

NO. C-0181-13-B

WESLACO HEALTH FACILITIES * 93RD DISTRICT COURT
DEVELOPMENT CORPORATION, *
AND CITY OF WESLACO, *
PLAINTIFFS *

VS. * OF

KNAPP MEDICAL CENTER; *
JAMES A. SUMMERSETT, III, *
JOHN L. LACKEY, RUDY *
SALINAS, ANABELL C. *
CARDONA, BRIAN A. *
HUMPHREYS, JR., NORMA I. *
MONTALVO, BERTHA SUAREZ *
AND ABRAHAM TANUS, *
IN THEIR OFFICIAL *
CAPACITIES AS MEMBERS *
AND ON BEHALF OF THE *
KNAPP MEDICAL CENTER *
BOARD OF DIRECTORS; *
KNAPP MEDICAL CENTER *
FOUNDATION, INC.; *
KNAPP COMMUNITY CARE *
FOUNDATION, INC.; PRIME *
HEALTHCARE FOUNDATION; *
AND PRIME HEALTHCARE *
SERVICES, *
DEFENDANTS. * HIDALGO COUNTY, TEXAS

ORAL/VIDEOTAPED DEPOSITION OF
MATTHEW JONES
October 8, 2014

Oral/Video deposition of MATTHEW JONES, produced
as a witness at the instance of the Plaintiff, and

duly sworn, was taken in the above-styled and numbered cause on the 8th day of October, 2014, from 9:10 a.m. to 4:07 p.m. before DONANN SMITH, CSR in and for the State of Texas, reported by oral stenography at the offices of Jones, Galligan, Key & Lozano, 2300 W. Pike Boulevard, Suite 300, Weslaco, Hidalgo County, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

APPEARANCES
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FOR THE DEFENDANT:
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ALSO PRESENT:
MR. LEO OLIVARES
MR. ANTHONY ROGERS, Videographer

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1 Oral/Videotaped deposition and answers of
 2 MATTHEW JONES, who resides in Hidalgo County, Texas,
 3 was taken herein by Mary Ibarra, Counsel for the
 4 Plaintiff, before Donann Smith, a Certified
 5 Shorthand Reporter in and for the State of Texas, on
 6 the 8th day of October, A.D., 2014, pursuant to the
 7 Notice issued in the above styled and numbered cause,
 8 pursuant to the Texas Rules of Civil Procedure and
 9 with the following stipulations and agreements:
 10 IT WAS AGREED that the witness must appear in
 11 accordance with the Texas Rules of Civil Procedure
 12 before any Notary Public or official authorized to
 13 administer oaths for purpose of reading over the
 14 deposition and making any corrections the witness
 15 finds to be necessary, such corrections to be
 16 recorded on a correction sheet submitted with the
 17 original of the deposition.
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1 VIDEOGRAPHER: On the record, beginning
 2 of tape 1. The time is 9:10.
 3 MATTHEW JONES,
 4 having been first duly sworn, testified as follows:
 5 EXAMINATION
 6 BY MS. IBARRA:
 7 Q Would you state your full name for the
 8 record, please?
 9 A Matthew Jones.
 10 Q And what is your profession, Mr. Jones?
 11 A I'm an attorney.
 12 Q Mr. Jones, my name is Mary Ibarra. I'm an
 13 attorney from San Antonio, Texas representing the
 14 interest of the Weslaco Health Facilities
 15 Development Corporation, and the Knapp -- the Weslaco
 16 -- City of Weslaco with regard to litigation that has
 17 been brought as against the members of the board of
 18 directors for Knapp, KCCF -- Knapp Medical Center,
 19 itself, and various organizations of Prime. We are
 20 here today pursuant to court order to participate in
 21 depositions by Judge Rudy Delgado order of October
 22 3rd. Have you ever given your deposition before?
 23 A Yes.
 24 Q On how many occasions?
 25 A Oh, I think maybe just once or twice that I

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1 can think of.
 2 Q What were the circumstances of that
 3 deposition?
 4 A I don't remember. It's been a long time.
 5 Q And are you board certified in any area?
 6 A I'm not.
 7 Q You're not. Okay. What is the nature of
 8 your general expertise with regard to your practice
 9 here at Jones-Galligan?
 10 A I'm what I would consider a business
 11 transactional attorney, doing variety of real
 12 estate, corporate transactions, lending
 13 transactions, general corporate matters.
 14 Q Are you board eligible?
 15 A I don't know what you mean by board
 16 eligible.
 17 Q You fulfilled the qualifications necessary
 18 to be board certified, but haven't yet completed the
 19 obligations and the testing required for it?
 20 A I've never really looked into it.
 21 Q And I spoke earlier that you are affiliated
 22 with Jones-Galligan. Are you a partner?
 23 A I am a partner in the firm, I am.
 24 Q Okay. And are you a managing partner?
 25 A I am the managing partner of the firm.

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1 Q The managing partner?
 2 A Yes.
 3 Q And what are your duties with regard to
 4 being a managing partner?
 5 MR. KIRBY: We're not getting into that.
 6 Don't answer that.
 7 MS. IBARRA: Certify the question,
 8 please. I'm sorry, your objection was?
 9 MR. KIRBY: My objection is it's not
 10 relevant to this deposition.
 11 MS. IBARRA: That's not one of the
 12 objections appropriate for a Texas deposition.
 13 MR. KIRBY: It is.
 14 MS. IBARRA: Certify the question,
 15 please.
 16 Q (Ms. Ibarra) How long have you been an
 17 attorney, Mr. Jones?
 18 A 19 years.
 19 Q Have you ever worked at any other firm?
 20 A I have not.
 21 Q With regard to hierarchy, are you considered
 22 the highest attorney in the firm, or is there an
 23 attorney who has been here longer and --
 24 MR. KIRBY: We're not getting into that,
 25 not relevant.

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1 Q Have you been retained as an expert in any
 2 cases --
 3 A No.
 4 Q -- with regard to your expertise? You've
 5 never served as an expert witness?
 6 A Not that I can ever recall.
 7 Q With regard to your professional experience,
 8 how would you apportion the percentage of your work
 9 at this firm, in terms of -- I think you said
 10 business law, transactional law, contract work, as
 11 well?
 12 A Yes.
 13 Q Okay. How would you apportion that, with
 14 regard to percentages?
 15 A Hundred percent.
 16 Q I understand. But if you could break it
 17 down further.
 18 A In what categories?
 19 Q Transactional work. How much percentage of
 20 your work is transactional?
 21 A I just said a hundred percent of it.
 22 Q Okay.
 23 A When it relates to -- it may not just be --
 24 I mean, we use the term transactional, but there's a
 25 lot of business issues that come up, corporate

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1 MS. IBARRA: Certify the question; not a
 2 proper objection.
 3 Q (Ms. Ibarra) Have you ever tried a case,
 4 Mr. Jones?
 5 A No.
 6 Q Have you ever sat any type of chair with
 7 regard to litigation?
 8 A I don't think so.
 9 Q Have you ever participated in the
 10 representation of a client who, ultimately, resulted
 11 in litigation?
 12 A Yes.
 13 Q Okay. Tell me about those cases.
 14 MR. KIRBY: We're not getting into that.
 15 MS. IBARRA: Certify the question.
 16 Q (Ms. Ibarra) What experience do you have
 17 with regard to litigation, Mr. Jones?
 18 A It comes up as a routine part of my
 19 practice, and that I have lots of clients, they end
 20 up in litigation. There's aspects of litigation that
 21 this firm handles that have transactional issues
 22 involved that I'll be involved in at that level.
 23 Q Are you considered an expert in any area of
 24 law?
 25 A By whom?

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1 reorganizations, things like that, that aren't
 2 necessarily transactional, so I just say business law
 3 probably is the best thing to say; but at the same
 4 time, I do wills for mom and pops and little things
 5 to represent individuals, too, so we generally refer
 6 to that as transactional. That's what I do.
 7 Q Are you predominantly a commercial attorney?
 8 A Yes.
 9 Q With regard to your association with Knapp
 10 Medical Center, is the work you did with regard to
 11 the acquisition of Knapp Medical Center your first
 12 work with Knapp Medical Center?
 13 A Yes.
 14 Q Had any --
 15 A Well our work started before that. Really,
 16 it's part of the -- with Knapp -- in the overall
 17 transaction, going back to the UHS transaction, we
 18 became involved at that stage.
 19 Q Okay. Has any other member of your firm
 20 represented Knapp Medical Center?
 21 A Prior to this, you mean?
 22 Q At any time, for other transactions or
 23 lawsuits?
 24 A Our firm is representing them in that; not
 25 just me, but our entire firm has been representing

1 them in that.

2 Q When did that begin?

3 A Somewhere in the beginning of 200 -- or

4 2012.

5 Q Okay. What members of your firm, including

6 associates, have done work for Knapp Medical Center

7 since 2012?

8 A Litigation and transactional, or just --

9 Q Yes, sir. Anybody who has presented any

10 representation on behalf of Knapp Medical Center by

11 this firm?

12 A Myself, Mr. Kirby, here, Bob Galligan, Gene

13 Vaughn, Paola Guerrero. I can't think of who else

14 would have.

15 Q I see Anita Lozano on some of the documents.

16 A Oh, yeah, Anita did help in one aspect of

17 the transaction at the beginning.

18 Q Are these all partners?

19 A Paola Guerrero is not.

20 Q Okay. How many partners do you have at this

21 firm?

22 A Nine.

23 Q Is it fair to say that at sometime or other

24 all of the partners in this firm have done work for

25 Knapp Medical Center?

1 Q Okay.

2 A Not that I can recall.

3 Q Okay.

4 A We don't have a lot of partners meetings, by

5 the way, so --

6 Q All right. What about associates? How many

7 associates do you have at the firm?

8 A Six.

9 Q And of those associates, who --

10 A Maybe five right now; actually, just five.

11 Q Okay. Of those associates, who has worked,

12 to your knowledge, on any of the Knapp Medical Center

13 matters?

14 A Paola Guerrero.

15 Q Who are the associates that work for Bob

16 Galligan?

17 A Any associate can be used by any partner at

18 any point in time, so I'm sure Bob has probably used

19 most of them at one point or another; although, we

20 have a new associate who just started who is a

21 transactional attorney, so she -- he wouldn't have

22 used her, but the other associates -- well, no, Cindy

23 -- even then, he probably worked with Cindy some.

24 Q So is it possible then that an associate may

25 have done a specific assignment with regarding Knapp

1 A No.

2 Q Okay. Is there anybody else in this list,

3 you've identified one, two, three, four, five, six --

4 at least five partners that have done work. Are

5 there any other partners you can think of that have

6 done work for Knapp Medical Center in some capacity?

7 A Not that I can recall right now.

8 Q How about assoc --

9 A We have general discussions, occasionally,

10 here and there. Somebody may have stepped into one,

11 but nothing that -- no significant amount of work

12 that I can think of by any of the other partners.

13 Q Are these cases discussed at partners

14 meetings?

15 A No, not normally.

16 Q I'm sorry?

17 A Not normally.

18 Q If you have -- has it been the practice of

19 the partners at times to discuss certain cases at

20 partners meetings?

21 A No.

22 Q At any time was the Knapp Medical Center

23 transaction sale to Prime discussed at a partners

24 meeting?

25 A No.

1 Medical Center matter for that limited purpose,

2 only --

3 MR. KIRBY: Objection, form.

4 Q (Ms. Ibarra) I'll rephrase it. Are there

5 any -- is it possible then that an associate can be

6 assigned to do a assignment, a single assignment say

7 on a Knapp Medical Center matter, and that be the

8 limit of his involvement?

9 MR. KIRBY: Objection, form.

10 Q (Ms. Ibarra) You can answer.

11 A Bob can get any attorney, any associate in

12 the firm to do a project any time he wants, pretty

13 much, so -- we don't have lines drawn between what

14 can be done. We use whoever we think is most helpful

15 and able to help at that particular point in time.

16 Q Are you --

17 A So, yes, he could use any of them.

18 Q I apologize. Has Greg Kerr worked on any

19 matters for Knapp that you're aware of?

20 A Not that I can think of.

21 Q Is it possible that Mr. Galligan would

22 have him at his availability to do some work on the

23 file --

24 MR. KIRBY: Objection --

25 Q (Ms. Ibarra) -- that you didn't know about?

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1 **MR. KIRBY: Objection, form.**
 2 A I think I just answered that. Yes, Bob can
 3 ask any associate in the firm to work on any case he
 4 wants at any time.
 5 **Q (Ms. Ibarra) Mr. Jones, generally, you said**
 6 **you represent commercial clients?**
 7 A Uh-huh.
 8 **Q Do you represent any family members?**
 9 A Of commercial clients or --
 10 **Q No, have you ever represented personally any**
 11 **family members --**
 12 A My own family members?
 13 **Q Yes, sir.**
 14 A Yes.
 15 **Q Okay. And who would that be?**
 16 **MR. KIRBY: We're not getting into that.**
 17 **That's not relevant.**
 18 MS. IBARRA: It is.
 19 **Q (Ms. Ibarra) I'm asking, specifically,**
 20 **whether you've ever represented --**
 21 **MR. KIRBY: Well, he's not answering it,**
 22 **so --**
 23 MS. IBARRA: Are you instructing him not
 24 to answer?
 25 MR. KIRBY: Yeah.

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1 transactions or potential transactions with any
 2 members of your family?
 3 A No.
 4 **Q Have you relied upon any associates, other**
 5 **than Paola and Anita Lozano to assist you with regard**
 6 **to transaction between Prime and Knapp Medical**
 7 **Center?**
 8 A Yes, Gene Vaughn.
 9 **Q Are any of these attorneys that have**
 10 **assisted you, whether they be partners or associates,**
 11 **board certified in any area?**
 12 A No.
 13 **Q Did Bob Galligan participate in the**
 14 **transactional part of the sale between Prime**
 15 **Healthcare and Knapp Medical Center?**
 16 A No.
 17 **Q Did you ever have conversation with Mr.**
 18 **Galligan as to the circumstances or terms that came**
 19 **up in the transaction between Prime and Knapp Medical**
 20 **Center?**
 21 A Yes.
 22 **Q Tell me about those conversations.**
 23 **MR. KIRBY: Objection. We're not**
 24 **answering that. That's work product, privileged,**
 25 **attorney/client privilege.**

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1 MS. IBARRA: Certify the question,
 2 please.
 3 **Q (Ms. Ibarra) Have you ever represented**
 4 **Michael Jones in any litigation or other legal**
 5 **matter?**
 6 **MR. KIRBY: We're not getting into that.**
 7 A I think he just told me not to answer that
 8 question, so I'm not going to.
 9 MS. IBARRA: Are you instructing him not
 10 to answer this?
 11 MR. KIRBY: Yes.
 12 MS. IBARRA: Certify the question. May
 13 we just have a running objection that if you're gonna
 14 claim an objection -- I'll just -- I'll just certify
 15 it each time.
 16 MR. KIRBY: I don't think it's necessary
 17 to certify questions anymore, but --
 18 MS. IBARRA: No, I don't think so,
 19 either, but just in case that the court prefers I do,
 20 I'm gonna be sure the record is clear.
 21 MR. KIRBY: I'll agree you don't have to
 22 certify it, if that's what you're asking for. I
 23 think that's the law.
 24 **Q (Ms. Ibarra) Have you discussed the Knapp**
 25 **Medical Center, Prime, Valley Baptist, or United**

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1 MS. IBARRA: Certify that question.
 2 **Q (Ms. Ibarra) Are you refusing to answer on**
 3 **advice of your attorney?**
 4 A I am.
 5 **Q When you had those discussions with Mr.**
 6 **Galligan, was it during the pendency of the**
 7 **transaction, that is before the transaction was**
 8 **consummated?**
 9 A Yes.
 10 **Q When did you first become involved in the**
 11 **Knapp Medical Center transaction? Who hired you?**
 12 A The board.
 13 **Q Who were you first contacted by?**
 14 A Either John Lackey or Abraham Tanus. I
 15 can't remember at this point. May even have been
 16 them together.
 17 **Q Prior to this contact, had you had any**
 18 **dealings with Jim Summersett?**
 19 A Where I represented Jim Summersett?
 20 **Q Or had any relationship or personal**
 21 **connection to Jim Summersett?**
 22 A I had had another client who had some
 23 questions for the hospital that I assisted them in
 24 asking, and Jim Summersett responded to those, and so
 25 I had interact -- that's, basically, the extent of my

1 interaction with Jim Summersett, prior to being
 2 involved in this case.
 3 Q At that time, did you represent Knapp or the
 4 other client?
 5 A I did not represent Knapp.
 6 Q Okay. Do you know how it is that your firm
 7 started it's representation of Knapp Medical Center
 8 interests? You said it began in 2012?
 9 A Yes.
 10 Q Do you have any idea how that relationship
 11 began?
 12 A Yes.
 13 Q Can you tell me about that, please?
 14 A Yeah. The board members asked us to
 15 represent them. We've known and represented a number
 16 of the board members in the past, so they knew who we
 17 were and the type of work we do.
 18 Q Was the first case that you were asked to
 19 represent Knapp Medical Center associated with the
 20 potential sale of the center?
 21 A The UHS sale, as I'll refer to it.
 22 Q Okay. Were you involved at all in the
 23 Valley Baptist transaction?
 24 A No.
 25 Q Did you at any time review the terms that

1 already on the table by the time you came aboard?
 2 A Yes.
 3 Q Okay.
 4 A This was after the announcements and after
 5 -- I already think I mentioned, it was in the
 6 beginning of 2012, so I think most of the -- there
 7 had been disclosure of the transaction, et cetera, at
 8 the end of 2011, if I'm not mistaken, so --
 9 Q What was your understanding with regard to
 10 the restrictive covenants and how they affected the
 11 United Health transaction?
 12 MR. KIRBY: I'm gonna object to that,
 13 attorney/client privilege, work product privilege.
 14 Don't answer.
 15 MS. IBARRA: I'm asking him what his
 16 understanding is on a legal basis, as an attorney,
 17 what his understanding is regarding restrictive
 18 covenants.
 19 MR. KIRBY: He hasn't been designated as
 20 an expert to testify about that, and, frankly, there
 21 is no expert that could testify about that. But I'll
 22 let you answer that. Go ahead.
 23 A My understanding about restrictive
 24 covenants, in general, or the one that applies to the
 25 hospital?

1 were proffered for the Valley Baptist transaction?
 2 A No.
 3 Q Have you had any communications at all or
 4 undertaken any understanding with regard what Valley
 5 Baptist had proposed as an offer to purchase Knapp
 6 Medical Center?
 7 A No.
 8 Q Tell me about how you were approached to
 9 address the United Healthcare -- the United Health
 10 transaction.
 11 MR. KIRBY: Objection, form. He's
 12 already answered that.
 13 Q (Ms. Ibarra) What were you told with regard
 14 the United Healthcare offer?
 15 MR. KIRBY: Objection, attorney/client
 16 privilege. Don't answer.
 17 Q (Ms. Ibarra) Are you refusing to answer?
 18 A I'm refusing to answer.
 19 MS. IBARRA: Certify the question.
 20 Q (Ms. Ibarra) At the time that you were
 21 retained to represent Knapp Medical Center's
 22 interest in the transaction between United -- or the
 23 proposed transaction between United and Knapp
 24 Medical Center, had Knapp and United already put
 25 together a -- a package, or was there any proposal

1 Q (Ms. Ibarra) Let's start with United
 2 Healthcare proposal and how it affected that.
 3 A My understanding, and my reading of the
 4 restrictive covenant is that it restricts the
 5 hospital for being used as a nonprofit hospital, and
 6 clearly --
 7 MR. KIRBY: As a for-profit.
 8 A Yeah -- no, it restricts that it must be
 9 used, continue to be used, as a nonprofit. And so
 10 since UHS is a for-profit, that violated the
 11 restriction.
 12 Q (Ms. Ibarra) That was in, you said, close
 13 to the end of 2012?
 14 A No, this is the beginning of 2012.
 15 Q Beginning, okay.
 16 A While the UHS transaction was still a
 17 possibility.
 18 Q Were you involved in the offer made to the
 19 city council to purchase the -- essentially purchase
 20 the restrictive covenant, so that the restrictive
 21 covenant would not be enforced?
 22 A Yes, I was; to pay for the release of the
 23 restrictive covenant is the way I would couch that,
 24 but, yes, I was involved in making that offer.
 25 Q Was that your idea?

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1 A I don't know if it was mine. Not really.
 2 No, that wasn't my idea.
 3 Q Now you didn't make that presentation to the
 4 City, did you? You did not, specifically, make that
 5 offer, did you?
 6 A There's a letter where that offer was made.
 7 Q But you didn't sign that letter, did you?
 8 A No. I think that letter was signed by Bob
 9 Galligan.
 10 Q What was Mr. Bob Galligan's involvement with
 11 regard the offer to the City to buy for five million
 12 dollars the restrictive covenant releasing the
 13 obligation, nonprofit obligation?
 14 MR. KIRBY: Objection, form.
 15 A He signed the letter. I mean, yes, he was
 16 involved in drafting it. I was part of that, as
 17 well. We were both working on the file at the same
 18 time. I think he drafted the letter, but he was
 19 aware of the offer, and, obviously, that came from
 20 the direction of the board.
 21 Q (Ms. Ibarra) Did he agree that that was an
 22 appropriate modality to try to resolve the
 23 restrictive covenant?
 24 A Absolutely.
 25 Q Was he involved --

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1 exchange for releasing that covenant?
 2 A No, I did not.
 3 Q So do you have any information or knowledge,
 4 sitting here today, as to whether or not the City
 5 even could accept five million dollars to release a
 6 restrictive covenant that predated the current city
 7 council?
 8 A I don't.
 9 Q What did you rely upon to suggest that that
 10 was an appropriate resolution for this matter?
 11 A Well, we made a variety of offers to
 12 arbitrate, to mediate, to discuss the great benefits
 13 that would come out of the UHS transaction, and
 14 attempts to sit down and have some sort of reasonable
 15 discussion with the City about possibly how could it
 16 be removed so we could preserve the value of the UHS
 17 transaction, and they refused to ever really
 18 cooperate in any material respect, at all. So we
 19 made that offer. They could have said, "No, we can't
 20 do that, but we're willing to talk to you, and here's
 21 what we think we can do, or what we could do, here's
 22 another alternative", but they never did. So we made
 23 an offer. Whether or not they could have legally
 24 accepted it, that was their responsibility to
 25 determine, not ours, but they never responded.

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1 A I think everybody on our side clearly
 2 thought that was one of the only options we had left
 3 to preserve the transaction at that point, and that's
 4 why they went to that length, was to give that as a
 5 final proposal to the City before the UHS transaction
 6 was squandered, in reality, by the city commission.
 7 Q And who would be on our side, as you define
 8 it?
 9 A On your side would be the city commission.
 10 Q No, on your side. You just said everybody
 11 on our side. I would like to know who that is.
 12 A Yes, the board of trustees and -- sorry --
 13 the board of directors for Knapp, and Mr. Galligan
 14 and myself as legal counsel.
 15 Q Are you aware as to whether or not the City
 16 actually had the latitude to make a restrictive
 17 covenant that affected the interest of the grantors?
 18 A To make or to release.
 19 Q I would like --
 20 A There's already a restrictive covenant in
 21 place, so are you talking about them making a further
 22 restrictive covenant?
 23 Q No. I'm asking you whether or not you
 24 researched and have an understanding as to whether or
 25 not the City had the right to accept money in

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1 Q But you've been very specific that they
 2 squandered an opportunity. Yet sitting here today,
 3 you can't tell me whether that opportunity was
 4 realistic or not, can you?
 5 A I can tell you that they had the ability to
 6 have the restrictive covenant released, and had they
 7 done that, even without the five million dollars, it
 8 still was a great opportunity for the City that I
 9 think they squandered, with or without the five
 10 million.
 11 Q Not looking at the five million, I would
 12 like to know what your basis of belief is with regard
 13 that the City had the right to lift -- the
 14 restrictive covenant is not an arbitrary term, is it?
 15 It's committed to a deed document, isn't it?
 16 A That's correct. It would take a written
 17 recorded document by the Weslaco Hospital Authority,
 18 to release the restriction.
 19 Q And who created that restriction?
 20 A The Weslaco Hospital Authority.
 21 Q Okay. And the Weslaco Hospital Authority
 22 didn't just pull that out of air, did they? Wasn't
 23 there a basis for them having created that
 24 restriction?
 25 MR. KIRBY: Objection, form.

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1 A I think you have to go back and ask the
 2 people who did it in 1987.
 3 Q (Ms. Ibarra) Did you study the covenants
 4 with regard how they applied to the original charter
 5 for the creation of Knapp Medical Center?
 6 A Charter? You're talking about their
 7 articles of incorporation?
 8 Q Talking about the charter. The space that
 9 discusses what the intent was for this hospital when
 10 it was created in 1962.
 11 A I have not studied the 1962 charter, if
 12 that's your question.
 13 Q Are you -- are you aware of what the
 14 articles of incorporation prior to 1977 state with
 15 regard to the charter or the purpose and mission of
 16 this hospital?
 17 A No, but I think I'm pretty familiar with
 18 what it is.
 19 Q Based on what?
 20 A I've seen their -- their articles of
 21 incorporation had been amended many times and
 22 restated, so I've seen the more recent versions of
 23 it, and I recognize, yes, it was intended to be a
 24 nonprofit hospital. Obviously, that's what the
 25 intention was. There's no obligation of the City to

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1 A That they -- that they legally couldn't
 2 accept five million dollars, which is what you said
 3 before, or that they legally couldn't release the
 4 restrictive covenant because of some prohibition?
 5 Q Let's be sure the record is clear. The five
 6 million dollars is not what interested the City. The
 7 concern relates here in this question and to the City
 8 as to whether or not they had the legal right to lift
 9 or change a restrictive covenant. If they had not
 10 been legally permitted to restrain -- to remove that
 11 restrictive covenant, did you have any other ideas?
 12 MR. KIRBY: Objection, form.
 13 A If they had no right to -- if they had no
 14 legal ability to lift a restrictive covenant, which I
 15 think the restrictive covenant, itself, says that the
 16 Hospital Authority can do it, but they also must get
 17 the approval of the attorney general. So the
 18 document, itself, speaks to that. Now if there's
 19 some other limitation beyond that and they just --
 20 legally, no way they could ever lift the restrictive
 21 covenant, ever, well, then obviously, there's no way
 22 we could ask them to restrict it, and the UHS deal
 23 would be dead.
 24 Q (Ms. Ibarra) And if Prime Healthcare is
 25 determined to be the acquiring entity in transaction

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1 waive it, but the request was made, and we thought
 2 for good reason. The City chose not to do that.
 3 That's their choice, and they chose to do it, so they
 4 did.
 5 Q And if the City is legally not permitted to
 6 lift that restriction, do you have any information
 7 for me at all that says that that's an incorrect
 8 assumption on their part?
 9 A I have never seen anything that would
 10 indicate that it was not legal. No one from the City
 11 has ever indicated that to us in any way, shape or
 12 form, but if you've come to that conclusion on your
 13 own, well, you could be right. I'm not gonna say
 14 that you're wrong, because I have no idea.
 15 Q You've not come to any legal analysis or
 16 research that advises you sitting here today that
 17 they had the right to accept your offer?
 18 A Clearly, I never felt the obligation to
 19 research what the City could or couldn't have done.
 20 That was up to their legal counsel, and if their
 21 legal counsel had chosen to advise us of that, then
 22 they could have, but they didn't.
 23 Q What alternatives would you have come up
 24 with, had you been so advised? Was there anything
 25 else, or was this your last proffer?

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1 which you are involved, Prime Healthcare Foundation,
 2 Incorporated, is a for-profit, isn't it?
 3 A Prime -- which entity? Are you -- there's a
 4 for-profit --
 5 Q Prime Healthcare --
 6 A -- and a nonprofit.
 7 Q Prime Healthcare Services Foundation --
 8 Prime Healthcare Services, Incorporated --
 9 A Okay.
 10 Q -- is a for-profit, correct?
 11 A Okay. Agreed.
 12 Q Okay. And if Prime Healthcare Systems,
 13 Incorporated actually acquired Knapp Medical Center,
 14 the restrictive covenant is still in place as of
 15 today, isn't it?
 16 MR. KIRBY: Objection. You're using the
 17 wrong names, and I know you want to ask your question
 18 about this, but you need to use the correct name.
 19 That time you said Prime Healthcare Systems. Is it
 20 gonna be Prime Healthcare Services, Inc., or Prime
 21 Healthcare Systems?
 22 MS. IBARRA: Which would you like me to
 23 use?
 24 MR. KIRBY: I would like you to use the
 25 correct one.

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1 MS. IBARRA: And that is?
 2 MR. KIRBY: I believe it's Services.
 3 MS. IBARRA: Systems, but Services will
 4 work.
 5 Q (Ms. Ibarra) Let's just refer to it, is
 6 PHSI a nomenclature you're familiar with?
 7 A Well, there's also a PHSI Foundation. So
 8 why don't we just call one Prime and the other one
 9 Prime Foundation.
 10 Q Thank you. Prime Foundation is a -- is the
 11 not-for-profit, correct?
 12 A Correct.
 13 Q And Prime -- Prime is a for-profit entity?
 14 A Correct.
 15 Q All right. And the restrictive covenants to
 16 date are still in place, correct?
 17 A Correct.
 18 Q And if a determination was made that Prime
 19 actually acquired the hospital, that would be in
 20 violation of the restrictive covenants, correct?
 21 MR. KIRBY: A determination by who?
 22 Q (Ms. Ibarra) Either the court or the
 23 attorney general?
 24 A Well, I'll answer your question. I think
 25 you've actually asked -- there's two ways to answer

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1 A IRS acquire --
 2 Q Can a for-profit acquire a not-for-profit?
 3 A My understanding is that they can, but if
 4 you're asking IRS questions, you need to ask a CPA or
 5 a tax lawyer. I'm not either of those.
 6 Q So at any time when you were involved in
 7 outlining and ultimately putting together this
 8 transaction, did you do any research with regard IRS
 9 implications?
 10 A No. Wasn't one of my roles in the
 11 transaction.
 12 Q What was your role in the transaction?
 13 MR. KIRBY: We're not gonna get into
 14 that.
 15 MS. IBARRA: That's the seminal issue
 16 here today.
 17 MR. KIRBY: Well, I mean, it's also work
 18 product and attorney/client privilege, so --
 19 MS. IBARRA: Certify the question.
 20 Q (Ms. Ibarra) Are you gonna take the advice
 21 of your counsel and not answer?
 22 A Yes.
 23 Q You said earlier that it was your group, or
 24 your -- I think you put it as -- that the involvement
 25 was the board of direct -- the board of directors of

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1 your question. I'm gonna give you both answers.
 2 First is no. If they had become the -- the sole
 3 corporate member of Knapp Medical Center, Inc., that
 4 would not have violated the restrictive covenant.
 5 They didn't. The foundation did, but merely by -- if
 6 it had been Prime -- if it had been Prime, for-
 7 profit, that it acquired the membership interest in
 8 Knapp Medical Center, as opposed to Prime Foundation,
 9 my opinion is that that would not have violated the
 10 restrictive covenant in any way, because Knapp
 11 Medical Center is still a nonprofit hospital. It's
 12 the same corporation it was before, and it would
 13 continue to be a nonprofit hospital in full
 14 compliance with the restrictive covenant. Now you
 15 said acquire, so I'm not sure exactly what you meant.
 16 Now if you meant that if Prime Services acquired all
 17 of the assets of -- if Prime, for-profit, acquired
 18 all of the assets of Knapp Medical Center and was
 19 operating the hospital on its own, would that violate
 20 it? Yes, I think that would violate it exactly the
 21 way the UHS transaction would have violated it. It
 22 would have been a for-profit that owned and operated
 23 the hospital.
 24 Q The IRS does not permit a foundation to be
 25 acquired by a for-profit entity, does it?

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1 Knapp, Galligan and Jones, you, were behind this idea
 2 of changing the restrictive covenant. How many times
 3 did you meet with the individual members of the
 4 boards of directors at Knapp to ascertain what their
 5 wishes were as to changing the restrictive covenant?
 6 A I don't know that we've talked about that
 7 yet. We talked about the proposal, but what do you
 8 mean by changing the restrictive covenant?
 9 Q You had mentioned that everybody on your
 10 side, what you described as being the Knapp Medical
 11 board of directors, in addition to the two attorneys,
 12 you and Mr. Galligan, involved in the matter, were
 13 behind the idea of approaching the city council with
 14 five million dollars to change the restrictive
 15 covenant. Did I say that correctly?
 16 A Yes.
 17 Q Okay. And I'm asking you who were you
 18 dealing with with the board of directors to ascertain
 19 that that was something they were behind?
 20 A The board of directors.
 21 Q Okay. And I'm asking you how many times did
 22 you meet with the individual boards of directors --
 23 members of the board of directors to ascertain
 24 whether that's really what they wanted?
 25 A In terms of how many board meetings did I

1 attend?

2 Q How many members did you meet with
3 individually to ascertain their understanding of
4 that effort to secure a change in the restrictive
5 covenants?

6 A I don't remember meeting with individual
7 board members to discuss that. I remember discussing
8 it at board meetings.

9 Q Who did you principally deal with with
10 regard to the Knapp Medical Center board of
11 directors?

12 A Primary contacts would be John Lackey and
13 Abraham Tanus, but I answered questions and dealt
14 with all the board members.

15 Q Now at the time that the -- the discussions
16 began with regard to the sale of Knapp Medical
17 Center, why was Knapp being sold?

18 MR. KIRBY: I'll object to that
19 question. His answer would be attorney/client
20 privilege and work product.

21 MS. IBARRA: Actually, it's out in the
22 public domain.

23 Q (Ms. Ibarra) I'm asking you, sir --

24 MR. KIRBY: Yeah, but not from him it's
25 not.

1 attorney/client privilege, work product.

2 MS. IBARRA: Tell me where that comes
3 from with regard to privilege. I don't understand.

4 MR. KIRBY: Because the information --
5 any information he would have obtained from his
6 client, factual information, without regard even to
7 the subject matter, would have been used in the
8 rendition of legal services.

9 MS. IBARRA: Certify the question.

10 MR. KIRBY: Simple as that.

11 MS. IBARRA: Certify the question.

12 Q (Ms. Ibarra) Were you asked whether or not
13 the trans -- any transaction selling Knapp Medical
14 Center was in the best interest of this community?

15 MR. KIRBY: Objection, don't answer it;
16 attorney/client privilege.

17 Q (Ms. Ibarra) I'm not asking what your
18 clients told you.

19 MR. KIRBY: Work product privilege.

20 Q (Ms. Ibarra) Have you ever been approached
21 and asked by anyone in this community or surrounding
22 areas or otherwise, as to why Knapp needed to be
23 sold?

24 MR. KIRBY: Don't answer that as to any
25 person who would be -- could be affiliated with your

1 MS. IBARRA: Actually, it is.

2 Q (Ms. Ibarra) Let me -- let me ask you a
3 different way then if you're going to --

4 MS. IBARRA: Again, we'll certify the
5 question.

6 Q (Ms. Ibarra) But what I'm asking you, sir,
7 is why were you -- what information were you provided
8 -- or were you provided any information with regard
9 why Knapp Medical Center would be sold?

10 MR. KIRBY: I object to that question,
11 attorney/client privilege, work product, don't
12 answer it.

13 MS. IBARRA: Certify the question.

14 Q (Ms. Ibarra) Did you have any individual
15 discussions with Mr. Summersett as to why the
16 hospital needed to be sold?

17 MR. KIRBY: Don't answer that question;
18 attorney/client privilege, work product privilege.

19 MS. IBARRA: Certify the question.

20 Q (Ms. Ibarra) At the time that you were
21 retained to begin putting together this transaction
22 or complete the United transaction, were you aware of
23 the financial value and stability of Knapp Medical
24 Center?

25 MR. KIRBY: Don't answer that question;

1 clients, whether employees, whether board members,
2 whether anybody else. If there's other people that
3 you could answer it to, then you could answer it, but
4 not anyone that would relate to any of your clients.

5 A I've been approached. Sure, I've had a few
6 people ask me about the transaction, or if -- you
7 know, what my thoughts were about, or made comments
8 about it.

9 Q (Ms. Ibarra) What were those comments that
10 were made to you?

11 A What's going on with the hospital?

12 Q Did anybody ever express to you any distaste
13 for the sale of the hospital?

14 A Not really. Mainly people were confused.

15 Q And what did you tell them when they asked
16 you as to -- asked you about that, sale of the
17 hospital?

18 A Told them I thought the board was doing a
19 great thing.

20 Q Okay. And when you told them that, did you
21 give them any additional information as to why you
22 held such belief?

23 A Of course not.

24 Q Did you ever get any questions with regard
25 how much Knapp was being sold for?

1 A I don't know. If they would have asked me,
 2 I wouldn't have told them until everything was made
 3 public.
 4 Q Which is a good question. Why is it that
 5 the public was not made aware of the sale of this
 6 hospital until after --
 7 MR. KIRBY: We're not -- don't answer
 8 that. It's attorney/client privilege, work product.
 9 MS. IBARRA: Certify the question.
 10 Q (Ms. Ibarra) Did you have any discussions
 11 with regard -- any city commissioners with regard to
 12 the sale of this hospital either to United or to Prime --
 13 Prime Foundation?
 14 A Did I directly speak to any city
 15 commissioners?
 16 Q Correct.
 17 A Not that I can remember.
 18 Q How about indirectly, other than through the
 19 letter you mentioned earlier with Bob Galligan?
 20 A No.
 21 Q Okay. The United transaction was going on
 22 in 2012, correct?
 23 A The United transaction was going -- the UHS
 24 transaction?
 25 Q Correct.

1 your involvement?
 2 A Only through the discovery process in this
 3 case have I seen that.
 4 Q As of the time you became involved in this
 5 case in 2012, were you aware that Prime was already
 6 in discussions with the Knapp Medical Center board of
 7 directors with regard to its possible acquisition?
 8 MR. KIRBY: Objection. Don't answer
 9 that. It would be attorney/client privilege, work
 10 product.
 11 MS. IBARRA: I'm just asking him what he
 12 was aware of at the time he became involved.
 13 MR. KIRBY: That's correct, and that
 14 information would have come from his clients, so he
 15 can't answer it.
 16 MS. IBARRA: Let's start with Exhibit
 17 11.
 18 Q (Ms. Ibarra) Sir, this is a document that
 19 your firm provided, dated June the 7th, 2012. It's
 20 an indication of interest letter sent on behalf of
 21 Knapp Medical Center to Prime Healthcare Services.
 22 MS. IBARRA: I'm gonna go ahead and mark
 23 this as Exhibit No. 1.
 24 (Exhibit No. 1 was marked.)
 25 Q (Ms. Ibarra) Sir, can you tell me who sent

1 A Was going on the beginning of 2012.
 2 Q At that time, you were also engaged in
 3 transactional discussions with Prime, weren't you?
 4 MR. KIRBY: Don't answer that.
 5 A Don't believe I can answer that.
 6 MR. KIRBY: Yeah. It's work product,
 7 attorney/client.
 8 Q (Ms. Ibarra) Let's just get to the
 9 documents that address that question. Do you recall
 10 the first time that you spoke with any representative
 11 of Prime with regard to the potential acquisition of
 12 Knapp Medical Center?
 13 A Yes. Now I don't remember an exact date,
 14 but I know, generally, when that was.
 15 Q And that date, that approximate time was
 16 when?
 17 A I would say probably in the September,
 18 October of 2012 time frame.
 19 Q Do you recall a presentation being made in
 20 2011 by Prime to the board of directors?
 21 A No. I wasn't representing the hospital at
 22 that point in time.
 23 Q Have you seen any documents, including a
 24 PowerPoint, that document that Prime had
 25 communications with the board of directors prior to

1 that letter?
 2 A You want to know who sent it?
 3 Q I want to know who sent it, yes.
 4 A Yes, Seale & Associates. It's right there
 5 on the letterhead.
 6 Q Who is that?
 7 A They are an MNA firm, apparently out of
 8 Virginia.
 9 Q Have you worked with them before?
 10 A I've not worked on -- I know who they are,
 11 but I've never worked with them directly until this
 12 case.
 13 Q Did you hire them for this case?
 14 A I did not.
 15 Q Who did?
 16 A The board of trustees, board of directors.
 17 Q Okay. Do you know, specifically, who
 18 contacted them?
 19 A I have no idea.
 20 Q Are they attorneys or bankers?
 21 MR. KIRBY: Are you asking about Seale &
 22 Associates?
 23 MS. IBARRA: I am.
 24 A Neither, that I'm aware of. They're merger
 25 and acquisition guys. They're high level brokers

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1 that put really huge deals together. That's what
 2 they do.
 3 Q (Ms. Ibarra) What I'm trying to understand
 4 is in working with Seale & Associates, did the board
 5 of directors rely upon their advice, or just did they
 6 -- what did they seek the association for?
 7 MR. KIRBY: I'm gonna object to that.
 8 You're only basis for answering would be
 9 attorney/client privilege, work product, if you
 10 could answer. Really, that's -- looks to be
 11 speculation, but -- don't answer.
 12 Q (Ms. Ibarra) Did you directly work with
 13 Seale & Associates on this matter?
 14 A Yes.
 15 Q What were they doing with regard the work on
 16 this matter?
 17 MR. KIRBY: Object to that question.
 18 That's attorney/client, work product privilege.
 19 They were an agent of Knapp Medical Center working on
 20 this, and thus the communications with them would,
 21 likewise, be privileged.
 22 Q (Ms. Ibarra) What is the date of --
 23 MS. IBARRA: And certify the question,
 24 please.
 25 Q (Ms. Ibarra) What is the date of that

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1 letter.
 2 Q Okay. You would agree with me that that is
 3 a letter sent by an agent of Knapp Medical Center
 4 soliciting or at least advising Knapp of their
 5 interest and having Knapp make a bid -- I mean Prime
 6 make a bid? Sorry, Prime make a bid.
 7 A Yeah, you had that wrong. It's not -- yes,
 8 it's --
 9 Q Let me reask the question. It was poorly
 10 worded. Is that letter a letter soliciting a
 11 proposal or suggest or asking if there's an interest
 12 by Prime in acquiring Knapp Medical Center?
 13 A I'll have to reread it right now. I didn't
 14 draft it and I didn't sign it. So it's somebody
 15 else's letter. Do you want me to read it?
 16 Q If it's necessary for you to answer my
 17 question.
 18 A Typically, an indication of interest letter,
 19 which I think is what this one is doing, is inviting
 20 somebody to make a proposal, and so I think that's
 21 what this is doing.
 22 MR. KIRBY: Just go ahead and read it.
 23 A Okay. So it's giving -- addressed, says if
 24 you -- your indication of interest, if you want to
 25 send -- if you want to show that you're interested in

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1 letter?
 2 A June 7th, 2012.
 3 Q And you were -- at that time, you were still
 4 engaged in negotiations with United; isn't that
 5 correct?
 6 MR. KIRBY: Don't answer that. That
 7 would be attorney/client, work product.
 8 MS. IBARRA: Certify the question.
 9 Q (Ms. Ibarra) Who is the letter addressed
 10 to?
 11 A Lex Reddy.
 12 Q And that is a letter of interest; isn't that
 13 correct?
 14 A Depends on what you call a letter of
 15 interest. Sometimes they say that on top of them, or
 16 they'll say letter of intent, if that's what there
 17 is, but --
 18 Q Okay. Well, perhaps you can advise me as to
 19 what your firm called it. It's on the first page of
 20 that document.
 21 A As to what?
 22 Q It's on the first page of the document. Not
 23 the actual letter, but the page before.
 24 A Oh, it said this is your indication of
 25 interest, so we call it an indication of interest

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1 making an acquisition or enter into a transaction,
 2 you have to address the following statements, an
 3 intention to purchase, the valuation in dollars,
 4 outline of the transaction structure, post
 5 transaction plans, commitment to invest at least four
 6 million dollars in capital expenditures. So outlines
 7 of things that the board would have required of any
 8 transaction, any possible suitor would have to
 9 fulfill those requirements and so -- in their
 10 proposal, and so it's inviting them to do that on
 11 those -- under those terms.
 12 Q (Ms. Ibarra) Okay. I'm gonna have you put
 13 that aside for a moment. We'll go back to it.
 14 (Exhibit No. 2 was marked.)
 15 Q (Ms. Ibarra) I'm gonna show you now what's
 16 been marked as Exhibit 2. This is the Exhibit 9 to
 17 the production, labeled, presentation to the board of
 18 directors of Knapp Medical Center, dated August the
 19 17th, 2011, that your firm produced in response to
 20 discovery. Can you tell me what that document is?
 21 A It's a presentation to the board of
 22 directors. It's a PowerPoint.
 23 Q Can you tell me who made the presentation?
 24 A This is by Prime Healthcare Services.
 25 Q That is the for-profit entity of Prime?

1 A That's correct.
 2 Q And it's dated August 17th, 2011?
 3 A Yes, that's right.
 4 Q So about -- it's actually some 11 months
 5 prior to the solicitation or request for a -- to see
 6 if there was an interest by Prime, by Seale &
 7 Associates?
 8 A Right.
 9 Q Do you have any understanding as to why
 10 there was previously an approach by Prime in 2011
 11 that then resulted -- or that either did not get
 12 consummated, or somehow resulted in Seale soliciting
 13 an interest from Prime?
 14 MR. KIRBY: Object to that. That's
 15 attorney/client privilege, work product; don't
 16 answer.
 17 MS. IBARRA: Certify the question.
 18 Q (Ms. Ibarra) Do you have any understanding
 19 as to what became of this presentation, or how Prime
 20 came in to speak to the board of directors?
 21 MR. KIRBY: Objection, attorney/client
 22 privilege, work product; don't answer.
 23 MS. IBARRA: Certify the question.
 24 Q (Ms. Ibarra) Are you refusing to answer
 25 these questions on the basis of your attorney?

1 MR. KIRBY: So on January 2nd --
 2 MS. IBARRA: 1st, which was the final
 3 date, or the date it became effective was January
 4 1st, 2013.
 5 Q (Ms. Ibarra) Who did you represent?
 6 A At that point in time, I would have
 7 represented Knapp Community Care Foundation.
 8 Q Okay. How about as of November the 20th,
 9 2012, the day of the -- not only the organizational
 10 meeting, but the day that the KMC board of directors
 11 met in your offices to discuss the transaction, who
 12 did you represent?
 13 A I would have represented Knapp Medical
 14 Center and the Knapp Community Care Foundation.
 15 Q Did you represent the Knapp Medical Center
 16 board of directors, as well?
 17 A On an individual basis? They're not a
 18 separate entity, so I represented Knapp Medical
 19 Center, and that was who I represented at that point
 20 in time.
 21 Q Okay. But were you also retained to provide
 22 assistance, guidance, legal counsel, to the members
 23 of the board of directors?
 24 A Yes, and that's -- but my representation was
 25 not of them. My client would have been Knapp Medical

1 MR. KIRBY: You can always assume if
 2 he's not answering he's refusing.
 3 MS. IBARRA: I'm making my record,
 4 please.
 5 Q (Ms. Ibarra) Are you refusing to answer?
 6 MR. KIRBY: If he didn't answer, he
 7 didn't answer.
 8 Q (Ms. Ibarra) Are you refusing to answer the
 9 question based on the advice of your counsel?
 10 A I am refusing to answer. I would like to
 11 answer, because I would like to give you the
 12 explanations, but unfortunately, I'm not -- for you
 13 I'm not going to violate any attorney/client
 14 privilege or my obligations and ethical duties to my
 15 clients just because you want to know the
 16 information.
 17 Q Okay. Help me to understand who your
 18 clients are. At the time that you made the
 19 transaction, who were your clients?
 20 MR. KIRBY: What transaction?
 21 Q (Ms. Ibarra) At the time that you
 22 consummated this transaction on behalf of Knapp
 23 Medical Center selling Knapp Medical Center's
 24 interest to Prime Healthcare Systems Foundation, who
 25 were your clients?

1 Center, in my opinion.
 2 Q Was the board of directors' vote necessary
 3 to consummate this transaction?
 4 A Sure.
 5 Q Were you -- were you hired to provide them
 6 advice as to whether or not that was in the best
 7 interest of this community, or the best interest of
 8 the board of directors to conduct this transaction?
 9 A No.
 10 MR. KIRBY: I would object to that.
 11 Well, he answered, so --
 12 Q (Ms. Ibarra) So you were not hired to
 13 provide an guidance or advice to the board of
 14 directors as to whether or not they should vote for
 15 this transaction?
 16 A No, ma'am. That's not my role.
 17 Q Okay. What was your role?
 18 A I mean, you're asking if I'm there to give
 19 advice to them as to how they should vote? No, my
 20 job is to insure the transaction is done in
 21 accordance with the terms they've agreed to.
 22 Q Okay. Did you negotiate any of the terms?
 23 A Sure.
 24 Q Okay. So you said the terms that they
 25 agreed to. Were you given a list of terms that they

1 wanted, or did you proffer a suggested list of
 2 appropriate terms?
 3 MR. KIRBY: Object to that,
 4 attorney/client privilege, work product; don't
 5 answer.
 6 MS. IBARRA: He opened the door.
 7 MR. KIRBY: No.
 8 MS. IBARRA: Certify the question.
 9 Q (Ms. Ibarra) With regard your role in that
 10 transaction, is it your position -- or are you
 11 testifying here today that at least some of the terms
 12 were of your creation?
 13 MR. KIRBY: Object to -- objection,
 14 attorney/client, work product; don't answer.
 15 MS. IBARRA: He's already answered.
 16 Q (Ms. Ibarra) I just want to confirm that I
 17 understood what you said.
 18 MR. KIRBY: Well, you have our response,
 19 so move on.
 20 MS. IBARRA: Certify the question. I'll
 21 handle my own deposition. Thank you.
 22 Q (Ms. Ibarra) So as of August the 17th,
 23 2011, Prime, according to this document, had -- at
 24 least did a presentation to the board of directors,
 25 correct?

1 MR. KIRBY: Objection, form.
 2 A I still don't know where you're go -- I
 3 don't understand your question. I think I've already
 4 answered it two or three times.
 5 Q (Ms. Ibarra) I think you have. I just want
 6 to clarify that I understand that you were
 7 representing KMC and KCCF?
 8 A I've represented lots of entities that have
 9 boards. When I give them advice, my opinion is that
 10 I'm giving advice and I'm representing the company,
 11 not -- even though I may deal directly with the board
 12 of directors, they're not my clients. My client is
 13 the organization, so that's what I'm trying to say.
 14 That's who I represented of those two entities. I
 15 did give advice, or I did work with and perform legal
 16 services and coordination and talk to the board
 17 members? Sure, that's who my point of contact is,
 18 but that's -- they're not my individual clients.
 19 Q When you represent a board of direct -- I
 20 mean, when you represent an entity that is governed
 21 by a board of directors, how do you ascertain what is
 22 in the best interest of the entity? Is it something
 23 that you put together, or is it something where the
 24 board of directors tells you what they want?
 25 A As an attorney, typically, if that's what

1 A Correct.
 2 Q All right. This was at the same time that
 3 you -- you were not involved yet, but the
 4 negotiations --
 5 A No.
 6 Q -- at some point, either during this time or
 7 after, United had made a proposal to Knapp Medical
 8 Center; is that correct?
 9 A Right. Which had, obviously, been accepted.
 10 Q Can you -- can you advise this court why the
 11 Prime discussions were not revealed to the city
 12 council, as were the United negotiations?
 13 MR. KIRBY: Objection, attorney/client,
 14 work product; don't answer.
 15 Q (Ms. Ibarra) I'm asking you what you -- why
 16 you did not discuss the Prime proposal with the board
 17 -- the city council?
 18 MR. KIRBY: Objection, attorney/client,
 19 work product; don't answer.
 20 MS. IBARRA: Certify the question.
 21 Q (Ms. Ibarra) So the people you represented
 22 prior to the consummation of the transaction were
 23 solely Knapp, KCCF, and I presume the board of
 24 directors with regard their responsibilities to KMC;
 25 is that correct, not individually?

1 you're asking, we work with the board of directors,
 2 and we have discussions over various options, their
 3 choice to choose. I don't tell them what to do. I
 4 give them what their legal options are.
 5 Q And in doing that, is it an obligation on
 6 your part to find out, or at least be sure that there
 7 is an understanding among the members of the board of
 8 directors as to what those options are and what they
 9 would mean with regard the entity you're
 10 representing?
 11 MR. KIRBY: Objection, form. It is --
 12 the question is so vague and hypothetical, I don't
 13 know how you could answer it.
 14 Q (Ms. Ibarra) You can try.
 15 A I'm not sure I get your point. Is it my
 16 obligation to explain to them every possible
 17 ramification of the decisions they may make? No. My
 18 job is to discuss with them the legal ramifications
 19 of the things they can make.
 20 Q Well, let's just take it one thing at a
 21 time. You're a transactional lawyer?
 22 A Yep.
 23 Q You represent entities?
 24 A Uh-huh.
 25 Q Those entities frequently are governed by a

1 board of directors, more than one individual.
 2 A Okay.
 3 Q What do you do to ascertain that the members
 4 of the board of directors who will be voting on the
 5 proposals that you present to them understand what
 6 those proposals mean?
 7 MR. KIRBY: I'm gonna object to the
 8 question. It's not relevant. He's answered already.
 9 We're moving on. Don't answer.
 10 MS. IBARRA: Certify the question. He
 11 hasn't answered it. It's also not an appropriate
 12 objection.
 13 Q (Ms. Ibarra) At the time that you completed
 14 this transaction, January the 1st, 2013, did you
 15 represent Prime Foundation?
 16 A No.
 17 Q Did you represent Prime Healthcare Services
 18 or Systems, Incorporated?
 19 A No.
 20 Q Did you represent any entity of Prime?
 21 A No.
 22 Q Who did?
 23 A They had general counsel, in house, and then
 24 then they had outside counsel, I can't remember the
 25 name of the firm now, but Tom Hawk and Christina

1 A All of the defendants in your litigation.
 2 Q Okay. Would that include the members of the
 3 board of directors?
 4 A Yes.
 5 Q Would that include Knapp Medical Center?
 6 A Yes.
 7 Q Knapp Community Care Foundation?
 8 A Correct.
 9 Q Prime Healthcare Systems, Incorporated, or
 10 Services, Incorporated?
 11 A Whatever --
 12 Q Prime -- Prime for-profit?
 13 A Whatever their correct name is, that one.
 14 The defendants in your lawsuit.
 15 Q And Prime not-for-profit?
 16 A The defendants in your lawsuit.
 17 Q And these are the entities -- the Prime
 18 entities are those that you did not represent in the
 19 transaction?
 20 A Correct.
 21 Q Do you see any conflict with regard a
 22 relationship now between the buyer and the seller in
 23 your defense in this matter?
 24 MR. KIRBY: We're not getting into that.
 25 Don't answer. It's not relevant, and it's our own

1 Gonzalez were my main contacts there.
 2 Q Did you have any independent conversations
 3 with anyone at Prime, outside of the presence of
 4 their counsel?
 5 A No.
 6 Q Did you proffer any advice to any
 7 representative or officer of Prime with regard to
 8 this transaction, prior to January 1st, 2013?
 9 A No.
 10 Q And why didn't you represent Prime in the
 11 transaction?
 12 A They had their own legal counsel.
 13 Q Would it have been a conflict for you to
 14 have represented both the buyer and seller in the
 15 action
 16 MR. KIRBY: We're not getting into that.
 17 Don't answer.
 18 MS. IBARRA: Tell me what your objection
 19 is.
 20 MR. KIRBY: It's not relevant. We're
 21 not -- we're not getting into what conflicts are.
 22 MS. IBARRA: Certify the question.
 23 Q (Ms. Ibarra) Now who do you represent?
 24 With regard to current litigation, who do you and
 25 your firm represent?

1 issues with our clients.
 2 MS. IBARRA: Certify that question.
 3 Q (Ms. Ibarra) Do you have --
 4 MR. KIRBY: It's also attorney/client
 5 privilege.
 6 Q (Ms. Ibarra) Do you have the permission of
 7 your clients to represent Prime and Prime Foundation?
 8 MR. KIRBY: The permission of Prime?
 9 MS. IBARRA: No.
 10 Q (Ms. Ibarra) Have your other clients that
 11 you first represented authorized --
 12 MR. KIRBY: We're not getting into that.
 13 Don't answer. It's attorney/client privilege.
 14 MS. IBARRA: Certify the question.
 15 That's an absolutely appropriate question.
 16 Q (Ms. Ibarra) Who was paying for the defense
 17 of the member of the board of directors?
 18 MR. KIRBY: We're not getting into who
 19 is paying, either.
 20 MS. IBARRA: The basis of your
 21 objection?
 22 MR. KIRBY: It's not relevant.
 23 MS. IBARRA: Certify the question.
 24 MR. KIRBY: We haven't sought
 25 attorney's fees, to my knowledge, so you're not

1 entitled to know that.
 2 MS. IBARRA: Certify the question.
 3 Q (Ms. Ibarra) Have any members of the board
 4 of directors advised you of their concerns with
 5 regard to the transaction?
 6 MR. KIRBY: Don't answer that. It's
 7 attorney/client privilege, work product.
 8 Q (Ms. Ibarra) Do you currently represent the
 9 members of the board of directors?
 10 MR. KIRBY: In this lawsuit?
 11 MS. IBARRA: Yes.
 12 A In this lawsuit? Yes.
 13 Q (Ms. Ibarra) Okay. Are you involved in the
 14 litigation of this lawsuit?
 15 A I am.
 16 Q In what manner?
 17 A Providing support to the litigators.
 18 Q And those would be Mr. Kirby and Mr.
 19 Galligan?
 20 A Yes.
 21 Q Anybody else involved in litigation of this
 22 matter?
 23 A Paola Guerrero.
 24 Q Were you retained specifically with regard
 25 the putting together the transaction for United, or

1 was Mr. Galligan?
 2 MR. KIRBY: Objection, form.
 3 A United Healthcare?
 4 Q (Ms. Ibarra) For United Healthcare?
 5 A I already told you before, we weren't
 6 involved until that transaction had already been --
 7 the contract had been signed and it was in the public
 8 domain, and the City was -- they already had the
 9 restrictive covenant issue dealing with the City
 10 involved, so we were involved after that. Neither of
 11 us had any involvement in that transaction.
 12 Q I understand. Let me make my question
 13 clearer. When your firm was hired --
 14 A Right.
 15 Q -- did they hire you, or did they hire Bob
 16 Galligan?
 17 A They hired our firm.
 18 Q Okay. So you don't know -- or do you have
 19 any information as to who they first contacted for
 20 retention?
 21 A I already told you that. They contacted me.
 22 Q That's what I asked.
 23 MR. KIRBY: That's not what you asked.
 24 VIDEOGRAPHER: Off the record, end of
 25 tape 1. The time is 10:07.

1 (OFF THE RECORD)(10:07-10:15)
 2 VIDEOGRAPHER: On the record, beginning
 3 of tape 2. The time is 10:15.
 4 Q (Ms. Ibarra) Mr. Jones, I want to
 5 understand something. You had mentioned earlier you
 6 don't have many partner meetings. You do have other
 7 types of meetings in this firm, though, that allow
 8 you to get together with the lawyers; isn't that
 9 correct?
 10 MR. KIRBY: We're not getting into our
 11 firm's meetings or when we meet. Don't answer.
 12 MS. IBARRA: Certify the question.
 13 MR. KIRBY: It's not relevant.
 14 Q (Ms. Ibarra) What I'm asking, Mr. Jones, is
 15 do you have opportunities where you can get updates
 16 on cases from your associates or partners?
 17 MR. KIRBY: We're not getting into that.
 18 It's not relevant; don't answer.
 19 MS. IBARRA: An improper objection.
 20 Q (Ms. Ibarra) You're not answering because
 21 your lawyer is telling you improperly not to answer.
 22 MS. IBARRA: Certify the question.
 23 Q (Ms. Ibarra) Are you aware of any other
 24 restrictive covenants that applied to the sale, Mr.
 25 Jones, besides the it can't be sold to a for-profit?

1 A I've read the deed. I've read the
 2 restrictive -- the restrictions of the deed.
 3 Q And that includes what?
 4 A I don't have it here. If you want to get it
 5 out, I'll be happy to reread it, but there's a -- I
 6 mean, it doesn't just say it can't be sold to a for-
 7 profit. There's, obviously, more language in the
 8 deed.
 9 Q And do you recall having read that deed at
 10 the time that you were involved in the drafting of
 11 the transactional documents?
 12 A Yes.
 13 Q Did you apply the restrictive covenants as
 14 they -- and the other terms of the deed when you were
 15 drafting the membership -- the membership transfer
 16 acquisition documents?
 17 A No.
 18 Q In other words, did you in any way rely upon
 19 the deed restrictions or terms required in the deed
 20 when you drafted the membership transfer acquisition
 21 document?
 22 MR. KIRBY: Objection, attorney/client
 23 privilege/work product; don't answer.
 24 Q (Ms. Ibarra) Who drafted the membership
 25 transfer agreement?

1 A Me.
 2 Q The entire document was drafted by you,
 3 initially, or did King & Spalding draft it?
 4 MR. KIRBY: Objection, attorney/client,
 5 work product.
 6 Q (Ms. Ibarra) Is King & Spalding your
 7 client?
 8 MR. KIRBY: Don't answer.
 9 Q (Ms. Ibarra) Is King & Spalding your
 10 client?
 11 A No.
 12 Q So they would know whether or not that they
 13 drafted the agreement, wouldn't they?
 14 MR. KIRBY: Objection, form. That calls
 15 for speculation, and also would be attorney/client,
 16 work product; don't answer.
 17 MS. IBARRA: Objection, improper. I'm
 18 gonna respond that your objection is specious and
 19 improper. Certify the question.
 20 Q (Ms. Ibarra) Did you -- you just testified
 21 that you drafted the membership transfer agreement;
 22 is that correct?
 23 A Well, in a transaction like this, any large
 24 transaction, there are multiple versions of the
 25 document that go back and forth. And was I involved

1 work product; don't answer.
 2 Q (Ms. Ibarra) Just tell me who your
 3 attorney/client is that has the privilege that Mr.
 4 Kirby is now claiming?
 5 MR. KIRBY: He's not answering.
 6 MS. IBARRA: Mr. Kirby, I would like you
 7 for the record to explain to me your objection,
 8 because you're claiming attorney/client privilege,
 9 yet Prime is not his client, King & Spalding is not
 10 his client, his client is not involved in other
 11 membership transfer agreements regarding Prime.
 12 Your objection makes no sense, so I would like you to
 13 clarify it for me and for the record.
 14 MR. KIRBY: I don't have to do that.
 15 It's attorney/client, work product, and he doesn't
 16 have to answer.
 17 MS. IBARRA: Certify the question. It's
 18 improper.
 19 Q (Ms. Ibarra) Did you have any forms or
 20 samples to rely upon when you drafted the -- or
 21 participated in the drafting the agreement that
 22 predated the membership transfer agreement that was
 23 signed and entered by January 1st, 2013?
 24 MR. KIRBY: Objection, don't answer.
 25 That would be work product and attorney/client

1 in drafting what became the final version of the
 2 contract? Yes.
 3 Q Were you principally involved? Is it
 4 principally your product?
 5 A I don't remember who took the first draft at
 6 it.
 7 Q Okay. I don't care about who did the final
 8 -- the first draft, but I want to know the ultimate
 9 draft. You're familiar with that, correct?
 10 A I am.
 11 Q Is that product principally or predominately
 12 your product?
 13 A As opposed to whose?
 14 Q King & Spalding's?
 15 A I don't know that I would say that, but it
 16 was extensively worked on between the two parties,
 17 and at the end of the day, I don't remember who -- I
 18 mean, we both had an extensive amount of
 19 modifications that went into it.
 20 Q Did you rely upon any prior acquisition
 21 documents, transfer documents, membership transfer,
 22 asset transfer, or purchase agreements that had been
 23 used in other hospital transactions acquired by
 24 Prime?
 25 MR. KIRBY: Objection, attorney/client,

1 privileged information.
 2 MS. IBARRA: Certify the question.
 3 Q (Ms. Ibarra) Are you aware there is also a
 4 restrictive covenant that affects Knapp -- any
 5 transfer of Knapp relating to religious
 6 organizations?
 7 A Yes.
 8 Q And what would that be?
 9 A If you get the deed out, I'll be happy to
 10 reread them with you, but I don't remember the exact
 11 language off the top of my head, but there is some
 12 language in there that talks about the religious
 13 affiliations, whatever.
 14 Q Okay. I'll give you the deed. Let me ask
 15 you this. What is your understanding with regard the
 16 existence of bonds at the time of the sale of Knapp
 17 Medical Center?
 18 MR. KIRBY: Object to --
 19 Q (Ms. Ibarra) And if you want to wait until
 20 I give you the deed, you're welcome to do that.
 21 MR. KIRBY: And I'm gonna object to that
 22 question, instruct him not to answer based on
 23 attorney/client, work product privilege.
 24 MS. IBARRA: Okay. I'm gonna certify
 25 the question, since this is not your client.

1 (Exhibits No. 3 & 4 were marked.)
 2 Q (Ms. Ibarra) I'm gonna hand your attorney
 3 what's been marked as Exhibit 3 and 4. Have you seen
 4 those documents before, Mr. Jones?
 5 A I have.
 6 Q Did you rely upon those documents or involve
 7 any of those documents when you participated in the
 8 drafting of the acquisition agreement with Prime?
 9 A I did not.
 10 Q How much -- did you study or do any research
 11 regarding the history or implications of those two
 12 documents as it affected the transaction between
 13 Prime and Knapp Medical Center?
 14 MR. KIRBY: I'll object to that
 15 question, work product, attorney/client privilege;
 16 don't answer.
 17 MS. IBARRA: Certify the question.
 18 Q (Ms. Ibarra) Do you have any understanding
 19 as to how the bonds, if there were any bonds present
 20 at the time of the transaction, affected the sale of
 21 the entity known as Knapp Medical Center?
 22 A Yes.
 23 Q What is your understanding?
 24 A My understanding is that there were bonds in
 25 place, and the transaction that took place did not

1 those documents?
 2 A I don't know what you're referring to.
 3 Q Okay. You're aware there's restrictive
 4 covenants in those documents --
 5 A Uh-huh.
 6 Q -- that affect any transfer of the interests
 7 of Knapp Medical Center, correct?
 8 A Right.
 9 Q Are you aware that those documents also
 10 speak to a duty to defend those covenants in the
 11 exercise of a transactional sale of the property?
 12 A I have no idea what you're talking about. I
 13 mean, there's restrictive covenants, and you comply
 14 with them, or you don't. Now some duty to defend
 15 beyond that, I've never seen that and I'm not aware
 16 of that here. Maybe it's there and I just didn't
 17 understand that.
 18 Q Certainly, you would not have engaged in a
 19 transaction that intentionally obstructed or failed to
 20 comply with the restrictive covenants that were in
 21 place; isn't that correct?
 22 MR. KIRBY: He didn't engage in any
 23 transactions, so don't answer that. It's an
 24 erroneous question.
 25 Q (Ms. Ibarra) Let's try again. When you

1 affect the bonds as it was structured.
 2 Q And the transaction didn't pay the bonds,
 3 either, did it?
 4 A No.
 5 Q At the time -- let's look at it this way.
 6 On December 31st, 2012, did the bonds change in value
 7 the next day, January 1st, 2013, the effective date
 8 of the membership transfer agreement?
 9 A Not that I'm aware of. I don't know why
 10 they would have.
 11 Q So the value of the bonds, which was what,
 12 some 56 million dollars on December 31st, 2012 --
 13 A Right.
 14 Q -- was still an obligation of Knapp Medical
 15 Center on January 1st, 2013 for that full amount?
 16 A Yes. Well, you said the value, and to me --
 17 Q The obligation?
 18 A -- the value of a bond as it's being traded,
 19 based upon your wording. But if you're talking about
 20 the underlying obligation was the -- was there any
 21 payment made on the bonds pursuant to the
 22 transaction? No, there wasn't.
 23 Q Were you also aware in the documents in
 24 front of you that there is a covenant which requires
 25 a duty to defend the covenants that are set forth in

1 drafted or participated in the drafting, did you
 2 endeavor to comply with the restrictive covenants
 3 that were in place at the time that the transaction
 4 was consummated?
 5 A My understanding is that the transaction, as
 6 it was structured and as it was carried through and
 7 closed, was in full compliance with the restrictive
 8 covenant.
 9 Q Okay. That's your understanding. I'm
 10 asking you what you did to be sure that you were
 11 within the restrictive covenants when you drafted
 12 this acquisition agreement?
 13 MR. KIRBY: You can't answer that.
 14 That's attorney/client privilege and work product.
 15 MS. IBARRA: Certify the question.
 16 Q (Ms. Ibarra) Do you have a partner by the
 17 name of Ivan Perez?
 18 A Yes, I do.
 19 Q Is Mr. Perez involved in any representation
 20 regarding Knapp Medical Center?
 21 A I don't think Mr. Perez has been involved,
 22 but, again, as I said before, there are times that
 23 people play different roles or are involved in small
 24 segments, or maybe we ask them a question or two
 25 because it relates to some level of their expertise.

1 Whether he's ever been involved in this case, not
 2 that I'm aware of.
 3 Q Would Mr. Perez have received any reports
 4 for meetings or been advised as to the circumstances
 5 of this retention, if he were asked to participate in
 6 this transaction?
 7 MR. KIRBY: We're not getting into that.
 8 It's not relevant. It's attorney/client privilege
 9 and work product; don't answer.
 10 MS. IBARRA: Certify the question.
 11 Q (Ms. Ibarra) Are you aware of any time that
 12 Mr. Perez spoke with any members of the city
 13 commissioners, or to UHS with regard to the Prime
 14 transaction?
 15 A Whether he's ever spoken to a city
 16 commissioner or not, I don't know. He knows a number
 17 of them. Whether he ever spoke to anybody at UHS, I
 18 don't think he ever spoke to anybody at UHS, but
 19 certainly not to my knowledge.
 20 Q Okay. And I'm not interested in if he has
 21 generally spoken to city commissioners. Apparently,
 22 you have no knowledge as to whether or not he
 23 specifically spoke with any of the city commissioners
 24 regarding either the United transaction or the Prime
 25 transaction; is that correct?

1 Medical Center?
 2 A Absolutely not.
 3 Q Okay. To the extent -- you're not; is that
 4 correct?
 5 A I'm not.
 6 Q Okay. And you're not able to speak as to
 7 whether anybody else is, but it's your presumption
 8 they're not, correct?
 9 A That's correct.
 10 Q Okay. Have you ever told Mike Jones not to
 11 engage in such negative publicity or blogging?
 12 MR. KIRBY: I object to that. It's
 13 beyond the scope of this deposition. Not relevant,
 14 we're not getting into it; don't answer.
 15 Q (Ms. Ibarra) Are you --
 16 A I'm not answering.
 17 MS. IBARRA: Certify the question.
 18 Q (Ms. Ibarra) What did you do to understand
 19 what the bond allegations were at the time of the
 20 transaction?
 21 A I spoke to bond counsel.
 22 Q And who was that?
 23 A George Rodriguez, I think.
 24 Q And did you hire Mr. Rodriguez?
 25 A Mr. Rodriguez was the bond counsel who

1 A Not that I recall.
 2 Q Have you seen -- you know Mike Jones,
 3 correct? He's a relative?
 4 A I know my brother, Mike Jones.
 5 Q Do you read his blog?
 6 A Never.
 7 Q Are you aware that he conducts a blog that
 8 is rather disparaging as to both --
 9 MR. KIRBY: Go ahead and finish your
 10 question. I'm just telling him not to answer.
 11 Q (Ms. Ibarra) -- as to both this transaction
 12 and the city commissioners?
 13 MR. KIRBY: I'm gonna object on the
 14 basis that's not relevant; it's beyond the scope of
 15 this deposition; don't answer it.
 16 MS. IBARRA: And I'm gonna respond that
 17 that's a completely inappropriate objection with
 18 regard to the rules, and I'm gonna certify the
 19 question.
 20 Q (Ms. Ibarra) So you're not gonna answer as
 21 to whether or not you know what your own brother is
 22 doing? Can you tell -- okay. Is this firm directing
 23 or providing any information to Mike Jones with
 24 regard to either the sale, this transaction, this
 25 litigation, or any issue relating to Prime or Knapp

1 issued -- was involved in issuing the bonds in 2008,
 2 and his firm had continued as representing Knapp
 3 Medical Center with relation to the bond since that
 4 time.
 5 Q Okay. You spoke with bond counsel. What
 6 else -- who else did you -- what other due diligence
 7 did you exercise with regard an understanding as to
 8 the effect of the retention of the bonds by Knapp
 9 Medical Center after the sale?
 10 A As you've mentioned in your pleadings, one
 11 of the issues that's relevant to the bonds is the
 12 letter of credit that is there to support the bond
 13 obligations of Knapp Medical Center. So we also
 14 involved Compass Bank, who is the issuer of the
 15 letter of credit, and they were involved in the
 16 understanding how the transaction was taking place
 17 and so that they would be assured that all their
 18 covenants would continue to be -- that they were
 19 comfortable with the arrangement.
 20 Q Who did you speak with at Compass Bank?
 21 A Initially, Bob Norman, and then there were
 22 others involved from Compass' side after that, and
 23 I'm not -- I can't remember their names.
 24 Q Do you have any correspondence or
 25 communications, documents, anything that documents

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1 your communications with or agreements with Compass
 2 Bank in support of this transaction?
 3 A No, not that I can remember.
 4 Q Okay. Other than what you can remember, can
 5 you check in your file to see if there is such
 6 documentation, because I'm making request at this
 7 time that it be produced?
 8 MR. KIRBY: If you want to send us a
 9 formal request for that, you can send it and we'll
 10 address it at that time. We're not gonna have him
 11 address it --
 12 MS. IBARRA: We have. It's actual --
 13 MR. KIRBY: -- in a deposition.
 14 MS. IBARRA: It's actually part of our
 15 request for production, so I'm leaving a space in the
 16 deposition that I'm making a formal request that that
 17 information be supplemented in cooperation with our
 18 prior requests for production.
 19 MR. KIRBY: I don't recall any such
 20 request. We'll deal with it outside the presence of
 21 -- outside this deposition.
 22 Q (Ms. Ibarra) Who did you tell Compass Bank
 23 was gonna pay the bonds?
 24 A I don't remember the exact discussions, but
 25 the bonds are gonna be paid by Knapp Medical Center,

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1 extension. Does that sound correct to you?
 2 A I'm only aware --
 3 VIDEOGRAPHER: Off the record.
 4 (Short Break)
 5 VIDEOGRAPHER: On the record. The time
 6 is 10:34.
 7 MS. IBARRA: I'm sorry, could you read
 8 back the question? I recall now.
 9 Q (Ms. Ibarra) As I said right before we had
 10 the tape problems, I had asked you if it seemed if
 11 the day of December 3rd, 2014 corroborated your
 12 understanding as to when the extension becomes -- is
 13 now over with regard to Compass Bank, at least the
 14 current extension. Does that sound correct to you?
 15 A That's nothing I've ever looked at before.
 16 Q Okay. But you're aware that certain
 17 extensions have been offered by Compass Bank with
 18 regard to this letter of protection?
 19 A I'm not involved in dealing with Compass
 20 Bank.
 21 Q Okay. But you were involved at the time of
 22 the transaction. Were you the one that undertook to
 23 speak with Mr. Norman?
 24 A I arranged communications. I spoke to Mr.
 25 Norman and then it became -- that was the extent of

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1 like they've always -- they've always been going to
 2 be paid by Knapp Medical Center, and that's the way
 3 they were before the transaction, and that's the way
 4 they are after the transaction.
 5 Q Well, the letter -- the letter of
 6 protection, or the letter by Compass was signed in
 7 2007; is that correct?
 8 A I don't remember.
 9 Q Okay. Well, the bonds were taken out in
 10 2008, I believe.
 11 A Eight.
 12 Q So, possibly, the letter, or the letter from
 13 Compass was signed or provided in 2008 to secure the
 14 bonds, correct?
 15 A I think you had a copy of it, but I don't
 16 remember the date on it, but I'm assuming that
 17 whether it's that one or there's renewals or
 18 extensions or whatever else, that I'm sure that there
 19 was one in place in 2008. Whether it's the same one
 20 or it's been renewed or extended, I don't know.
 21 Q With regard to the extension, are you aware
 22 of the date that the bonds become due, as far as
 23 formal payments? I'll represent to you that the last
 24 letter of extension is signed and provided that
 25 December 3rd, 2014 is the date of the most recent

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1 my role. I mean, I was involved maybe in a couple of
 2 more, but largely we were -- we dealt with them, and
 3 they -- I'm trying to say -- how to explain this
 4 correctly. So in terms of what it would look like,
 5 Knapp would look like after the closing, that was
 6 dealt with by Prime, and Prime and Compass came to an
 7 arrangement, which I was not part of those
 8 discussions.
 9 Q Did you have any conversations with the bank
 10 of Melon, New York?
 11 A I can't remember.
 12 Q They're --
 13 A There's some other -- yeah, there are some
 14 other people that I think they're -- they may be
 15 affiliated with George. I can't remember who else we
 16 talked with.
 17 Q George? Mr. Rodriguez?
 18 A Yes.
 19 Q But you have no rec -- separate recollection
 20 of whether or not you had any conversations with the
 21 trustee on these bonds with Bank of Melon; is that
 22 correct?
 23 A I think they were involved in the process,
 24 also, or they were -- questions were raised to them.
 25 I can't remember all the communications at this point

1 in time.

2 Q Do you have any letters or communications in
3 which the trustee approved the sale of Knapp Medical
4 Center to Prime with the bond still in place?

5 A It wasn't sold. Knapp Medical Center is
6 still Knapp Medical Center, and the bonds are still
7 -- the entity didn't change.

8 Q Let's try it again. Do you have any letters
9 of approval with regard to transfer of assets, or the
10 entering into the membership transfer agreement to
11 Prime Healthcare Systems/Services Foundation by Bank
12 of Melon?

13 MR. KIRBY: Objection, form.

14 A Well, you said transfer of assets. There
15 was no transfer of assets, but do I have an official
16 letter from -- not that I'm aware of.

17 Q (Ms. Ibarra) Did you receive any approval
18 from the Bank of Melon with regard the transaction
19 between Prime Healthcare Foundation, PHSF, and Knapp
20 Medical Center?

21 A Not that I can recall. My recollection is
22 that they were aware of it, they were in favor of the
23 transaction, they approved the transaction, but I
24 don't remember that they gave an official consent or
25 approval, because the bonds weren't changed, the

1 A Well, that's my understanding.

2 Q You were involved in these negotiations at
3 that time, according to your testimony, weren't you?

4 A No, that wasn't my testimony.

5 Q Okay. You said that you became involved
6 with regard to the United and Prime acquisitions in
7 beginning of 2012, correct?

8 A That's not what I said. What I said --

9 Q Okay. Let's clarify that.

10 A Okay. I will be happy to. We were involved
11 in trying to see if we could salvage the UHS
12 transaction. That's when we first became involved,
13 which was the beginning of 2012. And so we were
14 involved in that aspect, dealing with the UHS
15 transaction. I was not involved in anything dealing
16 with Prime, which you asked me this already and I
17 told you I first became involved in September/October
18 is my recollection.

19 Q But you're aware --

20 A Of 2012.

21 Q Okay.

22 A Which is after this date.

23 Q Okay. But you're aware that negotiations
24 had been ongoing while the United transaction was
25 being discussed with Prime and the board of

1 obligor was not changed, it continued to be Knapp
2 Medical Center, and there was no transfer of assets
3 to Prime.

4 Q I'm not sure. You said they approved it,
5 and your next sentence was you don't know if they
6 approved it because they didn't have to.

7 A I'll say that my understanding is they
8 consented to it, and they were aware of it, and
9 nothing further was required.

10 Q Okay.

11 (Exhibit No. 5 was marked.)

12 Q (Ms. Ibarra) Let's take a look at this
13 Exhibit 12, also produced by counsel in response to
14 discovery. This is labeled, Knapp Medical Center
15 acquisition overview, Prime Healthcare Services,
16 dated June 25th, 2012, which is, I believe, Exhibit
17 5. And if you'll -- after your counsel has a chance
18 to look at it, I would like you to take a look
19 beginning -- well, I've got a copy here. What is
20 this document, sir?

21 A It's a PowerPoint presentation.

22 Q It's labeled Acquisition Overview. Were
23 these the terms that were being proposed to have
24 Prime for-profit acquire Knapp Medical Center in June
25 of 2012?

1 directors, correct?

2 MR. KIRBY: Let me object to that. Your
3 answer would be attorney/client privilege, work
4 product privilege, so don't answer.

5 Q (Ms. Ibarra) You already told me --

6 MS. IBARRA: Well, certify the
7 question.

8 Q (Ms. Ibarra) I'm gonna have you turn to
9 what is labeled as KMC 678

10 A Okay.

11 Q The first line reads Prime Healthcare
12 Services -- this is the transaction structure --
13 acquires Knapp's assets comprising: Knapp Medical
14 Center; the Knapp Surgery Center; Knapp Medical
15 Group; MYPA; FF&E Rental Properties and Conference
16 Center. That was the proposal that those assets
17 would transfer to Prime Healthcare, correct?

18 A According to this, yes.

19 Q Okay. Did you have an understanding that
20 Prime was going to acquire those assets, at least in
21 their first proposal? That was one of the terms that
22 came up later, as well, didn't it, that Prime would
23 acquire those assets?

24 A When I got involved, I wasn't working off of
25 this, but I can't remember how it was -- I know that

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1 there was discussion over the proper structuring or
 2 the best way to structure the transaction, so --
 3 Q Okay. Well, we'll just go through each one
 4 then. I think that might be the best way. At least
 5 in this transaction structure, the for-profit
 6 proposed to acquire these assets out from under Knapp
 7 Medical Center and directly own them, correct?
 8 A That's correct.
 9 Q Okay. And at that time, it excluded four
 10 vacant lot and the Knapp Medical Center Foundation?
 11 A Right.
 12 Q Okay. And in consideration, Prime agreed to
 13 retire the bonds; swap the obligation; and purchase
 14 the net working capital of the acquired assets at the
 15 time of close, correct? And that was the next page
 16 KMC 679. Correct?
 17 A That's what this says, yes.
 18 Q Okay.
 19 A I mean, I wasn't -- as I said before, I
 20 wasn't involved when this -- in this aspect of it
 21 when this -- when this was made.
 22 Q Okay.
 23 A When this presentation was done.
 24 Q Now you're aware that at the time that you
 25 were involved, as well as during this time that this

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1 June of 2012, I can read it and give you my thoughts,
 2 but that's -- it's nothing to do -- and this was not
 3 what I was working off of.
 4 Q I understand. But at least at the time of
 5 this -- of this offer, Knapp was offering -- Prime
 6 was offering to pay off the bonds; isn't that
 7 correct?
 8 A This says that they were going to pay off
 9 the bonds under this proposal.
 10 Q And, ultimately, in the transaction that you
 11 negotiated, Prime did not assume that obligation? It
 12 was left with Knapp Medical Center?
 13 A That's correct.
 14 Q Do you have any information as to why Prime
 15 withdrew its interest in paying off those bonds?
 16 MR. KIRBY: I'll object to that
 17 question, attorney/client privilege, work product;
 18 don't answer.
 19 Q (Ms. Ibarra) Do you represent Prime? At
 20 least for the -- not in this lawsuit, but with regard
 21 to the transaction?
 22 A I did not.
 23 Q Did you engage in any negotiations with
 24 Prime to assume the debt of those bonds?
 25 MR. KIRBY: Object to that question;

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1 was presented, that Knapp had certain financial
 2 income, assets, and investments, correct?
 3 MR. KIRBY: I'm gonna object to that.
 4 That would -- attorney/client privilege, work
 5 product; don't answer.
 6 MS. IBARRA: Certify the question.
 7 Q (Ms. Ibarra) Looking at this -- I'm gonna
 8 represent to you that Knapp Medical Center definitely
 9 had cash and investments, whether or not you know
 10 that as their attorney. Do you have any information
 11 based on this transaction what was going to be done
 12 with Knapp's money at the time of the transfer? Did
 13 that -- was that included with regard -- the transfer
 14 of the assets? It says FF&E rental properties,
 15 conference center, and the tangible assets.
 16 MR. KIRBY: Are you asking him about
 17 this --
 18 MS. IBARRA: I'm ask --
 19 MR. KIRBY: -- this exhibit, and what
 20 they meant by what they were doing in it? I don't
 21 understand your question.
 22 Q (Ms. Ibarra) Do you understand the
 23 question?
 24 A No. My same question is his. If you're
 25 asking me what this PowerPoint presentation meant in

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1 attorney/client privilege, work product; don't
 2 answer.
 3 MS. IBARRA: Continue to certify the
 4 questions, please.
 5 Q (Ms. Ibarra) Ultimately, that transaction
 6 did not occur because Prime Healthcare's Services
 7 Incorporated is for profit, correct?
 8 MR. KIRBY: Are you talking about
 9 this --
 10 MS. IBARRA: Yes.
 11 MR. KIRBY: -- this transaction?
 12 MS. IBARRA: Yes.
 13 Q (Ms. Ibarra) Do you have any idea why that
 14 particular transaction did not go through?
 15 MR. KIRBY: And only -- the only way
 16 that you could answer that is if the information did
 17 not come from your rendition of legal services to
 18 your client, Knapp Medical Center, related to that
 19 transaction. I don't know if you can answer, but --
 20 A That's the only way, and actually I don't
 21 know, one way or the other, anyway. This was never
 22 anything I've seen until the litigation, when we
 23 produced it to you.
 24 Q (Ms. Ibarra) Was the entity that made that
 25 offer the for-profit?

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1 A Yes.

2 Q Okay. I'm gonna now have you take a look at

3 what's going to be marked as Exhibit 6.

4 (Exhibit No. 6 was marked.)

5 Q (Ms. Ibarra) Which has also been labeled

6 Exhibit 13 by your firm in production, in response to

7 request for production. Have you seen this letter

8 before?

9 A I have.

10 Q Were you involved in the review of this

11 letter and proposal to the Knapp board of directors?

12 A I was not.

13 Q Okay. So this predates your involvement

14 again? So you're not familiar with the terms of this

15 transaction, other than what you're reading here?

16 A I am familiar with the entire transaction,

17 other than at this point I did not assist in the

18 drafting or the discussion of this, because I was not

19 involved in this aspect of it at that time.

20 Q Well, this is a proposal -- a letter of

21 intent from Prime, not Knapp; isn't that correct?

22 A This is a proposal from Prime Healthcare

23 Services Foundation.

24 Q At anytime did you counsel the members of

25 the board of directors, or rely upon this Exhibit 13

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1 executed letter of intent, that's what you use is the

2 guidelines for drafting an agreement. It's not

3 binding, but it is what you use to make sure you're

4 addressing all the major business points that need to

5 be addressed in the document.

6 Q Okay. Well, Exhibit 13, dated August the

7 2nd, 2012, was also signed, wasn't it? It's labeled

8 Exhibit 6 herein.

9 A I'm sure it was, but if they re-executed

10 another one, and I wasn't involved in that so I don't

11 know why they did the second one, but you wouldn't go

12 by the prev -- you would go by the latest version of

13 the letter of intent.

14 Q Okay. So we wouldn't be looking at Exhibit

15 13 with regard to any terms you incorporated in the

16 drafting of the KMC documents, correct? You would be

17 looking at Exhibit 14, since that's the newest and

18 freshest?

19 MR. KIRBY: Unless they're in both of

20 them, obviously.

21 MS. IBARRA: Well, I'm relying on his

22 testimony.

23 Q (Ms. Ibarra) You said you wouldn't look

24 back to the exhibit, the prior exhibit. I'm asking

25 you which of these two, if either, or both, you

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1 or Exhibit 6 in this deposition, with regard creating

2 the terms that ultimately became the transaction for

3 the sale of Knapp Medical Center?

4 MR. KIRBY: Object to that question;

5 attorney/client, work product; don't answer.

6 MS. IBARRA: Certify the question.

7 Q (Ms. Ibarra) All right. That was as of

8 August 2nd, 2012.

9 (Exhibit No. 7 was marked.)

10 Q (Ms. Ibarra) And now this is Exhibit 7,

11 Exhibit 14 in request for production, the letter of

12 intent between Knapp Medical Center and Prime

13 Healthcare. Just for the record, it's dated August

14 28, 2012. I'm assuming that based on your previous

15 testimony, you were not involved in this because you

16 did not get involved until September; is that

17 correct?

18 A That's correct.

19 Q Did any of these proposals, including this

20 one from Prime Healthcare Foundation, form the basis

21 of the terms of the membership transfer agreement

22 that was ultimately consummated?

23 A Yes.

24 Q Okay. Tell me what that was.

25 A Which is -- in transactions once you have an

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1 relied upon to create the terms that ultimately ended

2 up in the membership transfer acquisition agreement?

3 A To be honest, I don't remember exactly what

4 all information they gave me. I'm sure I had this --

5 pretty sure I had this August 28, 2012 letter of

6 intent, and potentially other information, as well,

7 that they gave me to utilize in the drafting of the

8 agreement.

9 Q Okay. I'm gonna ask you to look at page 2,

10 under section 6, consideration.

11 A Uh-huh.

12 Q It reads, "On the date of closing, buyer

13 shall deposit an amount equal to the amount necessary

14 to satisfy seller's bond debt and obligations under

15 the swap agreement, which is estimated to be no less

16 than 57 million dollars." Was that done in the

17 ultimate agreement?

18 A No.

19 Q Then how much was ultimately deposited in

20 the consummation of this sale from finances provided

21 by Prime Healthcare Services Foundation?

22 MR. KIRBY: Objection, form.

23 A I don't know what you mean. This is talking

24 about under this letter of intent, they would have

25 paid off the bonds.

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1 Q (Ms. Ibarra) That's correct. They didn't
 2 do that, correct?
 3 A And there was a change between here and what
 4 the eventual contract said.
 5 Q And what events led to the change?
 6 MR. KIRBY: I'll object to that. I
 7 don't see how your answer could be anything but
 8 attorney/client and work product privilege.
 9 WITNESS: Me neither.
 10 MR. KIRBY: Instruct you not to answer.
 11 Q (Ms. Ibarra) You don't represent Prime, do
 12 you?
 13 A I didn't in the transaction.
 14 Q And what did Prime say to you with regard to
 15 decision not to, as it says here, satisfy the
 16 seller's bond debt and obligations under swap
 17 agreements which is estimated to be no less than 57
 18 million dollars?
 19 MR. KIRBY: We'll object to that,
 20 attorney/client privilege, work product privilege;
 21 don't answer.
 22 Q (Ms. Ibarra) Was Prime your client at the
 23 time that you negotiated that provision?
 24 MR. KIRBY: Don't answer that. You've
 25 answered it five times. We're not answering it any

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1 creation of the foundation. The foundation ended up
 2 with 104 million dollars.
 3 Q Let me get my question answered, Mr. Jones.
 4 A That's the sales price, that's the proceeds
 5 of the transaction are 104 million dollars.
 6 Q Okay. Mr. Jones, how many dollars of 104
 7 million dollars that went to KCCF, came out of
 8 Prime's wallet, just Prime?
 9 A I don't remember, exactly, in the -- what is
 10 it, 23, plus the nine. There's the working capital.
 11 You can -- have to give me the documents to say, but
 12 in the 30 million range?
 13 Q Give me your best estimate. You were the
 14 one that drafted these documents.
 15 A 30 million dollars range, something like
 16 that.
 17 Q Okay. 30 million dollars came from Prime.
 18 Wasn't a portion of that money refunded to Prime in
 19 terms of a deposit?
 20 A I have no idea what you're talking about
 21 now. Did they put up a deposit that they got back at
 22 closing as part of the contract? Probably, but that
 23 happens -- they either can put the money into the
 24 transaction, or they can take -- they're either gonna
 25 pay the money, one way or the other, so I don't know

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1 more.
 2 Q (Ms. Ibarra) You haven't answered the
 3 question, sir.
 4 MS. IBARRA: Certify it.
 5 Q (Ms. Ibarra) Did Prime put any money down
 6 that would be sufficient or at least in part able to
 7 satisfy the seller's bond debt and obligation under
 8 swap agreements?
 9 MR. KIRBY: Objection, form.
 10 Q (Ms. Ibarra) And then it says -- and then
 11 it says and nine million dollars. Did Prime pay nine
 12 million dollars for Knapp Medical Center, for the
 13 right to govern and become the sole member of the
 14 board of directors?
 15 A Are you asking is that the total purchase
 16 price that they paid?
 17 Q Why don't you tell me, what was the total
 18 purchase price that Prime Foundation paid for Knapp
 19 Medical Center's governance rights, and any assets
 20 they acquired?
 21 A Well, because Knapp was being acquired, or
 22 Knapp's membership interest and control of Knapp was
 23 being acquired, the entity that would have otherwise
 24 had the proceeds going to them would have been Knapp,
 25 so that obviously didn't happen, therefore the

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1 what the deposit has to do with anything.
 2 Q Okay. Break it down for me. It says nine
 3 million dollars here was the original offer in this
 4 particular letter of intent. Was the nine million
 5 dollar figure apportioned for any specific
 6 description, as part of what you say now with some 30
 7 million dollars Prime has paid out of its pocket?
 8 A Well, what you're missing is the amounts
 9 that Prime would have put back into Knapp immediately
 10 after closing, and that is information that I don't
 11 have and I've never had.
 12 Q Okay. All I want to know, Mr. Jones, is on
 13 the day that KCCF was provided 104 million dollars,
 14 tell me how many of those dollars came from nowhere
 15 but Prime.
 16 A I don't have the funds flow statement or
 17 whatever it was that has those dollars on it. I'm
 18 sure you do, so --
 19 Q I do.
 20 A -- if you want to provide it to me, I can
 21 give you the amounts that came from Prime.
 22 Q Let's do that.
 23 A And it wasn't 104 at that point, because
 24 there was a working capital investment that still had
 25 to happen later.

1 Q And I want to know about that, too. I'm
 2 gonna give you -- I'm gonna go ahead and work from a
 3 copy. This is the membership transfer agreement,
 4 Exhibit 2 to the confidential -- originally
 5 confidential, now released documents. You have a
 6 full copy there. If we can work with that, I can
 7 give the court reporter a disk that might make it a
 8 little more compact, but I would like to just go
 9 ahead and work with the membership transfer
 10 agreement. I've provided you a copy. Can you look
 11 through that and tell me, ultimately, as of January
 12 the 1st, when the hospital's governments rights were
 13 transferred solely to Prime Foundation, how many of
 14 the dollars that were given to KCCF were just Prime
 15 dollars?
 16 A I think you have the funds flow statement.
 17 If you want to give me that. Is that in this?
 18 Q It is.
 19 A It's not in the membership interest transfer
 20 agreement.
 21 Q It's part of the exhibits.
 22 MR. VELA: Which exhibit is it?
 23 MS. IBARRA: That's 2, the membership
 24 transfer agreement.
 25 Q (Ms. Ibarra) Actually, Mr. Jones, it's

1 question is?
 2 MS. IBARRA: I've asked him how many of
 3 the dollars that were paid to KCCF were Prime
 4 dollars, solely came from Prime?
 5 A About 25 million.
 6 Q (Ms. Ibarra) Okay. You say about. Why
 7 can't you tell from that document exactly what it is?
 8 A Because I don't have a calculator, and
 9 there's two numbers that have to be added.
 10 Q Okay. So you're saying, approximate --
 11 well, about 25 million came from Prime, and none of
 12 those dollars were refunded to Prime as a deposit?
 13 Can you tell that information?
 14 A No, I think you're misunderstanding.
 15 There's a line here under title company, three
 16 million dollars, and then that -- those funds
 17 actually flow through and go to KCCF.
 18 Q Okay.
 19 A So that was their deposit. There's \$91,950
 20 of expenses that are -- that are deducted from that
 21 three million, and so that's what makes it kind of an
 22 odd number.
 23 Q Okay. So 25 million of the 104 million that
 24 went to KCCF came from Prime; is that correct?
 25 A No, that's not correct.

1 Exhibit 5. It should also be attached Exhibit --
 2 what you call the funds flow statement was Exhibit 5,
 3 and I will hand you that, and that -- we're gonna
 4 mark the membership transfer agreement as Exhibit 8,
 5 and this will be Exhibit 9, also noted as Exhibit 5
 6 from the production, which is dated November 20th.
 7 MR. KIRBY: Do you want to mark it?
 8 MS. IBARRA: I do.
 9 (Exhibits No. 8 & 9 were marked.)
 10 MR. KIRBY: If you'll give me the 8,
 11 I'll put it on this.
 12 MS. IBARRA: That's 7. The membership
 13 transfer agreement? You're right, that's 8. And
 14 then the flow -- the funds flow would be 9. Thank
 15 you.
 16 MR. KIRBY: Do you want it with the
 17 first page being the table of contents, like this?
 18 Is that the way you presented it, Mary?
 19 MS. IBARRA: It's the way I gave it to
 20 him, but let me give him the front page.
 21 MR. KIRBY: Do you have a question
 22 pending, Mary, or are you waiting for him to --
 23 MS. IBARRA: I do have a question on the
 24 board.
 25 MR. KIRBY: Do you know what the

1 Q Then please correct it.
 2 A Okay. 25 million of the 97 million that
 3 KCCF ended up with at closing came from Prime, and
 4 then the remaining amounts under the net working
 5 capital adjustment were paid out later on when all of
 6 those figures were in and they were able to validate
 7 all the numbers, and so that's where the remaining
 8 funds came from. So if you add the other, roughly,
 9 eight million dollars that came in, so you're at 33.
 10 Q But those reflected patient revenues, didn't
 11 they, net patient revenues from Knapp Medical Center,
 12 not Prime dollars, unless you're saying --
 13 A That's the net working capital adjustment.
 14 So half of the net working capital adjustment -- half
 15 of the estimated net working capital is seven
 16 million, \$7,000,235 (sic) and then once they tried
 17 all -- because you can only do so much on December
 18 31st, you have to wait before you have enough
 19 information to determine what the real amount of net
 20 working capital was on that date. So we were
 21 entitled -- so KCCF was entitled to the net working
 22 capital that was in place on December 31st, but it
 23 takes a while to be able to calculate all of those
 24 amounts. So they paid half in at closing of what was
 25 estimated, which is the 7.2 million. The remaining

1 half was paid later, once all the financial figures
2 could be determined to decide exactly what it was on
3 December 31st, which was another seven and a half,
4 eight million dollars.

5 Q Okay. And when was that paid, the second
6 payment?

7 A I think sometime in July, August, September,
8 somewhere in there.

9 Q And there's an agreement that Knapp would
10 enjoy the benefit of 10 million dollars in
11 improvements. Has that capital yet been paid by
12 Prime?

13 MR. KIRBY: I'm gonna object to that
14 question. That would be attorney/client, work
15 product; don't answer.

16 MS. IBARRA: Certify the question.

17 Q (Ms. Ibarra) Let's go back. I want to
18 clarify a couple of things. You said that you did
19 not do any IRS research with regard this entity that
20 was acquiring governance rights over Knapp; isn't
21 that correct? Let me be specific. Do you have an
22 understanding as to the nature of the 501(c)(3) that
23 Prime Foundation claims to be?

24 A No.

25 Q Do you know whether it is a private

1 foundation, or a public charity?

2 A I don't know which of those two it is.

3 Q Do you have any information as to their
4 status, as of the date of this transfer, as to
5 whether or not their 501(c)(3) status was in
6 jeopardy, or whether there was any concern by the
7 IRS?

8 MR. KIRBY: And only answer that
9 question to the extent that any information you have
10 would not have come from any of your clients. And
11 you may not have any, but if you do have any, don't
12 answer as to any that came from your clients.

13 A I cannot answer that question.

14 Q (Ms. Ibarra) Okay. Let me ask it this way.
15 You knew that this hospital needed to be sold to a
16 not-for-profit, correct?

17 A Yes.

18 Q So what diligence did you exercise in
19 ascertaining whether or not the not-for-profit,
20 known as Prime Foundation, had good status as either
21 a private foundation or public charity, and could
22 legally, and not in violation of the restrictive
23 covenants, obtain the rights over Knapp Medical
24 Center?

25 A I don't believe that even if it had been a

1 for-profit, had it become the member of Knapp Medical
2 Center, that that would have violated the restrictive
3 covenant, at all.

4 Q You said you're not a contract specialist,
5 correct, or expert?

6 A That I'm not a contract specialist? I just
7 testified --

8 Q A contract expert?

9 A -- that that's the type of work I do all day
10 every day, yes.

11 Q You consider yourself an expert in contract
12 interpretation?

13 A In real estate, deeds, and transactions,
14 yeah.

15 Q Okay.

16 A That's what I've been doing for that last --

17 Q So it's your opinion that Knapp Medical
18 Center could be sold to a for-profit?

19 A No, I never said that.

20 Q Okay. What did you --

21 A This is not a sale. It was not -- there's a
22 difference between the membership interest transfer
23 and an asset purchase agreement. I agreed before had
24 all the assets been acquired by a for-profit entity,
25 that would have violated the restrictive covenant.

1 For a for-profit entity to be the sole member of --
2 corporate member of a nonprofit corporation, I don't
3 -- of Knapp Medical Center, I don't think that would
4 have violated it. Knapp Medical Center is still
5 Knapp Medical Center. In the past, Knapp Medical
6 Center had had a corporate member before, several
7 years before. That didn't violate it at that point,
8 either, apparently, because no one ever said anything
9 about it. So it was -- in my opinion, you're asking
10 my opinion. In my opinion, it was not, even if it
11 had been a for-profit. The way this transaction was
12 structured, Knapp Medical Center continues to be
13 Knapp Medical Center, it continues to be a nonprofit,
14 and, therefore, that's really all I needed to make
15 sure of. Now the fact that the corporate member is
16 also a nonprofit, I don't think that hurts. I think
17 that's great. I'm glad that it is.

18 Q You sought that out, didn't you, because the
19 original offer was made by the for-profit, and the
20 next offer came from the not-for-profit?

21 MR. KIRBY: Objection, attorney/client,
22 work product; don't answer.

23 MS. IBARRA: Certify the question.

24 Q (Ms. Ibarra) Were you in any way involved,
25 or made any suggestions to Prime or to King &

1 Spalding that the offer should come from the not-for-profit, rather than the for-profit?

2

3 MR. KIRBY: Objection, attorney/client, work product; don't answer.

4

5 Q (Ms. Ibarra) Do you represent Prime in the transaction, sir?

6

7 MR. KIRBY: Don't answer that. You've answered it five times, and she's asked it seven times now.

8

9

10 Q (Ms. Ibarra) Can you tell me why you believe you have an attorney/client privilege with regard Prime, solely with regard the sale transaction?

11

12

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14 MR. KIRBY: He's not answering that. That's my province --

15

16 MS. IBARRA: But you haven't answered it.

17

18 MR. KIRBY: And I don't have to.

19 MS. IBARRA: Certify the question.

20 MR. KIRBY: We'll deal with it with the court.

21

22 MS. IBARRA: We will.

23 Q (Ms. Ibarra) Now with regard to sale, sir, were you aware, or did you do any diligence with regard to status of Prime Foundation as a not-for-

24

25

1 that the employees of the for-profit were serving as managers of the not-for-profit?

2

3 A I did not deem it my role to go and look behind the 501(c)(3) status that we received from the IRS. So no is the answer to that, and probably a number of other questions.

4

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6

7 Q Okay. Did you have any knowledge of Prime's history with regard medical care, investigations relating to Medicare, Medicaid, upcoding, or any other criticisms that had been publicly addressed to Prime, prior to consummating this deal for Knapp Medical Center?

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13 MR. KIRBY: And if you have any knowledge of that, you can only answer it to the extent that -- I mean, I think it's false, first of all, but to the extent that you have heard anything about that, if it came from a source other than your client, you can answer.

14

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19 MS. IBARRA: I'm gonna object to your sidebar and comment on the evidence.

20

21 Q (Ms. Ibarra) And I'm asking if you're gonna respond?

22

23 A During the --

24 Q Did you do any research --

25 A During the --

1 profit, and that the IRS had concerns because the management of the not-for-profit --

2

3 VIDEOGRAPHER: Off the record.

4 (OFF THE RECORD)(11:08-11:16)

5 VIDEOGRAPHER: On the record, beginning of tape 3. The time is 11:16.

6

7 Q (Ms. Ibarra) Mr. Jones, what understanding do you have with regard the nature of the 501(c)(3) that was called Prime Foundation? Did you have any understanding with regard to it's standing to serve as a 501(c)(3)?

8

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11

12 A I obtained some information that -- I think I saw a copy of their 501(c)(3) status or their current letter, I can't remember what it was, but there was something that we got that showed that they were 501(c)(3) at that point, as I recall.

13

14

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17 Q Did you do any research with regard the -- the members of the board for that foundation as it related to the for-profit? In other words, were you aware at the time of the transaction that there was an interrelation between all of the members of the board of directors for the foundation, as well as the for-profit?

18

19

20

21

22

23

24 A No.

25 Q Were you aware that the IRS had concerns

1 Q -- on that situation?

2

3 A During the -- I'm trying to answer. During the transaction, I had no information along those lines, and I certainly didn't deem it my role, as the attorney, to go and research the past history of Prime Foundation's related entities.

4

5

6

7 Q So your job was strictly to put the deal together, not to determine whether the deal was any good?

8

9

10 A Whether the deal was any good?

11 Q For the community?

12 A That would be the function of the board of directors.

13

14 Q Okay. So your answer is?

15 A My answer is that's not what my role was. My role was to put together the transaction.

16

17 Q Okay.

18 A But we did receive verification, or at least I received some documentation through there that they were a 501(c)(3), they had 501(c)(3) status with the IRS.

19

20

21

22 Q I understand, but you didn't do any further investigation on its accuracy or what the circumstances were?

23

24

25 A As I said, that was not my role.

1 Q Okay. I'm gonna have you take a look at
 2 what number are we on, Exhibit 9 -- 10, okay.
 3 (Exhibits No. 10 & 11 were marked.)
 4 MS. IBARRA: I think just to expedite
 5 this, I'll go ahead and mark Exhibit 12, which is
 6 certificate of formation of Knapp Community Care
 7 Foundation. And 13, the Knapp Community Care's
 8 bylaws.
 9 (Exhibits No. 12 & 13 were marked.)
 10 Q (Ms. Ibarra) Okay?
 11 A Okay.
 12 Q First I'm gonna ask you to look at the
 13 membership transfer agreement that I gave you
 14 earlier. I think it's --
 15 A 8.
 16 Q -- Exhibit 8, thank you, and have you turn
 17 to page 58.
 18 A Okay.
 19 Q You were the incorporator of KCCF; isn't
 20 that correct?
 21 A That's correct.
 22 Q Okay.
 23 A I don't know. Was it me or Ms. Lozano, one
 24 of the two of us, but she helped in that regard.
 25 Q And was Ms. Lozano working at your

1 attorney/client privilege, work product.
 2 MS. IBARRA: Certify the question.
 3 Q (Ms. Ibarra) All right. On page 58 Okay.
 4 the document, known as the membership transfer
 5 agreement, under Section A and B, KCCF shall be
 6 responsible for every liability of every kind, known
 7 or unknown, under the Medicare program, including
 8 those arising from or relating to the settlement of
 9 cost reports for periods prior to the closing date,
 10 including the termination cost reports described in
 11 Section 10.7. And then it continues down with
 12 regard, Prime Healthcare Services Foundation shall
 13 forward to KCCF any demand for payments related to
 14 Knapp Medical Center's cost report. Under Section B,
 15 KCCF shall promptly pay over to Prime Healthcare
 16 System Foundation all cash receipts, if any, received
 17 by KCCF from Medicare, Medicaid, or other federal,
 18 state or private healthcare programs. Is that a job
 19 of Knapp Community Care Foundation to trans -- to
 20 collect from Knapp Medical Center patient revenues
 21 and transfer them to Prime Healthcare Services
 22 Foundation?
 23 A No. That is ludicrous.
 24 Q Well, why does it say that?
 25 A Very common in transactions, you have this

1 directives with regard the creation of this entity?
 2 A Yes.
 3 Q Okay. First I want to understand what is
 4 KCCF? Why was it created, and why wasn't the money
 5 left -- let's not make it compound. Why was KCCF
 6 created as a separate new entity on November the
 7 15th, 2012?
 8 MR. KIRBY: Objection, attorney/client,
 9 work product; instruct you not to answer.
 10 MS. IBARRA: You're kidding. You don't
 11 think that that's completely inappropriate as to why
 12 KCCF was created? Didn't you tell this court that
 13 Mr. Jones had my answers, I wouldn't like them, but
 14 he was gonna give them to me.
 15 MR. KIRBY: I wish that we could. We
 16 have attorney/client privilege --
 17 MS. IBARRA: Certify the question.
 18 MR. KIRBY: -- we have to preserve.
 19 MS. IBARRA: Certify the question.
 20 MR. KIRBY: We have answered quite a few
 21 of your questions.
 22 Q (Ms. Ibarra) All right. So you're not
 23 gonna testify as to why KCCF was created; is that
 24 correct?
 25 MR. KIRBY: He can't. It's an

1 type of arrangement where they're talking about
 2 there's a closing date, and there's certain things
 3 that may fall over into the next period. So if by
 4 accident somehow Knapp Community Care Foundation
 5 receives some Medicare or Medicaid payments that were
 6 supposed to have gone to Knapp Medical Center, that
 7 they would pay them back to them.
 8 Q Okay. So let's start with the beginning.
 9 When KCCF was created you've testified that by the
 10 time that all of the books were reconciled, 104
 11 million dollars, of which some 25 to 30 million of
 12 Prime dollars was paid to KCCF; is that correct?
 13 A Correct.
 14 Q Okay. Why?
 15 A To create a foundation for the benefit of
 16 the community to provide -- you've read -- you have
 17 the bylaws and you have the articles of incorporation
 18 that set out what the purposes of the foundation are,
 19 to achieve the ends, the stated purposes of the
 20 foundation.
 21 Q Well, let's look at the bylaws, because I
 22 don't understand, and I would like you to explain to
 23 me, just what that purpose is. I don't understand
 24 it. Can you read to this jury what the purpose of
 25 the bylaw -- that the bylaw say exist for KCCF? And

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1 by the way, just so I understand, let's step back for
 2 a moment. You are the registered agent for service,
 3 aren't you?
 4 A Probably still am.
 5 Q Okay. Why did you identify your firm as
 6 being the principal place of business and the
 7 registered agent for service for KCCF?
 8 MR. KIRBY: Objection to that question,
 9 attorney/client, work product; don't answer.
 10 MS. IBARRA: Certify the question.
 11 Q (Ms. Ibarra) You are the -- this firm is
 12 the principal place of business for KCCF, isn't it,
 13 according to the documents in front of you that you
 14 prepared, or that your firm prepared?
 15 A When they were initially filed, yes, we
 16 were, and certainly we're not the principal place of
 17 business anymore.
 18 Q They have since taken over the diabetic
 19 clinic that is closed, correct?
 20 A If you --
 21 MR. KIRBY: I'll object to that. I
 22 mean, you probably don't know the answer, but if you
 23 do, it would have come from your client, so it would
 24 be attorney/client privileged.
 25 MS. IBARRA: Certify the question.

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1 attended at least all the ones for the first year,
 2 and then probably three or four this year.
 3 Q And what, according to the bylaws, is the
 4 purpose of creating KCCF? What does it do?
 5 A If you'll permit me, I prefer -- if you
 6 really want to find out the true purpose of an
 7 entity, you should start with the certificate of
 8 formation. That's where it's really stated, not in
 9 the bylaws.
 10 Q Fine.
 11 A So if we can look at Exhibit 12, I'll be
 12 happy to read from here, which is what the purposes
 13 were intended to be, which is to -- providing grants,
 14 healthcare services, in addition to social,
 15 lifestyle, environmental and public policy programs
 16 that improve access to healthcare services for low
 17 income, uninsured or medically underserved
 18 populations in the primary service area which is the
 19 areas in Weslaco, Donna, Mercedes, and Edcouch-Elsa,
 20 I believe; and identify new and support existing
 21 healthcare programs, including educational programs;
 22 provide direct medical, dental or mental healthcare
 23 to those populations; initiate programs that support
 24 and facilitate access to healthcare services. So
 25 that's what it says that's what their intentions are.

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1 A Also exhibit to the contract. The
 2 membership interest transfer agreement says exactly
 3 where their offices are gonna be located, and that
 4 they're gonna have a continuing office there, and so
 5 that's where it was, that's where it is.
 6 Q (Ms. Ibarra) Well, why don't you tell the
 7 jury where they're now located?
 8 A In the Knapp Medical Center building, in the
 9 conference center, in one of the offices there that
 10 was agreed to as part of the membership interest
 11 transfer agreement.
 12 Q Do you know how many times a year they have
 13 meetings?
 14 A At least monthly.
 15 Q Okay. Do you attend all of those meetings?
 16 A I do not.
 17 Q Okay. When did you stop attending meetings,
 18 or have you stopped attending meetings of the board
 19 of directors of KCCF?
 20 A I attend any meeting that they invite me to.
 21 Q Okay. And over the last year, since January
 22 of 2013, how many meetings have you attended with the
 23 board of directors of KCCF?
 24 A It's been really a year and nine months now,
 25 10 months almost. So out of all of those, I've

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1 Q Okay. So let's talk about that. How many
 2 grants has KCCF awarded since it began on November
 3 the 20th, 2012?
 4 MR. KIRBY: I would object to that,
 5 attorney/client, work product; don't answer.
 6 MS. IBARRA: That's a public
 7 disclosure.
 8 Q (Ms. Ibarra) Do you know how many grants
 9 it's award -- has it awarded any?
 10 MR. KIRBY: Objection, attorney/client,
 11 work product. His only basis for getting that
 12 information would have come from his client, in the
 13 furtherance of his representation of his client.
 14 MS. IBARRA: Certify the question.
 15 MR. KIRBY: So whether it's public or
 16 not is not relevant to where he got the information.
 17 If you want to show him a public document that
 18 reflects it, then pull it out and --
 19 MS. IBARRA: I don't need to educate
 20 him. He's their attorney, and he's attended these
 21 meetings, so he knows.
 22 Q (Ms. Ibarra) With regard improving access
 23 to healthcare programs, did I read that correctly?
 24 A Uh-huh.
 25 Q What have they done to improve access? What

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1 does that mean, improve access?
 2 **MR. KIRBY:** Object to that question,
 3 attorney/client, work product; don't answer.
 4 **Q (Ms. Ibarra)** I just want to know what the
 5 terms mean. You wrote it. What does improve access
 6 mean?
 7 **MR. KIRBY:** You're wanting what -- how
 8 he defines improve access?
 9 **MS. IBARRA:** Yes.
 10 **MR. KIRBY:** Just the two words?
 11 **MS. IBARRA:** Yeah. What does that mean?
 12 He wrote the words.
 13 **MR. KIRBY:** It's his opinion of what
 14 those words -- well, you're saying --
 15 **Q (Ms. Ibarra)** What did you mean when you
 16 wrote --
 17 **MR. KIRBY:** I don't know that you've
 18 asked him did he write the words.
 19 **Q (Ms. Ibarra)** Did you write the words of the
 20 formation document?
 21 **A** I drafted this, yes, based upon information
 22 that was worked through with the client.
 23 **Q** Thank you. When you drafted that document,
 24 what did you mean by the term "improve access"?
 25 **A** Well, because I drafted it, doesn't mean

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1 is a huge need in the area, there's all sorts of ways
 2 they can do it, by putting on free clinics, by doing
 3 all sorts of things they could do that would satisfy
 4 that requirement.
 5 **Q** Have they done that? Have they done that?
 6 You just opened the door and said that's what they
 7 could do. Did they?
 8 **A** You asked my opinion, and I gave you what my
 9 opinion was, in terms of what that could mean.
 10 **MS. IBARRA:** Certify the question.
 11 **Q (Ms. Ibarra)** Can you identify anything that
 12 this entity, KCCF, has done to date to as, quote,
 13 improve access to healthcare programs?
 14 **MR. KIRBY:** And only answer that to the
 15 extent that you would have gained that information
 16 from sources other than your clients, or in the
 17 furtherance or rendition of legal services to your
 18 clients, if you can answer it; but only answer it
 19 subject to that.
 20 **A** Well, I can, and I would like to, but I
 21 won't because that's the only place that the
 22 information comes from.
 23 **Q (Ms. Ibarra)** I need some information here,
 24 Mr. Jones, at least to understand. You're claiming
 25 this was with rendition. Are you advising them as to

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1 that I'm the one who came up with that language.
 2 **Q** So you drafted it without understanding what
 3 it meant?
 4 **A** The board had their understanding of what
 5 they believed these words meant. These are the words
 6 they wanted included, and that's what I included.
 7 **Q** So you can't tell this jury what it means or
 8 whether they have fulfilled that charter in those one
 9 year and 10 months since it opened?
 10 **A** I can tell them what I think it means, but
 11 in terms of what the board was intending when they
 12 passed this --
 13 **Q** Did you ask them what they meant?
 14 **MR. KIRBY:** We're not --
 15 attorney/client, work product.
 16 **MS. IBARRA:** Certify the question.
 17 **Q (Ms. Ibarra)** What did you mean by it? What
 18 was your understanding?
 19 **A** There's a variety of things that that could
 20 mean, but, you know, I think they'll just wait and
 21 see what grants they have that come in to do that.
 22 But same time, what is improving healthcare -- access
 23 to healthcare? We obviously have a huge uninsured
 24 population here that struggle to get healthcare
 25 benefits. And so to the degree that they're -- that

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1 how they can meet the obligations of their formation
 2 document? Is that part of your responsibilities as
 3 an attorney?
 4 **A** The information that I would have about
 5 whether or not, and how, and where they are in the
 6 process of accepting and paying out grants, and
 7 performing other obligations consistent with their
 8 purpose, all that information would only come from me
 9 being in meetings, acting as their legal counsel.
 10 **MS. IBARRA:** Certify the question.
 11 **Q (Ms. Ibarra)** What about identifying health
 12 programs? Do you have any information as to what
 13 they've done to identify healthcare programs?
 14 **MR. KIRBY:** Objection, attorney/client,
 15 work product; don't answer.
 16 **MS. IBARRA:** Certify the question.
 17 **Q (Ms. Ibarra)** Is KCCF a healthcare service
 18 organization? Does it provide medical care?
 19 **A** Not that I'm aware of.
 20 **Q** Are any members of the board of directors or
 21 any employees -- are there any employees of KCCF?
 22 **A** Yes.
 23 **Q** Okay. Who would those employees be?
 24 **A** They have an executive director, Bonnie
 25 Gonzalez. They have -- I don't know what Ralph --

1 Ralph Zelno is their -- I don't know, he's their
 2 financial officer. I can't remember what his exact
 3 title is. And I think they have a secretary and
 4 maybe one other person in there.
 5 Q Okay. Are any of these individuals
 6 healthcare providers?
 7 A No.
 8 Q Are any members of the board of directors of
 9 KCCF healthcare providers?
 10 A Yes.
 11 Q Okay. Do any of them, in their capacity of
 12 responsibility to KCCF, provide any medical care to
 13 people?
 14 MR. KIRBY: Objection, form.
 15 A Not -- no.
 16 Q (Ms. Ibarra) Okay. So how does KCCF
 17 provide direct healthcare to an indigent population,
 18 as identified in that document?
 19 MR. KIRBY: I object to that question,
 20 attorney/client, work product. Your only basis for
 21 having any knowledge of that would have come from
 22 them.
 23 MS. IBARRA: Certify the question.
 24 Q (Ms. Ibarra) So there's nothing you can
 25 tell me that you consider to be outside of the

1 membership interest transfer agreement. I think it's
 2 extremely clear in there, but maybe not for -- maybe
 3 it's difficult for you to understand that.
 4 Q And I'm sure it's gonna be difficult for the
 5 jury. Please explain it to us.
 6 A I would be happy to. As part of the
 7 transaction, because the membership interest in
 8 Knapp was being acquired by the nonprofit Prime
 9 Foundation, the eventual goal, and the intent of the
 10 transaction, was to do two things; for Knapp to
 11 continue as a hospital in a stronger position, and
 12 for there to be a foundation available to help serve
 13 the public on a long-term basis, not just in a year
 14 or two, but on a long-term basis, with this amount of
 15 money.
 16 So you couldn't do a foundation -- the
 17 foundation couldn't have been created out of Knapp
 18 Medical Center, because Knapp Medical Center has
 19 continued, it's still there. It's the hospital. So
 20 the benefit of the transaction is that you have Knapp
 21 Medical Center that continues to operate, as it has
 22 before, hopefully in an improved basis, which is our
 23 understanding, but you also have the foundation which
 24 is Knapp Community Care Foundation. It's called a
 25 legacy foundation, is what those are commonly

1 purview of the privilege that would help this jury to
 2 understand what the heck KCCF even is, or why it is
 3 holding 104 million dollars from the transaction; is
 4 that correct?
 5 MR. KIRBY: Other than pointing you to
 6 the articles -- that statement of formation and the
 7 bylaws, which he's already --
 8 MS. IBARRA: I'm asking his opinion. We
 9 can read the documents.
 10 Q (Ms. Ibarra) Can you advise this court?
 11 A I can tell you exactly what the purpose is,
 12 and that is as is stated here, and when and how and
 13 those purposes are accomplished, that's the purview
 14 of the board to make sure that that's all done
 15 properly, and that's their job. So --
 16 Q All right. KMC had its own investments and
 17 its own assets, correct, before the sale, correct?
 18 A Yes.
 19 Q Some 70 to 80 million dollars was
 20 transferred from Knapp Medical Center to this brand-
 21 new entity, KCCF, correct?
 22 A Correct.
 23 Q What consideration did KCCF put up to obtain
 24 the assets of the proceeds of this transfer?
 25 A Well, if you -- you must not understand the

1 referred to. I certainly don't think that this is
 2 the first one. I know of at least a few others that
 3 are out there, and I haven't done a significant
 4 amount of research, you probably have, but -- so when
 5 a transaction like this occurs, and a foundation is
 6 created, here it's created as a separate entity, to
 7 be the foundation that goes forward in the future.
 8 In essence, it's accepting all the sales proceeds to
 9 perform the function that it was designed to, which
 10 is to help serve the healthcare needs of the
 11 community.
 12 Q Well, up until this transaction, Knapp had
 13 done just that, hadn't it?
 14 A You're asking my opinion on the performance
 15 of the hospital?
 16 Q Yes.
 17 A It's been a hospital here my whole life.
 18 I've lived here my whole life, so yes.
 19 Q And you were aware that Knapp was making
 20 money annually and adding to its investment annually,
 21 its investments and its cash, correct?
 22 MR. KIRBY: Object to that question;
 23 attorney/client, work product; don't answer.
 24 Q (Ms. Ibarra) Well, let's take a look at
 25 this Knapp Medical Center Project Rio board

1 presentation of November 30th, 2011, from the Seale &
 2 Associates. It's Exhibit 3 presented by counsel for
 3 defendants. Let's see. I'll go ahead and mark it.
 4 (Exhibits No. 14 & 15 were marked.)
 5 Q (Ms. Ibarra) This is 14. I'll go ahead and
 6 pass this over to you now; okay, and 15. Have you
 7 seen those documents before?
 8 A I may have. I think I have.
 9 Q Do you know what Exhibit 14 and 15 are?
 10 A I know what 14 is. I'm not sure what 15 is.
 11 Q Can you tell the jury what they are after
 12 you've had a chance to look at them?
 13 A Okay. I don't think I've ever seen the
 14 Kaufman Hall report before, which No. 15 is a Kaufman
 15 Hall comprehensive strategic position assessment.
 16 Q And what's the date of that?
 17 A Does it say on here at the top? I don't see
 18 a date. Do you want to point it out to me, and then
 19 I'll say what it is?
 20 Q It was behind 3 and 4 provided by counsel.
 21 Let's see.
 22 A I'm sure there's one in here some -- it's an
 23 assessment report relating to certain time periods.
 24 I just can't tell -- it goes up through 2011 here, so
 25 it probably had to be in --

1 access to human, financial and clinical resources
 2 that Knapp does not currently have."
 3 Q Okay. You'll note in the first section
 4 where you just read that at the time of this
 5 analysis, obviously made with regard to
 6 considerations and proposals that shall be made for
 7 Knapp, that Knapp was, quote, on sound financial
 8 footing. Were you aware that Knapp was not in any
 9 type of financial distress at the time, that it had
 10 been determined that it was on sound financial
 11 footing?
 12 MR. KIRBY: Objection, form; objection,
 13 attorney/client privilege, work product privilege;
 14 don't answer.
 15 Q (Ms. Ibarra) Do you have any understanding
 16 as to Knapp's financial status or solvency at the
 17 time that you consummated the deal with Prime?
 18 MR. KIRBY: Objection, attorney/client,
 19 work product; don't answer.
 20 MS. IBARRA: Certify the question. I'm
 21 just gonna continue that line.
 22 Q (Ms. Ibarra) All right. So with regard to
 23 creation of KCCF, why couldn't the money just stay at
 24 Knapp Medical Center, as it had all those years? Why
 25 was Knapp liquidated, or denuded of those funds?

1 Q All right. So it's an audit or some sort of
 2 analysis of the performance of Knapp Medical Center,
 3 would you agree?
 4 A It's a strategic position assessment is what
 5 it says. I've never seen it before.
 6 Q Okay. Can you turn to page 51 and read to
 7 the jury what it says is an analysis of Knapp's
 8 performance, at least at the time of this analysis,
 9 this strategic analysis? I believe it's the last
 10 page. Maybe I'm incorrect. Let's see, it would
 11 be --
 12 A Key threats to future financial -- oh, 51?
 13 Q 51, yes, sir. Can you read that for the
 14 jury, please?
 15 A This whole page you want me to read?
 16 Q At least the first part.
 17 A "Implications for Knapp. Knapp Medical
 18 Center is clearly at a crossroads, while historically
 19 strong and on sound financial footing today, the
 20 organization is faced with a challenging competitive
 21 environment; significant deficiencies relative to
 22 new era core competencies; significant threats to its
 23 future financial position and performance.
 24 Positioning for expected changes in the market and
 25 reimbursement environment will require significant

1 MR. KIRBY: Object to that,
 2 attorney/client, work product privilege.
 3 Q (Ms. Ibarra) You don't want to answer?
 4 MR. KIRBY: He wants to, but he can't.
 5 Q (Ms. Ibarra) Legally, what is an advantage
 6 to creating an unrelated brand-new entity to transfer
 7 when it puts up no consideration to transfer funds
 8 into when there's a sale?
 9 MR. KIRBY: Objection, form.
 10 A When control of an entity is being acquired
 11 in a transaction, to leave the proceeds of the
 12 transaction in the company would be as though nothing
 13 were paid for it. Does that make sense? Do you
 14 understand what I'm saying? So if you own a
 15 corporation, and I decide that I'm going to buy that
 16 corporation for you -- from you, you're expecting to
 17 receive money on the outside of the corporation. If
 18 we just put all the money into the corporation, and I
 19 acquired it, wouldn't that be great?
 20 Q (Ms. Ibarra) Mr. Jones, were you aware what
 21 the value of Knapp Medical Center was at the time of
 22 the transaction? Was an audit done?
 23 MR. KIRBY: Objection; attorney/client,
 24 work product; don't answer.
 25 Q (Ms. Ibarra) As you look through the

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1 membership transfer agreement, can you tell me
 2 whether an audit was done that identified the value
 3 of Knapp Medical Hospital -- Knapp -- let me try
 4 again. Can you tell me looking at the first exhibit
 5 to the Medical -- to the transfer agreement, if there
 6 was an audit done that states the value of Knapp at
 7 the time of transfer; its assets, its appurtenances,
 8 its realty, its personalty?
 9 A Do you want to give me a Bates number?
 10 Q It's actually somewhere around page 85. And
 11 I can give you the Bates number.
 12 A I'll get there. I'm almost there.
 13 Q It's KMC 156.
 14 A 156?
 15 Q And 158.
 16 A Okay.
 17 Q What was Knapp Medical Center's -- is it
 18 typical for a transactional attorney selling
 19 commercial property, realty, personalty, to obtain a
 20 fair market evaluation of the value of that property,
 21 correct?
 22 A No.
 23 Q Okay. Was that done here?
 24 A Not on my behalf or not at my request.
 25 Q I'm not asking you that, sir. Is there a

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1 Q Okay. What did -- what was the value of
 2 that? How much was that worth?
 3 A I don't know. You'll have to ask them. To
 4 the community, it was 104 million dollars, an amount
 5 that ended up in the foundation, because Prime has
 6 continued to, as that controlling vote, for the last
 7 almost two years now, operate Knapp Medical Center
 8 just as it has been in the past.
 9 Q Why does Prime claim that the sale -- that
 10 the amount that was paid or paid into KCCF was 104
 11 million dollars, when the city, the community, the
 12 Knapp Medical Center, already owned between 76 and 84
 13 million dollars of that amount? Why does Prime get
 14 the credit for that in the sale? It's not their
 15 money.
 16 MR. KIRBY: Objection, form.
 17 A Well, I'll try to explain that the best I
 18 can. I have my own understanding of it, which is
 19 that you kind of have to take a step back and look at
 20 the transaction a little higher up, and hopefully
 21 that will clarify it. If you'll bear with me. If
 22 you were going to buy an asset, you're gonna buy a
 23 house -- or I'm gonna buy your house, and you owe
 24 \$50,000 on it, and I'm gonna pay -- it's worth
 25 \$150,000. Well, if I buy it and I take over that

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1 sheet that advises what -- at least some appraiser
 2 evaluated the property, of Knapp Medical Center, to
 3 be worth at the time of the transaction?
 4 A Not that I'm aware of. If you're referring
 5 to a balance sheet as being an appraisal, those are
 6 drastically different things.
 7 Q All right.
 8 A So this is a balance sheet on page 156 and
 9 157, and then continuing on to 158, et cetera. So
 10 that is part of the financial statements. Those are
 11 not appraisals.
 12 Q Is there anyplace that you can tell me where
 13 you were made aware, or that you can identify a
 14 document that tells us what Knapp Medical Center was
 15 worth, was valued, the value of the asset transferred
 16 to -- and let's clarify that, because you've --
 17 you've been very careful to say no assets were
 18 transferred. What did Prime acquire?
 19 A A controlling interest, a controlling vote,
 20 in essence, of Knapp Medical Center.
 21 Q Hundred percent controlling vote, correct?
 22 A Hundred percent controlling vote.
 23 Q So not a vote. They have the say in
 24 everything that Knapp does?
 25 A Absolutely.

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1 property, and it's still subject to your financial
 2 obligation, how much money am I gonna pay you? I'm
 3 gonna pay you, a hundred thousand dollars, because
 4 even though it's worth 150, I'm taking it, it still
 5 has debt of \$50,000 against it. It's the same way it
 6 works in a company. So at the end of the day what
 7 you have is you have the Community Care Foundation
 8 that ended up with proceeds of the transaction of 104
 9 million dollars. At the end of the day, Prime has
 10 control of Knapp Medical Center, which is the same
 11 company it was before, and that company, those
 12 assets, that ongoing entity and hospital, still has
 13 57 million dollars worth of indebtedness in it.
 14 Q (Ms. Ibarra) Okay.
 15 A So, yes, that's the way it works. That's
 16 why the value of the transaction was 150 plus million
 17 dollars.
 18 Q Okay. Prime acquired a government's right
 19 and a hundred percent of anything Knapp does. It is
 20 reported that 104 million dollars was transferred to
 21 this brand-new entity called KCCF.
 22 A Right.
 23 Q But Prime only paid between 25 and 30
 24 million of that 104 million dollars.
 25 A At closing.

1 Q At closing. Yet, the entire value of the
 2 transaction which you just testified was the value to
 3 the community, was 104 million dollars. That money
 4 was already in Knapp Medical Center. That's money
 5 that was transferred out of an operating financially
 6 solvent entity to another entity so that Knapp
 7 Medical Center can't even control its own assets
 8 anymore. It was given away. Do you agree?
 9 A No.
 10 Q So explain to me why Prime -- I mean, I
 11 heard your explanation, which absolutely made no
 12 sense to me at all. And I'm sorry, it didn't. It's
 13 not gonna make sense to this jury either. Prime had
 14 almost 80 million dollars at least in its investments
 15 and cash, correct, at the time, at December 31st,
 16 2012, correct?
 17 A Knapp, not Prime.
 18 Q I mean Knapp Medical Center?
 19 MR. KIRBY: I wanted to object to the
 20 sidebar of the jury's gonna not understand it either.
 21 MS. IBARRA: Well, you were so busy
 22 laughing I wanted to be sure that there was some
 23 understanding that it's not just me.
 24 Q (Ms. Ibarra) Knapp Medical Center --
 25 MR. KIRBY: It probably is just you,

1 purchase price, let's go with that." That's not
 2 true.
 3 Q I understand. That's why I went with your
 4 term.
 5 A Okay.
 6 Q That the assets that accrued to Knapp
 7 Medical Center on December 31st were, approximately,
 8 valued at 167 million dollars.
 9 A No.
 10 Q That's what you said.
 11 A No, I disagree with you. They're not valued
 12 at that. The balance sheet shows that that's the
 13 value on the balance sheet. That does not mean
 14 that's what you can buy and sell them for.
 15 Q I didn't ask that.
 16 A You just said the value. I'm telling you,
 17 that's not necessarily an indication of the value on
 18 the balance sheet.
 19 Q But it's a val -- okay, what is it, an asset
 20 evaluation, or what?
 21 A The balance sheet is the company's version
 22 of what they're worth at that point, and not even
 23 what they're worth. These are normally not adjusted
 24 by market values. These are book values, and I can't
 25 even talk to -- I'm not gonna get into what their

1 but --
 2 MS. IBARRA: Well, we'll get to that in
 3 a minute. I'm sure Mr. Jones can help us.
 4 Q (Ms. Ibarra) December 31st, 2012 Knapp had
 5 80 million dollars to its name, didn't it?
 6 A Yes. As part of the -- you're looking at
 7 their assets of 167 million, that's part of the
 8 assets is that.
 9 Q Okay. So we know its assets was 167
 10 million, which is cash, investments, the hospital,
 11 the helipad, the parking lots, the doctors office,
 12 the interest in the surgical center. All of those
 13 things make up the assets of Knapp Medical Center on
 14 December 31st, 2012 of at least 167 million dollars,
 15 correct?
 16 A Per the balance sheet, correct.
 17 Q Okay.
 18 A And, also, it needs to be clarified that you
 19 said the appraisal, the valuation. The valuation of
 20 a company that's being bought and sold does not
 21 always have that much relevance with respect to what
 22 their balance sheet is. There's a lot of factors
 23 that go into what you can buy and sell a company for,
 24 and I can assure you that buyers and sellers don't
 25 just look at the balance sheet and say, "There's the

1 accounting procedures are, but this is not how
 2 purchase prices -- you don't just look at this and
 3 this means that's what they're worth.
 4 Q Okay.
 5 A A company is valued separately, based upon a
 6 variety of factors, one of which is this, yes. You
 7 would certainly look at this as a basis for beginning
 8 your analysis of a purchase price and the true value
 9 of a company, but you're not just gonna stick with
 10 that alone is the point I'm trying to make.
 11 Q And it was certainly something that was
 12 required to be produced to Prime before they
 13 consummated this deal?
 14 A Absolutely.
 15 Q Okay. So based on what we've just
 16 discussed, on December 31st how did the assets of
 17 Knapp Medical Center change the very next day?
 18 A The very next day they had 70 million
 19 dollars less cash.
 20 Q Okay. Which Prime says was part of the
 21 sale, correct, or part of the amount paid for the
 22 right for Prime to govern Knapp, correct?
 23 A That's right.
 24 Q Why does Knapp lose its right to any kind of
 25 governance and its own income, its own money, so that

1 Prime gets all the benefit of running this hospital?
 2 A I really don't think I understand that
 3 question. I'm trying to figure out what you're
 4 asking in my mind. I think I know where you're
 5 trying to go, but -- Prime takes over control of a
 6 hospital that -- or of the -- they take over control
 7 of the board of trustees, or board of directors of
 8 Knapp Medical Center, and that entity, that
 9 corporation, now has 70 million dollars less cash
 10 than it did before. Then they have to replenish the
 11 cash to the degree that they need to to continue
 12 operating it at whatever point. The next day, I
 13 don't know what they did the next day. I wasn't in
 14 charge of the accounts at that point. I was in
 15 control and working with getting the -- what ended up
 16 being the 104 million dollars into the foundation for
 17 the benefit of the community.
 18 Q So correct me if I'm wrong. This deal
 19 resulted in the following: For some 25 to 30
 20 million, Prime gets complete control of Knapp Medical
 21 Center. Number two, Knapp is denuded of some 76 to
 22 80 million dollars; and a third entity, totally
 23 unrelated to Knapp Medical Center, is now enriched by
 24 104 million dollars; finally with the right to take
 25 total control, the only thing Prime paid in this

1 because it's -- one it's, Prime, but to the extent
 2 that you do know the answer and it came from Prime
 3 telling you after we've been representing Prime, you
 4 would not be able to answer per attorney/client
 5 privilege.
 6 A And I don't -- I mean, I gave my
 7 explanation, which won't come from attorney/client
 8 privilege. I'll go back to my example before. I'll
 9 try to make it make sense.
 10 MR. KIRBY: It made sense before.
 11 A If you --
 12 MS. IBARRA: Object to sidebar.
 13 A Let's say before the transaction ever took
 14 place, okay, you've said 167 million dollars.
 15 Q (Ms. Ibarra) That's what the documents say,
 16 sir.
 17 A Okay. So let's say a hundred and -- let's
 18 say 170, okay. So if we took 70 million dollars of
 19 cash out and put it into a new foundation before the
 20 transaction ever took place, then you would be left
 21 with really what Prime acquired, or acquired control
 22 over, which is the assets. So now you're down to 80,
 23 90 million dollars worth of assets that are left in
 24 Knapp Medical Center. So that's what they, in
 25 essence, acquired, right? That's what you're saying?

1 transaction was this 25 to 30 million dollars?
 2 A I think that's a pretty serious --
 3 Q Tell me where it's wrong.
 4 A It's wrong in a number of ways.
 5 Q Okay. Let's hear it.
 6 A First of all, the assets of Knapp Medical
 7 Center, it's a nonprofit corporation, as you know, so
 8 those assets are then transferred into another
 9 nonprofit corporation, which is serving a similar
 10 purpose, as was discussed with the attorney general,
 11 who has also seen all of this and was in agreement
 12 with it, or at least they had no objection to the
 13 transaction as it was structured, because they're in
 14 control of making sure that a nonprofit corporation
 15 is not denuded of all of its assets unnecessarily.
 16 So here the assets in Knapp, the cash was taken out
 17 of Knapp Medical Center, put into Knapp Community
 18 Care Foundation, and then Prime replenished whatever
 19 cash they needed to to continue to operate Knapp
 20 Medical Center as they had in the past and will
 21 continue into the future.
 22 Q Why is Prime counting Knapp's own money
 23 towards the sale of the right to govern Knapp?
 24 MR. KIRBY: Objection, form; and also, I
 25 mean, I don't think you know the answer to it,

1 Q You say in assets. You're talking about the
 2 hospital, the realty, the personality?
 3 A Everything other than the cash.
 4 Q Okay.
 5 A So that's what they, in essence were
 6 acquiring.
 7 Q Okay. Let's talk about that. A deed was
 8 transferred for the sole property, the parking lot on
 9 8th -- on 8th Street to KCCCF, correct?
 10 A Not a parking lot, I don't think. There's a
 11 piece of property that's next to Dr. Mery's office.
 12 I don't -- it's over close to Weslaco East High
 13 School. It's down the road. It's not part of the
 14 parking lot immediately surrounding there, but there
 15 is one piece of property that was -- that was
 16 transferred to Knapp Medical Center, or to Knapp
 17 Community Care Foundation.
 18 Q And why was that?
 19 A Just part of the transaction.
 20 Q I know, but why did they want that piece of
 21 property, and why was it deeded?
 22 MR. KIRBY: Let me object to that --
 23 A I can't answer that.
 24 MR. KIRBY: -- attorney/client, work
 25 product; don't answer.

1 MS. IBARRA: Certify the question.
 2 MR. KIRBY: It's noon. I'm ready for a
 3 lunch break. Is that okay with you all?
 4 MS. IBARRA: Okay with me.
 5 VIDEOGRAPHER: Off the record, the time
 6 is 12:02.
 7 (OFF THE RECORD)(12:02-1:23)
 8 (Note: Gerald Smith replaced Donann
 9 Smith as the court reporter for the remainder of the
 10 deposition.)
 11 VIDEOGRAPHER: On the record, beginning
 12 of tape 4. The time is 1:23.
 13 Q (Ms. Ibarra) Mr. Jones, I tried to put
 14 together a little chart here to understand what you
 15 testified to, and I just want to go through briefly
 16 what was the change in the condition of the three
 17 entities, KMC, KCCF, and Prime Health -- Prime
 18 Foundation between December 31st, 2012 and January
 19 1st, 2013. And I want you to correct me if I've
 20 misstated anything as we go through. On that date,
 21 or at least by the time of the transaction, KCCF was
 22 -- had in its coffers and its income some 104 million
 23 dollars?
 24 A No, but --
 25 Q I understand that you testified earlier that

1 MR. KIRBY: Objection, form.
 2 A Approximately, 25 million at the initial
 3 closing, and then the remaining seven and a half
 4 million to eight million dollars that came later came
 5 from them, too. So you're talking about a total of
 6 about 33.
 7 Q (Ms. Ibarra) Okay. Nothing else came out
 8 of pocket from Prime?
 9 A No.
 10 Q Okay.
 11 A Other than what they put back into Knapp
 12 Medical Center.
 13 Q Okay. Well, we're not talking about that.
 14 Okay. We're talking about what happened in the
 15 transaction, okay?
 16 A Okay.
 17 Q The remaining sums, the difference between
 18 that 25 and, ultimately, 32.5 million, and 104
 19 million, came from the Prime -- came from Knapp
 20 Medical Center, itself?
 21 A That seventy whatever million dollars came
 22 out of Knapp Medical Center, itself, and was
 23 transferred into Knapp Community Care Foundation.
 24 Q So after that money was taken out of Knapp
 25 Medical Center, how much money in investments and

1 104 million dollars came as soon as they were able to
 2 resolve the books and figure out how much was to be
 3 paid with regard to net patient revenues; is that
 4 correct?
 5 A Well, there's a net working capital
 6 adjustment, which was a little -- between seven and a
 7 half and eight million dollars that came in in
 8 whatever I said, August, July, September, somewhere
 9 in there, which were the remaining funds. By that
 10 date, they were entitled to the funds of ninety --
 11 whatever the difference is, 97 million, more or less.
 12 Q Okay.
 13 A Now it wasn't -- I mean, it took a while to
 14 transfer all the funds, but, yes, those funds
 15 belonged to them at that point in time.
 16 Q Okay. So they were holding 97 million with
 17 the expectation of coming up with -- ultimately
 18 having about 104 million?
 19 A That's right.
 20 Q Okay. And that's the money that began with
 21 -- that funded KCCF from the beginning?
 22 A That's correct.
 23 Q Okay. Of that, only 25 to 30 million
 24 dollars came from Prime, as a result of Prime's
 25 acquisition of the membership in KMC?

1 cash did Knapp Medical Center own?
 2 A I don't know, something like 11 million,
 3 plus whatever money Prime put back into it.
 4 Q I'm talking about January 1st.
 5 A I don't know --
 6 Q Did they take all of the money out of Knapp
 7 Medical Center and transfer it to KCCF?
 8 A Well, let me do -- I'll answer your question
 9 the best I can. At that point in time, it's my
 10 understanding that there was still, approximately,
 11 11 million dollars in cash in Knapp Medical Center,
 12 but, also, my understanding that Prime immediately,
 13 or very shortly thereafter, potentially even at that
 14 point in time, I don't know what they did with the
 15 accounts, but you can't take all of the cash out of
 16 an operating entity and then continue to operate it.
 17 So they had to put money back into it.
 18 Q I don't want you guessing. If you don't
 19 know, don't tell me what you think.
 20 A You asked me what was there on that day, and
 21 I'm telling you that I know what was there. I don't
 22 know what Prime put back in.
 23 Q Okay. So at this point, all you're aware of
 24 is that on January the 1st, the only thing left in
 25 the investment and capital accounts was some 11

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1 million dollars?

2 A Something like that. I don't remember.

3 It's on the funds flow amount.

4 Q Can you show me?

5 A I can show you -- and there may be more than

6 that. What I'm aware of is this -- I think it was,

7 approximately, 11 million. That's -- I can't show

8 you exactly. That's my recollection.

9 Q What would that be reflected on, what type

10 of a document?

11 A You have the balance sheet, so you can see

12 from the balance sheet what cash was there, and then

13 if we took out 70 million dollars, then you'll see

14 what's left.

15 Q How was that figure determined, as far as

16 why did they decide on the 80 million dollars, or 76

17 million dollars, as opposed to making it 80 -- 76

18 plus 11?

19 MR. KIRBY: Object to that question,

20 attorney/client privilege, work product; instruct

21 him not to answer.

22 Q (Ms. Ibarra) Were you part of that decision

23 as to how much should be left with Knapp Medical

24 Center?

25 A No. I didn't give advice, one way or the

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1 a stock sale, stock transfer, which is so you own a

2 company, you own the stock in the company, and

3 instead of me buying -- there's two ways that those

4 purchases and sales of businesses are -- commonly

5 take place. One is an asset purchase, where you show

6 up and you buy all the assets out, which would have

7 been the UHS transaction, for example. The other one

8 is a stock purchase, where you go in and you buy the

9 stock. There's no transfer of the assets. You just

10 become the owner of that company. So in this

11 circum -- so, typically, you're gonna go in and

12 you're gonna buy -- if I'm gonna buy your company

13 from you, I'm gonna pay you X amount of money for

14 your stock. Everything in the company is gonna stay

15 there, or whatever value is there, that's what I'm

16 paying you for is the value that's in your company.

17 So I'm gonna pay you the money, and,

18 you, as the stockholder, are going to end up with the

19 money. At the end of the transaction, the company is

20 still there. I'm just a stockholder, and you, as the

21 seller, walk away with money in your pocket, in your

22 hand. Does that make sense? Are we clear up to that

23 point, because I don't want to go to the next one

24 unless --

25 Q Okay. That's fine. I'm clear on that, but

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1 other. I helped implement what was determined, but,

2 no, that wasn't my -- wasn't based upon any opinion

3 or advice that I gave.

4 Q Okay. And KCCF also got, as we've

5 discussed, a lot -- a deed to a lot that previously

6 belonged to KMC?

7 A That's right.

8 Q Okay. Now you said that the KCCF funds were

9 transferred out of KMC because, as I understood your

10 testimony, you can't have a situation where it looks

11 like somebody got something for nothing?

12 A That's not what I said.

13 Q Okay. Well, something for nothing was

14 exactly your words. Help me to understand then, if I

15 didn't understand, why they took the money out of

16 Prime -- out of Knapp Medical Center and put it in

17 this other entity?

18 A Okay. I think I can do that a little better

19 than I did before, just because I've thought about it

20 a little bit.

21 Q Okay.

22 A But I have to walk you through it for a

23 minute, if you'll bear with me.

24 Q Okay.

25 A Okay. So a typical sale of a business, via

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1 I'm still trying to find why this is relevant.

2 A Yes, it will be --

3 Q Because this is not a stock company, is it?

4 A It will be just in a second. Okay. So

5 since this was a sale of control, or a membership

6 interest, there was no technical seller. In my

7 scenario with you, there's nobody who owned the stock

8 that could sell the rights to all the company. What

9 you did is we had the ability to sell control, which

10 we did. So there is no seller. So what ends up

11 happening is that Knapp Community Care Foundation is

12 created to play the role of the seller here, and

13 that's what they were done -- that's what they were

14 created for. Their purposes are very closely tied to

15 the same purposes that Knapp Medical Center was

16 originally created for. That's why when you were

17 going through the language of they have the ability

18 to provide direct medical care, which is some of the

19 same type of purposes that Knapp Medical Center was

20 created for. So while they're not identical, and

21 they're not designed to really compete against Knapp

22 Medical Center, and they do support them to some

23 degree, they are -- they have a very similar overall

24 purpose for the foundation.

25 So, in essence, KCCF was created to act

1 as the role of the seller, to receive all the
 2 proceeds of the sale, and then to continue on
 3 performing a mission very similar to what Knapp
 4 Medical Center is doing.

5 Q Okay. I've heard your analogy. Certainly
 6 the documents reflect that the seller is KMC, because
 7 KMC owned its own assets, and the board of directors,
 8 and the right to its own governance. So how can you
 9 claim that an independent entity, that has not paid
 10 any consideration, shall now become the seller of
 11 KMC? I don't understand that analogy at all.

12 A You may not, and I'll admit this is --

13 Q Irregular.

14 A -- a very complicated transaction. Is it
 15 irregular in the business world, are there more
 16 complicated? No, there's lots of complicated
 17 transactions.

18 Q Well, you've made a point of saying that,
 19 you know, this was apparent on its face, it's clear.
 20 It's not. Even as you acknowledge now, it's very
 21 complicated. How do you explain to this jury that an
 22 unrelated newly created entity, that didn't even come
 23 into effect until November, has any right to
 24 distribute the assets of Knapp Medical Center,
 25 including its governance, to a third party?

1 no other members of that board?

2 A Are you talking about did that corporate
 3 member have only one member? I don't know. I wasn't
 4 involved --

5 Q Did he have a hundred percent control of
 6 Knapp?

7 A I don't know who the he was. I mean, there
 8 was --

9 Q You're the one that told this jury that
 10 there was a corporate member.

11 A There was.

12 Q And I'm asking you did that corporate member
 13 have a hundred percent control of the board of
 14 directors -- the board of this hospital, like Prime
 15 does?

16 A I don't know. I know that Knapp is still a
 17 nonprofit hospital, like it was before, and even
 18 though there may be control at the Prime level, and
 19 before there was control at a different corporate
 20 member level, it's still a nonprofit hospital and
 21 subject to all of the same rules and regulations it
 22 was before.

23 MS. IBARRA: Objection, nonresponsive.

24 Q (Ms. Ibarra) Mr. Jones, is it your
 25 testimony that Prime obtained no equity interest,

1 A It didn't.

2 Q So why does your analogy have any relevance,
 3 whatsoever?

4 A Because trying to get you to see the purpose
 5 of creating KCCF, but the end of the day, the Knapp
 6 Medical Center board of directors, this was the
 7 structure that we created, and a structure that works
 8 to accomplish the goal, and the goal was to maintain
 9 the hospital as it had been in the past, and to
 10 create a foundation which creat -- which supports the
 11 -- which supports the community, which it does.

12 Q To maintain the hospital as it had in the
 13 past. Had the hospital previously been governed by
 14 one member, one single member of a board of
 15 directors, one person, one entity, one corporate
 16 entity?

17 A Yes.

18 Q Ever?

19 A It had been.

20 Q When was that?

21 A I know that there was a corporate member
 22 before.

23 Q Was it the sole member, Mr. Jones?

24 A There is only one corporate member, yes.

25 Q No. Was he the only corporate member with

1 whatsoever, in Knapp Medical Center?

2 A Yes.

3 Q And is it your testimony that the board of
 4 directors directed you to create the Knapp Community
 5 Care Foundation?

6 MR. KIRBY: Objection, attorney/client
 7 privilege, work product; can't answer that.

8 MS. IBARRA: He's already testified to
 9 that. Do you want him to open the door, or not?

10 MR. KIRBY: He didn't testify as to what
 11 the board of directors directed him, specifically,
 12 related to that.

13 MS. IBARRA: Certify the question,
 14 please. We have an agreement --

15 MR. KIRBY: Why are you asking him
 16 again, if he's already testified, by the way?

17 MS. IBARRA: We have an agreement that
 18 this will be a running request that the questions be
 19 certified.

20 MR. KIRBY: Why are you asking again, if
 21 he's already answered it?

22 MS. IBARRA: Because I couldn't believe
 23 he said it.

24 Q (Ms. Ibarra) You testified earlier that the
 25 money taken out of Knapp Medical Center must be

1 rebuilt from net patient's proceeds; is that correct?
 2 Did I misunderstand you on that, too?
 3 A I don't know what that means.
 4 Q I don't know. That was your words. I wrote
 5 it down when you said it.
 6 A Do you know what your question was? I'll be
 7 happy to answer it again.
 8 Q I was asking you as to, again, why Knapp
 9 Medical Center's assets, its investments and its
 10 cash, were removed from Knapp Medical Center? And
 11 you said because of the -- it does not look right, or
 12 it was the appearance of getting something for
 13 nothing. Now I didn't understand what you meant by
 14 that. Can you explain that to me?
 15 A I'll do my best, because it's -- you're
 16 confusing what I said before. So I'll do my best.
 17 So you said -- and I tried to give examples. Again,
 18 the structure is somewhat complicated, but there's no
 19 problem with it legally, so I'm trying to make it
 20 make sense to you. But had we -- the goal of the
 21 transaction was to have a foundation that had this
 22 money to benefit the community and a hospital. Let
 23 me take a step back, maybe this will help. Let's go
 24 back and look briefly at what the UHS transaction
 25 would have been -- looked like had it gone through.

1 Center is being operated as a hospital, and you have
 2 a foundation with 104 million dollars. That's why it
 3 all worked that way, is to accomplish that goal,
 4 which it did.
 5 MS. IBARRA: I'm gonna object to the
 6 extent that you came to a legal conclusion on whether
 7 it legally was okay.
 8 Q (Ms. Ibarra) But my question now is first
 9 the difference there, of course, is that United would
 10 have paid 160 million dollars for such an asset, as
 11 opposed to the 25 to 30 million that Prime paid.
 12 That's a significant difference, isn't it?
 13 A No, because you're incorrect in your -- at
 14 the end of the day, let's look at them side by side.
 15 One would have ended up with the foundation with 104,
 16 which it did, and the UHS deal would have had 140.
 17 So there's a 36 million dollars difference between
 18 those two numbers, and that's the difference between
 19 the two transactions, which is there are reasons for
 20 that
 21 Q Would those reasons also include that the
 22 UHS transaction would not have left Knapp in debt 56
 23 million dollars in bonds, whereas the Prime
 24 transaction did?
 25 A Absolutely not. That has no part in that --

1 Just for a brief second. Had UHS purchased all of
 2 the assets of Knapp, assuming the City would have
 3 allowed them to do that, or could have allowed them
 4 to do that, and did, then UHS would have continued to
 5 operate the hospital, similar to what's being done
 6 now, that's the intent of the transaction, is that
 7 the hospital continue to operate, and there would
 8 have been a foundation, which would have at that
 9 point been Knapp Medical Center would have been the
 10 continuing foundation, called the legacy foundation,
 11 that would have continued to hold all the money, and
 12 would have had 140 million dollars and would have
 13 been here to do the exact same things that Knapp
 14 Community Care Foundation is doing, to support care,
 15 indigent care, and all the other programs we talked
 16 about in that certificate of formation. That's the
 17 way from a high level the transaction should have
 18 looked. The new entity, the new purchaser had
 19 control of -- you know, would have owned all the
 20 assets of Knapp in that circumstance, and would have
 21 continued to operate the hospital, and you have a
 22 foundation with 140 million dollars.
 23 So let's fast forward to one year, until
 24 we're at the end of 2012 and beginning of 2013, look
 25 at the transaction from a high level, Knapp Medical

1 in that anal -- financial analysis, whatsoever.
 2 Q But that's what happened, isn't it?
 3 A No.
 4 Q Prime did not leave Knapp Medical Center,
 5 the obligor, the sole obligor on the bond to the
 6 extent of 56 million dollars in debt?
 7 A Yes, just as it was before.
 8 Q I understand. That's not what would have
 9 happened in the United transaction, though? That was
 10 part of the deal, wasn't it?
 11 A Right. Had Prime decided to pay the bonds
 12 off, they could have done that. The value of the
 13 transactions is the same, either way.
 14 Q And you didn't recommend to them that they
 15 pay off that debt so that KMC would not be burdened
 16 with it?
 17 WITNESS: You gonna let me answer that
 18 one?
 19 MR. KIRBY: Are you talking about a
 20 recommendation to Prime, or to --
 21 WITNESS: I think she's asking whether I
 22 recommended to the board.
 23 MR. KIRBY: I thought she was asking
 24 about Prime.
 25 Q (Ms. Ibarra) No, I'm asking about Prime.

1 **MR. KIRBY: You can answer to Prime.**
2 **Q (Ms. Ibarra) Did you recommend to Prime**
3 **that they pay off the bonds?**
4 **A Absolutely not. That's certainly not my**
5 **role to tell -- to dictate the terms of the**
6 **transaction.**
7 **Q So nothing about this transaction was your**
8 **input, with regard to whether it was good for the**
9 **community, good for the board, good for Knapp, or**
10 **good for anybody? It was just putting a deal**
11 **together.**
12 **MR. KIRBY: I'm gonna object to that.**
13 **He's answered that multiple times already. It's a**
14 **harassing question, he's already answered it anyway.**
15 **MS. IBARRA: It would have taken less**
16 **time to just say yes.**
17 **Q (Ms. Ibarra) And, therefore, you said that**
18 **the money from the net patient revenues are still**
19 **coming into Knapp Medical Center, correct?**
20 **A What do you mean by net patient revenues?**
21 **Q When a patient pays by Medicare, Medicaid,**
22 **government assistance, insurance, personal pay, the**
23 **money is being collected at Knapp Medical Center; is**
24 **that correct?**
25 **A It was never designed to be Knapp Community**

1 **Care Foundation. I don't know why that would have**
2 **ever been the case, why somebody would let an**
3 **independent foundation collect all of their funds for**
4 **them, but certainly not. That was never intended, it**
5 **ha never been the case.**
6 **MS. IBARRA: I'm gonna object to the**
7 **portion that's nonresponsive.**
8 **Q (Ms. Ibarra) Does the money come to Knapp**
9 **Medical Center?**
10 **MR. KIRBY: Objection, form.**
11 **A I am not --**
12 **Q (Ms. Ibarra) Or does it come to Prime, who**
13 **runs the board of directors? How did you design**
14 **this? Where does the money go?**
15 **A Oh, it goes to Knapp Medical Center.**
16 **Q Okay. And that money, and its distribution,**
17 **and the things that are bought, are directed by Prime**
18 **Foundation?**
19 **A What dist -- are you --**
20 **Q Just yes or no?**
21 **A Distribution to whom?**
22 **Q Who controls the money that comes to Knapp**
23 **Medical Center?**
24 **A Well, let me clarify my -- my response. I'm**
25 **sorry.**

1 **Q I think this is simple, yes or no. Just**
2 **tell me who controls the money.**
3 **A I'll be happy to. A distribution to me,**
4 **when you're talking to me as a transactional attorney**
5 **in this context, means a distribution to an owner.**
6 **So can Prime take money from Knapp Medical Center and**
7 **distribute it to Prime? No. Is Prime in charge of**
8 **directing and appointing members of a board of**
9 **directors who then select a chief operating officer**
10 **and CFO, that then pay the funds on behalf of Knapp**
11 **to whoever they owe bills to? Yes. But can Prime**
12 **take the money out for themselves? No.**
13 **Q Can Prime Foundation pay Prime for-profits**
14 **management, hospital management company, an amount**
15 **of money to manage Knapp Medical Center?**
16 **A They can contract with whomever they want at**
17 **the Knapp Medical Center level, but you said**
18 **distribution or disbursement or something.**
19 **Q Well, let's -- I just asked you a new**
20 **question.**
21 **A A distribution is, to me, a payment to a**
22 **shareholder, and that is not the case.**
23 **Q All right. Let's make sure we don't include**
24 **the word "distribution", because I don't want to**
25 **confuse you.**

1 **A Okay.**
2 **Q Can Prime Foundation contract with Prime**
3 **for-profit and pay that Prime for-profit's**
4 **subsidiary corporation, the hospital management**
5 **company, an amount of money from Knapp Medical Center**
6 **to manage Knapp Medical Center?**
7 **MR. KIRBY: Objection, form.**
8 **A Well, there's a number of ways to answer**
9 **your question. I see --**
10 **Q (Ms. Ibarra) Yes or no would be a good**
11 **start.**
12 **A I see no legal reason why they can't, but I**
13 **think what you should be asking me is whether or not**
14 **the membership interest transfer agreement says that**
15 **they cannot, then no, it doesn't. But if you're just**
16 **talking about a general right for Knapp Medical**
17 **Center to contract with whatever entity they want, of**
18 **course, they can contract with whomever they want,**
19 **unless there's some legal barrier that I'm not aware**
20 **of in some scenario. But beyond that, no, there's**
21 **none that I'm aware of.**
22 **Q You're aware that Prime for-profit owns a**
23 **number of subsidiary corporations that provide**
24 **services to hospitals, correct?**
25 **A Through your testimony, I have heard as**

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1 much.

2 Q All right. Is there anything in your

3 agreement, your membership transfer agreement, that

4 prohibits Prime from contracting with its own for-

5 profit to provide services to Knapp for money?

6 A No.

7 Q I'm gonna ask you to look at page 47 of the

8 membership transfer agreement, and I want to look at

9 this sentence by sentence. And by the way, I'm gonna

10 assume that since your services to this transaction

11 ended when it was consummated, you don't know who

12 Prime Foundation contracts with to provide services

13 to Knapp; is that correct?

14 MR. KIRBY: And I'll instruct him not to

15 answer that, to the extent that he's gained any

16 knowledge -- to the extent that you've gained that

17 knowledge in the representation of Prime Foundation

18 or Prime for-profit.

19 MS. IBARRA: Well, if the answer is no,

20 it's no. If he hasn't gained any knowledge, he

21 doesn't have any.

22 Q (Ms. Ibarra) Is your answer no, or I'm not

23 gonna answer?

24 MR. KIRBY: My instruction remains. I

25 don't know whether he has it or not, but --

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1 control of the membership's medical center. If it

2 didn't acquire an ownership interest or any asset,

3 how can it sell control of the medical center? Is it

4 gonna sell its place on the board of directors? Is

5 that not an asset?

6 MR. KIRBY: Objection --

7 A It would sell its membership interest.

8 MR. KIRBY: Objection, form.

9 A That's where the control lies.

10 Q (Ms. Ibarra) Okay.

11 A There's a corporate member that has control

12 of selecting the members of the board of Knapp

13 Medical Center, and that's where control lies. So if

14 they wanted to sell their membership interest, this

15 is a restriction against them having done so.

16 Q For seven years, other than to an affiliate

17 of Prime Foundation?

18 A That's correct.

19 Q Any time during that seven years, it can

20 sell it to an affiliate, correct?

21 A Yes.

22 Q And if an affiliate includes Prime

23 Foundation -- Prime for-profit, it can do so?

24 A In my opinion, yes.

25 Q "Notwithstanding the foregoing, none of the

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1 MS. IBARRA: Certify the question.

2 Q (Ms. Ibarra) Let's look at part D under no

3 sale. I would like to go through it sentence by

4 sentence where it says, beginning -- and tell me if I

5 read this correctly. "For at least seven years after

6 the closing, Prime Healthcare Services Foundation

7 agrees not to sell, lease, or, directly or

8 indirectly, give up control of the medical center to

9 any third party other than to an affiliate." Did I

10 read that correctly?

11 A You did.

12 Q Okay. And affiliate is defined in this

13 agreement on page 8 as any person directly or

14 indirectly controlling, controlled by, or under

15 common control with a second person. Who are the

16 affiliates you are referring to in this section?

17 Does that include Prime for-profit?

18 A I don't know. I don't know all the

19 structure of Prime for-profit and who -- I mean, you

20 can decide that on your own, I think. I don't know

21 if I have all the information you do about their

22 underlying ownership and who is in control of what?

23 Q Once again, you were just drafting terms.

24 So for some reason -- for seven years after closing,

25 Prime Healthcare System Foundation agrees not to sell

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1 following events shall constitute a violation" of the

2 section I just read, Section 5.3D. Did I read that

3 correct?

4 A You did.

5 Q Okay. So the following is not a violation

6 of that right to sell to an affiliate within seven

7 years, that Prime Healthcare System Foundation and

8 any other affiliate of Prime Healthcare System

9 Foundation that owns an equity interest in the

10 medical center may pledge its interest pursuant to a

11 loan agreement, and the lenders under such loan

12 agreement, or their agent acting on their behalf, may

13 foreclose upon such equity interest. What is the

14 equity interest that Prime Foundation acquired that

15 it can pledge in an independent unrelated loan

16 agreement that the lenders can foreclose on?

17 A There would be none at that point in time.

18 Q Okay. When -- if this is -- is this the

19 complete transaction, sir?

20 A Yes.

21 Q Okay. You are a contract attorney, correct?

22 A I am.

23 Q And you know under the law that every word

24 in a contract is given a meaning. You don't just

25 disregard those words that have no -- that you don't

1 think are important, correct?
 2 A Correct.
 3 Q Okay. So explain to me, if this is the
 4 complete agreement, why you've got it in there that
 5 they have the right to use -- to collateralize, in an
 6 independent financial transaction, an equity
 7 interest you say they don't have?
 8 A I'm trying to read this section again, so I
 9 can make sure that I'm understanding it from the
 10 beginning to the end, so bear with me a second. I
 11 don't recall exactly why this language is there,
 12 other than it was contemplated that at some point in
 13 time that there could have been a change in the
 14 makeup of Knapp, depending on whether an agreement
 15 was ever reached with the City. And so there isn't
 16 an equity interest in Knapp in favor of Prime
 17 Healthcare Services Foundation at closing, but there
 18 could have been, had things changed with the City is
 19 the best as I can recall.
 20 Q Where is that in this agreement, sir?
 21 A It's -- the best indication of that to me is
 22 that in this Roman at IV, where it talks about
 23 Prime's -- after three years of the transaction,
 24 which calls for them to sell the medical center to a
 25 related for-profit entity, including Prime

1 Q (Ms. Ibarra) Is it possible that, Mr.
 2 Jones, that at the time this transaction was entered
 3 into, December 28, 2012, to become effective January
 4 1st, that at least at that time there was a decision
 5 made that the assets of Knapp Medical Center, the
 6 hospital, the parking lots, and all other property,
 7 were going to be transferred to Prime?
 8 MR. KIRBY: Objection, form.
 9 A No.
 10 MR. KIRBY: And object, attorney/client
 11 privilege and work product.
 12 MS. IBARRA: Certify the question.
 13 Q (Ms. Ibarra) Was there any discussion with
 14 Prime that Prime would acquire the assets of Knapp
 15 Medical Center?
 16 MR. KIRBY: Are you talking about before
 17 the transaction was consummated, I presume?
 18 MS. IBARRA: That's the only way, and
 19 it's with regard what their discussions were.
 20 There's nothing protected, unless he represented
 21 Prime at the time.
 22 MR. KIRBY: His discussions with Prime?
 23 MS. IBARRA: Yes.
 24 MR. KIRBY: As to what?
 25 MS. IBARRA: As to whether or not Prime

1 Healthcare Services, Inc. or a subsidiary, and agrees
 2 to assume the obligations set forth in Section 5.3.
 3 Because that only occurs if they enter into an
 4 agreement with the City for the release of the
 5 restriction. Obviously, it could never happen until
 6 the City had agreed, or if the City had agreed to
 7 release the restrictive covenant. Otherwise, none of
 8 those things can happen.
 9 Q Mr. Jones, what on earth does that have to
 10 do with the equity interest described in this passage
 11 that can be transferred and released to a lienholder
 12 or somebody to whom you have a loan? What does that
 13 have to do with anything? I don't understand why
 14 this provision is even in there, especially when you
 15 said this is the entire agreement, and there is no
 16 additional consideration, in your terms, to buy or
 17 acquire these assets, that is the realty and
 18 personalty. So please explain to this jury that --
 19 why you use the term equity, if there is none?
 20 MR. KIRBY: Objection, form. He's
 21 already answered that. You're asking for his legal
 22 opinion. He hasn't been designated as an expert in
 23 this case. He's not answering it again. You can
 24 move on.
 25 MS. IBARRA: Certify the question.

1 was going to own the property known as Knapp Medical
 2 Center.
 3 MR. KIRBY: Okay.
 4 A Well, you've seen the letter of intent that
 5 talked about that being a possibility. But once the
 6 membership interest transfer agreement was executed,
 7 which was in November, that was the structure and the
 8 structure never changed after that at any point in
 9 time, and it never had them acquiring any assets
 10 directly in favor of their foundation, Prime
 11 Foundation, or of them having an equity interest,
 12 other than if you want to call having the ability to
 13 appoint board members equity, that's all they have.
 14 That's all they've ever had. That's what the
 15 membership interest transfer agreement contemplates.
 16 Q (Ms. Ibarra) Tell me where in the
 17 membership transfer agreement it specifically says
 18 that all real property shall remain with Knapp
 19 Medical Center as the owner.
 20 A It doesn't have to because --
 21 Q I didn't ask that, sir. Where does it
 22 exist. Is it in there, or isn't it?
 23 A It is not.
 24 Q Okay. Who -- does it say anyplace in there
 25 what's gonna be done with the Knapp Medical Center

1 property, except the lot, which we know went to KCCF,
 2 as a result of this transaction?
 3 A The assets aren't being transferred, other
 4 than the assets that are being removed to KCCF. So
 5 everything stays in place. There is no transfer of
 6 any asset, other than the cash that's taken out.
 7 That's the only thing -- you don't have to talk about
 8 what real estate is left, or what personal property
 9 assets are left, or what contracts are left, or
 10 anything else, because they all stay in place, just
 11 like they were before.
 12 Q Well, since Prime -- since it's silent on
 13 that issue, and Prime has total control of the
 14 hospital, what stops Prime from executing a deed on
 15 the property to themselves on all of the property?
 16 MR. KIRBY: I object to that question.
 17 You're just asking for his legal opinion about --
 18 MS. IBARRA: No, I'm asking him where in
 19 this document it says that Prime is forbidden from
 20 doing that and these assets shall remain with Knapp
 21 Medical Center.
 22 MR. KIRBY: He hasn't -- I don't believe
 23 he's testified that the document says that. So if
 24 you want to show him where you believe it says it,
 25 then show him, and he can answer a question.

1 Knapp Medical Center's board had before to sell the
 2 hospital, in a manner that satisfied the provisions
 3 of the restrictive covenant, that right remains
 4 intact today.
 5 MS. IBARRA: Objection, nonresponsive.
 6 Q (Ms. Ibarra) Is your answer that no,
 7 there's no provision that prevents that from
 8 happening?
 9 A That's my recollection.
 10 Q Thank you. Let's go on to Section II. It's
 11 not a violation of this section if Prime Healthcare
 12 System Foundation has entered into a financing
 13 transaction which calls for Prime Healthcare Systems
 14 Foundation to sell or lease a portion of the real
 15 property. Mr. Jones, if Prime Healthcare Systems
 16 Foundation assumed no equity interest or asset, how
 17 can they sell or lease a portion of the real
 18 property? When would they have acquired that if they
 19 didn't attempt to acquire it through this
 20 transaction?
 21 A They can't.
 22 Q Then why is it there?
 23 A In case it changed in the seven year period.
 24 Q But there's no conditional consideration
 25 required for that, is there?

1 MS. IBARRA: Mr. Kirby, that was my
 2 question to him. Where in this document does it
 3 prohibit --
 4 MR. KIRBY: He's never said that it does
 5 say that.
 6 Q (Ms. Ibarra) Does the document prohibit
 7 Prime Foundation from acquiring the assets known as
 8 Knapp Medical Center down the road without additional
 9 consideration?
 10 MR. KIRBY: Go through the entire
 11 document, if she wants to ask you that question.
 12 Read the entire thing.
 13 Q (Ms. Ibarra) If you have to. You drafted
 14 it. Did you draft it to prevent that from happening?
 15 A Other than this provision here that talks
 16 about the seven years and them doing -- but that's
 17 only as to their controlling interest, so that
 18 doesn't apply. No, because what's still out there is
 19 the restrictive covenant, which insures that it's
 20 gonna be a nonprofit. And so to the degree that
 21 Knapp Medical Center, to the degree that we could
 22 have sold to a different nonprofit, which my opinion
 23 we could have, and we could have sold all the assets
 24 directly to Prime Foundation, because they're a
 25 nonprofit, but we didn't. But the same rights that

1 A No.
 2 Q Part III. Prime -- this is also not a
 3 violation. Prime Healthcare Systems Foundation has
 4 entered into a transaction which calls for Prime
 5 Healthcare Systems Foundation to sell the medical
 6 center to a related nonprofit. How does it sell the
 7 medical center, if it does not acquire the asset?
 8 Again, is it your testimony that it may acquire the
 9 asset down the road without additional
 10 consideration?
 11 A The assets of Knapp Medical Center are owned
 12 by Knapp Medical Center, as they were before. So can
 13 it transfer all of its assets from one nonprofit to
 14 another, I think that's what you're asking me, can
 15 they do that to the extent that the attorney general
 16 would allow them to do so? I guess so. It's a legal
 17 question you're asking me. That's really -- I don't
 18 know that I'm understanding your question right,
 19 but --
 20 Q Okay. Well, let me make sure I've asked you
 21 correctly, because I do want you to understand it.
 22 You've testified that Knapp Medical Center at the
 23 moment owns all of its assets, correct?
 24 A Yes.
 25 Q That can change in an hour if Prime decides

1 it wants to execute a deed, and execute its rights as
 2 a member of the board of directors, to give itself
 3 all of Knapp's property; isn't that correct?
 4 A Which Prime?
 5 Q Prime Foundation.
 6 A So another nonprofit corporation that
 7 satisfies all the terms and conditions of your
 8 restrictive -- City's restrictive covenant?
 9 Q No, sir, that's not my question. I don't
 10 need you to address for me what Prime Foundation is,
 11 because, obviously, that's in disagreement. I'm just
 12 asking you because Prime is the sole member of the
 13 board of directors, if it wants to snap up the
 14 hospital and everything that goes with it an hour
 15 from now, it has the right to do so, doesn't it,
 16 without paying any more consideration?
 17 MR. KIRBY: You're talking about Prime
 18 Foundation?
 19 MS. IBARRA: I am.
 20 MR. KIRBY: Because you said Prime in
 21 your question.
 22 MS. IBARRA: Prime Foundation.
 23 MR. KIRBY: You need to be specific.
 24 A Paying consideration to whom?
 25 Q (Ms. Ibarra) Does it have the right without

1 doing anything else, as a result of this agreement?
 2 A Well, you said to pay consideration. Are
 3 you talking about to pay more consideration to the
 4 Knapp Community Care Foundation?
 5 Q Let me clarify it again, Mr. Jones, because
 6 this is -- this is not difficult. Based on this
 7 agreement, can Prime Foundation require or produce
 8 for itself a deed that surrenders all of the assets
 9 currently owned by Knapp Medical Center to itself
 10 without doing anything else?
 11 MR. KIRBY: Let me object. I mean this
 12 whole line of questioning is -- you're asking him,
 13 who is an attorney, to on the spot give you legal
 14 opinions about matters that he's never considered.
 15 And so, basically, you're just wanting him to help
 16 you out and help you understand legal issues that he
 17 has to come up with on the spot --
 18 MS. IBARRA: No.
 19 MR. KIRBY: -- and I'm gonna -- I'm
 20 gonna instruct him not to answer. He's not being
 21 offered for that purpose, so there you go, there's
 22 your answer.
 23 A Okay. Let me clarify this.
 24 MS. IBARRA: Again, I'm gonna ask that
 25 it be certified.

1 Q (Ms. Ibarra) Mr. Jones, you mean you never
 2 considered what would happen to the property at Knapp
 3 Medical Center when you drafted this agreement?
 4 MR. KIRBY: I object to that question,
 5 calls for attorney/client privilege, work product;
 6 instruct him not to answer.
 7 MS. IBARRA: Certify the question.
 8 Q (Ms. Ibarra) I think you've answered it,
 9 that they can do that. The board of directors --
 10 right now, the way it's set up in your agreement,
 11 Prime can direct Knapp to do anything it wants to do,
 12 correct?
 13 MR. KIRBY: Again, you're still asking
 14 him for his legal opinion related to what Prime can
 15 do or can't do. You'll get your chance to ask Prime
 16 that when you have their corporate representative
 17 deposition, assuming that's one of your topics.
 18 Q (Ms. Ibarra) I am asking you --
 19 MR. KIRBY: I'm instructing him not to
 20 answer. It's a legal question.
 21 MS. IBARRA: I'm asking Mr. Jones to
 22 tell me what he was attempting to do when he drafted
 23 this agreement.
 24 Q (Ms. Ibarra) The assets of Knapp Medical
 25 Center -- you've already testified that they belong

1 to Knapp right now. I want to know if Prime can stop
 2 that ownership by taking the assets, itself?
 3 MR. KIRBY: And I have my same
 4 objections. It calls for a legal opinion. We're not
 5 answering it.
 6 MS. IBARRA: Certify the question.
 7 MR. KIRBY: And also deals with --
 8 VIDEOGRAPHER: Off the record.
 9 (OFF THE RECORD)(2:04-2:09)
 10 VIDEOGRAPHER: On the record, the time I
 11 2:09.
 12 MR. KIRBY: I just wanted to finish up
 13 my objections, which were also attorney/client
 14 privilege and work product privilege.
 15 MS. IBARRA: Certify the question,
 16 please.
 17 Q (Ms. Ibarra) Mr. Jones, just to finish up
 18 that segment you'll agree with me that part IV is,
 19 essentially, the same as part III, allowing Prime
 20 Healthcare Systems Foundation to sell or lease -- to
 21 sell the medical center, as it says here, to another
 22 entity, the difference being with part IV is that you
 23 can sell to a for-profit in three years, an
 24 affiliated for-profit in three years, as opposed to
 25 an affiliated not-for-profit immediately. Is that --

1 is that the only difference?
 2 A That's the difference I see, but the sale
 3 has to also comply with E, dealing with -- providing
 4 the essential services for the next seven years, and
 5 including the name Knapp Medical Center, and their
 6 charity care policy, and that they won't close for
 7 the seven years. So they still have to abide by the
 8 other things in there, but -- but yes.
 9 Q I'm gonna ask you to turn page 7 of this
 10 membership interest transfer agreement. The first
 11 paragraph. I'm reading here from KMC page 7, "This
 12 membership interest transfer agreement is made and
 13 entered into as of the 20th day of November, 2012."
 14 Do you see that?
 15 A I was looking at page 7 of the document, but
 16 you're talking about --
 17 Q KMC 00007.
 18 A Got it.
 19 Q Okay. So this agreement, dated November
 20 20th, 2012, is the final document that was entered
 21 into with Prime and KMC; is that correct?
 22 A That's correct.
 23 Q Okay. And so at the date that you testified
 24 earlier that this was finally completed, the
 25 membership interest transfer agreement, there was --

1 want it.
 2 MR. KIRBY: I don't think she's given it
 3 to you. The minutes from what, from the Knapp
 4 Community Care?
 5 MS. IBARRA: No, Knapp board of
 6 directors meeting, four o'clock. Do you need a copy
 7 of it? I have it if you need it.
 8 A Four o'clock, November 20th, 2012?
 9 Q (Ms. Ibarra) Yes, sir.
 10 A Okay. Yeah, I have that as Exhibit 10 here.
 11 Q This was a meeting that took place on the
 12 same day that the membership interest transfer
 13 agreement was completed, that is the effective date
 14 of November 20th; is that correct?
 15 A That's correct.
 16 Q Was the board -- were the board members
 17 given a copy of the membership interest transfer
 18 agreement?
 19 A I don't remember.
 20 Q Okay. You don't have any rec -- there's
 21 been a great deal of effort to protect this
 22 membership interest transfer agreement. Do you have
 23 any remem -- any discussion whether or not the
 24 members of the board should be given a copy of the
 25 membership interest transfer agreement before they

1 the decision had already been made that they were not
 2 going to take the assets of the hospital; is that --
 3 is that correct?
 4 A Yes.
 5 Q Okay. I'm gonna ask you now to look at a
 6 different exhibit, keeping in mind that November 20th
 7 date. Let's take a look at Exhibit 3; is that
 8 correct? No, I apologize, it's Exhibit 21. Have you
 9 seen this document before?
 10 A Exhibit 21 to the membership interest
 11 transfer agreement?
 12 MR. KIRBY: Did you hand him something?
 13 MS. IBARRA: I did, it's over there.
 14 Exhibit -- it's actually our exhibit -- to this
 15 deposition, it would be marked as Exhibit 21 in
 16 production, but it's Exhibit 21 with regard -- it has
 17 a different number on it.
 18 MR. KIRBY: I mean, this is some time
 19 ago that you handed it to him?
 20 MS. IBARRA: It's among the four
 21 documents I gave him.
 22 Q (Ms. Ibarra) It is Exhibit 21, the minutes
 23 from the board of directors meeting at your office.
 24 A Okay. Exhibit 23, 22 --
 25 MS. IBARRA: I have another copy if you

1 voted on it?
 2 A I don't -- I'm assuming I handed out copies
 3 there, but certainly in a meeting, as you can
 4 appreciate, and a meeting that starts at 4:00 and
 5 ends at 5:00, nobody is gonna read this entire thing
 6 in that time period. So we had had varying meetings
 7 where we had discussed the structure and a number of
 8 the significant terms, and I had been dealing with
 9 those, yes, with the board, on the drafting of
 10 certain language. But can I say that they all read a
 11 hundred percent of it? I can't say that. They
 12 certainly had the opportunity if they wanted to.
 13 Q Well, did they have the opportunity since
 14 the vote was taken that day?
 15 MR. KIRBY: Objection, form.
 16 Q (Ms. Ibarra) You can see on page 4 of this
 17 document that the vote was taken the very day that
 18 this document was completed, correct?
 19 A Yes.
 20 Q Was there a time, sufficient time, in that
 21 one hour and 10 minute meeting for them to go through
 22 a 500 plus page document?
 23 A Of course not.
 24 Q All right. Let's look at this document,
 25 sir. This is at your office; is that correct?

1 A That's correct.
 2 Q It was at four o'clock in the afternoon?
 3 A Yes.
 4 Q Why was the meeting at Jones Galligan, Key &
 5 Lozano?
 6 A That's where we chose to hold it.
 7 Q Okay. At that time -- now you had already
 8 created Knapp Community Care on November the 15th,
 9 hadn't you, five days earlier?
 10 A That sounds right.
 11 Q So at this time, at this meeting, at four
 12 o'clock, the members of the Knapp Medical board of
 13 directors were wearing two hats, correct? They were
 14 members of the board of directors of Knapp Medical
 15 Center and members of the board of directors of KCCF
 16 as of the time of this meeting; is that correct?
 17 A Well, your hat reference I will disagree
 18 with. They were certainly members of both boards,
 19 but we hadn't even had an organizational meeting yet
 20 for Knapp Community Care Foundation. That came
 21 immediately after this, but --
 22 Q I understand.
 23 A -- but at that point, they would be members
 24 of both boards, but when they were in this meeting,
 25 they're wearing their Knapp Medical Center hat, and

1 were on both boards of directors, correct?
 2 MR. KIRBY: Objection, form.
 3 A Absolutely. That's the way it was designed.
 4 Q (Ms. Ibarra) And that includes Mr. John
 5 Lackey, correct?
 6 A That's correct.
 7 Q Okay. And those individuals were present at
 8 this meeting, which also states that you were present
 9 at this meeting.
 10 A I was.
 11 Q Okay. And Bob Galligan.
 12 A He was also.
 13 Q Why did Bob Galligan attend this meeting?
 14 MR. KIRBY: Object to that, instruct you
 15 not to answer, attorney/client privilege, work
 16 product privilege.
 17 Q (Ms. Ibarra) Was Mr. Galligan involved in
 18 preparation of the transactional documents, or
 19 anything with regard the subject matter of this
 20 minute summary?
 21 MR. KIRBY: He's already answered that
 22 as to the transactional documents. He said that he
 23 wasn't involved in it at all. That's a compound
 24 question, don't even remember the second part of it.
 25 He answered -- he answered as to Bob was not involved

1 they can wear their other hat when they get to the
 2 next one.
 3 Q Well, were the actions that they took in
 4 this meeting going to impact KCCF?
 5 A Absolutely.
 6 Q All right. Attending this were Rudy
 7 Salinas, Norma Montalvo, Bertha Suarez, Brian
 8 Humphreys and Abraham Tanus, correct?
 9 A Yes.
 10 Q As members of the board of directors for
 11 KMC?
 12 A That's correct.
 13 Q And those individuals are now members of the
 14 board of directors of KCCF, correct? Or at least
 15 they were when you were involved with it?
 16 A Well, that's not correct now. It was
 17 correct immediately after the closing --
 18 Q Okay.
 19 A -- and at the beginning of January, the
 20 first couple of months of 2013, and then that board
 21 of Knapp Community Care Foundation has changed since
 22 then.
 23 Q Well, certainly during the period of time of
 24 organization, transfer of assets, dissolution of the
 25 board's responsibilities to KMC, these individuals

1 in the transactional documents a long time ago.
 2 Q (Ms. Ibarra) Was there anything -- any
 3 reason that Bob Galligan necessarily attended this
 4 meeting?
 5 MR. KIRBY: And I'll object to that,
 6 instruct him not to answer --
 7 MS. IBARRA: Certify --
 8 MR. KIRBY: Attorney/client privilege,
 9 work product privilege.
 10 MS. IBARRA: Certify the question.
 11 Q (Ms. Ibarra) Did you have an opportunity to
 12 review these minutes after they were prepared?
 13 A No.
 14 Q Who prepared them?
 15 A Katy Fehler, executive assistant.
 16 Q Okay. Does she work for you?
 17 A No.
 18 Q Okay. Were they submitted to Mr. Lackey,
 19 the chairman, to be signed?
 20 A He signed them.
 21 Q So, evidently, somebody submitted them for
 22 review and signature?
 23 A Correct.
 24 Q Okay. It states here that Mr. Lackey called
 25 the members together at 4:10, so there was a 10

1 minute delay after the meeting was first called,
 2 correct? And then it says you explained the purpose
 3 of the special meeting was to review the proposed
 4 transaction with Prime Healthcare Services
 5 Foundation. Now your earlier testimony was that you
 6 had gone over certain parts of the -- of the
 7 transaction. What was your responsibility or your
 8 goal with regard reviewing the proposed transaction?
 9 MR. KIRBY: Object to that,
 10 attorney/client privilege, work product privilege;
 11 instruct him not to answer.
 12 MS. IBARRA: Certify the question.
 13 Q (Ms. Ibarra) Did you give an overview of
 14 the proposed transaction with Prime Healthcare?
 15 MR. KIRBY: Object to the question,
 16 attorney/client privilege, work product; instruct
 17 him not to answer.
 18 MS. IBARRA: Mr. Kirby, I need to remind
 19 you that the court has already ordered that these
 20 documents be produced, they are public documents at
 21 this time. There is no reason that he can't read the
 22 document and confirm that he was the one that did the
 23 presentation.
 24 MR. KIRBY: You can ask him to read the
 25 document, but you can't ask him to confirm it. It's

1 attorney/client privilege, work product. And if you
 2 want to, any question you're gonna ask him about
 3 this, other than have him just read it, I'm gonna
 4 object to and assert that same privilege. So if you
 5 want to move on, you'll be able to get to talk to the
 6 court about all of the potential --
 7 MS. IBARRA: I will, but I'm gonna
 8 through it.
 9 MR. KIRBY: -- questions you could ask.
 10 MS. IBARRA: I'm gonna go through it.
 11 MR. KIRBY: Okay. You want to waste our
 12 time, I guess?
 13 MS. IBARRA: Thank you, Mr. Kirby. I'm
 14 making my record.
 15 Q (Ms. Ibarra) This document says -- explains
 16 -- it says here the proposed transaction is set forth
 17 in an overview, which it says that was the purpose of
 18 this meeting. The transaction is a membership
 19 interest transfer agreement where Prime Healthcare
 20 Services Foundation will become a hundred percent
 21 controlling member of Knapp Medical Center,
 22 including all equity or membership interests in Knapp
 23 Medical Group, the surgery center, the physician's
 24 association. Remember that we just -- that you -- I
 25 asked you earlier about whether PHSF got any equity

1 attorney/client privilege.
 2 MS. IBARRA: Certify the question.
 3 Q (Ms. Ibarra) Mr. Jones did you give an
 4 overview that explained the membership transfer
 5 agreement to the board of directors?
 6 MR. KIRBY: Objection, attorney/client
 7 privilege, work product, asked and answered; don't
 8 answer.
 9 Q (Ms. Ibarra) Is there anything in this
 10 document that you think is incorrect?
 11 MR. KIRBY: Let me think about that one.
 12 Yeah, I'm gonna have to instruct him not to answer
 13 that, because it would be attorney/client, work
 14 product. If something was done at that meeting that
 15 was different than the way it's stated here, his only
 16 basis for knowing that would have been in the
 17 rendition of legal services, and I don't see how he
 18 can answer it, so -- I would like to be able to
 19 answer it, but we just can't.
 20 MS. IBARRA: Certify the question.
 21 Q (Ms. Ibarra) Mr. Jones, is this -- is this
 22 document inaccurate when it says that you explained
 23 the purpose of the meeting?
 24 MR. KIRBY: I'm gonna object to that
 25 question, instruct him not to answer,

1 interest? Is that an incorrect statement in this
 2 document?
 3 A I think you're misreading that. This isn't
 4 talking about -- the Prime Foundation wouldn't be
 5 receiving equity interests. It's talking about the
 6 fact that Knapp Medical Center had equity and
 7 membership interest in those three entities, and,
 8 basically, they wouldn't be reserved out. So
 9 whatever Knapp had in those interests would remain
 10 intact.
 11 Q Where Prime Healthcare Systems Foundation
 12 will become the 100 percent controlling member of
 13 Knapp, including all equity or membership interests
 14 that Knapp held. Is that an incorrect way to read
 15 it?
 16 A Well --
 17 Q Let's go into the next sentence.
 18 A -- you can read it how you like. The
 19 structure is that all those entities are -- have
 20 Knapp as their member, or Knapp is their owner, and
 21 that remains intact. So Knapp owns the three
 22 entities that are referenced there, and Prime
 23 Foundation has control of Knapp.
 24 Q So you're not -- you don't agree that that
 25 sentence states that Knapp's interests shall then

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1 become subject to Prime Healthcare Systems' interest
 2 as a result of the transfer?
 3 A That's not what occurred.
 4 Q Okay. Well, read your next sentence then.
 5 Prime Healthcare System Foundation will acquire
 6 Knapp's facilities and real estate, including the
 7 hospital, medical plaza, surgery center, medical
 8 arts, medical condos, conference center, parking
 9 lots, helipad, and two vacant lots, and it lists the
 10 excluded property. Now, Mr. Jones, you're telling
 11 this board of directors that on this date, November
 12 the 20th, on the same day that the membership
 13 interest transfer agreement was created, they're
 14 gonna sell -- all of the assets are going to Prime.
 15 Can you read that any other way? What didn't you
 16 understand about your earlier testimony, or what
 17 didn't you understand about this transaction that
 18 makes your testimony today different from what you
 19 told this board of directors?
 20 MR. KIRBY: Gosh, do you understand her
 21 question at all?
 22 WITNESS: I would like to answer it.
 23 MR. KIRBY: Okay.
 24 A The answer to your question is that Ms.
 25 Fehler, when she's doing her minutes, apparently did

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1 need a further explanation, sir.
 2 A You, obviously, do. If I buy -- going back
 3 to my example. You own your stock in your company.
 4 If I buy your stock, and I have a contract to buy the
 5 stock in your company, I don't have to say in my
 6 contract that I'm gonna keep or dispose of all the
 7 assets under the -- that all the assets have to stay
 8 in the company. I don't have to say that. All I
 9 have to do is tell you which assets are coming out.
 10 That's the way a stock transfer happens. It's called
 11 excluded assets, and it's in every stock transfer
 12 that there is. I'm gonna buy your company, you're
 13 gonna tell me what you're gonna take out; everything
 14 else is still in there. It does not have to be
 15 specified. It's already -- it's implicit in the
 16 deal, and it's clear and everybody else understands
 17 that.
 18 MS. IBARRA: Okay, objection,
 19 nonresponsive.
 20 Q (Ms. Ibarra) So it doesn't say that. Mr.
 21 Lackey signed this agreement. So, apparently, he
 22 ratified the contents, correct? What other reason is
 23 there for him to sign this document?
 24 A Which document?
 25 Q The one in front of us where John Lackey, as

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1 not understand exactly what I explained. This isn't
 2 an audio tape. It's not verbatim of what I explained
 3 to the board. The membership interest transfer
 4 agreement speaks for itself, which is that no assets
 5 are transferred to Prime Foundation, or otherwise.
 6 They all stay there.
 7 Q (Ms. Ibarra) You testified --
 8 A Now what we did talk about was that there is
 9 excluded property, which is the vacant lot, so that
 10 is the property on 8th Street that was gonna be
 11 conveyed to Knapp Community Care Foundation. That
 12 and the cash were the only things being transferred
 13 in the transaction.
 14 Q Now I asked you earlier where in this
 15 membership transfer agreement that you created does
 16 it say that, and you said it doesn't say that. But
 17 now you're testifying it does. Where is it, Mr.
 18 Jones?
 19 A I'm telling you it doesn't have to say it.
 20 Q You just said it did. According to this
 21 agreement, this isn't correct. It's in here. Well,
 22 where is it?
 23 A I think I've explained this before, but I'm
 24 gonna explain it again, just to try to be clear.
 25 Q I'm just asking you where it is. I don't

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1 chairman, signed these meeting -- minutes.
 2 A You said signed this agreement.
 3 Q Signed these minutes.
 4 A Okay. Yes, he did sign the minutes.
 5 Q Okay.
 6 A And he also signed the membership interest
 7 transfer agreement, which is the document that was
 8 presented there.
 9 MS. IBARRA: Objection, nonresponsive.
 10 Q (Ms. Ibarra) So, apparently, he recalled
 11 your presentation the same way this Ms. Katy Fehler
 12 did?
 13 A You'll have to ask him.
 14 Q I will. And then even as inaccurate as she
 15 was about something that important, she identified
 16 that the total consideration to the dollar was
 17 \$81,969 -- \$81,969,289. That's a pretty accurate
 18 number, isn't it, Mr. Jones?
 19 A It's a specific number.
 20 Q That's right. Yet, she gets something wrong
 21 as important as where the assets are gonna go, Mr.
 22 Jones? Isn't it true, Mr. Jones, that on the date
 23 you presented this to the board of directors, the
 24 assets were going to Prime?
 25 A No, absolutely not. I can't tell you that

1 enough times.
 2 Q I'm sure you can't.
 3 A And, clearly, we didn't draft an 80 plus
 4 page with all the exhibit -- membership interest
 5 transfer agreement that sets out what the contract
 6 says, and then have -- and then have a completely
 7 different arrangement set forth in the minutes. It
 8 was, obviously, a misunderstanding by her as to that
 9 section.
 10 Q And nothing else --
 11 MS. IBARRA: Objection, nonresponsive.
 12 Q (Ms. Ibarra) But her understanding as to a
 13 cash payment of nine million dollars, which you
 14 testified earlier was accurate, the 1.5 physician
 15 practice purchase price, which is in the document, is
 16 accurate. That one half of the net working capital
 17 is payable at closing, which you testified was
 18 accurate. That, approximately, 7.3 million dollars,
 19 with the second half due in 90 minutes -- 90 days was
 20 accurate. So she was good on everything except
 21 something as important as to where the heck the
 22 hospital's assets were going, right?
 23 MR. KIRBY: I'll object to that, it's
 24 argumentative. Move on, or we're gonna shut this
 25 down. I'm getting tired of it.

1 MS. IBARRA: It's dated --
 2 MR. KIRBY: -- whether they instructed
 3 him?
 4 MS. IBARRA: Yes.
 5 Q (Ms. Ibarra) Did you engage in
 6 conversations with Prime wherein you agreed that
 7 there would be no public disclosure of the sale until
 8 after it was consummated?
 9 WITNESS: I can answer it, if I can.
 10 MR. KIRBY: Yeah.
 11 A There were discussions with Prime about the
 12 timing of the announcements and what they would be.
 13 Q (Ms. Ibarra) And what was your
 14 understanding as to when that timing should be?
 15 A After the transaction closed.
 16 Q And what -- what were you told or what were
 17 the results of any conversations you had as to why
 18 that was important?
 19 MR. KIRBY: Objection, attorney/client,
 20 work product; don't answer.
 21 Q (Ms. Ibarra) With regarding conversations
 22 you had with Prime?
 23 A I didn't discuss that directly with Prime,
 24 other than the timing of it.
 25 Q Okay. Turn --

1 MS. IBARRA: Thank you, Mr. Kirby. I'll
 2 leave it up to --
 3 MR. KIRBY: Because every question
 4 you're asking is argumentative and ridiculous, so I'm
 5 getting sick of it.
 6 MS. IBARRA: We'll ask the court to see
 7 how you feel about this, sir.
 8 Q (Ms. Ibarra) It notes on page 2, under
 9 closing, that there would be a public announcement
 10 made after the closing. Is that something you told
 11 the board of directors?
 12 MR. KIRBY: Objection, attorney/client
 13 privilege, work product; don't answer.
 14 Q (Ms. Ibarra) Did you ever engage in
 15 discussions that there would be no announcement about
 16 the sale of the hospital until it was consummated?
 17 MR. KIRBY: Objection, attorney/client,
 18 work product; don't answer.
 19 Q (Ms. Ibarra) Were you instructed by Prime
 20 not to disclose it?
 21 MR. KIRBY: Prior to the transaction?
 22 MS. IBARRA: Yes.
 23 MR. KIRBY: Is that what you're asking?
 24 MS. IBARRA: Of course.
 25 MR. KIRBY: Prime Foundation --

1 A The basis for it was not discussed.
 2 Q Okay. Page 3. It says Prime Healthcare
 3 Services Foundation at the top of the page, as well
 4 as BBVA Compass, prefer to keep the bonds in place.
 5 Did you explain to anybody why those bonds were
 6 remaining on the books to the detriment of Knapp
 7 Medical Center?
 8 MR. KIRBY: Objection, attorney/client,
 9 work product; don't answer.
 10 Q (Ms. Ibarra) Well, what was BBVA's Compass'
 11 reason, pursuant to your discussions as to why they
 12 preferred to keep the bonds in place, as that term is
 13 used here?
 14 WITNESS: I can answer that?
 15 Q (Ms. Ibarra) It's conversations with
 16 Compass.
 17 MR. KIRBY: Only as to your
 18 conversations with Compass Bank, if you had any, that
 19 related to that issue.
 20 WITNESS: I did.
 21 MR. KIRBY: Okay.
 22 A I had discussions with, as I mentioned
 23 before, Bob Norman with Compass Bank, explained to
 24 him that we needed to talk to them about the bonds
 25 and the letter of credit, and that I would get him in

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1 contact with the right parties at both entities, and
 2 he explained that it would be -- that Compass had an
 3 existing relationship with Prime, and that they were
 4 very comfortable with them, and that it would be
 5 their preference that they keep the bonds in place,
 6 as opposed to having the bonds paid off.
 7 **Q (Ms. Ibarra) Did you and Compass discuss**
 8 **the fact that Prime Healthcare Foundation was not**
 9 **going to become an obligor on the bond?**
 10 **A Yes.**
 11 **Q And they were comfortable -- they told you**
 12 **they were comfortable leaving it in place, with only**
 13 **Knapp as the obligor, even though they were relying**
 14 **upon their relationship with -- their prior**
 15 **relationship with Prime Foundation?**
 16 **A My initial discussions with them indicated**
 17 **as much, and that became an issue between Prime and**
 18 **Compass Bank thereafter.**
 19 **Q What was that issue?**
 20 **A Dealing with the bonds. They had an**
 21 **existing relationship with them, and they knew that**
 22 **the transaction was gonna take place, or if it did**
 23 **what it would look like after the fact, and they**
 24 **dealt with how they were gonna deal with a letter of**
 25 **credit between themselves.**

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1 **have to put cash in. Did they, on the bonds?**
 2 **A I don't know when or how much, but my**
 3 **understanding is that they did.**
 4 **Q And who did they put the cash into?**
 5 **A It would have gone into Knapp Medical**
 6 **Center.**
 7 **Q Okay. But you don't know that for sure?**
 8 **Did they give a corporate guaranty that the bonds**
 9 **would be paid?**
 10 **A That wasn't a requirement of Compass.**
 11 **Q I understand, but you said here that more**
 12 **than likely they would have to do that. Did they?**
 13 **A Not that I'm aware of.**
 14 **Q Okay. Other consideration. The board also**
 15 **considered the following PHS PHSF transaction**
 16 **benefits and rationale. Was this a list of good**
 17 **things provided to the board of directors as to why**
 18 **this transaction should go forward?**
 19 **MR. KIRBY: I'm gonna --**
 20 **Q (Ms. Ibarra) Why don't you tell me what**
 21 **that is. Are these positives or negatives with**
 22 **regard to transaction?**
 23 **MR. KIRBY: You can answer that.**
 24 **WITNESS: I can?**
 25 **MR. KIRBY: Yeah.**

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1 **Q So at the time of this transaction, was**
 2 **Compass Bank made aware that Prime Healthcare**
 3 **Foundation would not be an obligor on the bonds?**
 4 **A Yes.**
 5 **Q And that was through discussions with you;**
 6 **is that correct?**
 7 **A Through initial discussions. That was clear**
 8 **in the initial discussions.**
 9 **Q And did you provide any documents, including**
 10 **the membership interest transfer agreement, to**
 11 **Compass Bank that would allow them to have a clear**
 12 **understanding that they would be responsible for this**
 13 **letter of protection that they issued if KMC did not**
 14 **pay?**
 15 **A I don't remember if I gave them ever a copy**
 16 **of the membership interest transfer agreement. Prime**
 17 **may have, but I don't remember if I did or I didn't.**
 18 **I might have, if they asked me for it, but I can't**
 19 **remember.**
 20 **Q You would have given them a copy, if they**
 21 **asked for it?**
 22 **A If I was authorized by my client and by**
 23 **Prime to do it, I would have.**
 24 **Q Then it says in order not to trigger bond**
 25 **covenants, Prime Healthcare System Foundation will**

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1 **A The board considered these as positives, but**
 2 **I didn't -- this wasn't information that came from**
 3 **me. This wasn't things that I presented on, but**
 4 **these were considerations that the board was**
 5 **considering in making their determination. And in**
 6 **terms of positives, in terms of positives with going**
 7 **forward with a trans -- with this particular**
 8 **transaction.**
 9 **Q (Ms. Ibarra) Who created this list?**
 10 **A I don't know.**
 11 **Q Was this part of your presentation?**
 12 **A No.**
 13 **Q So who delivered this information to the**
 14 **board of all these wonderful things that would happen**
 15 **with regard to relationship with Prime, if it wasn't**
 16 **you?**
 17 **A It would have come from things that had been**
 18 **prepared, probably by Seale & Associates.**
 19 **Q Okay. Who -- where did Ms. Fehler get this**
 20 **list? She didn't create it, correct?**
 21 **A I don't know.**
 22 **Q Okay. Do you disagree that this was**
 23 **information that was provided to the board?**
 24 **A That was information that the board had and**
 25 **had already considered in the past, I'm sure.**

1 Q Was the board told anything about Prime's
 2 history regarding problems with Medicare, prior to
 3 the vote?
 4 MR. KIRBY: Objection, attorney/client
 5 privilege, work product; don't answer.
 6 MS. IBARRA: Certify the question.
 7 Q (Ms. Ibarra) Was the board told anything
 8 negative about Prime or any risk to this hospital or
 9 the community if Prime took over governance?
 10 MR. KIRBY: Objection, attorney/client,
 11 work product; don't answer.
 12 MS. IBARRA: Certify the question.
 13 Q (Ms. Ibarra) You then, on page 4, presented
 14 the attached resolution of the board of directors of
 15 Knapp relating to the Prime transaction. Did you
 16 take the vote?
 17 A No.
 18 Q There were four -- there was a unanimous
 19 vote, wasn't there, to approve the transaction,
 20 correct?
 21 A Yes.
 22 Q Was there any other information, outside of
 23 what's contained in these minutes, during that 50
 24 minute to one hour meeting, that went into the
 25 determination as to whether or not the board of

1 Q Okay. You don't see a conflict in that?
 2 A None.
 3 Q You don't see any advantage to have a board
 4 of director vote to enrich its other -- its other
 5 entity that is a member of the board of directors,
 6 too?
 7 A Enrich the other -- they're certainly not
 8 enriching themselves. They're serving as volunteer
 9 board members on a nonprofit organization's board of
 10 directors, and I don't see any conflict at all with
 11 the funds being transferred to the new foundation,
 12 which carries on a very similar purpose for
 13 supporting healthcare.
 14 Q Well, if we find out that this is, indeed,
 15 an accurate rendition of the minutes as they went
 16 down, and the understanding communicated to the board
 17 of directors, including Mr. Lackey, who signed this,
 18 and Ms. Fehler, who transcribed it, wouldn't you
 19 agree that there was -- that Prime Foundation, in
 20 taking over the assets listed here, benefitted to the
 21 detriment of Knapp Medical Center?
 22 MR. KIRBY: Objection, form;
 23 argumentative and a terrible question. And he's
 24 already told you with a hundred percent certainty
 25 that those assets were not transferred. So he can't

1 directors should vote for or against this resolution?
 2 MR. KIRBY: Objection, attorney/client
 3 privilege, work product; don't answer.
 4 MS. IBARRA: Certify the question.
 5 Q (Ms. Ibarra) Mr. Jones, were you ever aware
 6 that Prime was being sued in several different
 7 actions in California for Medicare abuses and patient
 8 fraud?
 9 A Not until your lawsuit.
 10 Q Okay. So you undertook no understanding
 11 with regard Prime, its legal history, problems
 12 associated with Prime, in antic -- to prepare your
 13 board of directors for their vote on this matter; is
 14 that correct?
 15 A That's correct.
 16 Q Okay.
 17 A That clearly was not my role.
 18 Q Okay. Now when they finished this meeting
 19 at Knapp Medical Center, the outcome was that the
 20 members of the board of directors of Knapp Medical
 21 Center transfer some, let's see, 70 some million
 22 dollars to another foundation that they were also
 23 members of the board of directors to; is that
 24 correct?
 25 A Yes.

1 answer that question. It's -- the question is wrong.
 2 MS. IBARRA: Thank you.
 3 MR. KIRBY: And you know it.
 4 MS. IBARRA: Would you please keep your
 5 sidebars aside from this deposition. They're not
 6 appropriate and you know it.
 7 MR. KIRBY: Quit asking terrible
 8 questions, please.
 9 Q (Ms. Ibarra) If the assets had been
 10 transferred to Prime --
 11 MR. KIRBY: We're not answering that.
 12 MS. IBARRA: Certify --
 13 MR. KIRBY: They weren't transferred.
 14 MS. IBARRA: Let me finish my question
 15 so I can at least certify it.
 16 MR. KIRBY: Go ahead.
 17 Q (Ms. Ibarra) This board of directors voted
 18 on the presentation that was made to them between
 19 4:10 and 5:10 on November the 20th, 2012, correct?
 20 MR. KIRBY: Objection. The question is
 21 erroneous. It misstates the evidence, and do not
 22 answer it, because it cannot be answered.
 23 MS. IBARRA: Those are not proper
 24 objections under the rules for a deposition. Certify
 25 the question.

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1 MR. KIRBY: Absolutely they are.
 2 MS. IBARRA: Certify the question.
 3 MR. KIRBY: You cannot misstate facts
 4 and ask a question based upon those misstated facts.
 5 MS. IBARRA: Certify the question.
 6 Q (Ms. Ibarra) Let's have you turn to the
 7 next set of minutes at 5:10. This meeting took place
 8 immediately after the first meeting, did it not, sir?
 9 A I'm trying to find those minutes, if you'll
 10 bear with me just a second.
 11 Q Sure.
 12 A Got too many documents. It should be either
 13 10 or 11, maybe, or 12.
 14 MR. KIRBY: It's right here, isn't it?
 15 WITNESS: There they are right there, I
 16 guess I -- oh, I got that one turned over. Sorry, my
 17 bad.
 18 A Okay, I've got them here.
 19 Q (Ms. Ibarra) Took place at 5:10,
 20 immediately after the first meeting?
 21 A Yes.
 22 Q And now this board of directors, the same
 23 attendees as the first member -- the first meeting,
 24 are being called upon to participate in an
 25 organizational meeting of the new Knapp Community

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1 Q If you would turn to page 5, please, sir.
 2 It says at line 14, the books for this entity are in
 3 the care of John L. Lackey. Do you see that, sir?
 4 A Yes.
 5 Q What is Mr. Lackey's role with regard Knapp
 6 Community Care's Foundation?
 7 A Currently, or at this point in time?
 8 Q Then and now?
 9 A He was a board member immediately
 10 thereafter, and then he became -- and he was the
 11 president, initially, and then shortly after that, he
 12 became just a board member; Rudy Salinas became the
 13 president of the Knapp Community Care Foundation, and
 14 then he's -- his term expired, and he's no longer a
 15 board member.
 16 Q So Mr. Lackey, at least at the time that
 17 this was prepared, was a member of the board and/or
 18 the president of the KCCF, correct, for 2012?
 19 A He was not the president, because the
 20 document is signed by Rudy Salinas as president.
 21 Q You said -- this is for all of 2012,
 22 correct, sir? January 1st, 2012 to the end of 2012?
 23 A I didn't say that, but you can, and I think
 24 this is the tax return -- it says beginning 11/15 and
 25 ending -- the top of it says for tax year beginning

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1 Care Foundation; is that correct?
 2 A Sure, yes.
 3 Q And there's a discussion here with regard,
 4 Section III, banking, that addresses -- that bids
 5 will be solicited from banks to determine depository
 6 accounts. Those were for funds that were denuded
 7 from Knapp Medical Center in the earlier meeting,
 8 correct?
 9 MR. KIRBY: Objection, attorney/client,
 10 work product. He can't answer about information he
 11 gained at this meeting. Instruct him not to answer.
 12 MS. IBARRA: Certify the question.
 13 (Exhibit No. 16 was marked.)
 14 Q (Ms. Ibarra) I'm gonna hand you Exhibit 16,
 15 which is a 990 for Knapp Community Care Foundation.
 16 Were you involved in the preparation of that
 17 document, sir?
 18 A I don't think so, no.
 19 Q Do you know what that document is?
 20 A It's a 990.
 21 Q This is -- what is a 990, sir?
 22 A It's a tax return for charitable entities.
 23 Q And this would be the tax return for the
 24 Knapp Community Care Foundation for 2012?
 25 A Yes.

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1 11/15/2012, and ending 12/31/12.
 2 Q Okay. Well, that's the delay, that's the --
 3 in preparing it. Be that as it may, was John L.
 4 Lackey a member of the board at the time that this
 5 was prepared?
 6 A Yes.
 7 Q All right. Do you know what Mr. Lackey's
 8 profession is?
 9 A Actually, let me restate my -- at the time
 10 -- during this time period, which is from the date
 11 the company was formed on November 15th, 2012, until
 12 the end of 2012, because they had to do a short
 13 filing. They only were alive for a month and a half,
 14 and this is pre the closing of the transaction, Mr.
 15 Lackey was the president of that board. By the time
 16 -- you said when this is entered. By that point in
 17 time, which here shows November the 12th, 2013, by
 18 that point Rudy Salinas was the president.
 19 Q I understand. But for the relevant period
 20 of the time for this return of private foundation,
 21 990-PF, dated 11/15/2012 through 12/31/2012, Mr.
 22 Lackey was the president during that period of time
 23 of KCCF; is that correct?
 24 A Yes.
 25 Q All right. And in this document it says

1 that he maintained, or the books were in the care of
 2 Mr. Lackey, correct?
 3 A Correct.
 4 Q Do you know what Mr. Lackey's profession is?
 5 A Yeah, he's a financial advisor.
 6 Q He's an investment broker, isn't he? Was
 7 Mr. Lackey --
 8 A Yes.
 9 Q Thank you. Was Mr. Lackey permitted to
 10 invest the funds of KCCF through his investment
 11 brokerage?
 12 A No.
 13 Q Did Mr. Lackey make any money from any
 14 investments he made on behalf of KCCF through his
 15 investment brokerage?
 16 A Absolutely not.
 17 Q How do you know that?
 18 A Because I helped arrange for all the
 19 accounts to be transferred from Knapp Medical Center
 20 into Knapp Community Care Foundation, and we've
 21 helped keep -- up until recently, we've helped keep
 22 up all the financial activity of -- the financial
 23 records of the company up until that time.
 24 Q So who is making investments on behalf of
 25 Knapp Community Care Foundation?

1 in how things are invested. Mr. Lackey, through his
 2 business affiliation had any role as -- in helping to
 3 invest those funds, none, whatsoever. Anything that
 4 he would have made money off of, none, whatsoever.
 5 As a board member, would he have some ability to
 6 question, hear financial reports from financial
 7 advisors, et cetera, yes, he would.
 8 Q And he's never served as a financial advisor
 9 to KCCF?
 10 A No.
 11 Q Why don't you turn to page 429 of the
 12 membership transfer agreement. It's listed as
 13 schedule 2.22.
 14 A Okay.
 15 Q John Lackey is missing from that document.
 16 Can you tell me why?
 17 A Schedule 2.2 is a business and transactions
 18 with affiliates schedule, which discloses any
 19 relationships that board members maintenance have
 20 with the underlying entity. And my understanding is
 21 that he -- before you were asking me about Knapp
 22 Community Care Foundation. This is relating to Knapp
 23 Medical Center Foundation, and my understanding is
 24 that this is an accurate list of only those people
 25 who had any interest or had any affiliation privately

1 A I mean, I know and I can explain that.
 2 WITNESS: But is that something I can
 3 answer?
 4 MR. KIRBY: Not if it's -- the only
 5 basis that you know it would be -- come from your
 6 representation of that entity, and the knowledge that
 7 you gained through that representation, no, you can't
 8 answer that.
 9 MS. IBARRA: Certify the question.
 10 A I would like to.
 11 Q (Ms. Ibarra) Are the assets of Knapp
 12 Community Care Foundation currently invested in
 13 stocks or other money making investments?
 14 A Yes.
 15 Q Is Mr. Lackey involved in making any of
 16 those investments?
 17 A No.
 18 Q Has he ever been?
 19 A No.
 20 Q And you're certain of that, you're not just
 21 speculating?
 22 A Here's my hesitation in that response, is
 23 that the board of directors has the ability to make
 24 certain investment decisions through their financial
 25 advisors. So all the board members have some input

1 with the hospital, and Mr. Lackey had none, is my
 2 understanding.
 3 Q Wasn't he the president of Knapp Medical
 4 Center?
 5 A Yes, but he has nothing to disclose, because
 6 he has no affiliation with them in any way. He has
 7 no outside interest that would be deemed business
 8 transaction with an affiliate.
 9 Q Under James Summersett, you've listed
 10 president and CEO of Knapp, and other members of the
 11 board in which he was involved. Are you saying that
 12 Mr. Lackey had no involvement besides his presidency
 13 of Knapp, such that he did not need to disclose it or
 14 be identified on this list?
 15 A Yes. I'll say that my understanding in
 16 preparing that list, working on the preparation of
 17 that list, is that Mr. Lackey had no business
 18 relationship, independently, with Knapp Medical
 19 Center. Now the reason that Jim Summersett is listed
 20 as president and CEO is because in his capacity as
 21 president and CEO, he gets a salary. And so he is
 22 getting paid by Knapp Medical Center. That's why his
 23 circumstance is different, and why -- and why Mr.
 24 Lackey is not listed merely because he's the chairman
 25 of the board.

1 Q So Mr. Lackey was not being paid by Knapp
 2 Medical Center?
 3 A Mr. Lackey was not being paid by Knapp
 4 Medical Center.
 5 Q Okay. We haven't talked much about Mr.
 6 Summersett. What was his involvement with regard the
 7 determination that Prime would be the acquiring
 8 entity of the governance of the board of directors?
 9 MR. KIRBY: Object to that,
 10 attorney/client, work product, can't answer it.
 11 MS. IBARRA: Certify the question,
 12 please.
 13 Q (Ms. Ibarra) Mr. Summersett currently works
 14 for Prime, doesn't he?
 15 A That's my understanding.
 16 Q Do you have any understanding as to when he
 17 was offered his position with Prime?
 18 MR. KIRBY: I'm gonna object to that to
 19 the extent that you would have gotten that
 20 information through your representation of any your
 21 clients at the time you were representing them, and
 22 instruct you not to answer it, if that's the only
 23 basis for your knowledge, if you even have knowledge.
 24 A Yeah, I don't have much. That would be the
 25 only basis.

1 can't disclose that information.
 2 Q (Ms. Ibarra) This is a press release, Mr.
 3 Jones. Have you ever seen it before? It's published
 4 at your local newspaper, dated March 18th, 2013, and
 5 appears to be a distribution from Knapp Medical
 6 Center's media center. Have you ever seen this
 7 document before?
 8 A Give me a second. When Lance is through
 9 looking at it, I'll check it out. This is from
 10 March. I have seen this before.
 11 Q Were you involved in the drafting of this
 12 document?
 13 A If I was --
 14 Q You were?
 15 A If I was, it would only have been based upon
 16 as part of our representation.
 17 Q This is a distribution to the public, isn't
 18 it, Mr. Jones?
 19 MR. KIRBY: I mean, you could answer if
 20 you -- if you remember that you were involved. Now
 21 if there's more questions about what were the details
 22 of the behind the scenes, we'll get to that. But if
 23 you remember that you were involved in assisting to
 24 draft that, you can answer that one question.
 25 A I know I saw it. I don't know whether they

1 Q (Ms. Ibarra) Okay. You've never looked up
 2 on the internet or been aware of Mr. Summersett's
 3 association with Prime immediately after the
 4 transaction?
 5 A I promise you I never looked up on the
 6 internet what Mr. Summersett was doing after the
 7 transaction, no.
 8 Q Did Prime ever tell you that they were going
 9 to hire Mr. Summersett when the transaction was
 10 completed?
 11 A When the transaction was completed, Mr.
 12 Summersett had a contract with Knapp Medical Center
 13 to perform whatever services he was obligated to do
 14 under that contract, and after the closing, that
 15 contract was still in place, and that's where I left
 16 off in that process.
 17 MS. IBARRA: Objection, nonresponsive.
 18 Q (Ms. Ibarra) So you don't know when he
 19 became involved in a contract with Prime; is that
 20 correct?
 21 A That's correct.
 22 Q Okay. I want to mark this exhibit.
 23 (Exhibit No. 17 was marked.)
 24 A Well, I have some general information, but
 25 it would have only come through my client, and I

1 asked me if I had any comments to it, or not. I may
 2 have, or I may not. I don't recall right now.
 3 MR. KIRBY: And all she's asking is if
 4 you helped draft it.
 5 WITNESS: Right. That's what I'm
 6 saying.
 7 MR. KIRBY: If you remember helping
 8 draft it?
 9 A Well, I wouldn't have done the initial
 10 draft, but sometimes I'm given documents to ask to
 11 see whether a certain thing would look -- you know,
 12 in different circumstances, I've asked whether or not
 13 I approve of it, or I think that it needs to be
 14 clarified in some way, and I don't remember whether I
 15 was asked to do that in this or not.
 16 MR. KIRBY: So you don't know is your
 17 answer?
 18 A I don't know.
 19 Q (Ms. Ibarra) Do you know where the 23 --
 20 let's start first at the bottom of the page, where it
 21 begins KCCF received more than a hundred million
 22 dollars to support it's mission of improving access.
 23 We've already established that did not all come from
 24 Prime, correct?
 25 A It doesn't say it came from Prime, but KCCF

1 did receive a hundred million --

2 Q I understand.

3 A -- so it is correct.

4 Q Okay. And will include payments of,

5 approximately, 23 million dollars from Prime. You've

6 testified earlier that 32.5 million came from Prime.

7 Where did the 23 million come from?

8 MR. KIRBY: He's told you he didn't

9 draft -- he doesn't have any recollection of drafting

10 this.

11 MS. IBARRA: I'm asking him why he

12 testified differently than what has been reported

13 here. You would think Prime knows how much it spent.

14 MR. KIRBY: Well, you can't ask him

15 about a document that he didn't prepare, and why it

16 has a number in it. How could he know that?

17 A I can explain it.

18 Q (Ms. Ibarra) Please do.

19 A Not that hard. If you look at the 23

20 million from Prime, and then 80 million dollars in

21 investments from Knapp Medical Center, totaling 103,

22 correct?

23 Q Correct.

24 A Okay. You look at the funds flow statement,

25 you'll see that Knapp transferred 72 million dollars

1 that document, sir?

2 A March 18th, 2013.

3 Q That one.

4 A This is March --

5 Q No, sir. The one that you were relying upon

6 to explain these numbers.

7 A This is the funds flow statement --

8 Q Yes, sir.

9 A -- which is the one that happened at

10 closing.

11 Q So that predates this March 18th report,

12 correct?

13 A That's correct.

14 Q And, therefore, all your testimony with

15 regard only 72 million was taken from Knapp, with 11

16 million left behind, was false?

17 A No, it was all completely accurate.

18 Q So how much did Knapp lose when it was --

19 when its governance was transferred to Prime, in

20 terms of dollars out of its coffers?

21 A It didn't lose anything. Are you talking

22 about how much was transferred out of Knapp Medical

23 Center to Knapp Community Care Foundation,

24 \$72,500,000 with another 7 million that came in

25 later, seven to eight million.

1 in cash, not 80. And in return, Prime paid 33

2 instead of 23, and that's the difference. And the

3 difference was there's a cash and cash equivalence

4 amount of nine million dollars, more or less, that,

5 in essence, under this scenario could have been -- if

6 a hundred percent of the cash had been -- let me

7 answer it this way, it will be clearer. If a hundred

8 percent of the cash had been taken from Prime, or

9 from Knapp Medical Center, it would have been 80

10 million dollars that would have gone into Knapp

11 Community Care Foundation. They didn't take all 80.

12 They only took 72 or 71, more or less. They left

13 nine million dollars in, and in return for that,

14 Prime paid an extra nine million dollars. The math

15 still lines up. The question is where did it come

16 from? Knapp paid another nine million in cash

17 because we only took 72 million, instead of all 81

18 million out.

19 Q So, ultimately, you took the 81 million?

20 A In essence, the 80 million came out and they

21 paid 23. Because, otherwise, they paid 33 million

22 in, but when they got there, there was nine million

23 dollars in cash sitting there.

24 Q So at the time of this membership transfer

25 agreement and that document -- what is the date of

1 Q So as we said earlier, over 80 million

2 dollars came out of Knapp Medical Center?

3 A That's correct.

4 Q And only 23 million dollars, not the 32 you

5 testified to earlier, ultimately came out of Prime?

6 A That's wrong. Prime paid 33 million dollars

7 in cash at closing. Now when they took over control

8 of Knapp Medical Center, instead of it having zero

9 dollars cash, it had nine million dollars of cash.

10 That's why they paid the additional nine million.

11 It's the same. It totals to 104, no matter how you

12 cut it.

13 Q But twenty -- I asked you repeatedly to tell

14 me ultimately how many dollars came out of Prime's

15 pocket?

16 A And I told you 33 million dollars.

17 Q And did any money get back into their pocket

18 so that their ultimate contribution was 23 million

19 dollars?

20 A They took over control of Knapp Medical

21 Center -- okay, let me answer your question, no.

22 They took over control of an entity that had nine

23 million dollars more in assets than they thought it

24 was going to, because we left nine million dollars in

25 cash so that they would not have any operational

1 hiccups in there. In going forward, they would have
 2 that there, so it's the same.
 3 Q Mr. Jones --
 4 A They paid 33 million dollars at this closing
 5 that went into Knapp Community Care Foundation.
 6 Knapp Community Care Foundation, instead of
 7 receiving 80 million dollars from Knapp Medical
 8 Center, only received 72.
 9 Q Where did the nine million come from? It
 10 didn't come from Prime, did it? It came from Knapp.
 11 A It stayed in Knapp. They -- no, Prime paid
 12 an extra nine million dollars.
 13 Q So this --
 14 A And the nine million dollars that was left
 15 into Knapp Medical Center did not then, and couldn't
 16 go back out -- upstream to Prime. It was in the
 17 company.
 18 Q So this article drafted two months after all
 19 of this still says that Prime paid 23 million
 20 dollars. Doesn't Prime know how much it paid for
 21 this entity, and for the right to govern it?
 22 A Yes.
 23 Q Okay. We'll have to rely upon what they
 24 say. And then going on it says, additional payments
 25 -- it claims -- it claims that there is a two --

1 let's see, that the cash payment of at least 23
 2 million, the retention by Knapp Medical Center and
 3 Prime Healthcare Foundation of more than 56 million
 4 dollars in debt. That's false, isn't it? Prime
 5 Healthcare Foundation did not retain the bond debt,
 6 did it?
 7 A The retention could only be by Knapp Medical
 8 Center, because Prime Healthcare -- so I agree with
 9 you, that's a misstatement as to the way that it says
 10 Prime Healthcare Foundation, but Knapp Medical
 11 Center owed the 56 million before, and the related
 12 bonds continued to be owed by Knapp Medical Center
 13 after the fact, so that's correct in that it says the
 14 retention by Knapp Medical Center, that's true.
 15 Prime Healthcare Foundation was not obligated on them
 16 before, and it wasn't obligated on them afterwards.
 17 MS. IBARRA: Mr. Jones, I'm gonna object
 18 to the nonresponsive portions of your statement.
 19 Q (Ms. Ibarra) Just answer my question. Is
 20 the statement that the retention by Knapp Medical
 21 Center and Prime Healthcare Foundation, more than 56
 22 million dollars in debt, is false, together?
 23 A No.
 24 Q It's true? So you're telling this jury now
 25 that, contrary to what you testified earlier, Prime

1 Foundation has retained more than 56 million dollars
 2 in debt in bonds?
 3 A No. I'm still standing by what I said
 4 before, but it depends on how you read it, and --
 5 Q I'm not asking for what is is. I'm asking
 6 you to read that and tell me is that statement, as
 7 it's written, accurate?
 8 A I agree that Prime Healthcare Foundation did
 9 not retain any liability on the bond debt.
 10 Q Thank you, sir. Prime Healthcare Foundation
 11 depositing 45 million dollars to secure payment of
 12 the bond debt. Did it do that?
 13 A I assume that it did. I'm not sure.
 14 Q Do you know?
 15 A I don't know.
 16 Q Do you have any awareness as to whether they
 17 had an obligation to secure the bond debt under the
 18 document you drafted?
 19 A They did not under the document that I
 20 drafted. They had their agreements with Compass
 21 Bank, and Compass Bank was, apparently, comfortable
 22 with the arrangements they made, and that was on
 23 them.
 24 MS. IBARRA: I'm gonna object to the
 25 extent you're speculating.

1 Q (Ms. Ibarra) Let's take a look now on the
 2 first page, where it says Prime Healthcare Foundation
 3 has more than 400 million dollars in assets. Do you
 4 know where the money came from to buy or to pay for
 5 the governance rights?
 6 A Certainly not.
 7 Q Okay. Were you aware that Mr. Reddy was
 8 quoted as saying to the physicians at Knapp Medical
 9 Center, that I am the sole owner of Prime Healthcare
 10 for-profit, and I am the sole contributor of all the
 11 400 million dollars that the foundation has now? Are
 12 you aware of that?
 13 A I wasn't aware he made that statement.
 14 Q I'm sorry?
 15 A I was not aware that he made that statement.
 16 Q All right. So according to this document,
 17 the value of the foundation is 400 million dollars,
 18 and it, apparently, all came from the owner and CEO
 19 of the for-profit, according to that statement,
 20 correct?
 21 A It's your statement.
 22 Q Do you have anything to disagree that that
 23 is not the case?
 24 A I have no idea whether he made that
 25 statement or not. I've never seen it before.

1 Q Okay. Well we have the video so we can
 2 share that.
 3 VIDEOGRAPHER: Off the record, end of
 4 tape 5. The time is 3:05.
 5 (OFF THE RECORD)(3:05-3:18)
 6 VIDEOGRAPHER: On the record, beginning
 7 of tape 6. The time is 3:18.
 8 Q (Ms. Ibarra) Mr. Jones, did you study any
 9 of the bond documents relating to the 56 million
 10 dollars held as an obligation by Knapp Medical
 11 Center?
 12 A I have looked at it some.
 13 Q Are you a bond attorney?
 14 A I am not.
 15 Q Do you have any understanding, personally,
 16 after having reviewed the bond documents, as to
 17 whether or not the City of Weslaco or the Health
 18 Facilities Development Corporation has any liability
 19 for those bonds?
 20 A I've reviewed the provisions of the
 21 indenture, and in my own determination, it appears
 22 clear to me that they don't, and that's also been the
 23 opinion that I was -- that we were given by bond
 24 counsel.
 25 Q Have you ever reviewed the loan agreements?

1 testimony as an expert on bond issues, are you?
 2 A Absolutely not.
 3 Q That's just an understanding that you've
 4 gotten from other individuals, isn't it?
 5 A No. I read the documents myself, also, and
 6 to see if that's -- if I could understand where that
 7 was coming from, and I reviewed them from that
 8 degree, and to the degree that I'm an attorney and
 9 can read contracts and interpret them, I'm not saying
 10 that I'm an expert, but I could see how the
 11 mechanisms worked for the payments.
 12 Q Okay. So that since you're sitting here as
 13 an attorney offering that opinion, sir, what would be
 14 the effect of a judgment taken on a default, outside
 15 of the bond covenants? Who could likely -- who could
 16 be liable for that situation.
 17 A A judgment by whom, I'm sorry?
 18 MR. KIRBY: Yeah, I was just going to
 19 object to the question because I didn't understand it
 20 at all.
 21 Q (Ms. Ibarra) If the bond counsel or the
 22 bond trustee succeeded in taking a judgment for
 23 default, who would be liable for that?
 24 MR. KIRBY: And against whom? A
 25 judgment against whom?

1 A I think I have.
 2 Q Did those tell you anything with regard to
 3 any liability that may accrue to the City if Knapp
 4 Medical defaults on those bonds?
 5 A I don't remember seeing those provisions in
 6 there. What I remember seeing in the trust indenture
 7 or one of the trust documents, I think it's called
 8 the indenture, that specifies how the payments are
 9 received, the trust funds, and how they're paid out,
 10 and that the City is -- the Facilities Development
 11 Corporation is only responsible for the funds that
 12 are -- they held as trustee, or on their behalf, or
 13 whatever else. So those are the provisions I've
 14 seen. I don't remember anything in the loan
 15 agreement that is clear on that topic, but certainly
 16 it's been my opinion, and then was the opinion given
 17 to me from bond counsel that the City has -- and the
 18 Development Facilities Corporation have no
 19 responsibility on the bond. I know that -- I've
 20 heard that there are other concerns that the City may
 21 have from Mr. Vela in the past about that, but not
 22 that there is any liability from the City or from --
 23 or from the Health Facilities Development
 24 Corporation for payment of the bonds.
 25 Q You're not sitting here today offering that

1 MS. IBARRA: Knapp Medical Center, the
 2 only obligor --
 3 MR. KIRBY: Well, you haven't said.
 4 MS. IBARRA: Well, we all know that the
 5 only obligor on the bond is Knapp Medical Center.
 6 Q (Ms. Ibarra) So if a default was taken
 7 against Knapp Medical Center in terms of a judgment,
 8 that would be outside the bond covenants, wouldn't
 9 it? It would be a default judgment?
 10 MR. KIRBY: I don't understand her --
 11 A A default judgment?
 12 MR. KIRBY: I mean, I object to the
 13 question, the form.
 14 Q (Ms. Ibarra) Did you ever in your -- in
 15 preparing these documents, consider whether or not
 16 the City or the Health Facilities Development
 17 Corporation, might have any liability if a judgment
 18 were taken against Knapp Medical Center?
 19 A Yes.
 20 Q Okay. And what did you do to understand
 21 that obligation?
 22 A I asked our bond counsel.
 23 Q Okay. But did you do anything on your own
 24 to undertake a full understanding of what the effect
 25 of a judgment might be?

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1 **MR. KIRBY:** Other than what he's already
 2 testified to?
 3 **MS. IBARRA:** Yes.
 4 **A** I asked bond counsel whether or not the City
 5 or the Facilities Development Corporation would have
 6 any financial responsibility for the bonds, and I was
 7 advised that they would not.
 8 **Q (Ms. Ibarra)** Are you aware of what
 9 documents were reviewed by bond counsel, and whether
 10 they have all of the information necessary to make
 11 such a determination?
 12 **A** This was the attorney who was -- it's my
 13 understanding, I wasn't here in 2008 doing this
 14 representation. My understanding that this attorney
 15 and that firm that we were talking to were the ones
 16 who were involved in the issuance of the bonds in
 17 2008. And so he had all the documents available at
 18 his disposal.
 19 **Q** Okay. But you don't --
 20 **A** And when I've gotten copies of the bond
 21 instruments from him, it came from him.
 22 **Q** Okay. But you don't know whether he had all
 23 the historical documents, or all the information?
 24 You're just relying upon his conclusion, based on
 25 what he -- he particularly reviewed?

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1 I'll be happy to answer your question when I have the
 2 restrictive covenant in front of me.
 3 **MR. KIRBY:** He hasn't memorized the
 4 restrictive covenant.
 5 **Q (Ms. Ibarra)** But they were important to the
 6 creation of this transaction with Prime, weren't
 7 they?
 8 **A** Of course.
 9 **Q** And just so I understand, Mr. Jones, did you
 10 have an obligation to the Knapp Medical board of
 11 directors to be certain they had an understanding as
 12 to the terms of this transaction before they voted on
 13 it? Was that part of your responsibilities?
 14 **A** Of course. Any transaction that I do, if my
 15 client doesn't understand what the transaction is, or
 16 the impact of the contract or any other documents
 17 that I'm asking them to sign, that's my job is to
 18 make sure they understand them. It doesn't mean that
 19 they have to read and ask me questions on every
 20 single paragraph. They need to understand the
 21 material portions, and I need to be there to answer
 22 questions they have. That's my role as a
 23 transactional attorney.
 24 **Q** And, accordingly, for the purposes of the
 25 transaction, the Knapp Medical board of directors

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1 **A** Of course.
 2 **Q** Of course. With regard to Mr. Reddy's
 3 statement that there was a decision made to keep
 4 Knapp Medical not-for-profit, there was no such
 5 decision, was there? Knapp necessarily must remain
 6 not-for-profit, according to the restrictive
 7 covenants, correct?
 8 **A** Pursuant to the restrictive covenants, yes,
 9 agreed.
 10 **Q** Were you aware that there was a restrictive
 11 covenant that incorporated duties to the public
 12 without limitation the inhabitants of the City of
 13 Weslaco, not Donna, not the other surrounding
 14 counties, the other entities that you mentioned
 15 earlier?
 16 **A** If you want to point out that provision of
 17 the restrictive covenant, I would be happy to look at
 18 it and give you my opinion.
 19 **Q** I will. It's on one of the exhibits. I can
 20 show you, it's in the deed restriction. I just
 21 wanted to know if you were aware of it when you said,
 22 as you did earlier, that you had reviewed the
 23 restrictive covenants. Do you recall that there was
 24 such a restrictive covenant?
 25 **A** I've reviewed the restrictive covenant, and

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1 were your clients, correct?
 2 **A** Knapp Medical Center was my client, and I
 3 dealt with their representative, the Knapp Medical
 4 Center board of directors. That's who my contact was
 5 with.
 6 **Q** It's more than your contact, isn't it, sir?
 7 Didn't you just say that you had an obligation to be
 8 sure your clients were fully informed before you
 9 asked them to vote on anything?
 10 **A** The representatives of my client, which are
 11 the board of directors, the governing board of the
 12 entity of my client, which is Knapp Medical Center, I
 13 had a duty to advise my client, through its
 14 representatives, of the terms of the -- what the
 15 terms were of the membership interest transfer
 16 agreement.
 17 **Q** Well, in this current litigation, you
 18 represent Knapp Medical Center, correct?
 19 **A** Yes.
 20 **Q** And you also represent the sole member of
 21 their board of directors, Prime, correct, Prime
 22 Foundation?
 23 **A** Correct.
 24 **Q** Does your -- does your representative
 25 capacity extend to providing advice to Prime

1 Foundation, in addition to Knapp Medical Center and
 2 your other clients, the members of the board of KCCF
 3 and the former members of the board of KMC?
 4 A Does our firm, as an attorney, have an
 5 obligation to give legal advice to our clients? Yes,
 6 we do.
 7 Q And those are your clients?
 8 A All the defendants named in your lawsuit are
 9 our clients.
 10 Q Okay. Did you explain to any of the members
 11 of the board of directors of Knapp that they could be
 12 personally liable if they did not exercise their
 13 fiduciary duties to Knapp Medical Center?
 14 MR. KIRBY: Objection, attorney/client,
 15 work product; don't answer.
 16 MS. IBARRA: Certify the question.
 17 Q (Ms. Ibarra) Did any member of the board of
 18 directors express their concern that they could be
 19 personally liable for this decision?
 20 MR. KIRBY: Objection, attorney/client,
 21 work product; don't answer.
 22 Q (Ms. Ibarra) And I'm talking about before
 23 the transaction was consummated.
 24 MR. KIRBY: And our instruction is the
 25 same.

1 104 million dollars, and we have Knapp Medical Center
 2 continuing to be operated as it has in the past, and
 3 even stronger, hopefully, is the intent, and I think
 4 what's happening.
 5 Q Okay. Let me clarify the question so that
 6 it can be asked in the positive or the negative.
 7 A Okay.
 8 Q Did you have any discussions with Prime as
 9 to whether the 23 million plus or minus dollars that
 10 they paid by themselves to KCCF for the privilege of
 11 having totally governance -- governance and rights
 12 over Knapp was a fair amount for them to pay?
 13 MR. KIRBY: That misstates the
 14 evidence. I mean, why don't you ask it as 32.5
 15 million, then maybe he can answer it?
 16 MS. IBARRA: Because he's gone back and
 17 forth, so it's 23 plus --
 18 MR. KIRBY: No, he hasn't gone back and
 19 forth.
 20 MS. IBARRA: Yes, he --
 21 MR. KIRBY: He's said 33 all along. The
 22 press release says 24.
 23 MS. IBARRA: It does.
 24 MR. KIRBY: He hasn't said that.
 25 Q (Ms. Ibarra) All right. Mr. Jones, have

1 MS. IBARRA: Okay, certify the
 2 question.
 3 Q (Ms. Ibarra) Did you ever have any
 4 discussions with Prime that the amount of money Prime
 5 was willing to pay by itself was inadequate to
 6 compensate for the value of the governance that it
 7 took over from Knapp -- Knapp Medical Center's board
 8 of directors?
 9 MR. KIRBY: I assume you're referring to
 10 Prime Foundation?
 11 MS. IBARRA: I am assuming -- you assume
 12 correctly.
 13 Q (Ms. Ibarra) 23 million dollars or 30
 14 million dollars, or whatever it was, did you ever
 15 have a discussion that that was inadequate
 16 compensation for all the benefit it gets to totally
 17 run and make all decisions for Knapp Medical Center?
 18 A I had discussions with them to create a
 19 membership interest transfer agreement that resulted
 20 in a foundation with 104 million dollars in it, and
 21 with Knapp Medical Center continuing to be run as it
 22 did -- as it had in the past. So when you give me a
 23 question, and you've already assumed that they paid
 24 inadequate compensation, that's not my opinion and
 25 that's not what happened. We have a foundation with

1 you ever had any discussions with Prime as to whether
 2 the amount they paid to KCCF, without the additional
 3 sums paid by -- by Knapp, itself, was a fair amount
 4 for the benefit it gained in being able to take over
 5 total governance and rights to everything at Knapp
 6 Medical Center?
 7 MR. KIRBY: And up to the point of the
 8 transaction, is that --
 9 MS. IBARRA: That's correct.
 10 MR. KIRBY: You're limiting it to that?
 11 MS. IBARRA: That is correct.
 12 MR. KIRBY: All right.
 13 A Well, as I've stated previously, there is a
 14 letter of intent, and there are terms of the
 15 transaction. In other words, the price for the
 16 transaction was negotiated without my involvement.
 17 My job was to make those terms of those transactions
 18 that had been agreed to come to fruition, which is
 19 what I did. So of course not. My role is not to go
 20 back and try to renegotiate price as the attorney,
 21 when that's already been done otherwise.
 22 Q (Ms. Ibarra) Mr. Jones, please clarify
 23 something for the record. You represented Knapp,
 24 gave advice to its board of directors, and created
 25 and gave advice to KCCF, yet you're telling this jury

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1 that all you did was draft a document with -- which
 2 you were told to do. Are you telling this jury that
 3 despite having given advice, the only value to your
 4 advice was to memorialize what you were told to do?
 5 A That's pretty silly, but I'll try to answer
 6 it anyway.
 7 Q Uh-huh.
 8 A Of course not. I advised them as to the
 9 legal impact, and the negotiations that we went
 10 through to get to the final product of the membership
 11 interest transfer agreement, there are certain
 12 provisions that were agreed to, as I've said before,
 13 before I got involved. So to the degree that the
 14 consideration component of this transaction was
 15 already determined before I got involved, did I take
 16 it upon myself to go into the board meeting and
 17 advise them as to the sufficiency or insufficiency of
 18 that purchase price, when I'm only coming in; they
 19 have been sitting on the board for many years, know
 20 the financial history of the hospital, have financial
 21 advisers, have the Kaufmann report, have Seale &
 22 Associates, all advising them as to the sufficiency
 23 of the consideration that was proposed in this
 24 transaction, and in the prior UHS transaction; and
 25 then at that point I'm supposed to -- in your

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1 MR. KIRBY: You can't answer that with
 2 it including that many people. Attorney/client, work
 3 product; don't answer.
 4 MS. IBARRA: Certify the question.
 5 Q (Ms. Ibarra) Okay. I'm looking at an
 6 answer that was filed by your firm on behalf of the
 7 board of directors and the other defendants you're
 8 representing, and I just want to understand, since
 9 I've been told that there are some inaccuracies with
 10 parts that I've quoted, whether you understand them
 11 to be correct or not. Let's see. It says, to the
 12 contrary, Knapp Medical fully complied with any
 13 restrictions contained in the lease agreement. It
 14 speaks that the termination of the lease -- hold on a
 15 second, let me get to precisely the sentence I want.
 16 Could we go off the record for just a moment, because
 17 I want to make sure I do this as quickly as possible?
 18 VIDEOGRAPHER: Off the record, the time
 19 is 3:34.
 20 (OFF THE RECORD) (3:34-3:36)
 21 VIDEOGRAPHER: On the record. The time
 22 is 3:36.
 23 Q (Ms. Ibarra) The answer filed by your firm
 24 specifically states that the bonds of 1987 were paid
 25 in full. Other than information you've been provided

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1 opinion, did I come in and then question them and
 2 say, "This is insufficient consideration"? No, I
 3 didn't. Does that mean that all I did was type some
 4 words into the computer and never talk to them? I
 5 don't think it means that either. So I disagree with
 6 your couching of your question, but that's, in
 7 essence, what happened.
 8 Q Do you not try to secure the best possible
 9 deal on behalf of the party you represent in a
 10 contract situation?
 11 A Every time, when those particular components
 12 are within my purview. If a client comes to me and
 13 he says, "Matt, I've already agreed with Mary that
 14 I'm gonna sell her my business for a million
 15 dollars", I don't then go back and try to negotiate
 16 for more than a million dollars. That part has been
 17 determined. My job is to do the best I can to
 18 represent my client in the other 50 things that may
 19 arise in the contractual process.
 20 Q Were you told at any time that these terms
 21 were set in stone and just draft the contract?
 22 MR. KIRBY: Told by who?
 23 MS. IBARRA: The board of directors,
 24 Prime, or anybody else with whom he was directed to
 25 prepare these documents?

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1 by the bond attorneys, do you have any knowledge as
 2 to whether they were paid in full, or whether
 3 subsequent bonds paid them?
 4 A Well, if subsequent bonds paid them, they
 5 would be paid in full.
 6 Q I understand, but that debt was carried over
 7 in the next bond. You understand what I'm saying?
 8 That the bond -- for whatever purpose the bond was
 9 acquired, the next bond --
 10 MS. IBARRA: What's it called, I'm
 11 sorry, when the bond --
 12 MR. KIRBY: Refinanced?
 13 MR. VELA: Redeemed --
 14 A You have renewal and extension in loan
 15 terms, but --
 16 Q (Ms. Ibarra) No.
 17 MS. IBARRA: It's a refinance, isn't it,
 18 or --
 19 MR. VELA: Well, you -- you mentioned it
 20 was 1987. It's really 1978.
 21 Q (Ms. Ibarra) Okay. The 1978 bonds, that
 22 they were -- okay, I'm gonna give you a better
 23 question.
 24 MR. VELA: Refinance the bonds. You get
 25 new money, you basically --

1 Q (Ms. Ibarra) What -- okay, what is your
2 understanding with regard whether the bonds issued in
3 198 -- 1978 were repaid?

4 A I don't have it in front of me, but it's
5 been produced. There's a document that stated those
6 bonds were paid in full.

7 Q Okay. But you understand that there were
8 bonds that were issued in 2008, municipal bonds for
9 capital improvements, that were -- that Knapp became
10 the obligor to, and those were present at the time of
11 -- prior to the acquisition of governance by Prime
12 Healthcare?

13 A There were bonds 2008, Series A, or Series
14 2008-A and 2008-B, as I recall, so, yeah, the total
15 is the 57 million. Those bonds have been in place
16 since 2008.

17 Q Okay. On page 7 of the answer, it says the
18 determination that PHSI Foundation is not required to
19 accept liability for or apply for inclusion as an
20 obligated party on the 2008 bonds, merely by its
21 status as the corporate member of Knapp Medical, was
22 made by professional advisors for Knapp Medical and
23 PHSI Foundation prior to the sale. Who were the
24 professional advisors to which this refers?

25 A I've already explained that to you. That

1 to be legally included. It would not be a violation
2 of any of the trusts or any of the bond indenture or
3 other documents for that to be the case.

4 Q (Ms. Ibarra) Did Mr. Rodriguez ever discuss
5 with you the -- his recommendation that Prime become
6 an obligor on the bond as part of the transaction?

7 WITNESS: Can I answer that one?

8 MR. KIRBY: That's gonna be work
9 product, attorney/client privilege, if you had those
10 discussions, so --

11 MS. IBARRA: You're claiming that Mr.
12 Rodriguez is his attorney/client priv --

13 MR. KIRBY: He's part of the team of
14 attorneys; absolutely.

15 MS. IBARRA: Certify the question.

16 Q (Ms. Ibarra) I presume you're not going to
17 answer?

18 A I'm not gonna answer.

19 Q Okay.

20 MR. KIRBY: He's the attorney for Knapp,
21 you understand this, yes?

22 MS. IBARRA: And this is also the
23 attorney for Knapp, and I want to know if he was part
24 of a discussion in which Mr. Rodriguez would provide
25 counsel that that would be in Knapp's better interest

1 was bond counsel for Knapp Medical Center, which is
2 George Rodriguez, I believe, and Prime's bond
3 counsel, who also looked at things, I don't know who
4 that was, and they worked together with Compass Bank
5 to insure that all their obligations and covenants,
6 all of Knapp's covenants and obligations to Compass
7 Bank would continue to be fulfilled post December
8 31st, 2012.

9 Q Now Mr. Jones, these professional advisors
10 represented the interest of Knapp, didn't they?

11 A Mr. Rodriguez represented the interest of
12 Knapp, and the bond counsel for Prime Foundation
13 represented their interest.

14 Q I understand. Is there any reason that you
15 can think of that it would be an advantage to Knapp
16 Medical Center to have its bond counsel find that
17 Prime didn't have to become an obligor on the bond
18 when it acquired its right to govern every other
19 aspect of Knapp?

20 MR. KIRBY: Objection, form.

21 A I'll answer it. Yes, because we asked him a
22 legal ques -- a legal opinion, and he gave us an
23 accurate legal opinion; not necessarily one that you
24 or somebody else may not like the outcome of, but he
25 gave a legal opinion which was that it did not have

1 to have those bonds paid off.

2 MR. KIRBY: And if those discussions
3 occurred, they would definitely be attorney/client,
4 work product privileged.

5 MS. IBARRA: Certify the question,
6 please.

7 Q (Ms. Ibarra) It goes on further to describe
8 that BBVA Compass Bank is the issuer of a letter of
9 credit which is used to support Knapp Medical's
10 repayment obligations under the 2008 bonds. Compass
11 does bear financial risk for the payment of the 2008
12 bonds. Does Knapp intend to look to Compass to pay
13 off those bonds?

14 A You're asking me to give an opinion as to
15 what the board of directors of Knapp Medical Center
16 currently intends to do as of today? I certainly
17 have no information that there is any intention not
18 to pay the bonds, and it's never been raised by
19 anybody at any point in time, other than by you.

20 Q Well, Mr. -- not quite, Mr. Jones. You
21 spoke with the board of directors and advised them
22 that there was a decision made by Prime and Compass
23 that they wanted to keep the bonds in place. You've
24 also testified that -- and, of course, this document
25 says that it bears financial risk. What I am asking

1 you is did you contemplate or did you have any
2 discussions with Prime with regard an anticipation
3 that Compass Bank will be stuck with the bonds to pay
4 them if Knapp defaults?

5 MR. KIRBY: Objection, form.

6 A Yeah, could you please restate that? I
7 couldn't follow it.

8 Q (Ms. Ibarra) At any time when you were
9 preparing this document, did you consider the
10 possibility that Compass may end up responsible for
11 paying these bonds if Knapp defaults?

12 A I understood that to be a possibility, as it
13 was before the transaction. Compass bore
14 responsibility if Knapp failed to pay the bonds,
15 Compass would have had to pay up under their letter
16 of credit. After the transaction, if Knapp failed to
17 pay the bonds, Compass Bank would have to honor its
18 obligation under the letter of credit, exactly the
19 same as it was before. So did I understand that that
20 was the case? Yes, I did.

21 Q And it's still the case today?

22 A It's still the case today.

23 Q With regard to the restrictive covenants
24 that were in place in 1987, did you -- did those
25 restrictive covenants affect how you drafted the

1 membership transfer agreement?

2 A I think you've already asked me that one.

3 Q I just want to confirm that that's correct,
4 because certainly those restrictive covenants had to
5 be honored at the time that you created this draft
6 agreement, and you did so?

7 A I agree with that.

8 Q Okay. All right. This is another question
9 I have. According to this particular paragraph and
10 this answer filed by your firm on behalf of the
11 defendants -- to correct one additional error in the
12 petition regarding inadequacy of consideration,
13 paragraph 62 seems to take the position that the
14 total consideration for the transaction was 100
15 million dollars. That's what it says in the
16 documents, doesn't it, that 104 million dollars was
17 the total consideration? And I understand that
18 they're going to make capital improvements to a
19 certain amount, and they've invested other money.
20 But my question is the total consideration for the
21 transaction was, according to the newspaper
22 documents, according to what you've read to me,
23 approximately, 104 million dollars, correct?

24 A Those are the net proceeds of the
25 transaction.

1 Q Okay. It then reads, in fact, the 104
2 million dollars, as you just said, is the amount of
3 the net proceeds received by Care Foundation in the
4 transaction. I guess that's Community Care
5 Foundation, correct? The fact that the 2008 bonds
6 remain in place, demonstrates a total consideration
7 of well in excess of 150 million dollars, which I
8 assume is 104 million plus 56 million dollars,
9 correct?

10 A That's right.

11 Q Okay. How is it that anybody is considering
12 the debt to now be an asset that should be added to
13 the consideration price of this transaction?

14 MR. KIRBY: Objection, form. The
15 question --

16 Q (Ms. Ibarra) I don't understand the
17 pleading. Would you explain it to me as to why this
18 transaction is now worth 160 million dollars because
19 they're not paying the debt?

20 A I gave you the example before. I'll give it
21 to you again.

22 Q I didn't understand your example. Maybe you
23 could just explain what these words mean. Do these
24 words mean that since Knapp has kept the bonds on the
25 books, they now get credit for 56 million dollars

1 that Knapp would have had to have paid, but now is
2 not going to?

3 A I'm having a hard time following your
4 question. But the total value of the transaction is
5 the 160 million dollars.

6 Q Okay.

7 A The net proceeds of that are 104. Now if
8 you want to get me a chalkboard and I can do it on a
9 chalkboard, or on a -- I can write it out for you to
10 show you exactly where -- how that makes sense from
11 an accounting standpoint, and how assets -- if you're
12 gonna get net proceeds, somebody else -- the debt is
13 still there, what the value of the total transaction
14 is, I can do that.

15 Q Okay. I would rather --

16 MR. KIRBY: Maybe try the home mortgage
17 explanation again.

18 MS. IBARRA: It didn't work.

19 Q (Ms. Ibarra) What I'm trying -- see if you
20 can explain it this way to me, sir, or just advise
21 whether this is correct, 104 million dollars in net
22 proceeds were taken out of KMC and partly paid by
23 Prime and given to a new entity called KCCF. KCCF
24 now has that 104 million dollar net proceed sale
25 price, correct?

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1 A Correct.

2 Q KMC now has on its books the same minus \$56

3 in liability from the bonds that started in 2008, and

4 they remain the obligor on to this date.

5 A That's correct.

6 Q Is that correct?

7 A Yes.

8 Q So because Knapp has a minus 56 million

9 dollars, how does that become positive and counted in

10 the sale transaction price, unless Knapp doesn't pay

11 them? Let me give you an analogy, okay?

12 A Let me answer your question first.

13 Q Okay. Go ahead.

14 A Going back to your balance sheet thing that

15 you were looking at, shows 167 million dollars in

16 total assets, right? You pointed that out before.

17 And then you go to -- in a typical accounting you

18 have assets minus liabilities equals net worth,

19 right? Are you with me?

20 Q I'm with you.

21 A Okay. Total assets, 167; minus liabilities,

22 57 million dollars, probably plus a little bit more,

23 but we'll just say 57; net worth 110 million dollars.

24 Are we clear?

25 Q So far.

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1 Foundation, which was the total intent of the -- of

2 the entire transaction, and Knapp Medical Center

3 continues to go on.

4 Q And that begs the question, why was -- why

5 were the assets taken out of Knapp Medical Center,

6 instead of paying off the bonds, instead of leaving

7 them with that debt and vulnerable to having what

8 remains of their few assets to be taken at anytime by

9 their board of directors, Prime Foundation?

10 A Well, you're saying that --

11 MR. KIRBY: Object to that question. It

12 is erroneous in its premise, and you really can't

13 answer it as asked.

14 MS. IBARRA: He was about to. What's

15 erroneous about it?

16 MR. KIRBY: He was gonna correct it is

17 what he was gonna do.

18 MS. IBARRA: Well, good, let's let him.

19 MR. KIRBY: He doesn't need to. You

20 need to ask a proper question.

21 MS. IBARRA: Certify the question.

22 Q (Ms. Ibarra) Why weren't the bonds paid

23 before the money was denuded from KMC?

24 MR. KIRBY: Objection, form.

25 A A, they didn't have to be. There was no

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1 A Okay. So in this transaction, the net worth

2 of Knapp Medical Center ended up in the Community

3 Care Foundation. Now is that clear? Are we still on

4 the same page? If you look at the value of the total

5 transaction, they took over an asset worth 167

6 million dollars. That was the total transaction. We

7 took out 110, or 104. There's still 57 million in

8 debt still there. There are still other assets in

9 there, also. You have all the real estate,

10 everything else is there. But the net -- you're just

11 talking about the net worth was taken out of Knapp

12 Medical Center and put into the foundation for the

13 benefit of the community.

14 Q Mr. Jones --

15 A Let me ask you one more -- let me say it one

16 more way. Had the day before this transaction

17 closed, Knapp Medical Center had paid the bonds in

18 full, they had enough cash to do it, obviously,

19 right, because they had 80 million dollars, so if

20 they just paid the 57 million dollars of bonds off,

21 how much would have been left? How much would the

22 net worth of the -- of Knapp Medical Center would

23 have been? It would have been 110 million dollars.

24 That was the value, the net value of Knapp Medical

25 Center. That value is now in Knapp Community Care

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1 reason for them to be, and I still don't know what --

2 I've never heard the word "denuded" until you've been

3 using it here, but if you're talking about it was

4 transferred into a foundation for the benefit of the

5 community, then that's what happened. I don't know

6 what denuded means, but, otherwise, as you've seen

7 from the press release, I can't independently verify,

8 but they say they put 30, 40 million dollars back

9 into Knapp immediately. They've obviously satisfied

10 all the requirements of Compass, or Compass would

11 have created some problem with the letter of credit

12 between now and then, so they've obviously put enough

13 money back into Knapp Medical Center to satisfy

14 Compass Bank. So I don't know what -- how denuded

15 comes into that. I really don't even know what that

16 means.

17 Q (Ms. Ibarra) Well, let's give you the word,

18 what it means.

19 MS. IBARRA: And I object to the

20 nonresponsive part.

21 Q (Ms. Ibarra) If Prime takes the assets of

22 that medical center, as it may do under your

23 agreement, what's left at Knapp Medical Center

24 besides patient revenues in the future?

25 A Well, if they took them all -- and you're

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1 overlooking the other provisions of that Section 5
 2 that say that say that it has to continue to be
 3 operated as a acute care hospital for the next seven
 4 years. It can only be transferred to affiliates.
 5 There's a number of other restrictions on them. If
 6 they violated any of those, Knapp Community Care
 7 Foundation would have a breach of contract action.
 8 So that's how that would be protected against. And
 9 you also have your restrictive covenant that insured
 10 that it can't be used for anything other than
 11 nonprofit hospital. So I don't see --
 12 MS. IBARRA: Objection --
 13 A I don't see -- if they transfer it, they
 14 have to comply with all the same obligations that
 15 Knapp has complied with in the past.
 16 MS. IBARRA: Objection, nonresponsive.
 17 Q (Ms. Ibarra) The only thing I'm asking you,
 18 Mr. Jones, is if the assets, the tangible real estate
 19 and personalty assets that make up the last bit of
 20 what belongs to Knapp, after the 80 million dollars
 21 was removed, or approximately 70 to 80 million
 22 dollars removed, then this agreement, essentially,
 23 leaves Knapp with nothing but 56 million dollars in
 24 debt, and perhaps the way to make that up, I guess,
 25 is in patient revenues. But other than that, that

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1 about, you know your discussions with the board of
 2 directors related to that issue. If you had
 3 discussions with Prime, prior to the consummation of
 4 the deal related to that specific issue and/or with
 5 BBVA Compass, which I think you've already testified
 6 to, you can answer that part, but not anything about
 7 what the board would have been telling you, or not
 8 telling you, or what you were telling the board.
 9 A All right. So I can't answer that.
 10 Q (Ms. Ibarra) Okay. Did Prime direct you
 11 that you -- that the bonds would not be covered in
 12 the terms of this agreement?
 13 A When you're negotiating contract, nobody
 14 dictates anything to the other side, do you agree?
 15 Q I understand, sir. But you also told me
 16 that your job was to do -- pretty much put together
 17 this transaction because most of these deals had been
 18 worked out. My question to you is who told you that
 19 the bonds would remain in place?
 20 MR. KIRBY: And you can't answer that,
 21 to the extent that it would be attorney/client
 22 privilege. You could probably answer a question
 23 about did Prime tell you to do it. I assume --
 24 direct you to do it, I assume the answer is no to
 25 that.

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1 debt, what else is left at Knapp Medical Center?
 2 MR. KIRBY: Objection, form. Asked and
 3 answered.
 4 Q (Ms. Ibarra) Under those circumstances.
 5 MR. KIRBY: Don't even answer it again.
 6 You just answered it.
 7 MS. IBARRA: All right. Certify the
 8 question. Let me see if there's anything else?
 9 Let's go off the record for five minutes.
 10 VIDEOGRAPHER: Off the record. The time
 11 is 3:54.
 12 (OFF THE RECORD)(3:54-4:02)
 13 VIDEOGRAPHER: On the record. The time
 14 is 4:02.
 15 Q (Ms. Ibarra) Mr. Jones, I just have a very
 16 few last questions for cleanup I want to be sure I
 17 understood. With regard the entry on the minutes
 18 that reflects that it was BBVA Compass and Prime's
 19 desire to keep the bonds in place, did you take your
 20 directives with regard to bonds and not having them
 21 paid off as was previously part of the offer, did you
 22 take those directions from Prime and BBVA Compass, or
 23 did the board of directors tell you that they wanted
 24 to keep those bonds in place?
 25 MR. KIRBY: You can't answer anything

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1 A There were -- as I stated before, there were
 2 discussions with Prime over that, but did Prime
 3 direct my representation to my client, no, they did
 4 not.
 5 Q Okay. What about BBVA Compass?
 6 A They dictate my representation to my client?
 7 No, they did not.
 8 Q And did your client -- or do you have any
 9 understanding with regard whether your client was
 10 made aware that the bonds would remain in place?
 11 MR. KIRBY: Objection, attorney/client,
 12 work product. You can't answer what you were telling
 13 your client.
 14 MS. IBARRA: And again I contend that
 15 this was part of a different transaction, and we'll
 16 certify the question.
 17 Q (Ms. Ibarra) You testified earlier that Bob
 18 Galligan had the right to call any associate or
 19 person in this firm that might be able to help him on
 20 certain issues. Do you have the same privilege of
 21 doing that?
 22 A Yes.
 23 Q How about Ivan Perez?
 24 A We're a firm, we all work together.
 25 Q Okay. Have you ever worked with Greg Kerr?

THE STATE OF TEXAS *

Before me, _____, on this day

personally appeared MATTHEW JONES, known to me (or

proved to me under oath or through _____)

(description of identity card or other document) to

be the person whose name is subscribed to the

foregoing instrument and acknowledged to me that they

executed the same for the purposes and consideration

therein expressed.

Given under my hand and seal of office this _____

day of _____, 2014.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

NO. C-0181-13-B
WESLACO HEALTH FACILITIES * 93RD DISTRICT COURT
DEVELOPMENT CORPORATION, *
AND CITY OF WESLACO, *
PLAINTIFFS *

VS. * OF

KNAPP MEDICAL CENTER; *
JAMES A. SUMMERSETT, III, *
JOHN L. LACKEY, RUDY *
SALINAS, ANABELL C. *
CARDONA, BRIAN A. *
HUMPHREYS, JR., NORMA I. *
MONTALVO, BERTHA SUAREZ *
AND ABRAHAM TANUS, *
IN THEIR OFFICIAL *
CAPACITIES AS MEMBERS *
AND ON BEHALF OF THE *
KNAPP MEDICAL CENTER *
BOARD OF DIRECTORS; *
KNAPP MEDICAL CENTER *
FOUNDATION, INC.; *
KNAPP COMMUNITY CARE *
FOUNDATION, INC.; PRIME *
HEALTHCARE FOUNDATION; *
AND PRIME HEALTHCARE *
SERVICES, *

DEFENDANTS. * HIDALGO COUNTY, TEXAS

REPORTER'S CERTIFICATION
DEPOSITION OF MATTHEW JONES
Taken on 10-8-14

I, DONANN SMITH, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:
That the witness, MATTHEW JONES, was duly sworn
by the officer and that the transcript of the oral

deposition is a true record of the testimony given by
the witness;
That the deposition transcript was submitted on
_____ to the witness or to the attorney for
the witness for examination, signature and return to
me by _____;
That the amount of time used by each party at the
deposition was as follows:

Ms. Mary Ibarra: 4 Hrs; 52 Min;
Mr. Lance Kirby: 0 Hrs; 00 Min;
Mr. Aaron Vela: 0 Hrs; 00 Min.

That pursuant to information given to the
deposition officer at the time said testimony was
taken, the following includes counsel for all parties
of record:

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I further certify that I am neither counsel for,
related to, nor employed by any of the parties or
attorneys in the action in which this proceeding was
taken, and further, that I am not financially or
otherwise interested in the outcome of the action.

Further certification requirements pursuant to
Rule 203 of TRCP will be certified to after they have
occurred.

Certified to by me this 11th day of October,
2014.

DONANN SMITH, Texas CSR #2304
Expiration Date: 12-31-15
Action Reporting, Firm #13
P. O. Box 4513
McAllen, Texas 78502

GERALD SMITH, Texas CSR #2305
Expiration Date: 12-31-15
Action Reporting, Firm #13
P. O. Box 4513
McAllen, Texas 78502
(956) 631-1024

FURTHER CERTIFICATION UNDER RULE 203, TRCP
The Changes and Signature pages of MATTHEW JONES
was/was not returned to the deposition officer on

_____;
If returned, the attached Changes and Signature
page contains any changes and the reasons therefor;

The original deposition was delivered to Mary
Ibarra, Custodial Attorney;

That \$ _____ is the deposition officer's
charge to Mary Ibarra, for preparing the original
deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance
with Rule 203.3, and that a copy of this certificate
was served on all parties shown herein and filed with
the Clerk.

Certified to by me this ____ day of _____,
2014.

DONANN SMITH, Texas CSR #2304
Expiration Date: 12-31-15

GERALD SMITH, Texas CSR #2305
Expiration Date: 12-31-15
Action Reporting, Firm #13
P. O. Box 4513
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