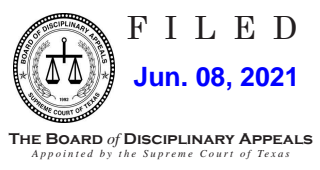


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BEFORE THE EVIDENTIARY PANEL FOR
STATE BAR DISTRICT NO. 9-1 STATE BAR OF TEXAS

COMMISSION FOR LAWYER)
DISCIPLINE,)
)
 PETITIONER,)
)
VS.) 201800134
)
MARIO A. MATA,)
)
)
RESPONDENT.)



EVIDENTIARY HEARING
MARCH 4, 2020

BE IT REMEMBERED THAT THE ABOVE-CAPTIONED matter
came on for hearing on the 4th day of March, 2020, from
9:34 a.m. to 2:12 p.m. and was reported by Amy M. Clark,
Certified Shorthand Reporter in and for the State of
Texas, reported by computerized stenotype machine in the
Texas State Office of Administrative Hearings, 300 West
15th Street, 4th Floor, Austin, Texas 78701.

APPEARANCES

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HEARING PANEL

Chair: Mr. Henry Moore
Ms. Susannah Stinson
Ms. Theresa Bastian
Ms. Alicia Barrientos-Lee
Mr. Rudolph Metayer

FOR PETITIONER

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FOR JOEL ANTHONY MOSER, MD:

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11	John Carter Danish	Direct	Cross	V.Dire
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EXHIBITS OFFERED BY PETITIONER			
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1	EXHIBITS OFFERED BY PETITIONER			
2	EXHIBIT	DESCRIPTION	OFFERED	ADMITTED
3	12	Judgment of Probated Suspension	142 v1	143 v1
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1 **** PROCEEDINGS ****

2 MR. MOORE: Good morning. My name is
3 Henry Moore. I'm the Chair of this evidentiary panel,
4 the District 9 Grievance Committee. And we're hearing
5 this morning Cause No. 201800134, style of Commission
6 for Lawyer Discipline versus Mario A. Mata.

7 And I'll call the hearing to order at this
8 point.

9 We have panels consisting of four members
10 this morning. I'm the panel chair and an attorney. My
11 name is Henry Moore. Quorum is present. We have also
12 Susannah Stinson, who's an attorney; Theresa Bastian,
13 who is a public member; and Alicia Barrientos-Lee, who
14 is a public member.

15 Present is counsel for the Committee for
16 Lawyer Discipline is Judith DeBerry. Respondent,
17 though, notified for this hearing has not appeared,
18 neither has he appeared by counsel.

19 We also have the Complainant, Dr. Joel
20 Moser, and his counsel, John Danish, present. Travis
21 Pack is security for us. The CDC is represented by
22 Judith DeBerry, who is present, and Tanya Galinger, her
23 assistant, who is also present. We're here to consider
24 the allegations of professional misconduct pertaining to
25 Mario Mata.

1 If the panel finds professional
2 misconduct, we may impose sanctions ranging from private
3 reprimand to disbarment.

4 The procedures followed by this panel
5 allow examination of witness of respondent or
6 respondent's attorney, counsel for the commission for
7 lawyer discipline and members of this panel. All
8 probative and relevant evidence necessary for a hearing
9 is admissible. I will rule to the admissibility of any
10 evidence and on any objections.

11 Pursuant to Rule 2.16, this hearing is a
12 confidential proceeding. This hearing is being reported
13 by a certified court reporter. Cameras or tape
14 recorders are not allowed into this room. The panel
15 will conduct its deliberations in private.

16 At this time who do we have testifying?

17 MS. DeBERRY: All three of us, I guess,
18 because I'll testify to attorney's fees.

19 MR. DANISH: -- want to be here?

20 MS. DeBERRY: No. He just wants to know
21 who's testifying. All three of us are going to testify.

22 MR. MOORE: Okay. Could you all three
23 raise your right hand, please.

24 (Whereupon, the witnesses were duly
25 sworn.)

1 MR. MOORE: Okay. Let's go.

2 Is the Commission ready to proceed?

3 MS. DeBERRY: We are.

4 MR. MOORE: Okay. Let's go.

5 OPENING STATEMENT

6 MS. DeBERRY: Dr. Moser first hired
7 Mr. Mata around 2005 to review a family trust that his
8 mother had set up. And we're dealing with two trusts,
9 so I will call oftentimes his mother's trust versus his
10 trust to keep it straight, because they're both Joel A.
11 Moser Trust and the Joel A. Moser Family Trust.

12 Around August 9th, 2013, Dr. Moser
13 deposited -- well, let me back up just a minute.

14 In 2013, at some point, Mr. Mata had set
15 up a trust for Dr. Moser individually. And then around
16 2013, Dr. Moser wanted to make an additional
17 distribution -- contribution to the trust, so he gave
18 Dr. -- Mr. Mata a check for \$270,000. At Mr. Mata's
19 suggestion, he gave it to Mr. Mata to put into his trust
20 account to make the contribution to the trust. Prior to
21 that, Dr. Moser had always made the -- gone to the bank,
22 gotten those transfers done himself.

23 It wasn't until mid-January of 2014 that
24 the bank statements that are presented -- or the trust
25 statements go out quarterly that there was no deposit

1 shown of \$270,000.

2 Mr. Mata never deposited any of the
3 \$270,000 into the trust account. And three days after
4 they were deposited, he started making withdrawals on
5 it. He consistently made withdrawals until -- by 2014,
6 December, he had depleted all of Dr. Moser's funds.

7 He was requested to provide an accounting
8 and return the funds on set -- multiple occasions, and
9 he never did. To date, Mr. Mata has spent all of
10 Dr. Moser's funds and has refunded none of them.

11 Since Mr. Mata isn't here, there were --
12 there was at one time -- and we'll talk about this --
13 some discussion with Dr. Moser's attorney about
14 returning the funds, and a plan for that. That was
15 never agreed to, and, again, he has never returned any
16 of them.

17 At the end of this hearing, I'm gonna ask
18 that the panel find a violation of Rule 1.14(b), failure
19 to deliver funds, and that this panel disbar Mr. Mata
20 and award restitution to Dr. Moser in the amount of
21 \$270,000 and our attorney's fees and expenses.

22 Okay. So at this time, I would call
23 Dr. Moser as our first witness.

24 Dr. Moser, would you mind coming over here
25 so you're next to the court reporter, please. Let me

1 get up so I can get over here. This is kind of tight
2 quarters, and I apologize.

3 At this time, I would also request that
4 the panel chair take judicial notice of the filings and
5 pleadings.

6 MR. MOORE: This is marked Volume 2.

7 MS. DeBERRY: Volume 1 is there, as well.

8 MR. MOORE: Herein folder Mario A. Mata,
9 the Cause No. 201800134, Moser Evidentiary Volume 2, and
10 that will be --

11 MS. DeBERRY: Volume 1 is there, as well.

12 MR. MOORE: Volume 1 is here, as well.

13 This is marked as Volume 1. But the
14 hearing folder without a volume notation on it will also
15 be admitted.

16 MS. DeBERRY: And at this time I offer
17 Petitioner's Exhibit No. 1.

18 (Petitioner Exhibit No. 1 offered.)

19 MS. DeBERRY: And I'll just put those --
20 which is a certificate for Blake A. Hawthorne, Clerk of
21 the Supreme Court of Texas, showing that Mr. Mata is
22 licensed to practice law in Texas, but is not currently
23 authorized to do so.

24 MR. MOORE: Petitioner's Exhibit 1 is
25 admitted.

1 (Petitioner Exhibit No. 1 admitted later.)

2 MS. DeBERRY: Thank you.

3 Is there enough copies in this?

4 I'm going to ask that this hearing be
5 bifurcated so that we can do the case in chief first and
6 then we'll do sanctions after that.

7 MR. MOORE: That motion's granted.

8 MS. DeBERRY: Thank you.

9 JOEL ANTHONY MOSER, MD,
10 having been first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. DeBERRY

13 Q. Dr. Moser, could you please state your name.

14 A. Joel Anthony Moser.

15 Q. And, Dr. Moser, would you state your
16 profession.

17 A. Retired dentist.

18 Q. Retired dentist. Thank you.

19 And when did you first meet Dr. --
20 Mr. Mata?

21 A. Huh. About, 2003, '4, '5, something like that.

22 Q. Okay. And what was the purpose of your
23 representation with him at that time?

24 A. Well, my mother set up two trusts, and she
25 died, and I discovered that I was the beneficiary of

1 both trusts. No -- I was -- I was the beneficiary of
2 Moser Family Trust, and you can't be a -- I was also
3 the -- what's the word?

4 **Q. Trustee?**

5 A. What?

6 **Q. Trustee?**

7 A. Yeah. I was the trustee and the beneficiary of
8 the -- of the Moser Family Trust. So, you know, I got
9 this book, and it said on the first page you can't be
10 beneficiary and -- and the trustee of the same trust.
11 So I looked around and called an attorney -- called an
12 attorney, and he said that I'd been to this --

13 (Person enters room.)

14 MS. DeBERRY: Do we need to go off the
15 record?

16 MR. MOORE: Let's go off the record.

17 (Recess from 9:44 a.m. to 9:46 a.m.)

18 MR. MOORE: We also now have just been
19 joined by Rudolph Metayer --

20 Am I pronouncing your name right?

21 MR. METAYER: Metayer.

22 MR. MOORE: -- who's also an attorney.

23 Counsel for the CDC has just received a
24 phone call from the respondent.

25 And, Ms. DeBerry, do you want to share

1 that with us on the record?

2 MS. DeBERRY: On the record, we have told
3 him that he had verbally asked me for a continuance
4 about an hour before this hearing started, and I told
5 him I wouldn't consent to it because I had two witnesses
6 from out of town and a quorum, and we would proceed.

7 So I don't know what he's saying to Amy
8 now. I said tell him that we had started the hearing,
9 if he wants to come testify, he's welcome to come, but
10 we would proceed with the hearing.

11 MR. MOORE: Yeah. I think we're clearly
12 going to proceed with the hearing.

13 Do we want him to appear by telephone?

14 MS. DeBERRY: I guess he can.

15 Do you want to see if he wants to -- if
16 you want to give him that option. I think we should
17 proceed in the meantime, though.

18 MR. MOORE: Well, let's -- let's give him
19 just a moment.

20 MS. DeBERRY: Yeah. Okay.

21 THE REPORTER: Go off the record?

22 MR. MOORE: Let's go off the record.

23 (Recess from 9:47 a.m. to 9:50 a.m.)

24 MR. MOORE: Just for the record, this
25 hearing is commenced. In the meantime, we've had a

1 panel member appear, and we've had the Respondent
2 appear, Mr. Mata. So we're going to start the hearing
3 over so everybody can start fresh and everybody can hear
4 the entire proceeding.

5 Anything that has been on the record prior
6 to this, is stricken, and this is a whole new
7 proceeding.

8 Good morning. My name is Henry Moore. I
9 am the Chair of this evidentiary panel of the District 9
10 Grievance Committee hearing Case No. 201800134 styled
11 Commission for Lawyer Discipline versus Mario A. Mata.
12 I'm gonna call this hearing to order at this point.

13 We have four -- we have five panel members
14 present. I'm the panel chair. My name is Henry Moore,
15 and I'm an attorney. We have a quorum present. We have
16 Judith -- I'm sorry -- we have Theresa Bastian, who is a
17 public member; Alicia Barrientos-Lee, who is also a
18 public member. We have Susannah Stinson, who is an
19 attorney; and we have Rudolph -- pronounce your last
20 name for me.

21 MR. METAYER: Metayer.

22 MR. MOORE: -- Metayer who is also an
23 attorney. So we have a quorum present.

24 Representing the commission for lawyer
25 discipline, we have Judith DeBerry and her assistant

1 Tanya Galinger.

2 Respondent, Mario A. Mata, is also
3 present.

4 And if we could identify the other folks
5 here. We've got Dr. Joel Moser, who is the complainant.
6 We have his attorney, John Danish. We -- here for
7 security for us is Travis Pack.

8 Have I left anybody out that's in this
9 room that's present? Nope. Good.

10 We're here to consider the allegations of
11 professional misconduct pertaining to Mario Mata. If
12 this panel finds professional misconduct, we may impose
13 sanctions ranging from private reprimand to disbarment.

14 The procedures followed by this panel
15 allow examination of witnesses by respondent or
16 respondent's attorney, counsel for the Commission for
17 Lawyer's Discipline and members of this panel.

18 All probative and relevant evidence
19 necessary for a fair hearing is admissible. I will rule
20 as to the admissibility of any evidence and on any
21 objections.

22 Pursuant to Rule 2.16, this hearing is a
23 confidential proceeding. This hearing is being reported
24 by a certified court reporter, Amy Clark. Cameras or
25 tape recorders are not allowed into this room. The

1 panel will conduct its deliberations in private.

2 At this time, I'm gonna ask anyone present
3 who's going to give testimony to raise their right hand
4 and be sworn.

5 (Whereupon, the witnesses were duly
6 sworn.)

7 MR. MOORE: All right. Are you --
8 Commission, are you ready to proceed?

9 MS. DeBERRY: I am.

10 MR. MOORE: Let's proceed.

11 Respondent, are you ready?

12 MR. MATA: Yes. I have a question, but it
13 can wait.

14 MR. MOORE: Okay.

15 MS. DeBERRY: Mr. Mata, I'm gonna hand you
16 the exhibits that we plan to offer today so that you
17 have a copy of them in front of you.

18 MR. MATA: Okay.

19 OPENING STATEMENT

20 MS. DeBERRY: In approximately, 2005,
21 Mr. -- Dr. Moser hired Mr. Mata to review a -- the
22 Joel A. Moser Family Trust, which his mother had set up.
23 So I'll probably refer to that as the mother's trust
24 most of the time. And that was located in the Cook
25 Islands.

1 After that was set up and funded,
2 Dr. Moser, in 2013, wanted to make another deposit to
3 the trust. He -- normally, when he made the deposit,
4 would go down to the bank, have them transfer the funds
5 directly to the bank that was holding the trust fund
6 assets in Switzerland.

7 However, Dr. -- Mr. Mata suggested that
8 Dr. Moser give him the \$270,000 to put into his trust
9 accounts and he would make the distribution to the
10 trust. The problem with that was that Mr. Mata never
11 transferred any of the funds. Rather, without Mr. --
12 Dr. Moser's permission, he started withdrawing the funds
13 three days after they were initially deposited into his
14 trust accounts. And Dr. Moser wasn't aware of it until
15 mid January when he got a quarterly report stating that
16 the funds that not been deposited at that time.

17 Mr. -- Dr. Moser contacted Mr. Mata, but
18 was unable to secure the return of his funds. He also
19 contacted his personal attorney, John Danish, who,
20 again, attempted to retrieve the funds from Mr. Mata,
21 but was unable to. And, to date, Mr. Mata has returned
22 zero dollars to Mr. -- to Dr. Moser or to the trust.

23 Now, Mr. Mata's gonna make several claims
24 or has during these proceedings. He's claimed that
25 Dr. Moser agreed to loan him the funds to help him

1 finance litigation costs. But Dr. Moser will deny that
2 allegation. And even in -- at that, Mr. Mata, during
3 his deposition, admitted that he started removing funds
4 before he ever claimed to have spoken to Dr. Moser about
5 the request for a loan, which never happened. He'll
6 also claim that they were not his funds; that they were
7 the funds belonging to his mother's trust, and so he
8 couldn't take those and put them into his own trust.

9 The problem with that is that he also
10 admitted until he got the grievance, he didn't know the
11 source of the funds. He didn't realize the funds had
12 come from the mother's trust. So that's not a reason
13 that he could have withheld them and made -- withheld
14 making the distribution.

15 And he'll also claim -- or has also
16 claimed that the -- that Dr. Moser demanded that the
17 funds be returned to him, and he couldn't do that. And
18 that's not true because we have a letter from Mr. Danish
19 specifically asking that the funds be returned to the
20 mother's trust.

21 Finally, he's claimed that he offered to
22 execute a promissory note and pay Dr. Moser \$2,700 a
23 month and that they agreed to that. That, again, is
24 untrue. I think he made an offer. I'm not sure if
25 there was ever a specific amount per month that he was

1 gonna pay. Dr. Moser will tell you that he never agreed
2 to any kind of a loan or an agreement to repay the money
3 that Mr. Mata had misappropriated from himself. And
4 there was never any promissory note sent to anyone.
5 None of that is true.

6 Finally, he may try to argue that the
7 statute of limitations bars this grievance; however, we
8 have a four-year statute of limitations, and this
9 grievance was filed well within that range from the time
10 that Mr. Mata began taking funds from the account.

11 The first funds were taken from the
12 account I think on August the 12th of 2013, and the
13 grievance was filed on January the 2nd, 2019. So August
14 of 2018 would have been the deadline, if you go back to
15 the time the first funds were taken. But they were
16 taken all of 2014, so we're well within the statute of
17 limitations. He had another, what, eight months to file
18 a grievance if he wanted to, and we can even relate it
19 back further because it's at -- from the time he knew or
20 should have known, which would have been when he
21 received the bank statement in January of 2014. That
22 statement goes through January -- December 31st. It
23 couldn't have been mailed before the 1st or 2nd of
24 January we got this -- and it came from Switzerland, so
25 it would have taken a while to get here.

1 At the end of the hearing, I'm gonna ask
2 that you find that Mr. Mata violated Rule 1.14(b) by
3 failing to return property that belonged to Dr. Moser,
4 his mother's trust, that you disbar Mr. Mata, and that
5 you award \$270,000 in restitution to Dr. Moser, and that
6 we -- you award us our attorney's fees and expenses that
7 were incurred.

8 MR. MOORE: Thank you, Ms. DeBerry.

9 Mr. Mata, do you want to make a brief
10 opening.

11 MR. MATA: I apologize.

12 MR. MOORE: Do you want to make a brief
13 opening?

14 MR. MATA: Yes.

15 OPENING STATEMENT

16 MR. MATA: The facts that were cited are
17 not correct, and there was some very significant
18 problems associated with transferring to -- the funds to
19 the account in Switzerland, which had been established
20 for the simple reason that the -- the bank at which the
21 Moser Family Trust funds were held from which is where
22 they were supposed to be wired from to Switzerland
23 refused to do so. That is ultimately what started all
24 this. They refused to do so. Claimed they couldn't do
25 so, which, of course, was not true because that's why

1 smaller banks have correspondence banks.

2 But the fact of the matter is that in
3 2013, I wrote what banks typically call a funds of -- a
4 source of funds letter where they want know where the
5 funds had come from. And I was provided, for the very
6 first time, a variety of documents by Dr. Moser because
7 my job is to set up the trust, open up the account.
8 But, of course, I don't have any authority to transfer
9 securities. I don't have any authority to transfer
10 cash. All I give is the client the coordinates of where
11 these things are supposed to be transferred, and they're
12 done back room.

13 I think it was the First National Bank of
14 Longview [sic], which is where the remaining funds of
15 the Moser Family Trust were supposed to be wired from,
16 refused to do it.

17 However, I had -- as I typically do with
18 virtually all my client, if I accept them as clients, is
19 just accept them at their word. And I've lost count of
20 how many times I've handled cases where a client
21 inherits funds and anticipates a family funds over -- or
22 family fight over who should have received those funds.
23 It's extremely common.

24 The funds were originally transferred to
25 Zürcher Kantonalbank in Switzerland. We'll refer to

1 them just as ZKB. Where's the court reporter? I'll
2 just refer to it as ZKB; Zürcher Kantonalbank. I'm sure
3 I've got their name somewhere. In fact I have it right
4 here. It's Z-ü-r-c-h-e-r, Kantonalbank,
5 K-a-n-t-o-n-a-l-b-a-n-k.

6 I don't know what you call it, but the
7 little U's got the two little dots over it. But we just
8 refer to it as ZKB.

9 ZKB was managing the funds with the
10 account or for the account that I had established for
11 the trust. When I -- I don't recall who referred
12 Dr. Moser to me. I just don't recall. However, it
13 became apparent that Dr. Moser was concerned about
14 third-party claims, and he wanted a more secure trust,
15 so that's why we set up the offshore trust, which had
16 much stronger law.

17 People always ask, why don't you just do
18 that in Texas? Well, because you can't do that in
19 Texas. Prior to 1997, you couldn't set up -- set up
20 self-settled trusts in any of the 50 states. That is
21 trust where you set it up, and it's for your benefit to
22 protect you from your own creditors.

23 Since that time, 12 states have gotten
24 into the action. Although, the general consensus among
25 commentators is that that'll only protect residences of

1 that state. So that was obviously not an option for
2 Dr. Moser.

3 Zürcher Kantonalbank received all the
4 transfers; all I did was set up the account. In
5 approximately -- when President Obama took office, there
6 was a whole change in the attitude of federal government
7 toward Swiss banks. Prior to that time, there'd been
8 about 511 banks in Switzerland that would be more than
9 happy to take American bank's, American citizen's
10 moneys. Now, there's only about 14 left. They just
11 refused to do business with the U.S.

12 MR. MOORE: Mr. Mata, let me -- let me see
13 if we can't limit this to just a opening on what the
14 facts you think you're gonna present. You'll have more
15 than an ample opportunity to go into details.

16 Is there anything else you want to give us
17 in terms of what you expect the facts to present?

18 MR. MATA: Well, the most important thing
19 is that, since I was not involved in the initial
20 transfer of funds to ZKB, the bankers over there handled
21 all the due diligence request.

22 When ZKB kicked out all American citizens
23 from its bank, they had to be transferred into Vontobel
24 Bank that had a securities and exchange license. They,
25 of course, were not as lenient, especially with the

1 Obama administration's, so that's when they asked me for
2 what we call a source of funds letter.

3 So that's when I had to start accumulating
4 and asking for Dr. Moser for proof of where all the
5 source of funds came from. And he got me the
6 information. And all of the information that I had at
7 the time to justify the transfers to that trust was
8 information given to me by Dr. Moser.

9 I made a mistake, which has landed me in
10 federal court as a witness more times -- on the way over
11 here, since I can't drive, I wrote them down, how many
12 grand jury subpoenas, how many times I've had to
13 testify. And I don't make the mistake anymore of
14 believing what the client tells me.

15 And I think Dr. Moser is an honest man.
16 He is not a dishonest man, which gave me more reason to
17 believe what he told me, and that is that he had
18 received -- inherited all these funds from his mother.

19 And I asked him for a copy of his will,
20 and he told me that he had the right to make
21 distributions to himself, but he was concerned about the
22 members of the family from the second marriage. He was
23 an only child.

24 MR. MOORE: Sure.

25 MR. MATA: So I made the mistake of not

1 reading the details of the will. And as it turned out,
2 all of the financial information that Dr. Moser gave me
3 about what was being transferred over there, he did not
4 have the absolute right to take out of that trust. In
5 fact, based upon the facts, as I know them, he didn't
6 have the right to take out any money out of that trust,
7 other than the taxable -- or rather other than income
8 from the trust. So...

9 MR. MOORE: Okay. Mr. Mata, you think
10 that's a fair overview of your prospective on this, and
11 we'll get --

12 MR. MATA: It goes to the question,
13 though, of who was -- did Dr. Moser have the authority
14 to authorize the loan from the Moser Trust, because it
15 wasn't the Moser Trust.

16 MR. MOORE: And, again --

17 MR. MATA: Secondly --

18 MR. MOORE: Mr. Mata, I'm gonna have to
19 keep up moving. And you'll have an ample opportunity to
20 testify. But right now, we're just doing openings, and
21 I think we have a pretty good grasp of your perspective
22 on this case.

23 So, Ms. DeBerry, if you're ready to
24 proceed with evidence, we'll go from there.

25 MS. DeBERRY: At this time, I'd move to

1 admit Exhibit No. 1, which is the affidavit of the Clerk
2 of the Supreme Court.

3 MR. MOORE: Mr. Mata, have you had a
4 chance to look at Exhibit No. 1.

5 MS. DeBERRY: It's right there.

6 MR. MATA: I'm just picking it up, reading
7 them.

8 (Mr. Mata reviewing document.)

9 MR. MATA: Okay.

10 MR. MOORE: Any objection?

11 MR. MATA: Reason to disbelieve these are
12 all administrative suspensions.

13 MR. MOORE: Exhibit 1 will be admitted.

14 (Petitioner Exhibit No. 1 admitted.)

15 MS. DeBERRY: Thank you.

16 At this time, I call Dr. Moser.

17 JOEL A. MOSER, MD,

18 having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. DeBERRY

21 Q. Gonna start over with you, again.

22 Would you please state your name for the
23 record.

24 A. Joel A. Moser.

25 Q. And your occupation, sir?

1 A. Retired dentist.

2 **Q. And how did you first meet Mr. Mata?**

3 A. Someone referred me to him. They had gone to a
4 continuing education lecture, and he was the speaker.
5 And I had thought I needed some counsel, because my
6 mother had made me beneficiary and trustee of the same
7 trust.

8 **Q. And so --**

9 A. So, essentially, that was -- didn't -- wasn't a
10 legitimate trust.

11 **Q. So did you have -- did you hire...**

12 A. I hired Mr. Mata to straighten it out.

13 **Q. Okay. And it's --**

14 MR. MATA: I apologize. I didn't hear
15 that.

16 You hired me to do what?

17 THE WITNESS: Straighten it out.

18 MR. MATA: Straighten what out?

19 MR. MOORE: No. You'll have a chance to
20 cross-examine Mr. Mata.

21 MR. MATA: Let's proceed.

22 **Q. (By Ms. DeBerry) So was there another trust**
23 **besides your -- the --**

24 A. What?

25 **Q. Was there another trust besides the first one**

1 that you referred to that your mother set up that you
2 were the trustee --

3 A. She set up two trusts. One was to -- she had a
4 pass-through trust for part the -- part of the estate to
5 her second husband. He had put real estate in that
6 trust and some cash. That supported him while he was
7 alive. And when he died, then that reverts to the Moser
8 Family Trust.

9 Q. Okay. And at some point, did Mr. -- did
10 Mr. Mata set up a trust for you individually?

11 A. Yes.

12 Q. About when was that?

13 A. 2008, maybe. I don't know.

14 Q. Okay. Sometime before you made the -- tried to
15 make this substantial deposit, though?

16 A. Do what?

17 Q. Sometime prior to the time that you gave him
18 the \$270,000?

19 A. Yes.

20 Q. Okay. And how was -- how -- what funds did you
21 use to fund that trust?

22 A. Well, the -- mother's estate had cash -- there
23 was some cash in the -- the QTIP trust, the James
24 Garrett Marital QTIP Trust. That was income from that
25 trust gave income to her second husband till he died,

1 then those funds, which was several pieces of real
2 estate and some cash, then reverted to the Moser Family
3 Trust.

4 Q. Okay. And so those were the funds that you
5 used to initially fund the trust?

6 A. Yes. There was -- there was some -- there was
7 some -- some in the Moser Family Trust, also.

8 Q. Also.

9 Okay. And Mr. Mata was aware of where
10 those funds came from?

11 A. Yes. We gave the tax -- the statement from --
12 that we turned into the IRS, you know, the statement
13 of -- there were no taxes due on her estate when she
14 died at probate.

15 Q. So who made the suggestion that you set up a
16 trust in the -- an overseas trust? Whose idea was this?

17 A. Mr. Mata.

18 Q. Mr. Mata's idea that you did that.

19 And --

20 A. It...

21 Q. Where was the cash held in your mother's trust?

22 A. Longview Bank and Trust.

23 Q. Okay. And that's in Longview, I take it?

24 Were there also securities in there?

25 A. Yes.

1 Q. Yes. Some securities. Okay.

2 And so the name of the offshore trust that
3 he -- that Mr. Mata established for you was what?

4 A. Joel A. Moser Family Trust.

5 Q. Okay. And where was the trust located?

6 A. It was --

7 Q. Do you recall?

8 A. -- Cook Islands.

9 Q. Cook Islands. Okay.

10 A. The Conga or something like that.

11 Q. And at the time -- and I think -- at the time
12 that you were gonna jump to the point where you gave --
13 where -- the 2013, when you tried to make the 2,000 --
14 \$270,000 distribution to the trust, at that time, what
15 financial institution held the trust funds?

16 A. Longview Bank and Trust, I believe.

17 Q. But held -- held your -- I'm sorry. Held your
18 offshore trust funds?

19 A. I don't know offshore.

20 Q. Was it the -- the ZKB bank or was it another
21 bank?

22 A. Yes. It -- it probably -- at that time, it was
23 ZKB.

24 Q. And when did it change over to Vontobel; do you
25 know?

1 A. No. I don't know.

2 Q. You don't know exactly. Okay.

3 Okay. Let me just clarify.

4 So your mother set up the Moser Family

5 Trust; is that correct?

6 A. Yes. And Marital QTIP Trust.

7 Q. Okay. QTIP Trust.

8 Okay. And then there was the Joel

9 A. Moser Family Trust, which was the offshore trust
10 Mr. Mata set up for you?

11 A. Yeah.

12 Q. So do you recall about how much you initially
13 funded the offshore trust with?

14 A. No, I don't.

15 Q. You don't. Okay. That's fine.

16 A. It was -- it was stripped -- the offshore trust
17 came from the Moser Family Trust, because the rest of
18 the money was still, you know, in -- in Mr. Garrett's
19 trust.

20 Q. Okay. So, generally, when you made
21 distribution to your offshore trust --

22 A. Yes.

23 Q. -- who transferred the funds from the trust to
24 the bank?

25 A. I did.

1 Q. You did.

2 Okay. How did you do that?

3 A. By check.

4 Q. Okay. Did you ever have any trouble making
5 those transfers?

6 A. No. I went to -- went to Longview Bank and
7 Trust and wrote them a check, and they wired it wherever
8 they wire it, wired it over there.

9 Q. And you never had any difficulty --

10 A. No.

11 Q. -- making those transfers at all?

12 Do you recall about how many transfers you
13 made that way?

14 A. Well, less than 10, I'm sure.

15 Q. Less than 10?

16 A. Yeah.

17 Q. Okay. And each time, did Mr. Mata have to
18 prepare a source of funds statement for you?

19 A. You know, I don't know. Probably was just sent
20 them the -- you know, the whole amount of the -- of the
21 thing. So as long as it wasn't over that, you know, I
22 don't see they'd ask any questions. We sent them the
23 stuff we sent the IRS when she died.

24 Q. Okay. And let's talk about the -- the -- in
25 2013, did you want to make another deposit into the

1 trust?

2 A. Yes. I think -- I think Mr. Garrett had
3 died -- probably died by that time, and more money came
4 from the Garrett Trust into the Moser Family Trust, and
5 we transferred that cash.

6 Q. And how much did you want to deposit into the
7 offshore trust?

8 A. 270.

9 Q. That's \$270,000?

10 A. Yes.

11 Q. Okay. And did you have any trouble with the
12 bank making that deposit?

13 A. No -- well, I deposited -- gave that to
14 Mr. Mata.

15 Q. Why did you give it to Mr. Mata instead of
16 making the transfer the way you normally did?

17 A. He said it's not necessary to drive all the way
18 to Longview to make that, just put it this -- put it in
19 my old account, and I'll do the transfer for you.

20 Q. So you had not had any trouble getting that
21 transferred?

22 A. No.

23 Q. All right. At this time --

24 MS. DeBERRY: I'm just gonna leave those
25 for the court reporter right there. I'm turning those

1 upside for that reason.

2 Q. (By Ms. DeBerry) I'm gonna show you what's been
3 marked as Exhibit No. 2.

4 Do you recognize that document?

5 A. Yes.

6 Q. Can you just briefly tell the panel what that
7 is?

8 A. This is -- let's see.

9 Q. Well, let me ask you this: Is this a letter?

10 A. Yes. It's a letter from Mr. Mata.

11 Q. To who?

12 A. To me.

13 Q. Okay. Is it a true and correct copy of the
14 letter?

15 A. Yes.

16 MS. DeBERRY: At this time, I move to
17 admit Exhibit No. 2.

18 (Petitioner Exhibit No. 2 offered.)

19 MR. MOORE: Have we it shown it to
20 opposing --

21 MS. DeBERRY: He's got it. I gave him a
22 whole stack so we don't have to pass it down there.

23 MR. MOORE: Let me see the letter.

24 Any objection?

25 MR. MATA: I can't object to this letter

1 because I don't know if it's complete. But anything
2 that's on its face, I don't believe it is incorrect.

3 MR. MOORE: Exhibit 2 will be admitted.
4 (Petitioner Exhibit No. 2 admitted.)

5 MS. DeBERRY: There's some more copies.
6 I don't mean to throw them at you.

7 MR. MOORE: Throw them all you like.

8 MR. METAYER: It's a big table.

9 MS. DeBERRY: I need one copy of that,
10 please, for Dr. Moser.

11 Thank you.

12 **Q. (By Ms. DeBerry) Let me show that to you.**

13 MR. MATA: I beg to interrupt, but does
14 anyone have any scissors.

15 Didn't you just get one out?

16 MR. MOORE: You may proceed Ms. DeBerry.

17 **Q. (By Ms. DeBerry) Okay. What's the date of the**
18 **letter Dr. Moser?**

19 A. The date is 8, August, '13, 2013.

20 **Q. Okay. And who is the letter from?**

21 A. Let's see. Mario Mata, esquire.

22 **Q. (By Ms. DeBerry) And who is it --**

23 A. Mario Mata, LLP.

24 **Q. And who is it to?**

25 A. Joel A. Moser.

1 Q. And what does he --

2 A. Subject.

3 Q. Right.

4 What's his -- okay. Go ahead. What's the
5 subject? See the subject line?

6 A. Subject is additional funding of the Moser
7 Family Trust, Moser Trust.

8 Q. Okay. And looking down starting with I also
9 provided, what does he tell you in this letter?

10 A. (Indicating) let's see. Provided the trustee
11 with a copy of the source of funds attorney comfort
12 letter, dated 4, June, 2013.

13 Q. Okay. So how -- now, this letter doesn't --
14 basically -- let me ask you this: Does this letter
15 contemplate that Mr. Mata's gonna make that distribution
16 or that you are?

17 Well, read -- would you read starting
18 right -- by the time -- by the time.

19 A. Yes, ma'am.

20 Let's see.

21 Q. Oh, I'm sorry. I know it's -- yeah.

22 A. Regrettably, all banks in Europe will be closed
23 by the time you commence the transfer, thus if you and
24 your bank have any questions or need additional
25 information, I recommend that they contact me at me

1 Dallas number, (214)800-2363.

2 Q. Okay. So at some point, did you have a
3 conversation with Mr. Mata?

4 A. Well, right before I transferred the funds.

5 Q. Right before.

6 But was it after you got this letter?

7 A. Yes.

8 Q. After you got this letter. Thank you.

9 And after you got that letter, what did
10 Mr. Mata tell you?

11 A. Well, he said that I could -- instead of going
12 to Longview, Texas, the bank, I could just put the 270
13 in his own account and he would complete the transfer.

14 Q. Okay. And did you do that, then?

15 A. That's what I did.

16 Q. Okay. Then I'm gonna show you what's been
17 marked as Exhibit No. 3.

18 And ask if you can identify that for me
19 please, sir.

20 A. It's a check for \$270,000 made to Mario Mata,
21 LLP, IOLTA trust account.

22 Q. Is that a true and correct copy of the check
23 that you wrote to Mr. Mata?

24 A. Yes.

25 MS. DeBERRY: At this time, I move to

1 admit Exhibit No. 3.

2 (Petitioner Exhibit No. 3 offered.)

3 MR. MATA: No objection.

4 MR. MOORE: Exhibit No. 3 is admitted.

5 (Petitioner Exhibit No. 3 admitted.)

6 Q. (By Ms. DeBerry) Do you recall when you --
7 what's the date on that check?

8 A. This is 8th, August -- 8/8/13.

9 Q. All right. And how did you get that to
10 Mr. Mata?

11 A. I deposited it directly in his account. I went
12 to the bank and...

13 Q. So did he give you the information you needed
14 in order to make the deposit to his trust account?

15 A. Yes.

16 Q. And let me show you what's been marked as
17 Exhibit No. 4, and ask you if you can identify that for
18 me.

19 A. Yes. It's the deposit slip.

20 Q. And is that a true and correct copy of the
21 deposit slip?

22 A. August -- 8/19/2013 for \$270,000.

23 Q. Is that a true and correct copy of the deposit
24 slip?

25 A. Yes.

1 MS. DeBERRY: Move to admit Exhibit No. 4.

2 (Petitioner Exhibit No. 4 offered.)

3 MR. MOORE: Any objection?

4 MR. MATA: No.

5 MR. MOORE: 4's admitted.

6 (Petitioner Exhibit No. 4 admitted.)

7 Q. (By Ms. DeBerry) And what's the date on that
8 deposit slip, sir?

9 A. 8/9/13.

10 Q. And to what account was it deposited?

11 A. Into his IOLTA.

12 Q. Okay. What's the account number?

13 A. Yes. As far as I know it is.

14 Q. (Indicating). Account number?

15 A. Oh, Account No. 9786201289.

16 Q. Thank you.

17 And the amount of the deposit?

18 A. \$270,000.

19 Q. All right. Thank you.

20 And how did you -- how did you let
21 Mr. Mata know that that money had been deposited?

22 A. Talked to him on the phone.

23 Q. Okay. And when did you do that? Same day or
24 do you recall?

25 A. Yeah. I think he called me, find out what I

1 had done, and -- and I told him that I deposited it into
2 his bank's on Fort Worth Avenue in Dallas.

3 **Q. Okay. So when did you first discover that the**
4 **funds had not been deposited into the offshore trust?**

5 A. Well, I got my -- I got the bank statement from
6 Switzerland and --

7 MR. MATA: I didn't hear that, please.

8 Could you repeat that.

9 A. Got a bank statement from Switzerland. After
10 the first of the year, my account hadn't changed.

11 **Q. (By Ms. DeBerry) I'm gonna show you what's been**
12 **marked as Petitioner's Exhibit No. 5.**

13 **Can you identify that for me, please.**

14 A. It's a bank statement from Vontobel.

15 **Q. Okay. In fact -- just kind of glance through**
16 **these or these -- actually, there's more than one in**
17 **here.**

18 **So are those true and correct copies of**
19 **the bank statements that you received?**

20 A. Yes. I believe so.

21 **Q. (By Ms. DeBerry) All right. Move to admit**
22 **Petitioner's Exhibit No. 5.**

23 (Petitioner Exhibit No. 5 offered.)

24 MR. MOORE: Any objection?

25 MR. MATA: No objection to Exhibit No. 5.

1 MR. MOORE: It will be admitted.

2 (Petitioner Exhibit No. 5 admitted.)

3 Q. (By Ms. DeBerry) So I ask that you look at
4 Page 1.

5 And these have numbers in the corners that
6 you can look at.

7 So on Page 1, what's the date of that bank
8 statement?

9 A. September 30th, '13.

10 Q. 2013?

11 A. Yes.

12 Q. And what's the total amount in the trust?

13 A. On that date, it was 1,031,807, 807.

14 Q. All right. Now, this -- how often do you get
15 these statements?

16 A. Several times a year.

17 Q. But not every month?

18 A. No. No.

19 Q. Okay. And so this would have been the first
20 statement after you gave Mr. Mata the 270,000?

21 A. As far as I know, yes.

22 Q. Okay. And it doesn't show a deposit, does it?

23 A. No. I don't think it -- it changed.

24 Q. Okay. So if you'll turn to what's been marked
25 as Page 5. The numbers are kind of funny in the corner.

1 A. Where is that?

2 Q. Page 5. Right -- oh, that's 35. It's 005.

3 Right there.

4 What's the date of that bank statement?

5 A. December 31st, 2013.

6 Q. And when was it created?

7 A. What which?

8 Q. When does it say it was created?

9 A. January 1st, 2014.

10 Q. And when did you receive that bank statement?

11 A. Oh, mid-January.

12 Q. All right. And, again, does this show any
13 deposit to the account?

14 A. No.

15 Q. Did you have any concerns when you received
16 this statement?

17 A. Yes.

18 Q. What did you do?

19 A. Probably called Mr. Mata.

20 Q. What did he tell you when you called him?

21 A. He said he'd take care of it.

22 Q. At any time, did you discuss loaning Mr. Mata
23 any money?

24 A. No.

25 Q. Did he mention having -- needing a loan to

1 cover litigation cost?

2 A. No.

3 Q. At any time, did you agree to loan Mr. Mata any
4 portion of the \$270,000?

5 A. No.

6 Q. Just briefly, look through there and see if
7 there was ever a \$270,000 deposit made to that account?

8 A. (Witness complies.)

9 (Brief pause as witness reviews document.)

10 A. No.

11 Q. (By Ms. DeBerry) No.

12 Thank you.

13 I know you've testified you talked to him
14 about the money when you realized it didn't -- did --
15 when you asked him to return the funds, did you ask him
16 to return them to you personally or to your mother's
17 trust?

18 A. Put it back in the trust.

19 Q. Put it back in the trust. Thank you.

20 Why did you not want them to be returned
21 to you personally?

22 A. Well, I'd have to pay taxes on it.

23 Q. Thank you.

24 When you didn't get the money returned by
25 Mr. Mata, what did you do?

1 A. Contacted Mr. Danish.

2 Q. And with what result? Do you know what
3 Mr. Danish did?

4 A. He sent demand letters, I think.

5 Q. Okay. Did you-all also have a conversation --
6 a conference call with Mr. Mata at one point?

7 A. It's possible, but I don't remember.

8 Q. You don't recall the exact...

9 Okay. And at this time, I'm gonna
10 admit -- show you what's been marked as Exhibit No. 6,
11 and ask you to identify that for me, please.

12 A. It's a letter from the Office of the Chief
13 Disciplinary Counsel, State Bar of Texas, Grievance
14 Form.

15 Q. Okay. Is that the grievance form you filed
16 against Mr. Mata?

17 A. Yes.

18 Q. Is that a true and correct copy of the form?

19 A. I believe it is.

20 MS. DeBERRY: At this time, move to admit
21 Exhibit No. 6.

22 (Petitioner Exhibit No. 6 offered.)

23 MR. MOORE: Any objection?

24 MR. MATA: No.

25 MR. MOORE: 6 is admitted.

1 (Petitioner Exhibit No. 6 admitted.)

2 MS. DeBERRY: Thank you.

3 Q. (By Ms. DeBerry) Would you look at the top of
4 that first page, please, Dr. Moser, and tell me what
5 date it indicates that it was received by our office
6 (indicating).

7 A. January 2nd, 2018.

8 Q. Okay. And if you'll look at the signature
9 page -- I think it's Page 6 of the grievance form, last
10 page of the grievance form, there -- one more page
11 (indicating) that one.

12 Is that your signature on the page?

13 A. Yes, it is.

14 Q. And what day did you sign this?

15 A. 12/30/17.

16 Q. Okay. And is that also the date you put it in
17 the mail?

18 A. I'm not sure about that.

19 Q. If you'll look -- it's hard to read, I know.

20 A. Okay.

21 Q. This isn't a real good copy of it. I'm sorry.
22 But sometime between the date you signed this and the
23 date we received it, you mailed it, correct?

24 A. Yes.

25 Q. Okay. Did Mr. Danish provide you with copies

1 of the letters he sent to Mr. Mata?

2 A. Yes.

3 Q. And do you recall -- okay. You don't...

4 You don't recall a conference call with
5 Mr. Mata discussing the return of the funds?

6 A. Well, it's possible.

7 Q. Okay.

8 A. But I don't remember it specifically.

9 Q. You don't. Okay.

10 At any time, did he attempt to settle this
11 with you?

12 A. What?

13 Q. Did he attempt to make a -- give you a
14 settlement agreement on how he would repay the funds at
15 any time?

16 A. No.

17 Q. No.

18 Would you ever have considered a
19 settlement?

20 A. No.

21 Q. Why not?

22 A. Well, he's not FDIC. He can die the next day.
23 If I agree to something, I might never see the money.
24 So...

25 Q. Okay.

1 A. Completely unsecured.

2 Q. And have you reported this to the district
3 attorney?

4 A. Yes.

5 Q. Thank you.

6 Besides losing \$270,000, what effect did
7 Mr. Mata's actions have on you?

8 A. Well, legal fees and worry. But...

9 Q. How did it affect the way you viewed legal
10 profession?

11 A. Well, we all swim in the same water. So...

12 Q. Okay.

13 MS. DeBERRY: I pass the witness.

14 MR. MOORE: Any cross, Mr. Mata?

15 CROSS-EXAMINATION

16 BY MR. MATA

17 Q. As I've been looking at Exhibit No. 5, the
18 pages in there, I have no reason to believe are not
19 authentic, but they're in the wrong order, which causes
20 some serious deception.

21 MR. MOORE: Is there some question of the
22 witness, Mr. Mata.

23 MR. MATA: Yes.

24 Q. (By Mr. Mata) Dr. Moser, you see in Exhibit
25 No. 5, it says the statement of assets as of

1 September 20th, 2013.

2 Do you have that in front of you?

3 MS. DeBERRY: Here you go. (Handing
4 document to witness.)

5 I think he's asking you that one in front
6 of you. Yes.

7 THE WITNESS: What's the question?

8 MS. DeBERRY: I don't know what the
9 question is.

10 MR. MOORE: Would you repeat the question,
11 Mr. Mata.

12 Q. (By Mr. Mata) Do you have Exhibit --
13 Petitioner's Exhibit 5, statement of assets as of
14 September 30th, 2013 in front of you?

15 A. Right.

16 Q. Okay. And it's says that it's September 30th,
17 2013. But -- and it's Bates-stamped. That's where
18 attorneys just kind of number pages.

19 MS. DeBERRY: This is the number he's
20 talking about.

21 Q. (By Mr. Mata) If you turn around to the next
22 page, you'll see that it's Bates-stamped 003 on the top
23 right-hand corner. That's an entirely different period.
24 In other words, the cover sheet on Petitioner's Exhibit
25 No. 5 says it's statement of assets of September 30th --

1 MS. DeBERRY: I'm gonna object.

2 MR. MATA: Why?

3 MS. DeBERRY: What's the question?

4 There's no question.

5 Q. (By Mr. Mata) Is -- are these pages -- is this
6 the only page that you received on September 30th, 2013?

7 A. No. There's for -- 01, 02 is on the back, 03
8 is here (indicating), 04 is here, and 5 is here. I
9 don't see what the problem is, if there's a problem.

10 Q. Well, I suggest that you look at Bates stamp
11 No. 012 where it shows that the starting balance of the
12 account was zero. The statement of assets, it's -- top
13 right-hand corner. Says statement of assets as of
14 September 30th, 2013, created on October 1st, 2013, and
15 beginning balance was zero. Then it shows that
16 1,039,293 transferred into the account.

17 So my question to you is: Didn't that
18 document -- did you see that page that they had provided
19 you that showed that the account started out on
20 November 7th, 2013 -- I'm sorry -- July 11th, 2013, with
21 a zero balance?

22 A. Well, I see it, but what's...

23 MR. MOORE: Is there a question, Mr. Mata?

24 Q. (By Mr. Mata) Yes. Dr. Moser acknowledged that
25 as of July 7th -- I'm sorry -- July 11th, 2013, the

1 balance of the account at bank Vontobel was zero.

2 A. I don't -- still don't understand the question.

3 Is that where they transferred it from
4 ZKB?

5 Q. The one 1,039,293 that you see in there, was
6 what was transferred from ZKB, but it started out on
7 July 11th, 2013, with a zero balance.

8 MS. DeBERRY: I'm gonna object.

9 A. No money in the account. You start when you
10 get a bank account, there's no money in the account
11 until you transfer money in there.

12 Q. (By Mr. Mata) Exactly.

13 But isn't that statement on the top
14 right-hand corner say that it was created on October 1,
15 2013?

16 A. Well, that's what this says on this page. I
17 don't know what that means.

18 Q. You don't know what it means?

19 A. No.

20 Q. Well, I guess I'll have to clarify.

21 MR. MOORE: Well, you'll have a chance to
22 testify, Mr. Mata.

23 Any other questions of this witness?

24 Q. (By Mr. Mata) As to the testimony thus far, you
25 indicated that you thought that the account -- or that

1 you hired me in 2008; is that correct?

2 A. I don't know.

3 Q. Is it possible that you actually hired me in
4 2005?

5 A. I have no -- I'll -- you know, we'd have to get
6 an accountant to read this. I don't know. What's on
7 this paper is on this paper.

8 Q. But was it your testimony that -- it was your
9 recollection that the account at ZKB was first funded in
10 2008? Is that your best recollection, acknowledging
11 that it may be wrong?

12 A. I don't know. I don't know that answer.

13 Q. So you don't know if it's 2007 or 2008?

14 A. No.

15 Q. Okay. You mentioned some tax returns that I
16 had filed or prepared -- I mean, prior to 2012, I didn't
17 prepare any tax returns for you, did I?

18 A. Tax returns?

19 Q. I just wanted to clarify that prior to 2012, I
20 didn't prepare any tax returns for you?

21 A. I don't know.

22 Q. You don't know?

23 A. Did you prepare any tax returns for me? Not
24 that I know of.

25 Q. Okay. Now, help -- did you indicate who it is

1 that referred you to me and why?

2 A. It was an attorney, because he -- I think he'd
3 heard you give a lecture somewhere on -- on trusts.

4 Q. Okay. And I believe your testimony was all the
5 initial funding came from the Moser Family Trust; is
6 that correct?

7 A. Yes.

8 Q. Your mother's --

9 A. Yes.

10 Q. And prior to that time, all those funds had
11 been wired from Longview Bank?

12 A. Yes. Longview Bank and Trust.

13 Q. What about securities?

14 A. Longview Bank and Trust.

15 Q. What about securities?

16 A. Well, the securities were in Smith Barney or
17 something.

18 Q. Smith Barney part of the Citigroup?

19 A. Whatever it says on there. I don't know.

20 Q. Okay. I'm looking just for the record at a
21 statement that you gave me that covers the period
22 December 1 through December 31st, 2005. And --

23 MS. DeBERRY: I'm gonna object. That
24 hasn't been turned over in discovery. So if you have a
25 question, you can ask him, but I'm gonna object to

1 referencing any documents.

2 MR. MOORE: The basis of the objection,
3 Ms. DeBerry?

4 MS. DeBERRY: It wasn't disclosed during
5 discovery.

6 MR. MOORE: Okay. Any response to that,
7 Mr. Mata?

8 MR. MATA: Yes. I made it -- I made clear
9 and even in my deposition that all my documentation was
10 available for review, and I was never contacted one time
11 by writing, by telephone, or anything to have her review
12 any of my documents.

13 MR. MOORE: Did you receive a request for
14 disclosure from the CDC?

15 MS. DeBERRY: He --

16 MR. MATA: A request for disclosure of
17 documents -- request for production of documents?

18 MR. MOORE: Yes.

19 MR. MATA: Yes.

20 MR. MOORE: Was this document --

21 MR. MATA: And I was --

22 MR. MOORE: Let me finish my question,
23 Mr. Mata.

24 Did you turn over the document that you're
25 referring to now to the CDC?

1 MR. MATA: No. There was two --

2 MR. MOORE: I'll sustain the objection for
3 nondisclosure.

4 MS. DeBERRY: Thank you.

5 **Q. (By Mr. Mata) Do you recall also wiring some**
6 **funds from Chase Bank?**

7 A. What was the question?

8 MS. DeBERRY: Repeat the question. I
9 don't think he heard you.

10 **Q. (By Mr. Mata) Do you recall requiring some**
11 **funds from Chase Bank to fund the trust initially?**

12 MS. DeBERRY: I'm gonna object. I don't
13 know what this has to do with the allegations of
14 misconduct against Mr. Mata because that all happened
15 before the --

16 MR. MOORE: I have an objection for
17 relevance.

18 MS. DeBERRY: Yes.

19 MR. MOORE: What's your response,
20 Mr. Mata?

21 MR. MATA: His testimony was that all the
22 funds were wired from the bank in Longview.

23 MR. MOORE: Right. And how does -- how
24 does this bear on the question before the panel?

25 MR. MATA: It -- well, I just want to make

1 sure that he understands that it came from several
2 sources.

3 MR. MOORE: Okay. I'm gonna sustain the
4 relevance objection.

5 MS. DeBERRY: Thank you.

6 MR. MATA: Okay.

7 Q. (By Mr. Mata) The statement from Zürcher
8 Kantonalbank that -- I'm sorry -- from Vontobel Bank
9 that you reviewed a second ago and I believe is in -- is
10 Petitioner's Exhibit No. 5, was that September 30th,
11 2013, statement the very first one you received?

12 A. I don't know.

13 Q. But you do acknowledge that when you go back to
14 the properly dated page, it shows that on the inception
15 of the trust on the statement dated September 30th --
16 after all, this has a cover sheet of September 30th,
17 2013. And on Bates-stamped 12, it says, statement of
18 asset as of September 30th, 2013 starts out where a zero
19 balance right.

20 You see that right?

21 A. I see that.

22 Q. Okay. So you acknowledge as of that date it
23 did not have any cash in it?

24 A. I don't know. It says zero. That's all I
25 know.

1 Q. Okay. So -- so you agree with me that as of
2 the beginning balance for the statement, where it says
3 statement of assets as of September 30th, 2013, on Bates
4 stamp 12, the beginning balance was zero?

5 MS. DeBERRY: Objection; asked and
6 answered.

7 MR. MOORE: Sustained.

8 MR. MATA: Okay.

9 Q. (By Mr. Mata) When you indicated you had
10 previously been making the transfers to the foreign
11 trust from Moser Family Trust at Longview Bank and been
12 wiring the funds -- and I believe you testified that I
13 told you there was no need for that, that I could do
14 that.

15 A. Yes.

16 Q. Okay. Do you not recall driving to Longview
17 Bank to sign the paperwork transferring the 270,000, and
18 me contacting you by cell phone to tell you not to
19 bother because the bank was not going to do it?

20 A. I don't recall any such conversation.

21 Q. Do you recall making it to the bank to make
22 that \$270,000 wire transfer?

23 A. I made the trip to the bank you suggested on
24 Fort Worth Avenue. I went nowhere near Longview, Texas
25 on that day.

1 Q. So are you saying that you did not go to
2 Longview, Texas, to initiate that \$270,000 wire --

3 A. No.

4 Q. -- transfer?

5 A. No. I should have, but I didn't.

6 Q. Now, I'm trying to understand something that --
7 that you said, and it might -- you might have been
8 confused; I don't know, but I certainly am confused.

9 You indicated that when you demanded the
10 return of the \$270,000 from me, you do -- you did so
11 because you were concerned about the tax consequences.

12 Was that your testimony?

13 A. If the money was returned to me, I would have
14 to pay income taxes on it. So I wanted it returned to
15 the trust where it came from.

16 Q. So it was your understanding that if the money
17 went from Moser Family Trust to you, individually, you
18 would have had to have been responsible for paying
19 income taxes on it?

20 A. No. If it went to me personally, I would be
21 responsible for paying income taxes on it.

22 Q. That is -- that is the question that I'm
23 asking.

24 So I think I've asked the question, and
25 you've answered my question.

1 **If it went back to you --**

2 MS. DeBERRY: Objection; asked and
3 answered.

4 MR. MOORE: Sustained.

5 MR. MATA: I agree. I agree.

6 **Q. (By Mr. Mata) Now, you mentioned settlement**
7 **agreements, trying to settle this matter over the**
8 **\$270,000 funds that were owed after we disagreed on it.**

9 **You indicated that you would not accept**
10 **any settlement agreements?**

11 A. I'd accept the money back --

12 **Q. Do you not --**

13 A. -- or back to the trust, rather. Let me
14 clarify that.

15 **Q. Do you not recall us reaching agreement that we**
16 **would enter into a promissory note, but that you wanted**
17 **that note payable to your foreign trust?**

18 A. No. We didn't agree to any note.

19 **Q. Okay.**

20 MR. MATA: Okay. Based on the testimony,
21 I don't have any further questions at this time.

22 MR. MOORE: Panel members, any questions
23 of the witness?

24 MS. DeBERRY: I pass.

25 Oh, I just have one further question.

1 FURTHER DIRECT EXAMINATION

2 BY MS. DeBERRY

3 Q. At some point, your trust was with whatever
4 bank -- the ZKB bank; is that correct?

5 A. Right.

6 Q. And at some point, those funds were transferred
7 out of that and into the Vontobel Bank?

8 A. Yes.

9 Q. Okay. Was that -- to your recollection, was
10 that approximately in 2013, the first part of about
11 September?

12 A. I don't -- I don't recall that.

13 Q. Let me ask you: Do you recall about what the
14 amount of the assets were when it was at the ZKB Bank?

15 A. One hundred and -- 1,140,000 and change.

16 Q. Okay. Okay. So approximately about what
17 the -- what this document shows -- it was approximately
18 this much that was in the -- you said -- you said
19 140,000 -- 1,405 --

20 A. Okay. 1,140,000 --

21 Q. Thousand.

22 A. -- was the amount in ZKB. When they
23 transferred it over there, a million and change showed
24 up. And I had about a five-year struggle with the IRS
25 to find out what happened to that. They shorted me

1 about -- eventually, the IRS refunded 158,000. I don't
2 know why they sent that money to the IRS.

3 **Q. Okay.**

4 MR. MOORE: For the record, Ms. DeBerry,
5 which exhibit are you referring to?

6 MS. DeBERRY: I'm referring to Page 12 of
7 Exhibit 5.

8 MR. MOORE: Thank you.

9 MS. DeBERRY: That we were talking about a
10 minute ago. I'm sorry.

11 **Q. (By Ms. DeBerry) So it's possible that that was**
12 **the time that those funds were transferred was -- is**
13 **when it first showed up in here?**

14 A. It's possible, yeah.

15 MS. DeBERRY: Okay. Thank you. I have no
16 more questions.

17 MR. MOORE: Any other questions, Mr. Mata?
18 Panel members?

19 RE CROSS-EXAMINATION

20 BY MR. MATA

21 **Q. Dr. Moser, you just finished saying that as**
22 **of -- when those funds were transferred it had a balance**
23 **approximately, as shown on Page 12, a million -- we'll**
24 **round it off to 1,040,000, which is what I think you**
25 **said.**

1 So that is the amount that was transferred
2 from ZKB to bank Vontobel. And that statement started
3 on July 11, 2013. That's when the accounting of all the
4 incoming funds started.

5 Do you see that?

6 I realize they do a little bit -- the
7 dating is a little bit differently than they do it in
8 the U.S. 11, dot, 07, dot, means July 11th.

9 But as of July 11th, 2013, had a zero
10 balance, and then 1,040,000, roughly, came in from ZKB
11 on July 11. And then that statement --

12 MS. DeBERRY: Objection; there's not a
13 question.

14 MR. MOORE: Mr. Mata, do you have a
15 question?

16 Q. (By Mr. Mata) Doesn't that statement account
17 for all activity into that account through October 1st,
18 2013?

19 A. I wouldn't have any way of knowing it.

20 Q. How about reading it on top of Page 12.

21 A. What am I reading? Net inflows, 1,039,293.

22 Q. I'm referencing the -- I'm trying to pinpoint
23 the date that you understand is covered by the activity
24 on Bates stamp 12012. So the statement of assets as of
25 September 30th, 2013, created on October 1, 2013.

1 So any funds that would have been wired
2 into that account would have -- prior to October 1,
3 2013, would have appeared on that statement.

4 A. I don't know. I don't see the relevance of
5 this.

6 Q. The relevance is that you've indicated that I
7 failed to transfer funds on or around July or August.

8 MS. DeBERRY: Objection; that's not --
9 that's an incorrect statement.

10 MR. MOORE: I need some clarity here, too.

11 MS. DeBERRY: Okay.

12 MR. MOORE: Dr. Moser, the \$1,039,000
13 that's reflected there, did that money have anything to
14 do with the 270,000?

15 THE WITNESS: Not a thing.

16 MR. MOORE: Okay. I'm gonna sustain the
17 relevance objection.

18 THE WITNESS: Not a thing.

19 MR. MOORE: Anything further, Mr. Mata?

20 MR. MATA: Yes.

21 Q. (By Mr. Mata) Well, I'd like to know from
22 Dr. Moser why he did not realize that there was
23 \$270,000 that was not wired into that account, which he
24 claims it was supposed to have been wired into, prior to
25 October 1st, 2013?

1 A. I don't know.

2 Q. Did you not notice that the 270,000 had not
3 been wired into that account prior to October 1, 2013?

4 A. I don't know.

5 Q. You don't know?

6 A. I know that when I got the statement in -- in
7 January -- what -- 2014, that's -- the amount hadn't
8 been changed. The amount of -- the amount bank
9 statement -- 270 would have shown up, and it hadn't
10 changed.

11 MR. MATA: Dr. Moser, with respect, that's
12 not responsive.

13 Q. (By Mr. Mata) What I'm asking about is the
14 statement that you received dated September 20th, 2013,
15 that was created by the bank on October 1st, 2013.

16 MS. DeBERRY: I'm gonna object as to
17 relevance.

18 MR. MOORE: Sustained.

19 MR. DANISH: That's correct.

20 MR. MATA: The was the last of my question
21 on the question thus far.

22 MR. MOORE: Panel any questions of this
23 witness?

24 MS. DeBERRY: No.

25 MR. METAYER: Just one question.

1 Dr. Moser -- or actually, two questions.

2 We're looking at Exhibit No. 3. We're
3 looking at the \$270,000 that's at issue here, the check
4 that was written.

5 You're already stated that the
6 \$1,039,293 did not encompass this \$270,000, correct?

7 THE WITNESS: Yes.

8 MR. METAYER: Okay. And you stated that
9 you had contacted Mr. Mata to -- in fact, to provide
10 that money because that money had not been transferred
11 to the account, correct?

12 THE WITNESS: Yes.

13 MR. METAYER: And you had stated that
14 Mr. Mata had assured you by a specific date he, in fact,
15 would actually go ahead and give that specific funds to
16 you; is that correct?

17 THE WITNESS: Well, he didn't say that I
18 was gonna -- you know, he just said, I'll take care of
19 it.

20 MR. METAYER: Okay. When you -- when he
21 says by take care of that, did you take that to mean he
22 would transfer the funds?

23 THE WITNESS: He would make the transfer.

24 MR. METAYER: Okay. And he did not
25 transfer the funds, correct?

1 THE WITNESS: No.

2 MR. METAYER: All right. That's it.

3 Thank you.

4 MR. MOORE: Any other questions, panel?

5 Ms. DeBerry?

6 MS. DeBERRY: I have no further questions.

7 MR. MOORE: Okay. Call your next witness.

8 MS. DeBERRY: Okay. I call Mr. Danish.

9 MR. DANISH: You want me to come down
10 there, right?

11 MR. MOORE: Amy, can you hear?

12 MS. DeBERRY: Can you hear him all right
13 there?

14 THE COURT REPORTER: Yes. I'm fine.

15 MR. MOORE: You're fine where you are.

16 MR. DANISH: Stay here.

17 MS. DeBERRY: And I'm just going to
18 briefly ask that in the event the -- I know Mr. Danish
19 and Mr. -- and Dr. Moser have an attorney-client
20 relationship. And so I'm going to ask Dr. Moser that if
21 I ask any question that you want to claim that
22 relationship -- a privilege on of Dr. Moser --

23 MR. DANISH: You can exercise it.

24 MS. DeBERRY: -- Mr. Danish, that you
25 would let me know --

1 DR. MOSER: Okay.

2 MS. DeBERRY: -- so that he doesn't answer
3 any questions that will breach that. Okay?

4 MR. DANISH: All right.

5 MS. DeBERRY: Otherwise, you waive
6 confidentiality?

7 DR. MOSER: I guess.

8 JOHN CARTER DANISH,
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. DeBERRY

12 Q. Would you state your name for us for the
13 record, sir.

14 A. John Carter Danish.

15 Q. What's your occupation, sir?

16 A. Attorney at law.

17 Q. And how long have you been an attorney?

18 A. Since 1975.

19 Q. Okay. And for what reason did -- did
20 Mr. Moser -- Dr. Moser -- I apologize if I keep saying
21 Mr. -- did Dr. Moser hire you in 2014 for?

22 A. I've known him for over 30 years.

23 Q. Okay. Was there a specific reason that he
24 hired you in, say, 2014 to help him?

25 A. He brought to my attention the problem that he

1 had with this trust and putting this \$270,000 in the
2 attorney's trust account.

3 **Q. Okay. And what did you tell him --**

4 A. Well --

5 **Q. -- or what did you do for him at the point?**

6 A. Basically, you know, I wanted to establish --
7 the chronology is that his mother, Mary Elizabeth Moser
8 Garrett died approximately 2002. The stepfather, James
9 H. Garrett died approximately 2007. And along the way,
10 he had these trusts and had set up this foreign trust,
11 and he went to an attorney by the name of Mario A. Mata.

12 **Q. Okay. And so -- and he had a problem.**

13 A. Well, he showed me -- and I asked him to show
14 me exactly how he would prove that he paid the
15 \$270,000 to Mr. Mata, and I had him give me the check,
16 the deposit slip, and I confirmed that that
17 \$270,000 went to the trust account of Mario A. Mata.

18 **Q. Okay. And what did you do then?**

19 A. Then I sent him a demand letter.

20 **Q. All right. I'll gonna show you what's been**
21 **mark as Exhibit 10.**

22 MR. MATA: Exhibit 10?

23 MS. DeBERRY: Exhibit 10; yes, sir.

24 **Q. (By Ms. DeBerry) And I'm gonna ask you if you**
25 **can identify that for me, please.**

1 A. This letter is dated October 13th, 2015, sent
2 by registered mail, electronic mail, and fax.

3 Q. All right. And is that a true and correct copy
4 of the letter?

5 A. This is it. And, also, sent a copy of it to
6 Dr. Joel A. Moser.

7 Q. Okay.

8 MS. DeBERRY: I move to admit Petitioner's
9 Exhibit No. 10.

10 (Petitioner Exhibit No. 10 offered.)

11 MR. MOORE: Any objection?

12 MR. MATA: I'm sure this is the letter
13 that he wrote. I just haven't had a chance to read this
14 and see what it says.

15 MS. DeBERRY: Move to admit Exhibit
16 No. 10.

17 MR. MOORE: Mr. Mata, any objection to the
18 authenticity of Exhibit 10?

19 MR. MATA: No.

20 MR. MOORE: Be admitted.

21 (Petitioner Exhibit No. 10 admitted.)

22 Q. (By Ms. DeBerry) Okay. Let's -- first of all,
23 who is the letter to?

24 A. Attorney, Mario A. Mata.

25 Q. And who is it from?

1 A. John C. Danish.

2 **Q. What's the date of the letter, please, sir?**

3 A. October 13, 2015. There is a confirmation of
4 the fax that went out on that date, and it was received
5 okay. It's also served by mail.

6 **Q. Okay.**

7 A. That was received okay.

8 **Q. All right.**

9 A. Electronic mail was received okay.

10 **Q. In the first five paragraphs, give a -- kind**
11 **of -- what do the first -- let's look at the letter just**
12 **a minute. And --**

13 A. Okay.

14 **Q. -- just briefly tell me what you told Mr. Mata**
15 **in the -- say the first five paragraphs of this letter**
16 **on the first page of it.**

17 A. On August 8, 2013, Dr. Moser made his desire to
18 make an additional \$270,000 contribution to the Joel
19 A. Moser Family Trust. During the October 2013
20 communication, you suggested that my client deposit the
21 270,000 in your IOLTA trust account; and, in return, you
22 would assist in the disbursement of the 270 into the
23 client's -- the Joel A. Moser Family Trust.

24 Per your -- per your suggesting, my client
25 then deposited \$270,000 into the IOLTA Citibank trust

1 account, Account No. 9786201289 the following day,
2 August 9th, 2013.

3 A copy of the August 9th, 2013, deposit
4 slip and transaction receipt is attached as Exhibit A
5 and incorporated by reference herein.

6 Is that all of it? You need more?

7 **Q. That's fine. No. That's fine.**

8 **And so -- and it's not attached to this,**
9 **but you did attach it to the letter itself --**

10 A. Right.

11 **Q. -- at that time?**

12 A. Exhibit A and Exhibit B.

13 **Q. B.**

14 **And at Paragraph 6, at the bottom of the**
15 **page.**

16 **What -- can you kind of clarify what**
17 **the -- what the bottom of the page where they're talking**
18 **about working with the CPA?**

19 A. Oh.

20 **Q. Can you kind of tell the panel what that was**
21 **about?**

22 A. Yeah. He has a CPA down here in Austin.

23 And it is my understanding that Dr. Moser
24 is willing -- as Dr. Moser's certified public
25 accountant, Millan & Co., PC, had tried contacting you

1 since January 2014 to complete the transfer of the
2 funds. Sadly, Dr. Moser has been forced to retain my
3 services to attempt to resolve this matter and to
4 reclaim his \$270,000.

5 **Q. All right. And turning to Page 2 of the**
6 **letter.**

7 **Did you -- what did you ask Mr. Mata to**
8 **do?**

9 A. If you find that the \$270,000 still remain in
10 your IOLTA account, please remit the 270,000 immediately
11 to -- in its entirety by returning it to the Dr. Moser
12 Texas Bank and Trust account named the Moser Family
13 Trust, Account No. 1456407. The mailing address is
14 Texas Bank and Trust, PO Box 3188, Longview, Texas
15 75606.

16 **Q. So --**

17 A. And I even gave him the telephone number on how
18 to get in touch with them.

19 **Q. And so you specifically requested that it go to**
20 **the Moser Family Trust and not to Dr. Moser?**

21 A. Yep. Just send it back.

22 **Q. And did you receive any response to that**
23 **letter?**

24 A. Well, eventually as this thing progressed, I
25 received a phone call on October 23rd, 2015 -- I mean,

1 2015, and I actually attempted to and set up a
2 conference call with Dr. Joel Moser.

3 **Q. Okay. And -- so did you eventually have a**
4 **conference call?**

5 A. We did. And, again, I communicated -- and I've
6 already talked with my clients -- there is no reason to
7 have any settlement, period, zero. Just get the money
8 back. And we did everything we could in the conference
9 call to say, send it back immediately.

10 **Q. So what did Mr. Mata tell you during that**
11 **telephone call?**

12 A. He tried to also say that somehow Dr. Moser
13 authorized him to invest it. And, of course, he always
14 told me no way, no how, zero.

15 **Q. Okay. I'm gonna show you a copy of Exhibit**
16 **No. 11.**

17 **Can you identify that for me, please.**

18 A. This is a letter dated February 9th, 2019 --
19 '16.

20 **Q. Okay. Is that a true and correct copy?**

21 A. And it is sent -- okay. What?

22 **Q. Is that a true and correct copy of the letter?**

23 A. Yes, it is. You can tell by my signature on
24 it.

25 MS. DeBERRY: Okay. At this time, I move

1 to admit Exhibit 11.

2 (Petitioner Exhibit No. 11 offered.)

3 MR. MOORE: Any objection?

4 MR. MATA: I'm looking for Exhibit 11.

5 I don't have any reason to object to this.

6 MR. MOORE: All right. Be admitted.

7 No. 11 is admitted.

8 MS. DeBERRY: Thank you.

9 (Petitioner Exhibit No. 11 admitted.)

10 **Q. (By Ms. DeBerry) Okay. Okay. What's the date**
11 **of this letter?**

12 A. February -- February 9th, 2016.

13 **Q. And what's the date -- I'm sorry.**

14 **Who's the letter from?**

15 A. John Carter Danish.

16 **Q. And who is it to?**

17 A. Attorney Mario A. Mata.

18 **Q. And at the bottom of the signature page, who**
19 **else received a copy of that letter?**

20 A. Dr. Joel A. Moser.

21 **Q. Okay. And what was attached to the letter?**

22 A. I attached Exhibit A and Exhibit B.

23 **Q. Okay. Which was -- Exhibit A was the deposit**
24 **slip; is that correct?**

25 A. Yes. That's attached here.

1 You see it?

2 **Q. And Exhibit B?**

3 A. Is a check.

4 **Q. Copy of a check. Okay. Thank you.**

5 **And how did -- was that letter transmitted**
6 **to?**

7 A. And I sent this file certified mail, and you
8 got the receipt number there that came back. We sent it
9 regular mail. We sent it facsimile, and that went
10 through, and we sent it by electronic mail.

11 **Q. Okay. To your knowledge -- okay.**

12 A. And all of them went through.

13 **Q. Except for the certified?**

14 A. I don't think that's true either. Let me
15 double check.

16 **Q. You said it was returned.**

17 A. It got returned?

18 **Q. That's what you just said.**

19 A. Okay. I'd have to look back at everything.

20 **Q. And, again, does Page 1 pretty much summarize**
21 **the transactions and conversations regarding Dr. Moser's**
22 **\$270,000?**

23 A. Uh-huh.

24 **Q. On Paragraph 2 --**

25 A. Now, that last one -- February 9th, right?

1 Correct?

2 Q. Yes.

3 A. Here's (indicating) the certificate.

4 Q. Okay. So you did get it back certified?

5 A. Sure looks like it to me. You want it.

6 Q. It does.

7 That's okay. We don't need it. You can
8 testify to it; that's fine. I just misunderstood you;
9 that's all.

10 Okay. Okay. Look on the second page,
11 please, sir.

12 A. Okay.

13 Q. And the second paragraph, would you just go
14 ahead and read that paragraph aloud.

15 A. As you also know, during my telephone
16 conversation with you on October 23rd, 2015, you assured
17 both me and my client that you would have the matter
18 resolved within the last quarter of 2015, and you would
19 have the \$270,000 returned to my client's Texas Bank &
20 Trust account, the Moser Family Trust, Account
21 No. 14564075, the 2015 year end.

22 Q. All right. And is that a summary of what
23 you -- told you during that telephone conversation then?

24 A. Yes.

25 Q. And, again, that -- your request was to return

1 them to the trust and not to Dr. Moser --

2 A. Correct.

3 Q. -- correct?

4 Did he return any of the money to the
5 trust?

6 A. Not to my knowledge -- knowledge, no.

7 Q. Did he ever tell you what he did with the
8 \$270,000?

9 A. In conversations that I might have had with
10 him, it appeared that he didn't have the ability to have
11 the money with him.

12 Q. But he didn't specifically tell you what
13 happened --

14 A. I didn't tell him -- no.

15 Q. Okay. And what was your -- when the money
16 wasn't returned, what was your advice to Mr. Moser?

17 A. Well, I actually put that here, also.

18 Anyway, I began to talk about the reality
19 of making a grievance with the State Bar and also
20 reporting this to the Dallas Police Department and the
21 DA.

22 Q. Okay. And, to your knowledge, did -- did
23 Dr. Moser follow through with that request?

24 A. Yes.

25 Q. In your opinion as an attorney, how do you --

1 what do you think the effect of Mr. Mata's action have
2 on the legal profession?

3 A. Very bad. And --

4 MR. MATA: I object to that question.

5 That has nothing to do with the facts of this case.

6 MR. MOORE: Let me get some clarification
7 here, Ms. DeBerry.

8 Are we bifurcating this trial?

9 MS. DeBERRY: We are. I can ask that
10 later. Thank you.

11 MR. MOORE: Okay. Then I'll sustain the
12 objection.

13 MS. DeBERRY: I forgot to bifurcate it.
14 And I -- thank you for --

15 MR. MOORE: Let's make sure we're clear on
16 the record then.

17 The basis of your objection it's not
18 relevant to this part of the hearing. And your
19 understanding, Mr. Mata, is we're bifurcating the --
20 basically the finding of the violation in the penalty
21 phase.

22 And that's acceptable to you, is it?

23 MR. MATA: Well, I don't understand the --

24 MR. MOORE: Well, let me -- let me clarify
25 it, then.

1 We can do this two ways. We can have
2 everything done at once, including the factors that the
3 panel would could consider for sanctions, or we can do
4 this simply on the rule violation initially and then
5 come back and have a second phase for information that's
6 relevant for possible sanctions.

7 MR. MATA: I would agree that the
8 second --

9 MR. MOORE: To bifurcate.

10 MR. MATA: -- to bifurcate is more
11 logical.

12 MR. MOORE: Okay. Then I'll -- the --
13 my -- objection is sustained.

14 MS. DeBERRY: That's fine.

15 MR. MOORE: Also, one other clarification
16 on the record, we had the -- basically the transcript
17 judicially noticed for the -- initially --

18 MS. DeBERRY: Well, the clerk's file.

19 MR. MOORE: The clerk's file.

20 MS. DeBERRY: The filings, yes.

21 MR. MOORE: Yeah.

22 Any objection to that?

23 In other words, the filings that have been
24 made in this proceeding.

25 MR. MATA: I was about to ask where the

1 grievance was, as a matter of fact. So I presume that's
2 in there.

3 MS. DeBERRY: That is not in there.
4 That's not part of the clerk's file. That was prior to
5 the -- that was prior to -- all that starts in here is
6 noticed --

7 MS. GALINGER: From the beginning of the
8 petition?

9 MS. DeBERRY: From the petition.
10 Does it have the election in there?

11 MS. GALINGER: I believe so.

12 MS. DeBERRY: May have the election in
13 there.

14 MS. GALINGER: If there was one.

15 MS. DeBERRY: If there was one, but I
16 believe he defaulted.

17 MR. MATA: So the grievance --

18 MR. MOORE: The grievance, does that have
19 an exhibit sticker on it?

20 MS. DeBERRY: Yes, it does.

21 MR. MOORE: And what's the number on it?

22 MS. BARRIENTOS-LEE: No. 6.

23 MR. MOORE: And it's been admitted?

24 MS. BARRIENTOS-LEE: Yes.

25 MR. MOORE: Okay. (Indiscernible.)

1 MS. DeBERRY: Just for the record, we
2 haven't done Exhibits 7, 8, 9, or 12.

3 MR. MOORE: That's what I show, as well.

4 A. And back to your earlier question.

5 Q. (By Ms. DeBerry) Yes.

6 A. In February 9th, 2016 --

7 Q. Right.

8 A. -- the next-to-the-last paragraph is where I
9 also put in this letter, I have advised my client to his
10 right to confer with the District Attorney's Office of
11 Dallas County, Texas, as well as the State -- Texas
12 State Bar concerning the loss of 270,000, which will
13 be -- which has -- which was shown via the Exhibit A and
14 B, which was deposited at Citibank IOLTA trust accounts.

15 MS. DeBERRY: Thank you. That's all.

16 I pass the witness.

17 MR. MOORE: Mr. Mata, questions?

18 CROSS-EXAMINATION

19 BY MR. MATA

20 Q. Just for clarity purposes, Mr. Danish, for
21 everyone's benefit. I think there was some ambiguity as
22 to when the -- I was hired or when the trust was formed.

23 But your Petitioner's Exhibit No. 11
24 appears to specifically state that -- and says, the
25 Joel A. Moser Family Trust and international trust which

1 was registered with the Cook Islands registrar on
2 October 24th, 2005.

3 So you can agree that if I had been
4 retained by that date and that's the trust inception
5 date, wouldn't you agree?

6 A. Well, obviously, I -- I was given something
7 like this from talking with my client roughly -- roughly
8 when that took place. So whatever you say it is, I
9 don't know.

10 It would seem, though, that the -- I think
11 the mother died -- at the beginning -- I talked at the
12 beginning about 2003. I can't find where I put it, but
13 I just -- maybe it's over here.

14 **Q. Maybe 2002?**

15 A. Okay. Yeah. Approximately, 2002.

16 So we're seeing that he might want to talk
17 to you about doing something like that in 2005. And
18 then the father died -- stepfather died approximately
19 2007.

20 **Q. Now, isn't it true -- and I've never quite**
21 **understood why you were adamantly opposed to the**
22 **transfer of any funds whatsoever to a foreign trust**
23 **protection.**

24 A. Whether I was in favor of that? Is that what
25 you're asking?

1 Q. Isn't it true --

2 A. That's not a belief that I necessarily believe
3 in, no.

4 Q. So you did reiterate to me on more than one
5 occasion that you thought it was a bad idea?

6 A. Well, I've always told my client that's not a
7 good way to do it. Remember, I've represented him for
8 30 years.

9 Q. Well, I just wanted to make sure that you -- I
10 understood what your motives were with respect to -- or
11 what your thoughts were with respect to the trust.

12 A. Motive is to get his money back, period.
13 That's all I'm interested --

14 Q. I'm talking about the initial funding. Okay?

15 A. Okay.

16 Q. Now, you said you made suggestions to Dr. Moser
17 in one of your letters, and it's probably in the letter.
18 But you made recommendation district attorney -- okay.
19 There it is.

20 You made recommendation that the matter --
21 that you confer -- that he confer with the District
22 Attorney's Office of Dallas County or talked to the
23 State Bar.

24 I'm curious, this would have been a suit
25 on a debt.

1 Why -- did you advise him on just filing a
2 civil lawsuit?

3 A. No. I do not think it is a civil lawsuit. I
4 think this is a crime.

5 Q. Well, my question was, did you advise him to
6 file a civil lawsuit just to collect the debt?

7 A. I told him that I would not represent him on
8 this civilly. And if he wanted to go find someone that
9 wanted to do that, he could do that. And I told him
10 that he probably won't find someone who had a reputation
11 of setting up trusts and trying to go down the road.

12 Q. But you did know that the funds were wired out
13 of Moser Family Trust?

14 A. Which ones are we talking about now?

15 Q. The \$270,000.

16 A. No. That was -- well, it was -- okay. Yes.
17 From that wire to you, yes. I think it was a check,
18 wasn't it?

19 DR. MOSER: It was a check. Wasn't a
20 wire.

21 A. It was a check. Not a wire.

22 Q. (By Mr. Mata) Were you involved in any way
23 probating --

24 A. No.

25 Q. -- any of the wills?

1 MS. DeBERRY: I'm gonna object; relevance.

2 MR. MOORE: Sustained.

3 MS. DeBERRY: Thank you.

4 MR. MATA: No further questions of Dr. --
5 sorry, Mr. Danish.

6 MR. MOORE: Panel, any questions of this
7 witness?

8 Ms. DeBerry, anything further?

9 MS. DeBERRY: I have no further questions.

10 MR. MOORE: Call your next witness.

11 MS. DeBERRY: Okay. I call Mario Mata.

12 And I think we may have to -- because he has a soft
13 voice -- change seats here.

14 MR. METAYER: Can you repeat that?

15 MS. DeBERRY: I think we need to change
16 seats so that we can put --

17 MR. MOORE: Okay. Dr. Moser, if you don't
18 mind taking a seat next to your counsel.

19 THE COURT REPORTER: I apologize. Can we
20 take a break?

21 MR. MOORE: Let's take a break.

22 (Recess from 11:34 a.m. to 12:19 a.m.)

23 MR. MOORE: Ms. DeBerry, we can proceed
24 whenever you're ready.

25 MS. DeBERRY: Mr. Mata, are you ready?

1 MR. MATA: Yes.

2 MARIO ALBERTO MATA,
3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. DeBERRY

6 Q. Would you please state your name for the
7 record.

8 A. Mario Alberto Mata, M-a-t-a.

9 Q. What's your occupation, sir?

10 A. I'm an attorney.

11 Q. Are you currently practicing?

12 A. Nope -- I'm sorry. No.

13 Q. How are you currently employed?

14 A. I'm not. I'm basically retired.

15 Q. Okay. And I'm gonna skip some of the -- you
16 established that Joel A. Moser Family Trust for
17 Dr. Moser, correct?

18 A. That is correct.

19 Q. And that was, what, in about 2005?

20 A. That's when it was actually formed, yes.

21 Q. Okay. And then in 2013, Dr. Moser gave you --
22 well, before that, you recommended that the assets be
23 held by ZKB bank; is that correct, originally?

24 A. Originally we sent all of our assets to ZKB
25 bank. That is correct.

1 Q. That was based on your recommendation?

2 A. Yes.

3 Q. Yes. Okay. And then at some point, they
4 needed to be rerouted to Vontobel Bank?

5 A. They needed to be rerouted out of the bank.
6 ZKB wanted all Americans out, just like virtually all
7 other Swiss banks. So it was whatever bank would take
8 them.

9 Q. Okay.

10 A. And we were successful in doing that.

11 Q. That was, what the summer of 2013?

12 A. Approximately, yes.

13 Q. Okay. Sometime -- okay. And so then in August
14 of 2013, Dr. Moser notified you that he wanted to
15 deposit 270,000 into that trust; is that -- to the -- to
16 his trust in the Cook Islands?

17 A. He wanted to wire the funds to the new account,
18 so the trust --

19 Q. Thank you.

20 A. -- in Switzerland. There are no accounts in
21 the Cook Islands.

22 Q. Okay. But -- okay. Correct.

23 Then they would be wired to -- they would
24 go to the Vontobel Bank?

25 A. Vontobel Bank, yes.

1 Q. Okay. And you suggested that he deposit them
2 into your IOLTA account, correct?

3 A. After his bank in Longview refused to wire the
4 funds.

5 MS. DeBERRY: Objection; nonresponsive.

6 MR. MOORE: Sustained.

7 A. No. I did not recommend that to him initially.

8 Q. (By Mr. Mata) And he deposited those funds into
9 your account on August the 9th, 2013; is that correct?

10 A. That sounds about the approximate date.

11 Q. And notified you the following date that the
12 funds had been deposited?

13 A. He -- he noted me -- yes. I believe we spoke.

14 Q. The following day, correct?

15 A. I don't know if it was the following day, but
16 I'm certain it would have been the following date.

17 Q. Okay. Yet in your deposition, you testified
18 that he didn't tell you for two to four weeks; is that
19 correct?

20 A. That he didn't tell me for two to four weeks?

21 Q. Yes.

22 A. No. I think -- I didn't recall speaking to him
23 for about a couple weeks after that. But I haven't been
24 able to find any phone records or anything going that
25 far to show exactly when we spoke.

1 Q. You didn't transfer those funds to the offshore
2 trust account like you said you would, did you?

3 A. No.

4 Q. Instead, three days after they were deposited
5 into the account, you began withdrawing large sums of
6 money from it, correct?

7 A. Yes.

8 Q. And those were for your use?

9 A. Yes.

10 Q. Okay.

11 MS. DeBERRY: Okay. I'm gonna introduce
12 Exhibit 7 at this time.

13 Q. (By Ms. DeBerry) And these are certified
14 copies -- I'm sorry. These were response to --

15 You have a copy of Exhibit 7, I believe.

16 These are -- I'm sorry -- not certified.
17 They're business record affidavits from the bank.

18 MR. MOORE: Is that being offered?

19 MS. DeBERRY: Huh?

20 MR. MOORE: Are you offering --

21 MS. DeBERRY: So I would you offer
22 Exhibit 7 at this time.

23 (Petitioner Exhibit No. 7 offered.)

24 MR. MOORE: Any objection?

25 MR. MATA: These are the same ones from

1 last time?

2 MS. DeBERRY: Probably. It's Exhibit 7.

3 MR. MATA: Right. That is correct.

4 MS. DeBERRY: Okay. So I offer those at
5 this time.

6 MR. MOORE: Be admitted.

7 (Petitioner Exhibit No. 7 admitted.)

8 MS. DeBERRY: Thank you.

9 I would also like to offer Exhibit 8,
10 which are, again, bank records for the Citibank records.
11 First one are the -- first set were documents with
12 transfers documents and so on, deposit slips. The
13 second one are the bank statements that they -- business
14 records affidavit. So I would offer Petitioner's
15 Exhibit No. 8.

16 (Petitioner Exhibit No. 8 offered.)

17 MR. MOORE: Any objections?

18 MR. MATA: To Petitioner's Exhibit No. 8?

19 MR. MOORE: Yes, sir.

20 MR. MATA: Nope. Not at this time.

21 MR. MOORE: That'll be -- Exhibit 8 is
22 admitted.

23 (Petitioner Exhibit No. 8 admitted.)

24 MS. DeBERRY: And then I'd offer

25 Petitioner's Exhibit No. 9, which has a business records

1 affidavit attached to it, which are the bank account for
2 the Wells Fargo, Mario Mata IOLTA trust account.

3 MR. MOORE: Any objection to Exhibit 9?
4 (Petitioner Exhibit No. 9 offered.)

5 MR. MATA: Have I seen these before?

6 MS. DeBERRY: I'm not sure that -- yeah.
7 I think you have in your deposition. They may have come
8 in after your deposition.

9 MR. MATA: This is the first time I've
10 seen these documents.

11 MR. MOORE: Was there a request to the
12 State Bar for production of documents, Mr. Mata? Did
13 you send a request for production of documents --

14 MR. MATA: No.

15 MR. MOORE: -- to the CDC?

16 MR. MATA: No.

17 MR. MOORE: Is there any objection to
18 Exhibit 9?

19 MR. MATA: These were generated on
20 4/26/2019, so I just --

21 MS. DeBERRY: May have been after your
22 deposition.

23 MR. MATA: Yeah. Definitely after the
24 deposition.

25 MS. DeBERRY: So we asked for them after

1 the deposition.

2 MR. MOORE: I understand.

3 I'm waiting to hear if there is an
4 objection or not.

5 (Mr. Mata reviewing documents.)

6 MS. DeBERRY: We got them under a
7 subpoena.

8 MR. MATA: Well, I've not -- I've not seen
9 these documents. I've not had an opportunity to compare
10 them to my documents.

11 MR. MOORE: So what's the basis of your
12 objection, if you have one, Mr. Mata?

13 MR. MATA: '13, '19. These look like
14 copies of authentic bank documents, but, I mean, I --
15 this is very first time I see them, so I can't tell you
16 for certain that this is an exact record of the period
17 that is supposed to have been covered by the subpoena.
18 But I can't identify anything in there that I find to be
19 not true and correct.

20 MR. MOORE: So is there an objection or
21 not?

22 MR. MATA: (Continuing to review
23 documents.)

24 MS. DeBERRY: I was just gonna note that
25 we did file these of record, and he got notice of the

1 filing.

2 MR. MOORE: I haven't heard an objection
3 yet, Ms. DeBerry.

4 MS. DeBERRY: Yes, I know.

5 MR. MOORE: There may not be anything to
6 respond to.

7 MR. MATA: I'm just making sure that I
8 don't see anything in here that looks out of the
9 ordinary. Because I've never seen this before. And,
10 unfortunately, most of my IOLTA records were...

11 MR. MOORE: Mr. Mata, do you object to the
12 admission of Exhibit 9?

13 MR. MATA: No.

14 MR. MOORE: It'll be admitted.

15 (Petitioner Exhibit No. 9 admitted.)

16 MS. DeBERRY: Here you go. Okay.

17 Q. (By Ms. DeBerry) Let's look at Exhibit-- let's
18 look at Exhibit 8, please, and turn to Page 11.

19 A. Page 11, Exhibit 8, right?

20 Q. This is a bank statement for August 1 to
21 August 31st; is that correct?

22 A. Correct.

23 Q. And what was the opening balance -- beginning
24 balance of that statement?

25 A. \$1.74.

1 Q. And how much was deposited into that account?

2 A. 270.

3 Q. When you say 270, \$270,000?

4 A. That is correct.

5 Q. Okay. And withdrawal was made on the 12th,
6 correct?

7 A. Correct.

8 Q. How much was that for?

9 A. 7500.

10 Q. What -- what did you use that for?

11 A. That would have -- I can't tell you what I used
12 it for. That was just part of my agreement with
13 Dr. Moser, but I can't tell you.

14 MS. DeBERRY: I object --

15 A. I'm answering your question.

16 MS. DeBERRY: Excuse me. I'm objecting.
17 We have no testimony. He's assuming facts not in
18 evidence.

19 THE WITNESS: I don't know what those
20 funds were transferred to or for.

21 MR. MOORE: Mr. Mata, I need to rule on
22 the objection.

23 I'm sorry.

24 Ms. DeBerry, the basis for the objection?

25 MS. DeBERRY: He's assuming facts that are

1 not in evidence.

2 He's saying that there was an agreement
3 was Dr. Moser. And the only person that's testified so
4 far that there was an agreement was Dr. Moser, and he
5 denied any agreement.

6 MR. MOORE: Well, I think -- I think what
7 we need to do is -- since it's your question, we can
8 object for that basis. But if there's an object for
9 nonresponsiveness; I'll consider that.

10 MS. DeBERRY: Okay. Nonresponsive.

11 MR. MOORE: I'll sustain that objection.

12 Q. (By Ms. DeBerry) Okay. What was the
13 \$7,500 used for?

14 A. I do not know.

15 Q. Okay. And there was another withdrawal on
16 August the 16th, correct?

17 A. What page are you on?

18 Q. Same page, Page 11.

19 A. Yes.

20 Q. For how much?

21 A. 3,611.87.

22 Q. And then again on the 21sts and the 30th, you
23 made two more \$7,500 withdrawals, correct?

24 A. Correct.

25 Q. Can you tell us what any of that money was

1 **spent for?**

2 A. I cannot tell you specifically what the money
3 was spent for. It was intended to help operate my law
4 firm operations since I was busy with litigation that
5 was keeping me from billing. So, generally speaking, it
6 just --

7 **Q. How many clients did you have at that time?**

8 A. I couldn't begin to tell you. My practice is
9 such that -- it's a rude term, but my clients are
10 one-night stands. I'm referred clients by attorneys to
11 do things that --

12 **Q. I didn't --**

13 A. -- they are not qualified to do.

14 MS. DeBERRY: Objection. Objection;
15 responsive [sic].

16 MR. MOORE: Sustained.

17 A. I don't know how many clients I had at that
18 time.

19 **Q. (By Ms. DeBerry) Thank you.**

20 **So the total amount that you took during**
21 **August was \$26,111.87, correct?**

22 A. Correct.

23 **Q. And you used it for your own benefit, correct?**

24 A. No. It was used for --

25 **Q. Yes or no. That was a yes or no question, sir.**

1 A. Identify your benefit. It went into my law
2 firm account.

3 Q. Who would benefit from your law firm account?

4 A. I and anyone that I pay from the account almost
5 exclusively.

6 Q. So it would be bills that you owed to other
7 people, correct?

8 A. That is correct.

9 Q. Okay. So none of that benefited Dr. Moser, did
10 it?

11 A. No.

12 Q. Okay. Turn to Page 14.

13 A. (Witness complies.)

14 Q. How many withdrawals did you make during that
15 month?

16 A. It was -- it's self-explanatory. 9/4 for
17 \$7500, and September 30th for 10,000.

18 Q. So during September, you withdrew \$17,500,
19 correct?

20 A. That is correct.

21 Q. Now, if your deposition, you had claimed that
22 you had an agreement with Dr. Moser to borrow some money
23 from him in order to run your law practice, correct?

24 A. Essentially, yes, to finance my law practice.

25 Q. But you also testified that you didn't have

1 that conversation with Dr. Moser until probably December
2 of that year, correct?

3 A. No. It -- it -- it had to have been at the
4 time that we could not transfer those funds overseas
5 when -- when the bank refused to send them.

6 Q. Let's see.

7 A. That's my recollection.

8 Q. Question: When was that agreement made?

9 Answer: It would have been sometime in
10 2013, the latter part of 2013.

11 Question: Like November or December?

12 Answer: Yes.

13 A. No. Then that answer was incorrect. We
14 discussed it while it was --

15 Q. You took this deposition closer to the time of
16 the actions, correct?

17 A. I took the depo -- I don't -- what date was
18 that?

19 Q. This deposition was taken in March, almost a
20 year ago, March 19th, 2019?

21 A. I gave it when I gave it.

22 Q. So your memory should have been clearer at that
23 time than it would be now, correct?

24 A. No.

25 Q. Okay. Turn to Page 17.

1 A. What was the exact date of that deposition?

2 Q. **March 19th, 2019.**

3 **Turn to Page 17.**

4 A. (Witness complies.)

5 Q. **You made three withdrawals in October, correct?**

6 A. What page was that?

7 Q. **Seventeen.**

8 A. Yes.

9 Q. **Those totaled \$20,000?**

10 A. Correct.

11 Q. **So according to your deposition, you took,**

12 **what, 60 -- about \$63,000 without permission from**

13 **Mr. Moser.**

14 A. No. That's not the case.

15 Q. **According to your deposition, that would be the**

16 **case was my question.**

17 A. I don't recall what's in the deposition.

18 Q. **I just read it to you.**

19 A. I -- that would have not been correct. We

20 discussed it at the time when we were trying to

21 determine what to do with the bank decline to send those

22 funds.

23 MS. DeBERRY: **Objection; nonresponsive.**

24 MR. MOORE: I think the question was

25 vaguely responsive, so I'll overrule the objection.

1 Q. (By Ms. DeBerry) Okay. Let's look at Page 20,
2 for November.

3 How many withdrawals did you make during
4 that month?

5 A. Wait a second.

6 MR. MATA: I object to this line of
7 questioning.

8 MS. DeBERRY: Let me do it this way, then.

9 MR. MOORE: Let me hear the basis of the
10 objection, and let's...

11 MS. DeBERRY: I can rephrase my question.

12 MR. MOORE: Okay. Please do.

13 Q. (By Ms. DeBerry) You made three withdrawals
14 during the month of November, correct?

15 A. Yes.

16 Q. And those totaled 87,000, correct?

17 A. In November?

18 Q. Wait a minute. I'm sorry. I'm off a month.

19 Total of 16,000, correct?

20 A. That is correct.

21 Q. Okay. And let's look at December, Page 23.

22 You made four withdrawals, correct?

23 A. Correct.

24 Q. That totaled \$87,000, correct?

25 A. Correct.

1 Q. None of those withdrawals benefited Dr. Moser,
2 did they?

3 A. Yes.

4 Q. How -- in what way did they benefit Dr. Moser?

5 A. It was part of our agreement to --

6 Q. I didn't --

7 MS. DeBERRY: Nonresponsive.

8 MR. MOORE: He's answering the question.

9 A. Those were funds that he was loaning to me on
10 which he was gonna earn interest.

11 Q. (By Ms. DeBerry) You had no written agreement
12 for interest or anything else, did you?

13 A. We had no written agreement.

14 Q. Thank you.

15 75,000 of that was put into a different
16 account; is that correct?

17 A. Yes.

18 Q. That went into the Wells Fargo IOLTA account?

19 A. Yes.

20 Q. Thank you.

21 Page 26. Into January. So we're now into
22 2014.

23 Made five withdrawals?

24 A. Yes.

25 Q. Totaled \$24,591.87?

1 A. Say that again.

2 Totaled for how much?

3 **Q. 24,591.87 cents?**

4 A. That sounds correct.

5 **Q. Page 29. Month of February, 2014.**

6 **You made four withdrawals?**

7 A. Correct.

8 **Q. Totaled \$15,500?**

9 A. Yes.

10 **Q. Page 32. Statement for March.**

11 **Withdrawals totaled \$18,500; four of them?**

12 A. Correct.

13 **Q. April, Page 35.**

14 **Two withdrawals totaling \$12,500?**

15 A. Correct.

16 **Q. Page 38, May 2014.**

17 **Four withdrawals totaling \$17,000?**

18 A. They're labeled as withdrawals. I frankly
19 don't know if they were checks or online transfers or
20 what; but, yes, they were withdrawals.

21 **Q. Okay. Look at what they are, if you want to.**
22 **Most of them are, if you want to reference.**

23 A. Oh, I -- I have no doubt that they are
24 withdrawals. It's just that they were probably -- well,
25 they weren't checks, that's for sure. So they would

1 have probably been online -- I mean. Yeah. Online,
2 account to account.

3 **Q. Well, if you want to check any of them, the --**
4 **all the documents reporting them --**

5 A. There's no need to.

6 **Q. -- are on Exhibit 7, if you question any of**
7 **them.**

8 A. No. I'm no questioning the withdrawals.

9 **Q. Okay. Page 41.**

10 **June of 2014, you made two -- three**
11 **withdrawals --**

12 A. Which page?

13 **Q. Forty-one.**

14 **Three withdrawals totaling 12,000?**

15 A. I hadn't had any sleep all night, so let me
16 count. Six, seven -- how many did you say it was?

17 Oh, it would have been 15,500.

18 On Page 41?

19 **Q. Page 41.**

20 A. Is that what you asked me?

21 **Q. Page 41.**

22 A. Apologize if I got the wrong page.

23 **Q. Four withdrawals totaling 50 -- 15,500.**

24 **Did I get that wrong?**

25 A. Well, I think we can agree it was 15,000 on

1 Page 41.

2 Q. 15,500.

3 And what's the balance in that account at
4 the end of June, 2014, less than a year after Dr. Moser
5 gave you \$270,000?

6 A. The ending balance as of June 30th, 2014?

7 Q. Uh-huh.

8 A. According to this statement, it's \$3,298.

9 Q. Turn to Page 44, July.

10 A. Yes.

11 Q. Made one withdrawal?

12 A. A check for 3,000.

13 Q. \$3,000.

14 Okay. Page 47, November.

15 A. Yes.

16 Q. No withdrawals made.

17 What's the balance in the account in
18 November?

19 A. \$298.

20 Q. Okay. Go ahead turn to Page 59.

21 Skip those -- oh, wait, go back. I'm
22 sorry. Page 56.

23 It's one withdrawal for \$275 or a check
24 for \$275?

25 A. That is correct.

1 Q. And a balance in the account of?

2 A. At the end of the period, \$23.

3 Q. Okay. And then in December on Page 59, you
4 closed that account, correct?

5 A. Either I closed the account or the bank closed
6 it. Let's see. December 31st.

7 Q. Well, you wrote a check for \$20 --

8 A. So, yes.

9 Q. -- and a check for \$3.

10 A. So I would have closed it, yes.

11 Q. Okay. Thank you.

12 Now, let's look at the Exhibit No. 9,
13 then, which is the Wells Fargo account into which you
14 deposited the 75,000.

15 When that was deposited, what other funds
16 were in that account?

17 A. Those would have been accounts from other
18 clients.

19 Q. How much?

20 A. Well, it was one massive transfer made on the
21 behalf of Asia Trust Limited. That was a deposit. I
22 don't know that there was a transfer out.

23 Q. Look at Page 2, sir.

24 A. Page 2?

25 Q. Did you make a deposit into the account on

1 12/19/2013?

2 A. \$200 cash.

3 Q. Thank you.

4 And then -- that was on the 14th. Then on
5 the 27th of December, it was on Page 4.

6 Is that when you deposited the other
7 \$75,000 from Mr. Moser's money into that account?

8 A. That is correct.

9 Q. Okay. And then you made a -- let's get to --
10 skip to the bank statements that start back here on
11 Page -- Page 29.

12 A. Okay.

13 Q. Beginning balance is \$75,200; is that correct?

14 A. Correct.

15 Q. And that's the \$200 cash that you deposited as
16 well as \$75,000 belonging Dr. Moser, correct?

17 A. Those were -- yes. It was 75,000 that had been
18 deposited by Dr. Moser.

19 Q. And then you made a deposit of \$87,767.27, and
20 then almost immediately withdrew the identical amount,
21 correct?

22 A. Yeah. That was -- that was for another client.
23 Had nothing to do with Dr. Moser.

24 Q. Okay. So then on -- let's see.

25 (Brief pause.)

1 Q. (By Ms. DeBerry) So we need to switch over here
2 to July, which I think is about Page 48.

3 A. Makes it easier to read if you have the right
4 glasses.

5 Forty-eight.

6 Q. Then 47?

7 A. July 1, 2014, statement.

8 Q. Okay. Let's -- let's go back one to
9 Page 40- -- yeah. Page 47.

10 How much did you withdraw from -- well,
11 it's actually on Page 48. You made four withdrawals
12 totaling -- you had one credit of \$80 and then three
13 withdrawals totaling --

14 A. Three checks?

15 Q. Three checks totaling \$22,580?

16 That should be three, not four.

17 Correct?

18 A. You're saying it's --

19 Q. Well, maybe I can't add. No, I can. \$22,500.

20 A. 500, \$22,500.

21 Q. Okay. Then -- and the 80 was a credit. Okay.
22 That's my mistake. I can fix that.

23 A. That's a deposit of some sort.

24 Q. Okay. On Page 51 --

25 A. Yes.

1 Q. -- you made three withdrawals totaling \$20,000?

2 A. Fifteen, 20, yes.

3 Q. Page 54.

4 A. Checks.

5 Q. You made one withdrawal -- Page 54. Or one
6 check for \$7,500?

7 A. Correct.

8 Q. And then in October, on Page 58, you had five
9 checks or withdrawals totaling \$22,500?

10 A. Yes.

11 Q. And then, finally, on Page 62, you had four
12 withdrawals --

13 A. Can you just give me a second, please.

14 Q. Totaling --

15 A. Can you just give me 30 seconds here.

16 Q. Yep.

17 A. Go ahead.

18 Q. So Page 26, you had four withdrawals totaling
19 27,000 -- \$2,700, approximately?

20 A. Twenty-seven.

21 Q. \$2,975.

22 A. That -- I would agree with that.

23 Q. And it closed the account, correct?

24 A. Yes.

25 Q. So in a little over a year, you spent all of

1 Dr. Moser's \$270,000, correct?

2 A. Yes. It was --

3 Q. Thank you.

4 A. -- spent in the operation of law.

5 Q. Whatever -- you've made no efforts to repay any
6 of those funds to Dr. Moser, have you?

7 A. No.

8 Well, actually --

9 MR. MOORE: Mr. Mata, you'll have a chance
10 to testify here on in a moment.

11 Q. (By Ms. DeBerry) You claim that you -- in the
12 latter part of 2013 that you had made an agreement --
13 no. Take that --

14 That you claim that -- that you reached an
15 agreement to pay back the money after the grievance was
16 filed, correct?

17 A. No. I after the grievance was filed, Dr. Moser
18 contacted me to do some more work for him and --

19 MS. DeBERRY: Objection; nonresponsive.

20 MR. MOORE: It's sustained.

21 Again, Mr. Mata, you'll have a chance to
22 cross.

23 Q. (By Ms. DeBerry) Did you -- did you represent
24 in your deposition that you had -- and in your response
25 to us that you had reached an agreement to repay

1 Dr. Moser?

2 A. Yes.

3 Q. And that you'd prepared a promissory note,
4 correct?

5 A. Correct.

6 Q. But you didn't do that, did you?

7 A. I prepared the promissory notes. Yes, it
8 exists.

9 Q. But you never gave it to Dr. Moser or to
10 Mr. Danish, did you?

11 A. No.

12 Q. And, in fact, didn't Dr. Moser and Mr. Danish
13 both tell you that it was not acceptable, that they
14 would not do a settlement agreement with you?

15 MS. DeBERRY: I pass the witness.

16 MR. MOORE: Okay. Mr. Mata, this is your
17 turn.

18 CROSS-EXAMINATION

19 MR. MATA: Okay. With respect to that
20 settlement, the -- when -- start from the beginning.

21 I represented Dr. Moser. Don't know who
22 he was referred by, but I did represent him to form a
23 foreign trust for him that would provide a more asset
24 protection for the trust that -- the assets that he said
25 that he had inherited from his mother.

1 I did that flat-fee agreement. I was with
2 the Law Firm of Wright & Greenhill at the time. It was
3 done on a flat-fee agreement.

4 The flat fee basically covers -- exactly
5 covers establishment -- establishing the agreement,
6 having it registered. After that, it turns into an
7 hourly fee because --

8 MS. DeBERRY: Objection. I'm gonna object
9 to relevance. It's not relevant to the 27 --

10 MR. MOORE: What's the -- can you respond
11 to that objection, Mr. Mata?

12 MR. MATA: It's not relevant to what?

13 MS. DeBERRY: To the allegations of
14 misappropriating Dr. Moser's funds, the \$270,000.

15 MR. MATA: Well, if you want me to get
16 directly to the \$270,000, you really have to start well
17 before that time. Because I transferred over a million
18 dollars -- or a range for him to be able to transfer a
19 million dollars of funds that he said he wanted to
20 protect from potential creditors. And he constantly
21 alluded to family disputes, which, based upon my
22 experience, happens all the time, been involved in well
23 over a dozen of them.

24 And so I did that. However, since I do
25 not actually participate in the transfers, I never knew

1 exactly where the funds were coming from.

2 When Dr. Moser and all U.S. clients were
3 asked to depart Zürcher Kantonalbank, the asset man- --
4 the asset management company that was formed by some
5 former officers at ZKB agreed to try to find a bank that
6 would accept the assets that they could manage,
7 Swiss/American advisers would manage. Vontobel Bank
8 agreed to be strictly the custodian. However, Zürcher
9 Kantonalbank really did not ask any questions, certainly
10 not of me, and I don't think of anyone else of where the
11 million dollars was coming from that was initially used
12 to fund the trust.

13 MR. MOORE: Mr. Mata, I'm gonna address
14 the relevancy objection with this.

15 The issue at hand is \$270,000.

16 Does this relate to that?

17 MR. MATA: Well, you want me to relate to
18 the \$270,000, it's a much bigger issue than \$270,000.
19 'Cause when the fund -- when the trust was first formed
20 and it was funded with the million dollars, Dr. Moser
21 represented to me that it was funds that he had
22 inherited from his mother's trust.

23 MS. DeBERRY: Again, objection.

24 MR. MOORE: No. I want to see how it ties
25 in, and I think Mr. Mata's trying to --

1 MR. MATA: So I accepted that. Okay?

2 And in 2013, Vontobel Bank asked for what
3 we call a source of funds letter. They want proof of
4 some sort of where the funds came from. They're
5 typically looking more for illegal-sourced funds rather
6 than, at that time, you know, who had title to them.

7 MR. MOORE: Can you tie this into the
8 270,000?

9 MR. MATA: Yes. Absolutely.

10 Dr. Moser represented to me that the
11 entire -- that all funds that he had transferred into
12 the trust, including the initial million and the 270,000
13 were inheritance. But by the time that -- exactly 2013
14 that we were making these additional transfers, the
15 \$270,000 transfer, bank Vontobel started asking
16 questions about where is this money coming from. So I
17 had to write a source of funds letter. I had to explain
18 to the bank where is all this money coming from.

19 MR. MOORE: Okay. Mr. Mata, I'm gonna
20 sustain the relevancy objection, because the
21 testimony -- I'll give you the basis for my ruling on
22 this.

23 The testimony we've heard is about a
24 discreet \$270,000 that you have testified you
25 distributed to your law practice, and so I think that's

1 where we need to focus our testimony.

2 MR. MATA: Okay. Then I'll limit it.

3 MR. MOORE: We have a panel member
4 question.

5 MR. METAYER: It appears to me that you're
6 trying to say that this million dollars of whatever --
7 you know, funding of the account is related to the
8 \$270,000 here. But I'll be frank, that's not what's
9 being asked, and I want to make sure you understand
10 what's being asked of you here and what we're talking
11 about here.

12 We're talking about the \$270,000 here.
13 We're not talking about the initial funding of the
14 account whatsoever. So that's why you're hearing people
15 ask you questions specifically about how that's relevant
16 to that or was that actually included in that or how is
17 it even with that.

18 It sounds to me that you're testifying
19 about the illegality or whatnot of that source.

20 Are you trying to allege that something he
21 was doing was illegal? Because that's not relevant to
22 what we're talking about here. Because what we're
23 talking about here is \$270,000 at issue that deposing
24 counsel's already articulated and conveyed that and the
25 fact that you've spent that, which you've already

1 testified that you were using, but you said you were
2 under permission to utilize that.

3 Do you understand that?

4 MR. MATA: You're absolutely correct.

5 MR. METAYER: Okay.

6 MR. MATA: Let's just round it offer to a
7 million and 270,000. But they all came from the same
8 place. They all came from the Moser Family Trust.

9 MS. BASTIAN: We only care about the
10 270,000 that was in your account. That's all we care
11 about. We don't care about the million.

12 MR. MATA: Where did it come?

13 MS. BASTIAN: We don't care. It came from
14 a trust account that belonged in some fashion to him or
15 some people and didn't belong to you, but is in your
16 control. And that's what we're trying to figure out.
17 We don't care about the million.

18 MR. MATA: The source was all the same.
19 Dr. Moser did not have the authority to make that
20 transfer.

21 MS. BASTIAN: Okay. But do you have any
22 documentation that you had the authority to take it into
23 your account and keep it there.

24 MR. MATA: No.

25 MS. BARRIENTOS-LEE: And you use it for

1 personal.

2 MS. BASTIAN: Then what does it matter?

3 Two wrongs don't make a right.

4 MR. MATA: It does matter because the

5 grievance that was filed claims that it was to be used

6 to fund his individual trust to -- of which he was the

7 sole beneficiary. He did not have the authority to

8 distribute that \$270,000 in the first place. He did not

9 have the authority to write that check.

10 MS. BASTIAN: So then why didn't you turn

11 the money over to authorities instead you spent it? So

12 how does that make you --

13 MR. MATA: No. Because I didn't know that

14 at the time.

15 MS. STINSON: What gave you the authority

16 to spend it?

17 MR. METAYER: Yeah. That's what we're

18 trying --

19 MS. BASTIAN: I mean --

20 MR. MATA: My conversation with him.

21 Because when the funds was transferred -- Zürcher

22 Kantonbank was so anxious to get Americans out of the

23 bank that they liquidated what was otherwise an

24 excellent investment portfolio. So it was liquidated

25 into cash, and by that time, the returns on cash were

1 extremely poor.

2 MS. DeBERRY: Objection; relevance.

3 MR. MOORE: That's sustained.

4 We need to focus on the issue that's in
5 front of us, Mr. Mata. And that is your taking the
6 \$270,000 and spending it in the way you did.

7 If you want to testify as to agreements
8 with your client or anything of that nature, that's
9 relevant. But these other investment issues, I do
10 not --

11 MS. BASTIAN: Yeah.

12 MR. MATA: Okay. Well, then let's stick
13 to the 270,000.

14 MR. METAYER: Okay.

15 MR. MATA: 270,000 was part of the Moser
16 Family Trust. And at my deposition -- correct me if I'm
17 wrong -- counsel asked me if he -- if Dr. Moser had the
18 right to make distributions out of that trust. That was
19 the question that she asked me, and that was --

20 MS. DeBERRY: Objection.

21 MR. MOORE: Basis of the objection?

22 MS. DeBERRY: I don't recall making that
23 question.

24 MR. MATA: Well, the deposition's here
25 somewhere.

1 MS. DeBERRY: It's right here.

2 MR. MOORE: Again, Mr. Mata, we want to
3 give you the full benefit of an opportunity to be heard,
4 because this is very important to you, as well as to the
5 Bar. But we need to focus on the issues that our panel
6 is going to be making decisions on, and that revolves
7 around how that \$270,000 was distributed and why it was
8 distributed in the manner it was.

9 And I think you've -- we've gotten some
10 background on the investment and the banks and getting
11 the Americans out. But we really need to focus our
12 attention on this discreet fund and how it was spent,
13 and if there was anything you have to add that gave you
14 permission to do it in that manner.

15 MR. MATA: The response to that is I would
16 have never done any of that had Dr. Moser told me that
17 he did not have the authority to make that
18 \$270,000 distribution. Look at the very, very, very
19 tail end of the deposition.

20 MR. METAYER: That makes more sense.

21 Okay. So which -- this is -- what you're
22 saying is this -- tell me if I'm wrong. I don't want to
23 put words in your mouth.

24 Is that if not for him giving you money in
25 the first place, you would never have spent it.

1 Is that what you're saying?

2 MR. MATA: If it -- if he had -- he gave
3 me funds that he represented were his --

4 MR. METAYER: Okay.

5 MR. MATA: -- and, therefore, he had -- if
6 they're his, he has the authority to negotiate with
7 me -- and it wasn't much of a negotiation, frankly --
8 how to spend it. He never represented to me that he
9 didn't have the authority to transfer those funds to me
10 in the first place. Had I known that --

11 MR. METAYER: So we're trying -- so we're
12 trying to understand -- I kind of think I know where
13 you're going.

14 You're saying that you -- you believe that
15 he had authority to -- to initially or transfer you
16 \$270,000, and if not for that, if you believed that he
17 didn't have the authority, you would never have spent
18 it.

19 Is that what you're trying to say?

20 MR. MATA: Absolutely.

21 MR. METAYER: But what we're trying to say
22 here is this -- and this is -- this is where the Chair
23 was asking you about this.

24 Where do you show that you have any
25 authority whatsoever to have spent that money and not

1 transferred it to an account? Where is the agreement?

2 Is there anything related to that that you have?

3 MR. MATA: With respect, I think I've
4 already answered that. That was strictly by telephone.

5 MR. MOORE: That's fine.

6 MR. METAYER: Okay. That's all we need.

7 Okay.

8 MR. MATA: Strictly by telephone.

9 MR. MOORE: Anything further, Mr. Mata, on
10 this issue?

11 MR. MATA: On the 270,000?

12 MR. MOORE: Yes.

13 MR. METAYER: Yeah.

14 MR. MATA: I would have never utilized a
15 dime of that money had Dr. Moser disclosed to me that he
16 did not have the authority to loan it to me in the first
17 place. And if you look at the very, very, very tail end
18 of the deposition and --

19 MR. MOORE: Okay. We will accept that as
20 true, Mr. Mata.

21 So is there anything else that you want to
22 add to the 270,000 or how it was spent?

23 We understand your testimony is you would
24 not have accepted it, had you known what you know now.

25 MR. MATA: It was more than had I known.

1 He represented to me that he had the authority to make
2 that loan.

3 MR. MOORE: And we accept that.

4 So is there anything further that you want
5 to the distribution of the money or any conversation?

6 MR. MATA: No. There was distributions to
7 270 at the time in a nutshell. It's in my -- it's in
8 the record. So there is no sense in rehashing it all
9 over. I was involved in serious personal injury
10 litigation that I was handling myself that was just
11 eating my lunch, for lack of better words.

12 MR. MOORE: Okay.

13 MR. METAYER: Okay. So you're saying you
14 spent the money funding you -- a PI case that you had?

15 MR. MATA: Funding my law practice that I
16 could not --

17 MR. METAYER: Okay.

18 MR. MATA: Yes. Absolutely.

19 MR. MOORE: Anything further?

20 MS. BARRIENTOS-LEE: Do you have any of
21 the remaining -- any of the \$270,000 in any of your
22 accounts?

23 MR. MATA: No.

24 MR. METAYER: Okay.

25 MR. MOORE: Panel members, any other

1 questions?

2 MS. DeBERRY: I have just two quick
3 questions.

4 REDIRECT EXAMINATION

5 BY MS. DeBERRY

6 Q. You had a copy of the Moser Family Trust,
7 correct?

8 A. The Moser Family Trust -- there is no Moser
9 Family Trust agreement. There is the last will and
10 testament of Mary Garrett.

11 Q. Okay. So it was a testamentary trust.

12 But you had a copy of that, correct?

13 A. I eventually got a copy of it, yes.

14 Q. Okay. And Mr. Moser -- Dr. Moser is the
15 trustee of that trust, correct?

16 A. Yes.

17 MS. DeBERRY: Okay. Thank you. That's
18 all I have.

19 MR. MOORE: Okay. Anything further?

20 Yes, sir.

21 DR. MOSER: All the -- all the funds --
22 Mother's estate passed without any tax value and all.
23 She made me the trustee of the Moser Family Trust.
24 Mother's first will gave me unlimited control over those
25 funds.

1 MR. MOORE: Anything further?

2 MR. MATA: No. That's not true.

3 MR. MOORE: Anything further from you,
4 Mr. Mata?

5 MR. MATA: Yes.

6 Dr. Moser knows this, because for the
7 first time in my career, I received a call from the
8 trustee in regard to Moser -- in regard to Dr. Moser's
9 account -- and this is after I was not representing
10 him -- to tell me that this entire concept of how this
11 foreign trust was funded was now being investigated by
12 the federal government at the highest level.

13 MS. DeBERRY: Objection; relevance.

14 MR. MOORE: Sustained.

15 MR. MATA: Well, I -- I accept your
16 exception. Because what it amounts to is that someone
17 made a referral; we don't know who. I wrote this letter
18 based upon the information that Dr. Moser provided me.
19 He provided me all of these documents.

20 MR. MOORE: Mr. Mata, let me tell you why
21 I sustained the relevancy objection. I know there is
22 collateral stuff going on with this all over.

23 Our committee is charged with looking at
24 this one narrow issue. And so it's really not relevant
25 what kind of trouble the trust may have gotten into or

1 people around the trust or if even if Dr. Moser himself.

2 MR. MATA: Well, if -- if you want to
3 limit it to the 270, in my opinion, it's very simple. I
4 would have never touched a dime of it had I known that
5 he didn't have a -- he didn't -- contrary to what he
6 just said, he did not have the authority to make a
7 distribution of those funds to me.

8 MR. MOORE: Okay. We've heard that and
9 accept that testimony.

10 Anything further from either side?

11 MS. DeBERRY: I call Dr. Moser -- recall
12 Dr. Moser for just a couple of real quick questions?

13 I'll make them real fast.

14 MR. MOORE: Go ahead.

15 FURTHER REDIRECT EXAMINATION

16 BY MS. DeBERRY

17 Q. Okay. First of all, and I think I just want to
18 make sure -- were there any restrictions on use of
19 trustee of the trust?

20 A. Not that I can remember.

21 Q. Okay. And did you ever discuss with Mr. Mata
22 any family disputes?

23 A. No. I have no heirs. No children, no ex-wife,
24 no nothing.

25 Q. Okay. And did you ever discuss with him

1 protection from creditors as a reason for creating the
2 trust?

3 A. Not that I can remember.

4 MS. DeBERRY: Thank you.

5 I have no further questions.

6 MR. MOORE: Any further, Mr. Mata?

7 MR. MATA: Yes. I totally disagree with
8 everything he just said.

9 MR. MOORE: All right. Sir, we'll make a
10 note of that.

11 MR. MATA: I have the documents to support
12 it, and I want to admit them as evidence.

13 MR. MOORE: Okay.

14 MS. DeBERRY: I'm gonna object.

15 MR. MOORE: Let me see them.

16 MR. MATA: This is the last will and
17 testament that Dr. Moser says gave him the right to
18 absolute make any distributions at his absolute
19 discretion. And, frankly, I accepted his word at it.
20 I've learned over the years not to accept anybody's
21 words. I had one of the largest law firms in the world
22 based in Houston just --

23 MS. DeBERRY: Once, again, that was not
24 turned over during discovery, and I haven't seen it.

25 MR. MOORE: Well, on that basis, do you

1 have this marked? You want to mark this as --

2 MR. MATA: Yes. I want to mark it. It's
3 absolutely acceptable.

4 MR. MOORE: Let's mark this as
5 Respondent's 1.

6 (Respondent Exhibit No. 1 offered.)

7 MR. MOORE: And, Mr. Mata, you're offering
8 Respondent's Exhibit 1?

9 MR. MATA: Yes, I am.

10 MR. MOORE: And objections?

11 MS. DeBERRY: Yeah. I haven't even seen
12 it. He didn't turn it over in discovery, and it was
13 asked for.

14 MR. MOORE: And your response to that,
15 Mr. Mata?

16 MR. MATA: I told her I had two boxes full
17 of documents. That all she had to do was call, make an
18 appointment to come see him, or I'd get her a copy of
19 anything, and I never heard a word from her again.

20 MR. MOORE: Okay.

21 MS. DeBERRY: That is not true.

22 MR. MOORE: This document was not
23 produced.

24 MS. DeBERRY: I specifically asked to see
25 them.

1 MR. MOORE: Please, Ms. DeBerry.

2 But this document was not produced; is
3 that --

4 MR. MATA: No. That document was not
5 produced.

6 MR. MOORE: I'm gonna sustain the
7 objection based on nondisclosure.

8 (Respondent Exhibit No. 1 not admitted.)

9 MR. MOORE: Anything further?

10 MR. MATA: Yes. The bank got very
11 suspicious of Dr. Moser's activities, so they asked me
12 to write --

13 MS. DeBERRY: Objection; relevance.

14 MR. MATA: It goes to the credibility.
15 The issue here is, who's telling the truth, me or
16 Dr. Moser.

17 Isn't that a relevant issue?

18 MR. MOORE: Yes. But this is -- the bad
19 behavior is not a basis for impeachment of a witness.
20 So if you have a conviction for felony or a crime of
21 moral turpitude within the last 10 years, we'll consider
22 that. But just an allegation of bad conduct is not
23 admissible.

24 MR. MATA: Unauthorized.

25 MR. MOORE: Same ruling.

1 MR. MATA: Because I'm being blamed for
2 spending funds that Mr. Moser misrepresented to me he
3 had the authority to lend to me.

4 MR. MOORE: We understand that's your
5 testimony, Mr. Mata. We accept that that's your
6 testimony.

7 Is there anything further that you want to
8 offer to panel?

9 MR. MATA: Yes. I want to offer to the
10 panel the letter that included all the documents that
11 Dr. Moser provided me to show how he funded the trust to
12 begin with, because, by that time, Vontobel Bank was
13 getting suspicious and --

14 (Respondent Exhibit No. 2 offered.)

15 MR. MOORE: Before we have testimony on
16 this document, let's get it marked and get this on the
17 record.

18 Ms. DeBerry, have you seen this?

19 (Court reporter marking exhibit.)

20 MS. DeBERRY: No, I haven't. Thank you.
21 Can we get copies of these, please.

22 MR. MOORE: And we can do that as a matter
23 of clerical.

24 MS. DeBERRY: Okay. I'm gonna object
25 because it wasn't turned over during discovery.

1 MR. MOORE: Any other basis for your
2 objection?

3 MS. DeBERRY: I don't think it's relevant
4 to the \$270,000 either.

5 MR. MOORE: And what's your response to
6 the objection, Mr. Mata?

7 MR. MATA: It is. That letter is dated
8 June 4th, 2013, and it was just a matter of two months
9 after I wrote that letter that the bank refused to
10 accept the wire, the \$270,000.

11 MR. MOORE: Okay.

12 MS. DeBERRY: And I'm --

13 (Handing document to Mr. Moore.)

14 (Brief pause as Mr. Moore and panel
15 members review document.)

16 MR. MOORE: I -- honestly, Mr. Mata I'm
17 straining to see how it's relevant, but I want your --
18 want you to have an ample chance to build a record in
19 this case, so I'm going to admit Respondent's Exhibit 2.

20 (Respondent Exhibit No. 2 admitted.)

21 MR. MATA: And if I recall correctly,
22 Dr. Moser said that we never had any kind of discussions
23 about family disputes or anything like that within in
24 his family.

25 MR. MOORE: And I think I would have

1 sustained a relevancy objection, had you made it to that
2 question, but I'll let you respond, since the
3 objection --

4 MR. MATA: Well, when I eventually
5 realized that Dr. Moser had made disbursements that he
6 was not authorized to do and that the principal balance
7 of the Moser Family Trust was supposed to go to the
8 heirs listed in his Mother's will, I told him he needed
9 to correct it. He asked me how to correct it. I said,
10 we need to prepare a codicil to your will because the
11 assets of the offshore trust, upon your death, go to
12 whoever you stipulate, typically through special power
13 appointment, but we always use a last will and
14 testament.

15 So I said, we need to prepare a codicil to
16 your last will and testament to make sure that the
17 intended heirs of your mother's trust receive the funds
18 in that offshore trust when you die. And in order to do
19 that, I need to have some current contact data. He had
20 someone prepare it, and he gave me this list. That's
21 his handwriting on it.

22 MR. MOORE: All right. I can't see this
23 until it's been admitted into evidence.

24 MR. MATA: I want to admit that as -- I
25 mean, that totally contradicts his statement.

1 MR. MOORE: Show it to opposing counsel.

2 MR. MATA: That totally contradicts his
3 statement that there was no discussion about family
4 disputes or anything.

5 MS. BASTIAN: Am I just lost? I mean,
6 know I'm not a lawyer. But...

7 MR. MATA: It took me 10 years to figure
8 this out.

9 MS. BASTIAN: I don't understand how --
10 doesn't matter if it was supposed to go to heirs or
11 what, you still spent the money that was put -- that you
12 put in your account. You didn't give it back to his
13 heirs or call the police and say he was stealing.

14 MR. MATA: I spent the money --

15 MS. BASTIAN: I'm confused.

16 MR. MATA: -- in the account because of
17 the misrepresentations that he made to me.

18 DR. MOSER: That's a bunch of shit.

19 MR. METAYER: Wait. Wait.

20 MR. MOORE: Hold on. Let's -- let's get
21 this -- let's take it one step at a time.

22 MS. DeBERRY: I'm gonna object to this.
23 Again, it was not produced in discovery, once again.

24 MR. MOORE: Let's mark it; get the record
25 straight. Respondent's 3.

1 (Respondent Exhibit No. 3 offered.)

2 MR. METAYER: So, Mr. Mata, your premise
3 is that if you didn't have the money in the first place,
4 you wouldn't have had the opportunity to spend it;
5 that's why it's his fault.

6 MR. MATA: If I would have known he didn't
7 have the authority to loan me the money, I wouldn't have
8 spent it in the first place.

9 DR. MOSER: (Inaudible.)

10 MR. METAYER: And that was based on a --
11 and you say that was based on a conversation?

12 MR. MATA: More than conversations.
13 Unfortunately, I didn't print the whole thing, but when
14 he funded the trust -- I just realized I didn't print
15 all the pages. But...

16 MR. METAYER: My apologies, Mr. Mata.

17 DR. MOSER: (Inaudible.)

18 MR. METAYER: What I'm saying is that a
19 conversation in regards to \$270,000.

20 MR. MATA: Right.

21 MR. MOORE: Okay. Let's -- let's get
22 this -- keep our record straight here.

23 MS. DeBERRY: I need to ask Dr. Moser a
24 question about this document real quick, if I may.

25 MR. MOORE: You want a private conference

1 here?

2 Let's go off the record.

3 MS. DeBERRY: No. I just need to ask him.

4 This can go on the record.

5 Dr. Moser, can you tell me what this list
6 is?

7 DR. MOSER: This is the list of the 2010
8 Sanders' family reunion. My mother's last name is
9 Sanders.

10 MR. MOORE: Okay.

11 MS. DeBERRY: So these are not necessarily
12 your mother's heirs --

13 DR. MOSER: No.

14 MS. DeBERRY: -- or your heirs?

15 DR. MOSER: No.

16 MS. DeBERRY: They're just --

17 DR. MOSER: They're relatives.

18 MS. DeBERRY: -- family.

19 DR. MOSER: They're really --

20 MS. DeBERRY: But they're not necessarily
21 heirs?

22 DR. MOSER: No.

23 MS. DeBERRY: Thank you.

24 MR. MATA: I'd like to ask a question
25 about that.

1 MR. MOORE: Well, are you offering the
2 document?

3 MR. MATA: Yes, I am offering the
4 document.

5 MR. MOORE: And there is an objection?

6 MS. DeBERRY: Yes.

7 MR. MOORE: And the objection is?

8 MS. DeBERRY: It's not relevant.

9 MR. MOORE: Okay. And do you think you
10 can -- a question you can ask to make it relevant,
11 Mr. Mata?

12 MR. MATA: If this was just a list of
13 people who got together at a family reunion, why was it
14 so detailed, and why did he write on the top of the list
15 in his own handwriting, beneficiary of Mother's will
16 probably on this list?

17 MR. MOORE: We're getting rather far
18 afield here, and I want to get us refocused on what the
19 issue is in this case.

20 MR. DANISH: (Inaudible.)

21 MR. MOORE: We're -- hold on -- counsel,
22 let's get through this, if we can.

23 The focus, again, is on the 270,000. It
24 doesn't matter where it came from.

25 Question is: Did you have any authority

1 to spend it in the manner that you did?

2 And that's where we're focused.

3 So if you have something that's relevant
4 for that, we'd like to hear it.

5 MR. MATA: The only thing the I have is
6 the representations that he made to me that it would --
7 and I don't remember what rate we negotiated, but rates
8 were very low. I told him that I could utilize the
9 funds and pay him a higher rate than what he was going
10 to get at bank Vontobel. Where, in reality, the funds
11 were never invested.

12 MR. METAYER: Okay. Okay. Let's leave it
13 at that.

14 So what -- you said there was a rate.

15 What was the rate?

16 MR. MATA: I -- I -- rates were very low
17 at that time, and they have been for 10 years.

18 MR. MOORE: Do you remember what that rate
19 was?

20 MR. MATA: Well, I offered him a very
21 lucrative rate, like three-and-a-half percent; I do
22 remember that. Three-and-quarter, three-and-a-half.
23 But it was set at, like, one-and-a-half over some
24 published rate.

25 MR. MOORE: Okay. And are there any

1 documents that --

2 MR. MATA: No documents whatsoever.

3 MR. MOORE: Okay. Anything else that has
4 to do with the issue in front of the panel?

5 MR. MATA: I think this is an extremely
6 relevant document because this matter is going to get
7 even far --

8 MR. MOORE: We have offered Respondent's
9 Exhibit 3, and I'm going to sustain the relevancy
10 objection.

11 (Respondent Exhibit No. 3 not admitted.)

12 MS. DeBERRY: Keep these so we can get
13 copies of them.

14 MR. MOORE: Anything further from either
15 side?

16 MS. DeBERRY: Not at this time.

17 MR. MATA: Yes. I -- when the grievance
18 was first filed, I contacted Dr. Moser because he asked
19 me to something for him, and he denied having filed a
20 grievance.

21 MS. DeBERRY: Objection; relevance.

22 MR. MOORE: I'm gonna sustain that.

23 MR. MATA: I declined to do any further
24 work for him.

25 MS. DeBERRY: Objection; relevance.

1 MR. MOORE: Sustained.

2 MR. MATA: In my opinion, for whatever
3 reasons, he's never understood --

4 MS. DeBERRY: Objection; relevance.

5 MR. MATA: -- this entire process of his
6 responsibilities over the trust funds because additional
7 trust funds --

8 MS. DeBERRY: Objection; relevance.

9 MR. MOORE: I'm gonna sustain the
10 objection.

11 Again, Mr. Mata, we're focused on this one
12 transaction, what was done with the funds afterwards.

13 Anything that you have to add on that
14 issue?

15 MR. MATA: What was done with the funds
16 afterwards?

17 MR. MOORE: Yes, sir.

18 MR. MATA: Well, he offered to ask me to
19 take -- wire another \$260,000 just less than a year ago
20 and --

21 MS. DeBERRY: Objection; relevance.

22 MR. MOORE: Sustained.

23 MR. METAYER: I'm sorry. You said he
24 asked you to wire another 260?

25 MR. MATA: He wasn't supposed to know

1 this; I'm not supposed to know this. But the -- when I
2 gave my deposition and I suspect that when he gave his
3 deposition, he did not -- I know I did not realize that
4 there was already a treasury department investigation at
5 a very high level --

6 MS. DeBERRY: Objection; relevance.

7 MR. MATA: -- over the source of the
8 funds.

9 MS. DeBERRY: Objection; relevance.

10 MR. MOORE: This is the panel's questions.

11 MR. METAYER: I'm trying to understand.

12 Are you saying subsequent to the
13 \$270,000 that are at issue in this case, you're saying
14 that Dr. Moser requested that you transfer another
15 additional \$260,000? Is that what you're saying?

16 MR. MATA: Yes. 260,000.

17 MR. METAYER: What date?

18 MR. MATA: Well, he asked me about it in a
19 fax dated August 21 of last year.

20 MR. METAYER: Is that true?

21 DR. MOSER: Well, I saw -- some more of
22 Mother's real estate sold --

23 MR. METAYER: So I just want to confirm.

24 Even you guys had this issue going on with
25 the \$270,000, but subsequent to that, you still were

1 utilizing him for that.

2 DR. MOSER: Well, yeah.

3 MR. METAYER: Okay. That's --

4 DR. MOSER: But I was gonna transfer it
5 myself this time.

6 MR. METAYER: Okay.

7 DR. MOSER: I wasn't gonna let him
8 transfer it.

9 MR. METAYER: Okay. Thank you.

10 MR. MOORE: Okay. Thank you.

11 Anything further?

12 MR. MATA: Yeah. There's --

13 MR. METAYER: Related to --

14 MR. MATA: I'm not an expert on the
15 confidentiality of these provision, but the treasury
16 department used either mutual legal assistance treaty or
17 a tax protocol to get the Swiss to turn over every
18 single --

19 MS. DeBERRY: Objection; relevance.

20 MR. MOORE: Can you tie that into this
21 issue?

22 MR. MATA: Yes. All these records, the
23 opening statements that I heard that these things are
24 confidential, I've gotten three federal grand jury
25 subpoenas. I've testified in four criminal trials.

1 Everything that has been said here,
2 everything that has been produced here is eventually
3 gonna end up in the hands of the federal government.

4 MR. MOORE: And, again, that's beyond the
5 purview of this committee.

6 MR. MATA: I just wanted to make sure that
7 people knew that and -- someone not accuse me of not
8 disclosing that because the Swiss don't turn over
9 information to anybody.

10 MR. MOORE: You've informed us. Thank
11 you.

12 Anything further from either parity?

13 MS. DeBERRY: No, not at this time.

14 MR. MOORE: Okay. We're going to go into
15 recess for deliberation, and then we'll reconvene, if
16 necessary, for the second part.

17 (Recess from 1:31 p.m. to 1:37 p.m.)

18 MR. MOORE: Okay. We're back on the
19 record. This hearing has been bifurcated. And the only
20 issue before the committee for this first portion of the
21 hearing was whether disciplinary Rule 1.14(b) was
22 violated, and the committee has found that it was
23 violated.

24 So we're ready to proceed, if Mr. Mata and
25 Ms. DeBerry are ready to proceed, on the second part of

1 the hearing.

2 MS. DeBERRY: I am.

3 MR. MOORE: Okay. You may proceed.

4 MS. DeBERRY: At this time, I would
5 briefly call Mr. Danish.

6 MR. MOORE: Mr. Danish?

7 MR. DANISH: Right here.

8 JOHN DANISH,
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. DeBERRY

12 Q. Mr. Danish, as a member of the profession,
13 what's your opinion of the effect of attorneys behaving
14 the way Mr. Mata did in this case on the public and the
15 legal profession? How does it affect the legal
16 profession?

17 A. It's a very bad reflective on all of us. And
18 there is no way to not look at this as someone who is a
19 thief, period.

20 MS. DeBERRY: Thank you.

21 That's all the questions I have.

22 Pass the witness.

23 CROSS-EXAMINATION

24 BY MR. MATA

25 Q. Mr. Danish, do you think I would have taken the

1 action I took had Dr. Moser represented to the truth to
2 me about his lack of authority to transfer those funds
3 to me?

4 A. I don't even understand your reasoning, period.
5 If Bonnie and Clyde came into my office and gave me
6 \$250,000 and I put it in my trust account, I would
7 account for it and give it back to them.

8 Q. Dr. Moser was not Bonnie and Clyde; Dr. Moser
9 was a reputable doctor who had --

10 MS. DeBERRY: Objection.

11 Q. (By Mr. Mata) -- already transferred --

12 MS. DeBERRY: This is a question -- this
13 is not a question here.

14 MR. MOORE: Sustained.

15 Q. (By Mr. Mata) I --

16 MR. MOORE: You can testify on your own
17 behalf, Mr. Mata.

18 But do you have any more questions for
19 Mr. Danish?

20 MR. MATA: Well, I didn't quite understand
21 his comment, so I'm not really sure how I can cross him
22 on those.

23 MR. MOORE: Do you have anything further,
24 Ms. DeBerry?

25 MS. DeBERRY: Yes. I have Exhibit No. 12.

1 This is a certified copy of a prior Judgment of Probated
2 Suspension.

3 That's for the court reporter.

4 MR. METAYER: I'm so sorry. Excuse me.

5 MS. DeBERRY: That's okay. I just wanted
6 to -- it's a certified copy of a prior Judgment of
7 Probated Suspension.

8 MR. METAYER: Do you have this, Mr. Mata?

9 MS. DeBERRY: Oh, here, Mr. Mata.

10 (Petitioner Exhibit No. 12 offered.)

11 MR. MOORE: Is this being offered,
12 Ms. DeBerry?

13 MS. DeBERRY: Yes.

14 MR. MOORE: Any objection, Mr. Mata?

15 MR. MATA: I'm sorry. What is this
16 supposed to be?

17 MS. DeBERRY: It is a copy of a prior
18 judgment against you.

19 MR. MATA: Oh, okay. I remember this.
20 This is back in -- whenever 2012.

21 MS. DeBERRY: Uh-huh.

22 MR. MOORE: Any objection to Exhibit 12,
23 Mr. Mata?

24 MR. MATA: As it was my understanding that
25 once I complied with the suspension period, this entire

1 document would be become relevant, this entire situation
2 would become relevant -- irrelevant, and I did comply
3 with it.

4 MR. MOORE: Any other -- any other
5 objection?

6 MR. MATA: I don't think it's relevant to
7 the situation here because the facts in that case were
8 entirely different.

9 MS. DeBERRY: May I respond?

10 MR. MOORE: And I would agree with you on
11 the first part of it, but I'm going to overrule the
12 relevancy objection for this -- this portion of the
13 hearing.

14 No. 12 will be admitted.

15 (Petitioner Exhibit No. 12 admitted.)

16 MS. DeBERRY: I ask the panel to take
17 judicial notice the one of the rules violated again were
18 Trust Account Rules 1.14(a) and 1.155(d).

19 MR. MOORE: We'll take note of that.

20 MS. DeBERRY: Thank you.

21 MR. MOORE: Anything further, Ms. DeBerry?

22 FURTHER REDIRECT EXAMINATION

23 BY MS. DeBERRY

24 Q. I have just one question.

25 Mr. Mata, would you look at Exhibit 9,

1 please.

2 You don't have it if front of you. I'll
3 get it for you.

4 A. Let me see.

5 Q. Here's 9.

6 A. Here it is right here.

7 Q. Okay. On Page 7.

8 A. Yes.

9 Q. I believe it is -- there's a cashier's check
10 from 2008 for Asia Limited Trust. This wasn't deposited
11 until 2014, and then it was again taken out the same
12 month it was deposited.

13 Can you explain that?

14 A. I don't understand the relevancy of the
15 question. I can explain it. The cashier's check was
16 issued for the work that I was doing for Asia Trust
17 Limited at the time in the form of cashier's check, but
18 then I moved to Dallas and lost the cashier's check.
19 Then when I found it again, it was redeposited.

20 But contrary to what the bank told me to,
21 it has to be redeposited within three months -- I'm
22 sorry -- three years. They had told me it was seven
23 years. So they immediately took it out as stale funds.

24 Q. Oh, okay. So that's how that came out the same
25 month then.

1 A. I think it came out like the next day.

2 Q. The next day. Okay.

3 A. Because the cashier's check -- it was basically
4 like the cashier's check was not valid; it was stale.

5 Q. It was stale. Okay?

6 A. The cashier's check was stale.

7 Q. I didn't know what happened to Mr. Aguilar's
8 funds. So...

9 Did you report the \$270,000 that you used
10 of Mr. Moser's to the IRS as income?

11 A. No.

12 Q. Not for yourself or your law firm?

13 A. No. Strictly as a loan.

14 Q. Okay.

15 MS. DeBERRY: Those are all the questions
16 I have of Mr. Mata.

17 MR. MOORE: Mr. Mata?

18 MR. MATA: In regard to the -- the
19 Petitioner's Exhibit 12, the matters involving the trust
20 account are as simple as the fact that I had just
21 departed a law firm and had not opened an account, and I
22 was under the impression that I had a flat-fee check.

23 MS. DeBERRY: I'm gonna object as to
24 relevance.

25 MR. MOORE: Can you tie this -- I think --

1 let me respond this way, Ms. DeBerry.

2 I think we have wider latitude in this
3 portion of the hearing than we did the first.

4 MS. DeBERRY: Okay.

5 MR. MOORE: Because we're considering
6 sanctions, and I think we need to hear anything that
7 bears on that decision.

8 MS. DeBERRY: Okay. Because this is
9 offered as part of the aggravating factors.

10 MR. MOORE: I understand that.

11 MS. DeBERRY: Okay.

12 MR. MATA: I did not have a trust account
13 opened at the time because I'd always relied on law firm
14 accounts, and I just let the law firm -- the client
15 wrote me a check for \$7,500 for a limited partnership
16 agreement that I typically handle on a flat-fee basis,
17 and it was just deposited into the only account I had at
18 the time.

19 MR. MOORE: Okay. Anything else?

20 MR. MATA: Not on this exhibit.

21 Other than the fact that, you know, I
22 complied with the terms of the probated suspension.

23 MR. MOORE: Anything else that you would
24 like the committee to hear on the issue of sanctions?

25 MR. MATA: On the issue of sanctions, yes.

1 Dr. Moser never misrepresented [sic] to me
2 his authority to not only authorize that
3 \$270,000 transfer, but every penny that ever went into
4 that foreign trust, none of this would have ever
5 happened.

6 MR. MOORE: Yeah. I think we've heard and
7 accepted your testimony on that issue.

8 Any other issue that you'd like the panel
9 to consider?

10 MR. MATA: Yes. I mean, I think I've
11 notified the panel that all of this is eventually gonna
12 become open.

13 MR. METAYER: Another case.

14 MR. MOORE: Okay.

15 MR. MATA: And I don't know if -- if
16 Dr. Moser wants the truth to come out -- obviously, when
17 he asked me to send that additional -- help him with
18 sending additional wire, because I advised him at the
19 request of the trustee of the pending IRS investigation.
20 I told him there was way I was going to touch it with an
21 10-foot pole; he needed to get independent counsel. And
22 I do not understand why Dr. Moser instructed his new,
23 very competent counsel never to contact me --

24 MS. DeBERRY: Objection.

25 MR. MATA: -- again.

1 MR. MOORE: That's outside the purview of
2 our committee. I understand there's other issues that
3 this may impact. They're not on our -- our plate. So
4 we need to look at what's on our plate.

5 Anything else that has to deal with what
6 this committee needs to decide?

7 MR. MATA: No.

8 MR. MOORE: Okay. Ms. DeBerry, anything
9 further from you?

10 MS. DeBERRY: Yeah. I need to testify as
11 to attorney's fees, if I may.

12 MR. MOORE: Yes.

13 MS. DeBERRY: The commission has incurred
14 reasonable and necessary attorney fees in the total
15 amount \$11,818.57 cents, including attorney's of
16 \$9,552.25 for 36 and one hundred's hours at a fee of
17 \$275 per hour, and \$2,266.32.

18 I've been licensed in the state of Texas
19 since 2003, and I'm also admitted to the Western
20 District of Texas. I've practiced exclusively in the
21 area of attorney discipline for the past 12 years. And
22 fees charged are reasonable attorney's fees based upon
23 the novelty and difficulty of the legal services of the
24 questions involved, the time and labor required to
25 perform the legal services, the skill required to

1 perform the legal services properly.

2 The fee customarily charged in the
3 community for similar services and the experience,
4 reputation, and ability of the attorney providing the
5 services.

6 At this time, I offer Exhibit No. 13 --
7 (Petitioner Exhibit No. 13 offered.)

8 MR. MOORE: Any objection to Exhibit
9 No. 13, Mr. Mata?

10 MS. DeBERRY: -- which is the first sheet
11 our attorney's fees.

12 MR. MATA: Well, I'm not gonna read all
13 these descriptions. But, no, I'm not gonna object.

14 MR. MOORE: 13 is admitted.

15 (Petitioner Exhibit No. 13 admitted.)

16 MR. MOORE: Anything further, Ms. DeBerry?

17 MS. DeBERRY: No.

18 MR. MOORE: Any cross, Mr. Mata?

19 MR. MATA: Not at this time.

20 MR. MOORE: Panel members, any questions?

21 All right. Then that concludes this
22 portion of the hearing.

23 And, again, the panel will deliberate.

24 MS. DeBERRY: Can I give just a very, very
25 short closing.

1 MR. MOORE: Yes. Both of y'all -- give
2 you, like, two minutes.

3 CLOSING STATEMENT

4 MS. DeBERRY: I'm not going to go back
5 through everything we've gone through about the -- but I
6 do want to address some of the sanction factors that are
7 included. And those include the nature and degree of
8 the misrepresentation, the misconduct as well as the
9 seriousness and circumstances. And I think that's
10 pretty evident as to how severe it was.

11 Also, the loss and profit, loss to the
12 client, profit to the attorney of \$270,000, insulating
13 other clients from future misconduct. He's already
14 misappropriated funds or not handled client funds once
15 before, and I think the seriousness and the amount of
16 these funds speaks to the possibility of possibly
17 happening again prior discipline, and prior discipline
18 including one of the same rule violations.

19 Conduct during the disciplinary
20 proceedings. He did not respond completely to
21 discovery. He's made several misrepresentations about
22 things during the case.

23 I think the damage to the legal
24 profession. Any time attorneys behave in this manner,
25 it hurts our office and our profession as a whole.

1 There is an effect on others.

2 Sanctions are published in the Bar journal
3 and other attorneys see that we will not tolerate there
4 this. And those of us who have worked hard to obtain a
5 law license and to keep it know how much work that
6 obtains.

7 Mr. Mata hasn't done that, and he doesn't
8 deserve to keep his law license. So I request that
9 Mr. Mata be disbarred, that restitution in the amount of
10 \$270,000 be ordered, and that the attorney's fees in the
11 amount of 11,818.57 be awarded.

12 MR. MOORE: And that's inclusive of
13 expenses?

14 MS. DeBERRY: That's attorney's fees and
15 expenses, yes, as in Exhibit 13.

16 MR. MOORE: Mr. Mata, we'll give you the
17 sale three minutes.

18 MR. MATA: Just one question.

19 \$270,000 payable to whom?

20 MS. DeBERRY: To the -- well, to the Moser
21 Family Trust.

22 MR. MATA: Does it still exist?

23 MS. DeBERRY: And if it doesn't --

24 MR. MATA: Because the last bank statement
25 I saw had \$293 in it.

1 MS. DeBERRY: Is it still in existence?
2 If not, Dr. Moser is the beneficiary of
3 the trust, so it should be payable to him.

4 MR. MATA: No.

5 MR. MOORE: Here, let's do this.

6 MS. DeBERRY: Is the trust still in
7 existence?

8 DR. MOSER: Yeah. There's still an
9 account.

10 MS. DeBERRY: There's still an account.

11 MR. MOORE: Dr. Moser, could it --
12 restitution be paid to that trust account?

13 DR. MOSER: Yes.

14 MR. MOORE: Okay. It's good.
15 Anything further, Mr. Mata?

16 MR. MATA: Yes.

17 CLOSING STATEMENT

18 MR. MATA: First of all, I think that
19 counsel has just totally overstated the mistake that I
20 admit that I made when I initially left the law firm and
21 failed to open an IOLTA account in taking a flat-fee
22 engagement. It should have been deposited from there
23 and drawn from there. I recognize that.

24 MR. MOORE: That's the \$7,500 that
25 you're --

1 MR. MATA: That's the \$7,500; that's not
2 the 270,000.

3 And, secondly -- and I think this is
4 extremely important, and it's gonna become even more
5 important over the next year. Dr. Moser has totally
6 misrepresented his ability to deal with the funds of the
7 Moser Trust, every single penny of it. And this is --
8 and I am a victim of that misrepresentation.

9 And now I am probably -- I'm sure I am a
10 person of interest in a treasury department
11 investigation about how all these funds ended up
12 offshore because of these misrepresentations about his
13 ability to disburse funds seemingly at will out of that
14 trust. He didn't have the ability to do that.

15 And the document that establishes the
16 trust points that out. It's very, very clear. In fact,
17 the language, some lawyer didn't just invent that
18 language, that language came straight out of the
19 Internal Revenue Code.

20 MR. MOORE: Anything further?

21 MR. MATA: No, that's it.

22 MR. MOORE: Okay. Thank you. We'll
23 deliberate --

24 MR. METAYER: Ask one question.

25 How long did you work at Wright and

1 Greenhill?

2 MR. MATA: Well, I left at 2 --

3 MR. METAYER: 2012 is when you left?

4 MR. MATA: 2000- -- I think I was there
5 like -- let's see, '19. I was there -- I think I joined
6 them in around '93 or '90- -- no, that can't be right.
7 I was there 16 years --

8 MR. METAYER: Okay.

9 MR. MATA: -- prior to 2000.

10 MR. METAYER: Thank you.

11 THE WITNESS: Okay.

12 MR. MOORE: Okay. We'll let y'all know.

13 (Recess from 1:55 p.m. to 2:10 p.m.)

14 MR. MOORE: We're back on the record.

15 The committee has met in private, and we
16 have reached a decision on sanctions.

17 And our sanctions are as follows: We
18 are -- first sanction is disbarment. The second
19 sanction is attorney's fees to the CFLD attorneys in the
20 amount of \$9,552.25 payable by April the 5th, 2020.
21 We've also awarded cost to the CFLD in the amount of
22 \$2,266.32 payable by April 5th, 2020.

23 Restitution to the Moser Family Trust is
24 also ordered in the amount of \$270,000 payable by
25 April 5th, 2020.

1 We are also recommending psychological
2 evaluation before any possible restatement. That's our
3 judgment.

4 MR. MATA: Do I get a copy?

5 MR. MOORE: We'll reduce it to judgment,
6 Mr. Mata.

7 MR. MATA: Okay.

8 MS. DeBERRY: What we'll do is we'll take
9 that report and the judgment and the post-judgment, and
10 we send it to the panel chair, and they send it to you,
11 as well.

12 MR. MATA: Okay.

13 MS. DeBERRY: Thank you, sir.

14 We're off the record. This concludes our
15 proceeding.

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BEFORE THE EVIDENTIARY PANEL FOR
STATE BAR DISTRICT NO. 9-1 STATE BAR OF TEXAS

COMMISSION FOR LAWYER)
DISCIPLINE,)
)
 PETITIONER,)
)
VS.) 201800134
)
MARIO A. MATA,)
)
RESPONDENT.)

REPORTER'S CERTIFICATE

EVIDENTIARY HEARING

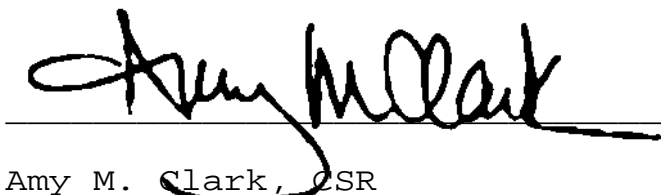
March 4th, 2020

I, Amy M. Clark, Certified Shorthand Reporter in and
for the State of Texas, hereby certify that the
foregoing proceeding was transcribed to the best of my
ability.

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

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Certified to by me on this 28th day of May, 2021



Amy M. Clark, CSR
Texas CSR 8753
Expiration: 10/31/2021
Ken Owen & Associates, L.P.
Firm No.: 115
801 West Avenue
Austin, Texas 78701
(512)472-0880

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