

1 A Yes.  
 2 Q Which mortgages?  
 3 A The one for the condo and the mortgage on the  
 4 house.  
 5 Q Don't you have somebody else who's a  
 6 guarantor on the condo?  
 7 A Guarantor, yes.  
 8 Q And who's that?  
 9 A Charles Modica.  
 10 Q And who is he?  
 11 A He is one of my dad's good friends. He  
 12 helped my dad -- my brother get into medical school.  
 13 He owns St. George University Medical School.  
 14 Q And so he's the guarantor on your  
 15 condominium, is he not?  
 16 A Yes, he is.  
 17 Q So you're not responsible for that mortgage,  
 18 Mr. Modica is, correct?  
 19 A No. I'm personally responsible. The title  
 20 was in me and it transferred over. I'm personally  
 21 liable on the mortgage, so that's not true.  
 22 MR. BRITO: Your Honor, I have no further  
 23 questions at this time.  
 24 THE COURT: Mr. Burstein, briefly.  
 25 And what's your situation?

1 MR. BRITO: I had to leave at 4:00, Judge.  
 2 I'm obviously late but I really do have to go.  
 3 It's a family situation I can't get out of. And I  
 4 apologize.  
 5 THE COURT: Mr. Burstein, make it very quick,  
 6 please.  
 7 MR. BRITO: I'm sorry if I extended it  
 8 myself.  
 9 RECROSS EXAMINATION  
 10 BY MR. BURSTEIN:  
 11 Q As president or the representative of  
 12 Bouganvilla, was there a subpoena that was required for  
 13 your deposition in the Schwartz case?  
 14 A From my -- I guess so, yes.  
 15 Q Well, could they have noticed your deposition  
 16 as opposed to subpoena?  
 17 A Sure.  
 18 Q If you don't know --  
 19 A I don't know.  
 20 Q Did you use any of your personal savings to  
 21 pay the attorneys fees in the Schwartz litigation?  
 22 A Yes. My recollection is when I opened the  
 23 Wachovia account I transferred over because I had my  
 24 account there some of my savings into Bouganvilla.  
 25 Q And so you used your savings to finance the

1 litigation against Mr. Schwartz?  
 2 A Yes.  
 3 Q Now, you were asked questions about whether  
 4 you ever made a mortgage payment or not. My  
 5 understanding from your testimony is that the company  
 6 made those payments; is that correct?  
 7 A Yes, that's correct.  
 8 Q And your father has never given you an  
 9 accounting of the income or expenses for the company?  
 10 A No, that's correct.  
 11 Q And you haven't seen anything during these  
 12 two days of hearings evidencing that your father paid  
 13 any of his own money to make any mortgage payments; is  
 14 that correct?  
 15 A That's correct.  
 16 Q When you left him in charge of managing the  
 17 company, it was his responsibility to meet the  
 18 obligations, financial obligations of the company on  
 19 behalf of the company; is that correct?  
 20 A Yes, that's correct.  
 21 Q In the e-mail exchange with your father that  
 22 you were shown and just questioned about, your father  
 23 denies any interest that you might have in that  
 24 property; is that correct?  
 25 A Yes, and in regards to our oral discussions

1 as well.  
 2 Q He denies that any of those discussions took  
 3 place?  
 4 A Yes, that's correct.  
 5 Q And, in fact, the one that owns the property  
 6 is Bouganvilla. It's neither you nor your father; is  
 7 that correct?  
 8 A Yes, that is correct.  
 9 Q And the only one who has any personal  
 10 liability on the mortgage that was secured to purchase  
 11 the Schwartz house is you; is that correct?  
 12 A Yes, as the personal guarantee, yes, that's  
 13 correct.  
 14 Q So your father as the manager of that company  
 15 could just simply walk away, let the mortgage go into  
 16 default and the bank is coming after you; is that  
 17 correct?  
 18 A That's correct.  
 19 Q It's not going after him?  
 20 A No.  
 21 Q And is your understanding that without your  
 22 credit, your financial statements, your loan  
 23 application that mortgage would not have been secured;  
 24 is that correct?  
 25 A Yes. The house would never have been

1 purchased, that's correct.  
 2 MR. BURSTEIN: No further questions.  
 3 THE COURT: Okay. All right. What else do  
 4 we need to do?  
 5 Thank you.  
 6 THE WITNESS: Thank you, Your Honor.  
 7 THE COURT: You may step down.  
 8 MR. BRITO: Like I said, Your Honor, I just  
 9 have a few minutes with Mr. Burstein, but I know  
 10 he's going to want to call himself, I guess.  
 11 THE COURT: All right. Get your calendars  
 12 out real quickly.  
 13 MR. BRITO: And Your Honor, thank you for  
 14 indulging me. I'm sorry that I had to cut this  
 15 short.  
 16 THE COURT: All right. Next Monday at 1:30.  
 17 What's your all's situation?  
 18 MR. BRITO: Yes, Your Honor.  
 19 THE COURT: You're.  
 20 MR. BURSTEIN: Your Honor, we're fine.  
 21 Your Honor, could we have something in place  
 22 dealing with the collection of rents and the  
 23 payment of expenses?  
 24 THE COURT: At the end of this year we'll  
 25 talk.

1 MR. BRITO: Hour and a half.  
 2 MR. BURSTEIN: Two hours.  
 3 JUDGE HYMAN: Bernardo, don't limit yourself.  
 4 THE COURT: So we'll see everybody Monday  
 5 afternoon a week from today at 1:30.  
 6 We're in recess.  
 7 (Thereupon, the hearing was adjourned at 4:25  
 8 p.m.)  
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1 MR. BURSTEIN: Okay.  
 2 JUDGE HYMAN: Your Honor, what about the  
 3 rents he's collecting Wednesday?  
 4 THE COURT: Because you all are asking me  
 5 basically to come up with the final -- now, don't  
 6 get me wrong. There was a lot of testimony  
 7 concerning that in a motion to disqualify.  
 8 However -- all right. What's your gut as to --  
 9 you have you, his cross of you. Mr. Burstein,  
 10 what else? What other testimony?  
 11 MR. BURSTEIN: I don't have any other  
 12 witnesses.  
 13 MR. BRITO: That's it.  
 14 MR. BURSTEIN: And I don't know what he's  
 15 going to do with me.  
 16 THE COURT: Anything else? That's it.  
 17 MR. BRITO: That's it.  
 18 THE COURT: Okay. And then I want to hear  
 19 argument and then I want to talk about the other  
 20 issue.  
 21 MR. BRITO: The injunction issue.  
 22 THE COURT: Okay. So how much? What do we  
 23 need to set aside as far as time is concerned.  
 24 JUDGE HYMAN: The other issue can take time,  
 25 Your Honor, to work that out.

1 CERTIFICATE  
 2  
 3 THE STATE OF FLORIDA  
 4 COUNTY OF MIAMI-DADE  
 5  
 6 I, Julia Y. Alfonso, Florida Professional  
 7 Reporter, State of Florida at large, certify that  
 8 I was authorized to and did stenographically  
 9 report the foregoing proceedings and that the  
 10 transcript is a true and complete record of my  
 11 stenographic notes.  
 12 Dated this 30TH day of May, 2013.  
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 14  
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 16 \_\_\_\_\_  
 17 Julia Y. Alfonso, RPR, FPR, Court Reporter  
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