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STATE OF SOUTH CAROLINA  
  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

-----x  
LEONARD R. JORDAN, JR., )  
as Personal )  
Representative of the )  
Estate of Lil B. Jordan, )  
Plaintiff, )  
vs. )  
MARIAN J. KIRK and LUCY )  
J. FULLER, )  
Defendants. )  
-----x

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**Apr 16 2021**  
**SC Court of Appeals**

Transcript of Record  
2018-CP-40-00726

August 20, 2019

TRIAL - VOLUME 1

**B E F O R E:**

The Honorable Jocelyn Newman, Presiding Judge

**A P P E A R A N C E S:**

Mr. Anderson, Esq.  
Attorney for the Plaintiff

Stephen M. Cox, Esq.  
Attorney for the Defendants

Court Reporter: Bonnie Kelly (Retired)  
Transcriber: Bobbi Fisher, RPR, CET

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## P R O C E E D I N G S

1  
2 (Whereupon, the following proceedings commenced as follows:)

3 THE COURT: The first thing is our court reporter, Bonnie  
4 Kelly, tells me that she knows Ms. Fuller -- Lucy Fuller;  
5 that, at some point, used to socialize probably three to five  
6 years ago, and she mentioned a child named Carson, who is  
7 four. I don't know what that has to do with anything, but in  
8 trying to gauge how long it was, she said, Well, Carson's  
9 four, so it must have been within, you know, three to five  
10 years. So I don't know whose child Carson is.

11 MS. FULLER: What's the name?

12 THE COURT: Bonnie Kelly. Something about showers --  
13 bridal showers, baby showers. I don't know. Anyway --

14 COURT REPORTER: Baby.

15 THE COURT: Baby showers. Right. And she would have  
16 made seen you at a baby shower, spent some time socializing  
17 and chatting, but doesn't know you well and it's been a while.  
18 I just wanted to mention that in case it matters to anyone.

19 Are we good to go?

20 MR. ANDERSON: Yes, ma'am.

21 THE COURT: Okay. Then as soon as I get my laptop  
22 plugged in -- are y'all ready to start? Exhibits marked and  
23 everything?

24 MR. ANDERSON: Yes, ma'am.

25 THE COURT: I'll go around this way.

DIRECT EXAMINATION

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BY MR. ANDERSON:

Q Mr. Jordan, you're here in what capacity?

A I am the personal representative of the estate of Lil B. Jordan, deceased.

Q And that's your mother?

A That is correct.

Q And these are your two sisters.

A Correct.

Q Just so the judge understands, what's the pecking order age-wise?

A Well, I would be the older -- oldest child, and Lucy, over to the left over there, would be the second middle child, and Mary would be the younger.

Q All right. All three of you born and raised in Columbia, South Carolina?

A That's correct, yes, sir.

Q And all three of you still live in Columbia?

A We do.

Q Okay. Your mother and father were who?

A Leonard R. Jordan and Lil B. Jordan.

Q Okay. And they're both passed away?

A Both passed away.

Q And who died first?

A My father died in January of 1997. My mother died in

1 June -- June 5th of 2012.

2 Q And prior to her death, was she able to take care of  
3 herself in her own up to a certain time?

4 A Well, up to a certain time she was. She was ultimately  
5 moved to Laurel Crest, where she stayed for a number of years,  
6 and then moved to Agape on Kathwood, and she stayed there a  
7 couple of years before her death.

8 Q All right. When did she become incapacitated that she  
9 could not take care of her own affairs?

10 A Well, it became obvious that it was coming on, and maybe  
11 by December of 2005, I think the three of us had agreed that  
12 that was probably a good date to pick as far as her mental  
13 incapacity went, and it was time to, you know, make  
14 arrangements for her to go move somewhere else.

15 Q About seven years before she passed away?

16 A Six and a half years.

17 Q Six and a half years. Okay.

18 Of the three of you, did one of you assist your mother  
19 with her financial affairs?

20 A Yes. Marion did most of that, handling the checkbook and  
21 writing checks.

22 Q Okay. And as far as you know, what assets did your  
23 mother possess at the time she became incapable of managing  
24 her affairs?

25 A Okay. Well, she had inherited -- well, this goes back to

1 you know, assister, you know, nurse type, you know, to help  
2 her do various things.

3 Q Did your mother have an extended care insurance policy?

4 A She did. Both she and my father had a Bankers Life  
5 long-term care policy.

6 Q And tell me how that kicks in.

7 A Well, in theses policies, they are generally five, six,  
8 or seven different, you know, factors that come into play, and  
9 you have to meet three of the five or six or whatever it is.  
10 You know, inability to feed yourself, inability to toilet,  
11 inability to change clothes, you know, various things. If you  
12 check off three out of the list, then you qualify for the  
13 money. And the money in this particular case was \$80 a day.  
14 It worked out to -- between \$2400 and \$2480 per month.

15 Q And that depends on how many days in the month.

16 A That's right.

17 Q Okay. And when did that insurance policy kick in to  
18 begin paying out \$2480?

19 A Well, it was sometime in 2008, and I had found a letter  
20 in my files that indicated April of 2008, they started paying  
21 based on an 80 percent of the total amount of insurance  
22 proceeds based on the fact I guess they felt like she was  
23 close to qualifying or questionable whether or not she was  
24 actually qualified or whether or not actually Laurel Crest  
25 would provide those things for her or something. But the

1 decision was made that they would pay the money but only 80  
2 percent of the proceeds, initially. And then it moved to the  
3 100 percent.

4 Q Okay. How exactly would the money come from Bankers Life  
5 to the benefit of your mother?

6 A Okay. In this -- this is something that Mary was the  
7 point person on. You know, I was involved to some extent  
8 getting it started, but Mary was the point person on a monthly  
9 basis, but she would have to complete a form and submit this  
10 form every month to provide assurance that my mother was still  
11 alive basically. And based on that, Bankers Life got -- they  
12 would write checks, and the check was payable to Lil B. Jordan  
13 and sent to Marian.

14 Q All right. What would happen to the checks?

15 A Well, of course that was something I only learned in the  
16 past couple of years when the checks were deposited into three  
17 different bank accounts that were in the name of Lil B.  
18 Jordan. And these deposits were made by Marian and just, I  
19 guess, no rhyme or reason that they were put in one or the  
20 other, at least initially.

21 Q When your mother was still taking care of her own  
22 affairs, did she have, for lack of a better word, a household  
23 account?

24 A Well, she had a bank account. I mean, I knew about the  
25 bank account. It was a bank account that, in fact, I had

1 signature authority on as her attorney-in-fact. She signed a  
2 Power of Attorney years earlier. I think it was, like, 1977.  
3 So, you know, that was in place, and I was named as the  
4 attorney-in-fact.

5 In that capacity, I applied to the bank to have signature  
6 authority over this particular account. And I called the  
7 account the 1206 account, which was really, at the time, the  
8 only account I had knowledge of. And that account, I wrote  
9 checks on sometimes. Marian was the primary check-writer and  
10 primarily maintained the bank accounts, you know, for  
11 instance, reconciling the bank accounts and that type of thing  
12 because the statements went to her.

13 Q All right. Was the social security check that your  
14 mother was receiving directly deposited into that account?

15 A That's the way it looks.

16 Q When Bankers Life began paying 80 percent of the policy  
17 amount and then 100 percent of the policy amount, what was  
18 your understanding or what did you believe was being done with  
19 the Bankers Life money?

20 A Well, it was sort of my belief that it was being  
21 deposited into the one account and I was aware of it.

22 Q The one that ends in the last four digits --

23 A 1206.

24 Q -- 1206. Okay. All right.

25 Your mother passed away when?

1 A June 5 of 2012.

2 Q Let me show you this document that's been previously  
3 introduced as Plaintiff's Exhibit No. 6.

4 A That's a true copy of the Last Will and Testament of Lil  
5 Boware (ph) Jordan.

6 Q All right.

7 A Except it says "Boware (ph)." I'm sure my sisters would  
8 bring that up. I'm kind of used to calling her Boware because  
9 people are always asking me about how to pronounce it.

10 Q Did you draw it?

11 A I probably did. I don't recall for sure, but I probably  
12 did.

13 Q And how is the estate -- your mother's estate to be  
14 divided?

15 A It was going to be divided among three children equally.

16 MR. ANDERSON: Mr. Cox, I think I'll go ahead and put  
17 this in.

18 MR. COX: That's the Will and Testament? No objection.

19 THE COURT: All right. That's Plaintiff's 1 admitted  
20 without objection.

21 MR. ANDERSON: It's Plaintiff's 6.

22 THE COURT: 6. Sorry.

23 MR. ANDERSON: I have got them out of order somehow.

24 THE COURT: I'm sorry. Plaintiff's 6.

25 (Plaintiff's Exhibit No. 6 was premarked for

1 identification and received into evidence.)

2 BY MR. ANDERSON:

3 Q And who was appointed as the personal representative of  
4 your mother's estate?

5 A I was.

6 Q And in that capacity, what did you do?

7 A Well, I -- obviously, my job was to file the forms that  
8 the probate court required me to do, and this necessitated,  
9 you know, doing some investigating of the estate and, you  
10 know -- but to start with, we filed a petition to have the  
11 will accepted as a proper evidence of disposition of the  
12 estate.

13 Q And that's Plaintiff's Exhibit No. 3. What's the date of  
14 that?

15 A This is the -- this is an application for an informal  
16 probate of a will and appointment, and it is dated -- and  
17 signed by me -- dated October 24th of 2012.

18 Q And when was it filed?

19 A It was filed on October 29, 2012.

20 MR. ANDERSON: Mr. Cox?

21 MR. COX: (Indiscernible). That's fine. No objection.

22 THE COURT: Plaintiff's 3 is admitted without objection.

23 (Plaintiff's Exhibit No. 3 was premarked for  
24 identification and received into evidence.)

25 BY MR. ANDERSON:

1 Q And were you appointed by the Court as the personal  
2 representative?

3 A Back in 2012, yes, I was.

4 Q Do you recognize that document?

5 A That's the document dated October 29, 2012.

6 MR. ANDERSON: Plaintiff's 4, Your Honor.

7 MR. COX: No objection.

8 THE COURT: Plaintiff's 4 is admitted without objection.

9 (Plaintiff's Exhibit No. 4 was premarked for  
10 identification and received into evidence.)

11 BY MR. ANDERSON:

12 Q As one of your duties, Mr. Jordan, with regard to your  
13 mother's estate, did you have to prepare and file what's  
14 called an inventory and appraisal?

15 A I did.

16 MR. ANDERSON: Your Honor, that's been marked as a  
17 defendant's exhibit, and I think that we can go ahead and make  
18 that a joint exhibit.

19 MR. COX: That's fine. It's Defense 3, Your Honor, and I  
20 will hand -- saving time, Mr. Anderson, if you don't mind --

21 THE COURT: Let's pause here for y'all to look at each  
22 other's exhibits. Have y'all done that? Because maybe you  
23 can stipulate to the introduction of --

24 MR. COX: I have shown him ours. I don't know that I  
25 have seen all of yours.

1 MR. ANDERSON: I think they have all been looked at by  
2 discovery.

3 THE COURT: Right. But that he sees what has been marked  
4 here, because maybe you can just stipulate to their  
5 admissibility.

6 MR. COX: I'll be happy to take a quick look at them.

7 THE COURT: And that way, y'all don't have to run back  
8 and forth across the courtroom looking at each other's.

9 MR. COX: I know Mr. Anderson has seen ours.

10 So, Mr. Anderson, I have some working copies for the  
11 Court.

12 THE COURT: Oh, perfect. Thank you.

13 MR. COX: And I'll just leave ours up here on this table.

14 (A discussion was held off the record between counsel.)

15 THE COURT: What are those numbers?

16 MR. ANDERSON: We did not number the inventory. We need  
17 to do that.

18 MR. COX: That's Defense 3. We have agreed on Defense 3.

19 MR. ANDERSON: Okay. That's Defendant's Exhibit No. 3.

20 THE COURT: Right. What are the two that you just looked  
21 at and agreed are admissible?

22 MR. COX: I just looked at --

23 THE COURT: Or three.

24 MR. COX: -- appointments to -- what's that,

25 Mr. Anderson? Which number is that?

1 MR. ANDERSON: I haven't numbered it yet.

2 MR. COX: You haven't numbered it yet?

3 MR. ANDERSON: No. Plaintiff's 5.

4 MR. COX: Plaintiff's 5. I think it was it. Anything  
5 else?

6 MR. ANDERSON: That's it for this.

7 COURT REPORTER: Plaintiff's 1 and 2. Did you show him 1  
8 and 2?

9 MR. ANDERSON: 1 and 2 were the -- they were required for  
10 the counterclaim, but you said you already saw them in the  
11 file.

12 THE COURT: Oh, I did? So you're not introducing 1 and  
13 2?

14 MR. COX: No.

15 THE COURT: Okay.

16 MR. COX: They're pleadings, so, yeah.

17 THE COURT: So then Plaintiff's 5 and Defendant's 3 are  
18 admitted without objection.

19 MR. COX: Yes, ma'am.

20 THE COURT: Got it.

21 MR. COX: Thank you.

22 (Plaintiff's Exhibit No. 5 and Defendant's Exhibit No. 3  
23 was premarked and received into evidence.)

24 BY MR. ANDERSON:

25 Q Let me show you this one marked as Defendant's Exhibit

1 No. 3. Can you identify that?

2 A This is the inventory appraisal that I issued on January  
3 10, 2013. It was filed on January 11, 2013.

4 Q Was that one of the requirements to the Court under the  
5 terms of your appointment as the personal representative?

6 A That's part of the duties of the personal representative.

7 Q I note that there's two entries on the inventory and  
8 appraisal, and you indicated earlier that your mama had a  
9 house and an interest in a condo. Why are they not shown on  
10 the inventory?

11 A Those items were sold. The house was sold and I think  
12 the condominium sold as well in 2006 and the -- there was an  
13 automobile, and it was sold in 2006 as well. I think 2006.  
14 That's probably all I recognize of the older assets that she  
15 had previously owed and distributed by the time of my mother's  
16 death, all of the proceeds of those.

17 Q All right. So they're not included because those items  
18 have been disposed of and proceeds divided amongst the three  
19 of you?

20 A That's correct.

21 Q Okay. There are two sums. Tell me what sums are shown  
22 on the inventory.

23 A All right. Well, it's indicated on page 2 of the  
24 inventory that \$60,460.84 was under the designation of a  
25 Morgan Stanley/Smith Barney. That would have been a stock

1 brokerage account.

2 Q That's the one you mentioned earlier that your daddy had  
3 set up.

4 A He had set up that account earlier, is my recollection.  
5 And then a second item of \$23,980.82, under the  
6 description Wells Fargo.

7 Q All right. Where did you get those two figures to  
8 include in the interval?

9 A Either late December or early January, I called Marian,  
10 who was in charge of both the Wells Fargo account and the  
11 Smith -- Morgan Stanley account and inquired of her what the  
12 amount of monies that she was holding and controlling under  
13 the bank account and under the bank brokerage account. And I  
14 don't think it was the same day that she told me because I'm  
15 sure she had to investigate it, but she called me back and  
16 gave me the two figures.

17 Q All right. So the bank account -- what bank account did  
18 you believe this to be?

19 A Well, I was only aware of the one account, which was the  
20 1206 account.

21 Q Which was your mother's old account.

22 A That was the old -- yeah, the account she had back in,  
23 you know, I'm assuming before 2005.

24 Q Okay. And the Wells Fargo money, again -- not the Wells  
25 Fargo but the stock brokerage money, that was the one your

1 Q All right. In order to divide it, then, among the three  
2 children, to whom should the accounts have been paid?

3 A I'm not sure I understand your question.

4 Q In order to divide the monies that were represented to  
5 you as assets of the estate --

6 A Mm-hmm.

7 Q -- who would have been responsible for dividing that  
8 money up?

9 A Well, I guess ultimately it would be my responsibility,  
10 and I certainly did not handle this to the fullest extent that  
11 I should have. I did get -- Morgan Stanley went in and  
12 distributed that one-third each to the three siblings. The  
13 other monies were left in Marian's care and control for some  
14 years after that.

15 Q Were you able, ever, to obtain those funds from your  
16 sister to place into the account and to then disburse to the  
17 heirs?

18 A That's why we're here today. I have not received  
19 anything.

20 Q Okay. Within the probate court, did you bring a lawsuit  
21 against your sister Marian in order to resolve the issue of  
22 that Wells Fargo account?

23 A Well, actually, no. I brought a lawsuit in the court of  
24 common pleas --

25 Q All right.

1 A -- personally against Marian. This was in 2016.

2 Q Okay. As a result of that action, you personally against  
3 your sister, did you do any discovery?

4 A We did a lot of discovery in that case, and actually, I  
5 had my deposition taken, so we were back and forth. So, yes,  
6 I learned quite a bit in that lawsuit.

7 Q All right. The monies that you placed on the inventory  
8 as represented by your sister, did you locate those monies?

9 A Well, we started out with written discovery, and I asked  
10 Marian to disclose to me what accounts she handled or  
11 controlled that were also in my mother's name for the period  
12 of 2004 to the present. So that would have been 2004 to 2016.

13 Her response was -- and there were two bank accounts that  
14 she controlled. There was a 1206 account and the account the  
15 account that I called the 1783 account, both of which are in  
16 Wells Fargo. And not coincidentally, both of which had the  
17 precise balance together. The aggregate of those two accounts  
18 had the precise, to the penny, balance that we reported to the  
19 probate court.

20 Q And that would have been the 23 --

21 A 23,980 and change.

22 Q Okay. All right. Did you discover the existence of any  
23 other monies in accounts?

24 A It -- again, I subpoenaed the Wells Fargo bank accounts.  
25 I found out that there were not two accounts, there were four

1 accounts. I think one account is pretty much inconsequential  
2 because it didn't hang around too long, but there were  
3 ultimately still four counts. And then there was three  
4 accounts.

5 And interestingly enough, one of the accounts was really  
6 only open for about a month, and that account I called the  
7 8040 account. And that account had been opened and closed.  
8 And when the -- and the bank statement indicated that there  
9 was a debit to close account and there was a balance of, as I  
10 recall, like 21,000 and change.

11 And I kept inquiring of Marian through discovery  
12 requests, you know, that she, you know, tell me about where  
13 that money went. And the response I got -- that was -- again,  
14 that was late -- probably late 2016 that we're talking about.  
15 And, you know, and I kept getting the response all the way  
16 until about the middle of July 2017 that she doesn't know.  
17 That's all she says: She doesn't know.

18 And then on the 27th of July, 2017, I get an email from  
19 Mr. Cox, her attorney, that says that they have uncovered the  
20 mystery and that this money that I was looking for from the  
21 8040 bank account had been actually disbursed by Marian to  
22 Marian and Lucy to the tune of almost \$11,000 each. And that  
23 was in -- that was in 2014 that they disbursed it.

24 What the interesting thing is that account was opened and  
25 closed in 2010. But keep in mind, my mother died in June of

1 2012. So all this happened before she died, and the money had  
2 gone out of this account -- out of my mother's account into an  
3 account that Marian's name exclusively was on in 2010, and she  
4 held monies for four years and then disbursed the money to  
5 herself and to Lucy in 2014, two years after my mother died.  
6 Of course I had no knowledge whatsoever of any of this until  
7 the July -- end of July 2017.

8 Q Let me make sure that everyone understands this, that the  
9 monies that Marion took out, was that monies that belonged to  
10 your mother?

11 A Everything in the 8040 account was the Bankers Life  
12 insurance money. Not a dime of any other money was ever put  
13 in that account. And that money -- that account was almost  
14 exclusively used as the deposit account for some period of  
15 time or, again, as I say, the account was only open for a  
16 month so I guess it probably hasn't had, you know, poured over  
17 from another account that got -- that had monies to put back  
18 in it.

19 Q So it came out of an account where Marian has signatory  
20 power?

21 A I can only assume she had signature authority over it  
22 because she managed to get the money out of the account and  
23 put it in her account.

24 Q Okay. And that account was just in her name.

25 A The new account that Marian put the money in was in her

1 name, and she called it her reserve account.

2 Q But that money, in turn, went where again?

3 A Well, luckily, it went nowhere for four years, and  
4 ultimately, it was -- it was disbursed in May of 2014 to  
5 Marian and Lucy via cashier's check.

6 Q As a personal representative of your mother's estate,  
7 where should that money have gone?

8 A Well, the money was never reported to the estate at the  
9 start. If the money had been discovered, there would have  
10 been no question that it was estate money, and it should have  
11 been reported to the probate court and it should have been  
12 money that I would have had then control of in order to  
13 disburse monies as personal representative of the estate, in  
14 which case it would have been shared one-third, one-third,  
15 one-third.

16 Q And you did not become aware of this until when?

17 A Actually, I became aware of the 8040 account in late  
18 2016, but the only thing I could do at that point was to  
19 question what the heck is going on here. And I did not get a  
20 response -- any kind of substantive response for probably  
21 eight or nine months after, you know, starting an inquiry. So  
22 that was in July 2017 that I ultimately found out about it.

23 Q All right. What happened to the 2016 case that you  
24 personally brought?

25 A That was 40(j)'d.

1 Q All right. And then you brought this action; is that  
2 correct?

3 A And then I -- I had the probate court reappoint me  
4 because the estate had been closed. So I had to reopen the  
5 estate and be reappointed so the Court had sort of a  
6 representative of the estate, which they did.

7 Q And in that capacity, you brought the lawsuit about which  
8 we're here today?

9 A That's correct.

10 Q Okay. Let me show you this document. Can you identify  
11 that?

12 A Well, yeah, that's the certificate of appointment of  
13 personal representative dated October 19, 2017.

14 Q And that's marked as Plaintiff's Exhibit No. 5.

15 THE COURT: It's already admitted. Thank you.

16 BY MR. ANDERSON:

17 Q And within that lawsuit, did you request of the Court  
18 that the monies that went into the account that was just in  
19 Marian's name be paid to the estate?

20 A We're talking about this lawsuit?

21 Q Yeah.

22 A Well, this lawsuit has really two -- kind of two separate  
23 funds that we're talking about, and one of them is this  
24 account, 8040, money, which we did not discover until July  
25 2017. That's lawsuit definitely had, as one of its main

1 focuses, trying to collect that particular fund of money for  
2 the estate.

3 Q Let me show you these two documents. And I'm not sure  
4 they're in the file either, but can you identify these two  
5 documents?

6 A We --

7 MR. ANDERSON: You didn't see these?

8 MR. COX: Only if they're going to be admitted. These  
9 are file documents.

10 A We had made a motion for a partial summary judgment, and  
11 that --

12 Q Partial summary judgment as to what?

13 A Well, that had to do with this money we're talking about,  
14 the 8040 account. Okay?

15 Q That's the money she transferred from your mother's  
16 account to her individual account?

17 A In 2010, before my mother died.

18 Q Okay.

19 A So we brought the case and it was heard by Judge Manning,  
20 and Judge Manning issued an order granting Petitioner's motion  
21 for partial summary judgment, and it was dated back and filed  
22 November the 2nd, 2018. And the judge found in favor of the  
23 movant, which was the Petitioner in this case, and determined  
24 that -- the judge entered against the -- against both of the  
25 respondents, Marian J. Kirk and Lucy J. Fuller.

1           Now, one thing that was missing is this picture. In  
2 addition to the 8040 account, we also had a check -- a Bankers  
3 Life customer check in the amount of \$2,480 that had come in.  
4 It was a last check that the Bankers Life had paid on my  
5 mother. She died in the first week of June 2012. She was  
6 owed her from May of 2012. That check was issued and probably  
7 within a week or so after my mother's death. But for some  
8 reason, it was never deposited by Marian until December of  
9 2012. And we had located that money.

10           So, I mean, no question that was not money that was in  
11 any kind of account that Marian could claim or anything like  
12 that. So that --

13       Q       Well, is that -- that last Bankers Life check addressed  
14 in the order?

15       A       It is addressed in this order, and the -- again, both of  
16 these monies were not -- you know, were not in joint accounts.  
17 They were in right of survivorship still available. The other  
18 one was money -- at the time of my mother's death, the money  
19 was in Marian's personal account, and at the time of my  
20 mother's death, the Bankers Life company check had not even  
21 been issued. Okay?

22           So these two were pretty much, I thought, slam dunks, and  
23 Judge Manning agreed and entered a judgment against the  
24 defendants for the total of the two-plus prejudgment interest,  
25 and that total as of October the 9th, 2018, was \$37,739.59.

1 account. You know, she held this money for four years and  
2 concealed this money from me for four years. And this is not  
3 something that was, you know, some kind of negligence or some  
4 kind of, you know, forgetfulness about it. I mean, she  
5 clearly knew she had the money and did not disclose it.

6 I think it's important to bring up at this stage that the  
7 three of us met to discuss the final distribution of monies in  
8 my office. I remember very well. It was September of 2015  
9 that we met to discuss about it and discuss what we were going  
10 to do about the remainder of the money. And at that point in  
11 time, we, of course, discussed various things, but one thing  
12 curiously that was not discussed is that they had already  
13 taken \$21,000 and shared that among themselves about 18 months  
14 earlier.

15 So we were sitting down at the conference table trying to  
16 resolve issues, and the amount in controversy at that point in  
17 time -- this is going to the disputed pot of money -- I was  
18 under the impression at that point in time it was \$26,000 plus  
19 or minus.

20 Q And this is different money than that upon which Judge  
21 Manning issued a judgment?

22 A I knew nothing about the money that we got the judgment  
23 on. I didn't know anything about the money we got the  
24 judgment on until 2017. This is September 2015. We're  
25 talking about dividing up the remainder of the money. Marian

1 corrected me by an email about the next month after the  
2 hearing -- after the meeting. You know, I had responded to  
3 her, you know, trying to resolve the issues, and I made the  
4 comment assuming that the money is \$26,000 and this is my  
5 thought. And her response was, It's not \$26,000; it's  
6 \$25,090. That was in November of 2015 that that email was  
7 issued.

8 And she issued another email in May of 2016 and, you  
9 know, confirmed that the money, in fact, was still \$25,090.  
10 That's what we were talking about. And that's the money that  
11 I'm actually trying to collect today.

12 Q All right. Going back to the money upon which the estate  
13 has the judgment, the distribution of that money coincide with  
14 any act on the part of Marian?

15 A Well, curiously -- I mean, you could read a lot into this  
16 and it may not be appropriate to read anything into it, but it  
17 is curious that the money was distributed by Marian and  
18 Lucy --

19 Q This is the judgment money and tell us the date.

20 A This was in May -- I think it was, like, May 23rd of  
21 2014. The cashier's checks were issued to Lucy and Marian for  
22 almost \$11,000 each, and that predated, by two weeks, Marian's  
23 closing where she purchased her house.

24 Q This is kind of rickety.

25 A Okay. Well, lean it up on that (indiscernible).

1 Q Probably come down here for me.

2 COURT REPORTER: Just remember to keep your voice up,  
3 please.

4 MR. COX: Your Honor, if you don't mind, I'm going to get  
5 up so I can see.

6 THE COURT: That's fine.

7 BY MR. ANDERSON:

8 Q Mr. Jordan, is that something that you prepared and had  
9 blown up?

10 A It is.

11 Q And the figures that are shown on there, are those  
12 figures that you received via all of your discovery requests  
13 in the 2016 lawsuit?

14 A Well, no. These figures -- actually, in this particular  
15 board here, this starts with the figure that I previously  
16 mentioned, the \$25,090. This figure was mentioned by Marian.  
17 I don't know, we got (indiscernible) Marian is Marian Kirk.

18 In her November 10, 2015, email, she indicates she had  
19 the figure -- the amount of \$25,090. And she, again,  
20 reiterated that same figure in an email in May of 2016.

21 So that figure -- I think this is, you know, without  
22 question, an amount of money that, you know, is in  
23 controversy. And I'm certainly, at this point, willing to  
24 accept that figure as being the final figure, even though,  
25 frankly, who knows what she did with the other monies.

1 Q That's what she represented to you as being the money  
2 that she was holding?

3 A That's certainly what she said in two emails to me.

4 Q All right. And that's the same basic money that you show  
5 on the accounting that she provided to you way back after you  
6 opened the estate?

7 A Say that again.

8 Q Okay. This money, the 25,090, represents a portion or  
9 all of the monies that she represented to you as being in the  
10 Wells Fargo account.

11 A Well, I can say that it's in the ballpark. You know,  
12 when we did the inventory and appraisal, the figure was  
13 \$23,980. And that figure should have been somewhere around  
14 the death of my mother in 2012 -- June of 2012. And so, you  
15 know, three and a half years' worth of interest added on, you  
16 know, I mean, figure probably would not quite reach 25,000, in  
17 my opinion, but I certainly wouldn't think that it was much to  
18 discuss about that particular figure.

19 She says she had about \$25,090, that's what she had. I  
20 mean, the deal -- you know, the way I handled this whole  
21 process from the date of my mother's death on, you know,  
22 Marian wasn't involved in the financial part of the assets of  
23 my mother, and I trusted her 100 percent. There's nobody that  
24 I reckon would have trusted more to handle this.

25 MR. ANDERSON: If Your Honor please, in order to make the

1 record, we'd like to go ahead and put in a paper version of  
2 the chart.

3 THE COURT: Any objection?

4 MR. COX: No.

5 THE COURT: What number is that?

6 COURT REPORTER: No. 7.

7 THE COURT: All right. So Plaintiff's 7 is admitted  
8 without objection.

9 (Plaintiff's Exhibit No. 7 was marked for identification  
10 and received into evidence.)

11 BY MR. ANDERSON:

12 Q In the order granting partial summary judgment, the  
13 estate was awarded to you; is that correct?

14 A Prejudgment interest, right.

15 Q Are you asking for prejudgment interest on the \$25,090?

16 A I think that's appropriate. And, really, the only time  
17 frame that, you know, only the time frame that you would  
18 calculate it would be, I think, subject to a difference of  
19 opinion, and I elected to use the email date of November 10,  
20 2015, even though, you know, Marian had control over these  
21 monies, and I have since learned that she had this money in  
22 her own personal account since January of 2013. So I could  
23 have gone back farther, but I -- I'm just -- this is the  
24 principle of the thing, and I'm not trying to get any more  
25 than I'm entitled to get, or the estate.

1           So we have got a prejudgment interest calculation from  
2 November 10, 2015, to August 19, 2019, and that's 1379 days,  
3 \$8,294.30 for a total of -- actually dated yesterday -- of  
4 33,384.30.

5   Q     Let me show you that document and ask if you can identify  
6 that.

7   A     Okay. This is the email that I was talking about where  
8 Marian indicated, on November 10, 2015, that the amount we're  
9 talking about is \$25,090.

10       MR. ANDERSON: If Your Honor please, I'd like to go ahead  
11 and put this email in.

12       THE COURT: Is there any objection?

13       MR. COX: No, ma'am.

14       THE COURT: So Plaintiff's 8 is going to be admitted  
15 without objection.

16           (Plaintiff's Exhibit No. 8 was marked for identification  
17 and received into evidence.)

18 BY MR. ANDERSON:

19   Q     This money, \$33,384.30, belongs where?

20   A     That's estate money. The estate should have that money  
21 and be able to disburse all of that in accordance with the  
22 normal practices of the personal representative handling the  
23 estate.

24   Q     And you were trying to run that money down for how long a  
25 period of time?

1 A Well, you know, the estate wasn't -- it wasn't open  
2 until, like, October of 2012, and then I think it ultimately  
3 closed in October of 2013. And at that point in time, we  
4 distributed the Morgan Stanley, and the only money left was  
5 \$25,090, plus or minus, that was still being held by Marian.

6 In approximately November of 2014, I got another email  
7 from Marian that she and Lucy would like to meet with me to  
8 discuss their final distribution of money. Okay. I'm  
9 certainly delighted to do that because I really hadn't been  
10 able to get them to show any interest in that. They wanted to  
11 get together, but unfortunately, that was November of 2014 and  
12 unfortunately, we never got together until the meeting I  
13 mentioned earlier in September of 2015. And that was the  
14 first time we got together to discuss the final distribution.

15 Q The monies that we're talking about here today, the  
16 \$25,090 would have come from where?

17 A They came from only two sources. I mean, Bankers Life,  
18 their long-term care insurance money, and Social Security.

19 Q Is this a chart that you created with regard to the  
20 Bankers Life money?

21 A Yeah. I did not go back to the beginning of when the  
22 Bankers Life, all the deposits were made. I don't really know  
23 why I didn't, but I think primarily because the 8040 account,  
24 you know, somehow jumped in there and it kind of threw a loop  
25 to me. But as you'll see in June of 2010, \$7,360 was

1 deposited into the 8040 account. Now, that's -- again, that's  
2 an account that we have already got a judgment on.

3 After that, that account was closed, and all of the other  
4 money that -- all the other checks from Bankers Life were  
5 deposited into the 1206 account or the 1783 account. Again,  
6 all this time frame -- and, again, until 2016 or so, I only  
7 thought there was one account. So this is kind of all -- you  
8 know, it's a surprise to me that we have more than one account  
9 and monies were going kind of everywhere.

10 But I have calculated, based on, you know, bank  
11 statements, I have calculated what has gone into the 1206  
12 account from June 10 until May the 12th, and that totalled  
13 \$33,150.53. And then the 1783 account during that same  
14 period, a total of \$26,800.

15 Marian -- you know, picking an account to put in, and  
16 speaking of the account, I mean, it looked like, you know, she  
17 might, oh, you know, pattern or something. You know, at the  
18 end of the day, if you'll see towards the end, during the  
19 last, say, ten months of my mother's life, the grand majority  
20 of the money went into the 1206 account and only two payments  
21 into the 1783 account.

22 MR. ANDERSON: Your Honor, to complete the record, we'd  
23 like to offer a paper substitute for the charts.

24 MR. COX: No objection.

25 THE COURT: Let's mark this.

1 COURT REPORTER'S: Plaintiff's 9.

2 (Plaintiff's Exhibit No. 9 was marked for identification  
3 and received into evidence.)

4 THE COURT: All right. Plaintiff's 9 is admitted without  
5 objection.

6 BY MR. ANDERSON:

7 Q And, Mr. Jordan, tell me what this chart represents.

8 A Okay. This kind of is a breakdown of the accounts in  
9 question, and I have got it up here entitled "Joint Accounts,"  
10 and, you know, I just want to be clear that these are joint  
11 accounts solely because Marian seemed to claim that they're  
12 joint accounts. I don't have any idea for sure whether  
13 they're joint accounts or not, but they're listed as such  
14 because that's kind of why we're in this case today, and we'll  
15 hear more about that later.

16 But the 1206 account was an old account. You know, I  
17 have no idea when it was originally opened, but it was open by  
18 December 16 of 2005, and also the 3051 account was also  
19 opened, and I wasn't even aware of that account. I suspect  
20 that was probably a savings account. But that account got  
21 closed in 2009, so I think it's almost inconsequential,  
22 anything to do with that account.

23 Q And that's the one I called your mother's household  
24 account.

25 A Well, the 1206 is the one we called her account.

1 Q Right.

2 A Now, the money that was in the 3051 account was then  
3 deposited into the 1783 account, which was opened on July 27,  
4 2009.

5 Q Before your mother's death.

6 A Oh, that was -- that was approximately three years before  
7 my mother's death, but it was also about three and a half  
8 years after we decided that my mother was incompetent. For  
9 one reason -- that's one reason why that can't, in my opinion,  
10 be a joint account, but there are other reasons.

11 Q When you say these accounts were open after y'all agreed  
12 that your mother was incompetent, would she have had the  
13 ability to offer any input into Marian's actions with regard  
14 to her money?

15 A I mean, I would certainly have thought that a bank would  
16 require the -- you know, a person who is opening an account to  
17 show up at their office, but maybe there's a way to do that  
18 otherwise. But, you know, you still wouldn't expect a bank to  
19 deal with an incompetent person. My mother, in this time  
20 frame, had been in Laurel Crest and in assisted living, and I  
21 certainly can't imagine that Marian would have taken her to  
22 the bank or that anybody from the bank would have investigated  
23 whether or not she was an appropriate person to open an  
24 account.

25 Q Would she have had any control over how your sister

1 Marian was spending this money, where it was being transferred  
2 to and why?

3 A At that point in time, my mother should not have had any  
4 control over anybody or any knowledge of what was done even or  
5 certainly should not have, you know, had any intention of what  
6 she wanted doing.

7 Q Mr. Jordan, let me show you this document and ask if you  
8 can identify that.

9 A This is a subpoena of the Wells Fargo bank records. It's  
10 a Wachovia form called Customer Access Agreement. It's signed  
11 by my mother, and it's dated December 16, 2005.

12 Q Was she competent then?

13 A Well, you know, I think we stated before, it's my  
14 opinion -- and it seems to be the opinion of Lucy and  
15 Marian -- that December of 2005 was the -- let's call it the  
16 cut-off date. We agreed that that's the incompetent date.

17 Q There's an empty block here for a signature. Can you  
18 read me what paragraph two says in that respect?

19 A Paragraph two in the upper right part?

20 Q Yes.

21 A Okay. It says, "Under the death of one joint owner, the  
22 money remaining in the account would belong to the surviving  
23 joint owners and will not pass by inheritance to the heirs of  
24 the deceased joint owner or be controlled by the deceased  
25 joint owner's will."

1           And then it goes on in the next sentence and says, "I do  
2 elect to create the right of survivorship for any joint  
3 account."

4   Q       And that's your mother's signature?

5   A       My mother's signature is not to be seen in that block.

6   Q       Not in that block.

7   A       Not in that block.

8           MR. ANDERSON: If Your Honor please, I'd like to put this  
9 in.

10          THE COURT: Mr. Cox, any objection?

11          MR. COX: No objection, Your Honor.

12          COURT REPORTER: What would you like to call it?

13          MR. ANDERSON: Account information.

14          COURT REPORTER: Customer access agreement?

15          MR. ANDERSON: Yeah.

16                 (Plaintiff's Exhibit 10 was marked for identification and  
17 received into evidence.)

18 BY MR. ANDERSON:

19   Q       Is there anything else upon this --

20                 MR. ANDERSON: And, Judge, I'd like to substitute a paper  
21 in exchange for the chart.

22                 THE COURT: Okay. Plaintiff's 11.

23                 (Plaintiff's Exhibit 11 was marked for identification and  
24 received into evidence.)

25                 THE COURT: Mr. Cox, any objection to that, the chart?

1 MR. COX: Your Honor, I do have to register an objection  
2 to this one. I have no objection to it being entered as a  
3 demonstrative exhibit, but I think some of the facts on here  
4 are not correct because I have not seen the underlying  
5 documents, and, frankly, don't have time to check them at this  
6 point.

7 I have no objection to it being considered  
8 demonstratively for the purpose of organizing evidence, but I  
9 do have an objection to it being considered substantively  
10 because I have not had a chance to look at these documents. I  
11 don't even know what they are.

12 Subject to that objection, I -- as a demonstrative  
13 exhibit, it's fine.

14 THE COURT: So Plaintiff's 11 is not admitted at this  
15 time. We may revisit that later.

16 (Plaintiff's Exhibit No. 11 was marked for identification  
17 only.)

18 MR. ANDERSON: Let me see if -- well, can I try to do  
19 some backup to see?

20 THE COURT: Absolutely.

21 BY MR. ANDERSON:

22 Q Mr. Jordan, where did these figures come from?

23 A Okay. All of those figures have come from bank  
24 statements that I have received from Wachovia/Wells Fargo.  
25 They were subpoenaed in that 2016 lawsuit. I learned about

1 the bank accounts and I got the bank account statements, and  
2 we determined, you know, what we found. The date for it is on  
3 the first line up there about the two accounts, the December  
4 16, 2005, account. I pulled that date off of the -- off the  
5 access agreement we just put into evidence. Okay?

6 The other account, the 28 -- the 8040 account that we  
7 talked about already with the \$21,858.40 being debited on  
8 August the 20th of 2010, that's the money already gone to  
9 judgment. We're not talking specifically about that today  
10 because that's already in judgment.

11 We get to come down to the balance. Of course in the  
12 middle it's got -- and this is where it gets interesting is  
13 that, according to a bank statement -- and we have that bank  
14 statement, by the way -- the account balance on Account 1206  
15 as of July the 10th, 2012, was \$21,481.02, and the balance on  
16 787 -- 1783 as of the same date is \$2,499.02. And the  
17 interesting thing is, those figures approximately total  
18 \$23,980.82, which is the amount we reported -- that I reported  
19 on the estate inventory appraisal form. So that's where  
20 those figures come from.

21 Now, interestingly -- and I don't really know how this  
22 works, but \$20,000 was debited from the 1206 account, again,  
23 that Marian controlled. The money came out of that account on  
24 December 24th, 2012. And the balance at that point in time  
25 was some \$1600, and the account balance went up with the

1 without objection.

2 (Plaintiff's Exhibit 12 was marked for identification and  
3 received into evidence.)

4 BY MR. ANDERSON:

5 Q Mr. Jordan, how would you describe the conduct of your  
6 sisters with regard to this money, the \$25,030.84?

7 A Well, I thought, up until 2015 or 2016, I had no question  
8 about their conduct. Their conduct -- you know, Marian was my  
9 sister. I knew she wouldn't do anything wrong or, you know,  
10 monkey with the figures or manipulate anything. I just -- you  
11 know, and I would have a difficult time to understand that.  
12 But I think the evidence is quite clear -- and we have already  
13 gone to judgment on one of the accounts that they took the  
14 money out of it and they converted the monies from my mother's  
15 account to Marian's individual account and then divided it  
16 among themselves.

17 The same thing -- really, the identical thing happened in  
18 this particular case. The monies that Marian was holding in  
19 account 1206 and the 1783, those two accounts went away  
20 effectively at the end of 2012, and the second day of January  
21 of 2013, she opened up a brand new account and put money in  
22 the account. The amount of money that was in the account on  
23 that date was \$25,000.

24 Again, that all kind of -- kind of jibes with the fact  
25 that she had said back then in November of 2015 that the

1 account -- the amount of money she had was \$25,090. That's  
2 pretty dad-gum close.

3 Q All right. And what happened to the \$25,090?

4 A Well, in -- and keep in mind here, she's saying, in  
5 November of 2015, that she's got \$25,090. I'm thinking, at  
6 that point in time, that it's in this one account that I'm  
7 aware of. Okay? And this was after we actually met together  
8 in the month earlier, November -- November or it might have  
9 been October of 2015, we met to have a discussion about filing  
10 disbursements. You know, I was thinking we were doing -- at  
11 that point, it was 26,000 but she corrected it to \$25,090.

12 Q What ultimately happened to the money?

13 A The money ultimately was -- and when I say "ultimately,"  
14 it was previously, okay, taken out of the account that I  
15 expected it to remain in, and Marian had put it, on January  
16 2nd, 2013, in her own personal account.

17 Q So what happened to the money?

18 A Well, at this stage of the game, I couldn't tell you.  
19 Marian, in her answer, and Lucy, in her answer, indicated that  
20 the money had been divided among the two -- or between the two  
21 of them, but I -- frankly, I don't know when that would have  
22 happened, whether it happened at the same time the 8040 money  
23 was taken out, whether it was taken out before that, after  
24 that. I don't know.

25 Q In their answer, they admit that they took that money and

1 divided it amongst themselves.

2 A That's what the answer says.

3 Q All right. You asked for punitive damages. Do you think  
4 you're entitled to the punitive damages on the remaining part  
5 of this lawsuit?

6 A Me as personal representative, not individually, asks for  
7 punitive damages for the fact that they converted this money  
8 that belonged to the estate and they put it in a personal  
9 account in 2013, they disbursed it at some time thereafter and  
10 who knows when. You know, I'm assuming it's gone, but, you  
11 know, I just don't know where it is.

12 But the estate is clearly entitled to the money, and the  
13 money should be -- the amount of money should set at \$25,090,  
14 which was the stipulated amount.

15 Q Is that what you're asking the Court to award you as the  
16 personal representative here today?

17 A In addition to the judgment we have already received, we  
18 wanted a check -- an actual damages award of \$25,090 plus to  
19 appreciate the interest from November 10, 2015, when that  
20 amount was stipulated, at the prejudgment interest rate, you  
21 know, until now -- until the present. And, in addition to  
22 that -- and that would be accurate. In addition to that, we  
23 want punitive damages.

24 MR. ANDERSON: Plaintiff's case, Your Honor.

25 THE COURT: Okay. Before cross-examination, we need to

1 take a break. I have got another matter.

2 (A brief recess was taken.)

3 THE COURT: Mr. Jordan, come on back up for  
4 cross-examination.

5 MR. COX: May it please the Court. Your Honor, one  
6 matter to take up before I begin cross-examination of  
7 Mr. Jordan, I understood the plaintiff to say before we broke  
8 that they were resting in terms of the evidence they were  
9 presenting, but in several conversations with me before today,  
10 they have indicated that they intend for the estate to recover  
11 attorney's fees and pay attorney's fees to Mr. Anderson. He  
12 is a lawyer (indiscernible).

13 I read their pleading while we were on break, and I may  
14 have missed something. I tried to read it several times.  
15 There's no prayer for attorney's fees in the complaint. I  
16 believe you're required to make such a prayer from the law if  
17 you want to recover those. And, furthermore, there was no  
18 evidence during their case in chief about an attorney's fees  
19 agreement or what they were paying Mr. Jordan. I don't want  
20 this to slide by. I don't want there to be any  
21 misunderstanding. If they're not seeking attorney's fees, I'd  
22 like that declaration on the record. If they are, I think  
23 they need to put in evidence so I that can cross on it.

24 MR. ANDERSON: If Your Honor please, I believe that's  
25 something that needs to be taken care of in the probate court

1 once these monies are paid in to the probate estate. Then I  
2 think any issue of attorney's fees goes to Judge McCullough.

3 MR. COX: I disagree, Your Honor. We removed the case  
4 from probate court to here for precisely all issues concerning  
5 this case to be adjudicated. This Court now has jurisdiction  
6 of this dispute, and they need to present the evidence in this  
7 case.

8 MR. ANDERSON: I still believe, under the terms of the  
9 will, Your Honor, Mr. Jordan has got the right to hire a  
10 lawyer to represent him as the personal representative of the  
11 estate. That is a given, and that's a given in the probate  
12 code.

13 Now, granted, it may have been taken out of here, but the  
14 estate has been reopened. The estate is still in existence.

15 MR. COX: And brought here.

16 THE COURT: Well, right. So I guess the question is, if  
17 you were to petition the probate court for attorney's fees,  
18 this Court could award whatever amount -- \$30,000. I don't  
19 remember the figures -- \$30,000, which would be the account  
20 balance plus whatever interest, and then the probate court  
21 would determine an award of attorney's fees separate and apart  
22 from that?

23 MR. ANDERSON: Yes, ma'am. Yes, ma'am.

24 THE COURT: Versus this Court awarding, say, \$30,000 plus  
25 attorney's fees.

1 MR. ANDERSON: Yes, ma'am.

2 MR. COX: Here's the thing, Your Honor: The reason  
3 they're seeking attorney's fees is damages in this case. They  
4 don't want these ladies to pay just the compensatory damages  
5 and just interest. They want them to pay monies that are  
6 going to be used to pay a lawyer. They're asking my clients  
7 to pay the estate monies that the estate is going to use to  
8 pay a lawyer.

9 When the probate code provides for removal of a dispute  
10 to the Court, this Court then takes over, and all matters  
11 concerning damages and relief they're seeking for these  
12 issues, this Court has jurisdiction over. They can't  
13 piecemeal it. This Court has superseded the jurisdiction of  
14 the probate court, and if they're seeking relief or damages --  
15 all relief and damages in connection with this dispute, it  
16 must be decided here.

17 I would contend, Your Honor, that they're barred from  
18 seeking attorney's fees because they didn't plead it. I  
19 understand they're not going to take that up elsewhere, and if  
20 they do, I just would like the evidence presented so we can  
21 talk about it.

22 THE COURT: Well, because he didn't plead it, whether  
23 he's entitled to it is not a decision for me to make because  
24 it's not before the Court.

25 MR. COX: Well, it is because my standing is they sure

1 Q All right. Mr. Jordan, you have been a member of the  
2 South Carolina Bar since 1975; is that correct?

3 A Correct.

4 Q And you have had Power of Attorney over your mother's  
5 affairs since about 1976, I think you told me; correct?

6 A Sounds right.

7 Q And you filed a case in your own personal name seeking  
8 relief before this case was filed; correct?

9 A Correct.

10 Q Against just Ms. Kirk; is that right?

11 A Correct.

12 Q And when you did that, that rocked along for awhile. You  
13 took a bunch of discovery in that case; did you not?

14 A I did.

15 Q You had a bunch of information concerning various bank  
16 accounts and financial assets of your mother; correct?

17 A That is correct.

18 Q And on the basis of that investigation, you made a series  
19 of claims against Ms. Kirk; right?

20 A In this case, you're talking about?

21 Q No, in the previous case.

22 A Well, I mean, the complaint said what it said in the  
23 previous case.

24 Q But then, as you also told Judge Newman, you dismissed  
25 that case. That case was 40(j)'d and you began a new

1 A I do.

2 Q And so it's fair to say, Mr. Jordan, is it not, that if  
3 you had any other claims that you thought you or the estate  
4 had against your sister, you would have articulated those as  
5 well in Exhibit 1; isn't that right?

6 A I'm pretty satisfied I could not find any more than I  
7 have had.

8 Q Gotcha. Thank you very much.

9 All right. So let me talk with you first, sir, if I may  
10 about the Wells Fargo claim. I'm going to take them one at a  
11 time. All right?

12 A Yes, sir.

13 Q And if I can start by looking at Exhibit 3. All right?  
14 The first page of Exhibit 3, this is an inventory and  
15 appraisalment that you filed as personal representative of your  
16 mother's estate; correct?

17 A Correct.

18 Q And you filed it on January the 11th, 2013; correct?

19 A Correct.

20 Q Your mother passed away on June 5th, 2012; right?

21 A That is correct.

22 Q So this was filed approximately six months after your  
23 mother's passing?

24 A Okay, correct.

25 Q Now, you acknowledged to me in your deposition and you

1 acknowledge now, don't you, Mr. Jordan, that it was your duty  
2 as personal representative to thoroughly investigate all  
3 assets that may have belonged to the estate; isn't that right?

4 A Well, to an extent, you're correct.

5 Q Okay.

6 A And it certainly doesn't give me, you know, insight into  
7 things that I don't know about.

8 Q But to the extent reasonably possible, you had a  
9 responsibility to investigate the assets of the estate;  
10 correct?

11 MR. ANDERSON: If Your Honor please, he was trying to  
12 answer that question, and Mr. Cox cut him off.

13 MR. COX: I apologize; I didn't know I had.

14 BY MR. COX:

15 Q Please finish.

16 A And, again, I'll say -- I'll just answer your question.  
17 Generally speaking, the charge would be the responsibility of  
18 determining what the assets of the estate were.

19 Q And after you had conducted whatever determination you  
20 did --

21 A Right.

22 Q -- you put those assets down on the inventory and  
23 appraisal marked as Exhibit 3; correct?

24 A I did.

25 Q Okay. You did not open an estate account, though, did

1 you?

2 A I did not.

3 Q Nor did you call Wells Fargo or go down to Wells Fargo in  
4 your capacity as personal representative and get copies of the  
5 Wells Fargo bank statements, did you?

6 A At that point, I got no bank statements. I did not call  
7 Wells Fargo.

8 Q You could have done both of those things; correct?

9 A I certainly could have.

10 Q You were empowered as personal representative to gather  
11 any bank statements from your mother's bank account; isn't  
12 that right?

13 A And I have done that, yes, sir.

14 Q But, instead, you called your sister, Ms. Kirk, and you  
15 asked her how much money was in the accounts of your mother;  
16 correct?

17 A Which was logical to me because she was in charge of  
18 those accounts.

19 Q Okay. Yes or no, please. You did that; correct?

20 A I did. I called my sister, yes.

21 Q And you put those figures on Exhibit 3, the inventory and  
22 appraisal; is that right?

23 A The figures she gave me, yes.

24 Q Okay. Look at Exhibit 2, please, sir.

25 A Okay.

1 Q Exhibit 2 is a copy of the Wells Fargo statement dated as  
2 of July 2012 through August of 2012; isn't that right?

3 A That appears to be.

4 Q And you remember I asked you about this at your  
5 deposition?

6 A No.

7 Q Well, let me refresh your recollection with a copy that I  
8 have which shows the deposition sticker on it. Do you now  
9 remember I asked you about this statement as your deposition?

10 A I'll say I have no problem with the fact that you  
11 probably did ask me.

12 Q And you'll note there, there are two accounts shown on  
13 this statement; isn't that right?

14 A There is, yes.

15 Q One is the 1206 account we have heard a great deal about;  
16 right?

17 A That is correct, yes.

18 Q And the other is an account called a 1783 account;  
19 correct?

20 A That's correct.

21 Q The 1206 is checking; right? You can turn to the next --

22 A That is the one I called the primary checking account but  
23 it was the only checking account I had any knowledge of.

24 Q And it had been around for years?

25 A Likely for years, yes.

1 (Defendant's Exhibit No. 5 was marked for  
2 identification.)

3 BY MR. COX:

4 Q Mr. Jordan, I have now handed you what has been marked as  
5 Exhibit No. 5. Those are various bank statements from 2006,  
6 the Wells Fargo bank statements from 2006; are they not?

7 A It appears to be, yes.

8 Q Six years before your mother passed away; correct?

9 A It appears to be, yes.

10 Q You just told me a moment ago that you didn't know about  
11 this joint account with your sister and your mother's name on  
12 it until your mother died; did you not? That was your  
13 testimony moments ago; was it not?

14 A Actually, I wasn't aware that it was a joint account,  
15 that Marian claimed to have a joint account with my mother  
16 until 2015, three years after my mother died.

17 Q Well, now you're backing up on me a little bit and not  
18 answering my question, I believe, Mr. Jordan. I think my  
19 question was, you told me a few moments ago that you did not  
20 know that your sister and your mother were listed on an  
21 account at Wells Fargo until your mother died.

22 Are your sister and your mother not listed on the account  
23 on those statements in 2006?

24 A Well, they appear to be, and --

25 Q Mr. Jordan --

1 A -- my name is on there as well, but I'm going to tell  
2 you, just because they're on there, doesn't mean I examined  
3 them and put them under a microscope and tried to figure out  
4 what everything meant.

5 Q I understand. We'll get there. I just know earlier you  
6 told me you didn't even though they were listed on the same  
7 account, and now we see statements in 2006 where they were.  
8 Were they not?

9 A I'm telling you that we all had signature authority on  
10 the bank account that I thought was my mother's account.

11 Q What's the --

12 A And -- would you allow me to finish?

13 Q Sure.

14 A And -- I'm saying too that the accounts that we're  
15 talking about -- the account -- there was only one account  
16 that ever had been -- until 2016, you know, it was in the  
17 account -- in the name of my mother. Checks were -- you know,  
18 Marian and I were writing checks on this account. We were  
19 using checks in the name of Lil B. Jordan. No evidence to me  
20 that Marian had any special interest in this account. I would  
21 never have -- it would never have occurred to me, number one,  
22 that she would have put her name on the account.

23 And, again, the issue is how she could have done that is  
24 a question, but it would certainly never have occurred to me  
25 that she would have wanted to do that, for some reason, rather

1 than simply being -- having signature authority, which is the  
2 same authority that I had.

3 Q What's the address on those statements?

4 A I already told you; it's my home address.

5 Q I don't think you told me yet. What's the address on  
6 those statements?

7 A My home address.

8 Q So those statements were sent to your house in 2006  
9 showing that your sister and your mother were both listed on  
10 the account; were they not, Mr. Jordan?

11 A Yes, along with myself.

12 Q Thank you.

13 MR. COX: Your Honor, our court reporter has reminded me  
14 I need to move the admission of the prior exhibits. I thank  
15 her for that. So I move the admission of Exhibits 1, 2, 3,  
16 and 5 at this time.

17 THE COURT: Any objection?

18 MR. ANDERSON: No objection except as to 5, which he just  
19 cross-examined on. It can come in as it states what it is so  
20 long as it is not coming in that this was a joint account with  
21 his sister's name on it.

22 MR. COX: It says what it says.

23 THE COURT: It says what it says, right. The exhibit  
24 speaks for itself.

25 MR. ANDERSON: I'm sorry, what?

1 Q I'd ask you to flip to -- past the inventory and  
2 appraisement to the application for settlement, which is the  
3 next document in the pack.

4 And this application for settlement -- in this  
5 application for settlement, you represent to the Court that  
6 you, as personal representative, have collected and managed  
7 the assets of the estate; correct?

8 A That's what it says.

9 Q And you made it very clear today that you consider that  
10 Wells Fargo money to be an asset of the estate; isn't that  
11 right?

12 A That seems to be everybody's feeling.

13 Q But you had not collected that asset, had you?

14 A Well, I collected it through Marian, who was my trusted  
15 sister.

16 Q You're suggesting that you collected the Wells Fargo  
17 money by leaving it in your sister's account?

18 A That's what I'm suggesting.

19 Q Okay. All right. That's fine.

20 Then you say you have or had -- you had distributed or  
21 you will distribute all the assets of the estate; correct?

22 A All the assets known to me.

23 Q By the way, you told Judge Newman earlier that you did  
24 collect and distribute the Morgan Stanley money that was also  
25 shown on the inventory; correct?

1 A Correct.

2 Q But for whatever reason, you did not collect and  
3 distribute the Wells Fargo money, did you?

4 A Not in a timely fashion, apparently.

5 Q Well, you didn't distribute it at all, did you,  
6 Mr. Jordan?

7 A No.

8 Q No.

9 A It disappeared.

10 Q What do you mean, it disappeared, Mr. Jordan? It was  
11 sitting there in an account that you knew about it. You never  
12 took it or distributed it to the heirs, did you?

13 A Well, I didn't and then it disappeared.

14 Q Okay. But flip to the next page. This is a receipt and  
15 release signed by you on October -- in October of 2013;  
16 correct?

17 A Correct.

18 Q It was filed by you October 8th of 2013. Do you recall  
19 that?

20 A Yeah.

21 Q By the way, I was just over at the probate court before  
22 this hearing to get some things certified, and I saw some  
23 notes in the file that they were calling you, telling you you  
24 were late in submitting the final closing documents. Do you  
25 remember that?

1 A I do.

2 Q So you submitted this in October of 2013. And in this  
3 receipt and release, you represented to the Court that you had  
4 received a third of the cash and assets collected; right?

5 A That is what I said, and Lucy and Marian signed the like  
6 document.

7 Q Gotcha. And you released and forever discharged the  
8 estate from any claims related to those assets?

9 A That's correct.

10 Q But even though you represented to the Court that you had  
11 received a third of all assets collected -- and even though  
12 you represented that you were releasing the Court -- you had  
13 collected the assets as PR and had received them as a  
14 beneficiary, you had not, in fact, collected or received a  
15 third of the Wells Fargo money, had you?

16 A I guess not.

17 Q Okay. Thank you.

18 A I trusted my sister to hold the money and disburse it  
19 when she felt like it was ready to be disbursed.

20 Q Instead, you -- after the representations you made to the  
21 Court, the Court closed the estate, as you see by the next  
22 page, on October 9th, 2013; correct?

23 A It says what it says.

24 Q Okay. It says what it says. And you filed this lawsuit  
25 against the estate to get this -- you filed this lawsuit on

1 behalf of the estate to get the same money back you put down  
2 on the inventory and appraisalment. You filed this lawsuit on  
3 November 22nd, 2017; isn't that right?

4 A It says what it says.

5 Q Mr. Jordan, doesn't it say November 22nd of 2017?

6 A Yes.

7 Q Thank you.

8 You filed this lawsuit on behalf of the estate four years  
9 after the money you knew about had not been disbursed and the  
10 estate had been closed; isn't that right?

11 A There's no dispute about it. I knew --

12 Q Please answer any questions.

13 A I knew it existed.

14 Q You filed it four years after you knew the money existed;  
15 correct?

16 A Correct.

17 Q And since you're a lawyer, I'll ask you, after the  
18 three-year statute of limitations expired; correct?

19 A It would have been no statute of limitations running  
20 because we had no dispute on the money.

21 Q Okay. That's your position?

22 A That's clearly my position. In 2015, they wanted the  
23 filing -- no, I take that back. In November of 2014, they  
24 contacted me to get together to have a final distribution.

25 Q Okay.

1 A I have got the email that says that. So that's what  
2 happened. Now, we did not get together for almost ten months  
3 later, and at that point in time, we had a meeting to discuss  
4 various things about a final distribution of some \$26,000,  
5 which was what we discussed.

6 Q Now, you maintain, Mr. Jordan, that notwithstanding the  
7 fact that -- oh, I'm sorry.

8 THE COURT: Go ahead.

9 BY MR. COX:

10 Q You maintain, Mr. Jordan, that notwithstanding the fact  
11 that your sister's name and your mother's name are listed on  
12 this account, you say you don't know if it's a joint account  
13 or not? That's your position?

14 A My position is certainly I don't know if it's a joint  
15 account because I don't see any evidence of an account with my  
16 sister's and my mother's name on it.

17 Q Other than the statement with your sister and your  
18 mother's name on it?

19 A The statement has her name as the addressee because she  
20 is, as far as I know, the person that is in charge of the  
21 account --

22 MR. ANDERSON: Your Honor --

23 A -- the statements.

24 MR. ANDERSON: -- I have got to object to this line is  
25 that the document speaks for itself. There's nothing in the

1 A That I may or may not have seen?

2 Q That wasn't my question, Mr. Jordan.

3 If you --

4 A Okay. The answer is I have no idea what I thought when I  
5 saw it, if I ever saw it.

6 Q But when you got those statements in 2006 --

7 A Who's saying I got them?

8 Q Well, the record will speak for itself. I believe you  
9 did earlier.

10 When you got those statements in 2006 listing your sister  
11 and your mother on there and you as addressee, that at least  
12 raised a reasonable inference that she was a joint account  
13 holder; did it not?

14 A If it had occurred to me to think about it, it might  
15 have.

16 Q And you did not undertake any investigation, either then  
17 in 2006 or in 2012 when your mother died and you became  
18 personal representative, to try to find out if she were a  
19 joint account holder or not, did you?

20 MR. ANDERSON: If Your Honor please, asked and answered.

21 MR. COX: That question --

22 THE COURT: Overruled.

23 BY MR. COX:

24 Q Did you?

25 A The only thing I did was trusted my sister.

1 Q You did sign her tax returns?

2 A I did from -- at some point in time. I guess around  
3 2007, '8, '9, somewhere around there I started doing it.

4 Q Okay. But Ms. Kirk was the one who sort of got all the  
5 material to H&R Block and made sure the tax returns were  
6 actually prepared; isn't that right?

7 A That's correct, yes.

8 Q And then you signed them and you were presented with  
9 them; correct?

10 A Once it got to the point where it was clear that my  
11 mother shouldn't be signing them any longer, then, yes, I  
12 signed it.

13 Q Other than signing the tax returns for a period of time,  
14 you really weren't involved in any sort of day-to-day routine  
15 financial assistance or cooperation with your mother, were  
16 you?

17 A Well, no. I don't know what financial assistance means,  
18 but that's --

19 Q That was a bad question. Let me rephrase it before you  
20 answer it. I apologize.

21 You weren't helping your mother pay her bills very often,  
22 were you?

23 A Rarely. I did do -- it seemed like at certain times I  
24 would do a lot more, but then most of the time, not.

25 Q But it was really Ms. Kirk, Marian --

1 A It was.

2 Q -- who was the one helping your mother on a regular basis  
3 with her financial affairs, paying bills, looking at  
4 statements, that sort of thing?

5 A And I don't know how far before 2006 that that happened,  
6 but, yeah, Marian was the person in charge.

7 Q And, as you testified in your direct examination, there  
8 was no one you would have trusted more than Marian to do that.

9 A At the time, that was exactly right.

10 Q You were happy for her to do that.

11 A I was happy for her to take that burden off me.

12 Q Okay. So do you recall that, in 2005, occasionally, your  
13 mother was ordering a bunch of magazines?

14 A Yes.

15 Q And seemed to think they were free?

16 A I remember that.

17 Q Which I'll just represent for the record I have done the  
18 same thing myself, so I'm not sure (indiscernible).

19 She was also -- she had bounced a couple of checks.

20 A I don't remember about the checks, so I don't know.

21 Q But isn't it true, in 2005, all of you agreed maybe it  
22 would be a good idea for your mother to have a little bit more  
23 support and assistance with financial affairs?

24 A I'm not saying that didn't happen, but I don't recall.

25 Q You don't have any basis to dispute that, do you?

1 A No.

2 Q And Ms. Kirk was doing more financially for your mother  
3 after that time; isn't that correct?

4 A I wouldn't doubt it.

5 Q Now, you use used the word "incompetent," which is, as  
6 you know, is a word of legal significance; correct?

7 A Sure. Absolutely.

8 Q You said I think that you thought your sister was --  
9 excuse me, your mother was incompetent in December of 2005.

10 A Well, the only thing about that that I said is that I  
11 asked the discovery inquiry in interrogatory that, you know,  
12 at what point in time do you think that our mother was  
13 incompetent. And Marian's response was December 20, 2005.

14 Q That's not what the response says. That's not what the  
15 response says. It actually says, I believe, that she --

16 A Well, you're not supposed to testify, I don't believe.

17 THE COURT: That's true.

18 BY MR. COX:

19 Q Touche, Mr. Jordan. You still got it. You still got it.  
20 I'll give it to you.

21 All right. Well, we can introduce that in that moment.  
22 I think that will speak for itself when we examine Ms. Kirk.  
23 You got it.

24 But in December of 2005, your mother was still living  
25 alone, was she not?

1 A 2009, yes, sir.

2 Q She was driving?

3 A Yes, sir.

4 Q In fact, she had a beach condo, didn't she?

5 A She did have a beach condo, yes.

6 Q She'd take herself from Columbia to the beach from time  
7 to time, wouldn't she?

8 A I believe she would.

9 Q So when you say she was incompetent, she was still  
10 leading an independent life in December of 2005, wasn't she?

11 A Well, yes, she was. She was living in a house by herself  
12 and, you know, I would -- I would say, you know, it's one  
13 thing to be able to care for yourself and it's another thing  
14 to be able to handle financial matters.

15 Q Sure. Certainly.

16 So it's one thing to be outright legally incompetent, and  
17 it's another thing to need some help with your financial  
18 affairs. Isn't that right?

19 A Yes, sir.

20 Q And your mother was doing a lot of things independently,  
21 even in 2005; isn't that correct?

22 A That's right.

23 Q Okay. When did she move to Laurel Crest?

24 A I believe it was in 2006. I'm thinking, like, spring or  
25 something of 2006 but I'm not sure.

1 Q And when she first moved to Laurel Crest, she wasn't in  
2 an assisted living wing or anything like that, was she?

3 A No.

4 Q She was in an independent living wing; correct?

5 A (No audible answer.)

6 Q How long did she stay at Laurel Crest; do you recall?

7 A Oh, gosh. I -- I don't remember. Oh, yeah, she was in  
8 Laurel Crest independent side, I'm thinking, from 2006 to 2008  
9 and then went to the assisted living side in 2008 and probably  
10 went to Agape after that in -- my guess is 2010, but I don't  
11 know. I don't have a good memory of that particular time.

12 Q Do you recall there was a time you told me about when you  
13 and your wife went and sat with your mother at Laurel Crest  
14 for about a three- or four-month period because they wanted  
15 some extra people sitting with her?

16 A That's right, yeah.

17 Q And you did that?

18 A She was still on the independent side.

19 Q Right. And you and your wife did that; correct?

20 A Yes.

21 Q Do you recall that your sister, Lucy, had offered to do  
22 that; right?

23 A She did.

24 Q And you said anyone would be better than Lucy, so you and  
25 your wife did it; isn't that right?

1 A I don't remember saying that, but that's -- you know,  
2 could have been said. I don't know.

3 Q It could have been said. Okay.

4 So you and your wife did it and you paid yourself, what,  
5 \$10 an hour?

6 A \$10 an hour. And that was the offer that I made to  
7 anybody who wanted to do it.

8 Q And, look, I'm not criticizing you for paying yourself.  
9 I'm just saying --

10 A Now, when I helped -- frankly, I actually encouraged the  
11 grand kids to step up and do some sitting, but none of them  
12 would do that.

13 Q Okay. My question is just this: You performed a service  
14 you regarded as valuable, you and your wife; correct?

15 A Yes, sir. I mean, I already said we didn't get  
16 cooperation because she was married at that time, so we did  
17 it.

18 Q Okay. Well, now you said you couldn't get cooperation.  
19 Lucy offered to sit with your mother.

20 A Well, again, that's -- you know, based on my evaluation,  
21 that wasn't going to work out.

22 Q Okay. So you couldn't get cooperation from Lucy, but  
23 when Lucy offered to do it herself, you said no? Is that your  
24 testimony?

25 A Well, I'm not sure what the comment was worded.

1 Q Okay.

2 A Yeah, we're talking about 2006.

3 Q Okay.

4 A We're talking about 13 years ago.

5 Q And I just need to remind both of us, Mr. Jordan, our  
6 court reporter is going to have an awfully hard time recording  
7 what we're saying if we're talking over each other, so even  
8 though you may know exactly where my question is headed,  
9 please let me get it out first and I'll promise you I'll try  
10 to do the same thing. Okay?

11 A Okay.

12 Q All right. So, anyway, you and your wife did this for  
13 \$10 an hour for three or four months; correct?

14 A I don't think it was four months. It could have been  
15 three months, but I -- it may be shorter than that.

16 Q Now, do you recall that there were a bunch of things that  
17 Lucy and Marian also did to help your mother's affairs?

18 A Oh, absolutely. They helped buy clothes. They helped  
19 with the laundry. You know, in fact, Marian was paying  
20 herself a stipend every so often to do things like that.

21 Q Do you recall that Marian and Lucy were the ones who  
22 helped move your mother's physical stuff -- furniture and the  
23 like -- into assisted -- into Laurel Crest?

24 A Since I don't recall not helping, I would assume they  
25 must have.

1 Q Do you have any reason to dispute that?

2 A No.

3 Q And your mother actually had to move several times. I  
4 think she moved once at Laurel Crest and then she moved over  
5 to Agape and then she moved another couple of times at Agape;  
6 isn't that right?

7 A No.

8 Q Did she --

9 A I don't recall her moving more -- just to Agape.

10 Q Well, let's ask the question this way: Was there any  
11 time when your mother was moving either to a particular  
12 facility or within a facility that you actually physically  
13 helped get her furniture from one room to another and that  
14 sort of thing?

15 A I don't recall doing so.

16 Q Okay. What about the house itself? When your mother  
17 vacated the house, y'all ultimately ended up selling it; did  
18 you not?

19 A Yes, sir.

20 Q Do you recall, at one point, you offered to buy the house  
21 yourself for about \$240,000?

22 A I don't really recall that but I might have. I was, you  
23 know, looking at it. Decided not to buy it.

24 Q Okay. Do you recall at one point offering to buy the  
25 house?

1 A No.

2 Q Okay. You wouldn't deny that if somebody else said it,  
3 though, would you?

4 A I probably would because we never got to the point where  
5 we wanted to buy it.

6 Q Do you recall that Marian and Lucy cleaned out the house  
7 and fixed it up and got it ready to be shown for sale?

8 A Well, yeah, I'm sure they did some things.

9 Q You don't deny that --

10 A I didn't see them do anything so I can't say. So they  
11 might have hired people to do it. I don't know.

12 Q Were you involved at all in cleaning out the house,  
13 getting it fixed up, getting it ready for sale and all?

14 A I would say not very much.

15 Q Were you involved in showing the house at all to  
16 prospective buyers and getting it ready before prospective  
17 showings?

18 A I would say not very much.

19 Q Do you recall at one point you got your mother some  
20 insurance through Humana?

21 A I don't -- I don't think I remember that.

22 Q Okay. Do you recall, as I think you testified in your  
23 examination earlier, that Ms. Kirk was the one in charge of  
24 getting your mother's Bankers Life set up and all that  
25 administered in making sure the long-term care proceeds were

1 coming in?

2 A Well, Marian and I were talking about it and working  
3 together on getting it started. Beyond getting it started, I  
4 had no involvement.

5 Q Marian was handling all that?

6 A Marian was doing it.

7 Q Negotiating with them as necessary, getting the checks,  
8 depositing the checks, all that kind of stuff. Paying the  
9 bills, all that stuff; correct?

10 A Keep in mind, Marian was -- you know, she was in charge  
11 of the Bankers Life stuff. She would send them the monthly  
12 report that had to be sent in and she was receiving the money.  
13 So, beyond that, she was putting the money in the bank account  
14 and was not paying anything out of the bank accounts directly  
15 to pay in any kind of long-term care expenses. She did have  
16 Morgan Stanley paid various -- Laurel Crest and send me a copy  
17 of the expenses.

18 Q Let's be clear here. Your mother had a Morgan Stanley  
19 account; correct?

20 A She did.

21 Q And she had a Wells Fargo account; correct?

22 A Yes.

23 Q In fact, as you have seen, she had a couple of Wells  
24 Fargo accounts; correct?

25 A Well, I mean I know now that she does, yeah.

1 Q Okay. And you have seen that Ms. Kirk was listed on  
2 those Wells Fargo accounts; correct?

3 A We have been through this already.

4 Q Yes or no, Mr. Jordan.

5 A Well, I see her name is on a bank statement. I don't  
6 know that -- I think that would be listed on the bank account.

7 Q Was she listed on the Morgan Stanley statements?

8 A She was what they consider, I guess, a Power of Attorney.  
9 She's the only one that ever had any dealings with regard to  
10 Morgan Stanley or Smith Barney or whatever it's called, and  
11 they refused to deal with me.

12 Q And that upset you, as I recall?

13 A Oh, absolutely it did.

14 Q But you have no way to know one way or the other whether  
15 the account with Morgan Stanley was joint or not, do you?

16 A It wasn't a bank account, so I don't know that it  
17 matters, but the bottom line is I certainly would be shocked  
18 to find out that it was a joint account.

19 Q Please answer my question.

20 A I don't know.

21 Q Okay. Thank you.

22 All right. We have been through a number of things that  
23 you acknowledge that your sisters have done to help your  
24 mother in various assets and properties. I know you and your  
25 wife paid yourselves while y'all were sitting with your

1 mother. Do you acknowledge that the services of your sisters  
2 were valuable to your mother and also worthy of payment?

3 A I would certain acknowledge that, yes.

4 Q And to the extent that they had not paid themselves for  
5 those services, would you acknowledge that it would have been  
6 fair for them to have paid themselves?

7 A I think it probably would have been fair, yes.

8 Q What would have been a fair amount, in your view, to pay  
9 them for that? Do you have any idea?

10 A Well, I mean, just like my services, I never considered  
11 to get paid, so I don't know why they would have thought it  
12 was important for themselves to get paid.

13 Q I'm a little confused. You said you would never consider  
14 getting paid, but you did pay yourself.

15 A Well, we -- one time -- we're talking about a lot of  
16 different aspects, but the one time we're talking about  
17 performing services, we're talking about, you know, sitting --  
18 adults sitting, you know, during working hours, during the  
19 business day, during the evening, during the night, staying  
20 with her in the independent and paying \$10 an hour to whoever  
21 would do it.

22 Now, unfortunately, nobody helped.

23 Q Except your sister, who offered to, and you rejected her.

24 A Well, she didn't end up having it and doing the work. We  
25 did the work. Now, what I'm talking about -- and they're

1 talking about getting a house ready for sale. Okay? Now, I,  
2 as a lawyer and a broker, negotiated the sale of the house.  
3 Okay? Got the price bumped up and an offer was made and  
4 received for \$400,000 and we end up selling it for 434,000  
5 bucks. Beyond that, assisted in closing the house, negotiated  
6 from start to finish the sale of the condo interest. I think  
7 it's \$34,000 for that. We sold the car, which we got \$250,  
8 which I had offered Lucy and Marian to do it, because I sure  
9 as heck didn't want to do it.

10 Q Did you pay yourself a commission for selling the car?

11 A Well, what I was offering them was to take 5 percent or  
12 whatever sale price it was, and that would be a commission.

13 Now, we took \$250, which was 5 percent, but it also --  
14 out of that, we paid the cost of advertising in The Guardian  
15 newspaper.

16 Q And I don't want to interrupt you or cut you short, but  
17 I'm not criticizing you for paying yourself, Mr. Jordan.

18 A No, my whole point here is that, you know, I have done a  
19 lot of work myself and never once thought about getting paid  
20 for it.

21 Q Okay.

22 A I worked as a personal representative. I didn't get paid  
23 for it. Okay?

24 Q Okay.

25 A That was in 2012-2013.

1 Q Okay.

2 A All right. And one big deal -- and this is a really big  
3 deal --

4 Q Okay.

5 A -- because I happen to be a lawyer.

6 Q Lay it on me.

7 A Okay? And we had lawyers in my law firm at the time who  
8 were tax lawyers, and we had to talk about what the taxes were  
9 that was going to be on the house that we sold. Okay? And  
10 there was issues with that because my mother was not the owner  
11 of the house. She had a life estate. Okay? And there were  
12 other owners, trust owners. And the taxes were going to be  
13 between 20- and \$30,000.

14 Q Okay.

15 A And we figured a way to have zero.

16 Q Okay.

17 A Okay? Now, what did I charge for that? Not a dime.

18 Q Okay. Look --

19 A Now, if they think they're going to put what they did  
20 against what I did and expect to get paid, you know --

21 Q Well, you have already acknowledged -- again, you have  
22 already acknowledged that the services they provided were  
23 valuable, and you would not have held it against them if they  
24 had wanted compensation for that. You already said that.

25 A If they had, I would have done the same for myself.

1 Q Okay. All right. Fair enough.

2 Do you recall when you sold your mother's house -- I  
3 think you said you sold it for \$440,000?

4 A 434,000, I think it was. 433,000.

5 Q Okay. And some of that money -- that money was split up,  
6 as I recall, and some of it was handed over to Ms. Kirk to  
7 control because she was on an account with your mother; is  
8 that correct?

9 A That's probably correct to some degree, yes.

10 Q And then some of it came to you to control because I  
11 think you had some role with your father's trust; is that  
12 right?

13 A Well, I was a trustee under his will.

14 Q Got it.

15 Do you recall that there was a certain amount of money  
16 that you had control over and you were making decisions about  
17 how to invest it?

18 A Yes.

19 Q And you decided to invest \$125,000 of that money in 2007  
20 in the market. Do you remember that?

21 A I did, yes.

22 Q And your sisters urged you not to do that; correct?

23 A They did.

24 Q They considered that stock market investment to be overly  
25 aggressive; did they not?

1 A Well, it wasn't like it was all the money going in  
2 stocks.

3 Q That wasn't my question, Mr. Jordan.

4 A (Indiscernible) went to the stocks.

5 Q Thank you, Mr. Jordan.

6 They considered investment in the stock market to be  
7 overly aggressive; did they not?

8 A Well, I was saying they certainly did --

9 Q Thank you.

10 A -- and hind -- let me explain my answer.

11 In hindsight, I certainly see why they did feel that way.

12 Q Right. Because the market crashed in 2008; did it not?

13 A Well, it crashed in 2008, but in 2006, the account -- the  
14 account. -- Morgan Stanley monies that Marian was in charge of  
15 posted a loss -- a loss now -- of \$33,000.

16 MR. COX: I would object to that to the extent you're  
17 relying on hearsay evidence and ask that it be stricken.

18 A Okay. Well, I -- we can put that in the evidence some  
19 more, but you have, in fact, acknowledged in the request and  
20 the responses to discovery requests that that's, in fact, what  
21 happened.

22 Q Well, even if it did happen, do you have any knowledge  
23 that Ms. Kirk and Ms. Fuller were advocating for investment of  
24 money in the stock market? In fact, they were not, were they?

25 A Well, they weren't, in 2007. I will acknowledge that.

1 And I suspect, in hindsight, that the reason they weren't is  
2 because of the very poor results they were getting from Morgan  
3 Stanley of which I was unaware.

4 Q And, in fact, their concerns came to light because that's  
5 exactly what happened. The \$125,000 that you invested lost a  
6 significant amount of money, didn't it?

7 A It lost effectively about 11 percent of -- when the stock  
8 market went down, I think, 37 percent. I had invested in very  
9 conservative investments, and it lost 11 percent, and that's  
10 on the sum of approximately \$14,700.

11 Q You may have different statements. I will tell you and  
12 the Court, I'm not trying to hide anything from anybody.  
13 That's not what my statements show. Look at Exhibit 4. Do  
14 you have it? Do you see it?

15 A I have got Exhibit 4.

16 Q And that's a Merrill Lynch statement; is it not?

17 A That is a Merrill Lynch statement for June of 2007.

18 Q And that's the account that you opened with \$125,000 that  
19 you got from the sale of your father's house; correct?

20 A That's right.

21 Q These are the funds that your sisters urged you not to  
22 invest in the stock market; correct?

23 A Well, they were definitely interested in keeping the  
24 money under the mattress.

25 Q Yes or no: These are the funds that your sisters urged

1 you not to invest in the stock market; correct?

2 A I would say yes.

3 Q Okay. And this statement, the first page, is dated June  
4 of '07; isn't that right? At the top left, first page?

5 A Well, hold on. Yes, I see it.

6 Q And then if you look down here where it says "value of  
7 portfolio," a little bit further to the right, is the sum of  
8 just shy of 125,000.

9 A Right.

10 Q That would have been the amount you invested initially;  
11 correct?

12 A I think I gave them \$125,000.

13 Q So then, if we go two pages in, I have included this  
14 statement because it's the last one I have. I welcome you to  
15 introduce others if you have them. But the 2010 statement,  
16 three pages in, is dated October of 2008 to December of 2008;  
17 correct?

18 A That's what it appears to be.

19 Q That's when the crash began. Do you remember that?

20 A Oh, I'm sure it began in 2007.

21 Q And in that year and a half, the value of the portfolio  
22 had fallen from 124,000 and change to 87,000 and change;  
23 correct?

24 A Well, that's what it says there, but the figure that they  
25 indicated as a loss to me was \$14,700.

1 Q Well, I don't know, I would object to the extent you  
2 don't have any foundation for that, but I'm welcome to see  
3 anything you have got.

4 Anyway, this money would have been better under the  
5 mattress. You agree with that?

6 A I would agree that, in light of the fact that the crash  
7 occurred quickly after that, it would probably have been best  
8 not to invest at all, but they encouraged me so hard after it  
9 crashed to get out of the market, and we had no chance to  
10 recoup.

11 Q Okay. I got you.

12 A That was twice.

13 Q Do you recall that your sisters asked you on multiple  
14 occasions how much you had lost in the market and you refused  
15 to provide that information?

16 A Well, Marian had the file.

17 Q I'll ask the question again.

18 A The answer is, I did not refuse. I would have been  
19 cooperating fully, but Marian had picked up my file and  
20 handled the file for a year, and once she gave it back to me,  
21 then we could figure out what was the (indiscernible).

22 Q Okay. So you deny that your sisters repeatedly asked for  
23 the loss, and you didn't tell them what it was; is that right?

24 A No. You didn't ask that.

25 Q Let me be very clear. Do you recall that, on several

1 occasions, your sister asked you -- your sisters asked you how  
2 much you had lost to the stock market and you did not answer  
3 them?

4 A No, I remember distinctly. I read all the emails.  
5 Marian and I dealt only by emails, so we got, you know, a good  
6 stream of back and forth on this thing, and, you know, I kept  
7 saying, I'll get you the information if you'll return the  
8 file.

9 Q So that's your response?

10 A Couldn't do anything without that.

11 Q Your response is, when they asked you how much you had  
12 lost, you told them you need to see your file first?

13 A Exactly.

14 Q Okay. You never told them you would not give them the  
15 information?

16 A I never told them I would not. Actually to the contrary.

17 Q Okay. Did you ever --

18 A I'm happy to do whatever I can to get a distribution.

19 Q Okay. Do you recall ever hanging up on them when they  
20 asked you about that?

21 A Oh, I probably did hang up on them one time each.

22 Q Okay. All right. You were the -- this was before your  
23 mother's death; right?

24 A This would have been before my mother's death, right.

25 Q So when you were investing your mother's money before

1 your mother's death, you had a fiduciary duty to her; did you  
2 not?

3 A Well, I had a fiduciary duty when I acted as her  
4 attorney-in-fact, yes.

5 Q Right. And so when your sisters would ask you questions  
6 about your mother's affairs, you acknowledge there was a time  
7 you hung up on them?

8 A Well, I might have. I'm not saying that I would have a  
9 fiduciary duty at that point at all.

10 MR. COX: All right. I think just about five set of  
11 questions, because, Your Honor, I do think I just need to get  
12 this on the record, which I can do very briefly. I understand  
13 their position on this.

14 BY MR. COX:

15 Q You have hired -- as personal representative of your  
16 mother's estate, you have hired Mr. Jordan to represent --  
17 excuse me, Mr. Anderson -- to represent you in this case;  
18 correct?

19 A To represent me -- personally represent me, yes.

20 Q What are the terms and conditions of your agreement with  
21 him?

22 A It's a contingency fee relationship.

23 Q Okay. And what are the terms of that contingency?

24 A I have got a letter to that effect, but it started out --  
25 it's, I believe, 20 percent of the recovery and moves up to 33

1 and a third percent of the recovery at this point, and it goes  
2 to 40 percent.

3 MR. ANDERSON: If Your Honor please, you already  
4 indicated that this matter is not before you, and you're not  
5 familiar with this one way or the other.

6 THE COURT: And he indicated that he just put it on  
7 record in case something comes up later, so...

8 MR. COX: Yeah, if we're in front of the probate court,  
9 this is good -- if we're talking about everything else, might  
10 as well talk about it now. I think it also goes to  
11 reasonableness in terms of your conduct as personal  
12 representative.

13 BY MR. COX:

14 Q So I want to make sure I understand, pursuant to the  
15 terms as you agreed with Mr. Anderson, how does this work? Is  
16 that -- have you promised him, as personal representative, a  
17 percentage of everything that would go back into the estate or  
18 just the funds that the beneficiaries would not otherwise have  
19 had?

20 A Oh, the deal is, whatever we recover on this lawsuit.  
21 Whatever.

22 Q Okay.

23 A You know, less costs.

24 Q I just want to make sure how this works. I think your  
25 position is that on -- say, for example -- and I'm just going

1 to pick a number again. It may not be exactly right, but it  
2 will illustrate the concept. All right? Your position is, on  
3 the Wachovia money, the Wells Fargo money, it was listed on  
4 the inventory and appraisal but that you never actually got  
5 it and distributed it. Do you know the money I'm talking  
6 about?

7 A Right.

8 Q That's about \$23,000 in principal; right?

9 A 23,980.

10 Q And then it's got certain prejudgment interest associated  
11 with it that you're claiming?

12 A There's definitely prejudgment interest.

13 Q So that Wells Fargo claim tops out at somewhere around 30  
14 grand; is that correct?

15 A I want to say it's more like 35.

16 Q Well, whatever it is. This is just for illustrative  
17 purposes.

18 So the way your agreement with Mr. Anderson works is --  
19 let me back up for a moment. You're not contending that you,  
20 Leonard Jordan, as a beneficiary of your mother's estate, are  
21 entitled to all of that, are you?

22 A No.

23 Q No, not at all.

24 A I'm simply acting on behalf of the estate as personal  
25 representative.

1 Q So if you succeed on that claim, you acknowledge that  
2 money would come into the estate -- and then put aside the  
3 attorney's fees issue for a moment -- it would come into the  
4 estate and then it would be paid out three ways: To you, to  
5 Lucy, and to Marian; correct?

6 A The net brought in after expenses would certainly be  
7 divided one-third, one-third, one-third. That's the way it  
8 should be.

9 Q So what you're asking the Court to do is to take the  
10 money from Lucy and Marian, put it in the estate so it can all  
11 come back out again; right?

12 A That's right.

13 Q And you're asking the Court, pursuant to your agreement  
14 with Mr. Anderson, to bring their shares into the estate,  
15 Mr. Anderson would get his one-third fee out of their shares,  
16 and it would go right back to them?

17 MR. ANDERSON: I have got to object. That's not anything  
18 what Mr. Jordan has testified to.

19 THE COURT: What was the question?

20 MR. ANDERSON: I'm just asking him.

21 THE COURT: Overruled.

22 BY MR. COX:

23 Q Is that what happens? Does your agreement with  
24 Mr. Anderson provide that he gets a third of whatever monies  
25 are recovered from these two ladies, even though it's going

1 right back to 'em? Is that your agreement?

2 A That's the agreement.

3 Q Thank you.

4 That's why we're so interested in it.

5 Now, let me ask you one final question. You recall Judge

6 Manning issued an order for partial summary judgment on the

7 Bankers Life claim and the Bank of America claim; correct?

8 A Correct.

9 Q That order is in the roster in the docket and you have  
10 given Her Honor copies as well; right?

11 A Right.

12 Q Do you recall, Mr. Jordan, you tried to execute on that  
13 judgment immediately, didn't you?

14 A Correct.

15 Q You issued a writ of execution, didn't you?

16 A Sure did.

17 Q And I asked the judge to quash that --

18 MR. ANDERSON: Your Honor, I'm not sure of the relevance  
19 of that, Judge.

20 MR. COX: It will be clear in just a moment, Your Honor.

21 THE COURT: Overruled.

22 BY MR. COX:

23 Q And you recall I made a motion to quash that execution on  
24 the grounds that it was an order on partial summary judgment,  
25 and orders of partial summary judgment were subject to being

1 revisited by the Court at any time prior to final judgment.

2 Do you recall my making that argument to Judge Manning?

3 A I recall that argument, yes.

4 Q In fact, it was made in this very room; was it not?

5 A Maybe so.

6 Q And Judge Manning agreed with me and he quashed the  
7 execution that you had issued; did he not?

8 A He did, yes.

9 Q Thank you.

10 MR. COX: If I could take a brief break, Judge, I think  
11 I'm done. Let me check with my clients.

12 THE COURT: Yes, sir.

13 (Pause in the proceedings.)

14 MR. COX: Your Honor, I want to make sure I have got all  
15 my admissions -- my exhibits in evidence. Anything marked  
16 that is not admitted?

17 COURT REPORTER: 4.

18 ~~MR. COX: We would move the admission of No. 4.~~

19 ~~THE COURT: Any objection to Defendant's 4? It's the~~  
20 ~~Merrill Lynch account statements.~~

21 MR. ANDERSON: No. No, ma'am.

22 THE COURT: Defendant's 4 is admitted without objection.

23 (Defendant's Exhibit No. 4 was marked for identification  
24 and received into evidence.)

25 THE COURT: All right. Any redirect?

1 Q On the same day you called her?

2 A On the Wells Fargo. I mean, frankly, I was  
3 (indiscernible) but she certainly didn't explain to me that  
4 there were two accounts. She didn't explain to me that, by  
5 the way, I claim the right of survivorship on this account and  
6 the estate is not entitled to it. She didn't mention  
7 anything. She just gave me the figure.

8 Q All right. On the Wells Fargo bank account and the  
9 Merrill Lynch --

10 A Not Merrill Lynch. Morgan Stanley.

11 Q The Morgan Stanley. Those two and those two alone.

12 A That's right.

13 Q All right. And that's what you filled out and that's  
14 what you submitted to the Court?

15 A Now, the important thing, though -- and this is an  
16 important thing because we talked about the 1783 account,  
17 which we reported only \$20,495 in at the time of my mother's  
18 death, there was a total of \$28,500 in that account.

19 Q All right. Well, let's go back to the Wells Fargo  
20 account. Your sister took the money out of that account while  
21 your mother was still alive and put it into an account just in  
22 her name.

23 A On this Wells Fargo account, it's the only one I knew  
24 about.

25 Q Right.

1 I had to investigate all of them.

2 But I want to go back to this 1783 because we did not  
3 report on the estate filing that we had more than the \$2,499  
4 in the 1783 account. Okay? When my mother died, that account  
5 had \$28,500 in it.

6 Q Were you aware of that?

7 A I was of course not aware of it and not aware of it until  
8 prior to 2016 or 2017, but what happened with the money is  
9 Lucy -- I mean, Marian disbursed \$13,000 to herself and  
10 \$13,000 to Lucy out of that account. And I'm not saying there  
11 was anything wrong with that, but because she also disbursed  
12 \$13,000 to me, but, at the end of the day, we did not report  
13 correctly to the probate court that the amount of the money in  
14 the two accounts that we were reporting as being almost  
15 \$44,000 was really right at \$50,000 that we should have  
16 reported to the probate court.

17 Q All right. When you inquired of your sister how much  
18 money was available in your mother's name, she had been  
19 dealing with those accounts for some time; is that not true?

20 A Oh, she had been dealing with them from before 2005 and  
21 then was involved, I guess, in opening up the other two  
22 accounts.

23 Q All right. Did you trust her?

24 A I absolutely trusted her.

25 Q Did you rely upon her to give you correct information?

1 A I certainly did.

2 Q Did you see any reason to go behind her and go to Wells  
3 Fargo or go to any other banks to discover if there were any  
4 other assets available?

5 A Absolutely not. I mean, I don't know why anybody would  
6 suggest that I needed to go beyond that because, you know,  
7 that's basically disparaging her. I mean, if she told me in  
8 that time frame, in 2012-2013, in the time frame she tells me  
9 what she's got, I don't believe it.

10 Q All right. Did what she tell you fall in line with what  
11 you believed to be the case anyway?

12 A Well, yes. I mean, no question about the Morgan Stanley  
13 money. And, again, she had two accounts that were reporting  
14 on Wells Fargo. I was only aware of one, but as far as the  
15 amount of the money, you know, I accepted it how she stated.

16 Q And one of them was correct, the Wells Fargo account,  
17 because she, in turn, read that off the statement.

18 A Well, I mean, what the statement said was total of the  
19 two accounts was \$24,980.

20 Q And that's what she put on the inventory?

21 A And that's what she used on the report. Now, that  
22 wasn't -- and that statement was somewhere in, like, September  
23 of 2012, but, again, in June -- June 5th, 2012, you know, she  
24 had a lot more money from her account than that. We should  
25 have reported more money.

1 Q When you discovered the money had been moved to the Bank  
2 of America account, did you question her on why she did that?

3 A Okay. Now, I keep getting confused. I have already  
4 identified the Bank of America. Is Bank of America 8040?

5 Q Yes.

6 A I didn't learn about the Bank of America money until the  
7 end of July 2017.

8 Q Okay. One of the things that Mr. Cox asked you about was  
9 the release and the request of closing the estate; correct?

10 A Yes.

11 Q All right. Were you getting pressure from the probate  
12 court to close the estate?

13 A Well, I was. And I frankly didn't think there was any  
14 real reason to, you know, to string it out because, again, I  
15 trusted Marian to settle up at the time that she was ready to  
16 settle up.

17 Q All right. Which would have been one-third, one-third,  
18 one-third --

19 A Absolutely.

20 Q -- of all the monies that your mother had.

21 A Of all the monies that Marian was still holding.

22 Q All right. And that money is why we're here today?

23 A Yes. That's what we're here about.

24 Q And you're having conversations -- are you having  
25 conversations with Marian and Lucy concerning that money and

1 the distribution of it?

2 A Yeah. We're -- you know, I really kind of lost track in  
3 2013, and the estate closed out I think in October of 2013.  
4 So it was probably 2014 that I started, you know, pressing,  
5 let's beat -- let's get -- me just go in and disburse the  
6 money, that type of thing. And I finally got an email from  
7 Marian that said Lucy and Marian -- Lucy and I want to meet to  
8 discuss final distribution. That was (indiscernible) 2014.

9 Q And what did you think the final distribution would be?

10 A Well, I was of the impression at that point in time that  
11 we were talking about the \$23,980 plus interest. So whatever  
12 the number would have been, that's what we were talking about.

13 Q One-third, one-third, one-third?

14 A And we were going to distribute it a third each. And,  
15 unfortunately, we never got together at a meeting -- a meeting  
16 and I'm sad to say we strung it up from November of 2014 until  
17 September of 2015. We finally got together to discuss  
18 disbursement. And we were discussing disbursement of \$26,000.

19 Q All right. Did your sister ever produce and give to you  
20 any document indicating that any of these accounts were joint  
21 accounts?

22 A None. I mean, frankly, she never mentioned to me that  
23 there were -- you know, keep in mind, at this stage, I'm  
24 thinking there's one account. Okay? When we met in September  
25 2015, all I'm aware of is one Wells Fargo account, and I had

1 no idea that it -- I don't know. I take that back. That was  
2 in September of 2015. I think it was like June of 2015,  
3 Marian made some comment about, you know, the point that the  
4 account was a joint account. And that's all. She didn't  
5 elaborate on it. That's what she just said. Okay?

6 And, you know, frankly, that kind of set off bells with  
7 me. You know? But, again, you know, I have no reason to  
8 think Marian has got, you know, any reason to, you know, take  
9 advantage of a situation. So I just forget it.

10 But then we met in September of 2015 at my office, and  
11 Marian made a curious statement when we were breaking up the  
12 meeting, and she said, "By the way, I could take the position  
13 that I have right of survivorship on that account." Okay?  
14 Again, we're still talking about one account. And I'm  
15 thinking, hmm, okay, well, I was, you know, kind of thinking  
16 that that could be a possibility, but the way she said it led  
17 me to believe that she could take a position in that respect  
18 but she wasn't going to.

19 Q All right. Let's talk a little bit about the question  
20 posed to you by Mr. Cox about compensation for what both of  
21 your sisters did with regard to financial aspects on the  
22 house. All right?

23 A Yes.

24 Q All right. Did either of them ever come to you and say,  
25 I need to recompense for what I have been doing?

1 A Nobody -- I mean, they would make these comments every  
2 now and then, but never, ever gave me an amount that they  
3 wanted me to write a check for. I mean, I very well might  
4 have been willing to write a check if it was a reasonable  
5 amount. You know, I don't know. They never approached me.

6 And then after my mother's death, they never filed any  
7 claim against the estate or anything like that. You know, I'm  
8 probably just avoid the hassle, and I probably paid it.

9 Q All right. So no claim was filed against the estate by  
10 your two sisters representing any monies they claim was due  
11 because of their actions with regard to your mother?

12 A Right, right.

13 And I would point out that Lucy would not be entitled to  
14 any kind of compensation for showing the house and doing  
15 things that a real estate agent would do and that type of  
16 thing because she wasn't a licensed Realtor.

17 Q Let me show you that document. Can you identify that?

18 A I can.

19 Q What is it?

20 A It's a Morgan Stanley statement of a 2012 annual review.

21 Q And are there others connected with it?

22 A Behind it is a 2010 annual review and the 2011 annual  
23 review. 2012 on back.

24 Q All right. Is that showing any money being paid to your  
25 sisters out of that account?

1 that your sister was managing with Morgan Stanley lost how  
2 much?

3 A Well, in 2006, the tax return indicated that it lost  
4 \$33,000.

5 MR. COX: I would object to that, Your Honor, to the  
6 extent he's talking about documents that are not in the  
7 record. It would be hearsay.

8 BY MR. ANDERSON:

9 Q Do you have that?

10 A You have got it.

11 THE COURT: (Indiscernible).

12 MR. ANDERSON: Bear with me, Your Honor. I'll give  
13 Mr. Jordan help here.

14 MR. COX: I'm sorry; I didn't mean to cause a snafu,  
15 Judge. We can certainly wait until a break and I'll remove my  
16 objections if they can produce the tax return so we don't have  
17 to take up time right this second. As long as the tax return  
18 is here, I have no issue. I just want to make sure it's in  
19 the record. I don't want to take the Court's time now if we  
20 can do it at a break.

21 THE COURT: Actually, let's just take a break right now.

22 MR. COX: Perfect.

23 (A brief recess was taken.)

24 MR. ANDERSON: This is the '06 tax return.

25 COURT REPORTER: So 2006 tax return, is that what you