 that it didn't hurt the client. Which I did.

23 Q. They went on getting loans. That doesn't
24 seem to me like you did a very good job.

25 A. It didn't hurt Mrs. Stevenson in the least,

1 as far as I can tell.

2 Q. You mean she just lived the same; she lived
3 well. Is that what you're saying?

4 A. I don't have any information and didn't
5 know at the time -- still don't know that she
6 suffered any financial or emotional hardship because
7 of these loans.

8 Q. She had less money, didn't she?

9 A. No.

10 Q. She didn't?

11 A. She had all the money she needed.

12 Q. I didn't ask you that. She had less money
13 than she would have if the loans had not been taken.
14 Isn't that true?

15 A. Her income did not -- her income and her
16 spending money, to the best of my knowledge, did not
17 diminish at all.

18 Q. I didn't ask you that. I asked you, didn't
19 she have less money than she would have had if the
20 loans had not been made? When the loans come out of
21 an account, there's less money, isn't it?

22 A. Well, those loans --

23 Q. Is that true?

24 A. -- didn't come out of her account. She
25 didn't have less money. As those loans were taken,

1 there was less liquidity in the trusts.

2 Q. All right.

3 A. The trusts had notes from Dan and Tom
4 Stevenson, just like the trusts owned a share of GE
5 stock or a Treasury bond.

6 Q. Oh, now, you think a note from Tom and Dan
7 is as good as a GE Treasury bond? Is that what
8 you're saying?

9 A. It turned out that that was not the case.

10 Q. It sure did.

11 A. Yeah. But even when Kathleen knew of these
12 loans, she didn't have a problem either with them,
13 apparently.

14 Q. How are you going to know what Kathleen
15 knows? You got something in --

16 A. I don't know --

17 Q. -- her head now too? You're --

18 A. -- what Kathleen knows, but I know that --

19 Q. Thank you.

20 A. -- after she -- we had the meeting in the
21 spring of 2006, she didn't think it was significant
22 enough to discuss with her sibling for about a year,
23 apparently.

24 Q. Do you know that, or is this just what you
25 want to say?

1 A. I believe that's what's been testified to.

2 Q. Where?

3 A. That's in the underlying suit.

4 Q. Now, looking at your time records -- do you
5 see that? That's Exhibit Number 4.

6 MS. LEWIS: Is that to your deposition or
7 is that --

8 MR. LEWIS: No. To Kerrison's.

9 BY MR. LEWIS:

10 Q. Do you see that?

11 A. Yes, I have a copy of Exhibit Number 4.

12 Q. I see, looking in 2001, starting on
13 January, I see you -- telephone conferences with Dan
14 Stevenson and Tom Stevenson all the way through that
15 year. Do you see that?

16 A. Yes. There are some telephone conferences
17 with Dan or Tom Stevenson.

18 Q. There are -- with Dan, there's one, two,
19 three, four, five, six -- at least six. And with
20 Tom, there's one, two, three -- at least three with
21 Tom. Do you see that?

22 A. Yeah. I hadn't counted them, but there are
23 several.

24 Q. Did you make them all -- did you call him?

25 A. No, I can't -- I can't recall.

1 Q. Did you ever call those -- either one of
2 those?

3 A. I'm sure I did, but I can't recall --

4 Q. I know you can't recall --

5 A. -- what days --

6 Q. -- but you do agree that you called them?

7 A. I think I probably, during the course of
8 the last -- of those several years --

9 Q. I'm just looking --

10 A. -- probably --

11 Q. -- at this one year --

12 A. -- called --

13 Q. I'm just looking at this one year, 2001.

14 A. Yeah. No, I can't tell you in 2001 that I
15 ever made any of those calls myself. I just don't
16 know.

17 Q. You don't know. And then on 11/24 you
18 review meeting notes and correspondence to Dan and
19 Tom. Do you see that?

20 A. Yes, I do.

21 Q. Do you remember what correspondence that
22 was?

23 A. As I recall, that was the letter following
24 up on the meeting I had with them and Lynne Kerrison
25 in her office on October 23, 2001.

1 Q. And that was telling them to tell their
2 siblings?

3 A. I don't recall exactly what that letter
4 said.

5 MR. LEWIS: Do you have it?

6 THE WITNESS: I'm going to take a break.

7 (A brief break transpired.)

8 BY MR. LEWIS:

9 Q. Would you look at Kerrison Number 7? See
10 it? And read me that last paragraph.

11 A. The last paragraph says: "My best regards
12 to you both as always."

13 Q. Well, okay. The next one.

14 A. "Finally, the two of you are discussing a
15 strategy for meeting with your siblings in relation
16 to these loans and will let Lynne and me know if you
17 would like us to be present at that meeting."

18 Q. And that was your -- what you say was your
19 best idea was to let them come up with the strategy
20 to meet with their siblings and let you know -- let
21 them know if they -- let you know if they needed
22 you?

23 A. Let us know, let me and Lynne Kerrison know
24 if they would like us to be at the meeting with
25 their siblings.

1 Q. Yes. And so once you wrote that letter and
2 you put that little paragraph in it, you were
3 finished with any obligation you had?

4 MS. WALL: Object to the form.

5 A. Well, any --

6 BY MR. LEWIS:

7 Q. Is that a yes or no?

8 A. -- obligation I had to Mrs. Stevenson at
9 that time based on what I knew at the time had been
10 done. They had documented these loans or were in
11 the process of having them documented, which they
12 did, with signed promissory notes.

13 Q. Okay. So you turned over the
14 responsibility to Dan and Tom?

15 A. No. That's not what I said. I said that I
16 had done what I felt was necessary at that point on
17 behalf of Mrs. Stevenson or as Mrs. Stevenson's
18 attorney. I had the loans documented as loans and
19 had recommended to them that they reveal these loans
20 to their siblings.

21 Q. Okay. So you turned over the
22 responsibility to reveal the loans to the siblings,
23 and you turned over that obligation or that
24 recommendation to the people who were making the
25 loans to themselves?

1 A. Well, I don't think I --

2 Q. Is that right?

3 A. I don't think I had an obligation --

4 Q. Well, just say you --

5 A. -- to reveal these loans --

6 MS. WALL: Let him answer.

7 A. -- to the siblings, so I don't see how I
8 could be said to have turned that over to Dan and
9 Tom.

10 BY MR. LEWIS:

11 Q. It was your recommendation that Dan and
12 Tom, who were writing loans to themselves as
13 trustees, tell the beneficiaries. That was your
14 recommendation?

15 A. That's correct.

16 Q. And you felt no obligation to tell anybody
17 else, even though you're asking, in effect, the
18 crooks to tell on the crooks?

19 MS. WALL: Object to the form.

20 A. Well, you know, based on everything that
21 was the facts at the time, these people weren't
22 crooks. My obligation was to Mrs. Stevenson. I
23 felt that I had performed my obligation as far as
24 Mrs. Stevenson was concerned.

25 BY MR. LEWIS:

1 Q. Okay. Let's do it this way, then. You
2 told the two people who were breaching their
3 fiduciary duties to tell their brothers and sisters
4 on themselves; in other words, to tell the brothers
5 and sisters that they were breaching their fiduciary
6 duties. That's what your recommendation was?

7 A. I thought that was the best way to handle
8 that family situation. These were -- all facts at
9 the time, these were upstanding citizens. Tom was
10 on the board of a bank. They both had businesses
11 that were, apparently, doing very well. They told
12 me that they would do that. I had no reason to
13 question that. I had done what I needed to do at
14 the time for my client.

15 MR. LEWIS: Well, we'll find out,
16 Mr. Carter. Thank you very much.

17 THE WITNESS: You're quite welcome.

18 MR. SHARPLESS: Are you finished?

19 MR. LEWIS: Yeah. He told me what I wanted
20 to know.

21 (Discussion off the record.)

22 MR. SHARPLESS: I do have some questions.

23 EXAMINATION

24 BY MR. SHARPLESS:

25 Q. Mr. Carter, I'm Rick Sharpless. I

1 represent Lynne Kerrison and Dixon Hughes in this
2 lawsuit. I have a few questions for you today.

3 If you need to take a break at some point,
4 just tell us and we'll take a break. If you don't
5 hear or don't understand my question, please tell me
6 that as well.

7 How long have you been practicing law, sir?

8 A. I was admitted to the South Carolina Bar in
9 1971, and I've been actively practicing since 1973.
10 So almost 40 years.

11 Q. Do you have an area in which you specialize
12 or hold yourself out as specializing?

13 A. Estate planning and probate law. I'm a
14 certified specialist in South Carolina, and I've
15 also been -- although I've dropped the certification, in
16 the past I've been certified as a tax specialist.

17 Q. Are you licensed in any states other than
18 South Carolina?

19 A. No, I'm not.

20 Q. Have you had any lawsuits for professional
21 malpractice brought against you other than this one?

22 A. Yes. There was one some years ago.

23 Q. Do you know who brought it?

24 A. There was a doctor named Michael Tapert.

25 Q. T-A-B-A-R-D?

1 A. T-A-P-E-R-T.

2 Q. Okay. And where was that lawsuit brought?

3 A. Here in Charleston.

4 Q. I take it it was resolved some years ago as
5 well?

6 A. It was.

7 Q. How did your relationship with Jacquelin
8 Stevenson begin?

9 A. As I said a little while ago in response to
10 a question of Mr. Lewis's, her CPA, Henry Buist,
11 contacted me sometime in 1991 because she had made a
12 number of loans to Tom Stevenson and asked for my
13 advice and asked me to work with him as to how these
14 loans best might be handled. She wanted to forgive
15 those loans. As I recall, it was somewhere in the
16 neighborhood, at that time, of \$400,000. She wanted
17 to forgive those loans, and he wanted to discuss the
18 best way of doing that from a tax point of view.

19 Q. When, in this case, a mother, Jacquelin
20 Stevenson, makes loans to their children in
21 significant amounts of money, what are the tax
22 considerations that you look at as an attorney when
23 that happens?

24 A. Well, there's a gift tax consideration.
25 And also if there are notes given, which was the

1 case, there are income tax considerations at least
2 because of the interest on those notes, how best it
3 might be handled.

4 Q. Now, in the case that you encountered in
5 1991, those loans were already documented with
6 promissory notes? Is that correct? Or did you --

7 A. No.

8 Q. -- advise that they be documented?

9 A. Either I or Henry Buist or both of us -- I
10 can't remember; it's a while back -- advised that
11 they be documented.

12 Q. Was the practice within the Stevenson
13 family that somebody, at that time Jacquelin
14 Stevenson, would write a check or cause a check to
15 be written to another family member, such as Tom,
16 without necessarily obtaining a formal promissory
17 note?

18 In other words, Tom went to his mother and
19 said, I need money for this purpose; she said,
20 That's okay, and wrote a check?

21 A. As far as I know, that's the case because
22 the -- at the time I got involved, to the best of my
23 recollection, the money have been disbursed but
24 there weren't any notes.

25 Q. Okay. Now, in that situation, that the

1 money's been disbursed and there's no note, it's not
2 documented with an obligation to repay, does that
3 trigger, potentially, an obligation to file a gift
4 tax return and either pay gift tax or claim unified
5 credit for that?

6 A. Yes.

7 Q. So at least in 1991 when this problem came
8 to you or this concern came to you, one of the
9 things you're thinking about is if this is treated
10 as a gift, if it's not set up as a loan, then
11 Mrs. Stevenson is going to have to pay gift tax,
12 right? Or use unified credit?

13 A. Yeah. I think at that time it would have
14 been a matter of using -- because of the amount of
15 the loan and the amount of the available unified
16 credit, it would have been a matter of using unified
17 credit. I don't think any gift tax would have been
18 due, but I just can't recall.

19 Q. Now, unified credit, even though the
20 amounts changed over the years, is something that
21 each person gets once in their lifetime, right?

22 A. Correct.

23 Q. And they can either use it to exempt gifts
24 for taxation, or if not for gifts, they can use to
25 exempt part of their estate from taxation. Is that

1 right?

2 A. That's the way it works now and has worked
3 for the last number of years. I can't remember in
4 1991 whether there were separate exemptions or not.
5 I don't think so. So I believe that the answer to
6 your question is yes.

7 Q. Did you think, generally, that it would be
8 in Mrs. Stevenson's benefit to preserve as much
9 unified credit as she could to use -- to lessen her
10 estate tax burden when she died?

11 A. Well, as I recall, she wasn't interested in
12 that. She -- as I recall, at least from what I was
13 told by Henry and perhaps her too, she had pretty
14 much given these funds to Tom, but the question was,
15 as gifts, how to best handle them.

16 Q. And did you determine that it would be in
17 her best interest to set these funds up as loans and
18 then forgive them in small amounts over a period of
19 time so that you could use the annual exclusion?

20 A. Yeah. Henry Buist and I recommended that.

21 Q. Is that what was done?

22 A. As I recall, it was what was done.

23 Q. During the 1990s, you did some work
24 devising an estate plan for Mrs. Stevenson, did you
25 not?

1 A. Yeah, to some extent. I worked with her on
2 drawing at least a couple of wills over a period of
3 time. I wasn't -- certainly wasn't her only lawyer,
4 but I did work with her in that area.

5 Q. And can we agree, Mr. Carter, that there
6 was certainly a concern in your work for
7 Mrs. Stevenson in the estate planning arena to try
8 to minimize the estate tax burden that would fall on
9 her estate when she died?

10 A. Well, I mean, that's -- that is part of
11 overall estate planning, the recommendations.

12 Q. Was it part of your planning and
13 recommendations for Ms. Stevenson?

14 A. That was a consideration, yes. I can't say
15 that was her major consideration, but it was a
16 consideration.

17 Q. In response to Mr. Lewis's questions, you
18 identified some notes -- I think they were Carter
19 Exhibit 3 -- of a conversation that you had with Dan
20 Stevenson, January 5th of 2001.

21 A. Correct.

22 Q. And Dan is making you aware of loans that
23 had been made both to Tom and to Dan, some from the
24 trusts and some from possibly -- you've got from
25 Mrs. Stevenson individually and a question mark

1 noted there. Is that right?

2 A. That's apparently correct. I don't recall
3 that specifically, but apparently there was some
4 discussion about loans. Whether they were current
5 loans or past loans, I don't know.

6 Q. Were these loans documented with promissory
7 notes?

8 A. I do not know. Let me say this. On the
9 question about the loan to Tom -- and I don't know
10 whether this is connected or not -- but I -- as I
11 recall, there were a couple of \$100,000 loans -- and
12 again, I don't -- I think they were from the
13 trusts -- to one of Tom's companies. And those, I
14 think, had been documented at some point in the
15 past. I didn't have anything to do with that, but I
16 learned of it. Again, I'm not sure that's the
17 \$200,000 that this note refers to or not, but it may
18 be.

19 Q. If you'll look at the exhibit of your time
20 records, Kerrison 4 -- do you have that, sir?

21 A. Yes, I do.

22 Q. Between the middle of December of 2000 and
23 March the 22nd of 2001, there are a number of time
24 entries in there referencing, among other things,
25 preparation of the power of attorney but also

1 correspondence and a number of telephone
2 conferences. Do you see those?

3 A. Let's see. Starting in December -- this is
4 2000? The year 2000? Is that correct?

5 Q. Yes, sir.

6 A. Yeah. Starting in December -- on December
7 4th, there was a telephone conversation with
8 Ms. Kerrison; then on the 18th with Dan Stevenson
9 and Mr. Hamrick; and then correspondence with
10 Mr. Stevenson, who I assume was Dan Stevenson;
11 telephone conference with Dan Stevenson on the 19th
12 and the 20th; 26th, researching planning methods;
13 telephone conference with Mrs. Kerrison. Yeah,
14 there were a number of telephone calls.

15 Q. Do you recall what the subject matter of
16 these discussions was at the time? What was the
17 area of concern about which you were being consulted
18 during that period of time?

19 A. I don't recall specifically. I think that
20 it had to do with preparing for a meeting that I had
21 shortly after the first of the year with some of the
22 Stevenson siblings to talk about planning
23 recommendations for their mother.

24 Q. Do you recall what brought up the desire to
25 have this meeting?

1 A. No.

2 Q. At this meeting that occurred in January of
3 2001, who was present? Do you recall?

4 A. As I said, I think it was Dan Stevenson;
5 Tom Stevenson; and their sisters, Jacquelin Bennett
6 and Kathleen Turner.

7 Q. Was the subject of the loans that had been
8 made to Tom and Dan at various times discussed at
9 that meeting?

10 A. I don't recall.

11 Q. Look at your notes, Carter Exhibit 3, if
12 you would, sir.

13 A. Yes.

14 Q. At the top of those notes, you reference a
15 \$200,000 loan and a \$500,000 loan. Am I reading
16 that correctly, sir?

17 A. Yes.

18 Q. And then there are a number of other
19 numbers below that, and out on the right side you
20 have a bracket drawn and a number that looks like
21 \$8,5941,910?

22 A. Yeah, that's what it looks like.

23 Q. What is that \$8,541,910 number intended to
24 be? Do you recall, sir?

25 A. I don't recall. Whether that was total

1 assets or part of assets, I just don't remember.

2 Q. And you don't remember whether the subject
3 of the loans was discussed with the family at this
4 family meeting that occurred in January of 2001?

5 A. No. I mean, I don't recall one way or the
6 other. I don't recall that it was.

7 Q. Did you discuss with Ms. Kerrison the fact
8 that these loans had been made or apparently had
9 been made?

10 A. I don't recall.

11 Q. Do you recall if these loans -- and when I
12 say "these loans," I mean the two loans referred to
13 on Carter Exhibit 3 -- at the time you became aware
14 of them whether they had been documented? Or did
15 they need to be documented?

16 A. No, I don't recall. As I said, it's
17 possible, but I don't know this, that the \$200,000
18 loan to Tom referenced, was the two \$100,000 loans
19 that had been made to his company, Fabtech, as I
20 recall, and I think had been documented at that
21 time.

22 Q. And with respect to the \$500,000 loan to
23 Dan, do you know --

24 A. I just don't know. I don't remember
25 anything about that.

1 Q. Were Tom and Dan the only surviving
2 trustees of the two trusts?

3 A. They were.

4 Q. Were you concerned at that time when Dan
5 reported to you that there had been a \$500,000 loan
6 made from the trusts, apparently, to him or one of
7 his companies?

8 A. I just don't remember the circumstances of
9 that \$500,000 loan, what it was or whether it had
10 been documented or needed documenting. I just don't
11 recall.

12 Q. Can we agree, sir, that when, in October
13 2001, you had a conversation with Ms. Kerrison about
14 a number of loans that had been made to Tom and Dan
15 from the trusts, you were sufficiently concerned
16 that you contacted Tom and Dan and made certain
17 recommendations, including the recommendation that
18 they get counsel of their own?

19 A. Correct.

20 Q. And you were sufficiently concerned that
21 you -- where you had reached the conclusion that
22 what they were doing in making loans to themselves
23 was breaching their fiduciary duties, at least in
24 the circumstance where the family was not aware of
25 these loans?

1 A. I was concerned that they had breached
2 their fiduciary duties.

3 Q. Is it fair to say, sir, that given your
4 years of experience -- that's not based on something
5 you learned about the law of fiduciaries between
6 January and October of 2001 -- had you known of a
7 loan that had been made by Dan to himself or one of
8 his companies in January of 2001 in circumstances
9 where the family had no knowledge of it other than
10 Dan and Tom, you would have been concerned even then
11 that that was a breach of fiduciary duty?

12 A. Well, I don't know what -- I don't remember
13 anything about the \$500,000 loan that's referred to
14 in this note. I don't know what the circumstances
15 were and whether it had been documented or not.

16 Q. Do you think that in January of 2001 if you
17 were -- in the context of having a meeting with, at
18 least, Jacquelin, Kathleen and -- was Genevieve
19 present at that meeting as well?

20 A. I don't think so.

21 Q. Okay. -- at least with Jacquelin and
22 Kathleen if they were aware of that \$500,000 loan,
23 that your concern would have at least been lessened?

24 A. Again, I don't remember the circumstances
25 of that. At that meeting, in general, their mother

1 's assets were discussed. If those loans were loans
2 that had -- to Dan were loans that had been made
3 from the trusts, they would have been simply trust
4 assets at that time. And I don't know that the
5 individual trust assets -- just sort of total
6 amounts were discussed.

7 Q. In October of 2001, you had a communication
8 from Ms. Kerrison, did you not?

9 A. I did.

10 Q. What do you recall of that communication?

11 A. In general, that she had contacted me -- I
12 can't remember if it was by phone or e-mail -- and
13 said that some monies had been disbursed from the
14 trusts to Dan and Tom individually or to their
15 businesses, and she thought as Mrs. Stevenson's
16 lawyer I ought to know about it. And -- which led
17 to a meeting with her and Dan and Tom.

18 Q. Did she ask you -- and I realize you
19 weren't representing Ms. Kerrison. But did she ask
20 you what should be done next?

21 A. I don't remember if she specifically asked
22 me that or not. But when she gave me the
23 information, I told her that I thought it would be a
24 good idea if she and I met with Dan and Tom
25 Stevenson to find out more about these disbursements.

1 Q. Did you become aware at or around that time
2 that these disbursements had been made by the method
3 of Tom or Dan writing themselves a check? Or
4 authorizing themselves a check. I guess Pat
5 Neapolitan was still actually --

6 A. Yeah, I can't recall if I was informed or
7 knew exactly how the disbursements had taken place.
8 I know Ms. Kerrison, yesterday in her deposition,
9 said that the bookkeeper, Pat Neapolitan, had
10 actually written the checks.

11 Q. And at that time -- and when I say "that
12 time," I mean October 2001 -- did you have an
13 understanding as to whether these disbursements to
14 Tom or Dan or their businesses were, at that time,
15 documented with promissory notes?

16 A. At least -- maybe beforehand, but at least
17 when I met with Ms. Kerrison and Dan and Tom
18 Stevenson, I was informed that there weren't any
19 notes.

20 Q. Okay. You described yourself -- you
21 described one of your concerns as being protecting
22 Ms. Stevenson's, your client's, not only her assets,
23 but her emotional health and well-being. Is that
24 correct?

25 A. That's right.

1 Q. So both of those things were a concern for
2 you during this time?

3 A. Yes.

4 Q. And speaking on the -- just the protection
5 of her assets, if there are a number of checks
6 written out of these trusts to Tom and Dan, if
7 they're not documented with promissory notes, that's
8 a tax problem, isn't it?

9 A. I think there would be some tax issues.

10 Q. There might be a gift tax obligation?

11 A. Well, with checks out of the trusts, I'm
12 not sure -- I'd have to think about that as to
13 whether there'd be a gift tax obligation or not, but
14 there would be some tax obligations, I'm sure.

15 Q. Okay. And your recommendation that
16 promissory notes be obtained to document these
17 transactions or disbursements that had been made,
18 was made with the idea that this would be protective
19 of the trusts, both in terms of documenting the
20 obligation of Dan or Tom to repay and also with
21 minimizing adverse tax consequences?

22 A. Could you give me the question again?

23 Q. One of the things you recommended was that
24 these disbursements or these transactions be
25 documented with promissory notes. Is that correct?

1 A. That's right.

2 Q. And was at least part of the reason for
3 your doing that a desire to minimize adverse tax
4 consequences of these transactions having already
5 occurred?

6 A. I don't know how much consideration I gave
7 to the tax consequences as much as I just wanted to
8 be sure these were documented as trust assets.

9 Q. In January of 2001, you had a durable power
10 of -- or was it your office that prepared a durable
11 power of attorney for --

12 A. Yes.

13 Q. And I think we looked at that document
14 earlier today. Do you have it there, sir?

15 A. No.

16 MS. LEWIS: It's right there.

17 A. I have it now.

18 BY MR. SHARPLESS:

19 Q. Are you looking at Kerrison 8?

20 A. Yes, I am.

21 Q. It's entitled "Durable Power of Attorney,"
22 sir, but if you'll look through it, would you agree
23 with me that it does not have any language in there
24 that would be required to make it actually durable
25 under the South Carolina Probate Code? In other

1 words, there's no language in this power of
2 attorney, is there, that says it's intended by
3 Jacquelin Stevenson to continue in the event of her
4 disability?

5 A. That's correct.

6 Q. So although it's a valid power of attorney,
7 it would not be durable were she to become
8 incapacitated, as drafted. Is that correct?

9 A. That's right.

10 Q. Is that why you prepared another power of
11 attorney in 2003?

12 A. That's correct.

13 Q. You looked back in your files and noticed
14 that issue and wanted to correct it?

15 A. I don't know if it was a matter of
16 correction. It was -- as I recall, in 2003, there
17 was some discussion about Mrs. Stevenson's mental
18 state and whether she was becoming or possibly was
19 disabled. So the idea was to make sure that she had
20 a power of attorney that would survive disability.

21 Q. I take it in 2001 you were not concerned --
22 or not greatly concerned about her mental state and
23 competency?

24 A. I had no information in 2001 to indicate
25 that there was any concern.

1 Q. Okay. In 2003 when you prepared the second
2 power of attorney for Mrs. Stevenson, you actually
3 took it to her and spoke with her about it when she
4 signed it. Is that right?

5 A. That's correct.

6 Q. Is that because you wanted to satisfy
7 yourself that she was competent to execute that
8 power of attorney?

9 A. Well, normally, I'm present when a client
10 executes a power of attorney that I've drawn. But,
11 yes, I did want to satisfy myself that she was
12 competent.

13 Q. And did you make notes of that meeting with
14 her?

15 A. I did.

16 Q. Were you satisfied that she was competent
17 at the time she signed the 2003 power of attorney?

18 A. I was.

19 Q. And that power of attorney, although I
20 don't have it with me, that one was, in fact, to
21 your recollection, durable? In other words, it
22 contained the required language?

23 A. That's correct.

24 Q. If you'll look at the Exhibit Kerrison 4,
25 that's your time records. There's a column in there

1 that appears on every page on the right, it says
2 "TMKR," and then it has a number, usually but not
3 always 3. Do you see that?

4 A. Yes, I do.

5 Q. What does that indicate?

6 A. That's the timekeeper. That's the lawyer
7 who is performing that particular portion of time.

8 Q. And what's your number, sir?

9 A. I'm 3.

10 Q. Who was Number 10 at that time, in 2001?

11 A. I have no idea.

12 Q. Do you know who Number 5 was?

13 A. No.

14 Q. And do you know who Number 14 was?

15 A. I don't.

16 Q. Would you have that information available
17 to you at your office?

18 A. I probably would.

19 Q. Okay. There's also, two columns over from
20 that, a column entitled "TCD." Do you see that?

21 A. I do.

22 Q. What does that indicate?

23 A. I don't have a clue.

24 Q. Do you use numerical time codes? Or did
25 you with whatever billing system this was generated

1 from?

2 A. You mean to indicate the amount of time?

3 Q. Or the nature of the service that was being
4 provided and the subject matter of it.

5 A. As far as I know, not the nature of the
6 service.

7 Q. All right. Is there some key available at
8 your office that would tell us what "TCD" means and
9 what these various numbers mean?

10 A. Probably.

11 Q. Do you still use this same time keeping and
12 billing system today?

13 A. I don't know.

14 Q. After your October 2001 meeting with Tom
15 and Dan, you gave them advice at both the meeting
16 and in writing that they needed to tell their
17 siblings what had occurred. Is that correct?

18 A. That's what I told them I thought they
19 should do.

20 Q. Okay. And you also advised them to get
21 their own attorney?

22 A. I did.

23 Q. Was Ms. Kerrison aware of -- perhaps you're
24 not comfortable with using the word "advice," but
25 was Ms. Kerrison aware of the fact that you had told

1 Tom and Dan these things?

2 A. I believe she was.

3 Q. Did you have any discussion with
4 Ms. Kerrison about whether and to what extent she
5 should do anything additional or different as of
6 October 2001?

7 A. I don't recall that I did.

8 Q. Do you recall ever having a discussion with
9 Ms. Kerrison after October 2001 about whether and to
10 what extent she should do anything different than
11 what she had done?

12 A. No, I don't recall any such discussion.

13 Q. Through 2002, there's a -- well, let's look
14 on your -- again, Kerrison 4, your time keeping
15 records. Look at the entry on the second page,
16 November 13, 2002, "Researching Considerations of
17 Disclosure of Loans." Do you see that?

18 A. Excuse me. What was the date?

19 Q. November 13, 2002. About more than midway
20 down.

21 A. Right. Right.

22 Q. Is it fair to say, sir, that the subject of
23 the loans to Tom and Dan and the manner and method
24 in which they should be disclosed to the siblings
25 was still a concern to you then?

1 A. I don't recall exactly the circumstances.
2 I just don't recall what prompted that.

3 Q. There is -- or there was identifying in
4 your previous deposition a letter in November
5 2002 -- I think it was Exhibit 35 to your previous
6 deposition -- that said that your understanding was
7 that Tom and Dan still had not informed their
8 siblings of the loans and that if they did not
9 inform them by January of 2003 that you would
10 undertake to inform them. Do you recall that, sir?

11 MR. LEWIS: Is it Number 35?

12 MR. SHARPLESS: Should have been Exhibit
13 Number 35. The letter dated, I believe, November
14 2002.

15 A. Yeah, I'm looking at a letter -- I'm not
16 sure what the exhibit number is, but it's dated
17 November 25, 2002, to Tom Stevenson and Dan
18 Stevenson where I said if I've not heard from them
19 by the first of January 2003 that they'd discussed
20 it with Kathleen, I felt responsible to contact her.
21 I recommend she discuss it with her -- with them.

22 BY MR. SHARPLESS:

23 Q. With respect to your concerns about your
24 duties to Ms. Stevenson, your duties to protect her
25 interests, and the concerns that you had researched

1 about the extent to which you would even be able to
2 make disclosure to other people, what led you to the
3 thought that you might, at least, be able to make a
4 disclosure directly to Kathleen? What facts or what
5 analysis led you to that conclusion?

6 A. Well, what I was trying to do was to keep a
7 harmonious, as much as possible, family situation.
8 I felt that my responsibilities to Mrs. Stevenson
9 were handled at that point. But I felt that just
10 the family -- just the -- part of my sort of
11 practice is dealing with families. I have a client,
12 whether it's a couple, parents, or single parent or
13 whatever, but family considerations are part of my
14 type of practice. And I wanted to try to have the
15 family proceed with these loans in a feeling that
16 would cause, as little as possible, disruption.

17 Q. And so you felt that the preferred way that
18 this would be addressed would be for Tom and Dan to
19 make their siblings aware of it?

20 A. That's correct.

21 Q. However, you say in that letter that if
22 they don't make you aware -- excuse me. More
23 precisely, you say in that letter of November 25,
24 2002, that if you haven't heard from them by the
25 first of the year that you will make that

1 disclosure.

2 A. Yeah. Initially --

3 Q. Did you -- let me ask you a question. Did
4 you mean what you said? In other words, had you
5 reached the conclusion that you could make that
6 disclosure if you didn't hear from them?

7 A. Because of the circumstances at the time
8 which were somewhat changed from the circumstances a
9 year earlier, I thought that, if necessary, I
10 probably could.

11 Q. Okay. I take it what, in fact, happened is
12 you heard from Howell Morrison instead at or around
13 the first of the year, 2003?

14 A. That's right. I think we had a -- maybe a
15 conversation before the end of 2002. I'm not sure
16 about that, but we did communicate the first of
17 2003.

18 Q. And if you'll look at Kerrison 4, you have
19 a time entry for January 2nd of 2003, telephone
20 conference with Mr. Howell Morrison. Is that right?

21 A. Correct.

22 Q. Did Mr. Morrison assure you that Tom and
23 Dan were going to make the requisite disclosures to
24 Kathleen and to Genevieve and Jacquelin, to their
25 siblings?

1 A. As I recall his letter to me, told me that
2 Tom would be speaking with Kathleen.

3 Q. Do you see that there is a time entry for
4 January 16th, 2003, telephone conference with
5 Ms. Lynne Kerrison for 1/10 of an hour?

6 A. Yes, I do.

7 Q. In that telephone conference, did you relay
8 to Ms. Kerrison what you had learned from Mr. Morrison?

9 A. I can't recall.

10 Q. Is there any reason you would not have
11 shared that information with Ms. Kerrison?

12 A. I don't know at this time whether it would
13 have been, but I can't recall whether it would have
14 been. I don't know of any reason that I would not
15 have.

16 Q. I see from your time entries that the next
17 time you gave attention to Ms. Stevenson's affairs
18 after March or February of 2003 appears to be March
19 of 2006. Is that right?

20 A. That's the next time entry.

21 Q. Did you have any other client numbers that
22 you kept for things relating to Ms. Stevensons? In
23 other words, did you give her affairs attention
24 under any other client number that wouldn't be on
25 this billing record?

1 A. Not during that period of time.

2 Q. So during that period of time, you're not
3 hearing anything from Ms. Stevenson or from Tom or
4 Dan or from Ms. Kerrison concerning Ms. Stevenson.
5 Is that your recollection, sir?

6 A. I believe that's correct.

7 Q. It was in 2006, then, that you heard again
8 from Ms. Kerrison. Is that right?

9 A. I think that is right.

10 Q. And what did you hear from her?

11 A. As I recall, she told me that there had
12 been additional funds disbursed from the trusts to
13 Dan and Tom. And I don't know whether there had
14 been -- well, I can't remember whether there had
15 been additional notes, but that there -- I don't
16 think so -- but, basically, that there had been
17 additional funds disbursed to them.

18 Q. What did you do?

19 A. Called Howell Morrison. I remember I
20 talked to him about it. He -- and then told Dan and
21 Tom again that they needed to meet with Kathleen.

22 Q. Was it your -- did you have an
23 understanding as to whether -- did you personally,
24 at that time, have an understanding as to whether
25 they had or had not informed any of their siblings?

1 I'm not asking you what you learned through
2 other testimony that you've heard.

3 A. Did I personally know whether they'd
4 informed?

5 Q. Well, I'm asking you what your
6 understanding was in March of 2006 when Ms. Kerrison
7 calls you, tells you that there have been additional
8 loans.

9 A. With the exception of Kathleen, it was my
10 understanding that they had not met with their
11 siblings.

12 Q. Did you have an understanding that they had
13 at some previous time met with Kathleen?

14 A. I don't recall whether I had been told
15 about the meeting in spring of 2003, but I know that
16 I had been told that it was going to take place.

17 Q. What was Jacquelin Stevenson's condition at
18 this time? And when I say "this time," I mean March
19 of 2006.

20 A. You know, I don't think I had seen
21 Mrs. Stevenson since she signed her power of
22 attorney in 2003, so I really can't answer that.

23 Q. Were you present for a meeting that
24 occurred on April 27th, 2006, with Ms. Turner and
25 Ms. Kerrison and with Tom and Dan Stevenson?

1 A. Yes, I was present. I think the meeting
2 was with Ms. Turner, Ms. Bennett, and Tom and Dan
3 Stevenson. And I can't remember whether Lynne
4 Kerrison was there or not. I think she was.

5 Q. What was said at this meeting?

6 A. These loans that Dan and Tom had from the
7 trusts were discussed at that meeting.

8 Q. Did anyone express any surprise?

9 A. No.

10 Q. Did anyone indicate at that meeting that
11 they were aware of these loans?

12 A. I don't recall. I don't recall.

13 Q. Do you recall anyone saying that they found
14 these loans objectionable or that they were unhappy
15 that these loans had been made?

16 A. One correction on something I said a minute
17 ago. I said I thought Jacquelin Bennett was there.
18 She was not. It was Kathleen Turner, Dan and Tom
19 Stevenson, and I believe, Lynne Kerrison.

20 Excuse me. What was your last question?

21 Q. Did anyone express any thought that these
22 loans were objectionable or that they were unhappy
23 about these loans having been made?

24 A. I don't recall that being done.

25 Q. Was there any demand made that Tom and Dan

1 repay these loans immediately?

2 A. No, I don't think so.

3 Q. Mr. Carter, do you find any fault with
4 anything Ms. Kerrison did or didn't do in reference
5 to the --

6 MR. LEWIS: Object to the form.

7 Q. -- Stevenson matter?

8 MS. WALL: I object as well and, of course,
9 caution the witness not to reveal anything that he's
10 learned from his counsel. If it's from anywhere
11 else --

12 MR. SHARPLESS: I'm just asking. I'm not
13 asking the witness for your legal contentions. I'm
14 just asking him personally.

15 A. Would you ask the question again?

16 BY MR. SHARPLESS:

17 Q. Do you find any fault with anything that --
18 do you personally find any fault with anything
19 Ms. Kerrison did or didn't do with regard to the
20 Stevenson matter?

21 MR. LEWIS: Object to the form.

22 A. You know, I don't know all of the things
23 that she did or didn't do, so I'm not sure that I
24 can answer that question.

25 MR. LEWIS: I withdraw my objection.

1 BY MR. SHARPLESS:

2 Q. Did you ever express to Ms. Kerrison --

3 MR. SHARPLESS: Thank you, Cam.

4 BY MR. SHARPLESS:

5 Q. Did you ever express to Ms. Kerrison any
6 dissatisfaction with what she had done or with
7 anything that she had not done?

8 A. I don't think that I ever did.

9 Q. Did she ever express any dissatisfaction to
10 you?

11 A. Not that I can recall.

12 MR. SHARPLESS: Give me just a moment,
13 please.

14 (Discussion off the record.)

15 BY MR. SHARPLESS:

16 Q. Mr. Carter, if you'll look at Kerrison
17 Exhibit 18.

18 MR. LEWIS: What is that?

19 MR. SHARPLESS: That is a fax of October
20 12, 2001 that is a cover sheet and sends the 2001
21 power of attorney to Ms. Kerrison.

22 MR. LEWIS: Oh, yeah.

23 BY MR. SHARPLESS:

24 Q. My question, Mr. Carter, is why did you
25 send that power of attorney to Ms. Kerrison in

1 October of 2001?

2 A. I can't remember specifically, but I think
3 it was in connection with the information that Lynne
4 Kerrison had given me about the -- or at least the
5 preliminary information about these loans and the
6 general context of that situation.

7 Q. Did she ask that you send her that power of
8 attorney?

9 A. I don't recall.

10 Q. And do you recall why you might have sent
11 it to her?

12 A. No.

13 MR. SHARPLESS: That's all I have.

14 MR. LEWIS: I have just a -- six questions.
15 Six subjects.

16 THE WITNESS: Well, he only had one, and he
17 asked about four or five.

18 MR. LEWIS: I understand. That's all
19 right.

20 FURTHER EXAMINATION

21 BY MR. LEWIS:

22 Q. Tom says that you and Lynne Kerrison drew
23 up the notes. Is that correct? The notes for the
24 loans.

25 A. Who said?

1 Q. Tom.

2 A. Which notes?

3 Q. The notes that were done to cover the loans
4 that had been made and were not -- didn't already
5 have notes.

6 A. I don't think so. I think the notes were
7 drawn by Pratt-Thomas Gumb.

8 Q. Okay. And he --

9 A. I had drawn up notes back in 1991.

10 Q. No, I'm talking about in 2000 -- when
11 you --

12 A. Those notes, I don't think that I drew.

13 Q. Okay. He --

14 A. There were later notes also, I know, that
15 were drawn by Howell Morrison's office.

16 Q. Okay. He also said that you and Lynne
17 Kerrison decided the interest rates to put on the
18 notes. Did you decide any interest rates to put on
19 notes?

20 A. I remember there was some discussion with
21 Lynne about that. So I don't know whether you can
22 say "decided," but I remember there was some
23 discussion.

24 Q. So you participated in the decision into
25 what interest rates should go on there?

1 A. I did.

2 Q. Huh?

3 A. I did.

4 Q. Okay. Now looking at Exhibit 4 there in
5 front of you. I think it's your time sheets.

6 Mr. Sharpless asked you about them. And I don't
7 understand something. Is there something that you
8 fill out that you give to someone that then they'd
9 enter it into some computer, which would then later
10 generate this list?

11 A. Yes.

12 Q. What do you call that that you gave to
13 them?

14 A. Time sheets.

15 Q. And where are the time sheets for the
16 backup for Exhibit 4?

17 A. I don't know. They may be destroyed in the
18 process. I don't know.

19 Q. Have you looked for them?

20 A. No. I can't recall having looked for them.

21 Q. Well, I think our -- well --

22 MR. LEWIS: Our request covers that, so
23 would you look for them or tell me I need to send
24 another request. I'd like to have the backup for
25 Exhibit Number 4.

1 BY MR. LEWIS:

2 Q. Now, when you do these promissory notes to
3 cover this money that was the checks that were
4 written to Dan and Tom, when you did a promissory
5 note to cover money that had already been given, do
6 you backdate those promissory notes?

7 A. I can't recall whether those promissory
8 notes were backdated or not.

9 Q. Does it make any difference to you if they
10 were backdated or not?

11 A. Well, I mean, again, I guess it depends on
12 the circumstances. I guess one difference that it
13 could make is to when interest would apply.

14 Q. So you don't remember if they were
15 backdated; we just have to look at the notes
16 themselves?

17 A. I assume that's correct.

18 Q. If they're all dated at the time of the
19 distribution, that would mean they were backdated,
20 wouldn't it?

21 A. It would if -- if the distribution is not
22 the time that the -- that the -- if there was a --
23 if the notes were made out at a later time.

24 Q. Okay. And I don't know -- this power of
25 attorney, durable power of attorney, I didn't know

1 this until that sharp Mr. Sharpless pointed it out,
2 that this is -- says "Durable Power of Attorney,"
3 but it's not?

4 A. That's correct.

5 Q. Why would you label something that's not
6 what it is?

7 A. Well, that's just an -- I suppose an office
8 form. I don't know why it says "Durable Power of
9 Attorney."

10 Q. But it's not a durable power of attorney?

11 A. No.

12 Q. It should say up there, "General Power of
13 Attorney"?

14 A. Or "Power of Attorney" is one thing.

15 Q. All right. And a power of attorney, does
16 it -- it's operative from the day you sign it, isn't
17 it?

18 A. This type of power of attorney is.

19 Q. And so you can go use it to do whatever the
20 powers are in here that allow you to do it?

21 A. With the caution, I think, that if the
22 person giving you the power of attorney tells you
23 not to or you know that they don't want you to, I
24 think that would be a restriction.

25 Q. But, I mean, as far as if I -- usually

1 these are filed somewhere, filed in the courthouse.
2 That gives me the power of attorney, and I could
3 show the bank, I can show the insurance company, and
4 I can act as the person who gave me that power of
5 attorney. That's what they're for, aren't they?

6 A. Generally, that's correct.

7 Q. But the durable one, on the other hand,
8 doesn't come into effect until the person's unable
9 to act?

10 A. No, that's not right.

11 Q. A durable one, what is the difference?

12 A. A durable power of attorney continues to be
13 effective if the person is unable to act.

14 Q. Okay.

15 MR. LEWIS: Would you mark this. This is
16 the last thing.

17 (Exhibit No. 4 was marked.)

18 BY MR. LEWIS:

19 Q. You were looking at that as Exhibit 35 to
20 your prior deposition, and we've now made it Exhibit
21 4 here.

22 A. Uh-huh.

23 Q. Do you remember looking at it?

24 A. I do remember looking at it.

25 Q. All right. Now, that was on November 25th,

1 2002. Is that correct?

2 A. That's correct.

3 Q. And what you say in here is what you
4 believed, isn't it?

5 A. As far as I know, that's correct.

6 Q. Now, it says in here: "Kathleen along with
7 Dan holds your mother's power of attorney and thus
8 represents your mother when your mother is unable to
9 act."

10 That's not true, is it? They can represent
11 the mother in anything that the power of attorney
12 says they can.

13 A. Ask me the question again, please.

14 MS. WALL: Object to the form.

15 Q. Okay. You say here: "The power of
16 attorney and thus represents your mother when your
17 mother is unable to act." Well, that means it's a
18 durable power of attorney when you're unable to act,
19 right?

20 A. It is a -- yes. If someone is incompetent,
21 it has to be a durable power of attorney.

22 Q. Well, then this one is not a durable power
23 of attorney that was in effect at the time, was it,
24 Kerrison 18? We've just gone over that.

25 A. And that may be the reason that in early

1 2003 -- in January 2003 another power of attorney
2 was executed.

3 Q. Okay. But what you wrote here, then, is an
4 error?

5 A. Well, that may be correct.

6 Q. The rest of it, though, you believe it to
7 be correct, correct?

8 A. As far as I know.

9 MR. LEWIS: I have no further questions.

10 MR. SHARPLESS: I have no additional
11 questions.

12 (The deposition was concluded at 12:11 p.m.)

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CERTIFICATE OF REPORTER

I, Heather M. Curlin, Professional Court
Reporter and Notary Public for the State of South
Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on
the date and at the time and location stated on page
1 of this transcript; that the deponent was duly
sworn to testify to the truth, the whole truth and
nothing but the truth; that the testimony of the
deponent and all objections made at the time of the
examination were recorded stenographically by me and
were thereafter transcribed; that the foregoing
deposition as typed is a true, accurate, and
complete record of the testimony of the deponent and
of all objections made at the time of the
examination to the best of my ability.

I further certify that I am neither related to
nor counsel for any party to the cause pending or
interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 28th day of July, 2011, at
Charleston, Charleston County, South Carolina.

Heather M. Curlin
Professional Court Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
May 27, 2021

1 I N D E X

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3 EXAMINATION

4 BY MR. LEWIS 3, 81

5 BY MR. SHARPLESS 50

6 Certificate of Reporter 89

7

8

9

10 E X H I B I T S

11 Marked for Identification:

12 1. 1/14/03 Letter from T. Heyward 7
13 Carter to Howell Morrison

14 2. 9/24/08 T. Heyward Carter 21
15 Deposition Transcript
(Not produced)

16 3. 1/5/01 Handwritten Notes 27

17 4. 11/25/02 Letter from T. Heyward 86
18 Carter to Dan and Tom Stevenson

19

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Case #: 07-10-1437
Filed: 10-9-07

STATE OF SOUTH CAROLINA)
)
)
)
COUNTY OF CHARLESTON)

LAST WILL AND TESTAMENT
OF
JACQUELIN K. STEVENSON

I, JACQUELIN K. STEVENSON, a resident of the County of Charleston and State of South Carolina, and a citizen of the United States, do make, publish and declare this as and for my Last Will and Testament, hereby revoking any and all former Wills and Codicils by me at any time heretofore made.

My children are KATHLEEN S. TURNER, JACQUELIN S. BENNETT, THOMAS C. STEVENSON, III, and DANIEL R. STEVENSON (the children of my marriage to my late husband Thomas C. Stevenson, Jr.), and JAMES KELLY KING. GENEVIVE S. FELDER is my step-daughter, being the child of my said late husband THOMAS C. STEVENSON, JR.

ARTICLE 1

Appointment of Fiduciaries

Personal Representative. I appoint my daughter, KATHLEEN S. TURNER, and my son, THOMAS C. STEVENSON, III, as my Co-Personal Representatives, with the survivor of them as sole Personal Representative.

ARTICLE 2

Payment of Enforceable Claims

2.1 Direction as to Legally Enforceable Claims. Except as may specifically be provided otherwise in this Will, I direct that all of my legally enforceable debts of a current nature, expenses incurred in the administration of my estate, and funeral and burial expenses (including the expenses of my last illness), including the cost of a suitable memorial, be paid out of my residuary estate. With respect to long term notes and debts secured by mortgages on or security interests in specific property, my Personal Representatives, during the administration of my estate, shall pay such installments as they come due out of my residuary estate, and any such

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LAST WILL AND TESTAMENT OF JACQUELIN K. STEVENSON

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Test: A True Copy

Deputy Clerk Probate Court
Charleston County, South Carolina

property shall be distributed by my Personal Representatives subject to such debt. My Personal Representatives may continue, renew, and/or refinance any indebtedness upon such terms and with such security for its repayment as they deem advisable.

ARTICLE 3

Gift of Pecuniary Amounts and Personal Property

3.1 Disposition by Memorandum. I may leave a list in my handwriting, or signed by me, directing the distribution of specific items of personal property to named individuals as specified in said list. If no such written list is found or identified by my Personal Representative within ninety (90) days after my Personal Representative's qualification, it shall be conclusively presumed that there is no such list and any subsequently discovered list shall be ineffective. It is my direction that my Personal Representative follow my instructions as specified in any such list in the distribution of said articles of personal property.

3.2 Conflicts. Should there be a conflict as to the disposition of any specific item or article between any memorandum I have left and a specific gift of such property under this Will, I direct that the list or memorandum which I may have left shall control such disposition over any specific gift provisions of this Will.

3.3 Remaining Personal Property. I give, devise and bequeath all tangible personal property not effectively disposed of by memorandum, or by specific gift under this Will, including furniture, furnishings, silver, books and pictures (but not including securities, cash on hand or on deposit, and other personal property relating to investments) which I may own at my death, and all policies of insurance relating to such property, in shares of substantially equal value, to such of KATHLEEN S. TURNER, JACQUELIN S. BENNETT, THOMAS C. STEVENSON, III, DANIEL R. STEVENSON, and GENEVIVE S. FELDER, as shall survive me, to be divided among them in such manner as they shall agree. If, and to the extent that they do not unanimously agree as to the division and distribution of my said property, I direct that they shall choose said property by a system of drawing lots. It is my suggestion and my request that they divide such personal property among themselves in the following manner, if and to the extent that they are unable to agree on its fair distribution:

3.3.1 Choosing by Lots. The order in which they shall be allowed to choose among such items shall be determined by lot. The child with the highest order of priority

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shall choose first; the child with the next highest order of priority shall choose next, and so on. The child choosing first shall be allowed to choose any object (so long as its value does not exceed the value of such child's then existing share of personal property to pass to such child hereunder) and the value of such object as finally determined for federal estate tax purposes shall be deducted from the value of such child's share at such time. Each child shall so be allowed to choose in order of priority. After every child has so chosen, each shall be allowed to choose again in the same order of priority until the value of each child's share has been expended or exhausted.

3.3.2 Participation. I specifically direct that during the division and distribution of the remainder of my personal property as provided in this Article, §3.3 no grandchild of mine shall be present, nor shall there be present any spouse or in-law of any child of mine.

3.4 Packing and Shipping Expenses. I direct that all costs and expenses, including the expense of packing, shipping, insuring and transporting, incurred by the delivery of the bequests made in this Article shall be borne by my Personal Representative as an expense of administration and shall not be charged against any of said devises.

ARTICLE 4

Specific Bequests and Devises

4.1 James Kelly King. I give, devise and bequeath the sum of FOUR HUNDRED THOUSAND DOLLARS, (\$400,000.00) to my son, JAMES KELLY KING, if he survives me; provided, however, if my said son does not survive me said amount shall pass as part of my residuary estate hereunder.

4.2 Kathleen S. Turner and Jacquelin S. Bennett I give, devise and bequeath any and all interest which I may own at my death in that real property and improvements which constitute my home at 2414 Rockland Avenue, in the town of Rockville, Wadmalaw Island, Charleston County, South Carolina lots 4 and 4A, (currently designated as TMS # 150-00-00-051), and all furniture and furnishings therein, and all policies of insurance thereon, to my daughters Kathleen S. Turner and Jacquelin S. Bennett in equal shares, per stirpes. It is my intent by this bequest to give my daughters Kathleen and Jacquelin all interests I own at my death in my Rockville house and the lots on which it is situate and which are a part thereof.

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4.3 Daniel R. Stevenson and Thomas C. Stevenson, III I give, devise and bequeath any and all interest which I may own at my death in that real property and improvements which constitute my home located at Lake Summit, Henderson County, North Carolina, known as Lots #34, 35, 36, and 37, Lakefront Drive (Map No. 9585.13-03), and all furniture and furnishings located therein, and all policies of insurance thereon, owned by me at my death, to my sons Daniel R. Stevenson and Thomas C. Stevenson, III, in equal shares per stirpes. It is my intent by this devise to give my sons Dan and Tom all interests I own at my death in "the Lake House" and the lots on which it is situate and which are a part thereof.

4.4 Genevive S. Felder. I bequeath the sum of Four Hundred Thousand Dollars (\$400,000.00) to my step-daughter, Genevive S. Felder; provided, however, that if said Genevive S. Felder does not survive me, I give and bequeath said sum to her issue, per stirpes; provided, further, that if neither said Genevive S. Felder nor any of her issue survive me, said amount shall pass as part of my residuary estate hereunder.

ARTICLE 5

Residuary Estate

All the rest, residue and remainder of my property and estate, real and personal, of whatsoever nature and wheresoever situate, including any property before mentioned but not effectively disposed of, and specifically including the principal and undistributed income of the Jacquelin K. Stevenson Marital Trust established under Article VII of the Last Will and Testament of my late husband, Thomas C. Stevenson, Jr., dated February 5, 1985, and as to which I possess a General Power of Appointment (my "Residuary Estate"), I give, devise and bequeath to Kathleen S. Turner, Jacquelin S. Bennett, Thomas C. Stevenson, III, Daniel R. Stevenson, James Kelly King, and Genevive S. Felder, in equal shares, per stirpes and not per capita. I have previously loaned to my said son Dan the amount of One Hundred Thousand Dollars (\$100,000.00) on a stock margin account, and to my son Tom the amount of Seventy-Nine Thousand Six Hundred One and 38/100 Dollars (\$79,601.38) as evidenced by a Promissory Note from Tom dated as of November 1, 1993. I direct that such amount of (i) said One Hundred Thousand Dollars (\$100,000.00) principal as has not been repaid to me by Dan at the time of my death, plus all interest thereon which has not been paid by Dan, and of (ii) said Seventy-Nine Thousand Six Hundred One and 38/100 Dollars (\$79,601.38) principal as has not been repaid to me by Tom at the time of my death, plus all interest thereon which has not been paid by Tom,

shall be deducted from their respective shares hereunder, and re-distributed equally among the said beneficiaries of my residuary estate, including Dan and Tom.

ARTICLE 6

Disabled Persons' Property

6.1 **Title To Property Vested.** Whenever under this Will any property is to be distributed to a person under a disability (the "disabled person"), title to that property shall vest in the disabled person, but payment may be deferred and held by my Personal Representatives, who shall apply so much or all or none of the principal and income as they may determine, in the exercise of their sole and absolute discretion (without regard to the other income or other resources of the disabled person), for the disabled person's comfort and welfare. When the disability ceases, my Personal Representatives shall deliver the property and any accumulated income to the disabled person or to his or her legal representatives. Any income accumulated by my Personal Representatives shall be added to and accounted for as part of the principal.

6.2 **Distributions for Disabled Person's Benefit** My Fiduciaries may, at any time and from time to time, in the exercise of their sole and absolute discretion, distribute all or a portion of the property to the disabled person's parent, guardian, or custodian under the applicable state Uniform Gifts to Minors Act, committee, conservator, or to an individual with whom the disabled person resides. The receipt of the distributee shall constitute a full and sufficient discharge to my Fiduciaries. The powers granted to my Fiduciaries in this Will shall be applicable to any property dealt within this Article.

ARTICLE 7

Payment of Transfer and Death Taxes

Appointment I direct that all estate and inheritance taxes assessed with respect to my estate herein disposed of, or any part thereof, or on any bequest or devise contained in this my Last Will and Testament (which term wherever used herein shall include any and all codicils hereto) or on any insurance upon my life, or on any jointly owned property, or any other property, transfers or interests included in my Gross Estate (as that term is defined in Section 2031 of the Internal Revenue Code of 1986, as amended or any successor thereto), be apportioned among all probate as well as non-probate interests which are included in my Gross Estate for the purpose of calculating the taxes payable upon my death. The apportionment shall be based ratably upon the values at which such interests or properties are valued in my Gross

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LAST WILL AND TESTAMENT OF JACQUELIN K. STEVENSON

STEVENSON ESTATE
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Estate as finally determined for federal estate tax purposes. However, such apportionment shall not apply to any and all interests which qualify for the federal estate tax charitable deduction. So far as practicable my Co-Personal Representative shall deduct the amount of such taxes allocable to each beneficiary from the amount distributable to such beneficiary, and shall recover from all others for the benefit of my estate their allocable parts of such taxes.

7.1 Exercise of Tax Elections.

7.1.1 In General. In determining the estate tax and other transfer tax liability, and the income tax liability, related to my estate, the decision of my Personal Representatives as to all available tax elections (including but not limited to the election whether to deduct certain administration expenses for income tax or for estate tax purposes) shall be conclusive on all persons concerned. My Personal Representatives shall be under no liability to any person as a result of the election made. In addition, no compensating adjustments between principal and income or in the amount of any gift under this Will shall be made as a result of any such election made by my Personal Representatives, nor shall any person be entitled to a right of reimbursement with respect to the economic consequences of any such election.

ARTICLE 8

Removal, Appointment and Succession of Fiduciaries

8.1 Resignation Procedure. Any Personal Representative may resign at any time by written notice to another then acting Co-Personal Representative (if there is one) or to the then beneficiary or one of the then beneficiaries of my Estate, setting forth the effective time and date of such resignation on or before such effective time.

8.2 Appointment of Successor Personal Representatives and Co-Personal Representatives. Subject to the provisions of Article I, hereof, any Personal Representative (including any substitute or successor Personal Representative) shall have the right at any time after qualifying as Personal Representative to appoint a successor Personal Representative to act in the place of the appointing Personal Representative, either immediately or in the future upon any stated contingency. Any such appointment may be changed from time to time prior to the date it becomes effective. If any initial Personal Representative or any such successor, for any reason, fails or ceases to act without having appointed a Personal Representative who succeeds the former Personal Representative, any remaining Personal Representative may appoint another

Personal Representative to act in the former Personal Representative's place.

8.3 Termination of Fiduciary Powers. An outgoing Fiduciary, upon the effective date of removal, resignation, or incapacity, shall cease to have any powers or discretion hereunder. At the earliest possible date after a Fiduciary ceases for any reason to be a Fiduciary hereunder, there shall be delivered to such Fiduciary's successor or to another then acting Fiduciary hereunder all of the assets which were in the possession of such Fiduciary and there shall be made available to each successor Fiduciary a complete financial record and inventory of assets affected thereby. With respect to any properties thus transferred by the outgoing Fiduciary or by such Fiduciary's representative, such Fiduciary shall stand and be discharged of all further duties and obligations.

8.4 Successor Fiduciary Powers and Authority. Each successor Fiduciary, upon assumption of such position, shall have the same powers, rights, discretion, duties, and obligations as the predecessor Fiduciary. Title to the entire property (of the Trust or otherwise) shall automatically vest in any successor Fiduciary without the necessity of any conveyance. The assumption of authority by a successor Fiduciary shall not be complete until such successor executes a written acceptance of such appointment showing the authority for such succession (a copy of which shall promptly be delivered personally or sent by certified mail to the outgoing Fiduciary or to such Fiduciary's legal representative).

8.5 Exoneration from Liability for Acts of Prior Fiduciaries. Each successor Fiduciary shall be exempt from any liability in any way related to the prior actions or omissions of the Fiduciaries hereunder and each shall be entitled to accept as conclusive any accountings and statement of assets furnished by any predecessor Fiduciary.

ARTICLE 9

Fiduciary Provisions

9.1 Unanimity Requirements and Exceptions. All powers and discretions conferred by law or by this Will upon the Fiduciaries, including, without limitation, the right to appoint additional or successor Fiduciaries, must be exercised by the unanimous vote of the Personal Representatives in office from time to time (excepting the vote of any Personal Representative who is also a beneficiary who is ineligible to participate in the exercise of the power or discretion because he or she, as a beneficiary, may be affected by the exercise of such power or discretion).

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LAST WILL AND TESTAMENT OF JACQUELIN K. STEVENSON

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9.2 Fiduciary Compensation. For their services as Fiduciaries, the Fiduciaries are entitled to receive an amount which is reasonable for the services rendered at the time services are rendered. At any time there are multiple Fiduciaries serving, the Fiduciaries, collectively, shall share such fee. If there shall be a corporate Fiduciary serving as Fiduciary, the corporate Fiduciary shall be entitled to reasonable compensation for the services rendered, but in no event shall such compensation be more than an amount which is competitively determined to be reasonable for the services rendered among organizations providing similar such services.

9.3 Inventory; Appraisals; Bond. Except as otherwise required by law, my Personal Representatives shall not be required to file any inventory or appraisal or any annual or other returns or reports to any court or to give bond in any jurisdiction, but shall furnish a statement of receipts and disbursements and an investment review of the assets of the Estate at least annually to each person then entitled to income from my Estate.

9.4 Notice. Any notice or other instrument required or permitted to be given, made, executed, or delivered hereunder shall be in writing duly signed by (or, where permitted hereunder, in behalf of) the party or parties giving, making, or executing the same and shall be physically delivered or sent by certified or express mail (or equivalent postal or private express service) to all parties, if any, entitled thereto (when so sent, such notice or communication shall be plainly addressed to such person at such person's last known address). Any such instrument required to be given or sent to the estate of any deceased or incapacitated person shall be physically delivered or sent, in like manner, to the personal representative (or one of the personal representatives) of such person at such representative's last known address or, if there be no such personal representative known to the sender, to the estate of such person at his or her last known address.

If any instrument is sent by mail (or express service) as provided above, the third day following the date of its receipt by the postal service (or such express service), as evidenced by a dated postal (or express) service receipt showing the addressee's name and proper address (as described above), shall be deemed to be the effective date of delivery of the notice or other communication contained in such instrument. In all other cases, the date of actual physical delivery shall be the effective date of delivery and, except as such instrument may specifically provide for a later effective date, it shall be effective for all purposes from such date.

Copies of all instruments of amendment, revocation, exercise of power, designation, release, disclaimer, etc., as well as of trustee resignation, removal, appointment, and/or acceptance, the original of which shall be attached hereto, shall, upon request, be promptly delivered or sent by mail by the Trustee receiving or initiating the same to each other then interested party (i.e., the other then Trustee or Trustees, if any, of the affected Trust or Trusts, and each present beneficiary of the affected Trust or Trusts).

9.5 Notice to Disabled Parties. If a person under a disability is a party to any legal proceeding relating in any manner to any Trust created by this Agreement, service of process upon the disabled person shall not be required if another individual, not under a disability, is a party to the proceeding and has the same interest as the disabled person.

9.6 Fiduciaries Protected. Each Fiduciary shall be fully protected for any action taken in good faith, in accordance with the advice of counsel, or in reliance thereon. No Fiduciary acting hereunder shall be responsible for the act, default or omission of any other Fiduciary, nor for the default or misconduct of any agent or attorney appointed by the Fiduciary, or any of them, except that any corporate Fiduciary shall be liable for the default or misconduct of its own agents, officers, or employees. Each Fiduciary shall be liable only for his, her or its own willful misconduct or gross negligence.

ARTICLE 10

Fiduciary Powers

In the administration of the Estate and of any Trusts established under this Will, my Personal Representatives shall have all the powers granted by law, including but not limited to the powers granted to Personal Representatives by S. C. Code Section 62-3-715, and to Trustees by the Uniform Trustee Powers Act (S. C. Code Section 62-7-701, et. seq.), which powers shall not be revoked or reduced if said statutes should hereafter be repealed or restrictively amended. It is my intention in specifying the following powers to give broad discretion and flexibility to my Personal Representative and my Trustees. Without limiting the foregoing, my Personal Representatives shall have the following powers:

10.1 Determinations. To determine what property is covered by general descriptions in this Will.

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- 10.2 **Payment of Expenses.** To pay all debts and funeral and burial expenses (including the expenses of my last illness, which I direct shall be paid out of my estate) as soon as the convenience of my estate will permit and without regard to any limitation in applicable laws as to the amount of such expenses, and to pay or deliver any legacy without waiting the time prescribed by law.
- 10.3 **Investments and Reinvestments.** To invest or reinvest in such securities or other property, real or personal (whether within or without the United States), and to retain any property received by them for such periods as they determine, including specifically retention of, or investment in, assets which may be for the use of the beneficiary or beneficiaries of any such Trust, even though such asset or assets may not be of a character, or of such a percentage of the total Trust, as would otherwise be deemed proper Trust investments. I request that my Trustees honor the wishes of the Trust beneficiaries as to the disposition or retention of any original property of the Trust, or any Trust asset which is of a personal use nature, unless the Trustees determine that such wishes are clearly in contradiction to the purposes and terms of any such Trust.
- 10.4 **Borrowing.** To borrow such sums, on a secured or unsecured basis, from any source (including themselves), for such period and upon such terms as they deem necessary or convenient in the administration of my estate or of such Trust, and to secure any such loan by mortgage or pledge. No lender shall be bound to see to or be liable for the application of the proceeds, and no Personal Representative or Trustee shall be personally liable, and each such loan shall be payable only out of assets of my estate or the Trust.
- 10.5 **Rental of House.** To rent my house at 58 Meeting Street during the period of the administration of my estate to such tenant and for and upon such rental, term and conditions as my Personal Representatives shall deem advisable and reasonable, but without any duty to rent same.
- 10.6 **Distributions.** Without the consent of any beneficiary, to make distributions (including the satisfaction of any pecuniary bequest) in cash or in specific property, real or personal, or an undivided interest, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property allocated to any beneficiary (including any Trust) and without making pro-rata distributions of specific assets.
- 10.7 **Exoneration from Liability.** My Fiduciaries shall not be personally liable to any beneficiary of my Will or of any trust created under my Will, or to any other party interested in my estate or any trust created under my Will, for any claim against my estate or trust for the diminution in value of estate or trust property arising from the compliance by my Fiduciaries with any federal, state, or local law, rule, or regulation including (1) the reporting of, or other response to the contamination

of estate or trust property by substances or materials prohibited or regulated by federal, state, or local law or that are known to pose a hazard to the environment or to human health, (2) the reporting of or other response to violations of any federal, state, or local law or that are known to pose a hazard to the environment or human health, or (3) other matters relating to environmental laws.

- 10.8 **Limitations.** Notwithstanding the foregoing, nothing in this Will shall be construed as permitting a beneficiary who may also be a Trustee of any Trust created hereunder to exercise any rights or powers which may be in excess of any limitations imposed by law or elsewhere in this Will upon the exercise of such powers (such as, for example, those limited by ascertainable standards, or otherwise prohibited to such Trustee).

ARTICLE 11

Definitions

11.1 **Personal Representative, Trustee, Fiduciary.** Whenever the word "Executor", "Trustee", "Fiduciary", and/or "Personal Representative", or any modifying or substituted pronouns therefor are used in this my Will, such words and respective pronouns shall be held and taken to include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the executor, personal representative, fiduciary, or trustee named herein and to any successor or substitute executor, fiduciary, trustee or personal representative acting hereunder, and such successor or substitute shall possess all the rights, powers and duties and the authority and responsibility conferred upon my executor, fiduciary, trustee and/or personal representative originally named herein.

11.2 **Children, Issue, etc.** The terms "children", "issue", "descendant", or words of similar import shall include only children born of the lawful marriage of such child's parents and legally adopted children or their issue, as the case may be (provided the adoption occurs before the adopted person attains the age of fourteen (14) years).

11.3 **Disabled Person.** A "disabled person" is a minor or a person who is deemed by my Trustees, in the exercise of their sole and absolute discretion, to be physically or mentally incapable of managing his or her affairs although a judicial declaration of the incapacity may not have been made.

11.4 **"Per Stirpes".** The term "per stirpes" as used herein is intended to describe the

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LAST WILL AND TESTAMENT OF JACQUELIN K. STEVENSON

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division of shares at each generation regardless of whether there is surviving issue representing that generation. The term "per stirpes" with reference to the issue of any individual shall mean that the stock begin with the children of such individual and that no distribution at any generational level shall be "per capita". If no issue representing a generation are surviving, the number of shares for that generation shall equal the number of predeceased issue of that generation leaving surviving issue. If issue representing a generation are surviving, the number of shares for that generation shall equal the number of issue of that generation surviving, plus the number of predeceased issue of that generation leaving surviving issue.

ARTICLE 12

Survivorship

No person hereinabove named or described in this Will shall be deemed to have survived me unless he or she is living on the thirtieth (30th) day after the day of my death.

ARTICLE 13

Headings

The article and section headings used in this Last Will and Testament are for convenience only and are not to be considered as part of this Last Will and Testament.

EXECUTION

IN WITNESS WHEREOF, I, JACQUELIN K. STEVENSON, the Testatrix, sign my name to this instrument this 21 day of October, 1996, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

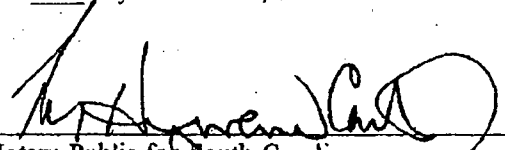
Jacquelin K. Stevenson (SEAL)
JACQUELIN K. STEVENSON

We, T. HEYWARD CARTER, JR. and NOREEN S. HOLDER
the witnesses, sign our names to this instrument, and at least one of us, being first duly sworn, does hereby declare generally and to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and that she signs it willingly and that each of us, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix' signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

T. Heyward Carter, Jr.
Noreen S. Holder

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Subscribed, sworn to and acknowledged before me by JACQUELIN K. STEVENSON the
Testatrix and subscribed and sworn to before me by NOREEN S. HOLDER witness,
this 21 day of October, 1996.


_____(SEAL)
Notary Public for South Carolina
My Commission Expires: 2/26/2000

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Roger M. Young
Case No. 2011-CP-10-400

Jacquelin S. Bennett, Genevieve S. Felder and Kathleen S. Turner, individually,
as Co-Trustees and beneficiaries of the Marital Trust and the Qualified
Terminable Interest Trust created by the Thomas Stevenson Will, and
Jacquelin S. Bennett, and Kathleen S. Turner, as Co-Personal Representatives
on behalf of the Estate of Jacquelin K. Stevenson,

Appellants,

v.

T. Heyward Carter, Jr.; Evans, Carter; Kunes & Bennett, P.A.; Douglas Capital
Management, Inc.; Dixon-Hughes f/k/a Pratt-Thomas Gumb & Co., P.A.; and
Lynne L. Kerrison.

Defendants,

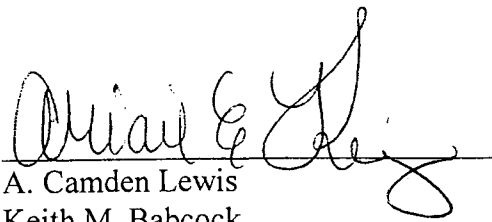
Of Whom

Dixon-Hughes f/k/a Pratt-Thomas Gumb & Co., P.A.; and
Lynne L. Kerrison are

Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Supplemental Record on Appeal contains all material
proposed to included by any of the parties and not any other material, and that Appellant has
complied with the August 13, 2007 Order of the Supreme Court on Personal Data Identifiers.



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Columbia, SC

April 16, 2014

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Circuit Court

The Honorable Roger M. Young
Case No. 2011-CP-10-400

Jacquelin S. Bennett, Genevieve S. Felder and Kathleen S. Turner, individually,
as Co-Trustees and beneficiaries of the Marital Trust and the Qualified
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Management, Inc.; Dixon-Hughes f/k/a Pratt-Thomas Gumb & Co., P.A.; and
Lynne L. Kerrison,

Defendants,

Of Whom

Dixon-Hughes f/k/a Pratt-Thomas Gumb & Co., P.A.; and
Lynne L. Kerrison are

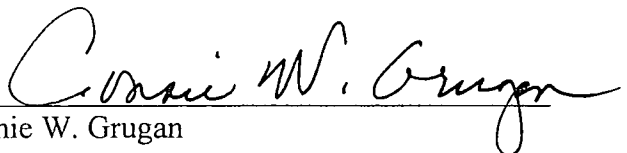
Respondents.

PROOF OF SERVICE

I, Connie W. Grugan, secretary to the law firm of Lewis, Babcock & Griffin, L.L.P., hereby
certify that I have served a **Supplemental Record on Appeal** upon opposing counsel, by mailing
a copy of same, postage prepaid and return address clearly indicated on said envelope, to said
opposing counsel at the following addresses:

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M. Dawes Cooke, Jr., Esquire
Barnwell Whaley Patterson & Helms, LLC
Post Office Drawer H
Charleston, South Carolina 29402



Connie W. Grugan

This 17th day of April, 2014.