

IN THE CIRCUIT COURT FOR PRICE WILLIAM COUNTY
STATE OF VIRGINIA

DONALD B. VEAZEY,)
Plaintiff,)
-vs-) CASE CL-2012-4532
JOSEPH J. BECKETT, et al.,)
Defendants.)
- - - - -

Continuation Deposition of THOMAS DUBREUIL,
taken before Pamela C. Herrmann, (formerly Pamela C.
Washington), Registered Professional Reporter and
Notary Public, at the law offices of Sergovic,
Carmean & Weidman, 142 East Market Street, Georgetown,
Delaware, on January 29, 2014, beginning at 12:15 p.m.

APPEARANCES:

On behalf of the Plaintiff:
David Charles Masselli, PC
BY: DAVID CHARLES MASSELLI, ESQ.
4113 Lee Highway
Arlington, Virginia 22207

On behalf of the Defendants:
Hale Carlson Baumgartner
BY: KIMBERLEY ANN MURPHY, ESQ.
10511 Judicial Drive
Fairfax, Virginia 22030

I-N-D-E-X

WITNESS:

THOMAS DUBREUIL

Examination by Mr. Masselli 182

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1 WHEREUPON:

2 THOMAS DuBREUIL,
3 having first been duly sworn by the court reporter,
4 thereupon testified upon his oath as follows:

5 BY MR. MASSELLI:

6 Q Mr. DuBreuil, it's good to see you
7 again.

8 A Thank you. Good to see you, too.

9 Q I want to start by going back to
10 something we discussed at the last deposition.

11 A Okay.

12 Q We were talking about three related
13 bank accounts at Wachovia bank which were opened in
14 July of 2009 and closed on December 25th of 2009 with
15 a notation on the statements debit to close account.

16 A Uh-huh.

17 Q The first account which was titled
18 Alberta Veazey, Donald Veazey had an account number
19 with the last four digits 9862, it was Exhibit 11.
20 And I will not be re-introducing this, but I wasn't
21 sure if you'd have them or not so I have copies. I
22 have one for you, too.

23 MS. MURPHY: Okay.

24 BY MR. MASSELLI:

25 Q There's 11. The second account which

1 was Alberta Veazey POD Jack Beckett had an account
2 number with the last four digits 2646, it was Exhibit
3 12. And the third account was Alberta Veazey POD Bob
4 Beckett, it had an account number with the last four
5 digits 2633, it was Exhibit 13. And at the time, I
6 asked you some questions about if we could tell where
7 the money had went, had gone --

8 A Out of, correct.

9 Q -- out of. And we actually had some
10 debit memos, and there was one debit memo in
11 particular, it was a debit memo for \$238,814.50 which
12 was part of Exhibit 14. And you said that, to the
13 best of your knowledge, you could tell that the money
14 had left accounts but those documents didn't
15 necessarily tell you where the money went; am I
16 correct in my recollection?

17 A At least based on what I saw at the
18 time, yes.

19 Q Okay. And what I'd like to do now is
20 show you two bank statements which were just produced
21 to us by Wells Fargo. And by that I mean yesterday.
22 And I have to tell you I was surprised that somehow in
23 all the various production from Wells Fargo, it hadn't
24 come up before.

25 The first which I will mark as

1 Exhibit 34 is a statement for an account opened on
2 September 25th, 2009 in the name of Joseph J. Beckett,
3 it's account number 1010248066789, we're going to call
4 it the 6789 for most of these purposes. This is
5 marked as Exhibit 34.

6 (DuBreuil Exhibit 34, marked for
7 identification.)

8 MR. MASSELLI: The second which is
9 going to be Exhibit 35, another account opened at
10 Wachovia bank on September 25th, 2009 for James R
11 Beckett, who is in fact generally referred to as Bob
12 Beckett, it's account number 1010248066785, I'm
13 marking this as Exhibit 35, and we're probably going
14 to call it the 6785 account when we talk about it.

15 (DuBreuil Exhibit 35, marked for
16 identification.)

17 BY MR. MASSELLI:

18 Q Now, as you recall, each of the POD
19 accounts had about \$240,000 in them when they were
20 closed, is that correct?

21 A Let's see. Yeah. Yes.

22 Q When you look at let's start with
23 Exhibit 34, the Joseph J Beckett account, when you
24 look at the first page of that, can you tell where the
25 money has come from into that account? Does it

1 describe where the money has come from?

2 A Yes, it does.

3 Q Okay. And in this case, let's just use
4 the last four digits; in terms of deposits into the
5 account, where has the money come from?

6 A Deposits and other credits, one deposit
7 comes from account ending in 9982, and account ending
8 in 2633, and account ending in 2646.

9 Q Okay. I have an exhibit that we have
10 prepared, I'm not sure which deposition it was used in
11 before, but we have now updated it. This is a list of
12 various bank accounts that have been produced by Wells
13 Fargo in discovery to one party or the other. Looking
14 again at the deposits into the Jack Beckett account,
15 the 6789 account which is Exhibit 34 --

16 A 6798 not 89.

17 Q You're right, thank you very much.
18 -- 6798 account, can we determine where this
19 \$25,544.57 came from?

20 A Are you talking about the deposit into
21 the account?

22 Q Yes, the deposit.

23 A Yeah, the 25, that came -- transfer
24 from deposit and other credits came from account
25 ending in 2646.

1 Q Okay. And I think, if you look at the
2 number seven on Exhibit 36 which is the list of the
3 accounts, the 2646 is E. Alberta Veazey POD Jack
4 Beckett?

5 A Right.

6 Q Which I believe is actually the prior
7 Exhibit 12. Then there's a deposit of \$187,785.36
8 from the 9982 account?

9 A Uh-huh, I see that.

10 Q And if we look for the 9982 account, I
11 think it's number five on this list.

12 A Yep. Yes, it is.

13 Q And which account would that be?

14 A That would be the joint account with
15 E. Alberta Veazey and Donald Veazey.

16 Q Okay. And the final item is a
17 \$244,336.07 deposit from the 2633 account, and I think
18 if you look at number ten on the list on --

19 A Yep, I see it.

20 Q And which account is that?

21 A 2633.

22 Q Yeah. Is that the E. Alberta Veazey
23 POD Bob Beckett account?

24 A Yes, it is.

25 Q What I'm wondering, I'm not trying to

1 play a game here --

2 A Sure.

3 Q -- does seeing this give you any
4 memory, do you remember having made these transfers?

5 A Not made the transfers. I remember the
6 accounts being set up, and I'm not exactly
7 transactionally, because the money had to come from
8 somewhere to get into some of these accounts,
9 obviously. My memory is when the estate -- or the
10 money was paid out from the wrongful death lawsuit
11 from the Angeles Agency, it had to go in -- be
12 deposited in somewhere.

13 So what we were doing, you know, the
14 night that we all sat around is when we were looking
15 over that list of how Alberta wanted things done, you
16 know, and we were, you know, depositing money into the
17 account based on those wishes. So the money had to
18 have been deposited in various accounts, and I'm not
19 sure from a legal titling standpoint, you know, how
20 that -- I don't know if I saw the actual checks that
21 came in and how they were deposited, you know, from
22 there or how the money was transferred in, what
23 accounts they were transferred into. These are the
24 end result of trying to get everything squared away
25 based on the document based on the wishes of the --

1 at what was deposited in September.

2 A I don't see -- I don't have that.

3 Q That's Exhibit 35. I'm pretty sure I
4 gave you -- it's over to your right.

5 A Oh, sorry. Okay.

6 Q So first, we have a deposit of
7 218,791.50 which is listed as a transfer from 2646 --

8 A That's right.

9 Q -- is that correct?

10 A Yes, it is.

11 (DuBreuil Exhibit 36, marked for
12 identification.)

13 BY MR. MASSELLI:

14 Q And if you look at number seven on this
15 Exhibit 36, I think you will see that that's actually
16 the Alberta Veazey POD Jack Beckett account, right?

17 A Number seven, yes.

18 Q Okay.

19 A Yes, it is.

20 Q And then the second item is a counter
21 deposit for 238,574.50?

22 A You're absolutely right.

23 Q And does that appear to match the
24 counter withdraw that you made which is part of
25 Exhibit 14?

2 Q Okay. And that money, as I recall,
3 actually came from account 2844 --

5 Q -- which is an Alberta Veazey account?

8 Q Right. So Bob's 457,666 comes from
9 Jack's POD account and an Alberta Veazey personal
0 account?

12 Q Okay. And now, do these account
13 statements refresh your memory on how funds were given
14 to Jack and Bob Beckett consistent with the
15 September 25th memorandum?

21 Q And I want to go back, this is one that
22 I didn't print out in multiple copies, but I want to
23 go back to Exhibit 10 which was the two-page agreement
24 and memorandum of understanding. And why don't I let
25 you see this version so your counsel can carry on.

1 So if you look at the paragraph six,
2 doesn't it say that Alberta Veazey intends to give Bob
3 and Jack each \$418,000?

4 A Yes.

5 Q And I think we can stipulate that twice
6 418 is 836,000?

7 A Right.

8 Q If you look at paragraph seven, does it
9 say that she intends to give each of her three sons
10 \$39,666 to fully utilize her gift?

11 A Yes, it does.

12 Q Yeah. So if we take 39,666 and add
13 that to 418, does that add up to the 457,332 that each
14 of the --

15 A \$457,666.

16 Q Okay. So does that add up to the money
17 that each of them got, the 457,666 of deposits that
18 you see in 34?

19 A Yes.

20 Q And in 35, we have an additional
21 \$75,000 that I think Jack Beckett -- I mean Bob
22 Beckett just wired in.

23 A Right.

24 Q But minus that?

25 A Right.

A Right.

1 Q It's dated March 1st.

2 A Right.

3 Q And it has lots of exhibits, and I
4 think we established that that was the universe you
5 were working with at that time?

6 A Correct.

7 Q Okay. Now, would the analysis in
8 Exhibit 31 have been perhaps incomplete because it
9 didn't take into account this money that was coming
10 not just from the POD accounts but actually from
11 Alberta Veazey's personal accounts to Jack and Bob
12 Beckett to make up the full 900,000 plus?

13 A Well, I don't believe it was
14 incomplete; it was complete based on what I had seen.
15 Because the money that was coming in that was
16 populating this from the account, you know, all the
17 stuff, some of it appears that has come out of, you
18 know, out of Alberta, one of Alberta's accounts,
19 actually probably -- well, at least one of Alberta's
20 accounts.

21 You know, I basically used my analysis,
22 that was the starting point from which I was -- and
23 analyzing moving forward. So -- but, yeah, that's --
24 you know, because it was a distribution -- see, the
25 thing that I was questioning is the money that went in

1 from the Angelos account from that, how were the
2 checks -- how was that supposed to have been
3 distributed; was that made to Alberta personally or
4 estate of or, you know, typically in things along
5 those lines, that's the thing that I can't remember.

6 Because I don't know if I actually saw
7 the actual checks that were paid out from the wrongful
8 death, Sam Veazey's wrongful death lawsuit. So
9 whether that was paid -- how that got into Alberta's
10 accounts, you know, that, I can't -- you know, I'm
11 sure it got there, obviously, because it had to be
12 distributed out; she didn't have that kind of money
13 before, you know, before the distribution of the
14 lawsuit.

15 Q But wasn't one of the questions that
16 you and Mr. Beckett and Mr. Thomas and I believe
17 Mr. Warrington were trying to find out, wasn't one of
18 those questions where has Alberta Veazey's money gone
19 to?

20 A From -- well, we knew the money --
21 where her money had gone through -- gone to. Really,
22 the -- if you look at item three on page one of
23 Exhibit 31, Alberta's share of the proceeds of the
24 wrongful death lawsuit, you know, was valued at
25 427,000. So, you know, that would have been the two

1 accounts that were opened up for Alberta, and that was
2 2646, the Alberta Veazey POD Jack Beckett, and 2633
3 Alberta Veazey POD Bob Beckett.

4 So from this point, you know, what
5 happened to Jack, you know, Joseph Beckett's and James
6 Beckett's money, that was their personal money; that
7 is not, you know, that is not in question or that
8 wasn't analyzed.

9 So part of -- you know, so I was --
10 that's the universe I was dealing with at the time.
11 So that was -- this is certainly a component of that,
12 you know, of that analysis.

13 Q And, again, at the time that you were
14 doing this in March of 2012, you didn't have in front
15 of you this information about money going into Jack
16 and Bob's accounts coming from Alberta Veazey's
17 personal accounts, not the LLC accounts?

18 A No, no. No, I did not, and it was, you
19 know -- no, I didn't.

20 Q And let me point out, I want to make it
21 very clear here. It's taken us a long time plus
22 subpoena power to be able to come to some of this.
23 And also at that time, you didn't know which
24 settlement account check had gone into the various
25 Alberta Veazey and LLC accounts either, did you?

1 A You know, I did not at the time of
2 doing this; and it really wasn't -- it wasn't what I
3 was asked to do. I was basically -- this was -- I was
4 going from a starting point, you know, the assumption
5 was that the money was -- went in there and it went
6 where it was supposed to go, and it got where it
7 needed to go at the time.

8 So I was asked to analyze after that
9 point of -- and really specifically the money that was
10 in the two accounts was I was really dealing with the
11 2646 and the 2633 which was the, you know, which was
12 primarily titled to Alberta Veazey. So that is part
13 of item three on the first page of Exhibit 31, and so
14 that was -- I was being asked where did that money go.

15 Q Am I correct that we previously
16 established that with respect to some of that money,
17 if it didn't go by check, it might just say there was
18 a counter withdraw, and in those bank statements it
19 would just end with a counter withdraw and you
20 wouldn't know where that money had gone?

21 A Well, there would be -- no -- well, may
22 not necessarily have the documents but it's -- you
23 know, the records, any kind of counter withdraw, a lot
24 of times it's done -- it's done because something had
25 to be done at a specific -- you know, in a specific

1 time.

2 So in other words, this was -- and it
3 could very well have been that, because if I remember
4 correctly, that came in late in the day, and the hour
5 was late, and I may have had to do a counter withdraw,
6 especially the one that's -- I don't know what the
7 debit memo -- it may have been done that, you know,
8 before the bank -- after the bank hours but I had to
9 get it in, so I may have had to do that. But, you
10 know, the money got in where it was supposed to go
11 based on, you know, what I was asked to do that
12 afternoon.

13 Q But didn't we establish at the last
14 deposition when we looked at this \$238,000 counter
15 withdraw from 2844 that there was nothing in the 2844
16 account paperwork that showed where that money was
17 going? It just showed that it had been taken out, is
18 that correct?

19 A That's correct. But now we have
20 established that it went into account ending in 6785.

21 Q We have established that now because we
22 have --

23 A Right, we have that. So we didn't --
24 yeah, we didn't know that prior, I agree, we didn't
25 know that prior; now, we do.

1 Q In fact, nobody, to the best of my
2 knowledge, had that statement until yesterday, so --

3 A Okay.

4 Q And we can spend a long time doing
5 this; if you would bear with me, I'll try not to.

6 A Okay.

7 Q But when I did my addition, it appeared
8 that Jack and Bob, besides getting money that came
9 from the POD accounts, got \$452,204.43 from other
10 accounts; the biggest being the 238,874.50 for the
11 2844.

12 A Right.

13 Q And that went to Bob. There also being
14 187,785.36 that came from the Alberta Veazey, Don
15 Veazey 9982 account and 25,544.57 that came from
16 the -- no, that actually came from the Jack Beckett
17 POD account.

18 A That's right.

19 Q But if we take the 238 and the 187, you
20 know, that's over \$400,000.

21 A Okay.

22 Q And do you think that might explain why
23 there was less money in accounts titled to Alberta
24 Veazey than people thought there should have been?

25 MS. MURPHY: Objection; if he has

1 knowledge. You can go ahead and answer.

2 THE WITNESS: Basically, like I say,
3 you may very well be -- you may very well be right.
4 I'll agree with you that whatever -- wherever the
5 money came from, wherever it came from and it got to,
6 it was there.

7 The one thing that I want to point out
8 is that the two accounts ending in 2646 and 2633, that
9 was Alberta's money, and that was basically money that
10 was supposed to go to Alberta. Alberta's wishes at
11 the time were that if -- in order to equalize
12 everything between all three of the sons, that if
13 something happened to her, that money goes -- like if
14 she were to pass away, payable on death, you know,
15 that was titled in her name.

16 The POD doesn't denote ownership of
17 that account, it's just a payable on death only. So
18 that was Alberta's money, essentially that was
19 Alberta's money, that was her's, that went to her; it
20 was part of her distribution from the wrongful death
21 lawsuit of Sam Veazey.

22 BY MR. MASSELLI:

23 Q And did Alberta follow and direct you
24 to make sure that this money went to her sons, Jack
25 and Bob?

1 A Yes.

2 Q And did she seem to understand what was
3 going on?

4 A On that date, yes.

5 Q Okay.

6 A Are we done with these?

7 Q For the moment, so why don't we just
8 stack them up. Now remember, the ones that are 34,
9 35, 36, et cetera eventually have to go to the court
10 reporter.

11 A Okay, I know, these.

12 Q Okay, I'd like to show you an Email
13 exchange on April 5th, 2012 which I'm marking as
14 Exhibit 37.

15 (DuBreuil Exhibit 37, marked for
16 identification.)

17 BY MR. MASSELLI:

18 Q This is an Email to you from the Jack
19 Beckett Email account, and then you respond at 4:20
20 with an Email that says thanks, Kristen, I'll forward
21 these.

22 A Right.

23 Q Do these Emails relate to the Wachovia
24 now Wells Fargo brokerage account?

25 A No, it would not. Because Wells Fargo

LLC, there was not a brokerage account in the -- based on what I'm seeing is that the Re: Wells Fargo LLC Account Statements, those I believe were bank statements, not brokerage, because there was nothing of Alberta's at Wells Fargo securities that had an LLC title to it.

Q Okay, so this means that at this point in time on April 5th, you got the Wells Fargo LLC bank statements then?

A Yes, that's the only thing that I could think it would have referred to.

Q Had you had those statements when you were writing the March 1st letter?

A Well, I may have. I may have had those, yeah, at that time. Because the dates -- that date is after that was written, so it could very well be, because I think Jack had given me those but I hadn't necessarily included that in part of the analysis. I'd have to go look through that to determine that.

Q Now, there had been an LLC brokerage account, correct?

A Yes.

Q And that was at LPL?

A Yeah, LPL Advisers, correct.

1 Q All right. So I'd like to show you a
2 February 28, 2010 statement from LPL Financial which
3 appears to be an opening statement for an account
4 because it starts with O.

5 (DuBreuil Exhibit 38 marked for
6 identification.)

7 BY MR. MASSELLI:

8 Q Do you recognize this document?

9 A Do I recognize this account? I
10 recognize, yeah, I recognize -- I don't know if I had
11 this exact statement, but I recognize it as I have
12 seen statements similar to that for that same account.

13 Q And I'd like to show you 39, and I have
14 marked the previous one as 38 which is the February.
15 This is a one-page portion of a statement, this was
16 produced to us in discovery because we don't have the
17 LPL account after it transferred, but this is a May
18 31st, 2012 LPL statement.

19 A Okay.

20 (DuBreuil Exhibit 39, marked for
21 identification.)

22 BY MR. MASSELLI:

23 Q And is this a statement that reflects
24 the closing of that account?

25 A Yes.

1 Q And at the time that -- and were you
2 the one who handled the closing of that account?

3 A I handled the transfer of -- in other
4 words, the transfer out of the assets which resulted
5 in the closing of this account. I didn't -- I
6 couldn't close this account at LPL Financial
7 personally but the -- you know, the asset transfer to
8 Hornor Townsend and Kent resulted in the value of May
9 2012 being zero.

10 Q What was the value of the account
11 before you transferred everything out?

12 A Well, looks like \$346,696.37.

13 Q Okay, so had the account grown from the
14 time of the initial deposit to when it was closed out?

15 MS. MURPHY: Objection as to form. He
16 can answer.

17 BY MR. MASSELLI:

18 Q Let me rephrase that.

19 A I'm sure --

20 Q Let me ask perhaps a more proper
21 version of it. Had the account increased in value
22 from the time it was opened to the time you
23 transferred everything out?

24 A Yes, it had.

25 Q Would you say that the difference in

1 the value between the \$285,000 that was deposited to
2 start the account and the value at the end of the
3 account was \$61,696.37?

4 MS. MURPHY: Objection as to
5 foundation. He can answer if he has knowledge.

6 THE WITNESS: I mean so let me just
7 make sure. So are you asking me that, in other words,
8 the closing balance on May 31 and the opening balance
9 of February of 2010 was -- what did you say that was?
10 Because, you know, I'll make -- I'll do the difference
11 and --

12 BY MR. MASSELLI:

13 Q Thank you.

14 A So 62,445.79. I subtracted the
15 346,696.37 from the 284,250.58.

16 Q Why didn't you use 346,696.37?

17 A I did.

18 Q Oh, okay, thank you. Now, I'd like to
19 show you a brokerage statement for account 5HK-403309
20 from Hornor Townsend and Kent, who we have been
21 referring to as HTK. This is a statement for the
22 period April 25, 2012 to May 31, 2012, I'm marking it
23 as Exhibit 40.

24 (DuBreuil Exhibit 40, marked for
25 identification.)

1 BY MR. MASSELLI:

2 Q Do you recognize this account?

3 A Uh-huh. Yes, I do.

4 Q Is this the account into which you
5 transferred the assets of the LPL account?

6 A Yes, it is.

7 Q Now, you closed out an LPL account with
8 a value of 346?

9 A No, no, I didn't.

10 Q Okay. You transferred out, let me
11 be --

12 A Well, no, I didn't transfer out, that's
13 not the value. Because that's the beginning value as
14 of May 31 of the beginning of that month. And
15 actually, the asset transfer happened more towards the
16 middle of the month.

17 So it's probably -- this is probably
18 the, you know, the one that's shown on Exhibit 40,
19 318,569.95 was the asset value as of whatever it was
20 that pulled out of the LPL to this. There may have
21 been some residual left over, dividends not paid,
22 things along those lines, but that was the bulk of the
23 transfer that I did in kind.

24 Q Because it does appear there's about a
25 27- or \$28,000 difference.

1 A Between what and what?

2 Q Between what was in the LPL account on
3 May 1st, 2012 and what was in the HTK account on
4 May 31st, 2012.

5 A That's true.

6 Q But it's your clear understanding that
7 everything was transferred from LPL to HTK?

8 A Yes.

9 Q No money went anywhere else?

10 A No money went anywhere else, so there
11 was -- you know, the only way to explain any kind of
12 differences would be market, market fluctuation.

13 Q Now, can you characterize the
14 investment strategy for the HTK account?

15 A Well, initially, the investment
16 strategy was to be -- at the time was just to be left
17 alone. In other words, the same investment strategy
18 that had came over with the money was, you know, in
19 the same -- whatever the values were, the securities
20 and so on, was to be kept the same until Jack and I
21 had a chance to, you know, discuss certain -- you
22 know, discuss it.

23 And so we didn't really -- you know,
24 once that happened, though, one thing I was pointing
25 out to Jack was that during that time, the market

Q Okay, I'd like to show you an Email

1 dated April 11th, 2012 which appears to be from you to
2 Mr. Thomas and Jack Beckett, and I'm marking it as
3 Exhibit 41.

4 (DuBreuil Exhibit 41, marked for
5 identification.)

6 BY MR. MASSELLI:

7 Q Do you recognize that Email?

8 A Yeah, I'm reading it. Yeah, I
9 recognize it.

10 Q And while you just stated that Jack
11 Beckett was uncomfortable with the makeup of that
12 portfolio, doesn't this indicate that even before the
13 account had been transferred over, you were also
14 uncomfortable with the makeup of the portfolio?

15 A I was, you know, based on -- yeah, I
16 was.

17 Q Okay. And you expressed that view to
18 Jack Beckett, right?

19 A I did.

20 Q I'm going to show you an HTK statement
21 dated September 30th, 2013 which I will mark as
22 Exhibit 41.

23 (DuBreuil Exhibit 41, marked for
24 identification.)

1 BY MR. MASSELLI:

2 Q I will represent that this is the most
3 recent HTK statement that has been produced to us in
4 discovery, and there is nothing wrong with that; it
5 was produced 10 days or 30 days after it was received,
6 so --

7 A Yep. I don't know if I saw this
8 specific statement -- yeah, I probably glanced at it.
9 But I certainly recognize the statement.

10 Q And you're the registered
11 representative for this account, is that right?

12 A Yes, I am.

13 Q What's the value of the account at the
14 end of September, 2013?

15 A \$291,676.59.

16 Q So how had that account performed
17 during the period of time from its opening in May of
18 2012 until that date?

19 A Well, first of all, because the
20 allocation was changed from a -- primarily from a
21 stock allocation to a bond allocation, so the logic
22 behind doing what I -- you know, doing what I had done
23 was to give a less volatile -- produce a less volatile
24 account, number one, that had a very large cash
25 component.

1 So really at the time, if you look at
2 the front page, \$87,079.05 were in cash, they were not
3 allocated into the market. So the fixed income part
4 were all in order to create the dividends and create
5 the income and cash flowing into that. I did a
6 strategy where it was corporate bonds, estate put
7 corporate bonds that essentially produced an income.

8 And when I made the purchase, I had
9 to -- I took into consideration several things:

10 Number one, I had to make sure that when the
11 securities were sold, the original securities in
12 there, that they didn't create -- I knew there was
13 going to be a gain and so I consulted with the
14 accountant, Sam Warrington, to make sure that that
15 wasn't going to have an adverse affect from a tax
16 standpoint, you know, for the trust. And, you know,
17 we discussed it, he said it wouldn't, I go okay.

18 Second thing is I realized that the --
19 because Alberta is the -- it's her family LLC, it's
20 actually her Social Security number on it. And
21 Alberta being a 91, 92 year old woman at the time,
22 this was probably a lot more appropriate from an
23 investment standpoint. At least until the point that
24 the litigation and everything is over, it made more
25 sense, you know, to do something like this, whereas

1 the portfolio creates a significant income so that if
2 cash was needed or were to be used for Alberta's care
3 for, you know, the care of the trust, whatever that
4 might be, whatever other needs, that it was available,
5 you know, for that purpose.

6 And the second thing, it creates an
7 income. If you look at the front page, the estimated
8 annual income of this portfolio is \$10,061 a year. So
9 I did that, plus the estate put feature allows the
10 beneficiaries to, instead of having to sell the
11 securities on the open market, could actually sell
12 back to the issuer at, you know, at the value that
13 they were purchased at because they were purchased at
14 a premium.

15 And so this is the -- so this was the
16 logic behind the strategy that I -- that was
17 incorporated. So I took a lot of things into
18 consideration.

19 Q Well, it looks like, despite the
20 income, it's gone down in value from 318,569.95 to
21 291,676.59?

22 A From what was the first figure you
23 said, from what?

24 Q If you look at Exhibit --

25 A Yeah, 318,569, is that correct?

1 Q Right.

2 (DuBreuil Exhibit 42, marked for
3 identification.)

4 BY MR. MASSELLI:

5 Q And if you look at Exhibit 42, it's
6 291,676.

7 A The market kept going down in the
8 interim. That was the -- because from the time -- and
9 I can't remember the exact date -- from the time that
10 I received the securities in until the time I made the
11 change and the transactions, the market was in a
12 downward -- was actually going down. So these were
13 losing value to the market.

14 And so, you know, I really didn't want
15 the -- like I say, I didn't want the account to go
16 below what the initial investment was. As it turns
17 out, I think at the time of the transaction -- I can't
18 remember because this -- I'd have to go back and look
19 at my papers when I actually made the purchase -- it
20 had been several months.

21 So that portfolio, that strategy that
22 was in place was losing money. This was as much of a
23 stop loss, you know, strategy to insure that at least
24 over time, you know, volatility of the market didn't
25 lose -- didn't really make the account go below what

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Milford, Delaware 19963

1 was initially invested.

2 So that, you know, that wasn't my
3 strategy; that was the strategy that I was -- I had
4 inherited at the time. And I had -- and I had to stop
5 that, I didn't want the money -- I didn't know what
6 the market was going to do, it was still in a volatile
7 recovery mode.

8 Q Well, which market was going down?

9 A The general -- actually at the time, it
10 was more the emerging market because there was a lot
11 of emerging market ETFs, mid-cap stocks, a lot of --
12 it was a fair amount of volatility.

13 You know, the account itself, if you
14 looked at the -- you know, it had a -- it grew very
15 well at the time, but if you look at -- you know, for
16 instance, I'm looking at page three of eight on
17 Exhibit 40, and if you look at just the listing of the
18 descriptions of the securities that, you know, the
19 transactions, Comex Gold shares, those are basically
20 gold, you know, securities, very volatile. Emerging
21 Markets Index, Global Energy Sector Index, Midcap
22 Value Index, Microcap which was very -- and these were
23 all newer companies that were -- that in general tend
24 to be more volatile. They were newer companies and,
25 granted, they did great when the market was running up

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1 and they grew a lot, but they were also -- now the
2 securities were losing value to those particular
3 indexes during a period of market downturn.

4 Q But didn't you sell all those
5 securities?

6 A Eventually, I did, yeah.

7 Q When did you sell them?

8 A I don't remember the date, I don't
9 know. Let's see. Okay, June 14th, 2012.

10 Q So you sold them within --

11 A A month.

12 Q -- a month?

13 A Yeah.

14 Q So you sold them, and the HTK portfolio
15 has the new -- the HTK portfolio with the corporate
16 bonds, et cetera, has either been stagnant or gone
17 down, right?

18 A Yeah, from the time -- right. It
19 actually, from the day -- from the time that it moved
20 over, the value on the account as of the 31st of May,
21 2012 was \$318,569. The value of the securities sold,
22 in other words, to create the new was \$310,504.

23 So between the 31st of May and June 14
24 of 2012, it lost a little less than \$8,000 in that
25 short period of time with what was there. So that was

1 the point at which I -- you know, that's the point at
2 which I sold. So it had gone down quite a bit.

3 Q But it's gone down since, then, too?

4 A Actually, it hasn't, because there
5 was -- I know -- it was requested that there was
6 about -- a withdraw, a cash withdraw out of that, and
7 I can't remember exactly when that was made, that Jack
8 had asked and he got permission to do out of the trust
9 to pay for trust expenses. And so there was actually
10 a withdraw of that, and so that doesn't -- you know,
11 it was just a request that was made. But Jack had
12 mentioned -- you know, had said to me that he --
13 certain things needed to be paid, and so he asked for
14 a withdraw.

15 Q Do you recall how big the withdraw was?

16 A It was \$15,000.

17 Q So that would have been one year's of
18 the income, one-and-a-half year's of the income of the
19 new stock?

20 A Well, it is -- it was something that --
21 I don't know about the one year's income, it's not
22 the -- I don't think it was the point. It was
23 accessibility to certain assets of Alberta's to allow
24 Jack to carry out his duties as both guardian and the
25 managing non-member of the trust. So he had to, you

1 know -- that was just something that was, you know,
2 was done. But it has nothing to do with the loss in
3 value.

4 Q Would it surprise you to know that as
5 of the 16th of January, the value of that initial
6 portfolio in the LPL account, all those Gold and Comex
7 and you name it stocks, that if you went through each
8 of them on the 16th of January, it would have been
9 \$398,558.56?

10 A You're talking about January 16th of
11 2014?

12 Q Yeah, last week?

13 A So you're basically saying if we had
14 kept that portfolio and done that? No, it doesn't,
15 but then I can't -- I can't predict what the market's
16 going to do in the future. And all we -- all I was
17 trying to do is get, you know, do our portfolio.

18 You know, I would say that the
19 portfolio, although it grew, and which is true, is
20 that, you know, in typical brokerage parlance, is that
21 an appropriate portfolio for a 91-year-old person who
22 was -- that was Alberta's account. That was still,
23 you know, even though it's under the auspicious of the
24 trust, it has her Social Security number on it.

25 So based on that from a -- you know, I

1 April 25th, 2012 from you, I'm marking it as Exhibit
2 43.

3 (DuBreuil Exhibit 43, marked for
4 identification.)

5 THE WITNESS: Okay.

6 BY MR. MASSELLI:

7 Q Do you recognize this Email?

8 A Yes, I do.

9 Q Why would you need to change the
10 annuitant on the policy in order to transfer the
11 Nationwide annuity?

12 A Well, it's common that whenever you're
13 setting up an annuity such as the one in Nationwide,
14 it seemed -- it just seemed unusual that -- usually
15 there's -- there's an owner of a policy and there's,
16 you know -- there's an owner, annuitant, and
17 beneficiary.

18 So the beneficiaries were the people --
19 the sons, if Alberta were to die, they would get the
20 money from the annuity. Alberta was the owner. And
21 then the annuitant is typically the person -- still
22 typically the owner in case they wished to annuitize
23 the annuity and create a stream of income. So if
24 that -- so as it was set up, and I still don't know
25 why or how that happened or if it was a mistake or

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Milford, Delaware 19963

1 intentional; that, I can't say -- in the event of
2 annuitization, the income from that annuity would have
3 gone to Don for the rest of his life. It could have
4 been. Could have been, that is, if that happened. Of
5 course, that hasn't, but it's -- you know.

6 Q I'm trying to parse my way through this
7 sentence.

8 A Sure.

9 Q Is it correct that at some point in
10 time, you were able to convince Nationwide that Jack
11 as the guardian and the POA could act on behalf of
12 Alberta with respect to the Nationwide annuity?

13 A I wasn't trying to convince them of
14 anything. It was -- in order to allow Jack as
15 guardian to manage that asset, which was the one asset
16 that we knew that she had that was in her name, and
17 because Don had given up the power of attorney, as I
18 remember, Jack is the guardian now, Jack has -- so he
19 had to have, you know, at least the ability to use
20 that, you know, use the annuity as, you know,
21 withdraws, additions, whatever that might be, to
22 manage that money.

23 So it's not a matter of convincing,
24 it's just a matter of sending the appropriate
25 paperwork to Nationwide, which we did, and had him

1 named as the guardian. So now it was -- he was the
2 guardian.

3 Q And am I correct that as the guardian,
4 Jack has been able to make withdraws from the
5 Nationwide annuity for the benefit of Alberta?

6 A He has that capability if he so
7 chooses, correct.

8 Q Are you aware that he has done that?

9 A Of one, yeah.

10 Q Okay. So what I'm interested in is
11 there's no dispute that Jack has the power of attorney
12 over this annuity, and there is now no dispute that
13 the annuity belongs to Alberta rather than the trust?

14 A Correct.

15 Q So my first question is why do you need
16 to change the annuitant?

17 A Well, actually, the annuitant is still
18 the same; that was Nationwide's decision. Donny is on
19 that policy, as I remember, right now; he's still the
20 annuitant. And that's something that I couldn't
21 really get a clear answer as to why that was the way
22 it was, whether it was a policy thing or -- I don't
23 know.

24 But it is not -- you know, it really --
25 in all the years that I have done many annuities for

1 other clients, it's typically the owner would be the
2 annuitant, the owner would get the income in the event
3 of the annuitization. In this case, it would not go
4 to Alberta if that were to happen; it would go to
5 Donny because Donny is the annuitant. And that's
6 still today, you know, that policy, it's still the
7 same exact way; they wouldn't -- couldn't get it
8 changed.

9 Q Now, in that same bulleted point, you
10 talk about needing to change Don as the annuitant
11 before the transfer of her Nationwide annuity takes
12 place; did you think it was a good idea to change from
13 the Nationwide annuity to another annuity?

14 A We had considered at the time or talked
15 about, never acted upon, changing that annuity from a
16 deferred annuity to an immediate annuity to pay out an
17 income to Alberta. Because what was happening was
18 Jack was needing income -- Jack was needing money to
19 pay for Alberta's nursing home, because what was going
20 to happen is the long-term care policy, the benefit
21 from the long-term care policy that Alberta had taken
22 out was going to run out, and so there was going to be
23 a higher burden on Jack to pay that bill out of his
24 own pocket. This was a strategy that was -- this
25 could at least give enough of an income for them to

1 pay that.

2 And as it turns out, we decided not
3 to -- decided not to do that, just to leave -- if he
4 needed money to pay for Alberta, we decided just to
5 leave it where it was and make a withdraw out of the
6 annuity as it were, understanding that there's a
7 possibility of having to pay a surrender charge
8 because of the, you know, time. But that was, you
9 know, that was something ...

10 Q But hadn't you selected a potential new
11 insurance company?

12 A Sure, I did.

13 Q And who was that?

14 A At the time, it would have been -- I
15 think it was Lincoln Financial, I believe, I can't --
16 I'd have to go back to my books.

17 Q Are they also known as Lincoln Benefit
18 Life?

19 A Could be, I'm not -- I know there's
20 Lincoln Benefit Life, I know there's Lincoln
21 Financial, they may be two separate companies, I'm not
22 positive whether or not they are.

23 Q Now, at the previous deposition, you
24 discussed the fact that HTK and its parent insurance
25 company had arrangements with other -- that you as a

1 registered representative could also deal with other
2 insurance companies, is that correct?

3 A That's true.

4 Q And Lincoln would have been one of
5 those insurance companies, right?

6 A They were on the list -- they were one
7 of the companies that the broker that I deal with for
8 outside business does, you know, help, you know,
9 transact business for.

10 Q And if this annuity had been
11 transferred, would either you, HTK, or the insurance
12 company have earned a commission?

13 MS. MURPHY: Objection as to relevance.
14 You can answer.

15 THE WITNESS: Yeah, I would have earned
16 a commission.

17 BY MR. MASSELLI:

18 Q Now, do you recall why Nationwide
19 wouldn't change the annuitant from Don to Jack?

20 A It's -- I believe, although I'm not a
21 hundred percent positive, that when the annuity was
22 opened, Alberta's -- it had something to do with
23 Alberta's age. And while she could be the owner of
24 the annuity at the age that it was opened, it's
25 possible that she may not necessarily, based on

1 Nationwide's policy, could be the annuitant. That's
2 what I thought I heard and I still don't know, I never
3 really had that verified so I can't really -- I'm not
4 positive that's the case, but that's what I remember
5 hearing from Nationwide. It just didn't -- it just
6 didn't seem, you know -- it seemed unusual to me, so
7 that's why I questioned it.

8 Q Do you ever recall being told not that
9 Alberta was too old, but that Jack was too old --

10 A No.

11 Q -- to be an annuitant?

12 A No.

13 Q Okay. I'd like to show you an Email
14 exchange May 11th, 2012, I'm marking it as Exhibit 44.

15 (DuBreuil Exhibit 44, marked for
16 identification.)

17 BY MR. MASSELLI:

18 Q I'd like to focus on your Email to
19 Mr. Thomas at the bottom of the page. Do you recall
20 this Email?

21 A Yes, I do.

22 Q Did you ever do any work on compiling
23 the response that's discussed in that Email?

24 A No, I did not.

25 Q You didn't? Was there some reason you

1 didn't or --

2 A I wasn't asked to.

3 Q Okay. I'm going to show you an Email
4 dated April 18, 2012 which I'm marking as Exhibit 45.

5 (DuBreuil Exhibit 45, marked for
6 identification.)

7 BY MR. MASSELLI:

8 Q I ask you to look at that and see if
9 you recognize it.

10 A Okay.

11 Q Now, was it the case that when you
12 wrote the March 1st letter, that you thought the
13 Wachovia, then Wells Fargo, brokerage account in
14 Alberta Veazey's name had been liquidated?

15 A Did I think then that it was?

16 Q Yes.

17 A Yeah.

18 Q Okay. And at a later time, you
19 discovered that there was still an existent Wells
20 Fargo brokerage account in the name of Alberta Veazey,
21 although, to be fair, it was not a large one?

22 A Yes.

23 Q Okay. But you didn't know about the
24 Wells Fargo account, the Wells Fargo brokerage account
25 still having some funds in it when you wrote the

1 March 1st letter, did you?

2 A No, because I don't believe -- I don't
3 believe I had seen -- or Jack had not gotten the
4 statement, I had not seen the statement, you know.
5 But I know it had a balance but it wasn't -- I believe
6 it wasn't very much.

7 Q I'd like to show you a June 4, 2012
8 Email from you to Robert Thomas and Jack Beckett, and
9 ask if you recognize that.

10 (DuBreuil Exhibit 46, marked for
11 identification.)

12 THE WITNESS: Okay, I recognize it.
13 BY MR. MASSELLI:

14 Q Why were the bank deposit checks signed
15 by Donald Veazey saying for deposit only?

16 A Well, for one thing, because it was --
17 it was Don Veazey as the personal representative of
18 the estate of Sam Veazey, so there wasn't a like-
19 titled account. And that was a pretty strict policy
20 of the bank, not -- you know, the title had to match,
21 and so they couldn't deposit it into -- because it
22 wasn't an account -- wasn't an estate account for Sam
23 Veazey opened up at Wells Fargo bank.

24 Q Before this had happened, hadn't Don
25 been able to deposit Donald Veazey, personal

1 representative of the estate of Samuel Veazey into
2 various of Alberta's accounts?

3 A I have no idea.

4 MS. MURPHY: Objection as to
5 foundation, but he can answer if he has knowledge.

6 THE WITNESS: There's no way for me to
7 know because I never -- you know, I was never privy to
8 those deposits, so I don't know. But I know they
9 wouldn't accept this one.

10 BY MR. MASSELLI:

11 Q Do you know if Jack has been able to
12 deposit estate of Samuel Veazey checks subsequent to
13 this date?

14 A Me? No, I don't know.

15 Q You don't know?

16 A I don't know.

17 Q Would it surprise you that he has?

18 A I don't know. All I know is what --
19 you know, this specific instance.

20 Q I'd like to show you an Email from you
21 dated July 5, 2012, I'm marking it as Exhibit 47.

22 (DuBreuil Exhibit 47, marked for
23 identification.)

24 BY MR. MASSELLI:

25 Q Do you recognize this Email?

1 A Sure do.

2 Q Did you send it?

3 A Yes, I did.

4 Q Does this refresh your recollection as
5 to where you were thinking of setting up the new
6 annuity?

7 A Yes, I did, there's the name.

8 Q And what's the name?

9 A Lincoln Benefit Life.

10 Q Okay. And as I understand it, the
11 reason you sought to do that was that it had a
12 different pay-out schedule that you thought would be
13 more beneficial?

14 A Well, the reason I did that was to --
15 yeah, I believed it did at the time, because the -- in
16 order to -- a strategy that, you know, we were talking
17 about of a different pay-out and, you know, to pay an
18 income so that they could be able to do that. And if
19 I am not mistaken, I had contacted Nationwide and
20 compared the two, and this particular pay-out schedule
21 based on the schedule that we were considering would
22 have been higher.

23 Q Okay, are you familiar with the
24 initials SPIA as used with respect to annuities?

25 A Yes.

1 Q Can you tell me what they are?

2 A Single premium immediate annuity.

3 Q Is that what you were expecting at
4 Lincoln Benefit?

5 A That's correct.

6 Q And presumably the single premium would
7 have been the value of the Nationwide annuity?

8 A Correct.

9 Q Okay. Now, the Nationwide annuity was
10 created as a transfer from the TransAmerican annuity,
11 was that not an SPIA?

12 A No, it was not.

13 Q Okay. Could you --

14 A It was a deferred annuity; it was a tax
15 deferred annuity, a variable tax deferred annuity.

16 Q Okay. So what sort of pay-out were you
17 thinking of getting, had you been able to transfer to
18 the Lincoln benefit?

19 A I honestly don't remember exactly what
20 that pay-out would have been. I was seeking to get
21 enough of a pay-out to make up the difference between,
22 you know, what the -- try to help Jack pay the nursing
23 home costs for Alberta. And I don't have those -- I
24 don't have those notes anymore.

25 Q Okay. But is it correct that Jack has

1 been able to make up that difference by taking money
2 from the Nationwide annuity?

3 A Yes, I believe so; I haven't really
4 talked to him lately about it.

5 MR. MASSELLI: I have a document which
6 I'm going to mark as Exhibit 48.

7 (DuBreuil Exhibit 48, marked for
8 identification.)

9 BY MR. MASSELLI:

10 Q It previously has an Exhibit A on it,
11 it is a Nationwide Life Insurance document dated
12 7/24/2008, and this is a document that was actually
13 faxed, I believe, by Miss Murphy's office to
14 Nationwide.

15 A Okay.

16 Q Do you recognize this document?

17 A This particular document, I do not. I
18 don't recognize this document.

19 Q After the break, we may come back but
20 would it surprise you to know that you sent the same
21 document to Nationwide when you were attempting to get
22 the annuity transferred?

23 A I sent this?

24 Q Not this specific; you sent the same
25 underlying document to Nationwide?

1 A This actually looks -- well, this
2 almost looks like a -- wait a minute. This is
3 actually an application for a Nationwide annuity, from
4 the looks of it.

5 Q Isn't it the application for the
6 Nationwide annuity that was eventually issued?

7 A That, yeah, when it was transferred
8 over. I mean, yeah, because it was one that was done
9 in -- this was 7/24 of -- I guess this is 2008, I
10 can't really read the date on that. But this was the
11 application. Whoever did that, that's -- whoever's
12 signature that would be, that would be the one that --
13 the person that did it.

14 Q Do you recall who the beneficiaries of
15 the Alberta Veazey Nationwide annuity are?

16 A No -- yeah, Don Veazey, Joe Beckett,
17 Bob Beckett.

18 Q Okay, and are they essentially equal?

19 A Yes.

20 Q Okay. I'd like to show you an undated
21 Email from Nationwide, I'm marking it as Exhibit 49,
22 it also has an Exhibit sticker D on it.

23 (DuBreuil Exhibit 49, marked for
24 identification.)
25

1 BY MR. MASSELLI:

2 Q I'd like to ask you if you have ever
3 seen this document before?

4 A It's been a while, but yeah, now I do
5 remember seeing this. And so it confirms what I
6 thought was actual -- you know, the reason why Donny
7 was the annuitant and not her, not Alberta.

8 Q Well, doesn't this refer to the
9 proposed change to Jack as an annuitant?

10 MS. MURPHY: Objection as to form.

11 THE WITNESS: There was no proposed
12 change to have Jack as the annuitant. Proposed change
13 was to have Alberta as the annuitant.

14 BY MR. MASSELLI:

15 Q Okay, so that's your clear
16 recollection, that you never attempted to change --

17 A No, I did not.

18 Q Do you know who Burkep@nationwide.com
19 is?

20 A Oh, oh, I don't know. I really don't
21 know who that is. I don't know who he is.

22 Q I believe his name is Paul Burke, does
23 that ring a bell?

24 A Not really.

25 Q Do you know who Chris Nardone is?

1 A No, I do not.

2 Q I'd like to show you an Email from you
3 dated July 12, 2012 which I'm marking as Exhibit 50.

4 (DuBreuil Exhibit 50, marked for
5 identification.)

6 BY MR. MASSELLI:

7 Q Do you recognize this Email?

8 A Yes, I do.

9 Q Do you recall sending it?

10 A Yes, I do.

11 Q In item B, you state that Jack had no
12 access to the investment account information on the
13 LLC, particularly the LPL financial account.

14 A That's correct.

15 Q Once he notified them that he was the
16 manager of the LLC, didn't he have access?

17 A Well, we were never able to get LPL to
18 respond. I tried -- initially, we tried to get that
19 done. I sent them paperwork. You know, actually with
20 Jack there, we spoke to some representatives at LPL,
21 but we were given the -- because initially what we
22 wanted to do is just have Jack as, you know, as the
23 managing member and everything sent in his address --
24 sent to his address.

25 So before, you know, I mean usually, we

1 just tried to keep everything the way it was at LPL
2 and, you know, I gave them plenty of time to respond
3 and make the change. And when we checked with them,
4 they didn't know where the paperwork was; sent it to
5 them again, same thing happened again. And so it was,
6 you know, it was becoming obvious that we weren't
7 going to be able to, you know, get the title changed,
8 because that was the original direction we were going
9 to go so that Jack at least could get access to the
10 LPL, you know, information, you know, in his current
11 role.

12 Q In item C, at the bottom of that
13 paragraph you state that you sold off the entire LPL
14 portfolio, and you list the proceeds of the sale as
15 315,990.10; I believe that in your earlier testimony
16 this afternoon, you used a lower number, you said 310?

17 A It may have been. I may have been -- I
18 either would have had to look -- I could have made an
19 error on one of the two; I probably looked at the
20 statement.

21 It appears that that was the proceeds
22 of the sale. Like I said, there may have been
23 residual things that hadn't completely moved over from
24 LPL, I'd have to look at the records. But on that
25 date, those are the proceeds of the sale. So it could

1 have been -- and there could have been a discrepancy
2 but may have been just looking at a statement.

3 Q Item D discusses the Nationwide annuity
4 again; can you tell me the circumstances under which
5 Don would have received money as the annuitant?

6 A Yeah, if he had decided to annuitize
7 the annuity. If, you know, if he were to decide to
8 annuitize the annuity.

9 Q Now, what steps would he have had to
10 take to annuitize it?

11 A Would have called Nationwide and set it
12 up with them, you know, that could have been done.
13 You know, he would just have to -- whatever procedures
14 that Don would have to do to do that, whatever that
15 would be; call them, fill out forms, you know, each
16 company is different.

17 Q Okay. And he would not have had to
18 have permission of the owner or the owner's
19 representative?

20 A Well, at the time, he was the owner's
21 representative.

22 Q Well, at the time you're writing this
23 letter, he's no longer the --

24 A Well, no, no longer, not now, because
25 it had changed. But that was the -- that was just a

1 concern. So, you know, it's something that I saw that
2 was different, and I brought it up as a point to, you
3 know, to discuss.

4 Based on what I saw and based on what
5 my experience has been with, you know, generally
6 seeing annuities and things like that, it actually
7 came as a surprise that Alberta Veazey could be the
8 owner of an annuity but not the annuitant, so that
9 seemed unusual to me.

10 Q Are you aware of whether he ever
11 attempted to annuitize the --

12 A No.

13 Q -- annuity?

14 A No, I'm not.

15 MR. MASSELLI: Go off the record for a
16 minute.

17 (Whereupon, there was a discussion held
18 off the record.)

19 MR. MASSELLI: I'm going to show you an
20 Email dated July 13th, 2012 from you to Jack Beckett
21 which I'm marking as Exhibit 51, it's an Email with
22 some handwriting on it.

23 (DuBreuil Exhibit 51, marked for
24 identification.)
25

1 BY MR. MASSELLI:

2 Q This is in the form it was produced to
3 us by Ms. Murphy. I'd like you to actually review it,
4 at least.

5 A Uh-huh. Okay. Oh, did you mean to
6 give me this one? There's a second.

7 Q Let's hold off on that, that will be
8 52, okay. Let me begin by asking, do you know who
9 made the handwritten additions to this?

10 A It appears to be Jack Beckett's
11 writing, so ...

12 Q Did you ever discuss with him his
13 comments?

14 A I may very well have, although I don't
15 remember specifically.

16 Q Okay. Do you recall sending this
17 Email?

18 A Oh, yes.

19 Q Yeah, so let me discuss the Email
20 itself and not the changes; we may get to those
21 tomorrow.

22 A Tomorrow?

23 Q Not with you. There's another
24 deposition tomorrow.

25 MS. MURPHY: You're not part of it,

1 it's okay.

2 BY MR. MASSELLI:

3 Q It appears that we can discuss
4 Mr. Beckett's handwritten notes with him at the
5 appropriate time. In the paragraph after the numbers,
6 you say that your recommendation to Jack was to use
7 the funds that Alberta had in her name "to create an
8 income stream she couldn't outlive."

9 A Right.

10 Q Now, the question I have is the
11 following: If the trust had essentially taken most of
12 Alberta's assets away --

13 A Okay.

14 Q -- wasn't the real necessity to create
15 an income stream that would last for five years rather
16 than for whatever --

17 MS. MURPHY: Objection as to
18 foundation. Whether he has any knowledge of what the
19 five year is or anything like that and whether it was
20 put into his analysis, so I object to that. If he has
21 any knowledge, he can answer.

22 THE WITNESS: I can answer, I do have
23 knowledge. A five-year period certain benefit would
24 mean that if, you know, if she lives beyond the -- it
25 was a way to maximize the payout of the benefit. If

1 Alberta lived until six years, basically what that
2 would do, that would take essentially the 193,000 that
3 I had referenced in there and basically parse it out
4 over a five-year period, you know, to pay the \$2,300.

5 If Alberta lives beyond that, because
6 it is a contract, it's an insurance contract, they
7 would be contractually obliged to pay -- continue to
8 pay the \$2300 a month, even though the \$193,000 actual
9 asset had been paid out. So that way it maximizes the
10 payout benefit, but it was a way of doing that.

11 So, in other words, it won't stop -- if
12 she was alive at, you know, five years and one month
13 or six years or however many years, the insurance
14 company would still pay the \$2,300 that I had
15 referenced in there until her death, there just
16 wouldn't be anything else left over for the
17 beneficiaries.

18 BY MR. MASSELLI:

19 Q But if you reached a point which was
20 five years after the creation of the trust, the
21 gifting to Jack and Bob, if Alberta had no assets at
22 that point because they were either in the trust or
23 had been spent, wouldn't Medicaid pick up the entire
24 nursing home bill?

25 A Not necessarily.

1 Q Can you tell me why not?

2 A Well, first of all, Medicaid would have
3 to review, you know, if an application -- it's my
4 understanding that if an application were made to
5 Medicaid, let's assume that that was the case, and
6 Medicaid would, you know, would review all of
7 Alberta's assets including those that were in the
8 trust. It is conceivable, although each case is
9 different, that I wasn't -- I'm not sure that they
10 wouldn't require the trust things to be used; they
11 may, they may not, I'm not a Medicaid expert.

12 I do know there is now, you know, a
13 seven year look-back on assets, you know. And so it's
14 conceivable that Medicaid would decide that, you know,
15 these are still her assets, we need to use these
16 before we would pay -- you know, before we're actually
17 going to pay out the benefit.

18 And so, you know, I don't know what
19 would happen in that specific case, but in general
20 terms, you know, I look at a seven year look-back if
21 Medicare wants to look at it. They may allow --
22 decide to allow her to keep those assets, that would
23 be great; they may say no, and that would be their
24 decision. And so I -- I couldn't really take the risk
25 of, you know, assuming that the trust assets would be

1 totally protected, I couldn't assume that.

2 Q What is the source of your belief that
3 there's a seven year look-back?

4 A It's not a belief; I have been in the
5 banking business, I seem to remember reading somewhere
6 in, you know, in records that there was a seven year
7 look-back. But, you know, there has been three year
8 look-backs, five year look-backs before and so, you
9 know, seems to me I vaguely remember it was seven
10 years. But there was still, even if it was still five
11 years, it would still be something to be concerned
12 about.

13 Q In that same paragraph, you begin it by
14 saying, "Once I did my analysis" and the question I
15 have is are you talking about a written analysis that
16 you gave to Jack or someone representing him? First,
17 that's a question: When you say analysis, was that
18 analysis ever reduced to writing?

19 A No, it was -- I was analyzing a
20 specific aspect because of the documents that I had,
21 knowing that -- you know, knowing what assets she had
22 and knowing -- so it was maybe -- what's the date of
23 this? It may be part of this.

24 But then also analyzing, you know, what
25 I knew that her nursing home cost, what I knew that

1 the Jenworth LLP benefit paid and when it would stop,
2 and what her Social Security was. And so that was
3 just a separate analysis on it; it wasn't anything
4 that was a formal written analysis, if that's what
5 you're asking.

6 Q Yeah. The question I had, I was really
7 getting to that issue; there are some financial
8 planners where you go to see them and, even if you
9 have seen them for three minutes, they'll hand you a
10 document saying your financial plan, and all I wanted
11 to find out, all I wanted to get at is was there ever
12 a document you prepared for Jack?

13 A Yes, back when I initially, you know,
14 worked together, you know, when I was contacted by him
15 when I was at Swarthmore Financial, I believe it was
16 in October of 2011.

17 Q And did you give that to Jack?

18 A Uh-huh. Yes.

19 Q Okay. I would like to draw your
20 attention to an Email dated July 17, 2012, which I'm
21 going to mark as Exhibit 52.

22 (DuBreuil Exhibit 52, marked for
23 identification.)

24 BY MR. MASSELLI:

25 Q I ask you to read that and tell me if

1 you recognize it. Do you recognize this document?

2 A Yes, I do.

3 Q Did you send it?

4 A Yes, I did.

5 Q There are handwritten notations on it;
6 did you make those?

7 A No, I did not.

8 Q Do you have an idea of who did?

9 A It looks like Jack's writing.

10 Q Did you ever discuss his notations with
11 him?

12 A Not specifically that I can recall, no.

13 Q I'd like to show you a document which
14 I'm marking as Exhibit 53 which was produced in
15 discovery, and it's entitled Gains/Losses; do you
16 recognize this document?

17 A Not this specific one but I recognize
18 it. I have seen documents like this within -- you
19 know, but not this specific one.

20 (DuBreuil Exhibit 53, marked for
21 identification.)

22 BY MR. MASSELLI:

23 Q This document appears to have been
24 produced on May 25, 2012 so this would have been
25 almost immediately after the --

1 A Would have been -- well, no. Actually,
2 it would have been -- no, right around the time
3 because it shows -- I'm not exactly sure what -- hold
4 on a second. This could be a Gains/Losses statement
5 based on -- all this is basically the cost -- usually
6 cost basis information is transferred over in the case
7 of a transfer, so it would show as of that date.

8 Because the securities had not been
9 sold as of the 25th of May; they were sold at a later
10 date. If they were sold on that date, that's what
11 the, you know, the gain and loss would have been
12 because it says unrealized gain or loss. So a
13 transaction has not taken place as of the printing of
14 this document.

15 Q Okay. So am I correct that this
16 \$31,092.64 unrealized gain and loss is the gain and
17 loss from the LPL, from the stocks, from the
18 interests, stocks and other interests that were
19 transferred from LPL?

20 A Right. You know, that's paper, that's
21 unrealized, so that's true. That's what -- as of that
22 point in time, that's what, you know, the increase in
23 value from the date, from the total cost to the
24 current market value of the securities.

25 Q So this would be a document that let

1 you, as the new registered rep., know potential tax
2 consequences if you sold?

3 A Sure.

4 Q And as I understand it, there is no
5 short-term gain, it's all long-term gain?

6 A Correct.

7 Q So that means it's all been held for at
8 least a year, correct?

9 A Correct.

10 Q What I'd like to do now is show you a
11 document that you produced to me. And I'm going to
12 suggest that I make these copies available and that we
13 then take the short break we were going to take
14 anyhow, and that way you can have a chance to look at
15 it before we question you on it. So can we take a
16 break of about 10 minutes or 15, and then we'll come
17 back and finish up.

18 (DuBreuil Exhibit 54, marked for
19 identification.)

20 (Whereupon, a short recess was taken.)

21 BY MR. MASSELLI:

22 Q Mr. DuBreuil, can you sort of walk me
23 through what this document is that you were kind
24 enough to provide?

25 A This is basically a transaction

1 register. So in your subpoena, you were asking for,
2 you know, transactions related to this specific
3 account here, the 5HK403309. And so this basically
4 shows every transaction that happened from the time
5 the account was established and then the money was in.

6 So if you look at -- basically, if you
7 look at -- start at page two and work your way
8 backwards, you will see, and look on the very left,
9 you will see the dates 5/10/2012, these are the assets
10 that were transferred. And then so there's a few, you
11 know -- there may be some money market accounts and
12 then, you know -- so that's asset that was transferred
13 including whatever cash was in the LPL account
14 associated with the brokerage account.

15 And then on the 11th of June, the sale
16 of the assets, and so those were sold. And then
17 the -- something's missing here -- okay, so money
18 market purchase -- oh, okay, then the purchase of
19 the -- got it. So then there was just, you know, the
20 cash transactions. And then in March, 2013 is when
21 the purchases were made.

22 So these are all the transactions from
23 the time that the account was transferred over until
24 the time that I actually made the buy on -- you know,
25 the buys of the bonds on March 18, 2013. And in the

1 meantime, it was just, you know -- everything was just
2 sitting in cash, a little bit of interest, not much.

3 Q Okay, so if I am correct, what happens
4 is that on June 15, 2012, you pretty much take all the
5 cash in the account and buy the Federal Capital
6 Reserve Money Market Fund?

7 A Right, yeah, basically -- well, what I
8 did -- yeah, I sell that and then all that is just the
9 holding account.

10 Q And the February 21, 2013 check
11 disbursement, is that a check to buy something or is
12 that a check to Mr. Beckett?

13 A That's a check that Mr. Beckett
14 requested, yeah.

15 Q Okay. In this time frame, that's the
16 only checks requested, correct?

17 A That's correct.

18 Q Okay. And I assume I'm correct that
19 red transactions are money out, and green transactions
20 are money in?

21 A Uh-huh, that's correct.

22 Q Okay. Do you consider yourself to be
23 the financial adviser to the E. Alberta Veazey, LLC?

24 A The financial adviser to the Alberta --
25 I consider myself to be Jack Beckett's financial

1 Social Security is a source of income for her nursing
2 home care. The brokerage account doesn't have enough
3 money in it to really be a source of income because
4 it's only a few thousand dollars in its current state.
5 Nationwide conceivably could be used, and it is being
6 used, you know, for her care.

7 As I indicated in Exhibit 52, on the
8 second page when I was comparing and looking at income
9 to pay for Alberta, the Nationwide could be annuitized
10 to pay \$1,700 to Alberta per month, and the one that I
11 was considering would have paid \$2300 a month. So
12 given what I see, you know, what the cost of the
13 nursing home care is, no, it's not enough.

14 BY MR. MASSELLI:

15 Q Now, can funds be withdrawn from the
16 Nationwide annuity?

17 A Yeah. They can.

18 Q Can they be withdrawn up to \$35,000 a
19 year?

20 A They can be withdrawn up to -- in the
21 current state, they can be withdrawn up to ten percent
22 of the value, current value of the annuity without
23 surrender charge. Anything beyond that, you know, in
24 a calendar year, so anything beyond that could be
25 subject to a surrender charge, a declining surrender

1 charge based on how many years that the annuity's been
2 owned.

3 Q Doesn't the annuity have a provision
4 that the surrender charge doesn't apply if the owner
5 is in long-term care?

6 A It could, but that -- they would have
7 to be -- you know, go to the annuity company and let
8 them know that, then they would probably -- more
9 than -- they would more than likely, you know, waive
10 that. There is a waiver, you know, provision for
11 long-term care, so that could be. But even with that,
12 I don't -- doesn't appear that, you know -- I guess
13 you could pull money out to do that; I don't know how
14 long it would last, though, you know, in the current
15 form.

16 Q Okay. And in the various analyses you
17 have made about providing funds at the direction of
18 your client for Alberta Veazey's nursing care, have
19 you ever taken into account the provision of funds by
20 Medicaid?

21 A No, I did not, because I was going
22 based on the assumption that it wasn't a guarantee
23 that, you know, Medicaid, you know -- that Medicaid
24 ultimately would grant Alberta the funds. You know,
25 if -- in that case, the Nationwide would have to be

THE WITNESS: That establishment of it in and of itself, no. I don't believe that he -- that just the actual establishment of that trust, LLC combination unjustly, you know, enriched Don.

1 BY MR. MASSELLI:

2 Q Do you have any familiarity with
3 Alberta Veazey's Will?

4 A A little bit. It's really -- I would
5 have to say no. I mean I probably read over it a long
6 time ago, but I couldn't really say exactly what it
7 says.

8 Q Do you believe that Alberta Veazey
9 would have been financially more solvent if the
10 \$900,000-plus had not been given to Jack Beckett and
11 Bob Beckett?

12 MS. MURPHY: Objection as to form,
13 objection as to relevancy, objection as to foundation.
14 He can answer if he can.

15 THE WITNESS: Would she have -- I think
16 there was enough money available, you know, that
17 Alberta would have been, you know, even though that
18 the money was given to all three of her sons out of
19 the wrongful death settlement, that there was still,
20 you know, could have been, you know, money left over
21 for her care if all of it were made available for her
22 care. That was a decision that Alberta made and so my
23 opinion doesn't really, you know -- I can't -- that's
24 hard for me to have a say one way or another on
25 something like that. But, you know, it's conceivable.

1 BY MR. MASSELLI:

2 Q How does her decision to gift a million
3 dollars, 90 percent of which went to Jack and Bob,
4 differ from her decision to establish the LLC?

5 MS. MURPHY: Objection as to form,
6 objection as to foundation; he has not been designated
7 an expert and giving him hypotheticals to answer. He
8 can answer.

9 THE WITNESS: I think I'm going to
10 choose not to answer that one because I really
11 don't -- I mean you're asking for my opinion and I
12 don't -- that's -- my opinion isn't relevant,
13 honestly, in that, in something like that. I was just
14 asked to go based on fact.

15 MR. MASSELLI: I have no further
16 questions.

17 MS. MURPHY: We don't either.

18
19
20
21 -----
22 THOMAS DUBREUIL
23
24
25

C E R T I F I C A T E

STATE OF DELAWARE)

)

KENT COUNTY)

I, Pamela C. Herrmann, Registered
Professional Reporter and Notary Public, do hereby
certify the foregoing deposition of the witness
THOMAS DUBREUIL was taken before me at the time and
place indicated herein; that said witness was by me
duly sworn; that the testimony was stenographically
reported by me and thereafter reduced to typewriting
under my personal supervision; that I am neither of
counsel nor kin to parties in said action nor
interested in the outcome thereof.

WITNESS my hand this ____day of

_____, 2014.

Pamela C. Herrmann
Registered Professional Reporter
and Notary Public

Certificate Number: 128-PS

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Pamela C. Herrmann, RPR

P.O. Box 99

Milford, Delaware 19963

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