

SEALED

MERRICK B. GARLAND **BY ORDER OF THE COURT**

Attorney General

MICHAEL G. WHEAT, CBN 118598

JOSEPH J.M. ORABONA, CBN 223317

JANAKI G. CHOPRA, CBN 272246

COLIN M. MCDONALD, CBN 286561

ANDREW Y. CHIANG, NYBN 4765012

Special Attorneys of the United States

880 Front Street, Room 6293

San Diego, CA 92101

619-546-8437/7951/8817/9144/8756

Michael.Wheat@usdoj.gov

Attorneys for the United States of America

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
Mar 25, 2024, 5:15 pm
Lucy H. Carrillo, Clerk of Court

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),

Defendants.

CR No. 22-00048-TMB-NC

UNITED STATES’ MOTION *IN LIMINE* NO. 9: TO INTRODUCE RUDY ALIVADO’S SWORN STATEMENT TO CURE MISIMPRESSION

UNDER SEAL

UNITED STATES’ MOTION IN LIMINE NO. 9

The defense intends to introduce Rudy Alivado’s federal civil trial testimony for its effect on the listener. *See* ECF No. 486 (order granting defendants’ motion to do so). That narrow testimony, however, leaves a grave misimpression about Alivado’s actual perspective of his exchange with Laurel Mau. Indeed, his brief, vague trial testimony—with the pivotal exchange coming in the form of a

compound, leading question from Defendant Tanaka—can be twisted to make it appear Alivado in fact believes Laurel Mau deceitfully stole cash from him. That is exactly what the defendants did in the felony Information against Mau.

But it is not true. In his grand jury statement, Alivado said he had no issues paying Mau “because she did a good job. She worked hard, she visited a site with me, and I thought she deserved payment.” Later in his testimony, Alivado was “surprised” to learn—somehow for the first time in the grand jury—that he was a named victim in the theft Information filed against Mau by Kaneshiro’s office. Alivado questioned why he was a named victim because he “didn’t think it was a theft.” Left by itself, Alivado’s vague, brief, and directed civil trial testimony would leave the jurors with the exact opposite impression.

Federal Rule of Evidence 106 is designed for this precise scenario. It permits introduction of “any other statement” that fairness dictates should be considered to cure misimpressions sown by the adverse party’s introduction of a prior statement. Under this rule, when the defense introduces Alivado’s civil trial testimony, the Court should permit the United States to introduce the relevant pieces of Alivado’s grand jury testimony at the same time.¹ Attached at Sealed Exhibit 3, the United States has highlighted the portions of Alivado’s grand jury testimony which should be admitted.

//

¹ Alivado has rejected meeting with the United States to discuss his trial testimony. It appears he may need to be treated as a hostile witness. *See* Fed. R. Evid. 611(c)(2).

I

BACKGROUND

A. Alivado and Defendant Mitsunaga are longtime friends, starting in high school. In the early 2000s, Alivado and Mitsunaga formed a business partnership which involved, among other things, buying and selling real estate. There were certain partnership perks; for example, in exchange for Alivado pulling more weight on the real estate projects, MAI and other associated companies designed and built Alivado's home, a project lasting around two years. After the home was built, Alivado needed further help with interior designing. Steven Wong, an MAI employee, told Alivado that Mau was going to help. Mau did so, and, according to Alivado, did a good job. Alivado had no complaints about her work.

During the civil trial between Mau and MAI, Alivado offered testimony that spanned a grand total of about nine transcript pages. *See* Exhibit 1. In his testimony, Alivado stated that MAI designed his Kaneohe home and that Mau acted "in the capacity of the architect who helped ... with the interior design of the house." *Id.* at Tr. p. 126. He stated he "hired [Mau] as an employee of MAI based on the blueprints that was completed, et cetera, and she handled the interior design." *Id.* "[S]he did a good job," Alivado added. *Id.* Alivado then testified that Mau asked him for payment on two occasions and that he agreed to pay her cash. *Id.* at Tr. pp. 126-27. This background progressed to the ultimate question and answer that Defendant

McDonald would later seize on in his declaration against Mau. The question was a compound, leading question, posed by Defendant Tanaka:

- Q. Okay. And you just assumed it was an MAI project, and you were paying in her capacity as an architect on behalf of Mitsunaga & Associates, Inc.; is that correct?
- A. That was my assumption, yes.

Exhibit 1 at Tr. p. 126. Alivado did *not* say the money was supposed to go to MAI, or that Mau deceived him by keeping the cash. He was, however, then asked “do you know whether the cash payments actually went to Mitsunaga & Associates, Inc.?” “I don’t know,” he answered. *Id.* By itself, it is difficult to really understand what Alivado meant about his interactions with Mau. His testimony was brief and vague.

But it was enough for the defendants. In the felony Information against Mau, two of the four counts named Alivado as a victim of Mau’s theft (for the two times he paid her). Count 3 alleged the following:

On or between October 1, 2007 and May 31, 2009 in the City and County of Honolulu, State of Hawaii, LAUREL J. MAU did obtain or exert control over the property of Rudy Alivado, the value of which exceeds Three Hundred Dollars (\$300.00) by deception, with intent to deprive Rudy Alivado of the property, thereby committing the offense of Theft in the Second Degree, in violation of Section 708-831(1)(b) of the Hawaii Revised Statutes.

The offense alleged herein was not discovered prior to March 1, 2014 by either Rudy Alivado or by a person who had a legal duty to represent Rudy Alivado, Section 701-108(3)(a) of the Hawaii Revised Statutes.

Exhibit 2. Count 4 was nearly identical to Count 3, again with Alivado as the named theft victim. *See id.*

In his sworn declaration supporting the charges against Mau, Chad McDonald relied on Alivado’s civil jury trial testimony to support his non-law enforcement opinion that probable cause existed to charge Mau with theft. McDonald summarized Alivado’s testimony as follows:

Mr. Alivado testified that Mau was not given the money as a gift, but rather, that Mau demanded two separate payments, one in the amount of \$800 and another in the amount of \$2,000, *payments that were supposed to be going to MAI*. . . . Mau specifically requested each of these amounts in cash.

ECF No. 571-1 at 11 (emphasis added to highlight something Alivado did not testify to—another false statement made by McDonald in his declaration). Seizing on this not-quite-accurate summary of Alivado’s trial testimony, McDonald leaped to his goal: accusing Mau of “intentionally deceiv[ing]” Alivado by making him *think* he was paying MAI when instead Mau “intended to keep the money for herself”:

In March 2014, MAI learned that Mr. Alivado was deceived by Mau to believe that he was paying MAI when Mau was in fact keeping the money for herself. Thus, not only did Mau bill her time to MAI, but she also collected approximately \$2,800 in cash from Rudy Alivado for herself. As this was an official MAI project, these payments should have gone to MAI, not Mau. Mau intentionally deceived Alivado into thinking that he was making payments to MAI, when she intended to keep the money for herself. Mau did, in fact, keep the money for herself, evidenced by her own admission of keeping the cash given to her by Rudy Alivado, and by Terri Otani’s declaration stating that no money was ever received by MAI from Mau as it related to the Alivado project.

ECF No. 571-1 at 11.²

B. Alivado was subpoenaed to testify before the grand jury in this matter. Before appearing to testify, he met with Defendant Tanaka to discuss the subpoena. Then, like various others, he appeared before the grand jury, read a prepared statement, and asserted a blanket invocation of his Fifth Amendment rights. The United States sought an order compelling his testimony, which Chief United States District Judge Derrick K. Watson granted.³

At his subsequent grand jury appearance, Alivado described his relationship with Laurel Mau and the circumstances surrounding his payment of cash to her. *See* Sealed Exhibit 3. For precision's sake, we request that the Court review the attached sealed transcript from pages 34–79 to see the exact contours of his testimony (for completeness, we attach his entire testimony). Those pages include Alivado's

² This paragraph has other sneaky lies that need not be explored fully in this motion but will be illuminated throughout trial. In any event, under binding Hawaii law that was published before Mau was charged, even if the facts were as McDonald portrayed them, they could not constitute theft. *See State of Hawaii v. Atwood*, 129 Haw. 414, 420, 301 P.3d 1255, 1261 (2013) (“[W]here a defendant is charged with theft by deception in a situation involving a contract, the intent element of the crime is not met where evidence shows that the defendant performed, or intended to perform, his or her part of the contract; conversely, the intent element is satisfied only when the defendant intends not to perform his or her contractual obligations.”). The United States has requested a jury instruction on this point of law. *See* ECF No. 439 at 29–30.

³ This brings Alivado's conduct within the scope of the Court's prior rulings regarding grand jury obstruction. While Alivado said he was not represented by Tanaka, he admitted meeting with her before his first grand jury appearance, and phone records show they exchanged around 10 text messages the day before, the day of, and the day after his first appearance (plus a phone call and more than 10 texts two days prior to his appearance).

statement that “When I gave her the money, I didn’t think it was a theft.” Sealed Exhibit 3 at 47. When asked why not, Alivado responded, “Because I thought I was paying her for her services.” *Id.*; *see also id.* at 42 (“She did a good job. She worked hard, she visited a site with me, and I thought she deserved payment.”); *id.* at 67 (“Q. You didn’t think she was stealing from you? A. “No. She did a good job. Q. And you didn’t think she was stealing from Mitsunaga either, do you? A. I don’t think so.”); *id.* at 74 (rejecting interpretation of his civil trial testimony that the money Alivado paid to Mau was intended to be paid to MAI: “I never made that statement. I don’t agree with that . . . [b]ecause I paid Laurel Mau, not – not Mitsunaga”).⁴ In summary, Alivado’s grand jury testimony clarifies the misimpressions left hanging by his short and vague trial testimony.

II

LEGAL STANDARD

Federal Rule of Evidence 106, titled “Remainder of or Related Writings or Recorded Statements, states, “[i]f a party introduces all or part of a statement, an adverse party may require the introduction, at that time, of any other part—or any other statement—that in fairness ought to be considered at the same time. The

⁴ If anyone had bothered to investigate Mau’s alleged “theft” from Alivado, that theory would have crumbled immediately. Of course, Kaneshiro was willing to prosecute Mau without an investigation. Alivado did not even know until his grand jury appearance in 2021 that he was a named victim in the Laurel Mau case. He was “surprised” to learn that, and even intuitively asked, “Who – who – who conducted the investigation? Was it HPD?” GJ Tr. at 47; *see also* GJ Tr. at 48 (“Nobody interviewed me.”).

adverse party may do so over a hearsay objection.” Fed. R. Evid. 106. The rule “serves the purpose of correcting a distortion created by an opposing party’s misleading proffer of part of a document or recording.” *United States v. Lopez*, 4 F.4th 706, 715 (9th Cir. 2021); *see Beech Aircraft Corp. v. Rainey*, 488 U.S. 153, 172 (1988) (the rule exists to avert “misunderstanding or distortion” caused by introduction of only part of a statement).

By its plain terms, Rule 106 extends to “any other statement”—not merely excerpts from the *same* statement—that in fairness ought to be considered with the statement offered. Fed. R. Evid. 106. “To be admitted under Rule 106, the additional part or other oral, written, or recorded statement must relate to the same subject matter and tend to deny, explain, modify, qualify, counteract, repel, disprove or otherwise shed light on the oral, written, or recorded statement already received.” Graham, 2 *Handbook of Fed. Evid.* § 106:1 (9th ed.) (citing sources); *see United States v. Castro*, 813 F.2d 571, 575–76 (2d Cir. 1987) (the omitted statement may be introduced “if necessary to explain the admitted portion, to place the admitted portion in context, to avoid misleading the jury, or to ensure fair and impartial understanding of the admitted portion”); *United States v. Collicott*, 92 F.3d 973, 983 (9th Cir. 1996) (remarking that the proper use of the rule is to “correct a misleading impression of a prior statement”). “The completeness doctrine does not, however, require the admission of portions of a statement that are neither explanatory of nor

relevant to the admitted passages.” *United States v. Jackson*, 180 F.3d 55, 73 (2d Cir.1999) (citations omitted).

In dicta, the Ninth Circuit once said that “because [certain out-of-court statements] do not fall within an exception to the hearsay rule, they are inadmissible regardless of Rule 106.” *United States v. Collicott*, 92 F.3d 973, 983 (9th Cir. 1996). Other circuits rejected that perspective. *See United States v. Sutton*, 801 F.2d 1346, 1368 (D.C. Cir. 1986) (“Rule 106 can adequately fulfill its function only by permitting the admission of some otherwise inadmissible evidence when the court finds in fairness that the proffered evidence should be considered contemporaneously. A contrary construction raises the specter of distorted and misleading trials, and creates difficulties for both litigants and the trial court.”). This is no longer an issue. In 2023, Rule 106 was amended to resolve this issue. It now states the “adverse party may [introduce a statement under Rule 106] over a hearsay exception.” Fed. R. Evid. 106. As the advisory committee note explains, “The Committee has determined that the rule of completeness, grounded in fairness, cannot fulfill its function if the party that creates a misimpression about the meaning of a proffered statement can then object on hearsay grounds and exclude a statement that would correct the misimpression.” Fed. R. Evid. 106, adv. n. 2023 Amendment.⁵

⁵ Even before the rule had changed, the Ninth Circuit had clarified that “There is no conflict between evidence introduced under the rule of completeness and the bar on inadmissible hearsay because the former serves the purpose of correcting a distortion created by an opposing party’s misleading proffer of part of a document or recording,

III

ANALYSIS

Here, the defendants intend at some point to introduce Alivado’s vague civil trial testimony. But Alivado’s brief and vague trial testimony, the result of leading and compound questioning by Defendant Tanaka, risks leaving a significant misimpression about Alivado’s perspective of his exchange with Laurel Mau. Left by itself, it will wrongly leave the jury with the impression that Alivado believed Laurel Mau committed theft from him—i.e., that she pocketed his money and took off with it. Alivado’s grand jury testimony rejects this interpretation of his trial testimony. For instance, Alivado was “paying [Mau] for her services” and he did not think Mau committed theft. *See* Sealed Exhibit 3 at 42, 47. And he squarely rejected the interpretation of his civil trial testimony that the money he gave Mau was intended to be paid to MAI. *Id.* at 74 (“I never made that statement. I don’t agree with that . . . [b]ecause I paid Laurel Mau, not – not Mitsunaga”). Accordingly, when the defense introduces Alivado’s civil trial testimony, fairness requires that the United States be permitted to offer the relevant portions of Alivado’s grand jury testimony at that same time. In Sealed Exhibit 3, the United States has highlighted the portions of Alivado’s grand jury testimony which we submit are directly related

while the latter serves the purpose of barring introduction of hearsay evidence proffered for its truth.” *Lopez*, 4 F.4th at 715.

to Alivado's trial testimony and which clarify, explain, and correct the misimpressions left hanging in his civil trial testimony.

IV

CONCLUSION

The Court should admit the specified portions of Alivado's grand jury testimony at the same time the defense introduces his trial testimony.

Respectfully submitted,

Dated: March 24, 2024

MERRICK B. GARLAND
Attorney General

/s/ Colin M. McDonald
MICHAEL G. WHEAT
JOSEPH J.M. ORABONA
JANAKI G. CHOPRA
COLIN M. MCDONALD
ANDREW Y. CHIANG
Special Attorneys of the United States

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

In the matter of
GRAND JURY INVESTIGATION
USAO NO. 2017R04796 (Panel 19-II)

TESTIMONY OF RUDY ALIVADO

DATE: July 29, 2021
TIME: 12:58 p.m.

Taken before the United States Grand Jury in Room C-119,
U.S. Courthouse, Honolulu, Hawaii.

APPEARANCE:

For the United States of America:

MICHAEL WHEAT, ESQ.
COLLIN MCDONALD, ESQ.
Special Attorney of the United States
U.S. Attorney's Office, Southern District
of California
880 Front Street, Rm. 6293
San Diego, California 92101-8893

REPORTED BY: WENDY M. WATANABE
CSR No. 401

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RUDY ALIVADO

called as a witness on behalf of the Grand Jury, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined as follows:

EXAMINATION

BY MR. MCDONALD:

Q. Sir, if you could please state and spell your name for the record.

A. Rudy Alivado, R --

Q. And, sir -- go ahead.

A. R-U-D-Y A-L-I-V-A-D-O.

Q. Are you the same Rudy Alivado who appeared before this Grand Jury on June 10th of this year?

A. Yes.

Q. At that time, you invoked your Fifth Amendment privilege?

A. Clarify that?

Q. At that time, sir, did you invoke your Fifth Amendment privilege against self-incrimination and decline to answer questions?

A. At the hearing yesterday?

Q. At the prior Grand Jury appearance on June 10th.

A. Yes.

Q. Okay. Following a hearing with United States District Judge Derrick Watson yesterday, are you now

1 prepared to testify for the Grand Jury?

2 A. Yes, sir.

3 Q. Sir, during your last appearance, you were advised
4 of your rights and obligations before the Grand Jury.

5 Do you have those rights in mind, or would you like
6 me to repeat them?

7 A. No. I have it in mind.

8 Q. Okay. Sir, where do you live?

9 A. In Kaneohe.

10 Q. And how long have you lived in Kaneohe?

11 A. About 15 years.

12 Q. And what is the address of your residence in
13 Kaneohe?

14 A. 45-616 Nohomalu Place.

15 Q. Okay. And have you lived there for the past
16 15 years?

17 A. Approximately, yeah. From 2008.

18 Q. Now, when you moved there, did you -- did you build
19 the home that was there, or was there an existing home there
20 that you moved into?

21 A. It was a vacant lot, and I built the home.

22 Q. Okay. And did you use the services of any
23 architectural firms to design and build that home?

24 A. Yes.

25 Q. And what -- what -- what was that?

1 A. That's MAI.

2 Q. And what is MAI?

3 A. Mitsunaga Architectural Incorporation, I think.

4 Q. Mitsunaga & Associates? Does that sound familiar?

5 A. Yeah. It may be, yeah.

6 Q. Okay. And they are an architectural engineering
7 firm?

8 A. Yes, sir.

9 Q. Okay. How did you become familiar with MAI?

10 A. The owner, Dennis Mitsunaga, and -- and I went to
11 high school together.

12 Q. Where was that at?

13 A. Hilo, Hilo High.

14 Q. Okay. And when, approximately, was high school for
15 you?

16 A. Graduated in 1962.

17 Q. Okay. Following high school with Mr. Mitsunaga, did
18 you maintain contact with him?

19 A. Yes.

20 Q. Okay. How would you describe your relationship with
21 him?

22 A. Friendly, cordial.

23 Q. Okay. Do you hang out with him a lot?

24 A. Not for the first 25 years after graduation.

25 Q. Okay. So sometime around the late '80s you

1 started -- you reconnected?

2 A. '80s or early '90s.

3 Q. Okay. And why did you reconnect?

4 A. We were on our own careers. I was in HPD, and he
5 was, I guess, running his firm.

6 Q. Okay. And how did it come about that you
7 reconnected with him?

8 A. We ran into each other in town one day.

9 Q. And what was the result of that running into each
10 other?

11 A. We continued our friendship.

12 Q. Okay. And describe the types of activities, then,
13 over the next 30 years or so that you would do with
14 Mr. Mitsunaga.

15 A. We got together golfing and some social events.

16 Q. Okay. How frequently during that time period or
17 during the last 30 years, let's say, do you see
18 Mr. Mitsunaga?

19 A. Maybe four, five times a year.

20 Q. Okay. And do you contact him on -- on your phone?

21 A. Yes.

22 Q. Do you have him saved as a contact in your phone?

23 A. Yes.

24 Q. Okay. Do you have your phone with you here today?

25 A. Yes.

1 Q. Okay. Could you please open it up for us?

2 And if you could please go to the contact that you
3 have saved for Mr. Mitsunaga?

4 And, sir, you understand that you can't send
5 messages or perform any recordings while inside this room?

6 A. Yes.

7 Q. Okay.

8 A. Okay, I have it.

9 Q. Okay. If you could please read the phone number
10 that you have for Mr. Mitsunaga?

11 A. 542-2838.

12 Q. 542...

13 A. 2838.

14 Q. 28 --

15 A. 38.

16 Q. -- 38.

17 And that's area code 808?

18 A. 3 -- 2838, area code 808.

19 Q. Okay. Let me just make sure I have it.

20 (808) 542-2838?

21 A. Yes.

22 Q. Thank you.

23 Do you have any other numbers for him there?

24 A. His residence.

25 Q. Okay. And what is that?

1 A. (808) 373-9619.

2 Q. Okay. Any more?

3 A. That's all.

4 Q. Okay. Do you have any e-mail addresses --

5 A. No.

6 Q. -- in that contact --

7 A. No.

8 Q. -- saved for him?

9 A. No.

10 Q. Okay. Sir, if you could please just wait for me to
11 finish asking the questions and -- and then answer just to
12 be sure that we can have a clear record, okay?

13 And, sir, is your phone number (808) 358-1945?

14 A. Yes.

15 Q. Okay. And how long have you had that number?

16 A. I don't know. Many years.

17 Q. Many, like more than -- more than five?

18 A. Yes.

19 Q. More than ten?

20 A. Yes.

21 Q. Okay. And who is your phone provider?

22 A. T-Mobile.

23 Q. Prior to T-Mobile, who was your phone provider?

24 A. I don't recall.

25 Q. All right. Sir, I'd like to speak with you about

1 your employment history.

2 Were you an HPD officer for some amount of time?

3 A. Yes.

4 Q. And that's the Honolulu Police Department?

5 A. Yes.

6 Q. How long were you an officer?

7 A. I joined in 1967, and I retired in 1995.

8 Q. And what different positions did you have for the
9 Honolulu Police Department?

10 A. As I moved up in rank, I went to different
11 departments.

12 Q. Okay. And what were those?

13 A. Sir?

14 Q. Yes. What -- what were those different departments?

15 A. Vice Division, Patrol Division, Administration,
16 Criminal Investigation Division. That's about it.

17 Q. Okay. And when you retired, at what rank were you?

18 A. Retired as a major.

19 Q. Okay. And for the benefit of the Grand Jurors,
20 where does a major fall within the overall hierarchy within
21 HPD?

22 A. After major, there's assistant chief, deputy chief,
23 and police chief.

24 Q. Okay. Now, during your tenure with HPD, did you
25 work on any theft cases?

1 A. I don't recall specifically.

2 Q. But was that -- was that one of the standard crimes
3 that HPD officers would -- would routinely deal with?

4 A. Yes.

5 Q. Okay. And you're familiar with theft first versus a
6 theft second?

7 A. Yes.

8 Q. Okay. And -- and what, generally, are the different
9 grades of -- of theft as contemplated by the -- by the city
10 code?

11 A. Based on the valuation of the property stolen.

12 Q. Okay. And how is it generally -- in your
13 experience, how is it, generally, that a theft case would be
14 brought to the attention of HPD?

15 A. Can you clarify that question?

16 Q. Yes. So how might someone report a theft to HPD?

17 A. By calling 9-1-1.

18 Q. Okay. So is there a process in place for someone
19 who's the victim of a crime to then reach out to HPD to have
20 that crime and have that theft investigated?

21 A. Yes.

22 Q. Okay. And is the person who reports the crime, is
23 that -- is that person known as the victim of -- of the
24 crime?

25 A. Yeah, more than likely.

1 Q. Okay. And so when a victim calls HPD to report a
2 theft, what are the steps that then are followed by -- by
3 HPD to then -- to then investigate that and -- and make sure
4 that it's taken well care of?

5 A. I don't understand the question.

6 Q. Sir, you have experience with the Honolulu Police
7 Department in responding to calls from the public who are
8 seeking help following a potential criminal act?

9 A. Yes.

10 Q. Okay. And when -- when someone reports a theft,
11 what are the steps that the Honolulu Police Department would
12 take to investigate that potential theft?

13 A. They would send a patrol officer to record the
14 theft.

15 Q. Okay. And what thing -- what types of actions would
16 the patrol officer take?

17 A. He would document in writing and submit the theft
18 report.

19 Q. Submit a theft report?

20 A. Yes.

21 Q. If you could just please make sure we're speaking
22 close to that microphone to make sure we can all hear you.

23 A. Okay.

24 Q. Thank you, sir.

25 And what -- what happens with that theft report?

1 Where does it go?

2 A. If it's a felony, it goes to Criminal Investigation
3 Division.

4 Q. Okay. And then what does that division do with that
5 theft report?

6 A. Assigned to a detective.

7 Q. Okay. And then what -- what after that?

8 A. He would conduct an investigation.

9 Q. Okay. To determine whether or not there actually
10 was a theft that took place?

11 A. Yes, sir.

12 Q. Okay. Now, does the Department of the Prosecuting
13 Attorney at some point become involved in the life of a
14 theft investigation?

15 A. Yes.

16 Q. Okay. And at what point would that be?

17 A. After the detective completes the investigation, the
18 case is submitted for review by the prosecutors.

19 Q. Okay. And then what do the prosecutors determine?

20 A. To charge or not to charge.

21 Q. Okay. And if the decision is made to charge a case,
22 does the victim who initially reported the theft, do they
23 become an official victim within the criminal court system
24 for purposes of that theft case?

25 A. Yes, sir.

1 Q. Okay. After the HPD -- after your retirement
2 from -- from HPD in 1995, what did you do after that for
3 work?

4 A. I joined Governor Ben Cayetano's administration.

5 Q. Okay. And what was your role for Governor Cayetano?

6 A. First two years, I was Deputy Director of Public
7 Safety, Corrections Division.

8 Q. Okay. What about after those two years?

9 A. I was assigned to the airport -- Hawaii State
10 Airport Division.

11 Q. Okay. And how long did you do that?

12 A. Six years.

13 Q. And how did that come to an end?

14 A. When Ben Cayetano retired, I was -- I retired, too.

15 Q. Okay. Did Governor Lingle have anything to do with
16 that?

17 A. Yes.

18 Q. Okay. What did Governor Lingle have -- have to do
19 with that?

20 A. She terminated our contract.

21 Q. Okay. Had that contract been renewed about -- just
22 several weeks before Governor Lingle took office?

23 A. I don't recall.

24 Q. Okay. All right. So what -- what year was that
25 when you ceased your duties at the airport?

1 A. That -- I think the following year after Cayetano
2 retired or maybe a month after. I -- I don't recall the
3 year.

4 Q. Okay. Was it around 2000 or 2001?

5 A. I don't know when Ben term -- I -- I don't recall
6 when he...

7 Q. Okay. That's fair.

8 A. After he retired, anyway.

9 Q. What did you do for employment after the airport
10 job?

11 A. I opened a company named Precision Moving & Storage.

12 Q. And what sort of work did Precision Moving & Storage
13 do?

14 A. Moving troops in and out of Hawaii, military troops.

15 Q. Okay. Did that involve government contracts?

16 A. Yes.

17 Q. Okay. Did you develop a working knowledge of the
18 government contracting system in order to perform your
19 duties with Precision Moving & Storage?

20 A. Yes.

21 Q. Okay. And, generally, what knowledge did that
22 require you to gain?

23 A. Can you clarify that, sir?

24 Q. What, generally, did you learn about the government
25 contracting process?

1 A. I don't understand the question.

2 Q. Sir, did you start that company knowing all the ins
3 and outs about how to make contracts with the government, or
4 did you have to learn the process for doing so?

5 A. I had to learn it.

6 Q. How did you learn it?

7 A. By reading manuals and documentations.

8 Q. Okay. Did you talk to anyone about it?

9 A. My partner.

10 Q. Who is that?

11 A. I -- I had a partner named William Frazer.

12 Q. Okay. Did you talk to your friend, Dennis
13 Mitsunaga, about government contracts?

14 A. No.

15 Q. How long did you work with Precision Moving &
16 Storage?

17 A. About 12, 13 years.

18 Q. Okay. Up until what year, approximately?

19 A. I think 2014 or '16, something like that.

20 Q. 2014 or 2016, you said?

21 A. Yeah.

22 Q. What did you do for work after leaving Precision
23 Moving & Storage?

24 A. I -- as a homeowner-builder, I built houses.

25 Q. Okay. And do you have your license to -- to do that

1 sort of thing?

2 A. No.

3 Q. What sorts of houses do you build?

4 A. Residential.

5 Q. Okay. And how would you find your clients?

6 A. Through word of mouth and associations.

7 Q. How many homes have you built?

8 A. Through the years, seven or eight.

9 Q. And that's going back to that time period where
10 you -- you ended your work with Precision --

11 A. No.

12 Q. -- Moving & Storage?

13 A. No. From -- in the late '80s.

14 Q. I see. Okay.

15 So -- and have you had any formal employment since
16 the Precision Moving & Storage job ended?

17 A. No.

18 Q. Okay. What has been your source of income post
19 Precision Moving & Storage?

20 A. Besides building -- well, after I complete building
21 the house, I rent it out, and that's a source of income.

22 Q. So you have rental property?

23 A. Yes.

24 Q. Okay. Where is your rental property?

25 A. In Kaneohe.

1 Q. Is it part of the same lot that your home is on?

2 A. No -- yes. No, no, it's not. It's a CPR'd lot next
3 door.

4 Q. Okay. And how much income monthly does that bring
5 in for you?

6 A. For that house, about 3,000.

7 Q. And how long have you rented it out?

8 A. From 2008 to current.

9 Q. Okay. So since you completed your employment with
10 Precision Moving & Storage, you've earned approximately
11 \$3,000 a month from that rental property; is that right?

12 A. Yes.

13 Q. Okay. Do you have any other sources of income since
14 retiring from Precision Moving & Storage?

15 A. Yes.

16 Q. And what is that?

17 A. I have another home on -- in Kaneohe.

18 Q. And do you rent that out?

19 A. Yes.

20 Q. Okay. And how much monthly rent do you receive?

21 A. About 6,000.

22 Q. And when did you first own this other rental
23 property?

24 A. Many years ago.

25 Q. Okay. How long have you been renting it out?

1 A. I would say since early '90s.

2 Q. And at what point did the monthly income reach
3 6,000?

4 A. I don't recall.

5 Q. You weren't always making 6,000 off of it?

6 A. No.

7 Q. Now, your -- the home that you talked about that you
8 had designed and built by MAI, that was completed in what
9 year?

10 A. About 2009 or '10.

11 Q. Okay. And do you have a mortgage on that home?

12 A. Yes.

13 Q. Okay. And how much is your monthly payment for
14 that?

15 A. Four thousand -- about \$4,000.

16 Q. Okay. And are you married?

17 A. Yes.

18 Q. And does your spouse work?

19 A. No.

20 Q. Okay. Does she have a source of -- of income?

21 A. Yes.

22 Q. What is that?

23 A. Her social -- social security and 401(k)s.

24 Q. How much in social security does she bring in?

25 A. I -- I don't know the exact amount.

1 Q. Do you share bank account with -- with your wife?

2 A. Yes.

3 Q. Okay. Is that where the social security money goes?

4 A. Yes.

5 Q. Okay. Do you see the money go in there monthly?

6 A. No.

7 Q. Okay. Sir, where do you bank?

8 A. I have two banks that I deal with.

9 Q. Okay. What -- what two are those?

10 A. First Hawaiian and Bank of Hawaii.

11 Q. Okay. Which account did you open first?

12 A. First Hawaiian.

13 Q. How long have you had that account?

14 A. Over -- over 20 years.

15 Q. And then the Bank of Hawaii account, when did you
16 open that?

17 A. About ten years.

18 Q. And why did you open that second account?

19 A. No specific reason.

20 Q. Do you have any other financial accounts with other
21 financial institutions?

22 A. Yes.

23 Q. What are those?

24 A. Hawaii State -- Hawaii Law Enforcement account -- I
25 -- I don't exactly know the exact title, but it's a --

1 connected to HPD, Honolulu Police Department.

2 Q. Okay. And are you receiving some sort of pension --

3 A. Yes.

4 Q. -- based on your -- your tenure as an HPD officer
5 and other service?

6 A. Yes.

7 Q. Okay. And is that a monthly source of income?

8 A. Yes.

9 Q. Okay. And how much is that?

10 A. About 6,000.

11 Q. And how long have you been receiving that?

12 A. Since '95.

13 Q. And does that go into the Hawaii Law Enforcement
14 account that you were referring to, or does that go to First
15 Hawaiian or Bank of Hawaii?

16 A. First Hawaiian.

17 Q. Okay. Do you have any funds moving in or out of the
18 Hawaii Law Enforcement account that you were speaking of?

19 A. No.

20 Q. Okay. And is that operated under a -- some -- a
21 bank of some kind, or do you have some more specific way of
22 helping me know what that bank is?

23 A. I don't understand.

24 Q. The Hawaii Law Enforcement Bank?

25 A. Yes.

1 Q. Is that what it's called?

2 A. I'm not sure of the exact title, but it's connected
3 to HPD.

4 Q. Okay. And you mentioned your friendship with Dennis
5 Mitsunaga.

6 Are you close friends with him?

7 A. Yes.

8 Q. Okay. Have you ever been in business with Dennis
9 Mitsunaga?

10 A. Yes.

11 Q. Okay. And how did that come about?

12 A. We purchased a lot in Kaneohe in early 2000.

13 Q. This was a real estate purchase?

14 A. Yes.

15 Q. Okay. And what was the purpose of the real estate
16 purchase?

17 A. Purchased two fee simple lots in Kaneohe.

18 Q. Did you say fee simple?

19 A. Yes.

20 Q. And what does that mean?

21 A. It's not leased. It's not a leased property.

22 Q. And what did you do with the property after
23 purchasing it with Mr. Mitsunaga?

24 A. We ended up selling one of the properties.

25 Q. Okay. And whose money was used to fund these real

1 estate transactions?

2 A. Both of us.

3 Q. Okay. Did you put in -- each put in 50 percent, or
4 how did that break down?

5 A. Fifty-fifty.

6 Q. Okay. And so you shared the profits fifty-fifty as
7 well?

8 A. Yes.

9 Q. Okay. What happened to the -- the second lot?

10 A. It's -- it's in my possession now.

11 Q. Okay. Is that one of the rental properties that
12 we've just spoken about?

13 A. No.

14 Q. Okay. What's the status of that property, then?

15 A. I'm building a house on it now.

16 Q. Okay. And does Mr. Mitsunaga have an ownership
17 interest in that lot at this point?

18 A. No.

19 Q. Why not?

20 A. We -- we terminated our partnership about two,
21 three years ago.

22 Q. Okay. Why did that happen?

23 A. In the final settlement, I was given that lot.

24 Q. Okay. What did this partnership consist of?

25 A. Can you explain that?

1 Q. So you mentioned a partnership with Mr. Mitsunaga.
2 What was the reason for having a partnership with him?

3 Was that based only on those two properties that you
4 purchased together or something else?

5 A. We purchased two other real estate properties.

6 Q. Okay. When did those transactions occur?

7 A. The second purchase was about 2007, I believe.

8 Q. Okay. And did you then resell that property later?

9 A. Yes.

10 Q. Okay. For a profit that you split fifty-fifty?

11 A. Yes.

12 Q. Now, what was the name of your partnership?

13 A. My LLC was Gizmo LL -- Gizmo Group LLC.

14 Q. And whose idea was it to form a partnership?

15 A. Both of us.

16 Q. Did that come with some protection, legal protection
17 and some tax benefits? Is that the general basis for having
18 gone into the partnership?

19 A. Yes.

20 Q. Okay. Tell me about Greenwaves LLC.

21 A. That -- that's my LLC, too.

22 Q. Okay. So another LLC?

23 A. Yes.

24 Q. Okay. And what was the purpose for starting
25 Greenwaves LLC?

1 A. Same reason, protection.

2 Q. And what was the method of earning money through
3 Greenwaves LLC? Was it real estate or something else?

4 A. Just real estate.

5 Q. Okay. And what property --

6 A. Can I turn off my phone?

7 Q. Yes.

8 Now, if you -- if you already had Gizmo
9 Associates -- or Gizmo Group LLC running, why -- why the
10 need to open a different LLC for the same purpose?

11 A. I don't know.

12 Q. Okay. Whose idea was it to open Greenwaves LLC?

13 A. My wife and I.

14 Q. Okay. And who's your wife?

15 A. Gloria.

16 Q. And are there any other individuals associated with
17 Greenwaves LLC as either a member or an officer?

18 A. No.

19 Q. Okay. Who's Ryan Shindo?

20 A. Dennis' son-in-law.

21 Q. Okay. Was he involved with Greenwaves LLC?

22 A. No.

23 Q. Now, sir, are you aware that the State of Hawaii
24 maintains records pertaining to LLCs formed within the State
25 of Hawaii?

1 A. Yes.

2 Q. Okay. And the -- are you aware that the agent for
3 Greenwaves LLC is Ryan Shindo?

4 A. I don't know.

5 Q. Do you know Ryan Shindo?

6 A. Yes.

7 Q. What's your relationship with him?

8 A. Casual.

9 Q. What does that mean?

10 A. I just know him because he's Dennis' son-in-law.

11 Q. Okay. How frequently do you see him?

12 A. Hardly any time.

13 Q. And who incorporated Greenwaves LLC?

14 A. Gloria and I.

15 Q. Okay. How did you -- how did you go about doing
16 that?

17 A. I don't recall.

18 Q. Okay. Did you have to hire someone to help you go
19 through that process?

20 A. I don't recall.

21 Q. Okay. Do you have an attorney that you -- that you
22 work with on things like that?

23 A. Not Greenwaves. I don't recall.

24 Q. Okay. What about -- what about other similar types
25 of -- of needs that you had during your business endeavors,

1 did you have an attorney that you would turn to for help?

2 A. Yes.

3 Q. Who is that?

4 A. In the recent purchase was Attorney Sheri Tanaka.

5 Q. And who is Sheri Tanaka?

6 A. She handled our legal Bureau of Conveyance recording
7 and et cetera.

8 Q. And what was this most recent purchase that you just
9 referred to?

10 A. That property in -- that second property.

11 Q. Sorry, which property is that?

12 A. In Campbell.

13 Q. Okay. What's the address for that?

14 A. Campbell --

15 Q. What's the address for that?

16 A. I don't know.

17 Q. Okay. And when did this transaction take place,
18 sir?

19 A. 2007 or 8.

20 Q. And how did Sheri Tanaka get involved in that
21 transaction?

22 A. I -- I -- I don't know exactly.

23 Q. Did you have any other businesses with Dennis
24 Mitsunaga?

25 A. We also purchased a third property.

1 Q. Okay. I didn't ask about property, but businesses.

2 Did you have other businesses with him?

3 A. No.

4 Q. Okay. What about the Akala Group LLC?

5 A. That's Dennis' LLC, I believe.

6 Q. Okay. And what was your association with -- with
7 that LLC?

8 A. None.

9 Q. You had no -- no involvement in that LLC?

10 A. No.

11 Q. Okay. Sir, what's your middle initial?

12 A. P.

13 Q. Sir, I'm going to show you what I've marked as
14 Exhibit RPA.

15 Do you see the Akala Group LLC is listed as -- as
16 the LLC in question on this exhibit?

17 A. Yes.

18 Q. Do you see the status says active registration?

19 A. Where is that? Yes.

20 Q. Okay. And the incorporation date March 29, 2004,
21 about 17 years ago?

22 A. Yes.

23 Q. Okay. Now, you see the agent name on this is Ryan
24 Shindo?

25 A. Yes.

1 Q. Okay. And he -- you mentioned he's Dennis
2 Mitsunaga's son-in-law?

3 A. Yes.

4 Q. Okay. The agent address, 747 Amana Street, what's
5 at 747 Amana Street?

6 A. That's Dennis' MAI, I think, address.

7 Q. Mitsunaga & Associates?

8 Okay. Now, if you could look further down,
9 directors and officers, do you see there's -- the first one,
10 it says Alivado, comma, Rudy, comma, manager.

11 Do you know who that is?

12 A. Myself.

13 Q. Okay. Does this refresh your recollection, sir, as
14 to the role that you played with the Akala Group LLC?

15 A. No. This is the first time I've seen this.

16 Q. Okay. How might your name have ended up in these
17 records associated with the Akala Group LLC?

18 A. I don't know.

19 Q. Do you have any idea?

20 A. No.

21 Q. Okay. Who are the other two names that are listed
22 there as being directors or officers of the Akala Group LLC?

23 A. Dennis Mitsunaga, manager; and Ryan Shindo, agent.

24 Q. Okay. So your testimony is that you were not a part
25 of the Akala Group LLC?

1 A. I didn't know until I looked at this document.

2 Q. Okay. Have you had any conversations with
3 Mr. Mitsunaga about the Akala Group LLC?

4 A. I don't recall.

5 Q. I also want to ask you about the Ualehua Group LLC?

6 A. Can you spell that?

7 Q. I would like to spell that. U-A-L-E-H-U-A.

8 A. I don't recall.

9 Q. Okay. Do you know someone named Terri Otani?

10 A. Yes.

11 Q. Okay. How do you know her?

12 A. Through Dennis.

13 Q. Okay. And did -- did Dennis introduce you to Terri
14 Otani?

15 A. I don't recall.

16 Q. Okay. How was it that you and Terri Otani both were
17 managers of that LLC that I just spelled for you?

18 A. I don't know.

19 Q. Would it surprise you -- does it surprise you to --
20 to hear that connection?

21 A. Yes.

22 Q. Okay. Now, sir, are you a political guy? Into
23 politics, that sort of thing?

24 A. Yes.

25 Q. In what way?

1 A. I donate to different candidates.

2 Q. How do you select which candidates you want to put
3 money behind?

4 A. I look at their qualifications and their track
5 record.

6 Q. And which politicians have met those standards that
7 you then decided to contribute to?

8 A. Governor Ben Cayetano, Governor Neil Abercrombie
9 comes to my mind.

10 Q. Okay. And do you know those individuals personally?

11 A. Yes.

12 Q. Okay. When did you first know Ben Cayetano?

13 A. When he asked me to join his administration.

14 Q. And do you still maintain contact with that family?

15 A. No.

16 Q. Why not?

17 A. No reason.

18 Q. Sir, do you recall giving \$500 to Megan Kau this
19 last year around October 21st of 2020?

20 A. No.

21 Q. Did you not make that contribution?

22 A. I might have, but I don't recall.

23 Q. Okay. So October of 20 -- October of 2020 was
24 approximately ten months ago, sir, and your testimony today
25 is that you did or did not make a \$500 contribution to Megan

1 Kau?

2 A. I probably did, but I don't recall exactly.

3 Q. Okay. If you had, where would that money have come
4 from?

5 A. My checking account.

6 Q. Okay. With what bank?

7 A. First Hawaiian, I would think.

8 Q. Okay.

9 A. I believe.

10 Q. And would you have -- would you have written a check
11 or some other means of -- of transmitting that money?

12 A. Probably wrote a check.

13 Q. Okay. Do you ever use cashier's checks or just
14 personal checks?

15 A. Personal check.

16 Q. Okay. Now, how did it come about that you decided
17 to contribute to Megan Kau?

18 A. I thought she was well-qualified.

19 Q. Okay. And what office was she running for?

20 A. I believe prosecutors.

21 Q. Did you coordinate with anyone about giving
22 contributions to Megan Kau?

23 A. No.

24 Q. Did you discuss it with anyone?

25 A. Probably my wife.

1 Q. Did you discuss it with Dennis Mitsunaga?

2 A. I don't recall.

3 Q. Why is it -- well, let me ask this. Did you -- did
4 you discuss contributions to Megan Kau with -- with any
5 other employee of MAI?

6 A. No. I don't recall.

7 Q. Is your answer no, or is your answer I don't recall?

8 A. I don't recall.

9 Q. Do you know someone named Aaron Fujii?

10 A. Yes.

11 Q. Okay. Is he an employee of MAI?

12 A. Yes.

13 Q. Do you know someone named Arnold Koya?

14 A. Yes.

15 Q. Is he an employee of MAI?

16 A. Yes.

17 Q. Chad McDonald?

18 A. Yes.

19 Q. He's also an employee of MAI?

20 A. Yes.

21 Q. Dwight Mitsunaga, is that Dennis Mitsunaga's
22 brother?

23 A. Yes.

24 Q. Is there a reason why around the same time in
25 October of 2020 you and those individuals all gave

1 contributions to Megan Kau?

2 A. I don't know.

3 Q. Did you give any other contributions to other
4 political candidates during 2020?

5 A. I might have given to Colleen Hanabusa.

6 Q. Okay. And why is it that you would contribute to
7 Ms. Hanabusa?

8 A. I think she's well-qualified.

9 Q. And how much did you contribute to Ms. Hanabusa?

10 A. I don't recall the exact amount.

11 Q. Now, what was the source -- for all of your
12 political contributions, what is the source of that money?

13 A. My -- my income.

14 Q. Okay. Nowhere else?

15 A. No.

16 Q. Okay. Do you recall a \$6,000 contribution to
17 Colleen Hanabusa in September of 2017?

18 A. Yes.

19 Q. Okay. What was the reason why you gave \$6,000 to
20 her at that time?

21 A. I thought she was the best candidate.

22 Q. And so you gave the maximum amount that was allowed?

23 A. Yes.

24 Q. Okay. And did your wife also give at that same
25 time?

1 A. Yes.

2 Q. And how much did she give?

3 A. I believe 6,000.

4 Q. Okay. And others associated with Mitsunaga &
5 Associates also gave significant amounts of money at around
6 that same time.

7 A. I don't know.

8 Q. Did you -- were you ever encouraged by Dennis
9 Mitsunaga or Terri Otani or anyone associated with Mitsunaga
10 & Associates to give political contributions to certain
11 candidates?

12 A. No.

13 Q. Did you attend any fundraisers where Mitsunaga &
14 Associates' employees or other associates attended?

15 A. I don't recall.

16 Q. Did you ever receive money from Dennis Mitsunaga or
17 others associated with him reimbursing you for political
18 contributions made?

19 A. No.

20 Q. So when -- when you and your wife contributed
21 \$12,000 to Colleen Hanabusa in September of 2017, that was
22 your money?

23 A. Yes.

24 Q. And no one reimbursed you anything for having made
25 that contribution?

1 A. No.

2 Q. Okay. Now, sir, you -- you testified previously
3 that Mitsunaga & Associates designed and built the house
4 that you currently reside in, in Kaneohe; is that right?

5 A. Yes.

6 Q. Okay. And how large is that house?

7 A. Four bedrooms, two story.

8 Q. What's -- what's the square footage?

9 A. About 3,000 square feet.

10 Q. And why is it that you went to Mitsunaga &
11 Associates to -- to build and design that home?

12 A. Since he was a friend, and I had confidence in his
13 design.

14 Q. And how -- how did it come about that you contracted
15 their services?

16 Did you -- did you just go to Dennis and say, hey,
17 Dennis, I would like to hire your firm to -- to build my
18 house, and he said yes?

19 A. Basically, yes.

20 Q. Okay. Fill in the details on the "basically, yes."

21 A. He -- he did -- the firm designed the house and
22 provided me with a blueprint.

23 Q. Okay. Did -- did he do the blueprint himself, or
24 did one of the employee, one of the architects for Mitsunaga
25 & Associates draw that up?

1 A. Probably one of the architects.

2 Q. Okay. And how long did this project last?

3 A. Maybe two years.

4 Q. And what was the scope -- what was the scope of the
5 work that Mitsunaga & Associates was -- was going to do?

6 A. Can you explain that?

7 Q. When you -- when you first reached out to Dennis to
8 say I'd like you to build the house and he, in essence,
9 said, yes, we will proceed with that, was the scope of work
10 that they were going to do for you to design and build the
11 house?

12 A. He designed the house, provided me with a blueprint,
13 and I was the homeowner-builder.

14 Q. I see. Okay.

15 And what was the total cost that you owed to
16 Mitsunaga & Associates for the work that they did putting
17 together the blueprint?

18 A. I don't recall.

19 Q. Okay. Was it more than a hundred dollars?

20 A. Yes.

21 Q. Okay. Was it more than -- was it more than \$5,000?

22 A. I don't recall.

23 Q. Is there anything that would help refresh your
24 recollection?

25 A. You asking me how much Mitsunaga charged me?

1 Q. Yes.

2 A. Being a partner of his, I don't believe I paid him
3 anything for the design of the house in moneys.

4 Q. Okay. And based on your business experience, you're
5 familiar with the need to keep good paperwork in the -- in
6 the -- for -- for different clients that you have; is that
7 right?

8 A. Yes.

9 Q. Okay. And that would include the -- the receipt and
10 transfer of payments?

11 A. Yes.

12 Q. Okay. Now, if you -- if you had paid Mitsunaga &
13 Associates for the design on your house, how would you have
14 made that payment?

15 A. I never paid him. Through the partnership, the --
16 was a trade-off. I don't know exactly how.

17 Q. Okay. What did you -- what did you trade off within
18 your partnership?

19 A. The work I would do on some of our properties.

20 Q. Okay. Were those the properties that you only owned
21 jointly with Mr. Mitsunaga?

22 A. Yes.

23 Q. Okay. So within your partnership, he would say I'm
24 going to lean on you to do a lot of this work on these
25 properties and, in exchange, I will agree to work up this

1 blueprint for you?

2 A. Basically, yes.

3 Q. Okay. So for purposes of that design on your house,
4 you did not -- am I correct in understanding that you did
5 not have a formal client relationship with Mitsunaga &
6 Associates?

7 A. Just for the production of the blueprint, and he
8 assigned an interior decorator to help me.

9 Q. Okay. Once they provided you the blueprint, how
10 long did it take you to build the house?

11 A. About two years.

12 Q. Okay. During those two years, was Mitsunaga &
13 Associates involved in the building of your -- the house?

14 A. Not directly.

15 Q. Okay. And the initial reason why you went to Dennis
16 was to get the blueprint, correct?

17 A. Yes.

18 Q. Okay. And that was complete?

19 A. Yes.

20 Q. Okay. After the two-year building period was over,
21 did you need some interior designing performed on your newly
22 built home?

23 A. Yes.

24 Q. Okay. And did you know anyone who did interior
25 design work?

1 A. Yes.

2 Q. And who was that?

3 A. Steve Wong and Laurel Mau.

4 Q. Okay. And who is Steve Wong?

5 A. He's an architect at MAI.

6 Q. How did you know that?

7 A. Through -- through our friendship with Dennis.

8 Q. Okay. So the architect does interior design?

9 A. I believe so.

10 Q. Okay. And who is Laurel Mau?

11 A. She's an interior decorator.

12 Q. And had she done work previously as part of the
13 blueprint that was created for you?

14 A. I don't know exactly what she did.

15 Q. How did you become acquainted with Laurel Mau?

16 A. Introduction by -- I don't recall exactly. Maybe
17 Steve Wong introduced me.

18 Q. Okay. And what did he say?

19 A. That she's going to help me with the interior.

20 Q. And how did you get routed to Steve Wong?

21 A. I don't recall.

22 Q. Okay. So let me make sure that we have this
23 straight.

24 You needed interior design work done on your home?

25 A. Interior design work meaning help me with the

1 cabinets, the countertop colors and matching and et cetera.

2 Q. Okay. And that was not part of the original
3 understanding or contract partnership agreement that you had
4 with Dennis Mitsunaga?

5 A. Can you rephrase that question?

6 Q. The interior design work was a separate project from
7 the initial project that Mitsunaga & Associates was
8 performing for you which was to create the blueprint for the
9 house that you then built; am I understanding that right?

10 A. I believe it was all in all, architects came with
11 the blueprint.

12 Q. Why do you say that?

13 A. Because they helped me. They helped me during the
14 construction period.

15 Q. Mitsunaga & Associates?

16 A. The two interior decorators. Steve Wong played a
17 key role when we were getting the permit for the house where
18 the city would come back with questions, Steve Wong would
19 respond, I believe, to get the permit.

20 Q. That was during the period of building the house?

21 A. Yes -- well, before building the house, we had to
22 get the permit.

23 Q. Okay. And then once the house was built, you needed
24 additional help with the interior designing and so did you
25 go to Dennis Mitsunaga to talk to him about that?

1 A. I needed guidance in selecting cabinets,
2 countertops, flooring, interior work.

3 Q. Okay. And what did Dennis say?

4 A. I -- I didn't go directly to him.

5 Q. Okay. Who did you go to?

6 A. I worked with Laurel Mau.

7 Q. Okay. And how did you get connected with Laurel Mau
8 on the interior design work that you needed done?

9 A. Through Steve Wong.

10 Q. Okay. And what did -- what did Steve Wong tell you
11 about Laurel Mau?

12 A. I don't recall exactly. This was about 12, 13 years
13 ago in 2008.

14 Q. Okay. And did you work with Laurel Mau on
15 completing the interior design work that you needed done on
16 your house?

17 A. She helped me along the way.

18 Q. And how would you describe the work that she did?

19 A. I think she did a good job.

20 Q. Okay. Did you have any complaints?

21 A. Not with her.

22 Q. Okay. And did you pay for the work that she had
23 done?

24 A. She asked me for two payments, and I -- I paid her.

25 Q. Okay. And how did you go about paying her?

1 A. I paid her cash.

2 Q. Okay. And did the cash come in an envelope, just --
3 did you just hand over the cash? How did you -- how did you
4 transfer that to Ms. Mau?

5 A. I don't recall. This happened in 2008.

6 Q. Okay. And why did you pay her in cash?

7 A. She asked for cash payment.

8 Q. And -- and you agreed to pay in cash?

9 A. Yes.

10 Q. Okay. Did you have any -- any issues with paying in
11 cash?

12 A. No, because she did a good job.

13 Q. Okay. And was it your understanding that you were
14 working with Laurel Mau in a separate capacity from
15 Mitsunaga & Associates for purposes of conducting that work
16 for you?

17 A. No. I thought it was all in all.

18 Q. Okay. And why did you think that?

19 A. Because she worked for MAI, and they produced the
20 blueprint for me.

21 Q. Now, when you -- when she asked for payment, did you
22 think, no, Laurel. I don't have to pay because I have a
23 partnership agreement with Dennis?

24 A. Is that a question, sir?

25 Q. Yes.

1 A. What -- what was the question?

2 Q. When Ms. Mau came to you to ask for payment, did you
3 think to yourself, no, I don't have to pay anything because
4 I have a partnership agreement with Dennis Mitsunaga?

5 A. No. I didn't think that way.

6 Q. Why not?

7 A. She did a good job. She worked hard, she visited a
8 site with me, and I thought she deserved payment.

9 Q. Okay. So you were paying her for the work that she
10 had done on your house?

11 A. Yes.

12 Q. Okay. Not Mitsunaga & Associates?

13 A. I don't know where the money went to.

14 Q. But you were okay with her keeping that money 'cause
15 she had done that work?

16 A. I don't know what she did with the money, but I -- I
17 thought it was part of the -- the work she did for
18 Mitsunaga.

19 BY MR. WHEAT:

20 Q. Why would you think that?

21 A. I just assumed that, sir.

22 Q. Well, why did you assume that?

23 You just got all this architectural work done for
24 free, and now all of a sudden this little employee has come
25 to you and is asking for cash?

1 A. I didn't assume anything else. That was for her
2 service.

3 Q. Well, the architectural plans, the structural
4 engineering, all that must have cost thousands of dollars to
5 do.

6 You got it for free, and now this little employee
7 who's picking out countertops for you wants to be paid, and
8 you're going to pay her cash?

9 A. I did.

10 Q. And you didn't think, well, I get all the big stuff
11 for free and then this little employee is asking me for
12 cash?

13 A. I didn't think that way.

14 BY MR. MCDONALD:

15 Q. Sir, did you ask her for -- for an invoice from
16 Mitsunaga & Associates for that payment?

17 A. No.

18 Q. Why not?

19 A. I didn't think it was necessary.

20 Q. Why not?

21 A. I just didn't think it was necessary.

22 Q. Ms. Mau later was charged with two felonies because
23 of the cash that you gave to her, correct?

24 A. I don't know.

25 Q. You don't know?

1 A. I don't know.

2 Q. Sir, no one ever talked to you about Laurel Mau
3 being charged with felony theft offenses pertaining to the
4 cash that you gave her?

5 A. No.

6 Q. You remember earlier we talked about victims of
7 theft offenses?

8 A. Yes.

9 Q. You were a victim of a theft offense within the
10 Honolulu court system, right?

11 A. I don't understand that question.

12 Q. Sir, I'm showing you what's marked as Exhibit RPA-3.
13 Do you see the document in front of you?

14 A. Yes.

15 Q. You see it says State of Hawaii versus Laurel J.
16 Mau, defendant?

17 A. Yes.

18 Q. The court number is 14-1-1873?

19 A. Yes.

20 Q. You see there's four counts that are listed in this
21 felony information, all theft in the second degree.

22 Do you see that?

23 A. Yes.

24 Q. Directing your attention to counts -- to Count 3,
25 initially, could you please read that, sir?

1 A. On or about October 1st, 2007, and May 31st, 2009,
2 City and County of Honolulu, Laurel Mau did obtain or extend
3 control over the property of Rudy Alivado, the value which
4 exceeds \$300 by deception with intent to deprive Alivado of
5 property, thereby committing the offense of theft in the
6 second degree.

7 Q. Okay. And if you could please read the next
8 paragraph.

9 A. Offense alleged herein not -- was not discovered
10 prior to March 1st, 2014, by either Rudy Alivado or by a
11 person who had a legal duty to represent Alivado.

12 Q. Okay. That's Count 3.

13 Count 4. On or between October 1, 2007, and May 31,
14 2009, in the City and County of Honolulu, State of Hawaii,
15 Laurel J. Mau did obtain or exert control over the property
16 of Rudy Alivado, the value of which exceeds \$300 by
17 deception with intent to deprive Rudy Alivado of the
18 property, thereby committing the offense of theft in the
19 second degree.

20 Sir, when did you report this theft?

21 A. I did not report.

22 Q. Well, how does that work?

23 A. I -- this is the first time I've seen this document.

24 Q. Sir, that's you, right?

25 A. Yes.

1 Q. And you're telling me this is the first time you've
2 seen this -- this charging document?

3 A. Yes.

4 Q. Okay. How is it that you could end up being the
5 victim of a crime charged in the Circuit Court and not know
6 about it?

7 A. Nobody interviewed me.

8 Q. We talked earlier about the process for someone
9 coming forward with a theft complaint --

10 A. Yes.

11 Q. -- and a patrol officer coming out to conduct an
12 interview --

13 A. Yes.

14 Q. -- and that being assigned to a detective and then
15 that getting routed to the prosecutor's office, right?

16 A. Yes.

17 Q. We talked about that?

18 A. Yes.

19 Q. Okay. Did those steps happen here?

20 A. No.

21 Q. How many of those steps did not happen here?

22 A. The victim was not interviewed, myself.

23 Q. Are you telling me that today is the first day that
24 you knew Laurel Mau was prosecuted for theft?

25 A. Yes.

1 Q. You never knew that before today?

2 A. No.

3 Q. How does it make you feel to know that?

4 A. I'm surprised.

5 Q. That's all you feel?

6 A. Who -- who -- who conducted that investigation? Was
7 it HPD?

8 Q. I'm the one asking the questions here.

9 A. Well, I don't know.

10 Q. So your -- your feeling is of surprise?

11 A. Yes.

12 Q. Do you have any other --

13 A. No.

14 Q. -- any others?

15 A. No.

16 Q. Okay. If someone had come to you to say, sir, we
17 would like you to be the charging victim for these theft
18 offenses, what would you say?

19 A. I would say why --

20 Q. Why would you say why?

21 A. -- if I did not feel I was a victim of a theft?
22 When I gave her the money, I didn't think it was a theft.

23 Q. Why not?

24 A. Because I thought I was paying for her services.

25 Q. You were paying her for her services?

1 A. For -- for services in helping me select the
2 cabinets, the -- the countertops, and et cetera.

3 Q. This charge here says that Laurel Mau did obtain
4 property of yours by deception with the intent to deprive
5 you of property.

6 A. I -- I read that.

7 Q. Can you make sense of that?

8 A. No. Nobody interviewed me.

9 Q. What about Vernon Branco?

10 A. What about Vernon Branco?

11 Q. Do you recognize that name?

12 A. Yes.

13 Q. Okay. How do you recognize it?

14 A. He worked at HPD.

15 Q. Okay. And did you work with him?

16 A. Yes.

17 Q. And did you ever have an interview with Vernon
18 Branco about this?

19 A. No.

20 Q. Now, you were involved in a civil lawsuit involving
21 Laurel Mau and Mitsunaga & Associates, correct?

22 A. Yes.

23 Q. You testified in that trial?

24 A. Yes.

25 Q. And that trial occurred in July of 2014; is that

1 right?

2 A. I believe so.

3 Q. Okay. And are you aware of the result of that
4 trial?

5 A. No.

6 Q. And are you aware that within approximately
7 five months of that civil trial, Laurel Mau was prosecuted
8 for theft associated with the cash that you provided to her?

9 A. I don't know.

10 Q. You didn't know that before today?

11 A. No.

12 Q. Did you have any conversations with Dennis Mitsunaga
13 about Laurel Mau?

14 A. No.

15 Q. No conversations ever?

16 A. No.

17 Q. What about doing the work at your house?

18 A. No.

19 Q. When you testified at the civil trial in July of
20 2014, you met with representatives of Mitsunaga & Associates
21 to prepare for that trial beforehand, correct?

22 A. Yes.

23 Q. Okay. And who was that?

24 A. Attorney Sheri Tanaka.

25 Q. Okay. And was she your attorney, or was she the

1 attorney for Mitsunaga & Associates?

2 A. For Mitsunaga.

3 Q. Okay. And why was your testimony of significance to
4 that civil trial?

5 A. I don't know.

6 Q. And you -- you told the -- the jury in that civil
7 trial that -- that Ms. Mau did a good job on the work that
8 she had performed?

9 A. Yes.

10 Q. Sir, is it possible for the Department of the
11 Prosecuting Attorney to press charges against someone where
12 the alleged victim of the crime doesn't know about it?

13 A. I don't know.

14 Q. Does that strike you as out of the ordinary based on
15 your experience for many years in law enforcement?

16 A. Yes.

17 Q. What would you have expected to have occurred before
18 Laurel Mau was charged with theft in relation to the cash
19 that you gave her?

20 A. I don't understand the question.

21 Q. Would you have expected all of the steps that we
22 talked about from the initial complaint from the victim to
23 the follow-up investigation by a detective to the
24 consultation with the Department of the Prosecuting
25 Attorney's Office to then deciding whether there would be a

1 case?

2 A. Yes.

3 Q. Okay. Now, this charging document, the final
4 paragraph says, the -- the -- the offense alleged herein was
5 not discovered prior to March 1st, 2014, by either Rudy
6 Alivado or by a person who had a legal duty to represent
7 Rudy Alivado.

8 Do you see that?

9 A. Yes.

10 Q. Okay. So what happened after March 1st of 2014 that
11 led to the discovery of this alleged theft?

12 A. I don't know.

13 Q. Okay. Did you come forward at any point in time to
14 say, hey, I just realized I'm a victim of theft?

15 A. No.

16 Q. Did Dennis Mitsunaga talk to you about the money
17 that you had provided to Laurel Mau?

18 A. No.

19 Q. And you paid Ms. Mau a total of \$2800, is that
20 right, in two installments?

21 A. Yes.

22 Q. \$800 initially and then \$2,000 at a later time?

23 A. Yes, sir.

24 Q. Both of them in cash?

25 A. Yes.

1 Q. Okay. And you have no recollection of talking to
2 someone named Vernon -- or to Vernon Branco, someone you
3 knew from your work with the HPD?

4 A. No.

5 Q. Okay. If you had talked to Vern Branco about this
6 case, would you remember it?

7 A. Yes.

8 MR. MCDONALD: One moment.

9 BY MR. WHEAT:

10 Q. You said you knew Vernon Branco, correct?

11 A. Yes.

12 Q. When's the last time you talked to Mr. Branco?

13 A. Years ago.

14 Q. You don't talk to him on -- on a regular basis?

15 A. No.

16 Q. When you say "years ago," what do you mean?

17 A. Years ago.

18 Q. Five years? Ten years? Fifteen?

19 A. Maybe ten years. I don't recall seeing him.

20 Q. Now, when's the last time you talked to Sheri
21 Tanaka?

22 A. After I received the subpoena, the first subpoena.

23 Q. And how did that come about?

24 A. When I received the first subpoena to appear before
25 this Grand Jury, I was surprised and really scared getting a

1 subpoena for -- from the federal government so I called her,
2 and I asked if she could shed some light as to the reason
3 I'm being subpoenaed.

4 Q. What did she say to you?

5 A. She said probably connected to the Laurel Mau case
6 because I saw it on television, too.

7 Q. 'Cause Sheri Tanaka saw it on television?

8 A. No. I saw a clip covering the Laurel Mau case.

9 Q. What happened next?

10 A. I wanted to meet with her.

11 Q. What happened then?

12 A. About a week or so later, I met with her for 10,
13 15 minutes.

14 Q. Where did you meet?

15 A. At MAI.

16 Q. Who else was present?

17 A. Just her.

18 Q. In her office at MAI?

19 A. She don't have an office. Conference room.

20 Q. In a conference room?

21 A. Yes, sir.

22 Q. What happened then?

23 A. Well, she had another meeting so she in -- she was
24 interrupted from when I came in, and she explained that
25 probably connected to the Laurel Mau case when I testified

1 because that's the only connection I had to everything.

2 Q. So the meeting was about 15 seconds long?

3 A. No, 10 to 15 minutes.

4 Q. What happened during the other 10 to 15 minutes?

5 A. We talked about it, and I asked her about the -- the
6 amendment she was making to my trust account. She helped me
7 make an amendment to my trust.

8 Q. So is she your lawyer?

9 A. No.

10 Q. Why is she making an amendment to your trust?

11 A. Because I wanted to change my original trust just --

12 Q. When --

13 A. -- for she make a one-page document.

14 Q. So this all occurred at -- at the time that you got
15 the subpoena to be here?

16 A. No.

17 Q. When did that occur?

18 A. My trust was prior to that subpoena.

19 Q. How much before that?

20 A. About a month or two.

21 Q. Okay. Let's stay focused here for a minute. We're
22 talking about you're sitting in the MAI conference room.

23 A. Yes.

24 Q. And you're there for 10 to 15 minutes, and you show
25 the subpoena.

1 What happens next?

2 A. She said it was probably connected to my testimony
3 in the civil trial.

4 Q. What did you say?

5 A. I said probably because that's the only reason I can
6 think of.

7 Q. What happened then?

8 A. That's about it.

9 Q. That took 15 minutes?

10 A. Well, we, you know, discuss -- I don't exactly know
11 what the discussion was, but it was about the Laurel Mau
12 case.

13 Q. Trade winds? The surf? I mean, what -- what did
14 you talk about?

15 A. In addition, about my trust.

16 Q. So how did you get to MAI's conference room? Was it
17 your idea or her idea?

18 A. I requested a meeting because I wanted to find out
19 why I getting subpoenaed.

20 Q. And you already thought before you met with her it
21 was about Laurel Mau?

22 A. I had a feeling.

23 Q. And what was it that you hoped to learn from her?

24 A. That what -- what are my options when I go to the
25 Grand Jury.

1 Q. Did she give you options?

2 A. Yes.

3 Q. What were the options?

4 A. You can either testify truthfully and, if you feel
5 incriminated, you can claim the Fifth.

6 Q. What does that mean, feel intimidated?

7 A. If I would be subject to perjury if I answered
8 incorrectly.

9 Q. So when you came here the last time and you were
10 asked some basic questions, were you telling the truth?

11 A. Can you clarify that question?

12 Q. I can. When you came here the last time and you
13 were asked basic questions, did you feel like you were
14 incriminating yourself in a crime by answering those
15 questions?

16 A. In a way, yes.

17 Q. How?

18 A. Because this Laurel Mau incident happened in 2008,
19 12, 13 years ago, so I was afraid I might say the wrong
20 things so that's why I submitted my testimony of my
21 appearance in the 2014 trial so I wouldn't be accused of
22 saying any lies or -- that's the reason I brought that
23 transcript which I had in my file.

24 Q. But, you see, since you're here, you know that it's
25 not just about your testimony at the trial, correct?

1 A. Yes.

2 Q. It's about all the things that came before that, how
3 this all happened?

4 A. Yes.

5 Q. And what happened after your testimony at the trial?

6 A. Yes.

7 Q. So when was this 10- to 15-minute meeting at MAI?

8 A. About a week after I got the subpoena.

9 Q. How far in relationship to your appearance before
10 the Grand Jury?

11 A. About a week.

12 Q. And did you ask her to represent you at the Grand
13 Jury?

14 A. No.

15 Q. Did she give you a strategy for answering questions?

16 A. She left the final decision up to me.

17 Q. And did you talk about I don't recall and I don't
18 remember answers?

19 A. No.

20 Q. So how did the meeting end?

21 A. She said it's my decision whether to testify
22 truthfully or if you feel intimidated or you might perjure
23 yourself, you can claim the Fifth. That was my
24 understanding.

25 Q. So those were things that you knew before you went

1 to the meeting, right?

2 A. Not clearly.

3 Q. When you came to the Grand Jury on the last time,
4 did you see Ms. Tanaka outside?

5 A. No.

6 Q. Okay. Did you see her here today?

7 A. Yes.

8 Q. Did you have a conversation with her?

9 A. No.

10 Q. Why not?

11 A. I didn't have a chance.

12 Q. You were sitting out on the bench, and she was
13 sitting two benches down.

14 A. I didn't talk to her.

15 Q. Well, what do you mean, you didn't have a chance?

16 A. I sat on this side, and she sat on that side. I
17 didn't -- I didn't even know where she sat.

18 Q. When Laurel Mau did this design work for your home,
19 it was separate from the architectural plans that had been
20 drawn up for your home; is that true?

21 A. I don't understand the question.

22 Q. You went to Dennis Mitsunaga at some stage and said
23 I've got a piece of property, or he knew you had a piece of
24 property, and you told him I want to build a house here,
25 correct?

1 A. Yes.

2 Q. And what happened after that?

3 A. As I testified before, he drew up the plans.

4 Q. So let's stop for a minute. You told him I want a
5 ten-story house, I want six pools? I mean, what did you
6 tell him?

7 A. I told him I wanted to build a two-story house with
8 four bedrooms.

9 Q. How many bathrooms?

10 A. Four.

11 Q. And what style home did you want?

12 A. No particular style. To fit --

13 Q. Plantation style? Mediterranean?

14 A. To fit the lot.

15 Q. Okay. So describe the lot.

16 A. It's a level lot, about 5,000 --

17 Q. It was a level lot?

18 A. -- square feet.

19 Q. Did it require any site preparation?

20 A. Yes.

21 Q. What did it require?

22 A. Removal of dirt to make more room.

23 Q. Okay. So it required some structural and civil
24 engineering work, correct?

25 A. Not necessarily.

1 Q. Well, the plans that he drew required that a
2 foundation be built --

3 A. Yes.

4 Q. -- correct?

5 A. Yes.

6 Q. That the grade be adjusted to have dirt removed?

7 A. Yes.

8 Q. Okay. You understand that that is engineering?

9 A. Okay.

10 Q. Was that included in your discussion with
11 Mr. Mitsunaga?

12 A. Possibly.

13 Q. Well, how would he know otherwise?

14 A. He visited the site.

15 Q. Did you go with him?

16 A. Yes.

17 Q. And you talked about it, look, I want the kitchen
18 window to look over this or -- right?

19 A. Not necessarily.

20 Q. Did you take Mrs. Alivado with you?

21 A. No.

22 Q. So you got to make all the choices?

23 A. Basically, that's what I do.

24 Q. And did you decide what the orientation of the house
25 would be, whether it would face south or west or all that

1 stuff?

2 A. No.

3 Q. Who decided that?

4 A. It was just obvious, face the road.

5 Q. Okay. Did you decide what rooms you wanted to have
6 on that side of the house?

7 A. No.

8 Q. You left all that to Dennis?

9 A. I left it up to him to fit the lot.

10 Q. Okay. So he designed the house for you?

11 A. Yes.

12 Q. Did he show you a sketch?

13 A. I don't recall.

14 Q. So --

15 A. Possibly, yeah, before the final.

16 Q. I mean, so Dennis got to decide what you like?

17 A. Well, I gave him a profile of what I wanted, four
18 bedroom --

19 Q. Okay. And what profile did you give him?

20 A. Four bedrooms, the master bedroom on the first floor
21 so I wouldn't have to go up the steps, et cetera.

22 Q. Garage?

23 A. Two-car garage.

24 Q. Two cars?

25 A. Yes.

1 Q. Okay. Swimming pool?

2 A. No.

3 Q. Okay. Landscaping?

4 A. No.

5 Q. So none of the landscaping and the interior work was
6 not included in Dennis's sketch, plan, or in the final
7 drawing?

8 A. I would think the architectural. He -- he said they
9 would help me with the architectural interior design.

10 Q. You keep saying "I would think."

11 Did -- you thought in your mind that you anticipated
12 that somehow it would be included later?

13 A. No. I assumed it was included.

14 Q. Did you see it in the original plans?

15 A. Original plans?

16 Q. Yeah, the one that Dennis drew up for you.

17 A. Yes.

18 Q. So the kitchen counters and the cabinets and the
19 tile on the floor and the carpet was all in there?

20 A. It was, but no color, description, or types.

21 Q. So you needed somebody to do that, that extra step?

22 A. Yes.

23 Q. 'Cause none of that was in the plan?

24 A. Yes.

25 Q. So at some stage after the house is under

1 construction, you think, oh, my God, we don't know what
2 color the counters are going to be, right?

3 A. Yes.

4 Q. So then you had to do something else?

5 A. Yes.

6 Q. What did you do?

7 A. Laurel helped me with the selections.

8 Q. Okay. So Laurel helped you.

9 How did you know to go to Laurel?

10 A. Referred by Steve Wong, I guess, in 2008 --

11 Q. How did you get to Steve -- from Dennis to Steve
12 Wong?

13 A. When you submit plans to the city, they come back
14 with questions, and Steve Wong was the person answering the
15 questions.

16 Q. He was the architect assigned to stamp the plans?

17 A. I believe so.

18 Q. Okay. How did you know that he would be the
19 architect doing that?

20 A. Maybe Dennis mentioned to me.

21 Q. So what were the questions?

22 A. I don't know what questions he answered for the
23 permit process.

24 Q. And Mr. Wong answered those questions?

25 A. I assume.

1 Q. You didn't do it?

2 A. No.

3 Q. So who hired the guy who brought the backhoe in to
4 dig the foundation?

5 A. I was the one that did that.

6 Q. How did you know who to hire?

7 A. I operated the Hopto.

8 Q. Pardon?

9 A. I operated the machine.

10 Q. You dug it?

11 A. Yes.

12 Q. You dug the foundation?

13 A. Yes.

14 Q. Okay. Who poured the cement?

15 A. Ameron.

16 Q. And how did you know how much cement to order, when
17 to have it delivered, and what the rebar would be and all of
18 that?

19 A. I hired a mason.

20 Q. Okay. Who did you hire?

21 A. I don't recall exactly who.

22 Q. Okay. How did you know who to hire?

23 A. I had experience in building other houses so I had
24 people that I could hire.

25 Q. And did you use the plans that Dennis Mitsunaga

1 provided for you?

2 A. Yes.

3 Q. Okay. And who built the frame of the house?

4 A. I hired a carpenter.

5 Q. Who did you hire?

6 A. A freelancer. I -- I -- I don't know if he had a
7 company, but he was a carpenter, first-class carpenter.

8 Q. And was this a recommendation from Dennis?

9 A. No.

10 Q. Okay. So Dennis did -- told you, okay, we gotta
11 move dirt over here, we gotta do this in the plans, right?

12 A. Yes.

13 Q. And then you used the -- the grader, the backhoe,
14 whatever, to create that?

15 A. Yes.

16 Q. Did an engineer come out and approve that work?

17 A. No. I don't recall.

18 Q. Did a city inspector come out?

19 A. Yes.

20 Q. When the house was being built, were there any
21 architectural reviews by engineers during that process?

22 A. I don't know.

23 Q. Did Mitsunaga & Associates, Mr. Wong or anybody from
24 the engineering department, come out and look at the
25 construction and the plans as the house was being built?

1 A. Possibly.

2 Q. What does that mean?

3 A. Possibly. I don't recall.

4 Q. Well, how'd you know it was being built right?

5 A. We followed the blueprint. The carpenter followed
6 the blueprint.

7 Q. What about the electrical? The HVAC?

8 A. I hired licensed electrical and plumbing
9 contractors.

10 Q. So what you're basically saying is you got a set of
11 plans from Mitsunaga & Associates with Mr. Wong's stamp of
12 approval, and you used those plans to build your house?

13 A. Yes.

14 Q. And then when the house was somewhere near
15 completion, you said, oh, my God, we don't have cabinets,
16 tile, and all that stuff, right?

17 A. No. As we were building the house, I was in contact
18 with Laurel Mau.

19 Q. Okay. So -- and you used Laurel Mau, then, to take
20 you to tile stores, cabinet places, countertop? What did
21 you do?

22 A. Yes. She -- she took me around, and we got samples
23 of granite countertops.

24 Q. What kind of granite did you get?

25 A. She recommended black --

1 Q. Okay.

2 A. -- color, and she recommended the flooring. She
3 referred me to Island Flooring, I believe, her -- one of her
4 friends.

5 Q. And you paid her for those services?

6 A. I did pay her that \$2800 because she spent a lot of
7 time with me.

8 Q. You didn't think she was stealing from you?

9 A. No. She did a good job.

10 Q. And you don't think she was stealing from Mitsunaga
11 either, do you?

12 A. I don't think so.

13 Q. Okay. How did you have a discussion with Laurel Mau
14 about compensation?

15 A. I didn't have a conversation. She just told me, oh,
16 Rudy, can you give me \$800 first -- after six months, I
17 think it was. She worked with me numerous times so I gave
18 her \$800 in cash.

19 Q. And you never paid Dennis Mitsunaga for any of the
20 plans?

21 A. No.

22 Q. And did you ever pay Mr. Wong for signing off on the
23 approvals?

24 A. No.

25 Q. Did you ever think that the construction of your

1 home was an MAI project?

2 A. Can you repeat that?

3 Q. Well, MAI is a construction company, right --

4 A. Right.

5 Q. -- as well and architectural design, and they

6 supervise jobs and builds and stuff and, from your

7 testimony, I take it that you did all of that?

8 A. Yes.

9 Q. MAI wasn't there saying, okay, you know, it's built

10 the way the plans said, it's built by specifications. They

11 didn't come out periodically and do a construction review to

12 make sure the project was proceeding. You were doing that.

13 A. I was the homeowner-builder, like a contractor.

14 Q. And Dennis knew that, right?

15 A. Yes.

16 Q. So there was no open MAI job where they were coming

17 out, checking on your build?

18 A. No.

19 Q. Okay. I think I understand.

20 MR. WHEAT: Any questions?

21 THE FOREPERSON: I have a question.

22 MR. WHEAT: Ma'am?

23 THE FOREPERSON: In your payment to Laurel Mau, did

24 anybody else know about those payments?

25 THE WITNESS: I don't know. Just Laurel Mau and I

1 was there when I gave 'em cash.

2 BY MR. WHEAT:

3 Q. Did you ever tell Dennis?

4 A. No.

5 MR. WHEAT: Okay. The record reflect that we're
6 stopping the testimony. There appears to be some knock at
7 the door. We're going to open the door and see who's there,
8 so please be quiet.

9 THE WITNESS: Sir, can I have a bottle of water or
10 something? I getting thirsty.

11 (Brief break in proceedings.)

12 MR. MCDONALD: The door is --

13 MR. WHEAT: Do you need a break?

14 THE WITNESS: No. I'm okay.

15 MR. WHEAT: Do we need a break?

16 GRAND JUROR: No. He just asked for the time.

17 THE FOREPERSON: Yeah, maybe after when he -- when
18 -- when he's done. Maybe when he's done.

19 MR. WHEAT: Okay. We got about 15 minutes with him.

20 GRAND JUROR: Okay. Thank you.

21 MR. WHEAT: Go ahead, Mr. McDonald.

22 BY MR. MCDONALD:

23 Q. Sir, I'm going to show you what I'm marking as
24 Exhibit RPA-4.

25 You see this is a declaration of Vernon Branco? Can

1 you see that on the screen in front of you?

2 A. Yes.

3 Q. And do you see there criminal number, 14-1-1873?

4 A. Yes.

5 Q. And was that the same case number as the case
6 involving the prosecution of Laurel Mau that we spoke about
7 previously?

8 A. I don't know.

9 Q. Well, let me refresh your memory.

10 This is RPA-3.

11 A. Okay.

12 Q. Do you see the criminal case number?

13 A. Yeah, I see it. I see it, sir.

14 Q. And it's the same number?

15 A. Yes.

16 Q. Okay. So this is a declaration of Vernon Branco in
17 support of that case.

18 A. Yes.

19 Q. Does that appear to be the case?

20 A. Yes.

21 Q. If I could direct your attention to paragraph four.
22 This says on November 11th, 2014, I was assigned to
23 investigate a suspected theft in the second degree case
24 involving an individual named Laurel J. Mau. I was informed
25 that there were two alleged victims in the case, Mitsunaga &

1 Associates, Inc., and Rudy Alivado, a former client of MAI.

2 Did you inform Vernon Branco on November 11th, 2014,
3 that you were a victim in this case?

4 A. No. This is the first time I've seen this.

5 Q. The next paragraph, paragraph five. As part of my
6 investigation, I reviewed the declaration of Chad McDonald
7 and the attachments thereto, the declaration of Aaron Fujii
8 and Terri Otani and interviewed Attorney Sheri Tanaka, civil
9 attorney for MAI who gave me an overview of the facts and
10 circumstances of this case, and interviewed Rudy Alivado.

11 Do you see that?

12 A. Yes.

13 Q. Did you talk to Sheri Tanaka about the facts
14 associated with this alleged theft?

15 A. I don't recall.

16 Q. And your testimony earlier was that you -- you never
17 interviewed with Vernon Branco in association with this
18 alleged theft?

19 A. Yes.

20 BY MR. WHEAT:

21 Q. Yes -- when you say "yes," do you mean to agree or
22 disagree?

23 A. Can you -- can you --

24 Q. Did Vernon Branco interview you?

25 A. No.

1 Q. You were never interviewed --

2 A. Never.

3 Q. -- by Vernon Branco?

4 A. Never. Never interviewed.

5 Q. Okay.

6 BY MR. MCDONALD:

7 Q. I'm showing you paragraph -- starting with paragraph
8 seven of the same exhibit, Vernon Branco's declaration, what
9 does paragraph seven state, sir?

10 A. On Tuesday, November 23rd, 2014, I spoke with Rudy
11 Alivado.

12 Q. Okay. Do you remember that conversation?

13 A. Who making this statement, Sheri or Branco?

14 Q. So, sir, this is paragraph seven of what's marked as
15 RPA-4 --

16 A. So that's Vernon Branco's statement?

17 Q. This is titled "A Declaration of Vernon Branco."

18 A. Okay.

19 Q. Do you see that on the screen in front of you?

20 A. Okay, I get it.

21 No. I never talked to him.

22 Q. Okay. Do you see paragraph eight? It says Alivado
23 stated that between October 2007 and May 2009, Mau worked on
24 an MAI project for his residence.

25 Do you recall making that statement?

1 A. No.

2 Q. What does the next paragraph say?

3 A. Alivado stated during the -- this period he recalled
4 making two payments to MAI on this pro -- for this project
5 through Mau.

6 Q. Okay. Did you make that statement?

7 A. No.

8 Q. Would you have made that statement?

9 A. No.

10 Q. Is it factually accurate?

11 A. I made two payments, yeah, to --

12 Q. To Laurel Mau?

13 A. -- to -- to Laurel Mau.

14 Q. Okay. Not to MAI?

15 A. No.

16 Q. What does the next paragraph say?

17 A. First payment through Mau for 800 which she attempt
18 -- which he attempted to pay MAI by check by giving the
19 check to Mau made out to MAI.

20 Q. Okay. Is that -- is that true?

21 A. No.

22 Q. Now, you said throughout this project you didn't pay
23 any money to MAI because of your partnership agreement with
24 Mr. Mitsunaga; is that right?

25 A. Yes.

1 Q. So if you were to write out a check to pay Laurel
2 Mau, would you have made that out to Mitsunaga & Associates,
3 or would you have made that out to Laurel Mau?

4 A. Probably Laurel Mau.

5 Q. And why not Mitsunaga & Associates?

6 A. I don't know. If she asked for it, I -- I -- I
7 didn't want to question her because she was doing a good job
8 and, you know, I thought she was a real good interior
9 decorator.

10 Q. Directing your attention to paragraph 13 at the
11 bottom of the screen, that says the money paid by Alivado in
12 both instances, according to Alivado, was intended to be
13 paid to MAI, not to Mau personally. When --

14 A. I never made -- I never made that statement. I
15 don't agree --

16 Q. You've never made that statement?

17 A. I don't agree with that.

18 Q. Well, why don't you agree with it?

19 A. Because I paid Laurel Mau, not -- not Mitsunaga.

20 Q. Does it surprise you to see the opposite represented
21 here in this declaration?

22 A. I'm surprised.

23 MR. WHEAT: The record should reflect that the
24 witness is nodding his head in the affirmative.

25 BY MR. WHEAT:

1 Q. Correct?

2 A. Yes, sir.

3 Q. Thank you.

4 BY MR. MCDONALD:

5 Q. Paragraph 15. Alivado testified at the same trial
6 that these were not gifts, but were payments intended for
7 MAI.

8 Is the trial that's -- that's referenced there, is
9 it your understanding that that would be in reference to the
10 civil trial?

11 A. Yes.

12 Q. Okay. And is that your understanding of -- of your
13 testimony that you gave?

14 A. No.

15 Q. Paragraph 16. Alivado stated to me that these cash
16 payments were not gifts, but were payments intended for MAI.

17 Do you remember making that statement?

18 A. No.

19 Q. Would you have made that statement?

20 A. No.

21 Q. Why not?

22 A. That's not true.

23 Q. Going to paragraph 18, paragraph 18 says Sheri
24 Tanaka and Rudy Alivado indicated to me that the theft from
25 Mr. Alivado was not discovered prior to March 1, 2014, by

1 either Rudy Alivado or a person who had a legal duty to
2 represent Alivado.

3 Did you make that statement?

4 A. Definitely not.

5 Q. Now, are you familiar what's -- with what's known as
6 the statute of limitations that applies to crimes?

7 A. Yes.

8 Q. And what is the statute of limitations?

9 A. Whereby an individual can be charged within the time
10 frame of the incident and the time frame, for instance two
11 years. If anything after two years, it's not valid.

12 Q. Okay. And are you familiar with what the statute of
13 limitations is for a theft in the second degree?

14 A. No.

15 Q. And these acts that were alleged with regard to
16 Laurel -- Laurel Mau in Counts 3 and 4 -- I'm showing you
17 Exhibit RPA-3, Count 3, the dates involved are between
18 February 3rd, 2011 -- or I'm sorry, between October 1st,
19 2007, and May 31st of 2009, right?

20 A. Yes.

21 Q. And Count 4, between October 1st, 2007, and
22 May 31st, 2009; is that right?

23 A. Yes.

24 Q. And the date on this is 11/26/14; is that right?

25 A. Yes.

1 Q. So that's a number of years after the alleged
2 commission of these offenses; is that right?

3 A. Yes.

4 Q. So what significance, if any, sir, do you draw from
5 the final paragraph in this information stating that the
6 offense was not discovered prior to March 1st, 2014, by
7 either Rudy Alivado or a person who had the legal duty to
8 represent you?

9 A. I don't know.

10 Q. Do you think it might have something to do with the
11 statute of limitations?

12 A. Possibly.

13 Q. Do you have any explanation for how this declaration
14 of Vernon Branco in CR 14-1-1873 would have ended up
15 including those statements from you?

16 A. I don't know. I never spoke to Branco.

17 MR. MCDONALD: Anyone have any other questions?

18 GRAND JUROR: You said that you got the second
19 property in Kaneohe as a settlement?

20 THE WITNESS: I didn't say that, but that's true,
21 when we terminated our -- our partnership.

22 GRAND JUROR: Was it an amicable termination?

23 THE WITNESS: Yeah. Yes. Because of our age,
24 70-something, so we quit.

25 GRAND JUROR: Okay.

1 MR. MCDONALD: Any other questions?

2 MR. WHEAT: Madam Foreperson, may this witness be
3 excused subject to recall?

4 THE FOREPERSON: Yes, so requested.

5 BY MR. WHEAT:

6 Q. Mr. Alivado, is there anything that you haven't --
7 that we haven't asked you that you think the Grand Jury
8 ought to know?

9 A. I can't think of anything.

10 Q. Okay.

11 A. I've been here two hours.

12 Q. How were you treated here today?

13 A. Very respectful.

14 Q. Okay.

15 A. Appreciate it.

16 MR. WHEAT: Thank you, sir. The Foreperson has
17 excused you but, if we need you in the future, we'll contact
18 you.

19 THE WITNESS: Okay.

20 MR. WHEAT: Okay. We thank you for your time, sir.

21 THE WITNESS: Thank -- thank you, Mr. Wheat.

22 MR. WHEAT: Okay.

23 THE WITNESS: Yeah.

24 (Testimony concluded at 2:44 p.m.)

25 -o0o-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that the foregoing is a true and accurate transcript, to the best of my skill and ability, from my stenographic notes of this proceeding.

08/11/21
Date

Wendy M. Watanabe
WENDY M. WATANABE, CSR, RPR