

UNCERTIFIED DRAFT TRANSCRIPT
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CASE: Shulman v. Kaplan

DATE: September 16, 2022

WITNESS: CHARLES HOUGHTON

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1 PROCEEDINGS

2 THE VIDEOGRAPHER: Good morning,
3 Counselors. My name is Scott Hatch; I'm a
4 certified legal videographer in association
5 with TSG Reporting, Inc.

6 Because this is a remote
7 deposition, I will not be in the same room
8 with the witness. Instead, I will record
9 this videotaped deposition remotely. The
10 reporter, Lisa Knight, also will not be in
11 the same room and will swear in the witness
12 remotely.

13 Do all parties stipulate to the
14 validity of this video recording and remote
15 swearing and that it will be admissible in
16 the courtroom as if it had been taken
17 following Rule 30 of the Federal Rules of
18 Civil Procedures and the state's rules that
19 this case is pending?

20 MR. MARCHAND: Yes.

21 THE DEPONENT: Yes.

22 THE VIDEOGRAPHER: Thank you.

23 This is the start of media
24 labeled No. 1 of the video-recorded
25 deposition of Charles Houghton in the matter

1 Francine Shulman, et al., versus Todd
2 Kaplan, et al., and related counter suits,
3 in the Superior Court of the State of
4 California for the county of Los Angeles,
5 Case No. 20VECV01406.

6 This deposition is being held via
7 videoconference with participants appearing
8 remotely on Friday, September 16, 2022, at
9 approximately 8:58 a.m.

10 My name is Scott Hatch; I'm a
11 legal video specialist from TSG Reporting,
12 Inc., headquartered at 228 East 45th Street,
13 New York, New York. The court reporter is
14 Lisa Knight, in association with TSG
15 Reporting.

16 Counsel, please introduce
17 yourselves.

18 MR. MARCHAND: Good morning. My
19 name is Sterling Marchand with the law firm
20 of Baker Botts for the plaintiffs.

21 MR. SCHOLZ: Good morning. My
22 name is John Scholz with Uplift Law and on
23 behalf of Mr. Houghton and the other
24 defendants/cross-complainants.

25 THE VIDEOGRAPHER: Thank you.

1 Will the court reporter please
2 swear in the witness.

3 C H A R L E S H O U G H T O N, called as a
4 witness, having been first duly sworn by a
5 Notary Public, was examined and testified as
6 follows:

7 EXAMINATION BY

8 MR. MARCHAND:

9 Q. Good morning. Will you please
10 state your full name for the record.

11 A. My name is Charles Houghton.

12 Q. And what is your date of birth?

13 A. 11/11/1958.

14 Q. Have you ever had your deposition
15 taken before?

16 A. I don't believe so, no.

17 Q. Have you ever taken a deposition?

18 A. Yes, I have.

19 Q. So these rules might not familiar
20 to you, but just to cover a few ground rules
21 for the purposes of today's deposition, you
22 understand that you're giving testimony
23 under oath today; correct?

24 A. Yes.

25 Q. And you understand that your

1 testimony here today has the same force and
2 effect as if you were testifying in a
3 courtroom before a judge and jury. Correct?

4 A. Yes.

5 Q. And because the court reporter is
6 taking down exactly what we say, I ask that
7 you give verbal answers as opposed to
8 nodding your head. Okay?

9 A. I understand.

10 Q. And lastly, is there any medical
11 condition or other reason from preventing
12 you from giving truthful, complete, and
13 accurate testimony today?

14 A. No.

15 Q. Okay. The deposition is being
16 taken remotely, so you and I are not in the
17 same room. Correct?

18 A. That's correct.

19 Q. And where are you physically
20 located right now?

21 A. I am in my home office in my
22 house in Colorado Springs.

23 Q. And is anyone else in the room
24 with you?

25 A. No.

1 Q. Do you understand that you are to
2 have no communication with anyone other than
3 me and your attorney while on the record?

4 A. Yes.

5 Q. And lastly I'll note that, you
6 know, we will periodically take breaks
7 throughout the day. We'll take a longer
8 break for lunch. If you need a break before
9 I reach a stopping point, obviously let me
10 know. The only thing I ask is that we
11 finish any pending questions before we take
12 a break. Okay?

13 A. I understand.

14 Q. Thank you.

15 Now, you're represented by
16 counsel today for this deposition; correct?

17 A. That's correct.

18 Q. And which attorney is that?

19 A. John Scholz.

20 Q. Has MIH been covering your hell
21 fees for this matter?

22 A. Yes.

23 Q. How many times did you meet with
24 Mr. Scholz prior to this deposition?

25 A. Probably four or five.

1 Q. And when did that take place?

2 A. Last couple of weeks.

3 Q. And how long were those meetings?

4 A. They ranged in time from maybe an
5 hour to two.

6 Q. Okay. So four to five meetings,
7 an hour to two each over the last few weeks.
8 Is that correct?

9 A. That's correct.

10 Q. And when did you first start
11 preparing for this deposition?

12 A. Couple weeks ago. Three weeks
13 ago.

14 Q. And what did you do to prepare
15 for this deposition?

16 A. I reviewed my responses to the
17 special interrogatories. I reviewed the
18 First Amended Complaint. And I reviewed the
19 transcripts from Todd Kaplan, Robert Kaplan,
20 Drew Milburn, and Smoke Wallin.

21 Q. Okay. And for the four
22 deposition transcripts that you reviewed,
23 how did you review them?

24 A. I just read through them, mostly
25 to see where my name came up, but, yeah, I

1 read through them. Just read them.

2 Q. Okay. So you read through the
3 transcripts in their entirety?

4 A. Correct.

5 Q. And when you say Todd Kaplan, do
6 you mean the deposition in this case of Todd
7 Kaplan, where he was a PMQ?

8 A. I believe that was the
9 deposition -- the transcript, yes.

10 Q. Okay. Did you talk to anyone
11 else to prepare for this deposition other
12 than Mr. Scholz?

13 A. No -- well, Melissa Fulgencio,
14 that is part of Uplift Law. But other than
15 that, no.

16 Q. Did you speak to Todd Kaplan to
17 prepare for this deposition?

18 A. No.

19 Q. When was the last time you spoke
20 to Todd Kaplan?

21 A. Probably five months ago,
22 four months ago.

23 Q. And what was that in regards to?

24 A. Just checking in to see, you
25 know, say hi and that was about it.

1 Q. When was the last time you had a
2 conversation with Todd Kaplan about this
3 case?

4 A. I think the case was mentioned
5 during that telephone conversation.

6 Q. And what was mentioned about the
7 case?

8 A. Just that it was ongoing and, you
9 know, that was it. Pleasantries more than
10 anything.

11 Q. How often do you speak to
12 Mr. Kaplan?

13 A. It's very sporadic. Usually once
14 every three or four months; maybe once every
15 six months.

16 Q. Okay. Other than the Amended
17 Complaint and the special rog responses, did
18 you review any other documents in
19 preparation for today's deposition?

20 A. I think I looked at a set of the
21 documents that were disclosed on my behalf.
22 And just read through them. Just looked at
23 them.

24 Q. Okay. Were there any documents
25 in particular from those produced documents

1 that stood out to you in your review?

2 A. None that stood out, no. You
3 know, none more than others.

4 Q. Okay. Do you have a current
5 business relationship with Vertical or MIH?

6 A. No.

7 Q. What did your business
8 relationship with Vertical end?

9 A. Well, I quit working at Vertical
10 in July of 2018. I represented Todd --
11 well, not -- MIH in a lawsuit in Colorado
12 that went from 2019 to 2020. And other than
13 that, I haven't done anything for them.

14 Q. Okay. When you say you quit
15 Vertical in July 2018, can you expand on
16 that, please?

17 A. Yeah. I was an independent
18 contractor for Medical Investor Holdings.
19 And I terminated the relationship as an
20 independent contractor in July of 2018.

21 Q. Okay. And what caused you to
22 terminate that relationship?

23 A. Mostly personal reasons. I
24 wanted to move on to something else. And
25 there was -- it just -- the end of the

1 relationship. They brought on another
2 attorney that was going to be doing the
3 work. And I just -- it was time to move on.

4 Q. At the time that you were an
5 independent contractor for MIH, were you
6 working for anyone else concurrently?

7 A. Yes.

8 Q. Just describe, without disclosing
9 names or entities, just were they all other
10 marijuana companies, individuals? What
11 other types of entities were you working
12 for?

13 A. Mostly it was marijuana companies
14 in Colorado. Clients of mine.

15 Q. Okay. And what was the matter
16 that you represented MIH on in Colorado from
17 2019 to 2020? What was the subject matter?

18 A. It was a dispute with a lighting
19 company that provided lighting to the
20 Needles facility in California. And the
21 reason why it was litigated in Colorado was
22 the contract in that particular case had a
23 venue provision in Colorado. And the
24 plaintiff in that case enforced that and
25 brought the action in Colorado.

1 Q. Do you recall what the outcome
2 that have case was?

3 A. Yes. It was settled.

4 Q. So during that time that you were
5 represented MIH in the Colorado case, you
6 were acting as MIH's attorney; correct?

7 A. Yes.

8 Q. Prior to that, when did your
9 independent contractor relationship with MIH
10 begin?

11 A. January of 2017.

12 Q. During that time, did you have an
13 MIH e-mail address?

14 A. Yes.

15 Q. Did you have any other e-mail
16 addresses during that time that you used for
17 work?

18 A. Yes.

19 Q. And which e-mail address was
20 that?

21 A. I had an e-mail address
22 cthlaw@msn.com and cth -- yeah, I think it's
23 cthlaw1@gmail.com. And then I had a Comcast
24 account, but I didn't use it for business.
25 It was just for internet purposes.

1 Q. Do you still use the MSN e-mail
2 address?

3 A. Yes.

4 Q. Do you still use the Gmail
5 address?

6 A. Yes. Not -- the MSN account is
7 the primary account. The Gmail cannot is
8 ancillary. More personal than business.

9 Q. During the time that you were an
10 independent contractor for MIH, how did you
11 typically communicate with people at MIH?
12 Was it e-mails? Texts? Both?

13 A. E-mails, very few texts, if any,
14 and then in person.

15 Q. Where was your office located?

16 A. It was in -- I had office --
17 I had office space at the 29800, I think it
18 is, Agoura Road address. They provided me
19 with office space.

20 Q. Did you have a home in California
21 at that time?

22 A. Yes -- well, I rented a house.

23 Q. Okay. Where was that located?

24 A. Oak Park, California.

25 Q. Did you receive a document

1 retention notice in this case?

2 A. I don't know that I've seen it,
3 no.

4 Q. Were you involved in producing
5 documents in this case?

6 A. Yes, I did produce documents.

7 Q. And how did you identify records
8 to produce?

9 A. I put in pretty much everything
10 that I had and gave it to my attorneys.

11 Q. And which attorneys was that?

12 A. Initially it was Priscilla
13 George, and then it became Rachel Kashani.
14 And I don't think I produced anything in
15 particular at all to the Uplift Law group.

16 Q. When you identified records, did
17 you search your MIH e-mail?

18 A. Yes.

19 Q. Did you search your MSN e-mail?

20 A. Yes.

21 Q. Did you search your Gmail
22 address?

23 A. Yes, but there wasn't anything in
24 that.

25 Q. Did you search through your text

1 messages?

2 A. I did, and I don't think I have
3 any text messages because somewhere along
4 the line, I switched phones. But text
5 messaging was not really a big thing, you
6 know. It just wasn't. So I don't know if
7 there's any -- I don't think there's any
8 text messages from anybody in this case on
9 my current phone, no.

10 Q. And did you look for text
11 messages not just between you and the
12 plaintiffs but between yourself and the
13 defendants as well?

14 A. Yes.

15 Q. Same for e-mails?

16 A. Yes.

17 Q. What about documents not in --
18 none-mail documents. You know, drafts of
19 agreements, drafts of applications, things
20 like that? Did you search anywhere for
21 those types of documents?

22 A. Yes, I did.

23 Q. And where did you look for those?

24 A. I looked for those either on the
25 hard drive of my computer orifice documents,

1 which I don't have any physical documents.

2 They were all left at MIH.

3 Q. Have you had the same computer
4 since you begun working with MIH in January
5 of 2017?

6 A. Yes.

7 Q. Did you search any online or
8 Cloud-based services like GDrive for
9 documents?

10 A. I have an OneDrive account, yes.
11 And that's where the bulk of the documents
12 are. I consider that part of the computer.
13 But, yes.

14 Q. Okay. What about any text
15 messaging apps like WhatsApp? Do you use
16 WhatsApp for communications?

17 A. No. I don't even know what it
18 is.

19 Q. Okay. What about tell brand,
20 which is another messaging app.

21 A. No.

22 Q. Are you aware of any relevant
23 documents that would have been deleted or
24 destroyed that would have been relevant to
25 this case?

1 A. No.

2 Q. I think you said you currently
3 live in Colorado Springs. Correct?

4 A. That's correct.

5 Q. And can you just give me the full
6 address, for the record, please.

7 A. Sure. It's 1408 East Monument
8 Street, Colorado Springs, Colorado 80909.

9 Q. And how long have you resided
10 there?

11 A. 30 years plus.

12 Q. You mentioned that for a period,
13 you were renting a house in California.
14 I think you said in Oak Park.

15 A. That's correct.

16 Q. And do you recall the dates in
17 which you were renting at that location?

18 A. It would have been from probably
19 late December, January of 2017 to -- I think
20 it was December -- November/December of
21 2019.

22 Q. Okay. And why did you decide to
23 rent a house in Oak Park, California, during
24 that period?

25 A. Initially it was so that I could

1 do the independent contractor work for MIH.

2 And then after that, I just began to like
3 living in California. So I maintained that
4 house there so I had a place to stay in
5 California.

6 Q. And how often -- were you
7 spending the majority of your time in
8 California?

9 A. Yes.

10 Q. So --

11 A. It was split, but the majority,
12 absolutely was in California.

13 Q. Okay. So just on average, was
14 it -- I mean, it was sort of you would go
15 there for the week, for an entire month?
16 Kind of just describe for me that process.

17 A. It was -- during 2017 and the
18 first part of 2018, I spent the vast
19 majority of my time in California. Probably
20 out of the year, probably nine months'
21 worth. Not all at once, but probably
22 nine months' worth in California and then
23 three months in Colorado. And same through
24 'til about the end -- the -- you know,
25 July of 2018, when I quit working for MIH,

1 it kind of flip-flopped. I spent more time
2 in Colorado and less time in California.

3 Q. Okay. So other than that address
4 in Oak Park, have you lived anywhere else in
5 California?

6 A. No.

7 Q. Do you have a presence on social
8 media?

9 A. Not that I'm -- I mean, not that
10 I am aware of. I mean, I may have a
11 Facebook page or something like that, but
12 I'm -- maybe it got set up years ago, but
13 I don't use it.

14 Q. Okay. What about Twitter?

15 A. Again, I think I've got a Twitter
16 account, but I never look at it. And
17 I don't use it. I don't make Tweets.

18 Q. Okay.

19 A. I don't think too many people are
20 interested in what I had for lunch.

21 Q. Do you recall the handle -- your
22 Twitter handle?

23 A. I do not. That's how
24 infrequently I use it. I don't.

25 Q. Okay. What about LinkedIn? Do

1 you maintain a presence on LinkedIn?

2 A. I have a LinkedIn account, yes.

3 Q. How often do you update it?

4 A. I don't know that I've updated it
5 in years.

6 Q. Okay. Have you been a solo
7 practitioner your entire career?

8 A. No.

9 Q. Okay. Describe for me briefly
10 your employment experience.

11 A. When I graduated from law school
12 in 1995, I started working for a real estate
13 development company called Craddock
14 Development Company and worked for them from
15 1985 to 1990. And then I joined a law firm
16 in 1990 and worked with them until 2000.
17 And then along about 2000, I became a solo
18 practitioner and have been ever since.

19 Q. Okay. Does anyone work for you?

20 A. No.

21 Q. Do you know who Cherie Deeds is?
22 C-h-e-r-i-e.

23 A. Cherie Deeds?

24 Q. Yes.

25 A. Yeah. I think she worked at MIH

1 for a while. And she was working as an
2 assistant to help put together licensing
3 applications.

4 Q. Okay. And just briefly, where
5 did you go to law school?

6 A. I went to law school at the
7 University of Nebraska.

8 Q. Okay. And where did you get your
9 undergrad degree?

10 A. Colorado State University.

11 Q. Do you maintain professional
12 liability insurance in Colorado?

13 A. No.

14 Q. Have you ever?

15 A. I believe I had liability
16 insurance when I was working for the law
17 firm --

18 Q. Okay.

19 A. -- but not since then, no.

20 Q. And that was -- sorry. Just --
21 that was the -- in 2000, I think you said,
22 you left the law firm?

23 A. Correct.

24 Q. Okay. I'm going to mark our
25 first exhibit. So this was produced in this

1 case without a Bates number, but it was
2 labeled 2017 Houghton CV. And I will drop
3 it in the Chat. And then I will share my
4 screen so that you can see it.

5 (Houghton Exhibit 1,
6 ^ description, was marked for
7 identification, as of this date.)

8 MR. SCHOLZ: Charles, do you see
9 that?

10 THE DEPONENT: Just a second.
11 Yes. Now I do. Yes.

12 MR. SCHOLZ: We just want to make
13 sure because he was unfamiliar with using
14 the Chat room for purposes of exchanging
15 documents, Sterling, before, so.

16 THE DEPONENT: I certainly was.

17 MR. SCHOLZ: I want to make sure
18 we're on the same page.

19 A. I can see most of it, but I just
20 moved my cursor over and I can't move it so.

21 BY MR. MARCHAND:

22 Q. Yes. I'm in control of the
23 document. And I drop it in the Chat so it's
24 available for everyone who's here to have it
25 and open it. As we go through today's

1 deposition, I will share the document and
2 direct you to portions of it. But ever if
3 you want to see the whole thing, just, you
4 know, ask, and I will scroll through it.

5 So do you recognize this
6 document?

7 A. I do.

8 Q. And what is it?

9 A. It's my CV. *TRANSLATION*.

10 Q. Did you prepare this document?

11 A. I did.

12 Q. And when was this last updated,
13 if you recall?

14 A. I want to make clear to
15 everybody. Every once in a while I look
16 down and it's because I have a dog. And she
17 insists on getting up on me. So I often
18 refer to her as my office manager. So --
19 but if I do that, that's why I'm doing it.

20 Q. I appreciate the clarification.

21 A. Yeah. She can be a bit after
22 pest. And if I try and lock her out, she
23 howls like she got stepped on. So it's
24 easier for me to just deal with it. I'll
25 try to keep that to a minimum, however.

1 Q. That's okay.

2 So my question was: Do you know
3 when this was last updated?

4 A. I do not know when the last
5 update to that was, no.

6 Q. Okay. And was it accurate as of
7 the point when you produced it?

8 A. To the best of my knowledge, yes.

9 Q. So at the top, it says -- in this
10 paragraph, this first bullet, it says over
11 30 years' experience as an attorney in
12 municipal law, and then it goes on through a
13 number of other subject matters.

14 Do you see that?

15 A. Yes, I do.

16 Q. Can you describe just briefly
17 your experience in municipal law, please.

18 A. From 1991, perhaps, until the
19 year 2000, one of the clients of the law
20 firm was the city of Cripple Creek,
21 Colorado. And we were acting as the city
22 attorney as outside counsel.

23 And then when I was working for
24 Craddock Development Company, I frequently
25 had to deal with municipalities and counties

1 on zoning and planning matters.

2 Q. What about your experience in
3 business law?

4 A. Working with various entities
5 over the years dealing with various kinds of
6 business entities and the contracts that
7 they enter into.

8 Q. What about your experience in
9 commercial financing?

10 A. That was mostly with Craddock
11 Development Company. They borrowed most of
12 their funds in order to fund projects. And
13 so I had to deal with commercial financing.

14 Craddock Development Company
15 filed a bankruptcy in, I want to say,
16 1987-88. And I dealt a lot with either
17 refinancing properties or trying to do loan
18 workouts or deeds in lieu of foreclosure
19 where the property was just given back as
20 part of the bankruptcy.

21 Q. Okay. Further down in that same
22 bullet, it says such representation includes
23 extensive involvement with all aspects of,
24 and then there is another list of subjects,
25 and I want to focus on the one that says

1 contract crafting and negotiation.

2 Can you describe your experience
3 or involvement in contract drafting and
4 negotiation, please?

5 A. Over the years, I drafted and
6 negotiated hundreds of contracts for a
7 myriad of different things. You know, some
8 of it was sales contracts. Some of it was,
9 you know, like operational contracts. Some
10 of it was contracts like licensing
11 agreements. Lots of different contracts
12 about a bunch of different subjects.

13 Q. Do you have an estimate of how
14 many different clients you did contract
15 drafting and negotiation for over the years?

16 A. Hundreds.

17 Q. Further down in that sentence, it
18 says partnership limited liability company
19 and corporate entity formation. And, again,
20 can you please briefly describe your
21 experience with that?

22 A. In some instances, people would
23 come to me who wanted to start some sort of
24 a business, whether, you know -- lots of
25 different kinds of businesses. But

1 businesses.

2 And the question was always what
3 kind of entity should you use? And how do
4 you do that? So if it was appropriate,
5 I would form a limited liability company for
6 the people that were going to run the
7 company.

8 Q. And could you estimate how many
9 clients you did corporate entity formation
10 for over the years?

11 A. Probably 50 or more.

12 Q. Further down, under -- still
13 under the legal experience header, you have
14 a bullet that says extensive civil
15 litigation and litigation support
16 experience, including trials, research,
17 motion practice, appellate practice,
18 depositions and document/exhibit
19 preparation.

20 Do you see that?

21 A. I do.

22 Q. How many trials have you been
23 involved in as an attorney?

24 A. Trials, probably five or ten that
25 actually went to trial.

1 Q. Okay. And how many cases were
2 you involved in an appeal, that you would
3 categorize as part of your appellate
4 practice?

5 A. Probably five or ten. Some of
6 them I was doing appellate practice where
7 I was the attorney that was handling the
8 appeal and some of it was appellate practice
9 where other attorneys were doing the appeal
10 and I either did some research for them or
11 helped write part of briefs.

12 Q. And how many depositions, just
13 estimating, have you taken as an attorney?

14 A. Either taken or been a party of,
15 taking, probably five or ten. Been a party,
16 to again, probably five or ten.

17 Q. What do you mean by been a party
18 to?

19 A. Defending a deposition.

20 Q. Oh. Okay.

21 Still on the first page, it says
22 in the third bullet, consultant to marijuana
23 businesses in Colorado, Arizona, Illinois,
24 Florida, California, and Nevada.

25 Do you see that?

1 A. I do.

2 Q. Can you describe, what was
3 your -- I guess in each of these states,
4 roughly how many clients you had as a
5 consultant to marijuana businesses.

6 A. In Colorado, probably, I don't
7 know, 30 or 40 over the years. Arizona and
8 Illinois would have been -- and Florida
9 would have been one. California was MIH.
10 And Nevada was one.

11 Q. Okay. And just to clarify: When
12 you say Arizona, Illinois, and Florida was
13 one, does that mean it was one entity for
14 those three states?

15 A. No. There was -- the Florida
16 one, I'm not totally certain of. It's not
17 ringing a bell, but I wrote it down so
18 I don't know. In Illinois, I know it was
19 one.

20 Q. And what are the types of
21 consulting services you provide to marijuana
22 businesses that would be captured in this
23 experience?

24 A. It would -- most of it would be
25 figuring out what the overall structure for

1 a marijuana business is and what to look for
2 in being able to file applications and work
3 under the -- whatever local jurisdictions'
4 licensing was. You know, kind of things to
5 look out for. Things that you're going to
6 have to do. A lot of these places didn't
7 have regulations, so I'd say, you know,
8 if -- at the time that I was doing the
9 consulting, it would be well, if you want to
10 go to this state, this is what Colorado
11 does. And if they follow up Colorado, it's
12 going to be like this.

13 Q. Okay. Any other types of
14 services?

15 A. We talk with them about some of
16 the other challenges that is they were going
17 to meet. Mainly if they were talking about
18 borrowing money, that borrowing money from,
19 like, FDIC-insured lenders was not going to
20 -- was going to be a problem because
21 cannabis is federally illegal. Setting
22 up -- one of the issues with a cannabis
23 business is that there is a refuse ruling --
24 it's called revenue ruling 280(e).

25 And that basically disallows

1 some -- excuse me one second.

2 Q. Sure.

3 (Pause.)

4 A. It disallows some deductions that
5 would normally be allowed to ordinary
6 businesses. And so they had to prepare for
7 that.

8 And then the -- how you track
9 inventory, under what -- you know, at that
10 time, you know, and it evolves. How the --
11 whatever the state regulatory seed-to-sale
12 tracking system is. How they were going to
13 have to lease the property if that was the
14 case or buy it. You know, there were local
15 issues. There's always local issues with
16 zoning and planning. And, of course, not
17 all jurisdictions within a state that allows
18 cannabis either allow it or they
19 specifically regulatory it in a different
20 way and so that's something else that
21 I would tell people if you want to go here,
22 you have to first find out whether or not
23 the local jurisdiction is going to allow it.
24 And then you have to find out whether that
25 local jurisdiction is going to have specific

1 regulatory business, cannabis, or zoning
2 issues.

3 And so I would alert people to
4 that, that that could come up. So it was
5 kind of a -- for every state, every
6 jurisdiction, it's an overall, these are the
7 things that you need to be sensitive to
8 before you go out and buy something or
9 commit to it or even decide whether you're
10 going to get into the industry at all.

11 Q. Okay. As part of that work,
12 would you help clients form companies?

13 A. Not very many, other than in
14 Colorado and California. With MIH, I formed
15 companies. But in the other states, no,
16 I didn't form the companies. Everybody --
17 you know, like for instance in Illinois,
18 I helped with an application for a marijuana
19 business, but that business had its own
20 attorneys and I just helped with the
21 application.

22 Q. Got it. Okay.

23 A. Okay. So I didn't -- in
24 Colorado, yes, I formed a bunch of entities,
25 yes.

1 Q. And do you recall when that work
2 for the Illinois client took place? What
3 year?

4 A. I want to say 2014-15, maybe.

5 Q. And what about -- I think you
6 mentioned that there was one client in
7 Arizona. Just -- what type of work, if you
8 recall, with your engaged in for that?

9 A. That particular client was in the
10 process of getting licensing and opening a
11 cultivation dispensary with an attached
12 dispensary and then a separate dispensary in
13 another location.

14 Q. What about negotiating and
15 drafting agreements? Did you engage in that
16 type of work as part of this consulting?

17 A. Yes.

18 Q. For all of your clients?

19 A. Yeah. I mean, it -- to the
20 extent that there are outside contracts in
21 the cannabis business, yes. You know, if
22 they had issues or a contract with a vendor
23 or they needed someone to review the lease
24 on their property or if they were setting up
25 some sort of an arrangement with somebody

1 who was going to buy some of the product on
2 a bulk basis, those types of things, yes.

3 Q. And how did you -- or what
4 sources did you draw on to provide advice
5 regarding the different cannabis rules and
6 regulations?

7 A. Generally -- in states where they
8 actually had a regulatory regimen in place,
9 I would review what information was
10 available about what the state statute said
11 and more importantly what the regulations
12 under the statute said or whatever
13 preliminary information was being put out by
14 state entities. You know, governmental
15 entities.

16 And then for local jurisdictions,
17 I would look and see whether or not there
18 was any kind of a local process either
19 contemplated or in process or in place for
20 regulating and allowing for marijuana
21 businesses and also whether or not they were
22 specifically banned. Because that came up
23 frequently.

24 Q. And what about in California
25 specifically? How did you -- what was your

1 experience with or familiarity with the
2 California rules and regulations?

3 A. When I moved to California, they
4 were, as far as I could tell, operating
5 under a very loose collective model, which
6 was similar to but not exactly to the
7 patient caregiver model that was in place in
8 Colorado.

9 And so -- but during I think the
10 end of 2016 and then into '17, the state
11 passed adult use regulation saying that now
12 that they were going to expand. And then
13 the state of California started to process
14 of rolling out a program to regulatory bulk
15 medical and adult use marijuana/cannabis in
16 California during 2017, with the idea that
17 living would become available in 2018.

18 So they were putting out
19 information on their websites and things
20 like that about, you know, what they were
21 planning on doing and how they were planning
22 on doing it. Those kinds of things.

23 Q. Okay. So in addition to,
24 I guess, reading the regulations and the
25 guidance that were being put out on their

1 website, was there any other steps you took
2 to familiarize yourself with the California
3 regulations?

4 A. To the extent there were any kind
5 of a meeting that I knew about, I would
6 either try -- if it was tell cast, I would
7 try and watch it. And if it was something
8 that I could attend in person, I would
9 physically go there.

10 For local jurisdictions, the
11 state of California, I think, put on a
12 couple of, like, informational meetings in
13 Los Angeles, I think they were. At that
14 time, it was the Bureau of Cannabis Control,
15 the BCC. And so they put on a couple of
16 informational things that weren't very
17 informational. But, yes, it was -- I mean,
18 it was almost comical because it was more of
19 a propaganda show saying we're going to get
20 all this done and things like that, but the
21 regulations had not come out yet. But they
22 were working on it.

23 Q. Got it.

24 So when you say meetings, you
25 mean meetings held by local or state

1 government agencies; correct?

2 A. Correct. Some of them were city
3 council member meetings or boards of county
4 commissioners -- well, they don't call them
5 that there. Boards of supervisors there in
6 California. Some of them were -- I can
7 remember the BCC put on a big one, I think
8 it was on the UCLA campus or USC campus.
9 Whichever one has got the memorial stadium
10 in it because that's the first time I had
11 seen it.

12 So anyway, they put on a seminar
13 there. Hundreds of people showed up. And
14 it was a little less than useful, shall we
15 say.

16 Q. Okay. Further down in your CV,
17 still under the legal experience, you say
18 extensive experience and expertise in
19 representing medical and retail marijuana
20 businesses on a statewide basis.

21 Do you see that?

22 A. Yes, I do.

23 Q. Explain to me a little bit what
24 you mean by this.

25 A. What I'm talking about is that

1 when all of license in marijuana,
2 particularly in Colorado where most of my
3 experience has been, there are issues that
4 come up. Sometimes it's whether or not
5 there's been a violation of the rules.
6 Sometimes it's a misunderstanding.
7 Sometimes it's -- they're investigating
8 another licensed facility and want to know
9 whether or not, you know, your client knows
10 anything about it.

11 And so any time any of that would
12 come up, I would either represent my client
13 at, say, you know, in any kind of a
14 threatened or regulatory procedure and
15 then -- or whether or not there was a
16 licensing issue.

17 Frequently when you do licenses,
18 the question about something in the license
19 comes up. It's like, we need this, that, or
20 the other thing, and so you bring it up.
21 And then sometimes there's an issue as to
22 whether or not -- the state will have a
23 question as to whether or not something is
24 being done in a compliant manner.

25 So you -- you know, when the

1 question comes up from the state, you let
2 them know.

3 Q. Got it.

4 A. Okay.

5 Q. So the bullet we just spent some
6 time on the consultant to marijuana
7 businesses in these states, that's more
8 setting up businesses. And the bullet after
9 it is representing businesses if an issue or
10 compliance issue arose.

11 A. Correct. Or if they want to do
12 something that changes their business, you
13 know that, they want to expand or they want
14 to move their license from one location to
15 another or they want to discontinue a
16 portion of their business, there's a variety
17 of things that would come up that you have
18 to notify the state. And in Colorado's
19 instance, we call it the Marijuana
20 Enforcement Division, or MED.

21 And so you would let them know --
22 usually there's an application or a form for
23 it and let them know everything that's going
24 on.

25 Q. And I think we covered this a

1 few minutes ago, but I think you said in
2 California, your only client was MIH. Is
3 that correct?

4 A. That's correct.

5 Q. Did you have seek other clients
6 in California to represent them in cannabis
7 matters?

8 A. No, not really. I mean, we had
9 a -- no.

10 Q. Okay. You mentioned at the end
11 of this bullet that you provide advice on
12 day-to-day operation, inventory tracking,
13 theft prevention, reporting, taxation, and
14 accounting matters.

15 Do you see that?

16 A. Yes, I do.

17 Q. What was your experience in each
18 of those areas?

19 A. Day-to-day operations, when I was
20 talking about that, is because there -- it's
21 easier to discuss it in various phases of
22 the business. So let's say, for instance,
23 in a dispensary, the day-to-day operations
24 would be, you know, initially it was how to
25 you check in patients. What paperwork do

1 they have to have in order to be able to
2 purchase cannabis?

3 Then it became, you know, anyone
4 over the age of 21, what information do you
5 need to collect? What are you looking out
6 for, as far as, you know, what
7 identification is sufficient. How you check
8 them in.

9 And then in the -- again, in a
10 dispensary, there's a lot of information
11 about, okay, how do you track what patient
12 or customer bought what product?

13 Because there is a state mandated
14 seat to sale tracking system. And in
15 Colorado, it's called metric. In
16 California, it's called metric. They're the
17 same system with some minor tweaks about,
18 you know who works pace for the plant tags,
19 that kind of stuff, but it's the same
20 system.

21 And so you have to set up your
22 operation such that the right information is
23 both tracked and captured so that there can
24 be -- you know, there's -- that you're
25 compliant with the regulations and so that

1 if there's any kind of a theft or something
2 else going on, it's detectable. And then
3 you also -- so that works in the dispensary.

4 So patient/customer comes N. How
5 do you track them and verify that they're a
6 legitimate customer? And then when -- after
7 they're in the store, you want to make sure
8 that -- you know, how much did they buy? Is
9 it within what's legally allowed? Because
10 there's always limits on how much you can
11 buy. And then who bought it? And then
12 enter that into the metric system. And
13 usually another point of sale system. And
14 then also, you know, how do you keep people
15 from stealing product. You know, tracking
16 and accountability and, you know, video
17 surveillance, all the rest of that.

18 And then reporting all of that
19 information both for business purposes, you
20 know, to know, you know, how much is it
21 costing us to sell this stuff? How much is
22 it costing us to buy it?

23 You know, are we making any
24 money? You know, who's the best bud tender?
25 What products are selling? That kind of

1 thing.

2 And then the taxation and
3 accounting matters is basically all of the
4 issues that I spoke about with 280(e),
5 meaning that there are a number of
6 deductions that are disallowed under the
7 revenue ruling 280(e). And so you have to
8 take that into account when you're -- you
9 know, when you're doing any kind of both
10 financial or taxed planning so that you know
11 that you're not being taxed at the same
12 level as every other business other than a
13 cannabis business.

14 Q. Okay. I'm going to stop sharing
15 your CV for a second.

16 A. Okay.

17 Q. With regard to MIH specifically,
18 did you help them by providing them advice
19 on setting up their metric tracking?

20 A. Not specifically, no, other than
21 they had to have metric tracking. I was not
22 involved in -- and I never am specifically
23 involved in setting up the metric tracking.

24 Q. Okay. So what advice, if any,
25 did you give to MIH on metric tracking?

1 A. That it was coming, you know.

2 Q. What advice, if any, did you give
3 to MIH on day-to-day cannabis operations?

4 A. I think that would be
5 attorney-client privilege.

6 MR. SCHOLZ: Yeah. I object on
7 attorney-client privilege.

8 MR. MARCHAND: Okay.

9 BY MR. MARCHAND:

10 Q. Were you an attorney for MIH?

11 A. Yes.

12 Q. Okay. Is this part of what --
13 your counsel indicated that you wanted to
14 amend some of your special rog answers. Is
15 this part of that amendment?

16 A. Yes.

17 Q. Okay. Why don't we do that now
18 so that we -- we're all on the same
19 page moving forward. Give me one second.

20 (Pause.)

21 I will mark the next exhibit
22 Exhibit 2. And, again, I'll drop it here.

23 (Houghton Exhibit 2,
24 ^ description, was marked for
25 identification, as of this date.)

1 Q. Can you see that?

2 A. I can.

3 Q. Do you recognize these?

4 A. Yes, I do.

5 Q. Okay. Are these your responses
6 to Plaintiffs' Special Interrogatory Set 1?

7 A. If you could scroll through to
8 the end.

9 Q. Yeah.

10 A. Yes.

11 Q. And at the end, these are dated
12 March 10, 2021; correct?

13 A. Correct.

14 Q. And on the next page, there's a
15 verification page. Is this your signature?

16 A. Yes, it is.

17 Q. Dated February 28th, 2021?

18 A. That's correct.

19 Q. Okay. At the time that these
20 were submitted, were these all true and
21 accurate?

22 A. I believe they were, except for
23 I made a mistake in responding to
24 interrogatories 5 and 6. And I think they
25 need to be clarified. I don't know that it

1 was a mistake. But, you know, I think they
2 need to be clarified.

3 Q. Okay. So let's go to special
4 Interrogatory No. 5. It says if you contend
5 that you were not engaged or retained as
6 legal counsel for any defendant, describe in
7 detail the basis for your contention. And
8 after the objections made, you stated,
9 responding party was hired as an independent
10 contractor by Mr. Kaplan and MIH to help in
11 getting licenses in California, responding
12 party was not acting as legal counsel for
13 any of the defendants or any of the parties.

14 Is that what you want to clarify?

15 A. Yes.

16 Q. Okay. Go ahead, please.

17 A. My clarification would be that
18 when that was written, I was thinking along
19 the lines of representing the other
20 individual defendants. And I don't
21 represent the other individual defendants,
22 like Robert Kaplan or Drew Milburn or
23 Courtney Dorne or Matt Kaplan or any of the
24 other ones.

25 And that stuck in my mind. And

1 so the clarification is that I was acts as
2 an attorney for Mr. Kaplan -- or for MIH and
3 Mr. Kaplan as its owner or principal.

4 So that's what needs to be
5 clarified. I was not representing any of
6 the other defendants or any of the other
7 parties. I was representing MIH alone.

8 Q. Okay. Did you actually draft
9 these or did you just review them?

10 A. I reviewed them.

11 Q. So in the first sentence where it
12 says responding party was hired as an
13 independent contractor by Mr. Kaplan and MIH
14 to help in getting licenses in California;
15 is that true?

16 A. That is true.

17 Q. All right. So in that instance,
18 it was clear that it was by Mr. Kaplan and
19 MIH. Is that right?

20 A. Well, it wasn't Mr. Kaplan. It
21 was MIH only. I was only hired by MIH.

22 Q. Okay. And then in the next
23 sentence, it says responding party was not
24 acting as legal counsel for any of the
25 defendants (or any of the parties).

1 A. Right.

2 Q. What you're saying today is
3 that's not correct. That you were acting as
4 legal counsel for MIH.

5 A. Yes. I made a mistake I was
6 not -- I made a mistake.

7 Q. All right. Special Interrogatory
8 No. 6 asks a similar question, and you gave
9 a similar response. Correct?

10 A. Correct.

11 Q. And do you want to make the same
12 correction to Rog 6?

13 A. Yes. I was an independent
14 contractor hired by MIH alone, not by
15 Mr. Kaplan individually. And I was not
16 acting as counsel. That is true, still.
17 I was not acting as counsel for any of the
18 other defendants other than MIH.

19 Q. So you were acting as counsel for
20 MIH; correct?

21 A. Correct.

22 Q. But you're saying -- your
23 testimony that you were not acting as
24 counsel for any of the individual defendants
25 or any of the other entity defendants.

1 Correct?

2 A. Correct.

3 Q. You were not acting as counsel
4 for NCAMBA9?

5 A. Only to the extent that it was a
6 subsidiary or was being operated by MIH.

7 Q. Okay. Did you enter into an
8 engagement agreement with MIH to act as
9 their attorney?

10 A. No.

11 Q. Okay. Is it your typical
12 practice to sign or to enter into engagement
13 letters with your clients when you're acting
14 as an attorney?

15 A. It is not. I generally don't.

16 Q. What were the fees that you
17 charged MIH for your services as an
18 attorney?

19 A. It wasn't separated out as
20 consultant versus attorney. It was all
21 lumped together. So there was no separate
22 billing for being an attorney, no.

23 Q. So how much did you charge for
24 acting as an consultant/attorney for MIH?

25 A. It was \$20,000 a month.

1 Q. Did you submit any invoices to
2 MIH?

3 A. I don't believe I submitted
4 invoices, no. I think they just paid it
5 every month.

6 Q. So you were paid \$20,000 per
7 month regardless of whether you did, you
8 know, 200 hours of work for them or 0 hours
9 of work. Is that accurate?

10 A. Correct.

11 Q. Did you receive any bonuses?

12 A. No.

13 Q. Did you receive any stock or
14 interest in the company?

15 A. Not that I am aware of, no.

16 Q. And it's your testimony that you
17 were not acting as counsel for any of the
18 plaintiffs at any point in time; correct?

19 A. That's correct.

20 Q. Is it your contention that
21 attorney-client privilege extends to your
22 work as a consultant?

23 A. Yes.

24 Q. Okay. Do you have any other
25 correction that you want to make to the

1 special interrogatories right now?

2 A. No, not at this time.

3 Q. Okay.

4 What's the basis for your
5 contention that attorney-client privilege
6 extends to your work as a consultant?

7 A. Because I think there's
8 sufficient overlap between the work that I
9 was doing as a consultant and as an attorney
10 that I don't know that you could
11 differentiate the discussions or the
12 information that was exchanged in that
13 relationship.

14 Q. So why do you distinguish in the
15 special interrogatories between acting as an
16 independent contractor and an attorney?

17 A. I think I was trying to make it
18 clear that I was not an employee of MIH.
19 You know, IP act as an independent
20 contractor as an attorney all the time.

21 Q. Did you receive a 1099 form from
22 MIH for your work?

23 A. Yes.

24 Q. And that reflects the \$20,000 a
25 month that you receive?

1 A. Yes.

2 Q. Do the rules of professional
3 conduct in Colorado apply to you when you're
4 working as a consultant?

5 A. Again, I don't think I'm
6 differentiating the role of consultant in
7 this particular case and the role of an
8 attorney representing MIH. I don't think
9 you could differentiate them. I don't know
10 how you would -- they're kind of
11 inextricably in whatever the word is,
12 intertwined.

13 Q. So, yes, they do apply?

14 A. I believe so, yes.

15 Q. Are you familiar with the Calcan
16 Law Group located in Camarillo, California?

17 MR. SCHOLZ: I'm sorry. Can you
18 say the name again, Counselor? I didn't
19 hear it clearly.

20 MR. MARCHAND: Calcan.
21 C-a-l-c-a-n, all one word.

22 MR. SCHOLZ: Okay. Thank you.

23 A. Yes, I'm familiar with it.

24 BY MR. MARCHAND:

25 Q. And what is that group?

1 A. There was -- they were two
2 attorneys, Kurt Strauss and I think his name
3 is Chyron -- I don't remember the last name.
4 That they heard of me, and I'm not totally
5 certain how. It might have been from my
6 work in Colorado. And I think Kurt Strauss
7 represented a friend of mine who owned
8 property in California.

9 Anyway, somehow they got in touch
10 with me. They were interested in getting
11 into the cannabis business as attorneys.
12 And so they asked me if I would join in and
13 make a couple of presentations. So that was
14 the extent of that.

15 Q. And did you provide those
16 presentations?

17 A. I think we did one or two, maybe
18 three.

19 Q. I think you said a few minutes
20 ago that it is your general practice not to
21 prepare engagement letters for clients. Is
22 that right?

23 A. Yeah. I mean, do I it
24 sporadically, but, no, I don't do it -- no.

25 Q. When you do do it on a sporadic

1 basis, what's the reason for you doing it in
2 those instances?

3 A. It's because it's someone I don't
4 know or I haven't heard of for a long, long
5 time, you know. So -- but I generally don't
6 do it, no.

7 Q. Is there a reason you don't do it
8 generally?

9 A. No. No. I think it's -- I do it
10 when I believe it's necessary, when I -- you
11 know, if there's -- if I think that there
12 might be something that is particular that
13 I'm limiting the scope of my representation
14 to. But for the bulk of my cannabis
15 clients, which is the bulk of my clients,
16 there would be no way to put in a scope
17 other than everything that ever comes up
18 ever.

19 And so it's more a matter of, you
20 know, how do you describe the scope of what
21 you're going to do? Because I never know
22 what's going to come up.

23 Q. You're licensed to practice law
24 in Colorado; correct?

25 A. That's correct.

1 Q. Are you licensed to practice in
2 any other state?

3 A. No.

4 Q. You're not authorized to practice
5 law in California; correct?

6 A. No.

7 Q. When did you first meet Todd
8 Kaplan?

9 A. It would have been the end of
10 2016.

11 Q. And how did you meet him?

12 A. I was introduced to Mr. Kaplan
13 through Drew Milburn.

14 Q. And how do you know Drew Milburn?

15 A. Drew Milburn was a -- owned a
16 dispensary and cultivation facility in
17 Colorado Springs. And so he was a client of
18 mine early on, when cannabis was first being
19 regulated in Colorado. So I met Mr. Kaplan
20 through Mr. Milburn.

21 Q. And what were those -- what was
22 that first meeting with Mr. Kaplan like?

23 A. It was interesting. I think,
24 Drew was describing Mr. Kaplan. Mr. Kaplan
25 was describing, you know, him. It was

1 cordial.

2 Q. And how did you come to be
3 engaged by MIH in January of 2017?

4 A. I think what happened was is they
5 realized -- they wanted to have help getting
6 licensing and dealing with some of the other
7 issues that were, you know, around licensing
8 in California. And they thought because of
9 my experience in Colorado, that I could be
10 of some help.

11 Q. Were you aware that Todd Kaplan
12 had criminal charges brought against him?

13 A. Yes.

14 Q. And how did you become aware of
15 that?

16 A. He mentioned that the very first
17 time I met him.

18 Q. And what did he say about it?

19 A. He told me about an IRS, I think
20 it was, case where he was charged with a
21 number of counts of some sort of tax law
22 violation and that after many years, all,
23 but one of the claims were dismissed. And
24 I think he was find, like, \$100 or something
25 like that. But, yes, he told me that.

1 Q. Did that concern you when you
2 heard about it?

3 A. No.

4 Q. Did you do any additional
5 investigation into those charges?

6 A. No.

7 Q. During the time that you were
8 employed by MIH as their attorney, how often
9 did you speak to Todd Kaplan?

10 A. Pretty much every day. Well, I
11 wasn't employed by MIH. I was an
12 independent contractor. I never was an
13 employee. But as an independent contractor,
14 when I was in the office, which was pretty
15 much every day, I spoke with Mr. Kaplan
16 every day that he was there.

17 Q. Did you have your own office in
18 Agoura Hills?

19 A. Yes, I did. I had my own office.
20 I had -- yeah, I had my own office.

21 Q. I think you mentioned that during
22 this period where you were -- I'll use the
23 word retained by Vertical/MIH. Is that
24 fine? Is that an accurate description?

25 A. Yes.

1 Q. Okay. During this period that
2 you were retained as MIH's attorney, did you
3 have other clients concurrently?

4 A. Yes.

5 Q. And can you give me a rough
6 estimate of how many clients you had?

7 A. Probably eight or ten at the
8 time.

9 Q. Were they all in Colorado?

10 A. Yes.

11 Q. And during this time that you
12 recall retained by MIH as their attorney,
13 you had an MIH e-mail address; correct?

14 A. Yes, I did.

15 Q. Was there -- I know you said that
16 you also had this MSN e-mail address. Was
17 there some methodology to when you would use
18 the MSN e-mail address versus the MIH e-mail
19 address?

20 A. No, not really. I mean, I would
21 not have used the MIH address for anything,
22 but -- other than MIH correspondence. But
23 I would have -- I would not have -- I would
24 have also used the CTH address. So I guess
25 what I'm trying to say is is that for my

1 clients in Colorado, I never would have used
2 the MIH e-mail. I would have only used the
3 CTH law at MSN address.

4 Q. Okay. So we talked a little bit
5 in the context of your CV about, you know,
6 sort of the wide range of services that you
7 provide to cannabis companies. And I want
8 to focus specifically on your functions for
9 Vertical.

10 And without disclosing what you
11 claim is privileged information, did you
12 ever draft and negotiate agreements on
13 Vertical's behalf?

14 A. I believe that might be
15 privileged.

16 Q. Whether or not you drafted and
17 negotiated agreements on their behalf is
18 privileged?

19 MR. SCHOLZ: I'll lodge an
20 objection to the extent that Mr. Houghton
21 can answer the question without discussing
22 the content of what he did, I think that
23 would fall under the attorney-client
24 privilege. But if he can answer it outside
25 the scope of -- without being specific, then

1 I think he can answer the question.

2 MR. MARCHAND: Okay.

3 A. The answer is yes, I did draft
4 contracts for them.

5 BY MR. MARCHAND:

6 Q. Okay. Did you provide Vertical
7 with advice regarding California's cannabis
8 rules and regulations?

9 MR. SCHOLZ: Same objection.
10 Same advice, to the extent that he can
11 answer the question, then go ahead.

12 THE DEPONENT: I'm sorry.

13 MR. SCHOLZ: Go ahead,
14 Mr. Houghton. Go ahead.

15 I apologize. This is going to be
16 a little bit stilted when this probably
17 comes up, you know.

18 A. Yes. Yes, I provided advice.

19 BY MR. MARCHAND:

20 Q. And did you draft applications
21 for cannabis licensing on MIH's behalf?

22 MR. SCHOLZ: Same objection.

23 A. The answer is yes.

24 BY MR. MARCHAND:

25 Q. Did you negotiate real estate

1 transactions on MIH's behalf?

2 MR. SCHOLZ: Same objection.

3 A. Um-hum.

4 BY MR. MARCHAND:

5 Q. I'm sorry. Yes or no?

6 A. Yes.

7 Q. Did you communicate with other
8 third-party attorneys on Vertical's behalf?

9 A. Yes.

10 Q. Did you communicate with other
11 third parties on Vertical's behalf?

12 A. To the extent that it's not
13 confidential, yes.

14 Q. What do you mean, to the extent
15 it's not confidential?

16 A. Well, I think the last line of
17 questioning is, you know, did I do this,
18 yes. Did I communicate with other people,
19 yes. It was -- the contents of those
20 discussions would have been confidential.
21 But the fact that I did them, I don't -- you
22 know, I think the objection that Mr. Scholz
23 phrased is going to -- you know, will be
24 discussed, I'm sure.

25 MR. SCHOLZ: I'll just lodge the

1 objection is that if you're speaking to a
2 third party, there may also be -- it could
3 fall under attorney-client privilege. But
4 to the extent that he's able to answer the
5 question that he had communications with
6 third parties, then I would say that he can
7 answer that question.

8 MR. MARCHAND: Okay.

9 BY MR. MARCHAND:

10 Q. Is it your testimony that any
11 conversations that you had with third
12 parties on behalf of MIH is subject to
13 attorney-client privilege?

14 A. No.

15 MR. MARCHAND: Why don't we go
16 off the record for a minute.

17 THE VIDEOGRAPHER: We're going
18 off the record at 10:10 a.m.

19 (Recess taken.)

20 THE VIDEOGRAPHER: We are back on
21 the record at 10:21 a.m.

22 BY MR. MARCHAND:

23 Q. Mr. Houghton, just as a reminder,
24 you are still under oath. Okay?

25 A. Yes.

1 Q. Did you have any communications
2 with anyone during the break?

3 A. No.

4 Q. So you just want to clarify?

5 A. I spoke to my office manager, the
6 dog.

7 Q. Thank you for the clarification.

8 I just want to go back to
9 something we were just discussing before the
10 break. So to be clear, the relationship
11 that you had -- the business relationship
12 that you had with MIH starting in January
13 2017, you were retained by MIH to be their
14 attorney; correct?

15 A. Yes.

16 Q. You were paid \$20,000 a month
17 until that relationship ended; correct?

18 A. That's correct.

19 Q. There was no -- sorry.

20 A. Go ahead. I'm sorry. Go ahead.

21 Q. There was no engagement letter
22 that governed that business relationship;
23 correct?

24 A. No.

25 Q. You were never engaged by Todd

1 Kaplan as an individual to represent him;
2 correct?

3 A. No.

4 Q. You were never retained by Matt
5 Kaplan to represent him as an individual;
6 correct?

7 A. No.

8 Q. Same for Drew Milburn?

9 A. Yes. Correct. I mean, yes.
10 Yes, I was not.

11 Q. You were never retained by
12 Courtney Dorne to represent her; correct?

13 A. That's correct.

14 Q. You were never retained by Smoke
15 Wallin to represent him; correct?

16 A. That's correct.

17 Q. You were never retained by Robert
18 Kaplan to represent him; correct?

19 A. That's correct.

20 Q. You were never retained by Elyse
21 Kaplan to represent her; correct?

22 A. That's correct.

23 Q. You were never retained by Jeff
24 Silver to represent him; correct?

25 A. That's correct.

1 Q. You were never retained by Iron
2 Angel II, LLC, to represent that entity;
3 correct?

4 A. To the extent that it was part of
5 MIH or was intended to be part of MIH, yes,
6 I was representing, yes. It was part of
7 MIH.

8 And then just to clarify with all
9 the people that you just mentioned. To the
10 extent that they are part of MIH, then, yes,
11 they -- I guess what I'm saying is that
12 communications that I had with people within
13 the MIH community, you know, there has to be
14 people there for the entity, I think -- I
15 wasn't representing them as individuals, but
16 I was representing MIH and those individuals
17 were part of MIH.

18 Q. And what is your understanding of
19 the relationship between Iron Angel II, LLC,
20 and MIH?

21 A. It would have been rolled up into
22 an MIH subsidiary or MIH itself.

23 Q. What do you mean by "rolled up
24 into"? Do you mean it was a wholly owned
25 subsidiary?

1 A. Well, yes.

2 Q. With your ever retained by
3 NCAMBA9 Inc.?

4 A. Only to the extent that it was a
5 subsidiary of MIH. So yes.

6 Q. And what is your understanding of
7 the relationship between NCAMBA9 Inc. and
8 MIH?

9 A. NCAMBA9 was being run -- well,
10 the cultivation facilities -- facility was
11 being run by MIH through NCAMBA9.

12 Q. So do you view it as a wholly
13 owned subsidiary of MIH?

14 A. Yes.

15 Q. What about Vertical Wellness?

16 A. Vertical Wellness, I had very
17 little to do with. I'm not familiar with
18 the relationship between Vertical Wellness
19 and MIH specifically.

20 Q. Were you ever retained by
21 Vertical Wellness to represent them?

22 A. I don't believe so. I don't have
23 a recollection of that. But I don't believe
24 so, no.

25 Q. In your view, when the

1 relationship with MIH began in January of
2 2017, what was the scope of your
3 representation for that?

4 A. At that time, it was getting
5 licenses for them, for MIH, or its
6 subsidiaries.

7 Q. Did that scope change over time?

8 A. I believe so, yes.

9 Q. When did it change?

10 A. I think that's attorney-client
11 privilege.

12 Q. How did it change?

13 A. Again, attorney-client privilege.

14 Q. Did the scope of your
15 representation expand beyond providing them
16 advice on licensing?

17 MR. SCHOLZ: Objection.
18 Attorney-client privilege.

19 To the extent you could answer
20 specifically -- without being -- if you can,
21 without being specific and without to -- if
22 you can, then I would say you can answer it.
23 Otherwise, I would instruct you not to
24 answer it.

25 A. I would say yes, it expanded.

1 BY MR. MARCHAND:

2 Q. When did you last review your
3 responses to the special interrogatories?

4 A. A few days ago.

5 Q. And when did you first review
6 them as part of preparing for this
7 deposition?

8 A. A day or so ago.

9 Q. You mentioned that you ended the
10 relationship with MIH in July 2018. Is that
11 correct?

12 A. That's correct.

13 Q. How did you effectuate that
14 termination?

15 A. I think I told Todd that I was
16 moving on. And that was about the time --
17 yeah, I think that's what I would have done.

18 Q. What month did you last receive a
19 \$20,000 stipend from MIH?

20 A. I don't recall.

21 Q. And I think you mentioned that
22 you left for personal reasons. Is that
23 correct?

24 A. Among other things, yes.

25 Q. Okay.

1 MR. SCHOLZ: I would say it's
2 prior testimony, I believe is more different
3 than that.

4 BY MR. MARCHAND:

5 Q. What is it among other things?

6 A. I mean, yeah, it was personal
7 reasons.

8 Q. Okay.

9 A. When I say personal reasons, yes,
10 there were a lot reasons. So yes, it was
11 personal reasons.

12 Q. Okay. But you decided to
13 terminate the relationship. Is that
14 correct?

15 A. That's correct.

16 Q. What was Todd's response when you
17 told him you would be terminating it?

18 A. I think he was sad to see me go.

19 Q. Did he ask you to stay on?

20 A. That would be privileged.
21 Confidential.

22 Q. So what were some of the personal
23 reasons that were the basis for you
24 terminating the relationship with Vertical?

25 MR. SCHOLZ: Objection. I think

1 it calls for his invasion to right to
2 privacy. Relevance. Lack of -- it's not
3 reasonably calculated to lead to admissible
4 evidence.

5 BY MR. MARCHAND:

6 Q. Go ahead, Mr. Houghton.

7 A. The personal reasons were that I
8 wanted to spend -- be able to spend more
9 time with my daughter and at home. And
10 I had other clients whose businesses were,
11 I guess, beginning to expand themselves.
12 And so, you know, and I missed home.
13 I missed Colorado. So I wanted to be able
14 to spend more time here than there.
15 I enjoyed having a house in California and
16 visiting, but I wanted to go home.

17 Q. Okay.

18 A. Or be home more often.

19 Q. Okay. Any other reasons?

20 A. No.

21 Q. Any business reasons other than
22 want to go spend more time on other clients?

23 A. No.

24 Q. During the time that you were
25 retained by MIH in the year of 2017, what

1 percentage of your monthly time was spend
2 working on MIH matters versus other clients?

3 A. Probably 80 percent on MIH and
4 20 percent on other clients.

5 Q. And same question for the first
6 half of 2018.

7 A. It would be about the same.
8 I think there would have been maybe
9 70 percent on MIH and 30 percent on clients
10 in Colorado.

11 Q. Did you do -- setting aside the
12 litigation in Colorado, did you do any other
13 work for Vertical in your capacity as an
14 attorney after July 2018?

15 A. No, I don't believe so. Not that
16 I can recall.

17 Q. Did you continue to rent property
18 in California after July 2018?

19 MR. SCHOLZ: Objection --

20 A. Yeah, we went over that.

21 MR. SCHOLZ: -- asked and
22 answered.

23 BY MR. MARCHAND:

24 Q. My short memory is failing me
25 right now. Can you please remind me of what

1 your answer is.

2 A. Okay. I'm sorry about that.

3 My -- the short answer is that,
4 yes, I continued to rent the house that I
5 was in in California until I think it was
6 November/December of 2019.

7 Q. Okay. Got it. Thank you.

8 When did you first meet Frannie
9 Shulman?

10 A. I think it would have been
11 June -- late June, early July of 2017.

12 Q. And where did you meet her?

13 A. I don't recall whether -- I think
14 she was in the office -- in the Agoura Hills
15 office on a day I was there. I don't have a
16 specific recollection of the exact day that
17 I met her.

18 Q. Do you recall who was present at
19 that meeting?

20 A. No, I don't. I think Brandon
21 Shulman was there. I don't ever remember
22 meeting Mrs. Shulman or Ms. Shulman when
23 Brandon wasn't there, so I think he was
24 there, but yeah, I think they were both
25 there. I don't remember anybody else.

1 Q. Who is Brandon Shulman?

2 A. I believe Brandon Shulman is
3 Mrs. Francine Shulman's son.

4 Q. And do you know his occupation?

5 A. He's a doctor.

6 Q. How would you describe your
7 relationship with the Shulmans?

8 MR. SCHOLZ: Objection.

9 Overbroad. Vague and ambiguous.

10 A. I would say it was cordial.

11 BY MR. MARCHAND:

12 Q. Do you recall whether Todd Kaplan
13 was at that first meeting where you met the
14 Shulmans?

15 A. If it was in the office,
16 Mr. Kaplan would have been there. So more
17 than likely, yes, he was there.

18 Q. Do you recall whether Todd Kaplan
19 described you as part of a package deal if
20 the Shulmans decided to work with MIH?

21 A. I do not recall that, no.

22 Q. But do you recall how you were
23 described to the Shulmans during that
24 initial visit?

25 A. No, I do not know how I was

1 described.

2 Q. Do you know how your role was
3 described at that initial visit?

4 MR. SCHOLZ: Assumes facts not in
5 evidence. Objection.

6 A. I don't recall how I was
7 described or even if I was described.

8 And can we stop for just one
9 second? I've got a -- something that's
10 popped up on my screen. It's my computer's
11 scan that pops up every once in a while.
12 I just want to reach down and turn the dam
13 thing off. It's the weirdest thing in the
14 world. That happens about once every
15 four months. So anyway --

16 BY MR. MARCHAND:

17 Q. Are you good or do you need more
18 time?

19 A. No. No, no, no. It just popped
20 up, and it blocks everything. It says, you
21 know, "Scan in Progress." And so I had to
22 turn it off.

23 Q. Okay. I know for me, personally,
24 they always pop up at the worst time.

25 A. Yeah. I don't know how to turn

1 them off.

2 Q. Do you recall how Vertical
3 described your relationship with the company
4 to third parties?

5 MR. SCHOLZ: Objection. Assumes
6 facts not in evidence. Lacks foundation.

7 A. I don't have a specific
8 recollection of how I was represented.

9 BY MR. MARCHAND:

10 Q. Would it surprise you if Vertical
11 was describing you as a head of legal and
12 compliance at that time?

13 A. I don't know. I mean, I don't
14 know that it was done, so I don't know.

15 Q. Do you agree with that statement,
16 that you were Vertical's head of legal and
17 compliance at that time?

18 A. I believe that's a little bit
19 overbroad. But I think the entire role
20 would be subject to interpretation, at best.

21 Q. Okay. Well what was your
22 interpretation of your role as of June 2017?

23 A. June of 2017, I would have
24 been -- my job was getting licenses. And to
25 the extent that there -- yeah, getting

1 licenses.

2 Q. Who else at Vertical would have
3 been responsible for providing legal and
4 compliance advice during that time?

5 A. I don't know about legal advise,
6 but -- and there really wasn't any
7 compliance because nothing was operational
8 at that time.

9 Q. I'll share with you what is being
10 marked as Exhibit 3.

11 (Houghton Exhibit 3,
12 ^ description, was marked for
13 identification, as of this date.)

14 Q. It is a document that has been
15 produced in this litigation as Shulman
16 00001704.

17 Can you see that?

18 A. I can see it.

19 Q. This is a slide deck entitled
20 Medical Investor Holdings, LLC.

21 A. Um-hum.

22 Q. Dated May 2017.

23 Have you seen this document
24 before?

25 A. I don't know. I haven't seen the

1 whole thing, but it doesn't strike me as --

2 I don't know that I've seen that, no.

3 Q. Okay. There's a few slides up at
4 the front that talk about investing in MIH.

5 Did you ever invest personally in
6 MIH?

7 A. No.

8 Q. Were you ever asked to?

9 A. No.

10 Q. Were you involved in any of the
11 capital raises that MIH conducted?

12 A. No.

13 Q. Did you ever provide them with
14 advice on securities law?

15 A. That would be confidential.

16 Q. Well, I'm not asking for the
17 content. I'm just asking whether or not you
18 were acting as a lawyer for them in the
19 space of securities law.

20 A. No. Absolutely not.

21 Q. With your acting as an attorney
22 for MIH in the space of investor
23 communications?

24 A. No.

25 Q. On page 7, under a title that

1 says leadership that makes a difference, on
2 the right-hand side, it says Charles
3 Houghton, legal and compliance. Do you see
4 that?

5 A. I do.

6 Q. Underneath that, it says
7 nationally recognized attorney at the
8 forefront of cannabis policy with 32 years'
9 experience.

10 Do you see that?

11 A. I see that.

12 Q. Do you agree with that statement?

13 A. I would say that I'm nationally
14 recognized or was. I don't think I am any
15 more. I don't know about nationally, but
16 I am an attorney with 32 years experience.
17 Not 32 years of experience in cannabis,
18 because it hasn't been around that long.

19 Q. Underneath that, it says drafted
20 the medical marijuana and land use ordinance
21 for Colorado Springs and several other
22 cities.

23 Do you agree with that statement?

24 A. Yes.

25 Q. It says Colorado Springs city

1 council member. Do you agree with that
2 statement?

3 A. No, I was never a city council
4 member.

5 Q. Underneath that, it says active
6 cannabis task force member in several
7 California cities. Do you agree with that
8 statement?

9 A. I don't have a specific
10 recollection of that. I don't know.

11 Q. Okay. Did you ever provide
12 advice to the Shulmans?

13 MR. SCHOLZ: Objection. It's
14 vague, ambiguous, overbroad.

15 A. I think you're going to have to
16 define "advice."

17 BY MR. MARCHAND:

18 Q. Okay. Did the Shulmans ever ask
19 you for information regarding cannabis?

20 A. Yes.

21 Q. Did you ever provide information
22 to the Shulmans with regards to cannabis?

23 A. I would have answered their
24 questions to the best that I could in regard
25 to what was -- yeah, I mean, whatever MIH's

1 involvement would have been.

2 Q. So your testimony is that any
3 advice that you provided to the Shulmans
4 would have been limited to whatever MIH's
5 involvement was?

6 A. Yes.

7 Q. Do you recall what topics you
8 provided the Shulmans advice with?

9 MR. SCHOLZ: Assumes facts not in
10 evidence.

11 A. And, again, we're getting back to
12 the term "advice."

13 I provided them with information
14 about what I was learning in Santa Barbara
15 County on behalf of MIH.

16 BY MR. MARCHAND:

17 Q. Was that it?

18 A. As far as I can recall.

19 Q. What is the difference between
20 advice and information, to you?

21 A. The difference is telling someone
22 advice is telling someone what to do. And
23 information is just answering a question.

24 Q. I'm going to show you what's been
25 marked as Exhibit 4. It's a document Bates

1 stamped Shulman 0000094. And I will share
2 this with you.

3 (Houghton Exhibit 4,
4 ^ description, was marked for
5 identification, as of this date.)

6 Q. Can you see that?

7 A. Yes.

8 Q. This is an e-mail dated June 27,
9 2017, from you to Brandon Shulman. Do you
10 see that?

11 A. I do.

12 Q. And this is your MSN address;
13 correct?

14 A. Correct.

15 Q. And the subject a water Mary;
16 correct?

17 A. Correct.

18 Q. And I'll scroll down so you can
19 see the entire document. This is the only
20 e-mail on this page. Correct?

21 A. Correct.

22 Q. Do you recall this e-mail?

23 A. Not specifically, no.

24 Q. You state in this e-mail, I just
25 want to do remind you that the water

1 disclosures contained in the e-mail I sent
2 you are due by June 30, 2017.

3 Do you see that?

4 A. I see that.

5 Q. Do you recall what you meant when
6 you said the e-mail I sent you?

7 A. I do not recall. I do recall
8 that during this entire -- during that
9 period, there were disclosures that would --
10 had to have been made to whatever water
11 authority was in there. And that was part
12 of the fact finding that I was doing, to
13 figure out what disclosures there might have
14 been.

15 And as far as MIH was concerned,
16 that those disclosures needed to be kept
17 current.

18 Q. Why are you sending a reminder to
19 Dr. Shulman that the water disclosures are
20 due by June 30th?

21 A. I'm thinking that that had to
22 have been to make sure that MIH was
23 protected.

24 Q. The next line, you say I do not
25 know if any of your operations require

1 disclosures, but it is of critical
2 importance that you meet the June 30, 2017,
3 deadline.

4 Do you see that?

5 A. That's what it says, yes.

6 Q. And what did you mean by that?

7 A. Just what it says. I don't know
8 if any of the operation required
9 disclosures.

10 Q. So is this you providing
11 information or is this you providing advice?

12 A. I think this is me doing fact
13 finding to find out what was all going to be
14 necessary to put an application together at
15 some point in time in the future.

16 Q. What aspect of this e-mail is
17 fact finding?

18 A. The only thing I can say is that
19 if there were disclosures that needed to be
20 made, then it was important that they meet
21 them in order to be able for all of the
22 documents necessary for an application to
23 move forward. I don't know that there
24 was -- I don't have a specific recollection
25 of the context of this e-mail.

1 Q. Okay. And that's why you say
2 it's of critical importance that you meet
3 the June 30, 2017, deadline; right?

4 MR. SCHOLZ: Objection. Vague
5 and ambiguous.

6 A. I think it says what it says.

7 BY MR. MARCHAND:

8 Q. Your signature line is Charles T.
9 Houghton, Esquire. Correct?

10 A. Correct.

11 Q. What does "esquire" mean?

12 A. Attorney.

13 Q. The bottom of the e-mail, there's
14 a paragraph that begins with the information
15 contained in this message, as well as any
16 attachments, is protected by attorney-client
17 and/or the attorney-work product privilege.

18 Do you see that?

19 A. Yes, I do.

20 Q. What does that mean?

21 A. That's part of the signature
22 blank that goes on virtually every one of my
23 e-mails.

24 Q. Okay. So who is the attorney and
25 who is the client in this communication?

1 MR. SCHOLZ: Objection. Assumes
2 facts not in evidence.

3 A. I believe MIH is the client. The
4 attorney would be me. But I don't know that
5 this is establishing an attorney-client
6 relationship.

7 BY MR. MARCHAND:

8 Q. Okay. But is it your position
9 that this e-mail is protected by the
10 attorney-client and/or attorney-work product
11 privilege?

12 A. No. No, because that
13 paragraph at the bottom goes on all of my
14 e-mails. I don't think the attorney-client
15 privilege is defined by a -- what's on an
16 e-mail -- you know the stock language at the
17 bottom of one of my e-mails.

18 Q. Did you draft that stock
19 language?

20 A. I think I probably borrowed it
21 from somewhere.

22 Q. Other than water matters, what
23 other topics did you advise the Shulmans on?

24 MR. SCHOLZ: Objection. Assumes
25 facts not in evidence. Misconstrues prior

1 testimony. It misstates prior testimony.

2 It's incomplete hypothetical.

3 A. I don't think I advised them on
4 any other topics that I can recall.

5 BY MR. MARCHAND:

6 Q. Do you recall any other topics
7 that the Shulmans sought your advice on?

8 MR. SCHOLZ: Objection. Assumes
9 facts not in evidence. Also speculation.

10 A. I don't have a specific
11 recollection of anything that -- any other
12 specific thing that meets that question.

13 BY MR. MARCHAND:

14 Q. Okay.

15 MR. SCHOLZ: Ms. Reporter, did
16 you get our -- because I know Mr. Houghton
17 and I overlapped. Did you get that clearly?

18 THE STENOGRAPHER: I believe so,
19 thank you.

20 MR. SCHOLZ: Okay. Thank you.

21 BY MR. MARCHAND:

22 Q. I'm going to show what's been
23 marked as Exhibit 5. It's a document that's
24 been produced in this case with the Bates
25 stamp Shulman 00002801.

1 (Houghton Exhibit 5,
2 ^ description, was marked for
3 identification, as of this date.)

4 Q. Can you see that?

5 A. I do. I see that.

6 Q. This is an e-mail dated
7 July 20th, 2017, from Fran my Shulman to
8 yourself, copying Brandon Shulman. Do you
9 see that?

10 A. I do. I see that.

11 Q. And the subject line is
12 Hello/Todd. And the first line says,
13 "I spoke to Todd last night and he told me
14 to contact you directly with regard to the
15 Lugli property."

16 Do you see that?

17 A. I do.

18 Q. Do you recall this e-mail?

19 A. Not specifically, no, but -- no,
20 do I recall that one, yeah. I do.

21 Q. What do you recall about it?

22 A. That I received it and that they
23 were indicating that they weren't
24 represented by an attorney.

25 Q. And what is she talking about

1 with regard to the Lugli property?

2 MR. SCHOLZ: Objection. Assumes
3 facts not in evidence. Vague and ambiguous.
4 Overbroad. Calls for speculation as to what
5 she might be -- I don't know what the
6 document says.

7 BY MR. MARCHAND:

8 Q. Just to refresh. Any time your
9 attorney makes an objection, unless it's an
10 objection to privilege and he instructs you
11 not to answer, you can still answer and
12 should still answer the question?

13 THE DEPONENT: Okay.

14 MR. SCHOLZ: I'm sorry. I should
15 have told you that at the beginning.

16 MR. MARCHAND: That's okay.

17 MR. SCHOLZ: I'll try and make
18 sure to let you know, Charles, next time,
19 you know, go ahead and answer.

20 MR. MARCHAND: And I'll --

21 MR. SCHOLZ: Sterling, please,
22 yeah, go ahead and --

23 MR. MARCHAND: I'll refresh the
24 question.

25 ///

1 BY MR. MARCHAND:

2 Q. What is your understanding as to
3 what Ms. Shulman means when she states with
4 regards to the Lugli property?

5 A. I think she's talking about the
6 property that was owned by rusty Lugli.

7 Q. Was that a property commonly
8 referred to as Wells Springs?

9 A. Yes.

10 Q. Do you recall having discussions
11 about Wells Springs in July of 2017 with
12 Ms. Shulman?

13 A. Not anything specific. And
14 anything individually talked to her about
15 would have been in furtherance of something
16 to do with MIH and their involvement.

17 Q. Okay. She says in the next line,
18 I am not represented by anyone on this
19 matter.

20 Do you see that?

21 A. I do.

22 Q. What do you understand that to
23 mean?

24 A. Meaning that she's not
25 represented by anyone on this matter.

1 Q. Do you understand why she put
2 that in the e-mail?

3 A. Yeah.

4 MR. SCHOLZ: Calls for
5 speculation.

6 BY MR. MARCHAND:

7 Q. Go ahead.

8 A. Yeah, I can only speculate, but
9 I think that what the situation was was that
10 she was represented by Mr. Simons, Andrew
11 Simons, and I couldn't talk with her
12 directly unless we had Mr. Simons' approval.

13 And I think Todd got tired of
14 that and talked with Frannie about the
15 situation. That's the only thing I can say.
16 I wasn't privy to the conversation between
17 Todd and Frannie.

18 BY MR. MARCHAND:

19 Q. Who is Mr. Simons?

20 A. Mr. Simons is an attorney in
21 Santa Barbara, California.

22 Q. You say his first name is Andrew?

23 A. I believe that's correct.

24 Q. Does he also go by Drew?

25 A. Yes.

1 Q. And you said Mr. Simons
2 represented Ms. Shulman. How did you come
3 to that understanding?

4 A. He represented her on the
5 cultivation agreement. I don't know the
6 extent of what he represented her on
7 anything else.

8 Q. Was it your understanding that he
9 was representing her with regard to the
10 Lugli property?

11 A. I did not have an understanding
12 of the scope of his representation.

13 Q. Would that have been important
14 for you to know?

15 MR. SCHOLZ: Objection. Calls
16 for speculation. Lacks foundation.

17 A. If he had been representing her
18 on the Lugli property itself, yes. But
19 I was told that she wasn't represented --
20 that he didn't represent her on that.

21 BY MR. MARCHAND:

22 Q. Why is that an important fact for
23 you to know?

24 A. Because if he was -- if she was
25 represented by Mr. Simons on that, then

1 I would have gotten permission from
2 Mr. Simons to speak with her.

3 Q. Why do you need Mr. Simons'
4 permission to speak with her if she's
5 represented on that matter?

6 A. Because if I know someone is
7 represented by counsel, it is my practice to
8 get that attorney's permission before
9 I speak with them, if they're representing
10 them on a particular matter.

11 Q. That's a general practice that
12 you do, in terms of any of your clients and
13 cases?

14 A. Yes.

15 Q. And what's the basis for that
16 practice?

17 A. I believe that's part of the Code
18 of professional responsibility.

19 Q. So you have an ethical obligation
20 to not speak to someone who is represented
21 by counsel on a particular matter without
22 their permission; correct?

23 MR. SCHOLZ: Objection. Calls
24 for a legal conclusion.

25 Go ahead.

1 A. That's my understanding.

2 BY MR. MARCHAND:

3 Q. But in this case, she's saying
4 I am not represented by anyone on this
5 matter, meaning with regard to the Lugli
6 property. Correct?

7 A. That's what it says.

8 Q. Did you have conversations with
9 Todd about Drew Simons?

10 MR. SCHOLZ: Objection. Calls
11 for speculation. Calls for attorney-client
12 privileged communications. Instruct him not
13 to answer.

14 Let him know if -- Charles, let
15 him know if you're going to follow my advice
16 or not.

17 A. I'm going to follow my attorney's
18 advice.

19 BY MR. MARCHAND:

20 Q. I believe it was your testimony a
21 few minutes ago that you don't know -- you
22 were not privy to the conversation between
23 Todd Kaplan and Frannie Shulman about making
24 it clear that she was not represented by
25 anyone on the Lugli property. Is that

1 accurate?

2 A. That's correct.

3 Q. Do you recall how you responded
4 to this e-mail?

5 MR. SCHOLZ: Objection. Assumes
6 facts not in evidence.

7 A. I don't recall.

8 BY MR. MARCHAND:

9 Q. Did you have conversations with
10 Frannie Shulman about the Wells Springs
11 property?

12 A. Only to the extent that I would
13 have been representing MIH, yes.

14 Q. Did you make it clear to
15 Ms. Shulman that you were representing MIH?

16 A. I believe I did, yes.

17 Q. How did you do that?

18 A. Verbally.

19 Q. Meaning what? You told her in
20 person that you were representing MIH?

21 MR. SCHOLZ: Objection.

22 A. Yeah.

23 MR. SCHOLZ: Go ahead. I'll
24 withdraw it.

25 ///

1 BY MR. MARCHAND:

2 Q. Did you tell her in any other
3 ways that you were representing MIH?

4 A. I don't have a specific
5 recollection, no.

6 Q. When did you tell Ms. Shulman
7 that you were representing MIH?

8 A. From the very first time I had a
9 conversation with Ms. Shulman.

10 Q. How many times did you tell
11 Ms. Shulman that you were representing MIH?

12 A. I don't know. I don't remember.

13 Q. When you had conversations with
14 Ms. Shulman about the Wells Springs
15 property, did you convey that information to
16 others at MIH?

17 MR. SCHOLZ: Objection. Calls
18 for attorney-client privilege. I'll
19 instruct him not to answer.

20 BY MR. MARCHAND:

21 Q. I'm not asking for the content.
22 I'm asking whether or not you shared
23 information that you gathered from
24 Ms. Shulman with others at Vertical.

25 MR. SCHOLZ: I still think the

1 fact that he's talking to people about the
2 content is an attorney-client communication.

3 A. I believe that it's confidential.

4 BY MR. MARCHAND:

5 Q. Okay. I'm going to show you
6 Exhibit 6, which is a document that's been
7 produced in this litigation with the Bates
8 stamp SHULMAN_00002520.

9 (Houghton Exhibit 6,
10 ^ description, was marked for
11 identification, as of this date.)

12 Q. Do you see that?

13 A. Yes, I see that.

14 Q. This is an e-mail from Frannie
15 Shulman to you and Todd Kaplan dated
16 July 21, 2017, subject line escrow.

17 Do you see that?

18 A. I see that, yes.

19 Q. Do you recall this e-mail?

20 A. No, I do not.

21 Q. She says, hi, Charles. Hopefully
22 you received our signed copy last night.

23 Do you know what signed copy she
24 is referring to?

25 A. No, I do not.

1 Q. She goes on. I am not -- sorry.

2 Go ahead.

3 A. I don't recall what she's talking
4 about there, no.

5 Q. She says, I'm not represented by
6 Drew on the above.

7 Is that Drew Simons that we were
8 just discussing?

9 MR. SCHOLZ: Objection. Calls
10 for speculation. You can answer if you
11 know.

12 A. I'm guessing, yes.

13 BY MR. MARCHAND:

14 Q. She then says can we speak later.

15 Do you see that?

16 A. I see that.

17 Q. Did you talk to Ms. Shulman after
18 this e-mail?

19 A. I do not recall.

20 Q. Do you know what the subject line
21 "Escrow" is referring to?

22 A. I do not. I don't recall.

23 Q. Did you respond to this e-mail?

24 A. I do not have a specific
25 recollection of responding to it, no.

1 Q. I'm going to mark the next
2 exhibit Exhibit 7.

3 (Houghton Exhibit 7,
4 ^ description, was marked for
5 identification, as of this date.)

6 Q. This is a document that's been
7 produced in this case Bates stamped Shulman
8 00002287.

9 Do you see that?

10 A. I do.

11 MR. SCHOLZ: One second,
12 counselor. I'm waiting for it to load on my
13 side. Thank you.

14 BY MR. MARCHAND:

15 Q. At the bottom is an e-mail from
16 Brandon Shulman to you and Frannie Shulman
17 dated August 7, 2017, subject line meeting.

18 Do you see that?

19 A. Subject line meeting. Yes.

20 Q. He says hi, Charles. Are you
21 free for a call at 2 today? Texted, but not
22 sure have your right number.

23 Do you recall this e-mail?

24 A. Not specifically, no.

25 Q. You responded from your MIH

1 e-mail. You say I am free at 2. But
2 remember, if it is something that you are
3 represented by counsel on, I would need your
4 attorney's permission to talk with you.

5 Do you see that?

6 A. I see that.

7 Q. What did you mean by that?

8 A. Precisely what it says.

9 Q. And is that because you were
10 representing MIH at their attorney?

11 A. Correct.

12 Q. Do you recall whether you had a
13 subsequent conversation with them?

14 A. I do not have a recollection.

15 Q. You stated earlier that you told
16 Ms. Shulman that you were representing MIH.
17 Did you ever tell Brandon Shulman that you
18 were representing MIH?

19 A. Yes.

20 Q. When was that?

21 A. I'm sure it came up on more than
22 one occasion, but I don't have a specific
23 date. I don't recall a specific time.

24 Q. Did you ever put that into
25 e-mail?

1 A. I don't have a specific
2 recollection of that, no. I just don't
3 remember.

4 Q. Did you have a practice of
5 bringing that up with them on a regular
6 basis?

7 A. I don't know that -- I don't
8 recall.

9 Q. And you don't recall how many
10 times it came up; correct?

11 A. No.

12 Q. Okay. I'm going to show you
13 what's being marked as Exhibit 8.

14 (Houghton Exhibit 8,
15 ^ description, was marked for
16 identification, as of this date.)

17 Q. This is a document that's been
18 produced in this case Bates stamped Shulman
19 00003250.

20 Can you see that?

21 A. Yes.

22 Q. The top e-mail is from Brandon
23 Shulman to you at your MIH e-mail account
24 and Frannie Shulman at her Gmail account as
25 well as two other recipients.

1 Do you see that?

2 A. I see that.

3 Q. Do you know who dmilburn@mih1.com
4 is?

5 A. That would be Drew Milburn.

6 Q. Do you know who mk@mih1.com is?

7 A. I think that's Matt Kaplan.

8 I think. I can't think of anyone else whose
9 initials there are. I don't know for sure.

10 Q. Okay. The subject line is
11 forward: Wells and easements from NF.

12 Do you recall this e-mail?

13 A. I don't recall it specifically,
14 no.

15 Q. Do you know what NF is referring
16 to?

17 A. I don't have a recollection of
18 what NF means.

19 Q. The bottom e-mail is from Russell
20 Lugli. Do you know who that is?

21 A. Yes, I am familiar with his name.
22 Yes.

23 Q. And who is that?

24 A. Russell Lugli was the individual
25 that owned the Wells Springs property.

1 Q. And his e-mail address is
2 gmfici@aol.com. Do you see that?

3 A. I see that.

4 Q. And Brandon's e-mail, going back
5 up to the top, he says for Charles to
6 review.

7 Do you see that?

8 A. I do.

9 Q. Do you recall what that was
10 about?

11 A. I don't have a specific
12 recollection so I would be speculating. It
13 more than likely would have been part of the
14 fact-finding for the application for
15 licensing on Wells Springs, I'm guessing.

16 Q. Do you recall whether or not you
17 responded to this e-mail?

18 A. I don't have a specific
19 recollection of that, no.

20 Q. What types of facts did you need
21 on the Wells Springs property for their
22 licensing?

23 A. Initially it's things like names,
24 addresses, et cetera of the owner. A legal
25 distinction of the property. How title was

1 held to the property. Later on, there was
2 a -- I think that there was a switch
3 somewhere in 2018 where temporary licenses
4 that were being applied for at that time,
5 they were changing what was required. And
6 one of the requirements was water
7 information that they didn't require
8 initially.

9 The other information is, you
10 know, it's -- it's just whatever is required
11 in the application, you've got to go find.
12 It's like, you know, what's this, where's
13 that, who's this? You know, Social Security
14 numbers, phone numbers. All kinds of
15 information. So you do a lot of fact-find
16 fog an application.

17 Q. And how did you ascertain what
18 information was required, say, for the Wells
19 Springs property specifically for the
20 licenses there?

21 A. By looking at the license
22 application forms that were online at the
23 time.

24 Q. Anything else?

25 A. Not that I can recall. I mean,

1 there are other things that you would have
2 to provide information on, but mostly it's
3 the specific information that's being asked
4 in the application. You're trying to fill
5 out an application that answers their
6 questions.

7 Q. If something was unclear in an
8 application, where would you go for
9 additional information?

10 A. Sometimes you could call the
11 regulators. I did that maybe on a couple of
12 occasions. But usually you either just
13 figured it out or you put in your best
14 estimate of what it was that they were
15 asking for. I mean, there's -- the
16 applications are relatively clear, so that's
17 not really a common occurrence. Sometimes
18 you just have to look at it for a while and
19 then look at it again and it's like, oh,
20 that's what they're talking about.

21 Q. Okay. I'm going to show you
22 what's being marked as Exhibit 9.

23 (Houghton Exhibit 9,
24 ^ description, was marked for
25 identification, as of this date.)

1 A. Okay.

2 Q. A document that's been produced
3 in this case Bates stamped Kaplan 001410.
4 I'll bring it up on the screen.

5 Can you see that?

6 A. Yes.

7 Q. I'm going to start at the bottom.
8 And this is an e-mail from Brandon Shulman
9 dated July 16, 2018, to yourself Andrew
10 Milburn at MIH. And the subject line is
11 Sisters update.

12 Do you see that?

13 A. I see that.

14 Q. Do you recall whether at this
15 point in time you were still working for MIH
16 as an independent consultant?

17 A. I was working for MIH, yes.

18 Q. Not as an independent contractor
19 at this point?

20 A. Yeah, still as an independent
21 contractor, yes. I'm sorry.
22 I misunderstood your question.

23 Q. Okay?

24 MR. SCHOLZ: Counsel, I think you
25 said independent consultant and then you

1 said independent contractor. So I just want
2 to do clarify.

3 A. I'm not nitpick ago words.
4 I just was a little confusing. I'm sorry.

5 BY MR. MARCHAND:

6 Q. My apologies.
7 So at this point in time,
8 July 16, 2018, with your still retained and
9 engaged as an attorney for MIH?

10 A. This was about the time that I
11 was phasing out, so it would have been a
12 transition period.

13 Q. Okay. But as of this moment in
14 time, do you recall whether you were still
15 engaged by MIH or not?

16 A. I believe I was still engaged by
17 MIH, yes.

18 Q. Okay. And Brandon says Charles,
19 have you spoken to Fish and Wildlife, Verlyn
20 or Verlyn's colleague? Hoping for an update
21 on where we stand.

22 Do you see that?

23 A. I do.

24 Q. Do you recall what that was
25 about?

1 A. Yes, I do. At least I think
2 I do.

3 Q. And what was it about?

4 A. There was a -- during this time,
5 I believe that there was a dispute that
6 arose where the California Division of Fish
7 and Wildlife issued a notice of violation
8 regarding some work that was done on the
9 Sisters property. That's my recollection.

10 Q. Okay. And you were speaking to
11 Fish and Wildlife regarding the notice of
12 violation?

13 A. I don't know that I was speaking
14 directly with them. I don't have a specific
15 recollection of speaking directly with them,
16 but it's possible, yes.

17 Q. Do you know who Verlyn is?

18 A. Verlyn, to my recollection, was
19 the attorney that represented the property
20 owner for the Sisters property.

21 Q. Okay. The top e-mail is from you
22 at your MIH e-mail to Brandon, Drew Milburn,
23 it looks like two different e-mail addresses
24 for Drew Milburn, and Todd Kaplan.

25 Do you see that?

1 A. Right.

2 Q. And you convey information to
3 Brandon about a conversation you had that
4 morning with Verlyn.

5 Do you see that?

6 A. I see that.

7 Q. Can you take a minute just to
8 read through the numbered points.

9 A. (Document[s] reviewed.)

10 Okay. I've read it. Yes.

11 Q. Under number 3, you write Verlyn,
12 Natalie and I discussed the matter and our
13 response is coming from me.

14 Do you see that?

15 A. Yes.

16 Q. What did that mean?

17 A. I believe at that time, that was
18 very early on in the notice from Fish and
19 Wildlife. And we were trying to figure out
20 the best way to responds.

21 Q. And who were you representing in
22 response to Fish and Wildlife?

23 A. MIH.

24 Q. Do you at any point in this
25 e-mail make clear to Brandon that you are

1 only representing MIH on this matter?

2 MR. SCHOLZ: Objection. The
3 document speaks for itself.

4 A. I was going to say, the document
5 says what it says.

6 BY MR. MARCHAND:

7 Q. Okay. This document does not
8 reflect a statement by you that you are only
9 representing MIH on this summary; correct?

10 A. The document says exactly what
11 the document says.

12 Q. And it does not state that, does
13 it?

14 A. Again, the document says what it
15 says.

16 Q. I'll take that as a no.

17 Did you ever tell Brandon Shulman
18 that you were only representing MIH on this
19 matter with Fish and Wildlife?

20 A. I do not have a specific
21 recollection of talking with Brandon about
22 that, no.

23 Q. Okay. I'm going to show you
24 what's being marked as Exhibit 10 in this
25 deposition.

1 (Houghton Exhibit 10,
2 ^ description, was marked for
3 identification, as of this date.)

4 Q. It's a document Bates stamped
5 Shulman 00003869.

6 Can you see that?

7 A. Yes.

8 Q. This is a January 26, 2018,
9 e-mail from Brandon Shulman to Drew Milburn
10 and yourself as your MIH e-mail. Do you see
11 that?

12 A. I see that, yes.

13 Q. Do you recall this e-mail?

14 A. Not specifically, no.

15 Q. In it, it says hi, Charles. Hope
16 you are well. Two issues that require
17 attention. 1, please discuss and draft a
18 lease addendum providing 10 percent profit
19 to be distributed to charity of Sisters
20 choosing.

21 Do you see that?

22 A. I see that.

23 Q. Do you have a recollection of
24 what that was regarding?

25 A. I don't recall specifically, no.

1 Q. It goes on to say, number 2,
2 please check cannabis zoning regulars for
3 address, and provides an address. It is my
4 father in law's production facility. He is
5 interested in selling/leasing.

6 Do you see that?

7 A. I see that, yes.

8 Q. Do you recall what that was
9 regarding?

10 A. Not specifically, other than he
11 may have been -- I don't know whether he was
12 suggesting something to put in with Todd at
13 MIH.

14 Q. Do you recall whether or not you
15 responded to this e-mail?

16 A. I don't have a specific
17 recollection of responding, no.

18 Q. Do you recall whether you ever
19 drafted a lease addendum providing
20 10 percent profit to be distributed to a
21 charity of Sisters choosing?

22 A. I don't have a specific
23 recollection of drafting that addendum.

24 Q. It was your testimony earlier
25 that you never provided the Shulmans with

1 legal advice. Did you ever provide any
2 other services to the Shulmans?

3 A. Not that I'm aware of, no.

4 Q. Did you ever form any companies
5 for them?

6 A. Iron Angel was formed, yes.

7 Q. Okay. And on whose behalf was
8 that done?

9 A. That was part of the overall MIH
10 enterprise that -- it was all part of the
11 agreement between MIH and the Shulmans.

12 Q. Who owned Iron Angel, LLC?

13 A. Ms. Shulman.

14 Q. Did you ever apply for any
15 licenses on behalf of Ms. Shulman or Iron
16 Angel?

17 A. Only to the extent that it was
18 part of the overall enterprise with MIH.

19 Q. And whose benefit was that for?

20 A. That would have been the benefit
21 for MIH and the Shulmans.

22 Q. So were you acting on
23 Ms. Shulman's behalf when you signed
24 documents creating Iron Angel, LLC?

25 A. No.

1 Q. Whose interests with your acting
2 on behalf when you signed documents for Iron
3 Angel, LLC?

4 A. MIH.

5 Q. Did you make that clear to
6 Ms. Shulman at the time that you did it?

7 A. Yes. There was a big discussion
8 about Iron Angel and where the licenses for
9 that property were going to go versus Iron
10 Angel II and where the licenses for that
11 property were going to go.

12 So, yes, it was all discussed.

13 Q. Did you make it clear to
14 Ms. Shulman that you were only acting on
15 MIH's behalf when you were forming companies
16 in her name?

17 A. It was part of the enterprise,
18 and she knew that.

19 Q. But did you have a discussion
20 with her that made that clear?

21 A. With Ms. Shulman? I don't have a
22 specific recollection of that other than the
23 discussion that this was all part of the
24 overall enterprise, and that's why we're
25 doing it this way.

1 Q. If the Iron Angel, LLC, entity
2 was set up incorrectly. You would be
3 responsible; correct?

4 A. I don't know.

5 MR. SCHOLZ: It calls for
6 speculation.

7 BY MR. MARCHAND:

8 Q. Okay. Are you familiar with
9 forming corporations in the state of
10 California?

11 MR. SCHOLZ: Objection --

12 A. Yes.

13 MR. SCHOLZ: -- calls for
14 speculation.

15 BY MR. MARCHAND:

16 Q. How many companies have you
17 formed in the state of California?

18 A. I don't know. Five or six.

19 Q. What is required to form a
20 company in the state of California?

21 A. You file paper -- forms with the
22 Secretary of State.

23 Q. Do you have knowledge of what
24 happens if any of the forms are incomplete
25 or missing?

1 A. I assume that the state contacts
2 you and lets you know.

3 Q. Were you the signatory on the
4 documents that formed Iron Angel, LLC?

5 A. I was listed as the organizer,
6 yes.

7 Q. Did you ever receive
8 communications from the state of California
9 indicating that the statement of
10 organization or other filing materials for
11 Iron Angel, LLC, were incomplete or missing?

12 A. Not that I can recall, no.

13 Q. Was Drew Simons representing the
14 Shulmans on the formation of Iron Angel,
15 LLC?

16 A. I don't know.

17 Q. Is it safe to assume that if you
18 were having conversations directly with
19 Ms. Shulman about the formation of Iron
20 Angel, LLC, that Drew Simons was not
21 representing her on that matter?

22 MR. SCHOLZ: Objection --

23 A. I don't know --

24 MR. SCHOLZ: -- calls for
25 speculation.

1 THE DEPONENT: Yeah.

2 A. I don't know what conversations
3 Ms. Shulman or Brandon Shulman were having
4 with Mr. Simons.

5 As far as I know, I was
6 representing MIH in the formation of two
7 entities to put together to start the
8 enterprise so that they could start
9 licensing.

10 BY MR. MARCHAND:

11 Q. Who instructed you to form the
12 two entities?

13 A. That would be attorney-client
14 privileged.

15 Q. Okay. Someone at Vertical
16 instructed you to form two entities;
17 correct?

18 MR. SCHOLZ: Objection.
19 Attorney-client privilege.

20 MR. MARCHAND: The answer is no,
21 it's not attorney-client privilege.

22 MR. SCHOLZ: It depends on who
23 he's working -- the client is MIH.

24 BY MR. MARCHAND:

25 Q. Did someone other than your

1 client, MIH, instruct you to form two
2 companies?

3 A. No -- well, let me -- Ms. Shulman
4 was aware of what was going on. So was
5 Brandon Shulman. They both were.

6 So as far as did they know that
7 this was happening? Absolutely.

8 Q. How did they know what was going
9 on?

10 A. Because they were part of the
11 overall process for getting licensing on
12 wells -- Iron Angel and in the Sisters
13 property.

14 Q. Did you have conversations with
15 Ms. Shulman about that process?

16 A. Yes. We had extensive
17 conversations because she insisted that she
18 get put on the Sisters lease. And so she
19 was aware that the entities were being
20 formed and that she was going to be holding
21 the licenses on the Sisters property. She
22 was aware of that.

23 Q. Okay. Did you have conversations
24 with Ms. Shulman throughout the licensing
25 process?

1 MR. SCHOLZ: Objection.

2 Overbroad. Calls for speculation.

3 A. Yeah, there would have been --

4 you know, as fact gathering, absolutely.

5 Trying to figure out, you know, what

6 information was necessary on the licensing.

7 And Dr. Shulman was also heavily involved in

8 providing all the information that we

9 needed.

10 BY MR. MARCHAND:

11 Q. Okay. Was Ms. Shulman or Brandon

12 Shulman employees of MIH at the time?

13 MR. SCHOLZ: Objection. Assumes

14 facts not in evidence.

15 A. I don't know who was an employee

16 of MIH. I don't know.

17 BY MR. MARCHAND:

18 Q. Okay. Would that have been

19 important for you to know before you had

20 conversations with them?

21 A. If they were an employee of MIH?

22 Q. Yes.

23 A. I'm afraid I don't understand.

24 I don't know.

25 Q. Okay. Well, you've asserted the

1 attorney-client privilege over various
2 communications today. And I'm asking: Is
3 it important for you to know who is an
4 employee of your client before you have
5 conversations with them?

6 A. Yes.

7 Q. Do you know whether or not
8 Frannie Shulman or Brandon Shulman were
9 employees of Vertical?

10 A. I do not know.

11 Q. Okay. Did you have conversations
12 with them about the licensing application
13 process throughout the process period?

14 A. Yes.

15 Q. Okay. So once again, I will ask
16 you: Who at Vertical instructed you to
17 create Iron Angel, LLC?

18 MR. SCHOLZ: Objection. Calls
19 for attorney-client privilege. He's already
20 stated who his client is.

21 BY MR. MARCHAND:

22 Q. Which individual employee at
23 Vertical instructed you to create Iron
24 Angel, LLC?

25 MR. SCHOLZ: Objection.

1 Attorney-client privilege. Instruct him not
2 to answer.

3 BY MR. MARCHAND:

4 Q. You had conversations with a
5 third party about this subject, and so you
6 waived attorney-client privilege.

7 MR. SCHOLZ: No. I disagree
8 Counsel.

9 A. I disagree.

10 BY MR. MARCHAND:

11 Q. Well, we'll put a pin in that and
12 let the court decide later.

13 A. Okay.

14 Q. Okay. Did you apply for licenses
15 in the state of California on the Shulman's
16 behalf?

17 A. On behalf of Iron Angel, yes, as
18 part of the MIH enterprise, yes.

19 Q. Okay. Did you use their password
20 and login to log into the California portal
21 to apply for licenses?

22 A. Yes.

23 Q. Did you ever explain the law or
24 legal requirements to the Shulmans?

25 MR. SCHOLZ: Objection. Vague,

1 ambiguous, over Brad.

2 A. I don't know what you mean by
3 "legal requirements."

4 BY MR. MARCHAND:

5 Q. Okay. Do you know what the law
6 is?

7 MR. SCHOLZ: Objection. Vague,
8 ambiguous, overbroad. Calls for
9 speculation. What context?

10 MR. MARCHAND: It's an open-ended
11 question.

12 BY MR. MARCHAND:

13 Q. Do you have an understanding of
14 what the word "law" means?

15 A. I have an understanding of what
16 the word "law" means, yes.

17 Q. Do you have an understanding of
18 what the word "legal" means?

19 A. Yes.

20 Q. Okay. Do you have an
21 understanding of what the word
22 "requirements" mean?

23 A. Yes.

24 Q. Did you ever explain any law or
25 legal requirements to the Shulmans?

1 A. As part of the fact-finding, yes,
2 I would have explained to them what was
3 required and why -- what the law was, yes.

4 Q. Only in the context of the
5 fact-finding for licenses?

6 A. Correct.

7 Q. Okay. And did you make it clear
8 in each of those instances that you were
9 acting only on behalf of MIH in representing
10 their interests?

11 A. Yes.

12 Q. Verbally or in e-mail?

13 A. Verbally.

14 Q. Why didn't you ever put that in
15 writing?

16 MR. SCHOLZ: Objection --

17 A. It may have been an e-mail.
18 I don't recall.

19 BY MR. MARCHAND:

20 Q. Why didn't you ever put that in
21 writing?

22 A. I believe it was evidence from
23 the fact that MIH was putting together the
24 enterprise, and they agreed to be part of,
25 who I was representing. It was never for

1 them individually. It was always for MIH.

2 Q. Let me show you Exhibit 11.

3 (Houghton Exhibit 11,
4 ^ description, was marked for
5 identification, as of this date.)

6 Q. It's a document that has been
7 Bates stamped Shulman 00003532. I'll drop
8 it in the Chat.

9 Can you see that?

10 A. Yes.

11 Q. At the bottom of the page, the
12 earliest-in-time e-mail is dated March 8,
13 2018, from Brandon Shulman to yourself at
14 your MIH account, Drew Milburn, and Frannie
15 Shulman and it's regarding parcel question.
16 Do you see that?

17 A. Yes.

18 Q. He says, "Hi, Charles. I'm a
19 little confused with the Williamson Act and
20 county regulations."

21 Do you see that?

22 A. I see that.

23 Q. Do you recall this e-mail?

24 A. Yes. I mean, I have a vague
25 recollection of the e-mail, now that I see

1 it. Yes.

2 Q. And what do you recall about it?

3 A. I remember there was some concern
4 about how the Williamson Act could affect
5 the licensing for MIH and its subsidiaries
6 and how that impacted each one of the
7 properties in Santa Barbara County.

8 Q. What is the Williamson Act?

9 A. I don't recall specifically. It
10 became a nonissue so I didn't -- I don't
11 remember exactly.

12 Q. Do you know, is it a federal law?
13 State law? County? I mean, do you recall
14 anything about it?

15 A. Not particularly, no. I think
16 it's a state law, but I don't know that.

17 Q. Okay. You respond on March 8,
18 2018, to Brandon, Frannie, Drew and you add
19 Todd Kaplan. And you provide a lengthy --
20 you provide a response. It's about a
21 page long.

22 Do you see that?

23 A. Right. I see that.

24 Q. Okay. And you're answering his
25 question; right?

1 A. Right.

2 Q. You're responding and telling him
3 what the Williamson Act is.

4 A. Right.

5 Q. Okay. And I'll give you a minute
6 to read it. Just let me know when you want
7 me to scroll, please.

8 A. (Document[s] reviewed.)

9 Could you scroll up just a little
10 bit, please?

11 Q. (Complied.)

12 A. (Document[s] reviewed.)

13 Okay.

14 Q. Do you have a recollection -- I'm
15 sorry. Go ahead.

16 A. Go ahead.

17 Q. Do you have a recollection now as
18 to whether or not the Williamson Act was a
19 state or a federal law?

20 A. I believe it was a state law, but
21 I -- I think it might have been just a
22 county law.

23 Q. Was it a law that you encountered
24 in the state of Colorado?

25 A. No.

1 Q. In your response, you don't state
2 to Dr. Shulman that you are solely
3 representing MIH on this matter, do you?

4 A. The document says what the
5 document say.

6 Q. And it doesn't say that, does it?

7 A. It doesn't say that, no.

8 Q. And in your response, you don't
9 ask whether he is represented by someone
10 else on this matter, do you?

11 A. It says what it says.

12 Q. And it does not say that, does
13 it?

14 A. Correct.

15 Could you go back to the top,
16 please.

17 Q. Sure.

18 A. Thank you.

19 (Document[s] reviewed.)

20 Okay.

21 MR. MARCHAND: Can we go off the
22 record, please.

23 THE VIDEOGRAPHER: We're going
24 off the record at 11:35 a.m.

25 (Recess taken.)

1 THE VIDEOGRAPHER: We are back on
2 the record at 11:48 a.m.

3 BY MR. MARCHAND:

4 Q. Welcome back, Mr. Houghton.

5 Did you have any conversations
6 with anyone during the break?

7 A. I had a short conversation with
8 Mr. Scholz.

9 Q. Okay. Anyone else?

10 A. My office manager needed to go
11 outside.

12 MR. SCHOLZ: Sorry for any snort,
13 but... That was a good one.

14 BY MR. MARCHAND:

15 Q. I am going to show you what is
16 being marked as Exhibit 12. It's a document
17 that's been produced in this case Kaplan
18 00468.

19 While that loads to the Chat, I
20 will share my screen.

21 (Houghton Exhibit 12,
22 ^ description, was marked for
23 identification, as of this date.)

24 Q. Can you see that?

25 A. I see that.

1 Q. Do you recognize this document?

2 A. Again, without seeing the entire
3 thing, it looks -- and in order to save
4 time, I'm going to say if it's the signed
5 agreement, then it appears to be the
6 reciprocal cultivation agreement.

7 Q. Okay. And I will scroll to the
8 bottom to show you the signature pages.

9 A. Okay.

10 Q. Okay.

11 A. Okay.

12 Q. So I believe you said this is the
13 cultivation agreement; correct?

14 A. Yeah. I mean, the title is
15 reciprocal membership and cultivation
16 agreement I think everybody is referring to
17 it as the cultivation agreement for brevity.

18 Q. Yeah.

19 What was your role in negotiating
20 this agreement?

21 A. I spoke with Drew Simons and
22 spoke with my client about this agreement.

23 Q. Were you and Drew Simons the
24 principal negotiators of this agreement?

25 A. I believe so, yes.

1 Q. Do you recall who drafted this
2 agreement?

3 A. I do not recall whether it
4 started out as -- I don't remember what the
5 base document was or where it came from.
6 I know that it he involved into this.

7 Q. And how long do you recall the
8 negotiation period over the terms of the
9 agreement taking place?

10 A. I don't recall specifically.
11 I don't know how long it took. I don't have
12 a specific recollection of how many days it
13 took.

14 Q. Okay. It was signed on
15 July 31st, 2017; correct?

16 A. That's what the document says,
17 yes.

18 Q. Next, I'm going to show you what
19 we will mark as Exhibit 13.

20 (Houghton Exhibit 13,
21 ^ description, was marked for
22 identification, as of this date.)

23 Q. This is a document that has been
24 Bates stamped Houghton 000184.

25 Do you know the distinction

1 between documents in this case that have
2 been produced Houghton versus Kaplan?

3 A. I don't know that I specifically
4 know what you're talking about.

5 Q. Okay. This particular document
6 is Bates stamped Houghton -- with the prefix
7 Houghton and then the Bates number. And so
8 I'm just wondering if you know the
9 difference between this and other documents
10 that were produced in this case by
11 defendants.

12 A. I understand the question now.
13 Yes, I believe I do.

14 Q. And what is the difference?

15 A. The difference is what I produce
16 versus what someone other identified in the
17 Bates number produced.

18 Q. Okay.

19 A. That's my understanding.

20 Q. So this document, because it has
21 the Houghton prefix, you believe was a
22 document that you identified for production?

23 A. Correct.

24 Q. This is an e-mail that is -- it's
25 an e-mail chain. It begins with an e-mail

1 from you at your MIH account so Drew Simons
2 on July 17, 2017. Do you see that?

3 A. Yes, I do.

4 Q. And the subject line is IRON
5 ANGEL RANCH/Medical Investor Holdings.

6 Do you recall this e-mail?

7 A. Not specifically, but now that I
8 see it, yes. I mean I -- yeah.

9 Q. The first line of sentence
10 says -- or the e-mail weighs I was wondering
11 how we are coming with the review of the
12 Iron Angel Ranch management contract?

13 Do you see that?

14 A. I see that.

15 Q. Let me know when you will be
16 sending a red line.

17 Do you see that?

18 A. I see that.

19 Q. Does that refresh your
20 recollection as to whether MIH or yourself
21 initially prepared the first draft of the
22 contract?

23 A. I believe it may have been that
24 MIH produced it first, yes.

25 Q. And your sending this e-mail to

1 Drew Simons was Drew Simons was representing
2 Frannie Shulman in this contract. Correct?

3 A. In this matter, yes.

4 Q. And then there's an e-mail
5 response from Drew Simons later that day,
6 and he says attached is the revised draft
7 which contains the changes we discussed.

8 Do you see that?

9 A. I see that.

10 Q. Do you recall how many drafts
11 were exchanged back and forth between the
12 parties?

13 A. I don't recall the number of
14 back-and-forths. I do not.

15 Q. Was it your practice as an
16 attorney Tito keep copies of drafts that
17 were exchanged between parties negotiating
18 agreements?

19 A. I think in some instances, I did;
20 in other instances, I didn't. And
21 I don't -- I think it was on a case-by-case
22 basis.

23 Q. And what would be the -- that
24 factors would go into making a determination
25 that you would keep drafts of an agreement?

1 A. If the agreement was either never
2 consummated, then I don't know that I would
3 have kept copies of the back-and-forth.
4 Other than that, I think I kept pretty much
5 everything.

6 Q. Do you know whether you kept all
7 of the drafts exchanged for the cultivation
8 agreement?

9 A. I do not know if every draft was
10 saved. I do not know.

11 Q. Do you know whether any drafts
12 that you still retained were produced in
13 this case?

14 A. I think there is a red line of
15 the agreement, yes.

16 Q. That was produced in this case?

17 A. That was produced, yes.

18 Q. Do you recall whether there were
19 any sticking points between the parties as
20 to particular terms in the cultivation
21 agreement?

22 A. I do not recall anything
23 specific, no.

24 Q. Do you recall any particular
25 provisions of the cultivation agreement that

1 were important to either party?

2 A. I'm not sure how I can answer
3 that. I think that the provisions about how
4 they were going to work together were very
5 important. So, yeah, I mean, it -- I'm not
6 really certain how to answer that. You
7 know, the blanket thing is, well, the deal
8 points of the contract were important, yes.
9 So, yeah, I would say there were points. Do
10 I recall the specific ones? No, not at this
11 time.

12 Q. Fair.

13 What was the last time you
14 reviewed the cultivation agreement?

15 A. Probably a day or two ago, as
16 part of prep for this.

17 Q. And prior to that reading of the
18 cultivation agreement to prepare for this
19 deposition, when do you believe the last
20 time was that you had reviewed the
21 cultivation agreement?

22 A. Probably as part of the discovery
23 process. Maybe a year or two ago.

24 MR. SCHOLZ: Counsel, I just want
25 to mention the top e-mail on this one.

1 MR. MARCHAND: Yes.

2 MR. SCHOLZ: I'm going to request
3 that we be to believe redact that as a
4 clawback because it appears to be
5 attorney-client communications. It's
6 between Charles, Todd, Robert, Jeff, and
7 Drew, so...

8 MR. MARCHAND: Okay.

9 MR. SCHOLZ: I just want to make
10 a note of that. This was -- yeah, this was
11 probably produced prior time to our firm.
12 So I -- you know, I just wanted to note
13 that.

14 MR. MARCHAND: Okay.

15 BY MR. MARCHAND:

16 Q. After the cultivation agreement
17 was signed, were you involved with further
18 discussions about the agreement with
19 Ms. Shulman?

20 A. I don't have a specific
21 recollection of further discussions, but
22 it's possible, but I don't -- I don't have a
23 specific recollection sitting here today if
24 there were further discussions and who was
25 involved.

1 Q. Did there come a point in time
2 where the parties to the cultivation
3 agreement had disagreements about the terms
4 of the agreement?

5 A. That is my understanding --

6 MR. SCHOLZ: Objection --

7 A. -- through reading the pleadings.
8 I was not a party to those.

9 BY MR. MARCHAND:

10 Q. Because in July of 2018, you
11 stopped acting as an attorney to Vertical;
12 correct?

13 A. That's correct.

14 Q. So as of the time that you
15 stopped acting as an attorney to Vertical in
16 July of 2018, your recollection is that
17 there was no dispute between the parties as
18 to the consultation agreement.

19 A. I don't know if I have a specific
20 recollection one way or another at that
21 time.

22 Q. Okay. Stepping back from the
23 cultivation agreement for a minute.

24 After you ceased being an
25 attorney for Vertical in July of 2018, what

1 was the amount of communication that you had
2 with employees at MIH? I'm not asking for
3 content.

4 A. Yeah. It was minimal.

5 Q. Once every month? Once every
6 other month?

7 A. Yeah. I mean, it was infrequent.
8 You know, sometimes it might have been once
9 a -- you know, I would get a phone call in a
10 week and then a couple of weeks would go by
11 and I wouldn't hear anything or a month
12 would go by and I wouldn't hear anything.
13 So it was infrequent, is the only way I --
14 sporadic. It wasn't like there was a block
15 of exactly a month and then somebody would
16 call. It was sporadic. It just -- there
17 wasn't very much.

18 Q. Okay. Was there a point in time
19 after July 2018 where Vertical asked you to
20 participate in negotiations with Ms. Shulman
21 about the cultivation agreement?

22 MR. SCHOLZ: Objection. Calls
23 for attorney-client privilege. Instruct him
24 not to answer.

25 A. I'm following my attorney's

1 advice.

2 BY MR. MARCHAND:

3 Q. Okay. Did you -- you stated at
4 the beginning of this deposition that you
5 read the deposition transcript of Smoke
6 Wallin; correct?

7 A. I did, yes.

8 Q. Did you see in the transcript
9 where he discussed a meeting in Santa
10 Barbara, California, that took place on New
11 Year's Eve of 2018?

12 A. Again, I read through it quickly.
13 I would not -- you know, that position -- or
14 the transcript says what it says, so yes.

15 Q. Do you recall attending a meeting
16 in Santa Barbara, California, or around
17 Santa Barbara, California, around New Year's
18 Eve in 2018?

19 A. Yes.

20 Q. Who was present at that meeting?

21 A. Well, it was kind of an odd
22 arrangement, but Smoke was involved in the
23 meeting. I believe Frannie Shulman was
24 involved in the meeting. And I believe
25 Randall Shulman was involved in the meeting.

1 But I was not included in the meeting, so I
2 sat in a conference room by myself all day.

3 Q. Was Drew Simons in attendance?

4 A. It was at his office. And he
5 was -- he likewise was not in the meeting.
6 He sat in his office all day by himself.

7 Q. Who asked you to attend that
8 meeting?

9 MR. SCHOLZ: Objection to the
10 extent it calls for attorney-client
11 communication. Instruct him not to answer.

12 A. I'll abide by my clients -- or my
13 attorney's advice.

14 BY MR. MARCHAND:

15 Q. In what capacity were you at that
16 meeting?

17 MR. SCHOLZ: It's objection.
18 Vague and ambiguous. You could --

19 A. I think in order to move things
20 along and clarify a little bit, I --

21 MR. SCHOLZ: Yeah, I'm not
22 trying -- I'm trying to be careful, Counsel,
23 on what I object to and not object to.

24 I don't think that calls for a
25 communication. So go ahead and answer the

1 question.

2 A. As it turned out, I was the
3 chauffeur.

4 BY MR. MARCHAND:

5 Q. Okay. Was there -- again,
6 without going into any -- what I'm trying to
7 understand is that you've testified that you
8 ceased your attorney relationship with
9 Vertical as of July 2018.

10 A. Correct.

11 Q. With your present at the meeting
12 as an attorney for Vertical?

13 A. I was not in the meeting. I was
14 excluded. So there was no meeting, as far
15 as I was concerned. I wasn't there.
16 I mean, I was there, but I was sitting in a
17 conference room.

18 Q. I understand that part. I guess
19 I am trying to be respectful of the
20 attorney-client privilege. And so if your
21 testimony is that you were -- the only
22 reason you were there on New Year's Eve in
23 2018 was because you were acting as an
24 attorney, I will be very careful about the
25 questions that I ask if you were there in

1 some other capacity, then I have some
2 additional follow-up questions, recognizing
3 that you've already testified that you
4 weren't in the room where Ms. Shulman and
5 Mr. Wallin actually met.

6 A. Yeah. The only capacity that
7 I was there would have been as an attorney.

8 Q. Okay. So if I were to ask you
9 questions about who asked you to be there,
10 who gave you a purpose to be there, what
11 your purpose was, you would claim
12 attorney-client privilege over those
13 communications; correct?

14 A. That's correct.

15 MR. SCHOLZ: I concur.

16 MR. MARCHAND: Okay. I'm just
17 trying to short-circuit some of this so that
18 I don't have to waste everyone's time.

19 MR. SCHOLZ: Sure.

20 BY MR. MARCHAND:

21 Q. Following that meeting, were you
22 ever asked to draw up an addendum to the
23 cultivation agreement?

24 A. That would be attorney-client
25 privilege.

1 MR. SCHOLZ: Objection. Calls
2 for attorney-client privilege.

3 BY MR. MARCHAND:

4 Q. Did you ever have discussions
5 with Ms. Shulman about drawing up an
6 addendum to the cultivation agreement?

7 A. With Ms. Shulman?

8 Q. Yes.

9 A. I don't believe so, no.

10 Q. Are you aware that at some point
11 following February 2019, an action was
12 instituted to evict Ms. Shulman from the
13 Iron Angel property?

14 A. I heard about that action, yes.

15 Q. Were you involved in that action?

16 A. The only thing that I did in that
17 action was provide a declaration. Other
18 than that, no.

19 MR. SCHOLZ: Counsel, I just want
20 to go back and lodge a prior objection
21 because I wouldn't let him answer it
22 anyways, but I believe that mischaracterizes
23 the nature of the pleading by the plaintiffs
24 because I believe that they filed a
25 forceable retainer action after they were

1 locked out of the property.

2 You can call it an eviction, but
3 I believe it's not necessarily consistent
4 with the characterization of the pleadings.

5 MR. MARCHAND: Okay. I'll object
6 that you're testifying on the record.

7 BY MR. MARCHAND:

8 Q. But to clarify this now: Are you
9 aware that Vertical/MIH filed an action
10 against Ms. Shulman to remove her from the
11 Iron Angel property.

12 A. I am aware of the action, yes.

13 MR. SCHOLZ: Objection.

14 BY MR. MARCHAND:

15 Q. Are you aware of the facts --

16 MR. SCHOLZ: Sorry. I want to
17 object. I believe that the scope of the
18 pleadings speak for themselves.

19 BY MR. MARCHAND:

20 Q. Are you aware of the facts that
21 form the basis of that action by Vertical?

22 A. Not from personal observation,
23 no.

24 Q. Okay. We'll mark the next
25 exhibit, which is Exhibit 14.

1 (Houghton Exhibit 14,
2 ^ description, was marked for
3 identification, as of this date.)

4 Q. It's a document that's been
5 produced in this action as Shulman 00003073.

6 Can you see that?

7 A. I see that.

8 Q. I'm going to let you read the top
9 and then I'll scroll to the end and then ask
10 you if you can identify this document?

11 A. (Document[s] reviewed.)

12 Yes. Keep going.

13 (Document[s] reviewed.)

14 Okay. Yes.

15 Q. Okay.

16 A. Yes.

17 Q. What is this document?

18 A. It's the lease agreement between
19 the owners of Iron Angel -- the property
20 referred to as Iron Angel and the limited
21 liability company called Iron Angel II.

22 Q. And what was your role in
23 negotiating this agreement?

24 A. I spoke with Brandon about it,
25 Brandon Shulman.

1 Q. Okay. Did you speak with
2 Ms. Shulman about it?

3 A. I do not believe I had a
4 conversation with Ms. Shulman about it, no.
5 I don't recall.

6 Q. Did you have a conversation with
7 any other third parties about this lease
8 agreement?

9 A. Other than MIH, no.

10 Q. What is Iron Angel II, LLC?

11 A. It's a California limited
12 liability company.

13 Q. Is it the entity that we were
14 talking about earlier that was a wholly
15 owned subsidiary of MIH?

16 A. Yes.

17 Q. What was the purpose of Iron
18 Angel II, LLC, being formed?

19 A. Iron Angel II, LLC, was formed
20 for the purposes of being the licensee
21 applicant for cannabis operations on the
22 Iron Angel property.

23 Q. And I think you testified earlier
24 that Iron Angel, LLC, was formed for the
25 purposes of being the licensee on the

1 Sisters property; correct?

2 A. That's correct.

3 Q. Who determined that arrangement?

4 A. It was driven by a great deal by
5 the Shulmans. And the reason being is -- or
6 at least what I was told was that
7 Ms. Shulman had a relationship with sister
8 Mary Kirby, who's trust or whatever was the
9 owner of the Sisters property. And that's
10 why they called it the Sisters property,
11 because it was, you know, Sister Mary Kirby.
12 And that anything that would upset
13 Ms. Kirby, she was concerned -- or
14 Sister Kirby, she was concerned about.

15 So she wanted to be on the
16 Sisters property as the tenant and licensee,
17 and then as a result, MIH, you know, Iron
18 Angel II became the licensee on the Iron
19 Angel property.

20 Q. Was that agreement to split up
21 the licenses on the two properties in that
22 way memorialized in writing anywhere?

23 A. Not in writing, no. Not that I
24 am aware of. I haven't seen a writing that
25 says that.

1 Q. So it was a verbal agreement?

2 A. Yes, I believe it was -- yes.

3 Q. And was Ms. Shulman represented
4 by separate counsel in discussing and
5 negotiating that agreement?

6 A. I do not know what she talked
7 about with her attorney or if she even had
8 one.

9 Q. Did you ever talk to any attorney
10 of Ms. Shulman's regarding the licensing
11 agreement you just described?

12 A. No.

13 Q. What conversations did you have
14 with Brandon and Frannie Shulman about this
15 lease agreement?

16 MR. SCHOLZ: Objection.
17 Misstates prior testimony. Assumes that
18 he -- I think he said his prior testimony
19 was he always worked with Brandon.

20 Go ahead and answer, to the
21 extent you can.

22 BY MR. MARCHAND:

23 Q. Well, let me re-ask it again.

24 You never spoke to Frannie
25 Shulman about this lease agreement; is that

1 correct?

2 A. I do not recall having a
3 conversation with Ms. Shulman about it
4 because Brandon Shulman was handling
5 everything at that time and pretty much all
6 the way through this.

7 Q. What conversations did you have
8 with Brandon Shulman about the lease
9 agreement?

10 A. I believe I sent an e-mail to him
11 saying we need the -- here's the lease
12 agreement. And then he sent an e-mail back
13 saying -- well, I think I sent him an
14 e-mail. The first one I sent to you was
15 changed somewhat in that here's the second
16 one. Please, you know, take a look at it.
17 And I think he e-mailed me back and said
18 I spent a lot of time or some time or
19 something like that looking at the
20 agreement. Can you said me a red line?

21 Then I sent him a red line and
22 then eventually it was signed by the
23 parties.

24 Q. Did you have any verbal
25 conversations with him about the agreement?

1 A. I don't know that I had any
2 verbal -- none that I can recall. But it's
3 possible. I just don't recall any verbal --
4 or verbal conversations I had with Brandon
5 Shulman about this, no.

6 Q. And did you draft the initial
7 version of the lease agreement that you sent
8 to Brandon Shulman?

9 A. I believe, yes.

10 Q. And how did you go about drafting
11 that?

12 A. I don't understand the question.
13 I mean, I sat down at a computer and typed
14 it out.

15 Q. Was it a form lease agreement
16 that you've used in other cases or was it
17 something that you wrote from scratch?

18 A. There's probably a little bit of
19 both.

20 Q. And how did you determine what
21 terms to put into the initial draft of the
22 lease agreement that you sent to
23 Mr. Shulman -- sorry, Dr. Shulman?

24 MR. SCHOLZ: Objection to the
25 extent it's asking for attorney-client

1 communication. I instruct him not to
2 answer.

3 To the extent you can answer the
4 question outside of the discussion with his
5 client, I instruct him he can answer.

6 A. Yeah, the only thing would be the
7 parts that were specific to this
8 transaction, like the addresses, the names
9 of the parties, APNs, references to the
10 licensing authorities. Other than that, it
11 was, you know, pretty much, you know --
12 I don't know that there was anything
13 different about this than any other lease.

14 BY MR. MARCHAND:

15 Q. Okay.

16 MR. MARCHAND: Why don't we go
17 off the record, please.

18 THE VIDEOGRAPHER: We're going
19 off the record at 12:18 p.m.

20 (Recess taken.)

21 THE VIDEOGRAPHER: We are back on
22 the record at 12:52 p.m.

23 BY MR. MARCHAND:

24 Q. Mr. Houghton, welcome back. Just
25 as a reminder, you're still under oath.

1 Okay?

2 A. Yes.

3 Q. And did you have any
4 conversations with anyone other than
5 Mr. Scholz during our break?

6 A. No.

7 Q. I am going to share what is
8 marked as Exhibit 15 in this deposition.
9 It's a document that's been Bates stamped
10 Houghton 000299. And I'm going to
11 simultaneously mark Exhibit 16, which is a
12 document that's been produced with the Bates
13 stamp Houghton 000253.

14 (Houghton Exhibit 15,
15 ^ description, was marked for
16 identification, as of this date.)

17 (Houghton Exhibit 16,
18 ^ description, was marked for
19 identification, as of this date.)

20 Q. I'll start by sharing Exhibit 15
21 with you.

22 Do you see that?

23 A. I do.

24 Q. Okay. And the bottom e-mail is a
25 January 14, 2018, e-mail from yourself to

1 Brandon Shulman, Frannie Shulman, Drew
2 Milburn, Todd Kaplan, Jeff Sill version and
3 Robert Scott.

4 Do you see that?

5 A. I see that.

6 Q. And who is Jeff Silver?

7 A. Jeff Silver was the accounting
8 guy that worked at MIH.

9 Q. Okay. Was he the CFO?

10 A. I'm not sure how the titles were
11 handed out, but that was the role that he
12 took.

13 Q. Okay. And who's Robert Scott?

14 A. Robert Scott is Todd Kaplan's
15 brother. And he worked at MIH as well.

16 Q. Do you know what his role was?

17 A. Robert did a little bit of
18 everything, whatever needed to be done.
19 Robert mostly was involved in information
20 systems, computers, that kind of thing, but
21 Robert did anything that needed to get done.

22 Q. Okay. The subject of this e-mail
23 from you is Iron Angel property. Do you see
24 that?

25 A. Yes.

1 Q. Do you recall what Robert Scott's
2 role was in the Iron Angel property?

3 A. I don't know that he had a role
4 in the Iron Angel property specifically, so
5 no, I don't recall that -- what his role was
6 in that property.

7 Q. Okay. You say, "Lady and
8 gentlemen, as you are aware, we need to show
9 evidence of the right to occupy the land by
10 the licensee."

11 Do you see that?

12 A. I see that.

13 Q. What did you mean by "as you are
14 aware"?

15 A. I believe that there had been a
16 conversation before. It seemed to indicate
17 that there was a conversation before, but
18 I don't have a specific recollection of that
19 conversation.

20 Q. Okay. And what did you mean by
21 "we need to show evidence of the right to
22 occupy the land by the licensee"?

23 A. That Iron Angel II was going to
24 be the licensee on the Iron Angel property.
25 And so it was going to be the licensee --

1 Iron Angel II, the entity, was going to be
2 the licensee.

3 And the state regulations at that
4 time, and I think even to today, require
5 that the tenant/applicant, whoever going to
6 be the licensee, have the right to occupy
7 and control the premise.

8 Q. Do you recall what state
9 regulation requires that the applicant have
10 the right to occupy the premises?

11 A. It would have been in the 8
12 thousand versus, you know, series, of state
13 regulations under the California department
14 of food and agriculture, the CDFA.

15 Q. Okay.

16 You go on to say now that Iron
17 Angel II, LLC, will be the licensee on the
18 Iron Angel property and Iron Angel, LLC,
19 will be the licensee on the sister's
20 property. Do you see that?

21 A. Yes.

22 Q. And is that the discussion that
23 we were having before the break about the
24 agreement that one entity, Iron Angel II,
25 would be the licensee for Iron Angel and

1 Iron Angel, LLC, would be the licensee for
2 the Sisters property?

3 A. Yes.

4 Q. Okay. You go on to say, we need
5 a lease between the landowner on Iron Angel
6 and Iron Angel II, LLC, for state licensing
7 purposes.

8 Do you see that?

9 A. I see that.

10 Q. And what did you mean by that?

11 A. I meant that we needed a document
12 that showed the right to occupy. And a
13 lease made the most sense. It was for state
14 licensing purposes and also, for you know,
15 protection of the landlord and tenant in
16 each one of the leases.

17 Q. Who made the determination that
18 the lease would make the most sense?

19 A. I did.

20 Q. And how did you make that
21 determination?

22 A. By reviewing the regulation that
23 we just spoke about and my experience in
24 Colorado that has a similar, if not
25 identical, requirement in what the state

1 regulators here have required. Plus I don't
2 know -- I don't remember whether or not
3 there was some sort of a -- you know,
4 something on a website or a notice or
5 something from the -- from -- it would have
6 come from BCC, the Bureau of Cannabis
7 Control, that outlined some of these things
8 there. May have been something in the
9 statement of reasons take they publish when
10 they started publishing the emergency
11 regulations.

12 I don't recall, but it was kind
13 of an amalgamation of prior experience, what
14 California was saying, et cetera, that said
15 that a lease was probably going to -- well,
16 without a doubt was going to be the only
17 real way to prove what needed to be proved
18 to get a license.

19 Q. I'm sorry. So that's -- it
20 sounded like two different answers.

21 So is it -- was it your
22 determination that a lease was the only way
23 to meet the need to show evidence of the
24 right to occupy the land by the licensee?

25 A. That is my understanding. When

1 you say "only way," I don't know there.

2 Might have been a hundred different other
3 ways. I doubt it. I'm not aware of another
4 way. So yeah, it would have been the only
5 way.

6 Q. So you just said again there
7 might be a hundred other ways. But are you
8 testifying that there are a hundred other
9 ways, there might be a hundred other ways or
10 there's only one way --

11 A. No. I was being facetious. No.
12 There's not hundred other ways. I don't
13 know another way other than the lease.
14 I don't know of another way.

15 Q. And that is based on your
16 experience, not the text of the regulations
17 itself?

18 A. I believe it's a combination of
19 the two.

20 Q. Okay. Was there any other reason
21 to pursue a lease for these purposes?
22 I believe when you initially answered, you
23 said it was also to protect the landlord and
24 the tenant.

25 A. That's correct.

1 Q. Okay. So was it your opinion
2 that a lease would protect the landlord in
3 this case?

4 A. It would provide the normal
5 landlord protections, yes.

6 Q. But that was your opinion, that
7 this lease would provide protections to the
8 landlord. Correct?

9 A. That's my opinion. And that's
10 what the lease itself says.

11 Q. And the landlord in this case is
12 who?

13 A. The landlord in this case would
14 have been the owners of Iron Angel.

15 Q. Frannie Shulman and some other
16 entities; correct?

17 A. Ms. Shulman is not an owner. So
18 it would have been those entities, yes.

19 Q. Who did you negotiate with as the
20 landowner of Iron Angel?

21 MR. SCHOLZ: Objection. Assumes
22 facts not in evidence.

23 BY MR. MARCHAND:

24 Q. Did you negotiate with any
25 landowners of Iron Angel?

1 A. No, I did not.

2 Q. Okay. So who did you negotiate
3 the lease agreement with?

4 MR. SCHOLZ: Assumes facts not in
5 evidence.

6 A. Frannie Shulman.

7 BY MR. MARCHAND:

8 Q. Okay. You go on to say, I have
9 attached a lease to use. I just need the
10 landowner information.

11 Do you see that?

12 A. I see that.

13 Q. What did that mean?

14 A. That means I need to know who the
15 landowner -- how the land is actually titled
16 so I can figure out who the landlord is.

17 Q. Okay. I want to share with you
18 what's been marked as Exhibit 16 produced in
19 this case as an attachment to that e-mail.

20 Can you see that?

21 A. I see that.

22 Q. Is this the lease agreement that
23 you were referring to in that e-mail?

24 A. I believe -- as far as I know,
25 yes. I haven't compared the two, but as far

1 as I know, yes.

2 Q. Okay. Do you see the Bates stamp
3 in the lower right-hand corner?

4 A. I do.

5 Q. It says Houghton on this page, it
6 says 254?

7 A. I see that.

8 Q. This is a document that you
9 produced in this case; correct?

10 A. Correct.

11 Q. Okay. And so at the end, it says
12 landlord, and there's space. And it says
13 tenant, Iron Angel II, LLC LLC, Todd S.
14 Kaplan, manager. Correct?

15 A. Correct.

16 Q. Okay. So if we go back to the
17 e-mail that we were just looking at,
18 Exhibit 15, where you say, "I have attached
19 a lease to use. I just need the landowner
20 information," that's what you're referring
21 to; correct?

22 A. That's correct.

23 Q. Okay. And then you say I fill in
24 the landowner landlord information once I
25 get it and distribute it for signature.

1 Correct?

2 A. Correct.

3 Q. So how did you develop this
4 initial draft of the lease agreement?

5 A. I think it was -- part of it is
6 form and part of it is specific to a
7 particular property.

8 Q. Okay. And who provided you the
9 specific information to fill in that was not
10 form?

11 A. On this particular one, I don't
12 know that there is anything in particular.
13 If you can go back to the other exhibit.

14 Q. Sure.

15 A. Go to the top, please.

16 Q. Oh, can you see that?

17 A. Yes, I can.

18 Q. Okay.

19 A. (Document[s] reviewed.)

20 No. Most that have is just form.
21 The only thing I had was the address of the
22 Iron Angel property.

23 Q. Okay. Prior to this agreement,
24 how many lease agreements had you drafted as
25 an attorney?

1 A. When I worked for the real estate
2 developer, probably 50 forms. After that,
3 very few.

4 Q. Prior to this lease agreement,
5 how many lease agreements did you draft as
6 an attorney that involved property that was
7 going to be used for cannabis?

8 A. I don't know how many. Maybe
9 five or ten. But it was -- you know, I was
10 usually representing the tenant in that
11 case -- in those cases. So the landlord
12 brought their own lease basically.

13 Q. Who were you representing here?

14 A. MIH.

15 Q. And they're the tenant; correct?

16 A. Excuse me?

17 Q. They were the tenant; correct?

18 A. Correct.

19 Q. Okay. So unlike your other
20 cases, you were representing the tenant and
21 you brought the lease; correct?

22 A. Yeah, because the landlord didn't
23 have a lease, as far as I knew.

24 Q. Was the intent of this lease to
25 supersede any terms in the cultivation

1 agreement?

2 A. I don't believe so, no.

3 Q. Did you ever ask Brandon Shulman
4 or Frannie Shulman if they were represented
5 by an attorney on this matter?

6 A. No. But, you know, I did not
7 have a -- you know, every time I spoke with
8 one of them, I said, hey, you know, I'm
9 still -- I represent MIH. They knew that I
10 was representing MIH. They knew that. And
11 so I didn't feel the need to repeat it every
12 time I had a conversation with them.

13 Q. Did you ever advise them that
14 they should retain a separate attorney?

15 MR. SCHOLZ: Objection. "Advise"
16 is vague and ambiguous.

17 BY MR. MARCHAND:

18 Q. Answer it if you understand it.

19 A. I don't have a specific
20 recollection of whether I did or did not.

21 Q. Okay. I'm going to show you what
22 has been marked or what is being marked as
23 Exhibit 17 in this deposition. It's
24 document Bates stamped Shulman 00000165.

25 (Houghton Exhibit 17,

1 ^ description, was marked for
2 identification, as of this date.)

3 Q. Can you see that?

4 A. I can see it, yes.

5 Q. I'm going to give you a second to
6 read through it. And just let me know when
7 you're done, please.

8 A. Okay.

9 (Document[s] reviewed.)

10 Okay. I've read it.

11 Q. Do you recall this e-mail?

12 A. Now that I've seen it, yes.

13 Q. What do you recall about it?

14 A. That we were trying to begin the
15 licensing process, and so I was fact-finding
16 and saying, Okay. Well, these are the
17 blanks that we'll need to fill in for the
18 applications.

19 Q. Okay. Anything else you recall
20 about this?

21 A. No, nothing specific.

22 Q. The earliest-in-time e-mail is an
23 e-mail from you dated January 15th, 2018;
24 correct?

25 A. I don't know what the earliest in

1 time means. I mean.

2 Q. Okay. The e-mail at the bottom
3 of the chain says on January 15th, 2018, at
4 10:23 a.m., Charles at your MIH e-mail
5 address wrote and then there's text of an
6 e-mail. Do you see that?

7 A. Oh, yeah. Okay. I think --
8 I don't know where you're headed, but, yes,
9 okay. I think I understand --

10 Q. I'm not headed anywhere. I'm
11 just trying to orient us to the same spot,
12 so...

13 A. Okay.

14 Q. When I say earliest in time,
15 I mean like the first e-mail in a chain.

16 A. Okay. I'm with you now.

17 Q. Okay. And you say Drew Milburn
18 suggest that had I send an e-mail outlining
19 the three things we need to get done.
20 Correct?

21 A. That's what it says, yes.

22 Q. And you had a chance to read
23 through these three things. Were awfully
24 three things that you outlined as things
25 that you need, were all of those in

1 furtherance of the license applications?

2 A. Not just the license
3 applications. I mean, the lease was -- not
4 just the license application. I'm not sure
5 they're just limited to the licensing
6 applications. But, yeah, that would -- yes.

7 Q. What was the other purpose of the
8 lease?

9 A. To provide --

10 MR. SCHOLZ: Objection. Asked
11 and answered. You can answer it again.

12 A. To provide a formal agreement
13 between the landowners and the tenant Iron
14 Angel as to the use of the property.

15 BY MR. MARCHAND:

16 Q. And you say, I need the lease
17 agreement between whoever the landowner is
18 for the Iron Angel property and Iron Angel
19 II finalized, signed, and returned to me.

20 Do you see that?

21 A. I see that.

22 Q. You said I sent you a draft
23 yesterday via e-mail.

24 Do you see that?

25 A. I see that.

1 Q. What did you mean by those two
2 sentences?

3 A. Just what they say. I mean, I --
4 what they say is what I meant.

5 Q. That you needed them signed and
6 returned?

7 A. Correct.

8 Q. You say, I just need the actual
9 names in which the Iron Angel property is
10 actually held, i.e., who is the recorded
11 title holder.

12 Is that accurate?

13 A. That is part of what I needed,
14 yes.

15 Q. What else did you need?

16 A. I don't understand the question.
17 I am just not tracking here.

18 Q. Okay. Well, I asked you if that
19 was accurate, and you said that was part of
20 what I need. And I asked you what else you
21 needed.

22 A. I think I answered that question.

23 Q. I forgot it then. I apologize.

24 What else did you need other than
25 the actual names in which the Iron Angel

1 property is actually held?

2 A. For them to finalize the lease
3 and get signatures.

4 Q. What do you mean, "finalize the
5 lease"?

6 A. Complete it.

7 Q. What do you mean, "complete it"?

8 A. I mean get the lease in the final
9 form in which Todd and Frannie could sign
10 it.

11 Q. And my question is: Was there
12 anything for them to do other than fill in
13 the names of the holders?

14 A. I believe that they needed to
15 review the lease and make sure that it was
16 acceptable and then sign it, yes.

17 Q. Is that what you said in this
18 e-mail?

19 A. No.

20 Q. No.

21 A. The e-mail says what it says.

22 Q. It does. It does.

23 It says, "I just need the actual
24 names in which the Iron Angel property is
25 actually held." Correct?

1 A. Correct. That's what it says.

2 Q. I'm going to show you what's
3 being marked as Exhibit 18.

4 (Houghton Exhibit 18,
5 ^ description, was marked for
6 identification, as of this date.)

7 Q. And Exhibit 19?

8 (Houghton Exhibit 19,
9 ^ description, was marked for
10 identification, as of this date.)

11 Q. Exhibit 18 is a document Bates
12 stamped Shulman 00005030. And Exhibit 19 is
13 a document Bates stamped Shulman 0005031.
14 And I will share these with you.

15 Do you see that?

16 A. Yes.

17 Q. This is an e-mail from you at
18 your MIH account to Frannie and Brandon,
19 CCing Todd Kaplan on January 18th, 2018.
20 Correct?

21 A. Correct.

22 Q. And the subject is lease for Iron
23 Angel II, LLC, on Iron Angel property.
24 Correct?

25 A. Correct.

1 Q. Do you recall this e-mail?

2 A. Now that I've seen it, yes.

3 Q. What do you recall about it?

4 A. That -- I mean, I a little find
5 that I -- you keep asking that question, and
6 I don't know what specifically you're
7 asking.

8 I recall it, yes. What do I
9 recall about it? It's an e-mail. I recall
10 what it says. I don't know -- you know, now
11 that I'm reading it, I don't -- I just don't
12 know how to answer that question. That's
13 not clear to me.

14 Q. Okay. You say in here, here is
15 the revised lease for the Iron Angel
16 property.

17 Do you see that?

18 A. Yes.

19 Q. Exhibit 19 is the attachment to
20 this e-mail. Do you recognize this
21 document?

22 A. Yeah, but I don't know for sure
23 if that was the attachment, without looking
24 at it. You know, I don't --

25 Q. Sorry. Go ahead.

1 A. No. Go ahead. I'm sorry.

2 Q. I was just going to say: I will
3 represent that it is the attachment, as
4 evidenced by the metadata that we produced
5 in this case.

6 A. Okay. Okay. Yeah. Okay. Let's
7 go with that.

8 Q. As a point of comparison to the
9 draft we looked at a few moments ago, on
10 this page, the signatures the landlord
11 information is filled in; correct?

12 A. Correct.

13 Q. And whereas the other draft had
14 lines at the top. This information in the
15 first paragraph of this draft is filled in.
16 Correct?

17 A. Correct.

18 Q. Okay. And there may be other
19 changes, but at the very least, we recognize
20 that some information was filled in;
21 correct?

22 A. Correct.

23 Q. Okay. You say in the second
24 sentence, I made several changes to this
25 lease from the other draft I sent you.

1 Do you see that?

2 A. I see that.

3 Q. Do you recall what those changes
4 were?

5 A. Not without seeing the -- no,
6 I don't recall each one, no.

7 Q. Do you recall any major changes
8 that you made between the first draft and
9 this draft?

10 A. I think that there was some
11 changes about the amount of the rent and
12 maybe some necessary approvals from the
13 landlord. I don't recall. I'd have to do a
14 comparison to see what the changes were.

15 Q. Okay. Do you recall who
16 requested the changes?

17 A. I do not recall that, no.

18 Q. Okay. You say make sure that you
19 review it carefully and agree to the terms.
20 Do you see that?

21 A. I see that.

22 Q. Is that the first time that you
23 directed Frannie and Brandon to review the
24 contract carefully and agree to it?

25 A. I don't know if that was the

1 first time, no. I don't remember.

2 Q. Okay. What did you mean by that
3 sentence?

4 A. That, again, we're getting back
5 to that, what did you mean. I meant that
6 they needed to carefully review it and agree
7 to the terms.

8 Q. Okay. You say, once you have
9 approved it, please get all of the necessary
10 signatures, have the parties initial each
11 page, and then return the entire lease to me
12 in PDF format.

13 Do you see that?

14 A. I see that.

15 Q. You say, "Any questions, let me
16 know." Do you see that?

17 A. I see that.

18 Q. Did they have any questions?

19 A. I believe Brandon asked what the
20 changes were.

21 Q. And do you recall what you said
22 in response?

23 A. That e-mail string, of course,
24 because -- yes, I think I wrote an e-mail
25 that said I don't know that I did a red line

1 and then later on the same day, I provided
2 with him a red line.

3 Q. And a red line compares the
4 changes from one version to the next;
5 correct?

6 A. Yes.

7 Q. So you recall that you sent a red
8 line demonstrating the changes from the
9 initial draft that we looked at earlier to
10 this most recent draft?

11 A. I don't think it was -- I don't
12 think -- I don't know whether it was
13 combined or -- I don't remember. Without
14 seeing the red line, I don't know, you know,
15 which one was which.

16 Q. Okay. So are you saying there
17 may have been multiple drafts exchanged in
18 this time period?

19 A. I don't believe so, no.

20 Q. Okay.

21 A. What I meant to indicate is
22 I don't know -- I don't recall, sitting
23 here, what was on the red line. So it's
24 difficult for me to say what it said without
25 looking at it.

1 Q. Okay. I guess what I'm trying to
2 understand is what the red line -- I'll show
3 you the red line itself in a second, but I'm
4 trying to understand what you mean by that.
5 If it's not a comparison between the draft
6 we looked at earlier and this draft, what
7 would it be a comparison between?

8 A. Now that you rephrased the
9 question, I don't think there would have
10 been.

11 Q. Okay.

12 A. I think it's the same thing.

13 Q. Got it. Okay. Let me share with
14 you what is being marked as Exhibit 20 and
15 as Exhibit 21 in this case.

16 (Houghton Exhibit 20,
17 ^ description, was marked for
18 identification, as of this date.)

19 (Houghton Exhibit 21,
20 ^ description, was marked for
21 identification, as of this date.)

22 Q. Exhibit 20 is a document Bates
23 stamped Shulman 00003976 and Exhibit 21 is
24 Shulman 00003977.

25 And I'll share this with you.

1 Can you see that?

2 A. There we go. Yeah, I can see it.

3 Q. Do you recall this e-mail?

4 A. Yes.

5 Q. Okay. And is this the red line
6 of the lease agreement that you were just
7 discussing?

8 A. That's the e-mail transmitting
9 it.

10 Q. Okay. Exhibit 21, the attachment
11 to that e-mail, do you recognize this
12 document?

13 A. Yes. If you represent to me that
14 that was the attachment to that e-mail, then
15 yes.

16 Q. Okay. And I will represent that
17 this is the attachment to that e-mail.

18 What is this document?

19 A. That is a red line of the lease.

20 Q. Okay. And is this a red line
21 comparing the initial draft that we looked
22 at a few minutes ago to the more recent
23 draft that we were just looking at
24 subsequently?

25 A. I don't know the order of things,

1 but my recollection is that that is a red
2 line that shows the difference between a
3 previous version of the lease, the one that
4 was transmitted earlier that day,
5 and -- know, because in the previous e-mail,
6 I said I didn't do a red line. And then
7 I sent him -- I was able to create a red
8 line.

9 So my understanding is is that it
10 would be a red line of the lease between the
11 one I sent earlier that day, which we just
12 looked at.

13 Q. The one where you say make sure
14 you review it carefully and agree to the
15 terms. Correct?

16 A. That one.

17 Q. Is Drew Simons on this e-mail?

18 A. No, he's not.

19 Q. Is Drew Simons -- was Drew Simons
20 representing the Shulmans in this
21 transaction?

22 A. I was not -- if he was, I was not
23 aware of it. So I don't know.

24 Q. You say in this e-mail, Frannie
25 and Brandon, I was able to create a red line

1 of the lease. I sent -- it says in sent to
2 you earlier today. Do you see that?

3 A. Yeah.

4 Q. And it says this case out some
5 redundancies and adds in some protections
6 for the landlord and for the tenant.

7 Do you see that?

8 A. Yes.

9 Q. And what did you mean by that?

10 A. I would have to look at the red
11 line, but I believe there may have been some
12 provisions that were redundant. And I think
13 as I mentioned before, there were some
14 protections that were built in for both the
15 build and the tenant. But the red line
16 would reveal that.

17 Q. Okay. And this is the red line,
18 right? Exhibit 21?

19 A. Correct.

20 Q. Okay. So why don't we walk
21 through this red line, and we can discuss it
22 with that in mind.

23 A. Okay.

24 Q. Can you see it?

25 A. I can see it.

1 Q. Okay. So I will try and group
2 these together, because it's red line,
3 there's obviously a lot of edits. But if,
4 at any point, you want to separate certain
5 edits out, we can do that.

6 A. Um-hum.

7 Q. First paragraph, the edits change
8 the word effective to dated and then adds in
9 some different language about who the
10 landlords are. Correct?

11 A. Correct.

12 Q. And it clarifies the address of
13 Iron Angel II; correct?

14 A. Correct.

15 Q. Okay. And the next paragraph,
16 there are changes to the definition of the
17 word property, and it adds in APN numbers.

18 A. Yes.

19 Q. And what are APN numbers?

20 A. That is -- those are numbers
21 assigned by a county that -- it's the parcel
22 number for -- that describes each individual
23 legal -- legally described property, so an
24 APN is just the official, this is the legal
25 description of the property.

1 Q. Did that make any changes to the
2 property that was at issue in the lease?

3 A. No. I think it clarified it.

4 Q. Okay. The next few changes
5 make -- change the word expressed to
6 express. Do you view that as a clarifying
7 change or a substantive change?

8 A. I think it's fix ago typo.

9 Q. Okay. The next change moves the
10 word as a licensee up to a preceding clause
11 and then adds the term effective date.

12 Do you view that as a clarifying
13 change or a substantive change?

14 MR. SCHOLZ: Objection. Vague
15 and ambiguous as to the two terms.

16 A. (Document[s] reviewed.)

17 I think it was more of a
18 clarification of when the lease started.

19 BY MR. MARCHAND:

20 Q. Okay. Down under section 2,
21 paragraph C, the words triple net have been
22 struck and modified gross lease has been
23 substituted. Do you see that?

24 A. That's correct.

25 Q. And it goes on to say the rent

1 payable here under shall be considered and
2 triple net is struck and the words modified
3 gross have been substituted in rent.

4 Do you see that?

5 A. I see that.

6 Q. Who requested that change?

7 A. That would be attorney-client
8 privilege.

9 Q. So it was your client that
10 requested the change?

11 MR. SCHOLZ: Objection. Calls
12 for attorney-client privilege.

13 BY MR. MARCHAND:

14 Q. The Shulmans did not ask for this
15 change, did they?

16 A. Not of which I am -- I don't know
17 -- I don't believe -- I don't know.

18 Q. Okay. So how can you claim
19 attorney-client privilege if you don't know
20 who told you about this change?

21 A. I know one party that did.

22 Q. Okay. So it's your testimony
23 that your client -- I'm sorry. Go ahead?

24 A. And that would have been MIH.

25 Q. So MIH requested that change.

1 A. Correct.

2 Q. And was this a redundancy that
3 was being eliminated or was this a benefit
4 for a landlord or the tenant?

5 A. I think -- I don't think it was a
6 redundancy. I think that, again, to the
7 extent that it involves an attorney-client
8 conversation, it's privileged.

9 Q. Okay. In the next sentence, the
10 word tenant was struck out and replaced with
11 landlord. And it goes on to say shall be
12 solely responsible for all real and personal
13 property taxes, insurance, repair,
14 maintenance and replacement of all, the word
15 improvements was inserted, structures,
16 heating, ventilation, air conditioning, and
17 air filtration systems and all equipment.

18 Do you see that?

19 A. I see that.

20 Q. Is the effect of that change to
21 make it so that the landlord is responsible
22 for all of those things instead of the
23 tenant?

24 A. That's what it says.

25 MR. SCHOLZ: Objection. The

1 document speaks for itself.

2 BY MR. MARCHAND:

3 Q. That is what the document says;
4 correct?

5 A. That is correct.

6 Q. And who requested that change?

7 A. Attorney-client privilege.

8 MR. SCHOLZ: Objection to the
9 extent it calls for attorney-client
10 privilege.

11 BY MR. MARCHAND:

12 Q. So Ms. Shulman did not request
13 that change, did she?

14 A. I do not have an independent
15 recollection of that, no.

16 Q. Is this change a redundancy or a
17 protection for the landlord or the tenant?

18 A. You just asked the question.

19 Q. I'm asking about the change from
20 the word "tenant" to "landlord."

21 A. It's not a redundancy.

22 Q. It is a protection for the
23 tenant; correct?

24 A. The document speaks for itself.
25 It says what it says.

1 Q. Making the landlord responsible
2 for property taxes, insurance, repair,
3 maintenance, and replacement of items
4 instead of the tenant is a protection for
5 the tenant, isn't it?

6 A. The document says what it says.

7 Q. It does not say that. You
8 characterize these things as protections for
9 the landlord or the tenant. And I am asking
10 you whether you intended this to be a
11 protection for the landlord or the tenant.

12 A. For the landlord -- excuse me,
13 for the tenant.

14 Q. To be clear, this change was a
15 protection for the tenant; correct?

16 A. Correct.

17 Q. Thank you.

18 The next change comes under the
19 section titled purpose.

20 A. Right.

21 Q. It says -- previously it said
22 landlord acknowledges and agrees, and now it
23 says landlord/landowner. Do you see that?

24 A. I see that.

25 Q. Is that a clarifying edit?

1 A. I believe it could be
2 characterized as a clarifying edit, yes.

3 Q. Okay. In the next paragraph,
4 some language was added such that it says if
5 state of California or federal laws, Santa
6 Barbara county, California, and then it
7 continues, ordinances or policies change,
8 inserted after the effective date, such that
9 tenant's business operations on the property
10 cause landlord and then the insertion and
11 tenant to feel insecure about the security
12 or market value of the property or give the
13 parties reason to believe that unlawful
14 activities are being conducted on the
15 property, the landlord, and then the
16 insertion and tenant, jointly, continuing,
17 may terminate this these on 30 days prior
18 written notice, without need to refund any
19 rent payment previously made.

20 Do you see that?

21 A. I see that.

22 Q. Is the effect of those changes to
23 make it such that the landlord and the
24 tenant must jointly agree on the situation
25 where they feel insecure about the security

1 or market value of the property such that
2 the lease can be terminated?

3 A. That's what it says, yes.

4 Q. Is that a redundancy or a
5 protection for the landlord or a protection
6 for the tenant?

7 A. I believe it's a protection for
8 both the landlord and tenant.

9 Q. How is it a protection for the
10 landlord?

11 A. It says what it says. I mean,
12 it's a -- the tenant and the landlord, if
13 there's a reason to believe that there's a
14 problem, then they can agree jointly to get
15 out of the lease. So continuing works for
16 both parties.

17 Q. What was the language before you
18 added in the words and tenant and tenant
19 jointly? What was the effect of the
20 language before those edits were made?

21 A. That --

22 MR. SCHOLZ: Objection. The
23 document speaks for itself, if you take the
24 two words out.

25 A. Yeah, it says what it says.

1 BY MR. MARCHAND:

2 Q. Okay. And it says that the
3 landlord -- if the landlord feels insecure
4 about the property, that the landlord can
5 terminate the lease unilaterally. Correct?

6 A. That's what it says.

7 Q. And you added in and tenant and
8 tenant jointly; correct?

9 A. Correct.

10 Q. So the landlord no longer has the
11 option to unilaterally terminate this lease;
12 correct?

13 A. That's what it says.

14 Q. And that's to the protection of
15 the tenant, isn't it?

16 A. That is your opinion, yes.

17 Q. I asked you for your opinion on
18 how this was a protection for the landlord,
19 how these changes were a protection for the
20 landlord.

21 MR. SCHOLZ: Do you have a
22 question pending?

23 MR. MARCHAND: Yes.

24 MR. SCHOLZ: What is the
25 question?

1 BY MR. MARCHAND:

2 Q. How are these changes a
3 protection for the landlord?

4 A. I believe it protects both of
5 them. I think it adds protection for the
6 tenant.

7 Q. Okay. So the edits you made
8 added protection for the tenant; correct?

9 A. Correct.

10 Q. The edits you made did not add a
11 protection to the landlord; correct?

12 A. No --

13 MR. SCHOLZ: Objection. That's a
14 complete sentence there. The first three
15 changes, you're not including those, which
16 would also I think protect both. Or at
17 least clarify.

18 BY MR. MARCHAND:

19 Q. Mr. Houghton, do you want to
20 answer?

21 A. My response is the document
22 speaks what it says.

23 Q. And you characterized this in
24 your e-mail as being -- eliminating
25 redundancies and providing protections for

1 the landlord and the tenant. And what I'm
2 asking is: Where you added the words and
3 tenant and then again and tenant jointly,
4 that is a protection for the tenant as we've
5 already established.

6 How are those edits a protection
7 for the landlord?

8 A. I believe the document says what
9 it says.

10 Q. It is not a protection for the
11 landlord, is it?

12 MR. SCHOLZ: Argumentative.
13 Objection.

14 BY MR. MARCHAND:

15 Q. Further down, under condition of
16 the property, in addition to changing the
17 word building to improvements in two places,
18 do you view that as a clarifying edit?

19 A. (Document[s] reviewed.)

20 Yes.

21 Q. Okay. You go on to strike and
22 tenant acknowledges, represents, and agrees
23 that it is it has not relied on any
24 representation of the landlord concerning
25 the property or the building, tenant shall

1 not be allowed to make any modifications to
2 the building without the landlord's prior
3 written consent.

4 Do you see that?

5 A. I see that.

6 Q. Was that a redundancy that you
7 were eliminating?

8 A. No.

9 Q. Was that a protection for the
10 tenant?

11 A. I believe it says what it says.

12 Q. That is a protection for the
13 tenant; correct?

14 A. I believe it says what it says.

15 Q. You struck the language that the
16 tenant would not be allowed to make any
17 modifications to the building without the
18 landlord's prior written consent, taking
19 away a right of the landlord. And that is a
20 benefit to the tenant and not the landlord;
21 correct?

22 MR. SCHOLZ: Objection.

23 Argumentative. The document speaks for
24 itself.

25 A. It says what it says.

1 BY MR. MARCHAND:

2 Q. And, again, your e-mail
3 characterizes these edits in three ways. So
4 we can do this throughout the entire
5 document. But I am trying to understand for
6 each of the edits in this document whether
7 it is a redundancy, a protection for the
8 landlord, or a protection for the tenant.

9 So you can keep saying that the
10 document is what it is, but I am trying to
11 understand what the intent of your e-mail
12 is, where you described these edits in three
13 ways.

14 MR. SCHOLZ: His e-mail speaks
15 for itself, Counsel. It's argumentative.
16 You've stated it over and over again what
17 the e-mail says.

18 BY MR. MARCHAND:

19 Q. Mr. Houghton, you've already
20 testified that this edit was not a
21 redundancy. So it's either a protection for
22 the landlord or a protection for the tenant.

23 MR. SCHOLZ: Question pending?

24 MR. MARCHAND: Yes.

25 ///

1 BY MR. MARCHAND:

2 Q. Which is it?

3 MR. SCHOLZ: What's the question?

4 BY MR. MARCHAND:

5 Q. Which is it?

6 A. I believe is that this is a
7 protection for the tenant.

8 Q. Thank you.

9 You go on to say -- I'm sorry.
10 You go on in that paragraph to strike the
11 words in the event the property shall be
12 damaged beyond reasonable wear and tear,
13 tenant agrees to immediately pay landlord
14 such sum of money as shall reasonably be
15 expended by landlord in restoring the
16 property to its former conditions. Correct?

17 A. That's what it says.

18 Q. That is a protection for the
19 tenant and not the landlord; correct?

20 A. Correct.

21 Q. You go on to strike in
22 paragraph 5 what previously said tenant
23 shall be solely responsible for the
24 maintenance, repair, and/or replacement of
25 all portions of the building, other

1 improvements, equipment and the property,
2 including, but not limited to the roof,
3 structural elements, interior and exterior
4 of the property, parking areas, other
5 improvements, HVAC, plumbing, electrical,
6 security and surveillance systems.

7 Do you see that?

8 A. I see that.

9 Q. You struck that; correct?

10 A. Correct.

11 Q. That act of striking that
12 language is a protection for the tenant, is
13 it not?

14 A. Yes.

15 Q. It is not a protection for the
16 landlord; correct?

17 A. Again, it says what it says.

18 Q. It is not a protection for the
19 landlord; correct?

20 MR. SCHOLZ: Counsel, he answered
21 your question objection. Argumentative.
22 Badgering.

23 BY MR. MARCHAND:

24 Q. It is not a protection for the
25 landlord, is it? You go on in that

1 sentence -- sorry, in that paragraph to
2 strike the sentence tenant shall keep the
3 property free and clear of any and all water
4 damage and/or mold. Correct?

5 A. That's what it says.

6 Q. That is a protection for the
7 tenant and not the landlord; correct?

8 A. That is what -- exactly what it
9 says.

10 Q. Right. You're taking away the
11 duty of the tenant to keep the property free
12 and clear of any and all water damage and/or
13 mold. And that inures a benefit to the
14 tenant and not the landlord; correct?

15 A. Yes.

16 Q. Thank you.

17 You go on in improvements.
18 Following the completion of the patent's
19 work, if any, and it previously said no
20 alterations or additions shall be made.
21 Correct?

22 A. That's what it says now.

23 Q. What was the effect of striking
24 the words following the completion of the
25 tenant's work, if any?

1 A. That was a clarification.

2 Q. Okay. At the end that have
3 paragraph, it says -- or said -- this is
4 struck language -- tenant further agrees to
5 indemnify and hold harmless landlord from
6 androgens any and all liens attaching to the
7 property as a result of work conducted by or
8 on behalf of tenant or any of its affiliates
9 arising prior to the effective date hereof.

10 Do you see that?

11 A. I see that.

12 Q. Was that a redundancy?

13 A. I don't know.

14 Q. Okay. Does that inure a benefit
15 to the landlord or the tenant?

16 A. Tenant.

17 Q. Under paragraph 7, surrender of
18 premises, the original language of the lease
19 states, in part, no default or breach of
20 this lease by tenant shall be declared until
21 landlord has given tenant 10 days written
22 notice, and in this draft, you struck out
23 the number 10 and inserted 30, such that the
24 landlord must give 30 days written notice of
25 such breach or default. Correct?

1 MR. SCHOLZ: Objection. The
2 document speaks for itself.

3 BY MR. MARCHAND:

4 Q. And that is a protection for the
5 tenant; correct?

6 A. I believe it's for both, the
7 landlord and the tenant.

8 Q. How is that a protection for the
9 landlord?

10 A. It gives them a longer time to
11 try and cure a default.

12 Q. It gives the landlord a longer
13 time to cure a default that the tenant has
14 made?

15 A. Well, if the landlord gives the
16 notice of default, then the tenant only has
17 10 days to cure it, the way it was written.
18 And this was intended to extend both of
19 those times. And that allows the tenant to
20 make good on it so that the landlord doesn't
21 have to evict the tenant. It gives -- it
22 works both ways. I think it works in favor
23 of both.

24 Q. Okay. Is there language in this
25 paragraph that says the landlord must evict

1 the tenant if they are in breach of the
2 agreement?

3 A. The document speaks for itself.

4 Q. I agree.

5 It goes on to change cure period
6 from 10 days to 30 days. Do you see that?

7 A. Is this in paragraph 7 still?

8 Q. Yes.

9 A. Yes.

10 Q. And that is also a protection for
11 the tenant; correct?

12 A. It's a protection for both.
13 I think it works -- I believe it works both
14 ways.

15 Q. In your experience, having
16 negotiated lease agreement.

17 MR. SCHOLZ: Objection. There's
18 no question pending.

19 MR. MARCHAND: That is a
20 question.

21 MR. SCHOLZ: What's the question?

22 BY MR. MARCHAND:

23 Q. Is that based on your experience
24 in negotiating lease agreements, that you
25 believe that extending the period by which

1 the tenant has to cure their own default is
2 a protection for a landlord?

3 A. Yes.

4 Q. Okay. In paragraph --
5 subparagraph A under paragraph 8, you added
6 the words after receiving a valid court
7 order. Do you see that?

8 A. Yes.

9 Q. Prior to that edit, that
10 paragraph read, landlord may declare the
11 term hereof ended and enter the property or
12 any part thereof and remove tenant or any
13 other person occupying the same without
14 being liable to prosecution or damages
15 thereof and to otherwise repossess the
16 property.

17 Do you see that?

18 A. Yes.

19 Q. What was the effect you have
20 adding the words "after receiving a valid
21 court order"?

22 MR. SCHOLZ: Objection. The
23 document speaks for itself. Calls for a
24 legal conclusion.

25 ///

1 BY MR. MARCHAND:

2 Q. Go ahead.

3 A. It requires them to get a valid
4 court order.

5 Q. And who requested that change?

6 A. That would be attorney-client
7 privilege.

8 Q. Because it wasn't Ms. Shulman who
9 requested that change, was it?

10 MR. SCHOLZ: Objection.
11 Argumentative.

12 BY MR. MARCHAND:

13 Q. It was MIH who requested that
14 change?

15 MR. SCHOLZ: Objection. Calls
16 for attorney-client privilege. Instruct him
17 not to answer.

18 BY MR. MARCHAND:

19 Q. And that inures a benefit to the
20 tenant, doesn't it?

21 A. The document speaks for itself.

22 Q. Because the result of that change
23 is that the landlord can no longer repossess
24 their property even if there's a breach
25 unless there's a valid court order; correct?

1 A. That also acts to protect the
2 landlord to make sure they don't do
3 something that isn't sanctioned by a court.
4 So it protects both the landlord and the
5 tenant.

6 Q. How many of these agreements that
7 you've negotiated to included language like
8 that?

9 A. Virtually every one of them.

10 Q. Is that why your draft agreement
11 of this didn't include that language?

12 A. I don't know.

13 Q. Further down in subparagraph (b),
14 you added the words again. After receiving
15 a valid court order.

16 Do you see that?

17 A. Yes.

18 Q. And what is the effect of that
19 provision?

20 MR. SCHOLZ: Objection. Calls
21 for a legal conclusion. Calls for
22 speculation.

23 BY MR. MARCHAND:

24 Q. Go ahead.

25 A. The document says what it says.

1 Q. Well, I'm asking you: What is
2 the effect of you adding those words to that
3 paragraph? What was the change?

4 MR. SCHOLZ: Objection. Asked
5 and answered. It's been asked -- same
6 previous question under provision (a).

7 BY MR. MARCHAND:

8 Q. Okay. So, Mr. Houghton, given
9 that the language is exactly the same as
10 subparagraph (a), your answers to the
11 questions as to subparagraph (b) are the
12 same; correct?

13 A. Yes.

14 Q. Under paragraph 13, extensions,
15 the original language said any extensions of
16 the lease term beyond the initial term
17 shall --

18 MR. SCHOLZ: Can you go to
19 paragraph 13, please.

20 THE DEPONENT: I can see it.

21 MR. MARCHAND: I'm there.

22 BY MR. MARCHAND:

23 Q. Any extensions of the lease term
24 beyond the initial term shall be require
25 mutual agreement of the landlord and tenant.

1 Do you see that?

2 A. Yes.

3 Q. And you struck that language;
4 correct?

5 A. Correct.

6 Q. And will you please read what you
7 put in its place.

8 A. Tenant is hereby granted three
9 extensions of five years each.

10 Q. And who requested that?

11 MR. SCHOLZ: Objection. Calls
12 for attorney-client privilege, to the extent
13 it does.

14 BY MR. MARCHAND:

15 Q. Ms. Shulman did not request that
16 change, did she?

17 A. No. Not of which I'm aware.

18 Q. And this is a protection that
19 inures to the tenant, doesn't it?

20 A. No.

21 Q. No, it doesn't inure a benefit to
22 the tenant?

23 A. It's for both the tenant and the
24 landlord.

25 Q. Okay. Nothing herein contained

1 obligates the landlord to extend this lease
2 beyond its initial term. You instruct that
3 language as well, didn't you?

4 A. Yes.

5 Q. And Ms. Shulman did not request
6 that change, did she?

7 A. Not to my knowledge, no.

8 Q. And that's because it benefits
9 the tenant, doesn't it?

10 MR. SCHOLZ: Calls for
11 speculation. Calls for a legal conclusion.
12 It's argumentative.

13 BY MR. MARCHAND:

14 Q. Go ahead.

15 A. (Document[s] reviewed.)

16 The obligation for the landlord
17 to extend the lease beyond the extensions is
18 still there. I mean, it still has an end.
19 I think that's more after redundancy or it
20 just didn't make sense in that context. So
21 that's why it was stricken.

22 Q. Okay. Paragraph 14 entitled
23 communications and consent. And it appears
24 that this entire paragraph was added by you
25 in this red line. Correct?

1 A. Yes.

2 Q. Okay. Will you briefly read that
3 paragraph, please.

4 A. Out loud or to myself?

5 Q. Just to yourself is fine.

6 A. Okay.

7 Q. Thank you for clarifying.

8 A. Yeah.

9 (Document[s] reviewed.)

10 I have read it, yes.

11 Q. What is the effect that have
12 change?

13 A. Well, it says what it says. But
14 the effect is is that rather than
15 communicating with everything with the
16 landlord, the landlord is, in essence,
17 saying Francine Shulman can consent and we
18 can rely on it. The landlord -- excuse me,
19 the tenant could rely on that rather than
20 having to go back to every one of the
21 owners.

22 Q. Okay.

23 A. And that's a benefit for the
24 landlord.

25 Q. Okay. And do you recall who

1 requested that change?

2 A. I do not recall, no.

3 Q. Okay. Who were you representing
4 in this transaction?

5 A. MIH.

6 Q. The lease agreement calls for
7 rent in the amount of \$5500 per month. Was
8 that ever paid?

9 A. I do not know.

10 Q. Do you recall the license
11 application for the Iron Angel property that
12 was made on Iron Angel II's behalf?

13 A. Yes. I mean, I knew it was done.
14 I bleeped out for a minute in my hearing.
15 Did you say do I recall it?

16 Q. Yes.

17 A. Yes, I recall that an application
18 was done, yes.

19 Q. Okay. Do you remember stating in
20 that application that Todd Kaplan had been
21 operating continuously in Santa Barbara
22 county prior to January 19th, 2016?

23 A. The affidavit says what it says.

24 Q. Do you know whether that is true?

25 A. My view of those affidavits was

1 that it was -- they weren't specific to the
2 individual. They were specific to the land.
3 Like a zoning thing. It didn't matter who
4 was operating, it was that an operation was
5 there.

6 Q. Okay. So was it not true that
7 Todd Kaplan had been operating continuously
8 in Santa Barbara County prior to
9 January 19th, 2016?

10 MR. SCHOLZ: Calls for
11 speculation. To the extent he knows and he
12 wasn't retained by counsel -- or retained by
13 MIH. It's 2017.

14 A. The answer is I don't know.
15 BY MR. MARCHAND:

16 Q. But you've filled out the license
17 application for the Iron Angel property;
18 right?

19 A. Yes.

20 Q. How did you go about collecting
21 the information that went into that
22 application?

23 A. I don't know what you mean by how
24 did I go about collecting it.

25 I asked people. I talked with

1 the county. I did a lot of things.

2 Q. Okay. Did you identify
3 Ms. Shulman as an owner or having an you are
4 ownership interest in the Iron Angel
5 property?

6 A. I believe so, yes.

7 Q. And was that true?

8 A. That she was an owner?

9 Q. Yes.

10 A. Of the Iron Angel property?

11 Q. Yes.

12 A. Yeah, I believe so.

13 Q. Okay. Do you still have access
14 to the license materials that were
15 submitted?

16 A. No.

17 Q. What happened to them?

18 A. They're filled out online so
19 I don't know what information is still
20 available online.

21 Q. You don't receive, like, a copy
22 of your application back after it's been
23 submitted?

24 A. Not that I'm aware of, no.

25 Q. Do you know whether the license

1 applications were produced in this case?

2 A. I do not know.

3 MR. MARCHAND: Does anyone need a
4 break?

5 THE DEPONENT: No, I'm good.

6 MR. SCHOLZ: Are you okay?

7 THE DEPONENT: Yeah.

8 BY MR. MARCHAND:

9 Q. I know we talked about him
10 earlier, but when did you first hear of
11 Russell Lugli?

12 A. I don't have a specific
13 recollection of the first time I heard the
14 name Russell Lugli.

15 Q. And what was your involvement and
16 discussions with Mr. Lugli regarding the
17 purchase of his property Wells Springs?

18 A. I had no conversations with
19 Mr. Lugli about the purchase -- about the
20 Wells Springs purchase, no.

21 Q. What was your involvement
22 generally regarding MIH's purchase of the
23 Wells Springs property?

24 MR. SCHOLZ: Objection. Assumes
25 facts not in evidence. There was a

1 purchase? There was a purchase.

2 THE DEPONENT: Mr. Scholz, are
3 you done?

4 MR. SCHOLZ: Sorry. Yeah.

5 A. If I understand what you're
6 talking about, there was a contract for
7 Ms. Shulman or one of her entities to buy
8 the Wells Springs property. That was my
9 understanding.

10 The involvement that I had was
11 that MIH, through Mr. Kaplan, was going to
12 be one of the parties to that purchase
13 agreement. And so rights were assigned to
14 him, an undivided right, so that he could
15 buy the property, along with Ms. Shulman.

16 BY MR. MARCHAND:

17 Q. And what was your involvement in
18 that assignment?

19 A. I think -- I believe I drafted
20 the assignment agreement. I don't know for
21 sure. I don't have a specific recollection
22 of where that came from, but I think
23 I drafted it on behalf of MIH.

24 Q. And who was representing
25 Ms. Shulman in that transaction?

1 A. I do not know. I don't know that
2 she had counsel at that time.

3 Q. Okay. What discussions did you
4 have with Ms. Shulman regarding purchasing
5 the Wells Springs property or her assignment
6 of those rights?

7 A. All of those discussions --
8 I didn't have any personally with her about
9 that. I would have -- I may have had
10 conversations with Brandon, but I don't know
11 that. I don't have a specific recollection
12 other than the general, you know, this is
13 how this thing is going to move forward.
14 That discussion would have been, as far as
15 I know, between Mr. Kaplan and Ms. Shulman
16 and Brandon.

17 Q. Okay. So any discussions
18 regarding the terms of the assignment,
19 I think as you called it, were discussed
20 only between Mr. Kaplan on the one hand and
21 Frannie Shulman and Brandon Shulman on the
22 other hand?

23 MR. SCHOLZ: Objection. Calls
24 for speculation. To the extent he knows.

25 A. Yeah, I don't know if there were

1 other people that were involved. I just
2 know that -- what I was involved with. And
3 so no, I don't know if they talked about it
4 with anybody else.

5 BY MR. MARCHAND:

6 Q. And I'm just trying to clarify:
7 You were not involved in any of those
8 discussions where Mr. Kaplan was discussing
9 the terms of any purported assignment with
10 Frannie Shulman or Brandon Shulman.

11 A. I was not, no.

12 Q. Okay. Were you representing MIH
13 in that transaction?

14 A. Yes.

15 Q. Let me show you what is marked as
16 Exhibit 22.

17 (Houghton Exhibit 22,
18 ^ description, was marked for
19 identification, as of this date.)

20 Q. It's a document that has been
21 produced with the Bates stamp Shulman
22 00001052.

23 Can you see that?

24 A. Yes.

25 Q. It starts at the bottom with an

1 e-mail from Frannie Shulman dated July 21,
2 2017, to you, Todd Kaplan, and copying
3 Brandon Shulman, with the subject Escrow.

4 Do you see that?

5 A. Yes.

6 Q. Do you recall this e-mail?

7 A. Not by itself, no, but, you know,
8 I don't have a specific recollection saying
9 oh, yeah, here's the e-mail, so...

10 Q. Okay. Is Drew Simons on these
11 e-mails?

12 A. I do not see his name on what I
13 can see, so no.

14 Q. Okay. You write back in this
15 e-mail, Frannie, before you sign anything,
16 we would like to see the escrow instructions
17 and also Todd needs a chance to review the
18 contract to see if it makes sense. Do not,
19 all caps, sign or do anything right this
20 minute.

21 Do you see that?

22 A. I see that.

23 Q. What did you mean by that?

24 A. What I meant was is that MIH,
25 Todd, needed to look at the agreement to see

1 if it made sense prior to the time she
2 signed it. Whether he would agree to it.

3 Q. What agreement are you talking
4 about here?

5 A. It references escrow
6 instructions, so I'm a little bit confused.
7 But if there's one attached, I'd like to see
8 it.

9 Q. Why were you telling Frannie not
10 to sign anything before you could review it?

11 A. It wasn't before I could review
12 it. It was before MIH could review it,
13 Todd.

14 Q. Okay. What does the word "we"
15 mean to you?

16 A. Colloquialism.

17 Q. Meaning those people, the company
18 in this case?

19 A. Correct.

20 Q. Is that what you're saying?

21 A. Yeah. It's not we, as in me.
22 It's we as in MIH.

23 Q. Okay. So are you saying we would
24 like to see the escrow instructions, you
25 mean not you, Charles, but we, MIH.

1 A. Correct.

2 Q. And we have to get our arms
3 around the purchase transaction before
4 proceeding. The word "we" to you means not
5 you, Charles, it means MIH.

6 A. Correct.

7 Q. Let me show you an e-mail. We'll
8 mark it as Exhibit 23.

9 (Houghton Exhibit 23,
10 ^ description, was marked for
11 identification, as of this date.)

12 Q. And I'm going to mark Exhibit 24
13 at the same time.

14 (Houghton Exhibit 24,
15 ^ description, was marked for
16 identification, as of this date.)

17 Q. Exhibit 23 is a document that is
18 been Bates stamped Shulman 00001941. And
19 Exhibit 24 has been Bates stamped Shulman
20 00001942. And I will represent that
21 Exhibit 24 was produced in this case as an
22 attachment to Exhibit 23.

23 Can you see that?

24 A. Yes, I see it.

25 Q. Do you recognize this e-mail?

1 A. Again, now that I see it, yes,
2 I recognize it.

3 Q. This is an e-mail from you at
4 your MIH account to the e-mail address
5 gmfici@aol.com. Do you see that?

6 A. Yes.

7 Q. We saw an earlier e-mail where
8 that was associated with Russell Lugli. Do
9 you recall that?

10 A. I -- vaguely, yes.

11 Q. And, in fact, this e-mail is
12 addressed to Mr. Lugli. Do you see that?

13 A. Yes.

14 Q. Okay. You've also copied Todd
15 Kaplan, Frannie Shulman, Brandon Shulman,
16 and Jeff Silver. Do you see that?

17 A. Yes.

18 Q. And it's dated November 14th,
19 2017. And the subject line is Lugli
20 property.

21 A. That's what it says, yes.

22 Q. Do you recall what was
23 transpiring in November of 2017 with regards
24 to the Lugli's property?

25 A. Not specifically. I don't know

1 what the amendment is so if you could show
2 me the amendment, that might help me
3 remember.

4 Q. No problem.

5 So the amendment that you're
6 referring to is referenced in this e-mail.
7 And it says Mr. Kaplan asked that I forward
8 this amendment to you. And the amendment --
9 the attachment to that e-mail is Exhibit 24.
10 Do you see that?

11 A. Right. Yeah.

12 Q. And what is this document?

13 A. That is exactly what it says.
14 It's an amendment to the purchase and sale
15 agreement. And that's why the -- I guess
16 it's in joint escrow instructions. Maybe
17 it's all the same document. But it is a
18 document that -- you know, it's an amendment
19 to the purchase and sale agreement.

20 Q. Which purchase and sale
21 agreement?

22 A. The only one that I can think of
23 was the one between -- like it says, between
24 Mr. Lugli and his wife, Susan -- I assume
25 it's his wife, and Francine Shulman.

1 Q. Who asked you to provide this
2 amendment to the purchase and sale agreement
3 between Russell and Susan Lugli and Francine
4 Shulman?

5 A. That would be attorney-client
6 privileged.

7 Q. Okay. Ms. Shulman did not ask
8 you to prepare this amendment to the
9 purchase and sale agreement then, did she?

10 A. I believe she was part of the
11 discussion, yes.

12 Q. Okay. Well, if she was part of
13 the discussion, then you don't have
14 attorney-client privilege over it and I will
15 ask the question again.

16 Who asked you to prepare the
17 amendment to the purchase and sale agreement
18 between Russell and Susan Lugli and Francine
19 Shulman?

20 A. I think it was a combination of
21 Todd, Brandon, and Ms. Shulman.

22 Q. And what did Todd Kaplan tell you
23 to prepare, in terms of the amendment to the
24 purchase and sale agreement?

25 A. That would be attorney-client

1 privileged.

2 Q. You don't have attorney-client
3 privilege if you discussed it with third
4 parties Francine Shulman and Brandon
5 Shulman.

6 MR. SCHOLZ: Objection.
7 Disagreed. The conversations between him
8 and Kaplan -- Todd Kaplan are distinct from
9 what might have been put into an agreement.
10 So I'm going to instruct him not to answer
11 based on attorney-client privilege.

12 MR. MARCHAND: Well, we, for the
13 record, very clearly disagree. Because once
14 you have disclosed subject matter to a third
15 party, as is the case here -- and you just
16 testified that you had conversations amongst
17 the three of you, including Francine and
18 Brandon Shulman -- you've destroyed and
19 waived any attorney-client privilege you
20 might have over that subject matter.

21 MR. SCHOLZ: I disagree.

22 BY MR. MARCHAND:

23 Q. So I will ask you -- I will ask
24 again: What did Todd Kaplan tell you to
25 prepare in terms of this amendment to the

1 purchase and sale agreement between Russell
2 and Susan Lugli and Francine Shulman?

3 MR. SCHOLZ: Objection.
4 Attorney-client privilege. Instruct him not
5 to answer.

6 BY MR. MARCHAND:

7 Q. Are you refusing to answer?

8 A. I'm going to follow my attorney's
9 advice.

10 Q. Okay. What conversations did you
11 have with Mr. Kaplan about this amendment
12 where Francine Shulman or Brandon Shulman
13 were present?

14 A. I don't know that there were any
15 of those. I don't know one where I would
16 have spoken with Mr. Kaplan where
17 Ms. Shulman and Brandon were there.

18 Q. I'm sorry. You do or you do not
19 recall?

20 A. I do not recall that.

21 Q. Okay.

22 A. On this subject, yes, I --
23 absolutely, I don't think so.

24 Q. So at the beginning of this line
25 of questioning, you told me that Francine

1 Shulman asked you to draft this amendment.

2 Is that correct?

3 A. I didn't --

4 MR. SCHOLZ: I don't [sic]

5 believe it misstates prior testimony.

6 THE DEPONENT: Yeah, I think it
7 does. I think it does, too.

8 A. What I said was I think it was a
9 combination of Todd, Ms. Shulman, Brandon
10 Shulman together talking about amending the
11 agreement. I was not sitting in the room
12 when that happened. Any conversations that
13 I had would have been with Todd. I do not
14 recall having a specific conversation with
15 Frannie or -- Ms. Shulman or Brandon Shulman
16 about this, although that may have occurred.
17 I just don't recall a specific conversation
18 about that other than -- I just don't recall
19 that -- you know, I was under the impression
20 somehow, as I sit here today, that everybody
21 had agreed on this.

22 BY MR. MARCHAND:

23 Q. And how did it come to be that
24 you were under that impression at the time?

25 A. I think it was just -- like I

1 said, I don't recall a specific conversation
2 with Ms. Shulman and with Brandon, although
3 one may have occurred where they were all
4 agreeing that, yes, that the amendment to
5 the purchase agreement was going to move
6 forward. And it may have been -- yeah,
7 I don't have a specific recollection of a
8 conversation.

9 Q. Did you draft this amendment?

10 A. Yes, I did.

11 Q. Okay. As of the date of this
12 e-mail, Exhibit 23, which is November 14th,
13 2017, you were sending it on behalf of MIH
14 to Mr. Lugli; correct?

15 A. I don't know why it says that.
16 That doesn't make sense. I don't know why
17 that's there. That's not something that
18 I would have put in.

19 Q. I'm sorry. Which part. Can you
20 just clarify what part you don't know why is
21 there?

22 A. The on behalf of Charles it.
23 Houghton, Charles, I don't know why that's
24 there. If that was auto-generated --
25 I don't know. I don't recall -- I wouldn't

1 have put that in myself.

2 Q. Ignoring that, that's not what
3 I'm talking about.

4 A. Okay.

5 Q. This e-mail is from you; correct?

6 A. Correct.

7 Q. It is to Mr. Lugli; correct?

8 A. Correct.

9 Q. You say, Mr. Kaplan asked that I
10 forward this amendment to you. Correct?

11 A. Yes.

12 Q. So you were doing this, you were
13 sending this amendment to Mr. Lugli on
14 behalf of MIH; correct?

15 A. Correct.

16 Q. Okay. The amendment that you are
17 attaching is Exhibit 24; correct?

18 A. Correct.

19 Q. This was an amendment that you
20 drafted prior to sending this e-mail on
21 November 14th; correct?

22 A. Yes.

23 Q. What discussions did you have
24 with Ms. Shulman about the terms of this
25 amendment prior to November 14th?

1 A. I don't remember any specific
2 conversations.

3 Q. Who directed you to include the
4 specific terms of this amendment?

5 A. Mr. Kaplan.

6 Q. It says in the third sentence,
7 Mr. Kaplan will be calling you from his cell
8 phone on the way to the airport. Do you see
9 that?

10 A. Yes.

11 Q. What did that mean?

12 MR. SCHOLZ: Objection. Speaks
13 for itself.

14 A. I was going to say, exactly what
15 it says.

16 BY MR. MARCHAND:

17 Q. Okay. Do you have an
18 understanding as to why Mr. Kaplan was going
19 to be calling Mr. Lugli on his way to the
20 airport?

21 A. Probably to discuss the
22 amendment, but I don't -- you know, I --

23 MR. SCHOLZ: Calls for
24 speculation.

25 THE DEPONENT: Yeah.

1 A. I don't know.

2 BY MR. MARCHAND:

3 Q. Okay. Exhibit 24, as we've been
4 discussing, is the amendment to the purchase
5 and sale agreement.

6 A. Correct.

7 Q. Among other things, it states
8 that the parties here by agree to amend the
9 terms and the conditions of the agreement as
10 follows. And number 2 says closing shall
11 take place on January 15th, 2019. Do you
12 see that?

13 A. I see that.

14 Q. Do you know in what way this was
15 changing or amending the purchase and sale
16 agreement?

17 A. My recollection is that the
18 purchase and sale agreement had an earlier
19 closing date.

20 Q. Who requested that the closing be
21 moved later to January 15th, 2019?

22 A. I didn't. MIH did.

23 Q. And why did they want a later
24 closing date?

25 MR. SCHOLZ: Calls for

1 speculation. Calls for attorney-client
2 privileged communications. I instruct him
3 not to answer.

4 BY MR. MARCHAND:

5 Q. Well, let's just start with the
6 easy question: Do you know why they wanted
7 to move the closing from January -- from an
8 earlier date to January 15th of 2019,
9 without telling me why?

10 A. Wait a minute. You just asked me
11 do I know why without telling you why.

12 Q. Yeah. Are you aware of the
13 reason? Without telling me what that reason
14 is, are you aware of the reason?

15 A. Not of the specific reason, no.

16 Q. And prior to this e-mail in
17 Exhibit 23, you don't recall any
18 conversations between you and Frannie
19 Shulman or Brandon Shulman; correct?

20 A. None that -- I mean, other than
21 that the general conversation that is they
22 were having all the time, no.

23 Q. What general --

24 A. I don't recall a specific
25 conversation about this matter, no.

1 Q. Well, you said other than the
2 general conversations they were having all
3 the time, so let's break that down.

4 Who's the "they" in that
5 sentence?

6 A. "They" would be Brandon mostly.

7 Q. And who?

8 A. And Todd and Drew and everybody
9 else.

10 Q. And what were the general
11 conversations that they were having around
12 that time?

13 A. As far as I know -- I don't know
14 the exact discussions that they were having.
15 I know that they were in communication
16 because they were moving forward with
17 licensing. And so how the operation was
18 going to go, things of that nature.

19 Q. Did you have any conversations
20 with Brandon Shulman as part of those
21 general conversations you were just
22 describing?

23 A. Yeah. He would have called me
24 from time to time. And the bulk of those
25 conversations, if not all of them, were

1 either what is the status of a particular
2 matter regarding licensing or here is what
3 I found so far, in order to do licensing,
4 that I asked him or he figured out that he
5 needed to provide me.

6 MR. SCHOLZ: Counsel, could we
7 take a break for a moment?

8 MR. MARCHAND: Sure. Let's go
9 off the record.

10 THE VIDEOGRAPHER: We're going
11 off the record at 2:15 p.m.

12 (Recess taken.)

13 THE VIDEOGRAPHER: We are back on
14 the record at 2:27 p.m.

15 BY MR. MARCHAND:

16 Q. Welcome back, Mr. Houghton.

17 Did you work the break, did you
18 speak with anyone other than your counsel?

19 A. No, I did not.

20 Q. We were just talking about an
21 amendment to the purchase agreement;
22 correct?

23 A. Correct.

24 Q. And we were looking at e-mails
25 from November of 2017. During that time,

1 were there other agreements that were being
2 discussed with regards to Wells Springs?

3 A. I don't -- that's overbroad.

4 MR. SCHOLZ: Objection. Vague
5 and ambiguous.

6 A. I don't know how to answer that
7 question.

8 BY MR. MARCHAND:

9 Q. Okay. Other than the amendment
10 to the purchase agreement that we just
11 looked at, do you recall any other
12 agreements with regards to Wells Springs
13 that were being discussed that involved MIH
14 and the Shulmans?

15 A. As I sit here today, no, but if
16 there is, I'm sure you'll show me.

17 Q. Okay. I'll share with you what's
18 been marked as Exhibit 25, a document that's
19 been produced in this case Bates stamped
20 Shulman 00000351.

21 (Houghton Exhibit 25,
22 ^ description, was marked for
23 identification, as of this date.)

24 Q. It is an e-mail I will show you
25 in one second. Attached to that are two

1 attachments. The first one will be marked
2 as Exhibit 26.

3 (Houghton Exhibit 26,
4 ^ description, was marked for
5 identification, as of this date.)

6 Q. It bears the Bates stamp Shulman
7 0000353. And the second one is Exhibit 27.

8 (Houghton Exhibit 27,
9 ^ description, was marked for
10 identification, as of this date.)

11 Q. Bates stamp Shulman 00000354.

12 BY MR. MARCHAND:

13 Q. I will share with you Exhibit 25.
14 Do you see that?

15 A. Yes.

16 Q. I will scroll down. And the
17 bottom e-mail or what I would call the
18 earliest-in-time e-mail, it's from you to
19 the gmfici@aol.com e-mail address, Todd
20 Kaplan, Frannie Shulman, and Brandon
21 Shulman. Do you see that?

22 A. I see that.

23 Q. And it's dated November 17th;
24 correct?

25 A. Correct.

1 Q. It says red line of amendment and
2 new agreement. Do you see that?

3 A. I see that.

4 Q. And it says here is the red line
5 of the amendment to purchase agreement. Is
6 that the amendment that we were just
7 discussing?

8 A. As far as -- I would have to see
9 the red line to see, but I'm -- yes.

10 MR. SCHOLZ: Objection. Called.

11 A. Yeah. I mean, without seeing the
12 red line, it's tough for me to tell.

13 BY MR. MARCHAND:

14 Q. Okay. Well, let me show you
15 Exhibit 27. Do you see that?

16 A. Okay. Yes, I see that.

17 Q. Is this a red line of the
18 agreement we were just discussing?

19 A. I believe so, yes.

20 Q. Okay. So that's one agreement
21 referenced in this e-mail. And then it says
22 a new income split agreement.

23 Do you see that?

24 A. Yes.

25 Q. And I'm not trying to play hide

1 the ball here. Exhibit 26 is that other
2 attachment and it's entitled agreement. Do
3 you understand?

4 A. Yes, I see that.

5 Q. Do you want to take a minute to
6 read this or do you recall this document?

7 A. I kind of recall it so I think
8 I'm okay. It's also short, so...

9 Q. Okay.

10 A. I think I'm okay.

11 Q. Do you know what the purpose of
12 this agreement is?

13 A. I think the purpose was an
14 agreement -- well, I think it says what it
15 says. So the purpose of the agreement is
16 exactly what it says.

17 Q. Okay. So we're in Exhibit 26.
18 And the agreement is between the Lugli
19 Family Trust, Russell and Susan Lugli
20 trustees or assigns, as written. Correct?

21 A. Correct.

22 Q. And on the other side, it's
23 Francine Shulman, NCAMBA9, Inc. and/or
24 assignees. Correct?

25 A. Correct.

1 Q. And in paragraphs 1 and 2, it
2 describes that Lugli will be entitled to the
3 net cash flow on up to two acres worth of
4 cannabis production for cannabis grown on
5 the property for calendar years 2018, 2019,
6 2020, and 2021. Correct?

7 A. Correct.

8 Q. So was the purpose of this
9 agreement to provide Lugli, as defined in
10 this agreement, with the net cash flow on
11 two acres worth of cannabis production for
12 cannabis grown on the property?

13 A. I believe that's what it says,
14 yes.

15 Q. And in the next paragraph, it
16 states that Lugli agrees to cooperate,
17 without charge, in obtaining the necessary
18 state and local approvals. Correct?

19 A. That's correct.

20 Q. Okay. So going back to the
21 e-mail, this is from you on November 17th,
22 saying here is the red line to the amendment
23 to the purchase agreement and a new income
24 split agreement.

25 Do you see that?

1 A. I see that.

2 Q. Do you recall why the income
3 split agreement was drafted?

4 A. I believe that that would have
5 been the subject of a conversation between
6 Mr. Kaplan and the Shulmans and Mr. Lugli.

7 Q. Okay. But you don't know why the
8 income split agreement was necessary in the
9 eyes of the parties; is that correct?

10 A. I don't have a specific
11 recollection of whether I knew why at this
12 particular time. I just don't recall that I
13 knew why.

14 Q. Okay. There's some e-mail from
15 Russell Lugli here. And I'm happy to let
16 you reach as much or as little as you want,
17 but I have some questions about the top
18 e-mail.

19 A. Okay.

20 Q. So at the top, this is a day
21 later, November 18th, and you are responding
22 to these e-mails from Russell Lugli. And
23 you're saying Mr. Lugli, here are revised
24 drafts of the agreements. Do you see that?

25 A. Yes.

1 Q. So the attachments are these
2 revised drafts of the two agreements we were
3 just discussing; right? I will represent
4 that they were attachments.

5 A. Yeah. I don't think you're
6 pulling anything fast. I'm just -- yeah,
7 I agree.

8 Q. Okay.

9 A. You tell me they are, I believe
10 you.

11 Q. Well, presumably MIH has all of
12 these as well. So in the next sentence, you
13 say, I am sending them to my clients at the
14 same time so they are subject to their
15 review and comments.

16 Do you see that?

17 A. Yes.

18 Q. Who were you referring to as "my
19 clients" in that line?

20 A. MIH.

21 Q. You sent this e-mail to Russell
22 Lugli, Todd Kaplan, Frannie Shulman,
23 Dr. Shulman, and Todd Lugli and Jeff Silver;
24 correct?

25 A. Correct.

1 Q. But your testimony is that the
2 word "my clients" is only referring to MIH?

3 A. I believe so, yes.

4 Q. Okay. Do you believe that these
5 agreements were subject to Frannie Shulman
6 and Dr. Shulman's review and comments as
7 well?

8 A. I believe all agreements are
9 subject to review by all of the parties. So
10 yes.

11 Q. And Frannie Shulman and -- or
12 Frannie Shulman was a party to the
13 agreements; correct?

14 A. I believe so, yes.

15 MR. SCHOLZ: Objection. The
16 document speaks for itself.

17 BY MR. MARCHAND:

18 Q. I'm sorry, Mr. Houghton. What
19 was your response?

20 A. My response was that I believe
21 so, yes.

22 Q. And was Ms. Shulman represented
23 by another attorney?

24 A. I don't know whether Ms. Shulman
25 was represented by another attorney at this

1 time or not. If they were, they didn't tell
2 me typical.

3 Q. But they're not on this e-mail;
4 right?

5 A. No.

6 Q. Okay. I'm going to show you what
7 is marked as Exhibit 28.

8 (Houghton Exhibit 28,
9 ^ description, was marked for
10 identification, as of this date.)

11 Q. And it is a document Bates
12 stamped Shulman 00008347. I'll share it
13 here. Okay. Do you see that?

14 A. I do.

15 Q. And do you recognize this
16 document?

17 A. I believe so, yes. If you scroll
18 to the top.

19 Q. I'm sorry. Go ahead.

20 A. If you'll scroll to the bottom.

21 Q. (Complied.)

22 A. Yes.

23 Q. And what is this document?

24 A. It's an assignment agreement.
25 Just like it says.

1 Q. Dated what?

2 A. The 20th of November, 2017.

3 Q. Okay. So at the same time that
4 you were discussing these agreements with
5 the Luglis, this assignment was also being
6 drafted and signed; correct?

7 A. I believe so, yes.

8 Q. And did you draft this
9 assignment?

10 A. I believe I did, yes.

11 Q. And who instructed you to draft
12 it?

13 A. It would have been MIH.

14 Q. Okay. Did you speak to Drew
15 Simons about this?

16 A. I don't know. I don't know
17 whether I did or not.

18 Q. Okay. What does this document
19 do?

20 MR. SCHOLZ: Objection. It
21 speaks for itself.

22 A. Yeah. It does what it says.

23 BY MR. MARCHAND:

24 Q. Okay. Well, we can go through
25 it.

1 It is between -- well, I should
2 say it is signed by Francine Shulman and
3 Todd Kaplan; correct?

4 A. Right.

5 Q. Okay. And so what are the
6 parties agreeing to here?

7 MR. SCHOLZ: Objection. It
8 speaks for itself.

9 MR. MARCHAND: Okay.

10 BY MR. MARCHAND:

11 Q. Paragraph 1 of the agreement
12 states Shulman here by as signs an undivided
13 joint interest in the agreement. Do you see
14 that?

15 A. I see that.

16 Q. What agreement is being referred
17 to?

18 MR. SCHOLZ: Objection. Calls
19 for speculation to the extent it's not
20 attached.

21 BY MR. MARCHAND:

22 Q. At the top of the assignment, do
23 you see where it says --

24 A. Yeah, I think it refers to the
25 agreement -- yeah, it refers to the

1 agreement that's identified above.

2 Q. Okay. And that agreement is
3 between the Lugli Family Trust, Russell and
4 family Susan Lugli, trustees, and Francine
5 Shulman. Correct?

6 A. If that's what the document says,
7 then yes.

8 MR. SCHOLZ: Objection. Yeah.
9 It speaks for itself.

10 BY MR. MARCHAND:

11 Q. Okay. And so the document says
12 Shulman here by as signed an undivided joint
13 interest in that agreement; correct?

14 MR. SCHOLZ: Objection. Speaks
15 for itself.

16 A. Yeah, it says what it says.

17 BY MR. MARCHAND:

18 Q. Which is?

19 A. I don't know another way to
20 answer the question. The document says
21 precisely what it says.

22 Q. Right. And it says that Shulman
23 here by as signs an undivided joint interest
24 in the agreement; correct?

25 A. That's what it says, yes.

1 Q. I agree.

2 It says, further, the amendment
3 and any other amendments to Todd Kaplan or
4 assigns; correct?

5 A. That's what it says.

6 Q. And so Francine Shulman is
7 assigning an undivided joint interest in the
8 purchase and sale agreement to Todd Kaplan
9 or assigns; correct?

10 A. That's what it says, yes.

11 Q. Such that the term buyer in that
12 agreement shall include both Shulman and
13 Kaplan. Right?

14 A. That's what it says.

15 Q. It goes on to say the parties
16 agree to close and take title to the subject
17 property as tenants in common; correct?

18 A. That's what it says.

19 MR. SCHOLZ: Objection.

20 BY MR. MARCHAND:

21 Q. What does tenants in common mean?

22 A. It means --

23 MR. SCHOLZ: Objection. Calls
24 for a legal conclusion.

25 ///

1 BY MR. MARCHAND:

2 Q. You can answer.

3 A. The tenant in common means that
4 they have an undivided interest in the
5 whole. So each one owns an equal part of
6 the whole. And that upon death, usually a
7 tenant in common means that it passes by --
8 through a will or testate succession, and
9 the ownership interest doesn't automatically
10 vest in the other owner upon death. That's
11 what my understanding of a tenant in common
12 is.

13 Q. What conversations did you have
14 with Fran sheen Shulman with this assignment
15 of interest?

16 A. I don't know. I don't remember a
17 specific conversation with her other than in
18 all of these agreements, it was my
19 understanding that Todd and Ms. Shulman had
20 reached an agreement. And I was told these
21 are the terms of the agreement. That's it.

22 Q. Right. And the same is true for
23 this assignment; correct?

24 A. I'm sorry?

25 Q. The same is true for this

1 assignment; correct?

2 A. Correct.

3 Q. Do you know what Ms. Shulman's
4 position was in Wells Springs was before
5 this assignment?

6 A. I don't understand the question.

7 Q. Do you know what interest
8 Ms. Shulman had in Wells Springs legally
9 prior to this assignment?

10 A. Only what's revealed in the
11 purchase and sale agreement as a purchaser.

12 Q. Have you -- at the time that this
13 assignment was drafted, had you reviewed the
14 purchase and sale agreement and joint escrow
15 instructions referenced in the first
16 paragraph?

17 A. I don't have a specific
18 recollection, but I'm guessing I would have,
19 yes.

20 Q. Okay. Do you recall any
21 conversations with Ms. Shulman about that
22 purchase and sale agreement?

23 A. Other than what we went over
24 before, which when it was first presented,
25 I told everybody to hold off until Todd had

1 a chance to look at it.

2 Q. Are you aware of what
3 consideration was given to Ms. Shulman in
4 exchange for this purported assignment?

5 A. I thought that Todd was going to
6 buy the property or buy an interest in the
7 property. So that would have been the
8 consideration, is him buying part or all of
9 the property.

10 Q. I'm sorry. I'm just not
11 understanding.

12 So what was the consideration
13 given to Francine Shulman in exchange for an
14 undivided joint interest in the agreement?

15 MR. SCHOLZ: Objection. I think
16 he scanned. He said he talked about buying
17 the property or part of it.

18 MR. MARCHAND: I didn't
19 understand so I'm asking him to clarify.

20 A. Okay. I think that the -- this
21 is pure speculation because I just don't
22 have an independent recollection. But my
23 recollection is this was part of an
24 arrangement where MIH or Todd, through MIH,
25 was going to buy part of the property. And

1 so they were providing financing and funds
2 in order to close on the property. That's
3 my understanding.

4 BY MR. MARCHAND:

5 Q. Okay. And what was that
6 understanding based on?

7 A. Discussions with Todd.

8 Q. Okay. Did you ever advise
9 Ms. Shulman that she should retain separate
10 counsel on this matter?

11 A. No. Again, she knew who I was
12 representing. I didn't keep reiterating
13 that I wasn't her attorney or that she
14 should retain other counsel. So at this
15 stage in the ball game, I think it was
16 pretty clear she knew.

17 Q. Okay. Let me -- sorry. I lost
18 count on my exhibits. 29. I'm going to
19 show you what's been marked as Exhibit 29.

20 (Houghton Exhibit 29,

21 ^ description, was marked for
22 identification, as of this date.)

23 Q. It is a document that has been
24 Bates stamped Houghton 000857. I put it in
25 the Chat. Let me share it with you on

1 screen.

2 Do you see that?

3 A. Yes.

4 Q. Do you recognize this document?

5 A. It looks like the same document
6 that we looked at before.

7 Q. But this is an executed version
8 of that; correct?

9 A. If you represent to me that
10 that's the only change, yeah. I mean, it
11 looks like the same document, so yes.

12 Q. Okay. So just to be clear, this
13 is a document that you produced in this case
14 as compares to the Houghton Bates stamp?

15 A. Correct.

16 Q. Setting aside the comparison to
17 the draft we saw earlier, this appears to be
18 an executed version of the agreement
19 regarding cash flow for cannabis grown on
20 the Wells Springs property; correct?

21 A. That's correct.

22 Q. Okay. And we looked at some
23 e-mails earlier about it where you were
24 discussing this with the Luglis.

25 Did you have conversations with

1 Ms. Shulman about this particular agreement?

2 A. Again, I don't remember a
3 specific conversation, but it was my
4 understanding that everybody knew what was
5 going on with the agreement and agreed. And
6 by "everybody," I mean Brandon and
7 Ms. Shulman, the Luglis, and Mr. Kaplan.

8 Q. And did you draft this agreement?

9 A. Use.

10 MR. SCHOLZ: Objection. Asked
11 and answered.

12 A. Yes.

13 BY MR. MARCHAND:

14 Q. And just to be clear: The terms
15 for the agreement came from Mr. Kaplan;
16 correct?

17 MR. SCHOLZ: Objection. I think
18 that misstates prior testimony.

19 BY MR. MARCHAND:

20 Q. Well, you can clarify if I got
21 that wrong.

22 A. I think that that would be the
23 subject of attorney-client privilege.

24 Q. Okay. Do you recall whether
25 Ms. Shulman provided you with terms for this

1 agreement?

2 A. I do not have a recollection of
3 that, no.

4 Q. Did you ever advise Ms. Shulman
5 that she should retain separate counsel on
6 this matter?

7 A. That's the same question as asked
8 before. By this stage, they knew who I was
9 representing. And I didn't tell them every
10 time there was anything going on who I was
11 representing.

12 Q. I want to return to Exhibit 2,
13 which are your responses to the special
14 interrogatories.

15 A. Okay.

16 Q. We talked at the beginning of
17 today about changes you wanted to make to
18 special interrogatories 5 and 6. Do you
19 recall that?

20 A. I do recall that.

21 Q. Sitting here now, are there any
22 other changes to interrogatories that you
23 want to make -- to these special
24 interrogatories, I should say?

25 A. I would have to read through

1 them. I don't believe so, but I haven't
2 looked through them as we have been going
3 through things today, so...

4 MR. SCHOLZ: I believe that that
5 would be something we would go over and
6 we'll make the changes if we believe it's
7 appropriate.

8 MR. MARCHAND: Okay.

9 BY MR. MARCHAND:

10 Q. Special Interrogatory No. 1 asks
11 you to describe in detail why you contend
12 that it was necessary to execute any
13 purported lease agreement related to Iron
14 Angel Ranch in or about December 2017.

15 Do you see that?

16 A. I see that.

17 Q. And I believe it was your
18 testimony earlier that there was a
19 regulation in place at the time and still
20 existing that requires -- I forgot what the
21 language was exactly, but requires
22 demonstration of the right to possess or
23 right to occupy the property. Correct?

24 A. That is correct.

25 Q. Okay. In response to this

1 special interrogatory from -- when you
2 responded in 2021, you identified Business
3 and Professions Code 26051.5.

4 Do you see that?

5 A. I see that.

6 Q. Is that the regulation that you
7 were referring to earlier?

8 A. No.

9 Q. Okay.

10 A. No. That -- I think that it's
11 section -- now that I see it, it's section
12 804 [sic]. The footnote to section 804
13 [sic] includes a reference to that statute.

14 Q. Okay. So just to clarify: The
15 section 804 [sic] is the primary source that
16 you refer to as deriving that obligation or
17 this is?

18 A. Well, there -- it's not primary.
19 They're read together.

20 Q. Okay. So I see a reference here
21 to Business and Professions Code 26051.5 and
22 I see reference to provisions of sections
23 8104 of the emergency regulations.

24 A. Right. Correction.

25 Q. Okay. And so can you explain to

1 me what the interplay of those two
2 provisions are?

3 A. The way I understand it is that
4 section 804 [sic] is a regulation. The
5 statutory authority for the regulation is in
6 the Business and Professions Code, which is
7 a statute as opposed to a regulation.

8 Q. Got it.

9 And you keep saying 804. This is
10 a misprint that says 8104?

11 A. I'm sorry. It's -- it's 8104.
12 I'm sorry. I don't believe it's a misprint.
13 I think it's 8104.

14 Q. Okay.

15 A. I think I was saying it wrong.

16 Q. Okay. So 8104 is the regulation
17 implementing the statutory provision that's
18 provided in the preceding sentence. Is that
19 accurate?

20 A. That's my understanding, yes.

21 Q. And your response to this
22 interrogatory states that Section 8104 asked
23 for a lease or rental agreement or other
24 contractual documentation as part of the
25 licensing process.

1 Do you see that?

2 A. Yes.

3 Q. Is it still your testimony that a
4 lease was required to meet this provision?

5 A. Yes.

6 Q. Okay. In response to special
7 Interrogatory No. 2, the same -- I'm sorry.
8 Special Interrogatory No. 2 asks if you
9 contend that the cull investigation
10 agreement was insufficient to show that Iron
11 Angel II had the right to occupy Iron Angel
12 Ranch for commercial cannabis consultation
13 for state licensing purposes, describe in
14 detail the factual and legal basis for your
15 contention.

16 And in response to that, you gave
17 a very similar answer. Relying on Business
18 and Professions Code 26051.5 and
19 Section 8104 of the emergency regulations.

20 A. That's correct.

21 Q. And is it still -- I'm sorry. Go
22 ahead.

23 A. I'm sorry. I thought that was
24 the question. I'm sorry.

25 Q. Is it still your testimony that a

1 lease was required to meet the provisions of
2 Section 8104?

3 A. I believe that a lease is one way
4 to do that, yes. I believe a lease is
5 required to meet that statutory requirement.
6 I believe a lease is, yes.

7 Q. Okay. So I apologize. I don't
8 want to keep rehashing the same questions,
9 but this happened earlier as well.

10 So you just said a lease is
11 required. And then right before that, you
12 said a lease is one way. So which is it?
13 Is a lease one way to meet this provision or
14 is a lease the only way to meet this
15 provision?

16 A. I guess what I'm saying is is
17 that I'm unaware of other contractual
18 documentation that would satisfy that
19 requirement in light of the requirement --
20 you know, when they specifically mention a
21 lease or other rental agreement and its
22 being conducted by a tenant applicant.
23 Okay. Well, a tenant applicant would have
24 to have a lease.

25 So you put all that together and

1 I believe that that is -- that it has to be
2 a lease.

3 Q. But your response here says lease
4 or rental agreement or other contractual
5 documentation. So is it your testimony
6 today that that is incorrect?

7 A. What my testimony is that is
8 exactly what's written in Business and
9 Professions Code 26051.5 and in 8104.
10 I didn't make that up. That's the language
11 from the regulation.

12 Q. I'm sorry. Where in 26051.5 does
13 it say lease or rental agreement or other
14 contractual documentation?

15 A. I'm saying I'm quoting those in
16 there. It doesn't say lease or other
17 contractual obligation. I mean, the statute
18 and the regulation say what they say, and
19 they are regurgitated verbatim in the
20 response.

21 Q. Right. But your testimony is
22 that only a lease can satisfy that
23 provision.

24 A. In my opinion, only a lease would
25 satisfy that requirement because of -- you

1 know, if you tried to -- I'll leave it at
2 that. Yes, I believe a lease is the only
3 way because I'm not aware of another way.
4 At least a way that -- you know, I'm not
5 aware of another way that wouldn't confuse a
6 regulator or cause a problem.

7 Q. In preparing for this deposition,
8 did you review your responses to your -- I'm
9 sorry. Did you review your responses to
10 plaintiffs' form interrogatories set 1?

11 A. I don't know. I'm not -- I don't
12 know.

13 Q. Okay.

14 A. Because you've got different
15 nomenclature, I don't know the form
16 interrogatories versus the others. So if
17 you would refer me to what you're talking
18 about, that would help.

19 Q. Happy to. Let me show you what's
20 been designated now as Exhibit 30.

21 (Houghton Exhibit 30,
22 ^ description, was marked for
23 identification, as of this date.)

24 Q. I've just shared it in the Chat.
25 I'll share it on my screen.

1 It's titled Defendant Charles
2 Houghton's Responses to Plaintiffs' Form
3 Interrogatories set 1.

4 A. Okay.

5 Q. I'll scroll to the end. It is
6 dated March 10, 2021, and there is a
7 signature page titled verification dated
8 February 28th, 2021.

9 A. Yeah. Let me see the
10 interrogatory so I know what we're talking
11 about.

12 Q. Sure. Let me scroll up to the
13 top and you just tell me when you want me to
14 scroll. I'll start at 1.1.

15 MR. SCHOLZ: Counsel, just for
16 the sake of clarity, do you have -- can we
17 show -- maybe he's not familiar with what
18 the form interrogatories look like. They
19 are the special -- just for clarification
20 for him? These were the standardized form
21 questions.

22 A. I mean, I can read through them,
23 but I did not review them in preparation for
24 this deposition.

25 ///

1 BY MR. MARCHAND:

2 Q. Okay.

3 A. It's been a long time since this
4 has happened, so I need to look through
5 them.

6 Q. Okay.

7 A. It looks like the answer to the
8 first form interrogatory is correct.

9 Q. Okay. So just to clarify. On
10 the version page, page 23 of this document,
11 this your signature?

12 A. Yes, it is.

13 Q. Okay. So this was executed on
14 February 28th, 2021.

15 Do you recall whether you
16 reviewed these before signing them in
17 February of 2021?

18 A. I probably would have, yes. Yes.

19 Q. Were they accurate when you
20 signed them?

21 A. I believe so, yes.

22 Q. Okay. And I understand that you
23 have not reviewed them since then. Is that
24 accurate?

25 A. That's correct.

1 Q. Okay. Just a couple that I want
2 to draw your attention to. Form
3 interrogatory 2.11 states at the time of the
4 incident, were you acting as an agent or
5 employee for any person? If so, state the
6 name, address, telephone number and a
7 description of your duties.

8 You state in response, after
9 objections, no. Responding party was not
10 acting as an agent for a person. However,
11 responding party was acting as a licensing
12 consultant for MIH, which can be contacted
13 through responding party's counsel.

14 A. Correct.

15 Q. Do you see that?

16 A. Yeah. And I think that ties to
17 the other amendment that we -- or that
18 they're going to file that -- for the
19 special interrogatories 5 and 6.

20 Q. Okay.

21 MR. SCHOLZ: I would concur on
22 that with counsel. It's probably one of
23 those things that when we were going through
24 it, we may have not picked up on 2.11 at
25 that time, so...

1 MR. MARCHAND: Understood.

2 BY MR. MARCHAND:

3 Q. But just to clarify the outcome
4 of today's discussion: You were acting as
5 an agency for MIH; correct?

6 A. Correct?

7 Q. But you weren't acting as an
8 agent for any of the individually named
9 defendants or the other -- let's stop there.
10 With any of the individually named
11 defendants?

12 A. Other than through their
13 relationship with MIH, the answer is no, I
14 wasn't doing anything for them individually.

15 Q. Okay. And to the extent that you
16 were acting as an agent for NCAMBA9 or Iron
17 Angel II, it was through your agency
18 relationship with MIH; correct?

19 A. That's correct.

20 Q. Okay. And you were not ever
21 acting as an agent for Vertical Wellness;
22 correct?

23 A. I don't believe so. Again, that
24 was about the time that I was leaving, and
25 so I don't think I did anything for Vertical

1 Wellness, but I can't say that for sure.

2 I don't know. I don't remember at this
3 time.

4 Q. Form interrogatory 15.1 asks
5 you -- I'm going to summarize -- to identify
6 all the facts upon which you base a denial
7 or special or affirmative defense in
8 response to the Amended Complaint.

9 A. Right.

10 Q. At the time of this response,
11 which, again, I think it was March of 2021,
12 your response was responding party has not
13 yet provided any denials of material
14 allegations or alleged nay special or
15 affirmative defenses in their pleadings
16 because responding party has not answered
17 the Complaint.

18 A. Correct.

19 Q. Do you know whether defendants
20 have answered the Complaint in this case
21 now?

22 A. I assume that they have, but
23 I have not seen -- I assume that they have.
24 I don't know that I've seen the actual
25 filing.

1 Q. Okay. So this is another one
2 that needs to be revisited and updated,
3 given the current posture; correct?

4 A. Yes, I would agree. And since
5 I'm not taking any notes, Mr. Scholz, can
6 you make a note of that so we can go over
7 that.

8 MR. SCHOLZ: Yes. 2.11 and 15.1.

9 THE DEPONENT: Okay.

10 MR. MARCHAND: The good news is,
11 Ms. Knight, our stenographer, is taking very
12 notes of all of this.

13 THE DEPONENT: Yeah. I just
14 don't want to have to go through 4,000 pages
15 to get to all of that.

16 MR. SCHOLZ: We've got it.

17 BY MR. MARCHAND:

18 Q. Form Rog 50.3 asks was
19 performance of any agreement alleged in the
20 pleadings excused? If so, identify each
21 agreement excused and state why performance
22 was excused.

23 And your response, again, after
24 objections, was that defendants' performance
25 was excused due to plaintiffs' breach of

1 contract which resulted in plaintiffs
2 locking defendants off the property using
3 weapons.

4 Do you see that?

5 A. I see that.

6 Q. What knowledge do you have that
7 plaintiffs locked defendants off the
8 property using weapons?

9 A. I think that that would have
10 communicated to me either through
11 Mr. Kaplan -- more than likely Mr. Kaplan.

12 Q. Okay. Anyone else?

13 A. Could have been an attorney, but
14 I don't know that. I was -- you know;
15 correct.

16 Q. You were not there when the
17 lockout, as alleged here, occurred; correct?

18 A. No, I was not.

19 Q. You did not observe yourself
20 anyone using weapons; correct?

21 A. I did not, no. I was not there.

22 Q. Do you know what the factual
23 basis is for the statement here plaintiffs'
24 breach of contract?

25 MR. SCHOLZ: I'm going to object.

1 Calls for speculation.

2 A. I'm looking for --

3 MR. MARCHAND: I'm asking for his
4 knowledge. I don't know how that's
5 speculation. I'm asking whether he knows.
6 So that's no speculation, that's a yes or
7 no.

8 A. I think it's breach of contract.
9 I do not have any outside knowledge of a
10 plaintiffs' breach of contract which
11 resulted in the plaintiffs locking
12 defendants off the property.

13 BY MR. MARCHAND:

14 Q. Do you have any knowledge of a
15 plaintiffs' breach of contract, period?

16 A. I think it was the -- the breach
17 of contract was them exerting self-help to
18 take possession of the property. And that
19 would have been a breach of the cultivation
20 agreement. Yes.

21 Q. Would that have been a breach of
22 any other agreements?

23 A. Without looking at the other
24 agreements, I don't know.

25 Q. But, again, your knowledge of the

1 plaintiffs' self-help, as you put it, comes
2 from Todd Kaplan; correct?

3 A. Or someone from MIH.

4 Q. Okay. Throughout these responses
5 and the responses to the special
6 interrogatories that was Exhibit 2, it says
7 discovery and investigation is continuing
8 and ongoing and responding party reserves
9 the right to supplement this response at the
10 conclusion of discovery.

11 Do you see that?

12 A. I see that.

13 Q. Are you aware that, in fact, you
14 have an obligation to continually update
15 these discovery responses?

16 MR. SCHOLZ: Objection.
17 I believe that falls -- I'm not sure if
18 that's accurate under California law.
19 I think there's the -- there's the election
20 to do so. It's not under Federal Rules.

21 BY MR. MARCHAND:

22 Q. Mr. Houghton?

23 A. I am not aware of the exact
24 requirements under California law. I leave
25 that to my attorneys.

1 Q. Okay. Are there any other
2 answers where you have responded that the
3 discovery and investigation is continuing
4 and ongoing that you want to supplement at
5 this time?

6 A. Without seeing them, I couldn't
7 say that. I don't know. I haven't reviewed
8 this in a long time, so I would have to
9 review it and -- but, yes, I would have to
10 review it.

11 Q. Okay. Have you ever been sued by
12 anyone?

13 A. I believe so. Collection matter
14 probably 25 years ago.

15 Q. Any other matters?

16 A. Not that I'm aware of, no.
17 I mean, unless -- yeah, unless you want
18 to -- traffic tickets. And I've been sued
19 by the state.

20 Q. We won't count traffic tickets.
21 Have you ever sued anyone?

22 A. Personally?

23 Q. Yes.

24 A. I don't believe so, no.

25 Q. Thank you for the clarification.

1 A. Yeah.

2 Q. Have you ever had any
3 disciplinary actions taken against you as an
4 attorney?

5 A. No.

6 Q. Have you ever been investigated
7 by any state bar related to your work as an
8 attorney?

9 A. Not that I can think of, no.

10 Q. Have you ever been sanctioned for
11 unethical conduct as an attorney?

12 A. Not that I'm aware of, no.

13 Q. Have you ever been investigated
14 for unethical conduct as an attorney?

15 A. Not that I can think of.

16 MR. SCHOLZ: Objection. Asked
17 and answered.

18 MR. MARCHAND: I'm sorry?

19 MR. SCHOLZ: Sorry. I was
20 objecting because I thought it was answered
21 by your prior question.

22 MR. MARCHAND: Okay.

23 BY MR. MARCHAND:

24 Q. Have you ever been sanctioned for
25 unauthorized practice of law as an attorney?

1 A. No.

2 Q. Have you ever been investigated
3 for unauthorized practice of law as an
4 attorney?

5 A. No.

6 Q. When was the last time you
7 reviewed the rules of professional conduct
8 governing the practice of law in Colorado?

9 A. I don't know.

10 Q. When was the last time you
11 reviewed the rules of professional conduct
12 governing the practice of law in California?

13 A. I don't recall.

14 Q. Have you ever?

15 A. I believe so. I think I -- well,
16 I think I looked at some provisions, but
17 I couldn't tell you when.

18 Q. Do you recall which provisions
19 you looked at?

20 A. Not really, no.

21 Q. Okay.

22 MR. MARCHAND: Why don't we go
23 off the record, please.

24 THE DEPONENT: Okay.

25 THE VIDEOGRAPHER: We're going

1 off the record at 3:11 p.m.

2 (Recess taken.)

3 THE VIDEOGRAPHER: We are back on
4 the record at 3:24 p.m.

5 MR. MARCHAND: All right.

6 Mr. Houghton, thank you for your time today.

7 I don't have any further questions unless
8 your counsel has questions. I have just a
9 few things I want to note for the record,
10 but first I'll give your counsel an
11 opportunity.

12 MR. SCHOLZ: I don't have any
13 questions.

14 MR. MARCHAND: So before we go
15 off the record, Mr. Houghton, I just want to
16 note a couple of things. One is that
17 throughout today's deposition, you or your
18 counsel asserted attorney-client privilege
19 over a number of different questions or in
20 response to a number of different questions
21 and refused to answer those questions.

22 I think I made clear at various
23 points throughout that we disagree on
24 whether or not attorney-client privilege
25 applies to those particular questions and

1 reserve the right to seek recourse from the
2 Court and resolution of that as an issue.
3 And depending on the outcome of that, we
4 reserve the right to re-call you to ask you
5 those questions and additional follow-up
6 yes, sir regarding those topics.

7 Additionally, because defendants
8 have not fully complied with the court's
9 order in terms of producing documents that
10 are responsive to discovery requests, we
11 reserve the right to re-call you to discuss
12 those documents once they've been produced.

13 MR. SCHOLZ: Okay.

14 MR. MARCHAND: We can go off the
15 record. Thank you.

16 THE VIDEOGRAPHER: All right.
17 This ends the deposition and we're going off
18 the record at 3:25 p.m.

19 THE STENOGRAPHER: Mr. Scholz,
20 would you like to order a copy of the rough
21 draft transcript tonight?

22 MR. SCHOLZ: No, we don't want
23 the rough.

24 THE STENOGRAPHER: And would you
25 like to order a copy of the transcript?

1 MR. SCHOLZ: Yes, we do want a
2 copy of the transcript.

3 (Time noted: 3:27 p.m.)
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