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1 MR. REED: Objection, form.

2 **A. Tax law changes, familial changes. There would**

3 **also be changes in homestead laws, changes in HIPAA**

4 **laws, updates of medical powers of attorney, updates of**

5 **durable general powers of attorney.**

6 Q. (By Mr. Mendel) Okay. Do you have a

7 recollection of what Mr. and Mrs. Brunsting had -- why

8 they decided to do a restated trust?

9 **A. I do not. I was not involved with the**

10 **restatement, as it was before -- I believe it was before**

11 **I worked at the law firm.**

12 Q. That's '07?

13 **A. I started in '07.**

14 Q. Okay. All right.

15 So now let's move forward and talk about

16 the QBD. Apparently something got signed under --

17 Exhibit 5 is an instrument that was signed in June of

18 2010 related to the QBD.

19 What is your recollection of what brought

20 Nelva Brunsting to the office to make some changes?

21 **A. You have to forgive me because this was a long**

22 **time ago already, nine years ago or almost nine years**

23 **ago. But my recollection of this particular one, in the**

24 **trust document it stated that the trust or the trustee**

25 **could make gifts, and it was not an advance on their**

31

1 trust share.

2 **But Ms. Brunsting had an occasion where**

3 **two of her children needed some funds, and she wanted to**

4 **make those gifts; but she did not -- she wanted to keep**

5 **it equal amongst her children. So that necessitated**

6 **amending the trust.**

7 Q. And those two children would be who?

8 **A. Carole Brunsting and Candy Curtis.**

9 Q. And your understanding of why Carole was

10 receiving gifts was what?

11 **A. I honestly --**

12 MR. REED: Form.

13 **A. -- don't recall what the purpose of that was.**

14 **I mean, that's between Mom and her children.**

15 Q. (By Mr. Mendel) Okay. Do you have a

16 recollection of the nature or the purpose of the gifts

17 with regard to Candy Curtis?

18 **A. I don't.**

19 **Q. In or about July 2010, Carl Brunsting became**

20 **ill from -- which is my understanding in looking at**

21 **documents -- with encephalitis. And then it appears**

22 **that there may have been some discussions about amending**

23 **the QBD again?**

24 **A. That's correct.**

25 Q. So what is your recollection of discussions

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1 with Nelva Brunsting with regard to why she wanted to

2 amend again?

3 **A. Because Carl was listed as a co-trustee and**

4 **first on some documents, and she wasn't sure that he was**

5 **going to actually live.**

6 Q. I think Candy Curtis was also listed as either

7 a trustee or a successor trustee on some instruments,

8 and she was removed or not permitted to be a successor

9 trustee.

10 Do you have a recollection as to why that

11 change was made?

12 **A. She was listed as a co-trustee, I believe, with**

13 **Carl Brunsting. Typically I don't recommend -- if a**

14 **family member is outside the state of Texas, it makes it**

15 **more difficult logistically to operate and handle trust**

16 **administration or trust work.**

17 **Nelva and Mr. Brunsting, Elmer, always had**

18 **listed co-trustees throughout their documents. I**

19 **believe it was just a check and balance on their**

20 **children just to make sure that there was two of them.**

21 **Candy was removed at that time. And two**

22 **co-trustees were more local, one in Victoria and one in**

23 **New Braunfels, I believe.**

24 Q. Okay. When you're engaged in conversations

25 with clients in doing this kind of planning, what

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1 attention do you give to the issue of testamentary

2 capacity?

3 **A. Well, I mean, I usually can spot if there's an**

4 **issue. If someone has not given me any indication that**

5 **there's an incapacity issue, then I really don't worry**

6 **about it.**

7 **I would look at what they're asking me to**

8 **do. Is it totally out of character? Is it a major**

9 **change?**

10 **I mean, you're asking me whether or not I**

11 **give thought to it. I do, but I don't assume that**

12 **they're incapacitated every time they walk into my**

13 **office.**

14 Q. And that's fine. I just wanted to get a

15 general sense of, in particular for the time frame of

16 June of 2010 to August of 2010, with regard to

17 Exhibits 5 and 6, which are QBD-related, that you at

18 least had a comfort level that Nelva Brunsting had the

19 capacity to sign these instruments.

20 **A. Yes, absolutely. I mean, nothing indicated to**

21 **me that she didn't.**

22 Q. And so when you say nothing indicated to you

23 that she didn't, is that based on your conversations and

24 your observation of her demeanor and information that's

25 provided to you by her?