

SEALED

MERRICK B. GARLAND
Attorney General

BY ORDER OF THE COURT

MICHAEL G. WHEAT, CBN 118598
JOSEPH J.M. ORABONA, CBN 223317
JANAKI G. CHOPRA, CBN 272246
COLIN M. MCDONALD, CBN 286561
ANDREW Y. CHIANG, NYBN 4765012
Special Attorneys of the United States
880 Front Street, Room 6293
San Diego, CA 92101
619-546-8437/7951/8817/9144/8756
Colin.McDonald@usdoj.gov

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
Apr 09, 2024, 1:26 pm
Lucy H. Carrillo, Clerk of Court

Attorneys for the United States of America

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

CR No. 22-00048-TMB-NC

UNITED STATES' BRIEF
REGARDING ATTORNEY-
CLIENT PRIVILEGE

UNDER SEAL

If history is any guide, the Court should consider the pending and forthcoming privilege briefs from the defendants and MAI with extreme skepticism. During the grand jury investigation, MAI witnesses tried desperately to conceal the underlying crimes of Dennis Mitsunaga and his conspirators—by dodging subpoenas, abusing the Fifth Amendment, giving prepared, false speeches to the grand jury, and more.

Now, MAI’s CEO, Lois Mitsunaga, has emerged to state that MAI intends to assert an attorney-client privilege over unknown testimony of Defendant Sheri Tanaka. But Lois Mitsunaga is not some disinterested figurehead—she is Dennis Mitsunaga’s daughter and actively participated in the grand jury obstruction herself. Lois Mitsunaga’s original assertion of attorney-client privilege was even filed by Dennis Mitsunaga and his attorneys (who were identified in that filing as also representing MAI). We await their briefing, but as things stand, Tanaka’s claimed desire to testify to facts that MAI—through Tanaka’s close friend and Defendant Mitsunaga’s daughter—says are protected by attorney-client privilege appears to be a hand-in-glove attempt to engineer a legal conundrum to the benefit of the individual defendants.

In the end, the conundrum will be easily solved. MAI will be unable to establish all eight elements required to assert attorney-client privilege over whatever unknown testimony is in issue. And even if they could, the law prohibits MAI from using the attorney-client privilege as a sword and a shield—which they appear poised to do. Furthermore, the attorney-client privilege is pierced where the crime-fraud exception applies. Ultimately, the Court will be well positioned to determine that MAI has no valid privilege to allege from the back of the courtroom during trial.

//

//

//

I

BACKGROUND

A. *Dennis Mitsunaga files a notice of MAI's assertion of privilege*

In Dennis Mitsunaga's trial brief at ECF No. 435, Mitsunaga provided "notice" of a "potential conflict between the assertion and exercise of the attorney-client privilege and a defendant's right to exercise their Sixth Amendment right to provide testimony in their defense." ECF No. 435. The trial brief explained that in January 2024, Defendant Tanaka's attorney provided Defendant Mitsunaga's attorney (in her capacity as attorney for MAI) notice "that Tanaka may testify in her defense at trial and that, in the event she does testify, her testimony may include certain communications subject to the attorney-client privilege." *Id.* at 2. Defendant Mitsunaga's trial brief thereafter stated that "MAI does not waive the attorney-client privilege and hereby notices the Court of this potential issue should Tanaka choose to testify." *Id.* at 3.

Attached to Defendant Mitsunaga's trial brief was a declaration from Defendant Mitsunaga's daughter, Lois Mitsunaga (who has recently taken over as CEO of MAI), stating, "I hereby assert MAI's attorney-client privilege regarding any and all attorney-client privileged communications made between attorney Sheri Tanaka and any current or former MAI representatives, officers, or employees." ECF No. 435-1.

The United States raised this lurking issue in its Motion *in Limine* No. 6 (filed on March 4, 2024), observing that the defendants appeared poised to use the attorney-client privilege “as a sword and a shield.” ECF No. 477 at 6. After the defendants and MAI still had not addressed the issue as of March 14, the United States requested that the Court set an expedited timeframe for MAI to intervene and brief all required elements of the attorney-client privilege. ECF No. 531 at 8. On March 19, 2024, the Court issued an order that stated, in part,

if MAI continues to seek to assert an attorney-client privilege in this case from Tanaka’s role as corporate counsel, the Court will require MAI to intervene expediently. Further, the Court will require MAI to brief the elements and all relevant issues regarding its assertion of attorney-client privilege in this case, including how it plans to raise any objections. The Court will also require responses from the Defendants and the United States.

ECF No. 548 at 13. Still, MAI did not act. Accordingly, on March 27, 2024, the Court issued an order that stated in part,

If MAI continues to assert a claim of attorney-client privilege in this case, or, if any Defendant seeks or will seek to assert this alleged attorney-client privilege, the Court directs MAI to appear and brief its position on MAI’s claimed attorney-client privilege and all issues related to this claim. In its brief, MAI must identify how it intends to lodge objections, if any. Should MAI fail to appear and support its claim by the date certain below, the Court will thereafter consider any asserted attorney-client privilege impliedly waived.

ECF No. 587 at 2. The Court ordered initial briefing to be filed by noon on April 8, 2024, with response briefs due by noon on April 15, 2024.

On April 3, 2024, MAI, through new counsel (no longer Defendant Mitsunaga’s attorneys), filed a motion to intervene “because MAI has a claim of

attorney-client privilege regarding the testimony of its attorney, Sheri Jean Tanaka, Esq., a defendant in this matter.” ECF No. 619 at 1. MAI did not provide any further detail.

B. *MAI’s current CEO and CFO are Dennis Mitsunaga’s daughter and son-in-law*

The person pressing MAI’s alleged privilege is Lois Mitsunaga, Defendant Mitsunaga’s daughter.¹ Lois is also close friends with Defendant Tanaka; they attended high school together at Punahou and graduated in the same class. Mitsunaga’s husband, Ryan Shindo, also works for MAI. As of the most recent MAI corporate filing, it appears he is now the Corporate Secretary and CFO. Both Lois and Shindo appeared and testified before the grand jury. Both joined MAI’s attempts to obstruct the grand jury’s investigation.

At the outset of Lois’s testimony, before answering a single question, in what became an obvious tactic of MAI witnesses, the following exchange occurred:

Prosecutor: You have a Fifth Amendment right against self-incrimination. That means that if any answer to a question I put to you might implicated you in a crime, you could exercise your Fifth Amendment right to remain silent. Do you understand that?

Lois M.: You now, I understand that; however, I would just like everyone to know here what happened to my family a few weeks ago at the direction of Mr. Wheat and his agents, okay? I have two –

Prosecutor: You’ll have an opportunity to explain yourself –

¹ For sake of clarity, we refer to Lois at times by her first name.

Lois M.: -- I – I’m – I’m giving my complete answer.

Prosecutor: Ma’am – ma’m, let me finish advising you of your rights–

Lois M.: Please don’t take away my right to answer your question.

Prosecutor: I’m not taking away any of your rights. I want to tell you what your rights are.

Exhibit 1. Thereafter, Lois was advised of her rights before the grand jury. Then, immediately at the start of substantive questioning (and after confirming she had met with Defendant Tanaka “a minute before” she came into the grand jury room), Lois Mitsunaga launched into an opening monologue she had prepared. During the course of that monologue, Lois falsely denigrated the Special Prosecutor, stating that he had been “repeatedly accused of abusing your authority as a special prosecutor,” that he had “been found of repeatedly leaking sensitive information from the Grand Jury proceedings to the press,” and that she understood that the Special Prosecutor “lost credibility as a prosecutor in California.” “Is that why you’re in Hawaii?” she stated. “[Y]ou obviously do not know what local style and aloha is ‘cause we don’t treat – we don’t do that to family, okay?” Exhibit 1 at Tr. p. 6–7.

Beyond the Special Prosecutor, Laurel Mau also was a primary object of Lois’s ire:

So Laurel Mau is someone that I can’t even explain what a bad person she was and what she did to the company. I can’t tell you – just – I mean, what she did and – and how she did it, I mean, all the employees are just – were – it was just heartbreaking, you know, to have an employee do this.

Exhibit 1 at Tr. pp. 13–14.

And later:

When we found out about what Laurel Mau did, it was just really upsetting; and as she was terminated, we – after she was terminated, we found out through the lawsuit that she was doing that side job with Stanford Masui and then we just kept finding more and more side jobs that she did. I mean, I went through it. It – it’s crazy. I think she just had it all under her desk, and we uncovered, you know, how she hid the money and how she billed it. It – it’s in the document I gave you. It was like over \$200,000 that she hid and so I – I mean, I went through that. I was part of the process.

Exhibit 1 at Tr. pp. 13–14. In the quote above, Lois mentioned giving a document to the grand jury. That was referring to a written statement titled “STATEMENT TO THE GRAND JURY REGARDING LAUREL MAU AND THE PROSECUTOR’S OFFICE.” Exhibit 2.² This statement contained various lies. For instance—attempting to plant the seed of untruth as to why MAI went to the prosecutor’s office—Lois said that HPD Detective Phillip Snoops “felt what Laurel Mau did was a complicated business crime and recommended that we report it directly to the Prosecutor’s Office.” Exhibit 2 at 3. Immediately thereafter, Lois stated that “this is why we retained attorney MYRON TAKEMOTO (who is now a Judge) to file the complaint with the Prosecutor’s Office.”³ Later in her statement, Lois falsely stated,

² The Court has found that Lois Mitsunaga’s prepared statement “is admissible as statements of an agent or employee under Rule 801(d)(2)(D). Sealed Order on Defendants’ MILs 12-13 and United States’ MIL 5 at 12.

³ This fact is false. Mr. Takemoto joined the MAI legal team for the *Mau v. MAI* civil trial in approximately May 2014—18 months after Mitsunaga and Tanaka met with Kaneshiro to prosecute Mau.

“Sadly, the case was dismissed because of a *technicality* and Laurel Mau escaped punishment for her misdeeds.” *Id.* (emphasis added).

About eight weeks later, on May 27, 2021, Lois’s husband, Ryan Shindo, testified before the grand jury. At the outset of his testimony, Shindo launched into a prepared written speech that denigrated the Special Prosecutor. He ended his speech this way: “Michael Wheat is wasting my time, your time, taxpayer dollars, and engaging in a fishing expedition because he has no case. For the foregoing reason and due to Michael Wheat’s abuse of power as a special prosecutor and failure to act ethically as an officer of the court, I hereby invoke my [Fifth Amendment right] against self-incrimination and therefore respectfully decline to answer any questions.” Exhibit 3 at Tr. pp. 9–10. Shindo then invoked the Fifth to the following questions (plus more):

- How old are you?
- Where do you live?
- What is your cell phone number?
- You work for MAI?
- You know that MAI’s general number is 808-945-7822?
- What do you do for MAI?
- How long have you worked for MAI?
- Who are your supervisors at MAI?
- Do you know who Dennis Mitsunaga is?
- Do you know who Lois Mitsunaga is?
- Do you know who Chad McDonald is?

See generally Exhibit 3. In other words, Shindo badly abused the Fifth Amendment privilege, like other MAI witnesses. Unlike other witnesses, the United States did not ultimately seek an order compelling his testimony. Rather, after multiple MAI

witnesses in this same timeframe were ordered to cease abusing the Fifth Amendment,⁴ Shindo reappeared at a later date and relinquished his effort to assert a blanket Fifth Amendment privilege.

C. *MAI's attorney, Sheri Tanaka*

Sheri Tanaka acted as MAI's lawyer throughout the Laurel Mau saga. She was there, smiling on film, when Mau was fired. She led MAI's efforts to construct MAI's "side-job" pretext and thwart Mau's effort to obtain unemployment benefits. She accompanied Dennis Mitsunaga to the inaugural meeting with Keith Kaneshiro. She buried evidence in the *Mau v. MAI* civil lawsuit (then lied to the Magistrate Judge about it). She fed information to the Prosecutor's Office to get Mau charged. In other words, Tanaka was the front person, the legal muscle, for MAI's harassment crusade against Laurel Mau.

It is unknown whether Tanaka plans to testify, or what her testimony would entail. In January 2024, Tanaka's attorney, Mark Mermelstein, wrote to MAI's attorney, Nina Marino, the following:

As of today, no decision has been made as to whether our client Sheri Tanaka will testify at trial. In the event that she does testify, her testimony may possibly include certain communications subject to the attorney-client privilege. You have indicated that your client holds the privilege and is not willing to waive it at trial.

ECF No. 435-2.

⁴ District Judges ordered MAI-affiliated witnesses to cease wrongfully invoking the Fifth Amendment on June 10, 2021, June 17, 2021, June 23, 2021, and July 14, 2021. *See, e.g.*, Exhibit 9 to Sealed ECF No. 288.

II

THE ATTORNEY-CLIENT PRIVILEGE

The attorney-client privilege is a well-established protection grounded in common law, as provided for by Federal Rule of Evidence 501. *Upjohn v. United States*, 449 U.S. 383, 389 (1981). The privilege protects confidential communications between attorneys and clients made for the purpose of securing legal advice. *In Re Lindsey*, 158 F.3d 1263, 1267 (D.C. Cir. 1998). The privilege contains eight essential elements: (1) where legal advice of any kind is sought, (2) from a professional legal adviser in her capacity as such, (3) the communications relating to that purpose, (4) made in confidence (5) by the client, (6) are, at the client's instance, permanently protected (7) from disclosure by the client or legal adviser (8) unless the protection is waived. *United States v. Martin*, 278 F.3d 988, 999 (9th Cir. 2002).

The burden of proving that the privilege applies belongs to the party asserting it. *Martin*, 278 F.3d at 1379. “The proponent must conclusively prove each element of the privilege.” *SEC v. Gulf & Western Industries*, 518 F. Supp. 675, 682 (D.D.C. 1981). A blanket assertion of the privilege is “extremely disfavored” and will not suffice. *Clarke v. American Commerce National Bank*, 974 F.2d 127, 129 (9th Cir. 1992) (internal quotations omitted). “The privilege must ordinarily be raised as to each record sought to allow the court to rule with specificity.” *Id.*; see also *United States v. Lawless*, 709 F.2d 485, 487 (7th Cir. 1983) (“The claim of privilege must

be made and sustained on a question-by-question or document-by-document basis.”) (internal quotations and citation omitted)).

The privilege belongs to the client. *See In re Impounded Case (Law Firm)*, 879 F.2d 1211, 1213 (3rd Cir. 1989) (“[T]he attorney-client privilege belongs solely to the client. It may, however, and indeed, generally must be asserted for the client by the attorney unless the client directs otherwise.”); *Handgards, Inc. v. Johnson & Johnson*, 413 F.Supp. 926, 930 (N.D. Cal. 1976) (“The privilege belongs to the client, and it is intended to secure a cloak of privacy for confidential communications made in the course of seeking or rendering legal advice.”).

In *Upjohn*, the Supreme Court extended the privilege to corporations. 449 U.S. at 386. The Supreme Court explained that artificial entities need and deserve the protections of the attorney-client privilege and work-product doctrine. *Id.* at 389-90, 399-400. The Supreme Court reasoned that corporate entities, like individuals, need a zone of protection and privacy within which to investigate and develop the entity’s legal rights, options, and strategies. *Id.* at 389-91. In determining which communications within a corporation would be entitled to the protection, the Supreme Court rejected the “control group” theory and abandoned a hierarchical approach. *Id.* at 392–93, 396–97. Instead, the Supreme Court adopted a much looser functionality test, whereby the privilege’s applicability depends on the nature, purpose, and context within which the communication occurs, rather than on the employee’s position within the corporation. *Id.* at 394. The Court held that a

corporation may assert the privilege over communications between its lawyers and corporate employees so long as the following conditions are met: (1) the employee communicates with counsel at the direction of his supervisor; (2) the employee made the communication to secure legal advice for the corporation, or to provide facts that the lawyer needs to give the corporation legal advice; (3) the employee is aware that he is being questioned so the corporation may obtain legal advice; (4) the communication concerns matters within the scope of the employee's duties; and (5) the communication was confidential. *Id.*

There are other limiting principles associated with the corporate attorney-client privilege. For instance, “managers, of course, must exercise the privilege in a manner consistent with their fiduciary duty to act in the best interests of the corporation and not of themselves as individuals.” *Commodity Futures Trading Comm’n v. Weintraub*, 471 U.S. 343, 348–49 (1985). In other words, an individual officer or manager may not make the decision to waive or invoke the privilege based on personal interest.

Additionally, within the context of the corporate attorney-client privilege, the Ninth Circuit has found that statements made “for the purpose of disclosure to outside auditors” cannot be considered to have been made in confidence and therefore could not satisfy the attorney-client elements. *United States v. Ruehle*, 583 F.3d 600, 609 (9th Cir. 2009).

The Supreme Court has recognized that the attorney-client privilege must be narrowly construed and recognized “only to the very limited extent that ... excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means for ascertaining the truth.” *Trammel v. United States*, 445 U.S. 40, 50 (1980). It should be so narrowly construed because its application interferes with the “truth seeking mission of the legal process.” *United States v. Tedder*, 801 F.2d 1437, 1441 (4th Cir. 1986); *accord Martin*, 278 F.3d at 999 (“Because [the attorney-client privilege] impedes full and free discovery of the truth, the attorney-client privilege is strictly construed.”); *In re Pacific Pictures Corporation*, 679 F.3d 1121, 1126 (9th Cir. 2012) (“Nonetheless, because, like any other testimonial privilege, this rule contravenes the fundamental principle that the public has a right to every man’s evidence, we construe it narrowly to serve its purposes.” (internal citations and quotations omitted)).

III

ANALYSIS

A. *MAI has not met its burden to establish the applicability of the attorney-client privilege*

Although the contours of MAI’s privilege claim are presently vague, the big picture is clear enough to know their privilege claim will not withstand scrutiny.⁵

⁵ The United States reserves arguing each of the eight required elements of the attorney-client privilege until MAI and Tanaka’s arguments are known. We focus here on the big picture flaws in MAI’s assertion of privilege.

First, MAI appears to be asserting the privilege for personal reasons—to protect Dennis Mitsunaga—not legitimate business reasons that would fall within a traditional corporate attorney-client context. There is no daylight between Mitsunaga and MAI. Indeed, Dennis Mitsunaga *himself* filed his daughter’s purported invocation of MAI’s attorney-client privilege. ECF Nos. 435, 435-1, 435-2. And by any fair reading, Dennis Mitsunaga’s attorneys were also representing MAI at the time they filed Mitsunaga’s trial brief. *See* ECF No. 435-2 (Mitsunaga’s attorneys filing letter from separate defense attorney identifying Mitsunaga’s lead counsel as “counsel for Mitsunaga and Associates, Inc.”). Moreover, the current voice of MAI is Mitsunaga’s daughter, herself a prime player in MAI’s earlier efforts to obstruct the grand jury investigation. *See supra* at 5–8. The close relationship between MAI and Mitsunaga, along with MAI’s prior history of gamesmanship before the grand jury, makes it likely that MAI’s late-arising efforts to raise attorney-client privilege at trial is simply the next chapter in its attempt to distort the truth-seeking process and conceal the crimes of Dennis Mitsunaga and his conspirators. In short, it appears that Lois, on behalf of MAI, is not “exercis[ing] the privilege in a manner consistent with [her] fiduciary duty to act in the best interests of the corporation,” but is simply acting for herself and those personally close to her and using the corporate shield as a weapon. *Weintraub*, 471 U.S. 343, 348–49 (1985). The attorney-client privilege is not designed to absorb such abuse. *See Clark v. United States*, 289 U.S. 1, 15 (1933) (“The privilege takes flight if the relation is abused.”).

Second, relatedly, Mitsunaga and MAI appear poised to wrongfully employ the attorney-client privilege as both a sword and a shield. *See United States v. Bilzerian*, 926 F.2d 1285, 1292 (2d Cir. 1991) (“[T]he attorney-client privilege cannot at once be used as a shield and a sword.”). “A defendant may not use the privilege to prejudice his opponent’s case or to disclose some selected communications for self-serving purposes.” *Id.* at 1292. Here, Lois Mitsunaga—MAI’s CEO—has already divulged various aspects of MAI’s response to the Mau facts (including providing a “STATEMENT TO THE GRAND JURY REGARDING LAUREL MAU AND THE PROSECUTOR’S OFFICE”). *See supra*. As part of her written grand jury statement, Mitsunaga stated that MAI retained Myron Takemoto to “file the complaint with the Prosecutor’s Office,” i.e., suggesting MAI was acting on Takemoto’s advice.⁶ In other words, MAI desires to have it both ways: (2) it was acting at the direction of counsel, but (2) it will not waive the attorney-client privilege.

Third, Tanaka was MAI’s mouthpiece to the outside world—to the unemployment office, to the Hawaii State Court, to Kaneshiro’s office, and to the District Court for the District of Hawaii. Similar to *Ruehle*, 583 F.3d 600, it appears that much of Tanaka’s communications with MAI were made for the purpose of disclosure to others outside of MAI. Accordingly, they cannot be considered to have been made in confidence and cannot satisfy the attorney-client elements. *Ruehle*,

⁶ To be sure, this is false.

583 F.3d at 609; *Weil v. Inv./Indicators, Research & Mgmt.*, 647 F.2d 18, 24 (9th Cir. 1981) (“[V]oluntary disclosure of the content of a privileged attorney communication constitutes waiver of the privilege as to all other such communications on the same subject.”).

Fourth, MAI fails to establish that legal advice was sought from Tanaka. The simple fact that an attorney is present in a communication does not, by default, make those privileged communications. *See United States v. Chen*, 99 F.3d 1495, 1501 (9th Cir. 1996) (“That a person is a lawyer does not, *ipso facto*, make all communications with that person privileged. The privilege applies only when legal advice is sought from a professional legal advisor *in his capacity as such*.”) (internal quotations and citation omitted) (emphasis in original); *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d 127, 129 (9th Cir. 1992) (“Not all communications between attorney and client are privileged.”); *United States v. Richey*, 632 F.3d 559, 567 (9th Cir. 2011) (“Based on this record, any communication related to the preparation and drafting of the appraisal for submission to the IRS was not made for the purpose of providing legal advice, but, instead, for the purpose of determining the value of the Easement.”).

B. *The crime-fraud exception applies*

Even if MAI established all required elements of the attorney-client privilege, and even if none of the exceptions above applied to pierce the privilege, there would

still be no privilege for MAI to press. That is because the crime-fraud exception permeates everything MAI and the defendants did in this case.

It has long been established that the attorney-client privilege does not extend to attorney-client communications that solicit or offer advice for the commission of a crime or fraud. *In re Grand Jury Investigation*, 974 F.2d 1068, 1071 (9th Cir. 1992); *United States v. Hodge & Zweig*, 548 F.2d 1347, 1354 (9th Cir. 1977) (“the privilege does not apply where legal representation was secured in furtherance of intended, or present, continuing illegality”). In order to invoke this exception, the government must make a *prima facie* showing of (1) the existence of a crime or fraud; and (2) a relationship between the privileged communications and the illegality. *United States v. Chen*, 99 F.3d 1495, 1503 (9th Cir. 1996) (*quoting In re Grand Jury Proceedings*, 87 F.3d 377, 380, 381 (9th Cir. 1996) (finding that “the crime-fraud exception does not require a *completed* crime or fraud but only that the client have consulted the attorney in an *effort* to complete one”) (emphasis in original)).

This *prima facie* showing requires only a threshold showing of “reasonable cause.” *Chen*, 99 F.3d at 1503 (“Reasonable cause is more than suspicion but less than a preponderance of the evidence.”). It does not require that the government prove the crime beyond a reasonable doubt, or even by a preponderance of the evidence. *See In re Grand Jury Proceedings #5 Empanelled Jan. 28, 2004*, 401 F.3d 247, 251 (4th Cir. 2005) (citing *Union Camp Corp. v. Lewis*, 385 F.2d 143, 145

(4th Cir. 1967)). Once an indictment has been returned, courts have consistently found that the existence of the indictment provides a reasonable basis to believe that the defendants/targets were engaged in criminal activity for purposes of the crime-fraud exception. *See United States v. Gorski*, 807 F.3d 451, 460-61 (1st Cir. 2015) (“Here, we are satisfied that the reasonable basis standard is met as to both parts of the crime-fraud exception test. As to the first part, the district court correctly noted that the indictment provides a reasonable basis to believe that Gorski and/or Legion was engaged in criminal or fraudulent activity.”); *United States v. Brandner*, 2014 WL 10402392 *16 (D. Alaska Oct. 15, 2014) (“By finding that there was probable cause to believe that Brandner used Saranello to commit crimes (*i.e.*, wirefraud and tax evasion), the grand jury necessarily found the much lower burden of establishing ‘reasonable belief’ of an ongoing crime or fraud, involving Saranello. Because the Saranello–Brandner interaction is at the heart of the indictment, the grand jury clearly made a determination that a reasonable jury could conclude that Saranello assisted in the commission of wire fraud and tax evasion and so the crime-fraud exception applies.”).

In this case, malicious lawfare was MAI and the conspirators’ chosen tool of oppression against Laurel Mau. At the front lines of their conspiracy stood a lawyer—Tanaka—who acted as MAI’s legal muscle and who subverted the justice system in order to advance the goals of the conspiracy. The grand jury indictment, coupled with evidence already introduced (with more to come), establishes that

Tanaka’s communication with MAI, and vice versa, was for the purpose of soliciting ideas on how to most effectively intimidate, oppress, and silence Mau in the free exercise of her rights. There is no attorney-client privilege over those communications—they were made for the purpose of furthering the charged conspiracies. *See United States v. Martin*, 278 F.3d 988, 1001 (9th Cir. 2002), *as amended on denial of reh’g* (Mar. 13, 2002) (“Communications from Defendant to Wilson simply were not privileged, because Defendant was using Wilson to perpetuate the CCM fraud.”).

IV

CONCLUSION

When briefing is complete, the Court will be equipped with various reasons why MAI cannot lodge attorney-client privilege objections during trial.

Dated: April 8, 2024.

Respectfully submitted,

MERRICK B. GARLAND
Attorney General

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

EXHIBIT 1
FILED UNDER SEAL

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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

ORIGINAL

TESTIMONY OF LOIS MITSUNAGA

DATE: April 1, 2021
TIME: 3:21 p.m.

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

APPEARANCE:

For the United States of America:

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

REPORTED BY: WENDY M. WATANABE
CSR No. 401

1 LOIS MITSUNAGA

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

5 EXAMINATION

6 BY MR. WHEAT:

7 Q. Please be seated.

8 As a preliminary matter, ma'am, are you fluent in
9 the English language?

10 A. Yes, I am.

11 Q. Okay. Do you require any interpreter?

12 A. No. I do not.

13 MR. WHEAT: Okay. Take one five-second break.

14 (Brief break in proceedings.)

15 BY MR. WHEAT:

16 Q. State -- state your name, spell your last name for
17 the record.

18 A. Lois Mitsunaga, last name is M-I-T-S-U-N-A-G-A.

19 Q. Ms. Mitsunaga, did you receive a subpoena to appear
20 before the Grand Jury?

21 A. I didn't personally receive a subpoena.

22 Q. Did you receive it through your legal
23 representative?

24 A. My attorney did receive the subpoena on my behalf.

25 Q. Okay. Before I ask you any further questions, let

1 me advise you of your rights and obligations before the
2 Grand Jury.

3 You have a Fifth Amendment right against
4 self-incrimination. That means that if any answer to a
5 question I put to you might implicate you in a crime, you
6 could exercise your Fifth Amendment right to remain
7 silent.

8 Do you understand that?

9 A. You know, I understand that; however, I would just
10 like everyone to know here what happened to my family a
11 few weeks ago at the direction of Mr. Wheat and his
12 agents, okay? I have two --

13 Q. You'll have an opportunity to explain yourself --

14 A. -- I -- I'm -- I'm giving my complete answer.

15 Q. Ma'am -- ma'am, let me finish advising you of your
16 rights --

17 A. Please don't take away my right to answer your
18 question.

19 Q. I'm not taking away any of your rights. I want to
20 tell you what your rights are.

21 A. Okay.

22 Q. You have a Sixth Amendment right to be represented
23 by counsel. That means that a lawyer can represent you,
24 but cannot be present here in the Grand Jury room; and if
25 you want to consult with that lawyer, you can do so in the

1 hall on a break.

2 Do you understand that?

3 A. Yes, I do.

4 Q. Do you have a lawyer here today?

5 A. Yes, I do.

6 Q. Who is your lawyer?

7 A. Sheri Tanaka.

8 Q. And have you had an opportunity to consult with
9 Ms. Tanaka before testifying here today?

10 A. I just met with her a minute before I came in.

11 Q. You also have an obligation to provide truthful,
12 complete, and accurate information to the Grand Jury.

13 If you were to knowingly provide material false
14 information, you could be potentially prosecuted for a
15 felony offense of perjury or obstruction of justice.

16 Do you understand that?

17 A. Yes, I do.

18 Q. Having your rights and obligations in mind, are you
19 prepared to testify here today?

20 A. Yes, I am.

21 Q. Have you understood each and everything that I've
22 told you up to now?

23 A. Yes, I do.

24 Q. And will you let us know if you don't understand a
25 question?

1 A. I certainly will.

2 Q. Okay. Where do you live?

3 A. I live in Honolulu, Hawaii.

4 Q. What is your address?

5 A. My address is [REDACTED], and I -- I do want
6 to get my story in regards to that, an incident that
7 happened when my husband was trying to take my 3-year-old
8 and 6-year-old to preschool, okay.

9 He had his agents come in unmarked cars, started
10 tailing my husband down the hill. We live at the top of
11 Waialae Iki -- Waialae Iki hill. They just testified.

12 At the bottom of the hill where Kalaniana'ole and
13 Waialae Iki hill intersect --

14 Q. Were you present when this happened?

15 A. I was not present. Can you please let me finish my
16 story.

17 Q. You can finish, ma'am, but you're going to answer
18 the question.

19 A. Another -- another FBI agent suddenly boxed my
20 husband in, in the middle of the road with my 3 and
21 6-year-old in the car, okay?

22 They rushed to his car, and they started pounding on
23 his window threatening to arrest him, flashing handcuffs
24 to my 3 and 6-year-old. He's trying to take them to
25 school.

1 He asked if they could at least move to the side
2 because cars were zipping down.

3 Q. Who is "he"?

4 A. Your agents, apparently, okay? And they refused to
5 let my husband move the car out of the way. They made my
6 -- him leave my 3 and 6-year-old unattended in the car.

7 They treated my husband like a criminal. They
8 didn't tell him why. They didn't read him his rights
9 which is what I was getting at when I was talking about my
10 Fifth and Sixth Amendment rights. They deny him -- denied
11 him an attorney, okay?

12 I'm super upset at what happened. This isn't local
13 style. I don't know what this is, but this is dirty,
14 okay? And my husband did nothing wrong so they eventually
15 had to let him go.

16 Was he even subpoenaed today? No. Why did they
17 have to treat him like that?

18 Q. What -- what is local style?

19 A. Local style is aloha as all you guys know. It's not
20 how you've been treating people, okay?

21 I researched you, Mr. Wheat, and I found that you
22 had been repeatedly accused of abusing your authority as a
23 special prosecutor, okay? It's information that's online.
24 And he has also been found of repeatedly leaking sensitive
25 information from the Grand Jury proceedings to the press.

1 I also found out in California, a California federal
2 judge rebuked your unethical and questionable conduct and
3 dismissed -- and therefore dismissed multiple counts
4 against a former city council member.

5 He directed the FBI for nearly three years to
6 secretly tape this council member's phone conversations
7 and place electronic bugs in his office, and I understand
8 that you lost credibility as a prosecutor in California.

9 Is that why you're in Hawaii? And you obviously do
10 not know what local style and aloha is 'cause we don't
11 treat -- we don't do that to family, okay? Leave my kids
12 out of it.

13 Q. Anything else you'd like to say, ma'am?

14 A. I have a lot to say.

15 Q. What else would you like to say?

16 A. You have just been going around terrorizing and
17 harassing people. They're absolutely terrified, okay?
18 You -- you haven't even told anyone what this is about.

19 What is this about? What is this investigation
20 about, and why can't -- why do you keep refusing to tell
21 anyone?

22 Q. Anything else you'd like to say?

23 A. I can -- I can go on and on. I mean --

24 Q. Did you make some prepared remarks for today?

25 A. No, I didn't, but I do have notes because I had no

1 idea what was going on so I took notes on whatever -- I
2 mean, rightfully so, I took notes on whatever I could, and
3 I'd be happy to give it to you if you want to pass it to
4 the Grand Jury.

5 Q. Sure.

6 A. Absolutely.

7 Q. You want to mark that as an exhibit?

8 A. Totally. Yes, please.

9 Q. Okay. We'll mark this as LL-1 -- LLM-1, and it is a
10 stack of papers.

11 How many pages do you think you have here?

12 A. I don't know.

13 Q. And where did you find these at?

14 A. They're the notes that I took -- I mean, I don't --
15 I don't know what this is about, but I just tried to
16 figure out something because you've been refusing to tell
17 anyone so absolutely I took notes, and please feel free to
18 give it to the Grand Jury, too, as well.

19 Q. Oh, they'll have a chance to review all of it.

20 A. But please share it with them as well.

21 Q. The first thing you have here, it says Statement to
22 Grand Jury regarding Laurel Mau and the prosecutor's
23 office by Lois Mitsunaga.

24 How -- how did you come to produce this?

25 A. So a few weeks ago, there was some weird article

1 that was leaked to the press, and it was absolutely --

2 Q. What does "leaked to the press" mean?

3 A. Do you not understand leaked to the press? I -- I
4 believe you may --

5 Q. No. I -- I want to know what you believe that
6 means.

7 A. I believe someone inappropriately gave false and
8 damaging --

9 Q. Who is someone?

10 A. -- information -- possibly you at your --

11 Q. Okay. Why do you think that?

12 A. It's not something that you wouldn't do given the
13 research that I've done on you.

14 Q. Okay. Anything else?

15 A. So there was just an alarming news article and press
16 release, and it was absolutely false --

17 Q. Where was the press release?

18 A. It was about a former employee, Laurel Mau.

19 Q. There was a press release?

20 A. Not a press release, a -- an article, a news -- I
21 mean a news article.

22 Q. Okay. And where was the news article at?

23 A. I believe it was Hawaii News Now.

24 Q. Okay. And what year was that?

25 A. It was a few weeks ago.

1 Q. Okay. You're not referring to a news article that
2 appeared in *Civil Beat* in 2017?

3 A. I'm referring to a few weeks ago that you guys
4 falsely leaked information stating about this former
5 employee, making a big deal that we did not go to HPD and
6 all of that when we actually did, okay? We went to the
7 HPD.

8 Q. Who is "we"?

9 A. So -- our company, Mitsunaga & Associates. So let
10 me give you guys the background on Laurel Mau.

11 Q. Well, let me ask some questions. How -- how did --
12 how did you decide to go to HPD?

13 A. So the -- can I give the background? I'm going to
14 give the background on Laurel Mau.

15 Laurel Mau was a former employee of Mitsunaga &
16 Associates, also known as MAI, okay. She spent years
17 stealing from MAI while she was employed by MAI and on
18 MAI's clock, meaning she did dozens of side jobs, okay,
19 while being paid by MAI on MAI's clock without MAI's
20 consent, knowledge, or authority. She did this all behind
21 MAI's back.

22 And when MAI found out what she was doing, she was
23 doing these unauthorized side jobs, you know, she was of
24 course terminated, absolutely.

25 Okay. I imagine that none of you would be able to

1 spend your work time getting paid by one company while
2 working for another -- others. And if any of you have
3 people who work for you, you wouldn't tolerate this type
4 of stealing from the company either.

5 When we found out that she was stealing from the
6 company, meaning stealing time --

7 Q. Who is "we"?

8 A. Mitsunaga & Associates.

9 Q. Are -- are you --

10 A. MAI.

11 Q. What's your -- what's your relationship with
12 Mitsunaga & Associates?

13 A. So I'm the CFO, vice president, and structural
14 engineer.

15 Q. CFO, that's a --

16 A. Chief financial officer.

17 Q. Okay. And structural engineer?

18 A. I'm a structural engineer.

19 Q. What's your educational background?

20 A. Can I -- I just want to finish my -- can I finish my
21 story? Can I --

22 Q. You can.

23 A. -- complete my answer and then I can go into that.

24 So I just want to give the background because, you know,

25 I'm -- she spent years just stealing from the company,

1 okay?

2 Q. "She" being Ms. Mau?

3 A. Ms. Mau. Ms. Mau. Doing side jobs, charge --
4 charging time, you know, just it was ridiculous how much
5 she hurt the company financially, morally, you know, and
6 she made up this lie when we terminated her that she was
7 terminated because she was a woman, you know.

8 She was terminated because she was a thief. She
9 stole from Mitsunaga & Associates. And unlike what the
10 story said --

11 Q. What story?

12 A. Whatever story that, you know, a few weeks ago made
13 a big deal about how we didn't report her crime to the
14 HPD. We did report her crime to the HPD. Actually, let
15 me -- let me take a couple steps back.

16 So she -- she sued MAI, claiming that she was
17 terminated for being a woman which was false. The jury --
18 the jury -- it was a jury trial. They agreed with MAI
19 that her termination had nothing to do with gender
20 discrimination, and she admitted under oath at that time
21 that her -- her conduct was unethical, and I would be
22 happy to bring in her testimony and the over 13 huge
23 binders of side jobs that she did.

24 Q. Was MAI represented by a lawyer in this lawsuit?

25 A. In -- in the lawsuit where the jury agreed with MAI?

1 Q. Yes.

2 A. Yes. We had --

3 Q. Who -- who was that?

4 A. It was Sheri Tanaka and Myron Takemoto who's now a
5 judge. So --

6 Q. Sheri Tanaka, the same lawyer who's representing you
7 today, correct?

8 A. Yes. Absolutely.

9 Q. Is she a friend of yours?

10 A. Yes, she is.

11 Q. How do you know her?

12 A. Through high -- we met in high school at Punahou.

13 Q. What year did you graduate from Punahou?

14 A. I graduated in 2000.

15 Q. Were you in the same class or -- one of you was a
16 year ahead of the other, right, or were you in the same
17 class?

18 A. We're in the same class.

19 Q. Same -- same grade?

20 A. Same grade.

21 Q. Okay.

22 A. Same grade.

23 Q. Okay. So go on with your story.

24 A. So Laurel Mau is someone that I can't even explain
25 what a bad person she was and what she did to the company.

1 I can't tell you -- just -- I mean, what she did and --
2 and how she did it, I mean, all the employees are just --
3 were -- it was just heartbreaking, you know, to have an
4 employee do this.

5 She also brought upon -- MAI got wrongfully exposed
6 to a lawsuit. She did a side job without MAI's
7 authorization, and she did poor work and so she was sued,
8 and MAI was brought into it and so, you know, we had to
9 defend ourselves even though we had no idea she was doing
10 this job with that lawsuit, you know, and fortunately, we
11 won that, you know, so -- yeah.

12 I mean, I guess I'm just -- I'm just very worked up
13 at this whole -- this whole situation. And I do want to
14 say on the record that, you know -- the proper procedure
15 of conduct that we did, you know.

16 We terminated her, she dragged us into a lawsuit
17 claiming we terminated her for being a woman. That was
18 absolutely false. We have proof of her stealing. We have
19 her testimony where she testified that she was unethical.
20 We got exposed to another lawsuit based upon her side job,
21 and of course we were upset --

22 Q. What's the -- what's the other lawsuit?

23 A. It was the -- so she was doing a lawsuit without
24 MAI's authorization and consent and knowledge. She did
25 it, you know, behind back using --

1 Q. What does that mean, a lawsuit without consent?

2 A. No. So because she was doing a side -- because she
3 was doing a side job and she did poor work on it, she used
4 MAI's name, contracts, you know, billing and all that to
5 pretend like she was working for MAI, but she wasn't.

6 I mean, MAI never did know about this job, get paid
7 from this job. She was just using, you know, her work
8 e-mails, her phone, her resources. We got dragged in
9 because that person thought that, you know, MAI was a part
10 of it, and we had absolutely nothing --

11 Q. Who was that person?

12 A. I believe that was the Stanford Masui case.

13 Q. Stanford Masui?

14 A. Yeah.

15 Q. Now, wasn't Stanford Masui one of the people that
16 you reported to the police as being a suspect in a crime?

17 A. Oh, I don't recall that. I don't recall.

18 Q. Have you had an opportunity to review the police
19 report?

20 A. I can't -- I can't -- I probably looked at it, but I
21 can't -- I mean, I can't remember.

22 Q. Do you know somebody named Aaron Fujii?

23 A. Yes, I do.

24 Q. Who is that?

25 A. Aaron Fujii is our chief -- Mitsunaga & Associates'

1 chief operating officer and executive vice president.

2 Q. And did you at some stage in your position as an
3 executive with MAI have an opportunity to look at the
4 police report that Mr. Fujii filed with the Honolulu
5 Police Department?

6 A. I -- I can't recall.

7 Q. Okay. Would you accept my representation that he
8 listed Stanford Masui as the -- as a suspect in a crime?

9 A. I -- I can't recall that, so I can't acknowledge.
10 I -- I just don't recall.

11 Q. You don't recall ever hearing that?

12 A. I can't recall that. Yes, that's correct.

13 Q. Okay. So before coming here, did you have an
14 opportunity to refresh your recollection by reviewing any
15 documents?

16 A. I tried to do research -- I mean, I absolute -- I --
17 I don't know what this is about.

18 I mean, after my kids got attacked like that, I
19 mean, I -- I certainly would try to research whatever I
20 could, but it -- I -- I still don't know what this is
21 about so I don't -- I don't even know if I did the proper
22 research but, I mean, ab -- absolutely --

23 Q. Prior to your husband being stopped, were you at
24 home?

25 A. I don't recall.

1 Q. You don't recall whether you were at home the day
2 that -- that he was stopped?

3 A. I can't recall exactly what time 'cause I wasn't
4 there.

5 Q. What time do you usually leave the home in the
6 morning?

7 A. It's -- you know, with COVID, there's -- there's
8 really no set schedule.

9 Q. Do you frequently telework from home?

10 A. It -- it just depends on the given week and what we
11 have going on --

12 Q. On the days that you do leave the home, what time do
13 you generally leave?

14 A. Again, there is no -- there is no set schedule any
15 more, I mean, due to COVID. I don't know if you guys can
16 relate, but it's just kind of, you know, go with the flow
17 and, I mean, it depends what we have planned for our kids
18 and that sort of activities.

19 Q. Now, your children are attending school where?

20 A. I have a 6-year-old at Punahou and a 3-year-old at
21 Central Union.

22 Q. And what time does class start for those two?

23 A. So I think traditionally, it's 8:00; but due to
24 COVID and the check-ins and the -- all that, I -- I think
25 they have -- I think it's like till 8:30 or so, and

1 they've been having really major problems with the backup
2 so it's not -- I mean, they've been lenient.

3 Q. And when you say "the backup," that means --

4 A. The cars, yeah.

5 Q. -- the parents dropping off and the cars and the
6 traffic --

7 A. Yeah, yeah, because -- especially for the -- I mean,
8 the preschoolers, it's --- they have to do the temperature
9 check and -- and all that, the screening so...

10 Q. Make sure everybody's healthy before they go in?

11 A. Certainly, yes.

12 Q. And who usually takes your children to class?

13 A. It -- it varies, but my -- I mean, my husband.

14 Q. Okay. And were you home on that morning that he was
15 stopped and the FBI was knocking on your door for about an
16 hour?

17 A. I don't recall that.

18 Q. Okay. You know the FBI was there to serve you a
19 subpoena to come to the Grand Jury?

20 A. No. I don't recall that, but I don't -- if it was
21 for me, then why did they treat my husband -- why did they
22 treat my husband like that and my kids?

23 I mean, I'm just -- I'm just heartbroken that, you
24 know, you would do that to young children and even my
25 husband but, like, young children.

1 My children still ask me if the bad guys are going
2 to come -- come and get them, or my 6-year-old asks, and
3 it's --

4 Q. Why do you say "you"?

5 A. I feel -- I strongly feel it's at your direction. I
6 mean, who directed the FBI agents to do that?

7 Q. Do you know what the FBI is? It's a law enforcement
8 agency.

9 A. Exactly. They should have -- they should have --

10 Q. They should have -- should have what?

11 A. They should have read my husband his rights. They
12 should have given him an opportunity to speak to an
13 attorney. They should have told him why they pulled him
14 over. I mean, if they're in a -- they're a law
15 enforcement agency just like Mr. Wheat said.

16 Q. Was your husband in custody?

17 A. I don't believe he was in custody. He just got
18 pulled -- shockingly pulled over, and they threatened to
19 arrest him. They flashed handcuffs.

20 Q. Do you remember what day that was?

21 A. I -- I can't remember exactly what day it was, but I
22 would say it happened in the last couple months or so. I
23 mean, I can't remember exactly what day, you know.

24 Q. Do you know what a motor vehicle and driver access
25 restriction request form is?

1 A. I don't recall.

2 Q. Have you ever seen one of those?

3 A. I don't believe I did.

4 Q. You live in the Waialae Iki V community, correct?

5 A. Yes, that's correct.

6 Q. And how long have you lived there?

7 A. So I lived there maybe five or six years, but I

8 lived there when I was growing up as well.

9 Q. So you lived in your parents' house?

10 A. When I was -- yeah, when I was -- I mean, before I

11 got married and...

12 Q. Okay. When did you marry?

13 A. Do you want the exact date? It's April --

14 April 14th, 2012.

15 Q. Okay. Usually, it's the groom who has difficulty

16 with the date. I'm glad to see that it's not just the

17 men.

18 So April 14th of 2012, and you married who?

19 A. My husband's name is Ryan Shindo.

20 Q. And what does Mr. Shindo do for a living?

21 A. So Ryan works for Mitsunaga & Associates.

22 Q. What did he do there?

23 A. He still works. He still works there, and he's the

24 accounting controller and secretary.

25 Q. What does that mean? What does he do?

1 A. He just kind of handles the day-to-day finances.

2 I -- I over -- actually oversee him as the chief financial
3 officer.

4 Q. So you're his boss?

5 A. Kind of. Yes. Yes.

6 Q. And do you both draw a salary from Mitsunaga?

7 A. Yes, we do.

8 Q. Okay. And what is his salary?

9 A. I -- I can't recall his salary.

10 Q. What is your salary?

11 A. I -- I really can't recall my salary.

12 Q. You don't know how much money you make?

13 A. I can't recall.

14 Q. Where do you bank?

15 A. I can't recall.

16 Q. You don't know where you bank?

17 A. I have a few places, but I can't -- yeah, I can't
18 recall exactly.

19 Q. Well, what are the few places?

20 A. I can't recall exactly.

21 Q. Where does Mitsunaga & Associates bank?

22 A. Bank of Hawaii.

23 Q. And do you use a payroll processing service, or does
24 the accountant, Mr. Shindo, take care of those things?

25 A. We -- we do have -- well, I would say both.

1 Q. And does Mr. Shindo telework on the days he doesn't
2 go to the office?

3 A. Again, it just -- it just really varies. I don't
4 know if anyone can relate, but just we had our kids home
5 and working from home so it's just kind of a crazy, loose,
6 flexible schedule so it's -- I mean, it's -- it's
7 different every -- every day.

8 My son had an Easter Bunny virtual thing for like
9 half an hour today so it really -- it really -- it really
10 varies what -- what's going on.

11 Q. I had asked you earlier on, and you were giving your
12 statement. You didn't answer the question.

13 What's your educational background?

14 A. So I went to Punahou from kindergarten through high
15 school. I went to -- would you like to know my -- my
16 college?

17 Q. Sure. Everything.

18 A. University of Southern California for my
19 undergraduate degree, and I went to the University of
20 Hawaii at Manoa for my -- my master's degree.

21 Q. And your master's degree is in what?

22 A. Structural engineering.

23 Q. And your USC degree is in?

24 A. It's -- it's like civil engineering with an emphasis
25 in structural engineering.

1 Q. And when did you get your master's degree at Manoa?

2 A. I can't recall the exact year, but it -- I mean,
3 maybe 2008 or 2009.

4 Q. And when did you graduate from Punahou?

5 A. I graduated in 2000.

6 Q. 2000.

7 And then you went to USC for four years?

8 A. Actually, I -- so I went to UH first, University of
9 Hawaii at Manoa, and then I transferred to university...

10 Q. How many semesters did you complete at Manoa?

11 A. I can't -- I can't recall.

12 Q. Did your credits transfer from Manoa to USC?

13 A. I believe they did. I don't know if they all did.

14 Q. Okay. And you said that you knew Ms. Tanaka when
15 you were at Punahou?

16 A. That's correct.

17 Q. And did you attend any other schooling with her?

18 A. No, just at Punahou.

19 Q. Okay. And Ms. Tanaka was the lawyer in the Laurel
20 Mau civil case; is that correct? That's the civil case
21 here in federal court.

22 A. Yes, that is correct.

23 Q. For -- for simplicity, since there are two cases --

24 A. This -- you're talking about the jury trial?

25 Q. We'll refer to the civil case as the federal court

1 case or the civil case and the prosecution as the state or
2 criminal case, okay?

3 A. Okay. But the -- you're talking about the jury
4 trial, the civil -- the jury trial?

5 Q. Civil case here in this building.

6 A. Okay. Not the settle -- not the --

7 Q. Not the case that was dismissed.

8 A. Okay. Okay.

9 Q. Okay. Did you play any role in Ms. Tanaka being the
10 lawyer in the civil case that Laurel Mau brought here in
11 federal court?

12 A. You know, I -- I didn't testify at the trial, but I
13 --

14 Q. No, that's not -- that -- I'm not asking that. I'm
15 asking about the relationship between MAI and Ms. Tanaka,
16 how she became the lawyer in that civil case.

17 A. Oh, I don't -- I don't recall exactly how she
18 came --

19 Q. Did -- did you introduce her to your father, or how
20 does he know her?

21 A. Oh, ab -- yeah, I introduced Sheri.

22 Q. Okay. And did you recommend Sheri as a lawyer to
23 represent MAI in the Laurel Mau civil case?

24 A. That -- I don't believe that was my recommendation.

25 Q. Did you have a recommendation?

1 A. I -- I don't think so.

2 Q. Do you know how Sheri Tanaka became involved in that
3 case?

4 A. Well, Sheri Tanaka handles Mitsunaga & Associates'
5 -- like the company matters.

6 Q. What does that mean?

7 A. So anything related to Mitsunaga & Associates or the
8 scope of company matters, Ms. Tanaka represents our
9 company so I believe she was already the company's --
10 Mitsunaga & Associates' attorney prior to the Laurel Mau
11 case, the -- the federal civil case.

12 Q. Where is Mitsunaga & Associates located?

13 A. MAI's office is 747 Amana Street.

14 Q. And is that a building that is owned by MAI, or are
15 you a tenant in that building?

16 A. MAI does own its office space.

17 Q. I'm still referring to that specific building.

18 A. They -- MAI doesn't own the whole building. It just
19 owns the -- the -- their office space.

20 Q. It's not a lease?

21 A. No. It's owned by MAI.

22 Q. It -- do they own a portion of it? Are they in
23 partnership? I'm trying to figure out the ownership.

24 A. So where we have office space is owned by Mitsunaga
25 & Associates. Like there's a -- there's a restaurant

1 downstairs that's owned by -- I -- I don't know what
2 their -- who owns that, but that's separate from us.

3 Q. Are there any other businesses in the building?

4 A. Yes. There's a restaurant downstairs.

5 Q. Anyone else?

6 A. I can't -- I can't recall exactly. There could be.
7 I -- I'm not -- I'm not sure at this time.

8 Q. Well, as the chief financial officer, do you review
9 the books and accounts of MAI?

10 A. Yes, I do.

11 Q. Okay. So you know whether or not they pay rent or
12 real estate tax on that property; is that correct?

13 A. I do oversee finances, but I can't -- I can't recall
14 exactly at this time.

15 Q. And is MAI a corporation?

16 A. Yes, it is.

17 Q. And who are the corporate officers?

18 A. I can't recall at this time.

19 Q. Well, you're the chief financial officer. Are there
20 any other officers?

21 A. Could you -- are you asking...

22 Q. President? Secretary? Treasurer?

23 A. Oh, okay.

24 Q. Do you recall now?

25 A. Yeah, so I -- I mentioned that Aaron Fujii is the

1 chief operating officer --

2 Q. Okay.

3 A. -- and executive VP. I'm the chief financial
4 officer, VP, and structural engineer.

5 Q. Who's the secretary?

6 A. I don't know what I was saying -- oh, so Ryan
7 Shindo's listed as secretary.

8 Q. Who's the treasurer?

9 A. I -- I can't recall. I don't know if we -- if we
10 currently have a treasurer. I can't --

11 Q. So you're the chief financial officer --

12 A. Yeah.

13 Q. -- and you have no recollection who the treasurer --

14 A. I mean, as you -- as you can imagine, like
15 corporations change frequently, but I just -- I can't
16 recall at this time.

17 Q. Okay. And have you been involved in the filing of
18 any of the corporate documents?

19 A. I don't believe so.

20 Q. And you said that Ms. Tanaka was a lawyer for MAI.
21 Does she have any office within MAI's facility?

22 A. No. She does not.

23 Q. Has she ever?

24 A. No. She has not.

25 Q. Where is her office?

1 A. Her office is somewhere in the Salt Lake area.

2 Q. Where?

3 A. I can't -- I don't recall the exact address, but
4 somewhere in the Salt Lake area.

5 Q. You're not referring to the Post Office Box on
6 Waialae Avenue, are you?

7 A. No. As I said -- as I just said, it's in the Salt
8 Lake area.

9 Q. Okay. Where does she live?

10 A. She lives somewhere -- I'm trying to think of the
11 area. It's like I would say between Kaimuki and Kapahulu
12 area.

13 Q. With whom does she live?

14 A. I can't recall at this time.

15 Q. What role, if any, did you play in conducting an
16 internal investigation in MAI concerning Laurel Mau?

17 A. So I did, you know, play a role. When we found out
18 about what Laurel Mau did, it was just really upsetting;
19 and as she was terminated, we -- after she was terminated,
20 we found out through the lawsuit that she was doing that
21 side job with Stanford Masui and then we just kept finding
22 more and more and more side jobs that she did.

23 I mean, I went through it. It -- it's crazy. I
24 think she just had it all under her desk, and we
25 uncovered, you know, how she hid the money and how she

1 billed it. It -- it's in that document I gave you. It
2 was like over \$200,000 that she hid and so I -- I mean, I
3 went through that. I was part of the process.

4 Q. Who else was?

5 A. I can't recall at this time who else specifically
6 but, I mean, obviously, Sheri Tanaka had a...

7 Q. What role did Ms. Tanaka play?

8 A. Oh, not in the -- sorry. Not in the internal
9 investigation, but in terms of the lawsuit. She was our
10 -- she was our attorney.

11 Q. Well, did Ms. Tanaka prepare Exhibit A that you
12 provided here?

13 A. I don't -- I don't know what Exhibit A is.

14 Q. Well, I think you gave me two copies of the same
15 thing.

16 Did you mean to keep one for yourself?

17 A. No. I think that -- one is for the jury, the Grand
18 Jury, if they want it.

19 Q. Okay. Do you have a copy of this?

20 A. Yes, I do.

21 Q. Okay. And do you have attached to it it's marked as
22 Exhibit A which appears to be an affidavit of one Chad
23 McDonald, declaration of Chad McDonald?

24 A. Yes. I do have that.

25 Q. Okay. Who prepared that document?

1 A. I believe it was Chad. I'm -- it says Chad
2 McDonald. I don't -- I mean, I don't recall the exact --
3 exactly, but I believe it was Chad McDonald.

4 Q. Why do you believe that?

5 A. Because it says declaration of Chad McDonald, and
6 it's written by him.

7 Q. So you think because it says declaration of that he
8 was the author of this?

9 A. I -- I -- honestly, I can't recall. I can't recall
10 who --

11 Q. Do you know what role Ms. Tanaka played in this
12 document?

13 A. No. I do not.

14 Q. And it's your testimony that you have no
15 recollection of Honolulu Police Department 12-258968; is
16 that correct?

17 A. Could you repeat the question, please?

18 Q. Is your testimony that you have no recollection of
19 the filing of Police Report 12-258968 by Aaron Fujii?

20 A. I can't recall that -- I can't recall specifically
21 if it was Aaron. I do remember that the police -- you
22 know, the police report was -- it was reported, HPD report
23 number, and I remember I think it was a Detective Snoops
24 that came to our office, but I can't -- I can't recall,
25 like, the specific details.

1 Q. And if that report listed Suspect Number 1 as Laurel
2 Mau and Suspect Number 2 as Attorney Stanford Masui, would
3 that refresh your recollection?

4 A. No. It does not.

5 Q. How did Stanford Masui steal from MAI?

6 A. I don't recall how -- I -- quite frankly, I don't
7 remember Stanford Masui in the Honolulu police report. I
8 just -- what I remember of Stanford Masui is that he had
9 hired Laurel Mau to perform side jobs. Mitsunaga &
10 Associates had no idea about this. She used, you know,
11 Mitsunaga's letterhead, e-mails, all that --

12 Q. Copy machine?

13 A. Mm-hmm.

14 Q. She used the Internet?

15 A. Resources, sure, copy machine, phone --

16 Q. Paper?

17 A. -- and so I believe he was under the -- I mean, we
18 -- Mitsunaga got dragged -- he was suing -- Stanford was
19 suing Laurel Mau, and I believe Mitsunaga then got pulled
20 into the lawsuit so that's -- that's kind of what I
21 remember about Stanford. I -- I can't -- I mean, I can't
22 recall every, you know, specific detail, but...

23 Q. As the chief financial officer of MAI, how large a
24 company would you say it is? Is it a million-dollar
25 company, is it a ten million-dollar company, is it a

1 hundred million-dollar company, or more or less?

2 A. I -- I can't recall exactly at this time.

3 Q. Can you give us your best approximation as you sit
4 here today?

5 A. We're a -- I would say a medium-size company with
6 about 50 to 60 employees --

7 Q. Well, when you say "medium," I -- I'm trying to find
8 medium compared to what?

9 A. I -- I mean, are you talking about, like, gross
10 numbers, or what are you...

11 Q. Well, what's the company worth? What are its sales?
12 What -- what is its income?

13 A. I can't recall that.

14 Q. Do you have any idea?

15 A. Not at this time.

16 Q. Is there anything that might refresh your
17 recollection?

18 A. I don't know.

19 Q. How long have you been the chief financial officer?

20 A. I can't -- I can't recall exactly how long.

21 Q. More than a year or less than a year?

22 A. More than a year.

23 Q. More than five years or less than five years?

24 A. I -- I really cannot recall.

25 Q. In 2010 and '11, were you the chief financial

1 officer then?

2 A. I -- I true -- I truly cannot recall. I -- I mean,
3 honestly, I've had two babies, and I just can't -- when
4 you ask me about specific dates that go that far, I
5 can't -- I cannot recall.

6 Q. Prior to being the chief financial officer, did you
7 hold any other positions with MAI?

8 A. I can't recall, but I -- I know that -- I -- I can't
9 recall an -- like an exact title, but I was working on
10 structural engineering.

11 Q. What was your first job at MAI?

12 A. When I first started -- okay. I can't remember
13 exactly, but I think I started off more doing -- doing
14 civil engineering work.

15 Q. When you were in high school before you went to
16 college, did you work at the company?

17 A. I can't remember exactly, but I -- I think I may
18 have.

19 Q. Well, did you have any jobs in high school?

20 A. I -- I -- I can't recall.

21 Q. What was your first job?

22 A. I can't recall. I did -- I mean, I did a bunch of
23 volunteer work, and it's -- I can't -- I can't pinpoint
24 exactly the -- the first.

25 Q. When you were in college at Manoa, did you work

1 then?

2 A. Are you referring to when I got my master's degree?

3 Q. No, when you were there the first time before you
4 transferred to USC.

5 A. I can't recall. I -- I can only recall when I was
6 getting my master's and working 'cause I just -- I
7 remember working so hard and not sleeping so I remember
8 that, but I can't recall the first time at UH.

9 Q. When you went to UH the first time, did you live in
10 the dorm, or did you live off campus?

11 A. I lived off campus.

12 Q. Okay. So you never lived in the dorm?

13 A. No.

14 Q. What are your duties as the chief financial officer?

15 A. I would say in a nutshell, it's to oversee the
16 finances of Mitsunaga & Associates.

17 Q. And do you draw upon your undergraduate degree for
18 that?

19 A. Can you -- can you clarify the question?

20 Q. What is your undergraduate degree in?

21 A. Again, it's civil engineering with an emphasis in
22 structural engineering.

23 Q. Do you have any business background?

24 A. I -- I don't think so.

25 Q. Okay. Do you have any accounting or financial

1 experience?

2 A. Well, I do have a lot -- I mean, I've built upon my
3 financial experience. Accounting, I would say no, but the
4 overall finances is -- yeah, I have experience in that
5 through the company.

6 Q. I didn't ask you a moment ago. Let's go back to it,
7 On the day that your husband's vehicle was stopped leaving
8 the development, do you know if your husband identified
9 himself as somebody other than Mr. Shindo?

10 A. I -- I can't recall. I -- I wasn't there.

11 Q. Do you know if your husband was on the phone at the
12 time speaking with Ms. Tanaka?

13 A. That, I don't know. I can't recall.

14 Q. Had you heard that from somebody?

15 A. I don't think so. I'm not -- I mean, I -- I can't
16 recall that.

17 Q. Were you aware that the FBI was trying to serve you
18 with a subpoena to come to the Grand Jury?

19 A. Not at that time, no.

20 Q. When did you learn that?

21 A. So when -- when Sheri received -- when Ms. Tanaka
22 received the subpoena on my behalf, she -- she let me
23 know.

24 Q. It wasn't until that time?

25 A. No, it wasn't.

1 Q. You had no idea up until that stage?

2 A. Could you -- could you clarify? I had no idea that
3 I was being subpoenaed?

4 Q. At that stage that the FBI was trying to serve you a
5 subpoena?

6 A. Could you -- I mean, when Ms. Tanaka received the
7 subpoena on my behalf?

8 Q. Before that.

9 A. No. I did not.

10 Q. Why did you think the FBI was knocking on your door?

11 A. I don't recall the FBI knocking on my door.

12 Q. You have no recollection of that?

13 A. I can't recall that.

14 Q. You think that's something you might have
15 remembered?

16 A. I -- I truly can't recall that.

17 Q. Now, I asked you previously about this motor vehicle
18 and driver access restriction request form.

19 You said you hadn't seen one of those?

20 A. I don't believe I have.

21 Q. Okay. Let me show you what I've marked as LLM-2.
22 Would you take a look at that?

23 Do you see the names on that form?

24 A. The document says what it says.

25 Q. What does it say?

1 A. The document says what it says.

2 Q. Does it contain your name?

3 A. It appears to be my name.

4 Q. And does it contain anybody else's name that you
5 recognize?

6 A. Again, it -- it says what it says.

7 Q. Do you recognize the address?

8 A. The document says what it says.

9 Q. Do you recognize the address?

10 I'm not asking you what the document says. I'm
11 asking do you recognize the address?

12 A. Yes, I do.

13 Q. 2027, that's your -- your house number, right?

14 A. No. That is incorrect.

15 Q. Oh, I'm sorry. I am incorrect.

16 What is your house number?

17 A. As I said previously, it's 2039.

18 Q. Right. 2027 is your father's house number, right?

19 A. That's correct.

20 Q. Okay. Thank you for correcting me.

21 Now, do you have any recollection of the FBI
22 knocking on your door trying to serve a subpoena?

23 A. No. I do not.

24 Q. Did you hear anything about the FBI coming to your
25 development to serve a subpoena at that address?

1 A. No. I don't recall.

2 Q. Did you discuss with anyone this vehicle restriction
3 form?

4 A. I don't recall. I don't remember myself discussing
5 this form. I -- I can't recall it.

6 Q. Did anyone tell you that they had filed such a form?

7 A. I believe -- I believe my husband did.

8 Q. Why do you believe that?

9 A. I'm just -- I -- I can't remember exactly, but he
10 may have told me.

11 Q. He may have told you?

12 A. Yeah. We -- so in the past over the years, we -- we
13 sometimes -- so we live at the top of a hill, and we have
14 a guard but, like, due to the recent crimes and -- people
15 have been just -- there's hikers that come up. They've
16 been stealing from cars so we just wanted to tighten -- I
17 mean, we've -- we've done this off and on in the past.

18 Q. Are you saying there's been crime in your
19 neighborhood? Pardon?

20 A. Yes. There's been -- there's been crime all over.
21 I mean...

22 Q. Specifically in your development?

23 A. Yes. It's -- yeah, unfortunately.

24 Q. You know any reason why -- well, I withdraw that
25 question for a second.

1 So do you have any recollection of being home on the
2 morning that the FBI stopped your husband?

3 A. No. I do not recall.

4 Q. And you're saying you don't recall them knocking on
5 the door?

6 A. I don't recall.

7 Q. Do you think that's something you might have
8 recalled?

9 A. I -- I can't recall that.

10 Q. What's the largest job that MAI has ever completed?

11 A. I can't recall.

12 Q. What type of work do they do?

13 A. Mitsunaga & Associates does engineering and
14 architecture services.

15 Q. But that's not the extent of the Mitsunaga business
16 structure, is it?

17 A. No. Mitsunaga & Associates does engineering and
18 architecture services.

19 Q. I understand what you just said. My question's
20 slightly different than that.

21 Is Mitsunaga & Associates the only business
22 structure owned by your father, Dennis Mitsunaga?

23 A. I don't know.

24 Q. Do you have any role in any other business
25 structures?

1 A. I am the president of M&A Hawaii. Are you referring
2 to --

3 Q. M&A Hawaii?

4 A. Yes.

5 Q. What is that? What does that stand for?

6 A. Oh, it's just -- it's M&A. It -- it doesn't stand
7 for anything. It's just M&A Hawaii.

8 Q. What does it do?

9 A. It's a general design/consulting service.

10 Q. How is that different than Mitsunaga & Associates?

11 A. Could -- could you rephrase the question? What do
12 you mean by different?

13 Q. Sure. If the work of MAI is X, what does MAI [sic]
14 Hawaii do?

15 A. So M&A also does design services.

16 Q. Are they competing companies?

17 A. No. They are not.

18 Q. What is the difference between the two?

19 A. I don't -- I don't understand your question.

20 Q. What does Mitsunaga & Associates do that MAI Hawaii
21 does not?

22 A. I don't know.

23 Q. And you're the president?

24 A. Yes.

25 Q. Who are the other corporate officers of this

1 company?

2 A. I don't know.

3 Q. Pardon?

4 A. I don't know. I can't recall at this time.

5 Q. How long have you been the president?

6 A. I can't recall.

7 Q. What do you do for MAI Hawaii?

8 A. For MAI, I'm the chief financial officer, vice
9 president, and structural engineer.

10 Q. My question was MAI Hawaii.

11 A. I don't believe there is an MAI Hawaii.

12 Q. Did I misunderstand you? 'Cause I thought you said
13 there was an MAI Hawaii.

14 A. In --

15 Q. And you said --

16 A. M and -- M&A Hawaii.

17 Q. M&A?

18 A. That's correct.

19 Q. M, the letter M, and the conjunction and, and the
20 letter A?

21 A. Correct.

22 Q. Okay. M&A, what does M&A stand for?

23 A. Again, it doesn't stand for anything. It's just the
24 name is the name.

25 Q. Okay. What do they do?

1 A. Are you asking about M and -- M&A Hawaii?

2 Q. M&A.

3 A. As I said, it's just general design, consulting
4 services.

5 Q. Where's their office?

6 A. I'm not really sure at this time. It's -- it's a
7 much smaller company than --

8 Q. How many employees?

9 A. I don't believe there are any employees.

10 Q. Do you draw a salary there?

11 A. No. I do not.

12 Q. So it's a corporation with you as the president, no
13 employees, and no salary.

14 What's the purpose of the corporation?

15 A. Again, it provides design services. I mean, I've
16 actually worked on some of the projects as a structural
17 engineer through that company. It's architectural,
18 engineering services.

19 Q. How do projects go to M&A, as opposed to MAI?

20 A. I'm not exactly sure. I want to say -- I want to
21 say that M&A, you know, does solely private jobs; however,
22 Mitsunaga & Associates, MAI, you know, this company does,
23 like, government jobs, private jobs. I mean, it's just --
24 it's a -- it's totally different -- two different run
25 companies.

1 Q. So what is your father, Dennis Mitsunaga's role in
2 M&A?

3 A. I don't know. I don't believe he has a role in M&A.
4 I'm not -- I'm not sure.

5 Q. But you're the president?

6 A. That is correct.

7 Q. Did you form the corporation?

8 A. I can't -- I can't recall when -- when it was formed
9 or if I formed it.

10 Q. Have you ever formed a corporation?

11 A. I'm not sure. I don't believe so.

12 Q. Are you involved in any other corporations?

13 A. I -- I don't believe I am.

14 Q. Could you be involved in a corporation and not know
15 it?

16 A. I -- I don't believe so if I -- I -- I can't recall
17 at this time.

18 Q. Is there anything that might refresh your
19 recollection?

20 A. I don't know.

21 Q. Are you involved in any legal partnerships?

22 A. Could you -- could you clarify? What do you mean
23 by...

24 Q. Are you partners with anyone in any businesses?

25 A. I don't -- I don't believe I am. I'm not -- I -- I

1 don't recall.

2 Q. Could you be involved in any partnerships and not
3 know?

4 A. No, so I don't believe I am.

5 Q. Who files the income taxes for MAI where you're the
6 chief financial officer?

7 A. I -- I believe that's my husband, Ryan Shindo.

8 Q. He does the tax?

9 A. He takes -- he takes part in it. I'm not sure
10 exactly who actually files it, but I know he -- he has
11 some involvement in that.

12 Q. Do you go by any other names besides Lois L.
13 Mitsunaga?

14 A. No, I don't.

15 Q. You don't have any other legal names?

16 A. No, I don't.

17 Q. And your individual taxes are filed in your name
18 jointly or separately?

19 A. Sorry. Did you say my taxes? I kind of --

20 Q. Your individual taxes, are they filed jointly or
21 separately?

22 A. I believe -- I believe it's joint.

23 Q. And joint with whom?

24 A. My husband.

25 Q. Okay. Beyond the tax return you file with

1 Mr. Shindo, do you sign any other tax returns?

2 A. I can't -- I can't recall at this time.

3 Q. Is it possible you'd sign other tax returns?

4 A. I really -- I really can't recall.

5 Q. Now, I had asked you about a payroll accounting
6 service.

7 Which payroll accounting service do you use?

8 A. I can't recall the -- the name.

9 Q. When you are paid, are you paid by check or direct
10 deposit?

11 A. It's a direct deposit.

12 Q. And do you have signing authority on the checking
13 account for MAI?

14 A. I believe I do.

15 Q. Who else has signing authority?

16 A. I can't -- I can't recall that.

17 Q. And those accounts are with Bank of Hawaii?

18 A. I believe so, yes.

19 Q. Now, you said your father's name was Dennis
20 Mitsunaga; is that correct?

21 A. That is correct.

22 Q. What is your mother's name?

23 A. Chan Ok Mitsunaga.

24 Q. What does she do for a living?

25 A. She's the assistant secretary and vice president of

1 MAI, Mitsunaga & Associates. Her English is pretty
2 limited so she focuses on marketing in the Korean
3 community.

4 Q. Tell us about that.

5 A. So she -- she was able to bring a couple of -- she
6 does marketing, you know, for the company so --

7 Q. Can you tell us what you mean by marketing?

8 A. Trying to get jobs for our company so she --

9 Q. How does she accomplish that?

10 A. Marketing? I think marketing kind of speaks for
11 itself --

12 Q. Well, is she -- is she running ads? Is she going to
13 businesses? What does she do?

14 A. I think it's, you know, marketing like networking.
15 She doesn't run ads. She was able to get the Sorabol and
16 Palama.

17 Q. What are those?

18 A. They're Korean restaurants and supermarkets so it --
19 she focuses primarily in the Korean community 'cause
20 that's where -- that's how -- her English is pretty
21 limited.

22 Q. Okay. And you indicated at the beginning that you
23 speak English, and you've been fluent in English here.

24 Do you speak any other languages?

25 A. No. I mean, I'm trying to -- I was trying to learn

1 Korean, but I'm not -- I'm not -- I mean, just on the
2 side-ish. I'm not fluent at all.

3 Q. Okay. And in college, did you take any other
4 languages?

5 A. Did I take any languages in college?

6 Q. Yes.

7 A. I -- I mean, definitely not when I was getting my
8 master's degree. I --

9 Q. What about during your undergraduate here? It's a
10 requirement at UH and at USC.

11 A. I don't -- I'm not sure that it was. I can't
12 recall, yeah.

13 Q. Did you take a foreign language when you were at
14 Punahou?

15 A. I -- I know at Punahou, I did.

16 Q. What did you take there?

17 A. I took -- I remember taking Japanese, and I also
18 took Hawaiian language when I was in high school.

19 Q. Okay.

20 A. But I -- I can't remember, like, how long or...

21 Q. Was Hawaiian language a requirement at Manoa when
22 you went there?

23 A. I can't recall that.

24 Q. Too long ago?

25 A. Yeah. I'm -- I don't remember language being a

1 requirement. I remember -- I think speech was a
2 requirement, but I -- I can't remember if it was a
3 requirement for the engineering curriculum.

4 Q. And you took your general education requirements,
5 didn't you?

6 A. So when you're talking about, you know, UH Hawaii at
7 Manoa and USC for undergraduate, there's a specific
8 engineering curriculum that, you know, specifies -- I
9 mean, I think there's electives. I can't remember, you
10 know, exactly the breakdown -- math class, there's physics
11 class, but you -- you kind of just follow the curriculum
12 that's laid out for you.

13 Q. Well, I understand there's a curriculum at the
14 university, but all universities have a set forth general
15 -- general education requirement to create a well-rounded
16 student, and one of 'em is a foreign language requirement.
17 I was just inquiring what it is you might have taken.

18 A. I -- I -- I really truly don't know if there's a
19 language requirement, like I can't -- I -- I mean, I
20 really can't -- I don't remember taking a language --

21 Q. Okay. Would it be fair to say you did not take
22 Korean?

23 A. I didn't take Korean.

24 Q. Okay. And you have no recollection of signing the
25 tax returns for MAI, correct?

1 A. I can't recall.

2 Q. What about the tax returns for M&I -- M&A?

3 A. It's possible, but I -- I -- like I can't recall.

4 Q. And who does the tax work for M&A?

5 A. I can't recall at this time.

6 Q. Is there something that might refresh your
7 recollection?

8 A. I don't know.

9 MR. WHEAT: Okay. Madam Foreperson, it is now
10 28 minutes after the hour. Would this be an appropriate
11 time for us to break for the day?

12 THE FOREPERSON: Yes, it would.

13 BY MR. WHEAT:

14 Q. Ms. Mitsunaga, we've not completed your examination.

15 A. I understand.

16 Q. You're going to have to return. The Grand Jury next
17 meets on Thursday, April 15th.

18 Now, generally, everyone is directed to appear at
19 9 o'clock. However, if your lawyer would like to know a
20 more precise time for you to come depending on the Grand
21 Jury's schedule, they might contact Agent Salazar or Agent
22 Sakanoi, and they will tell them exactly what time so
23 you're not sitting in the hall for an extended period of
24 time.

25 A. Okay.

1 Q. You understand?

2 A. Yes, I understand.

3 Q. Okay. Before we adjourn, is there anything you'd
4 like to put on the record that you were dying to say today
5 beyond what you've already said?

6 A. I just -- I want to put on the record are you still
7 refusing to tell us what this is about? I mean --

8 Q. Ma'am, I don't understand what that question means.

9 A. What is this investigation about, you know?

10 Q. Ma'am, the -- the things that occur in the Grand
11 Jury are secret. The only person who can talk about what
12 happens here is you. I'm not at liberty to tell you
13 anything beyond --

14 A. I thought -- I thought --

15 Q. Pardon?

16 A. I thought that, you know, we have a right to know
17 exactly, like, why we're here because --

18 Q. Where would that right be derived from, ma'am?

19 A. It's my understanding that, you know, I mean --

20 Q. What is that understanding based on?

21 A. I mean, it's just, like, people are being bullied,
22 you know, my family, and we don't even know why.

23 Q. What do you mean, bullied?

24 A. Attacked, terrorized.

25 Q. What do you mean by attacked and terrorized?

1 A. What --

2 Q. When you use these terms --

3 A. It -- it -- it was really, really mortifying to
4 hear, I mean just --

5 Q. Were you there?

6 A. -- it was -- I was not there. I was not there.

7 Q. Then how do you know that?

8 A. My husband told me. I mean, of course he told me.

9 It was just, you know, I would never wish that upon
10 anyone's family or kids.

11 Q. And you weren't at home when they were knocking on
12 the door --

13 A. I don't --

14 Q. -- for over an hour --

15 A. I don't believe so.

16 Q. -- to serve you with a subpoena?

17 A. I don't believe so, but I just -- to think that they
18 made my kids sit in the car unattended, I mean a
19 3-year-old, you know. She just was potty-trained --

20 Q. And if one of the agents saw you in the house, would
21 they be mistaken?

22 A. I cannot recall if I was at home.

23 Q. My -- my question is not whether you recall. My
24 question is would they be mistaken if they had seen you at
25 home in the residence and refusing to answer the door?

1 A. I -- I don't know, but I did not -- I don't recall
2 hearing anything.

3 Q. Do you have an upstairs/downstairs in your home?

4 A. Yes. Our house is multiple stories.

5 Q. What's in the downstairs level?

6 A. We have a kitchen, living room, bathroom.

7 Q. When you're downstairs, can you hear people knocking
8 at the door?

9 A. Well, we have a -- we have a -- another downstairs
10 studio that's our office so in there, not really.

11 Q. Were you down in the studio that day?

12 A. I -- I can't recall. I can't recall. You keep
13 asking me, but I --

14 Q. So if somebody said you were down in the studio, and
15 you couldn't hear, would that be a possibility?

16 A. I can't -- I can't recall.

17 Q. Okay. When are you to reappear?

18 A. Thursday, April 15th.

19 Q. Okay. And 9:00 a.m. unless you call to get a more
20 precise time. That's a courtesy to you.

21 A. I understand.

22 MR. WHEAT: Okay. May this witness be excused for
23 the day?

24 THE FOREPERSON: Yes, she may.

25 THE WITNESS: Thank you.

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

MR. WHEAT: Okay. You're free to step out, ma'am.

(Testimony concluded at 4:32 p.m.)

-o0o-

CERTIFICATE

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

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

4/14/21
Date


WENDY M. WATANABE, CSR, RPR



EXHIBIT 2
FILED UNDER SEAL

STATEMENT TO GRAND JURY
REGARDING LAUREL MAU AND
THE PROSECUTOR'S OFFICE

By Lois Mitsunaga

LAUREL MAU:

1. Laurel Mau was an Architect working for Mitsunaga Associates – Mitsunaga Associates is a full service Architectural and Engineering Company.
2. While employed by Mitsunaga and getting paid over \$100,000 per year in salary and fringe benefits, Laurel Mau was not doing her work because she was also working and getting paid by other firms, including our competitors.

She got away with this by falsifying her time sheets.

3. Besides neglecting her work for us while getting paid HUNDREDS OF THOUSANDS of DOLLARS, she was doing "SIDE JOBS" on her own.

Although she used Mitsunaga Associates as the entity to process the Contract and process the Building Permit, she kept the money for all the side jobs for herself.

4. We had suspected something was wrong for some time because the Building Department would periodically call our office to inquire about permits for projects that no one else in the office knew anything about.



5. Laurel Mau's criminal activities came to a head when one of her Clandestine Clients sued her contractor boyfriend and Mitsunaga Associates for faulty design work that she had done using Mitsunaga as the contracted entity.

a. We had no knowledge or involvement with the project but got sued because Laurel Mau had used us to procure the contract and process the Building Permit.

b. The case as filed in court is STANFORD H. MATSUI vs. EDGAR KAMAKA.

Edgar Kamaka is Laurel Mau's boyfriend with whom she was doing the "SIDE JOBS" with.

c. Although Laurel Mau kept all the money for the project, we had to spend many thousands of dollars in company resources and legal fees for the next four (4) years to get released from the lawsuit.

6. During the Stanford Matsui lawsuit we found out that there were many other "SIDE JOBS" that Laurel Mau had done using Mitsunaga Associates to procure the contract and process the Building Permit, while getting all the money diverted directly to her.

7. After Laurel Mau's criminal activities were uncovered and she was naturally terminated, she had the audacity to file a "WRONGFUL TERMINATION" lawsuit against us claiming that she was fired because she was a woman as opposed to the fact that she is a thief.

a. It was a jury trial and we won the case "HANDS DOWN".

During the trial Laurel Mau even admitted that what she had done to us was "unethical"!

8. After we fired her, we filed a complaint with the Honolulu Police Department to have her prosecuted. The HPD Report No. is 12-2589.
 - a. If someone burglarized your house and stole your belongings, wouldn't you want the thief to be caught and prosecuted??
 - This is exactly what Mitsunaga Associates did.

REGARDING OUR INVOLVEMENT WITH THE PROSECUTOR'S OFFICE:

1. When we first filed our Complaint with the Honolulu Police Department, they directed us to Detective Phillip Snoops. Detective Snoops felt what Laurel Mau did was a complicated business crime and recommended that we report it directly to the Prosecutor's Office.
 - a. This is why we retained Attorney MYRON TAKEMOTO (who is now a Judge) to file the complaint with the Prosecutor's Office.

Mr. Takemoto was an experienced Criminal Attorney and had previously worked in the Prosecutor's Office for over 10 years.
2. In May 2015, the Prosecutor's Office independently filed our (4) counts of theft against Laurel Mau.
 - a. Sadly, the case was dismissed because of a technicality and Laurel Mau escaped punishment for her misdeeds.
 - b. It was our understanding that the Prosecutor was going to appeal the decision, but for some reason, that was never done.

We obviously do not control or have any influence over the Prosecutor's decisions and until this day do not know why the decision was not appealed.

FALSE NEWSCAST BY HNN on March 4, 2021

1. Whoever released the false information to HNN prejudiced the minds of the jurors, compromised the unbiasedness of the Grand Jury, and did irreparable harm to Mitsunaga Associates.

The entire newscast by HNN on March 4th was FALSE. I wish to submit to the Grand Jury Chad McDonald's Declaration regarding Laurel Mau which I believe will reveal the truth regarding this entire Laurel Mau issue.

DECLARATION OF CHAD MCDONALD

I, Chad McDonald, hereby declare the following:

1. My name is Chad McDonald. I am a Civil Engineer and the Senior Vice President of Mitsunaga & Associates, Inc. (“MAI”), a company located in the City and County of Honolulu, State of Hawaii. I have been employed by MAI for over 15 years (from 1997 to present). MAI is a design firm that provides architectural, engineering, and construction management services to clients throughout the State of Hawaii and internationally. I currently oversee MAI’s Civil Engineering Division and the Construction Management Division. I hold a bachelor’s degree in Civil Engineering from Loyola Marymount University.

2. I have knowledge of and participated in the investigation involving a former MAI employee, Laurel J. Mau (“Mau”), and her performance of side jobs while employed at MAI using MAI’s name, time, money, and resources, without MAI’s consent, knowledge, authority, and/or approval.

3. On or about November 10, 2011, Mau was terminated from MAI for misconduct and performing unauthorized side jobs using MAI’s name, time, money, and resources in direct violation of MAI’s Employee Handbook.

4. I have knowledge of and participated in the *Stanford H. Masui, et al. v. Edgar Kamaka, et al.* (Civil No. 12-1-0524-02) lawsuit in the Circuit Court of the First Circuit, State of Hawaii. In this case, MAI was sued by the Plaintiffs for Mau performing an unauthorized side job located at 1578 Alewa Drive, using MAI’s name, time, money, and resources, without MAI’s consent or knowledge. A settlement was reached on or about August 19, 2014. I reviewed all documents, including but not limited to the pleadings, correspondence, and depositions, in this proceeding and have relied upon these documents in developing my testimony.

EXHIBIT A

5. I have knowledge of and participated in the *Laurel J. Mau v. Mitsunaga & Associates, Inc.* (Civil No. 12-00468) lawsuit in the United States District Court for the District of Hawaii. In this case, Mau filed a complaint on or about August 20, 2012 alleging age and sex discrimination, retaliation, negligent and intentional infliction of emotional distress, and seeking punitive damages. Prior to trial, Mau withdrew the age discrimination claims. A jury trial in this matter began on July 14, 2014. The jury returned a verdict on July 25, 2014 in favor of MAI: (1) denying all of Mau's claims; and (2) granting MAI's claim against Mau for breach of the duty of loyalty. I reviewed all documents, including but not limited to the pleadings, correspondence, depositions, and trial transcripts, in this proceeding and have relied upon these documents in developing my testimony.

6. Through my knowledge of and participation in the investigation of Mau, and my involvement in the *Stanford H. Masui, et al. v. Edgar Kamaka, et al.* (Civil No. 12-1-0524-02) and *Laurel J. Mau v. Mitsunaga & Associates, Inc.* (Civil No. 12-00468) lawsuits, I ascertained the following facts:

I. FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE

A. Summary of the Investigation

Laurel J. Mau was employed as an Interior Designer/Architect with MAI beginning in 1996. *See* Exhibit "1", Transcript of Jury Trial Day 2 dated July 15, 2014 at 27:4-6. On November 10, 2011, Mau was fired by MAI for misconduct and performing unauthorized side jobs. *See* Exhibit "8". During the investigation into her misconduct, both before and after her termination, it came to light that Mau was performing various "side jobs" during company work hours while falsely stating on her time sheets that she was working on MAI projects. Mau testified under oath as follows:

EXHIBIT A

- “Q. With regards to your side jobs, Ms. Mau, that you performed while employed at Mitsunaga & Associates, Inc., you performed them outside the course and scope of your employment; is that correct? A. Yes. Q. And with regards to your side jobs, you used MAI’s time, money, and resources to perform these side jobs; is that correct? A. Yes, e-mail and telephone. Q. E-mail, fax, time; is that correct? A. Yes. Q. You also used MAI’s name; is that correct? A. Yes.” *See Exhibit “2”, Deposition of Laurel Mau dated July 9, 2014 at 346:14-347:3.*
- “Q. [Y]ou were doing side jobs against company policy, in violation of company policy, correct? A. Yes.” *See Exhibit “4”, Transcript of Jury Trial Day 3 dated July 15, 2014 at 105:14-16.*
- “Q. [Y]ou did use Mitsunaga & Associates’ name and you put it on the permit for jobs that were not Mitsunaga & Associates’ jobs, correct? A. Yes.” *See Exhibit “4”, Transcript of Jury Trial Day 3 dated July 16, 2014 at 142:18-21.*
- “Q. So is it fair to say that you used Mitsunaga & Associates, Inc.’s, or MAI’s name, email address and business phone number to obtain building permits for jobs not related to MAI? A. Yes.” *See Exhibit “5”, Transcript of Jury Trial Day 4 dated July 17, 2014 at 14:11-15.*
- “Q. With regards to the Endo residence project, did you use MAI’s time, money, and resources to perform that project? A. Yes.” *See Exhibit “2”, Laurel Mau Deposition dated July 9, 2014 at 332:13-16.*
- “Q. With regards to the Dr. and Mrs. Alvin Fuse residence project located 1525 Ahuahu Loop, Honolulu, Hawaii 96816, that was a side job that you performed; is that correct? A. Yes. Q. Was that outside the course and scope of Mitsunaga & Associates, Inc.’s employment? A. Yes, yes. Q. And did you use MAI’s time, money, and resources to perform this project? A. Yes.” *See Exhibit “2”, Laurel Mau Deposition dated July 9, 2014 at 332:17-333:2.*

Mau admitted to performing over 13 side jobs, year after year, using MAI’s time, money, and resources. *See Exhibits “9” and “10”.*

It was also later revealed that Mau took two payments from an MAI client, Rudy Alivado, on an MAI job, one for eight hundred dollars (\$800.00) and another for two thousand dollars (\$2,000.00), and kept these cash payments for herself rather than passing them on to MAI. By deceiving MAI and falsifying her time sheets, thereby acquiring a salary she did not earn, and by deceiving Rudy Alivado into making two cash payments that she never intended to

EXHIBIT A

pass on to MAI (and never did pass on to MAI), I have probable cause to believe that Laurel J.

Mau committed the offense of Theft in the 2nd Degree by Deception.

B. Mau’s Unauthorized Side Jobs

On November 10, 2011, Mau was fired by MAI for misconduct and for acting against company policy by conducting various "side jobs" without MAI's approval, authority, or consent. See Exhibit "8". MAI's Employee Handbook states that the hours of work for employees are Monday thru Friday from 8:00 a.m. to 5:00 p.m., unless otherwise arranged with a division head. See Exhibit "11". Ignoring the rules, Mau used MAI's name, time, money, and other resources to perform "side jobs" during company work hours while billing MAI for time spent working on projects for herself and MAI's competitors.¹ See Exhibit "12". Mau would often disguise the time for her side jobs as "Construction Administration" on her MAI timesheets as shown in Table 1.

TABLE 1: LAUREL MAU’S CONSTRUCTION ADMINISTRATION (“CA”) HOURS

YEAR	CONSTN. ADMIN (CA) HOURS ON TIMESHEETS	HR. RATE	TOTAL PD TO LM FOR CA WORK	PER W-2 WAGES REC'D FROM MAI	AVERAGE % ALLOCATED TO CA PER JOB	AVERAGE \$ ALLOCATED TO CA PER JOB	MAI DAMAGES
2011	1,033	\$35.00/\$40.00	\$36,155.00	\$63,992.69	20%	\$12,798.54	\$23,356.46
2010	1,199	\$35.00	\$41,965.00	\$73,384.78	20%	\$14,676.96	\$27,288.04
2009	1,117	\$35.00	\$39,095.00	\$73,384.78	20%	\$14,676.96	\$24,418.04
2008	601	\$35.00	\$21,035.00	\$64,984.56	20%	\$12,996.91	\$8,038.09
2007	279	\$33.37	\$9,310.23	\$69,246.32	20%	\$13,849.26	\$(4,539.03)
2006	429	\$31.73	\$13,612.17	\$64,535.03	20%	\$12,907.01	\$705.16

	\$ 75,062.55
1.72 Over Head Rate	\$ 129,107.59
Subtotal	\$ 204,170.14
10% Profit	\$ 20,417.01
Total	\$ 224,587.15

¹ Ms. Mau's hourly rate (effective June 10, 2007) was \$35.00 and raised to \$40.00 on November 3, 2011. MAI also paid for Ms. Mau's parking, cell phone bill, and gas. Additionally, Ms. Mau was given a \$1,000 bonus December 19, 2008, December 22, 2009, and December 18, 2010.

EXHIBIT A

See Exhibits “15”, “16”, and “17”. Given Mau’s position and projects, there was no conceivable way she performed anything even remotely related to the amount of time she allocated to Construction Administration each year. Mau consistently falsified her timesheets, year after year, billing MAI for time she spent working on side jobs, frequently for a competitor.² Furthermore, Mau’s time sheets do not reflect that she ever made up the time expended on her side jobs during MAI’s work hours by working on weekends or after hours.³ *See* Exhibits “15” and “16”.

Mau frequently worked on unauthorized "side jobs" with MAI's competitor William ("Bill") Wong, who is the Owner/Managing Member at Jenken Architecture, LLC using MAI's name, time, money and resources. *See* Exhibits “12”, “13”, “14”, “34”. In fact, Mau admitted that her own conduct, working for a competing architectural firm Jenken Architecture while she was employed by MAI, was “weird” and “unethical.” *See* Exhibit “5”, Transcript of Jury Trial Day 4 dated July 17, 2014 at 74:21-75:5. As a result of Mau’s misconduct, MAI was sued. *See* Exhibit “4”, Transcript of Jury Trial Day 3 dated July 16, 2014 at 107:4-108:3. Mau used MAI's computer/e-mail system to generate non-MAI related business and communicate with her "side job" clients during work hours while billing MAI for her time without MAI's approval, authority,

² Mau’s testimony contains a story that Mau was somehow given blanket authorization at some unidentified time -- she couldn’t even identify the year -- to do any job under \$15,000 as a side job. This “story” was a lie as Mr. Fujii never gave Mau approval to do one side job. *See* the Declaration of Aaron Fujii. Furthermore, Mr. Fujii testified at trial that Mau never even came to him about it, let alone gave her blanket authority, and that he was not in a position to give approval until 2010, in any event. *See* Exhibit “6”, Transcript of Jury Trial Day 6 dated July 21, 2014 at 76:24-78:3.

³ Mau claims that, although she did falsify her timesheets, she would sometimes “make-up” the time on weekends or after hours. However, her timesheets do not reflect any such “make-up” time, she cannot identify how many hours she stole nor how many hours she allegedly “made-up.” Mau knew she was stealing from the company, which is why she falsified the timesheets. An MAI employee, Hisako Uriu, whose desk was located next to Mau’s desk testified as follows: “[Laurel Mau] was complaining that she didn’t get a raise and she was mad, so she came to me and she complained that if the Mitsunaga & Associates didn’t give her a raise, she said she is going to give herself a raise . . . she explained that she is not going to work.” *See* Transcript of Jury Trial Day 7 dated July 22, 2014 at 41:4-14, 43:23-44:18, 55:3-4.

EXHIBIT A

or consent, which is strictly prohibited by MAI's Employee Handbook.⁴ During trial, Mau testified under oath as follows:

- “Q. Yesterday you testified regarding a personal computer, that you did not have one while you were employed at MAI; is that correct? A. Yes, that’s correct. Q. Okay. Well, is it fair to say then that all of the side jobs, all communications that you had with clients or other people working on these side jobs was done on MAI’s computer then? A. Yes, that’s correct.” *See* Transcript of Jury Trial Day 4 dated July 17, 2014 at 4:17-25.
- “Q. Okay. Yesterday you also mentioned not having a separate email account, separate and apart from the MAI email account that you had; is that correct? A. Yes, until I started an email account in maybe the summer of 2011. Q. Okay. So it would be fair to say that all emails sent to you relating to your side jobs went to the MAI email account? A. Yes, that is correct. Q. Okay. And would it be fair to say also that all emails sent from you to your clients or other people working on the side jobs came from that MAI email account? A. Yes, that’s correct.” *See* Transcript of Jury Trial Day 4 dated July 17, 2014 at 5:1-12.

By way of example, Mau performed (1) the project located at Vanguard Loft, Apt. # 505, 720 Kapiolani Boulevard, Honolulu, Hawaii for Mr. and Mrs. Darrin Sato, and (2) the project located at 1303 Nehoa Street, Honolulu, Hawaii 96822 for Allen Teshima using MAI’s time, money, and resources while falsely billing MAI for the time she spent on these projects.

However, MAI did not discover these unauthorized “side jobs” until approximately February 2013 as it continued its ongoing investigation of Laurel Mau. During her deposition on July 9, 2014, Mau testified under oath as follows:

- “Q. And did you use MAI’s time, money, and resources to perform the Loft 505 project? A. Yes. Q. And how much in compensation did you receive? A. \$900.” *See* Exhibit “2”, Deposition of Laurel J. Mau dated July 9, 2014 at 325:1-6.
- “Q. You previously testified that you did in fact use MAI’s time, money, and resources to perform this side job located at 1303 Nehoa Street; is that correct? A. Yes.” *See* Exhibit “2”, Deposition of Laurel J. Mau dated July 9, 2014 at 322:18-22.

⁴ Under the Section entitled “E-Mail” of MAI's Employee Handbook, it states “The E-Mail system is solely to conduct the firm’s business with its client and vendors.” *See* Exhibit “11”. Additionally, under the Section entitled “Moonlighting” of MAI's Employee Handbook, the company has a list of rules that must be adhered to in the event an employee chooses to make outside professional commitments, all of which Mau violated. *See* Exhibit “11”.

EXHIBIT A

Mau admitted to receiving more than \$6,000 in compensation from these side projects that she performed during work hours, using MAI’s time, money, and resources, all the while falsifying her timesheets and also collecting her salary from MAI. Mau spent her working hours using MAI’s computer to generate the contracts for these Projects and to obtain necessary building permit(s), used MAI’s e-mail system to communicate with her side job clients, and used MAI’s cell phone/landline to perform these side jobs. The following Tables relate to these side jobs and show the date of the e-mail, the time the e-mail was either sent or received by Mau, who the e-mail was addressed to, who the e-mail was sent from, and the amount of time Mau billed MAI for that day.

TABLE 2: LOFT 505

DATE	TIME	TO	FROM	BILLED TO MAI PROJECTS	TIME BILLED
10/07/11	11:39 a.m.	Darrin/Pamie	Laurel Mau	Kamehameha Schools/CCHDC Complex	4 Hours/4 Hours
04/05/11	9:39 a.m.	Laurel Mau	Napolean Pascua	Kamehameha Schools/AB-Warehouse	4 Hours/4 Hours
04/05/11	9:14 a.m.	Napolean Pascua	Laurel Mau	Kamehameha Schools/AB-Warehouse	4 Hours/4 Hours
04/05/11	9:10 a.m.	Laurel Mau	Napolean Pascua	Kamehameha Schools/AB-Warehouse	4 Hours/4 Hours
02/15/11	2:59 p.m.	Laurel Mau	Napolean Pascua	Kamehameha Schools	8 Hours
02/15/11	1:17 p.m.	Napolean Pascua	Laurel Mau	Kamehameha Schools	8 Hours
02/15/11	12:09 p.m.	Laurel Mau	Ed Deuchar	Kamehameha Schools	8 Hours
02/14/11	6:01 p.m.	Ed Deuchar	Laurel Mau	Fire Station/Kamehameha Schools	2 Hours/6 Hours
02/14/11	5:51 p.m.	Laurel Mau	Ed Deuchar	Fire Station/Kamehameha Schools	2 Hours/6 Hours
02/14/11	11:55 a.m.	Darrin Sato	Laurel Mau	Fire Station/Kamehameha Schools	2 Hours/6 Hours
02/14/11	11:42 a.m.	Laurel Mau	Darrin Sato	Fire Station/Kamehameha Schools	2 Hours/6 Hours
02/14/11	11:33 a.m.	Ed Deuchar	Laurel Mau	Fire Station/Kamehameha Schools	2 Hours/6 Hours
02/10/11	3:16 p.m.	Darrin Sato	Laurel Mau	Hale Wai Vista/Kalaeloa Restore	4 Hours/4 Hours
02/10/11	11:58 a.m.	Darrin Sato	Laurel Mau	Hale Wai Vista/Kalaeloa Restore	4 Hours/4 Hours
02/10/11	9:51 a.m.	Laurel Mau	Darrin Sato	Hale Wai Vista/Kalaeloa Restore	4 Hours/4 Hours
02/10/11	9:10 a.m.	Darrin Sato	Laurel Mau	Hale Wai Vista/Kalaeloa Restore	4 Hours/4 Hours
02/08/11	2:04 p.m.	Dave Gifford	Laurel Mau	Ewa Makai/Hale Wai/Kamehameha	2/4/2 Hours
02/03/11	4:27 p.m.	Darrin Sato	Laurel Mau	Fire Station/Hale Wai/Kamehameha	2/2/4 Hours
02/03/11	3:56 p.m.	Laurel Mau	Darrin Sato	Fire Station/Hale Wai/Kamehameha	2/2/4 Hours
02/03/11	3:49 p.m.	Darrin Sato	Laurel Mau	Fire Station/Hale Wai/Kamehameha	2/2/4 Hours
02/03/11	2:36 p.m.	Laurel Mau	Darrin Sato	Fire Station/Hale Wai/Kamehameha	2/2/4 Hours

See Exhibits "15" and "20" (E-mails related to the Loft 505 unauthorized side job).

EXHIBIT A

TABLE 3: 1303 NEHOA STREET

DATE	TIME	TO	FROM	BILLED TO MAI PROJECTS	TIME BILLED
07/07/11	10:11 a.m.	Ms. Fossorier	Laurel Mau	Kihei Police Station	8 Hours
06/29/10	10:22 a.m.	Allen Teshima	Laurel Mau	Ewa Makai/Hale Wai/Fire Station/Kamehameha	2/2/2/2 Hours
06/28/10	7:10 p.m.	Laurel Mau	Allen Teshima	Ewa Makai/Hale Wai/Kamehameha	4/2/2 Hours
06/28/10	3:57 p.m.	Allen Teshima	Laurel Mau	Ewa Makai/Hale Wai/Kamehameha	4/2/2 Hours
06/07/10	3:27 p.m.	Allen Teshima	Laurel Mau	Fire Station/Ewa Makai	4 Hours/4 Hours
06/07/10	2:58 p.m.	Allen Teshima	Laurel Mau	Kaunakakai Fire Station/Ewa Makai	4 Hours/4 Hours
06/04/10	4:21 p.m.	Laurel Mau	Allen Teshima	Kihei Police Station	8 Hours
04/27/10	1:41 p.m.	Allen Teshima	Laurel Mau	Ewa Makai	8 Hours
02/04/10	5:47 p.m.	Allen Teshima	Laurel Mau	Ewa Makai/Kamehameha Schools	4/4 Hours

See Exhibits “15” and “24” (E-mails related to the unauthorized side job located at 1303 Nehoa St.).

C. Mau’s Theft From Rudy Alivado

During approximately October 2007 to May 2009, Mau worked an MAI project for Rudy Alivado’s residence located at 45-616 Nohomalu Place, Kaneohe, Hawaii 96744 (the “Project”). Rudy Alivado is a friend of Dennis Mitsunaga (who is the CEO/Owner of MAI). On April 18, 2014 and July 16, 2014, Mau testified in deposition and at trial that she performed the Rudy Alivado project as a “side job” and did not charge Mitsunaga & Associates, Inc. for any of her time spent on the Project. See Exhibit “1”, Laurel Mau Deposition dated April 18, 2014 at 189:3-11; see also Exhibit “4”, Transcript of Jury Trial Day 3, 161:9-22. However, as reflected in her timesheets, Mau did charge MAI for her time spent working on the Project. See Exhibit “16”. After being shown her timesheets at trial during cross-examination, Mau changed her “story” and testified that she did charge the company for her time. See Exhibit “5”, Transcript of Jury Trial Day 4 dated July 17, 2014 at 20:9-25:19.

Mau also testified that she received an unsolicited “gift” from Rudy Alivado in the amount of approximately \$2,000 in cash (which she accepted). See Exhibit “5”, Transcript of Jury Trial Day 4 dated July 17, 2014 at 27:19-28:6. Mr. Alivado testified that Mau was not given the money as a gift, but rather, that Mau demanded two separate payments, one in the

EXHIBIT A

amount of \$800 and another in the amount of \$2,000, payments that were supposed to be going to MAI. *See* Exhibit “7”, Transcript of Jury Trial Day 7 dated July 22, 2014 at 85:11-87:13. Mau specifically requested each of these amounts in cash. *Id.* In March 2014, MAI learned that Mr. Alivado was deceived by Mau to believe that he was paying MAI when Mau was in fact keeping the money for herself. Thus, not only did Mau bill her time to MAI, but she also collected approximately \$2,800 in cash from Rudy Alivado for herself. As this was an official MAI project, these payments should have gone to MAI, not Mau. Mau intentionally deceived Alivado into thinking that he was making payments to MAI, when she intended to keep the money for herself. Mau did, in fact, keep the money for herself, evidenced by her own admission of keeping the cash given to her by Rudy Alivado, and by Terri Otani’s declaration stating that no money was ever received by MAI from Mau as it related to the Alivado project. *See* Declaration of Terri Ann Otani.

II. EXHIBITS

1. Attached hereto as Exhibit “1” is a true and correct copy of excerpts of the Deposition of Laurel J. Mau dated April 18, 2014.
2. Attached hereto as Exhibit “2” is a true and correct copy of excerpts of the Deposition of Laurel J. Mau dated July 9, 2014.
3. Attached hereto as Exhibit “3” is a true and correct copy of excerpts of Jury Trial Day 2 dated July 15, 2014.
4. Attached hereto as Exhibit “4” is a true and correct copy of excerpts of Jury Trial Day 3 dated July 16, 2014.
5. Attached hereto as Exhibit “5” is a true and correct copy of excerpts of Jury Trial Day 4 dated July 17, 2014.

EXHIBIT A

6. Attached hereto as Exhibit “6” is a true and correct copy of excerpts of Jury Trial Day 6 dated July 21, 2014.

7. Attached hereto as Exhibit “7” is a true and correct copy of excerpts of Jury Trial Day 7 dated July 22, 2014.

8. Attached hereto as Exhibit “8” is a true and correct copy of correspondence from Sheri J. Tanaka, Esq. to Laurel J. Mau dated November 25, 2011.

9. Attached hereto as Exhibit “9” is a true and correct copy of the document entitled Defendant Laurel Mau’s Responses to Plaintiff Stanford H. Masui and Doretta L. Masui’s First Request for Production of Documents to Defendant Laurel Mau dated May 31, 2013, wherein Laurel Mau admitted to performing side jobs while employed by MAI.

10. Attached hereto as Exhibit “10” is a true and correct copy of the document entitled Defendant Laurel Mau’s Responses to Plaintiff Stanford H. Masui and Doretta L. Masui’s Second Request for Answers to Interrogatories to Defendant Laurel Mau dated August 5, 2013.

11. Attached hereto as Exhibit “11” is a true and correct copy of the Mitsunaga & Associates, Inc.’s Employee Handbook.

12. Attached hereto as Exhibit “12” is a true and correct copy of a letter/invoice from Laurel Mau (who is signing on behalf of William Wong from Jenken Architects, LLC) to Ms. Violet Endo Francis (a side job client) for fees.

13. Attached hereto as Exhibit “13” is a true and correct copy of Table 5 reflecting the date, time, and amount of minutes William Wong and Laurel Mau spoke to one another using MAI’s cell phone while Mau falsely billed MAI, claiming to be working on MAI Projects.

EXHIBIT A

22. Attached hereto as Exhibit "22" is a true and correct copy of the contract between Laurel Mau and Allen Teshima for the unauthorized side job located at 1303 Nehoa Street, Apartment 7, Honolulu, Hawaii 96822 dated November 18, 2009. Mau used MAI's name, time, money, and/or resources to perform this side job without MAI's knowledge or consent.

23. Attached hereto as Exhibit "23" is a true and correct copy of a check from Allen Teshima to Laurel Mau dated July 12, 2010 in the amount of \$8,029.65 for the services Laurel Mau rendered.

24. Attached hereto as Exhibit "24" are true and correct copies of e-mails regarding the 1303 Nehoa Street, Apartment 7, Honolulu, Hawaii 96822 unauthorized side job.

25. Attached hereto as Exhibit "25" is a true and correct copy of the permits Laurel Mau obtained using MAI's time, money, and resources, including the 1303 Nehoa Street, Apartment 7, Honolulu, Hawaii 96822 unauthorized side job.

26. Attached hereto as Exhibit "26" is a true and correct copy of the Department of Planning and Permitting Building Permit for the unauthorized side project located at 1303 Nehoa Street, Apt. #7, Honolulu, Hawaii 96822, wherein Laurel Mau is listed as the Building Permit Applicant and Plan Maker, using MAI's time, money, and/or resources.

27. Attached hereto as Exhibit "27" are true and correct copies of the drawings prepared by Laurel J. Mau for the project located at 1303 Nehoa Street, Apt. #7, Honolulu, Hawaii 96822.

28. Attached hereto as Exhibit "28" are true and correct copies of invoices for the project located at 1303 Nehoa Street, Apt. #7, Honolulu, Hawaii 96822, wherein Laurel Mau used MAI's name, address, and/or telephone number to obtain materials for the project.

EXHIBIT A

The foregoing all occurred in the City and County of Honolulu, State of Hawaii.

I, Chad McDonald, declare under penalty of law that the foregoing is true and correct to the best of my knowledge and belief.

DATED: Honolulu, Hawaii, October 31, 2014.

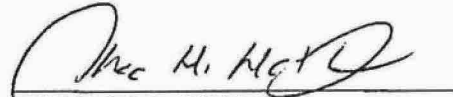

CHAD MCDONALD

EXHIBIT A

EXHIBIT 3
FILED UNDER SEAL

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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

TESTIMONY OF RYAN SHINDO

DATE: May 27, 2021
TIME: 3:02 p.m.

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

APPEARANCE:

For the United States of America:

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

REPORTED BY: WENDY M. WATANABE
CSR No. 401

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

RYAN SHINDO

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

EXAMINATION

BY MR. ORABONA:

Q. Sir, you can have a seat and, if you can, pull that microphone nice and close to you.

A. Okay.

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

A. Full name, Ryan Ashley Satoshi Shindo. So R-Y-A-N A-S-H-L-E-Y S-A-T-O-S-H-I S-H-I-N-D-O.

Q. Okay. Mr. Shindo, if you can, you see that microphone right in front of you? You're going to need to speak into it. If you -- if you -- if you waver a little bit, then the Grand Jurors can't hear what you're saying.

A. Understood.

Q. Okay.

A. Is that better?

Q. Yes, that is.

You see the -- you see the gentleman in the back?

MR. ORABONA: Sir, can you please raise your hand?

BY MR. ORABONA:

Q. He's little bit hard of hearing so if you don't

1 speak clearly into the microphone, he won't be able to
2 hear you, okay?

3 A. Okay.

4 Q. All right. Mr. Shindo, this is a federal grand jury
5 comprised of 23 members of the community impaneled to
6 investigate violations of federal law.

7 Do you understand that?

8 A. I do understand that. I do not understand why I'm
9 here and subpoenaed today. I don't know why the FBI is
10 harassing my family and terrorizing my kids, two young
11 kids who are 3 and 6 years old.

12 I do have a few questions that I would -- I would
13 like to ask and, perhaps, answered, one being what is this
14 investigation about and, two, why you refuse to tell
15 anyone and, three, who is the target and, four, at any
16 point can I become a target or subject?

17 Q. Did you receive a subpoena to testify here today?

18 A. Yes, I did.

19 Q. And how did you get here today?

20 A. With a coworker.

21 Q. With a coworker, you said?

22 A. Correct.

23 Q. Okay. Did you drive, or did your coworker drive?

24 A. Coworker dropped me off.

25 Q. Okay. Sir, you received a subpoena today because

1 you are a witness. You are not a subject or a target of
2 the Grand Jury investigation, but someone who could
3 provide information that might assist the Grand Jury in
4 the matter they are considering today.

5 Do you understand that?

6 A. I understand that but, again, I don't know what this
7 is about.

8 Q. Sir, as a witness, you have certain rights and
9 obligations before this Grand Jury.

10 First, you have a Fifth Amendment right to refuse to
11 answer any question asked of you if you honestly and truly
12 believe that the answer may incriminate you.

13 Do you understand that right?

14 A. Thank you for explaining that but, again, I do not
15 know what this investigation is about.

16 Q. Okay. Sir, but did you understand my question?

17 A. I understood.

18 Q. Okay. Did -- do you understand the right?

19 A. Correct.

20 Q. Okay. Is that -- that -- is that a yes?

21 A. Yes.

22 Q. Thank you.

23 Second, sir, you have a Sixth Amendment right to be
24 represented by counsel.

25 Are you represented by an attorney?

1 A. Yes.

2 Q. Okay. And who is your lawyer?

3 A. Sheri Tanaka.

4 Q. Okay. Sir, is your counsel here with you today?

5 A. She is, I believe, outside.

6 Q. Okay. Were -- were you sitting next to her, sir,
7 before -- before you came in here today?

8 A. Yes, that's -- that was her.

9 Q. Okay. Sir, do you understand that your attorney
10 cannot be in the Grand Jury with you while you testify;
11 but if you need a reasonable opportunity to consult with
12 your attorney during these proceedings, then the Grand
13 Jury will allow you to do that.

14 Do you understand that?

15 A. Yes.

16 Q. Okay. Now, you have an obligation to provide
17 truthful, complete, and accurate information to this Grand
18 Jury.

19 Do you understand that?

20 A. Yes.

21 Q. Okay. If you lie or provide materially false
22 information, you could be prosecuted for the felony
23 offense of perjury or obstruction of justice.

24 Do you understand that?

25 A. Yes.

1 Q. All right. Now, having your -- been advised of your
2 rights and obligations, are you prepared to testify here
3 today?

4 A. Yes.

5 Q. All right. Sir, how old are you?

6 A. I'd like to read my response to you. It's you have
7 already heard my encounter with the FBI while taking my
8 children to school. I am here because Michael Wheat
9 subpoenaed me and I am here to tell you my story
10 first-hand. I can clearly remember the incident because
11 it happened on my birthday, February 24th. Of all days,
12 my 45th birthday.

13 Contrary to the facade Michael Wheat and the FBI put
14 on here in Court today, the FBI, at Michael Wheat's -- at
15 Michael Wheat's direction, harassed, terrorized, and
16 endangered myself and my children. In February, I left my
17 home to take my children to school, and an unmarked car
18 began tailing me down the hill. At the stop light, where
19 Laukahi Street and Kalaniana'ole Highway intersects,
20 another unmarked car dangerously boxed my car in the
21 middle of the street almost causing an accident so that my
22 kids and I could not move during rush hour traffic. The
23 FBI agents then raced to the side of my car. An
24 individual named McDonald flashed an apparent badge that I
25 was unable to clearly see as he approached the car so I

1 could not confirm his identity. I was not certain if he
2 was going to rob me, kidnap my -- my children, I had no
3 idea. So in that -- in that moment, he flashed his
4 handcuffs, demanded that I comply with his directives, and
5 threatened to arrest me in front of my children. At no
6 point in time, did the FBI agents tell me why I was being
7 detained. I calmly asked if we could move to the side of
8 the street for the sake of my children's safety. The FBI
9 agents refused and again yelled at me. Instead, they
10 shouted that I exit the vehicle immediately, sit on the
11 curb like a criminal in front of my children, and leave my
12 children unattended in a running car parked in the middle
13 of the road during rush hour endangering their lives. The
14 FBI agents refused to tell me why they had pulled me over,
15 they never read me my Miranda rights, and then began
16 interrogating me without allowing me to have an attorney
17 present. Eventually, the FBI agents reluctantly let me
18 go. I did absolutely nothing wrong to justify their
19 actions. More than that, the FBI did not serve me with
20 any Subpoena on that day. I am absolutely appalled by the
21 FBI's conduct as directed by Michael Wheat and do not wish
22 this to happen to anyone in this Court room.

23 After intimidating, harassing, and terrorizing my
24 children and I for no reason whatsoever in February, the
25 FBI waited multiple months before serving me with a

1 subpoena in May, about 3 months later, while I was picking
2 up my 3 year-old daughter from my Preschool. So why serve
3 me at my daughter's Preschool when they could have easily
4 served me through my attorney or at my workplace? My
5 family and I are still so upset by what happened, and my
6 children continue to have nightmares about their
7 terrifying experience with the FBI. Michael Wheat's
8 appalling conduct has not stopped just with my family, but
9 is an abusive tactic that he has used against other
10 individuals as well.

11 On March 1st, Michael Wheat had FBI agents
12 aggressively follow Terri Otani late at night in
13 Mapunapuna, which resulted in a severe car accident.
14 Ms. Otani's car was totaled and she was taken to the
15 hospital. Ms. Otani is still recovering from her injuries
16 sustained from the accident, and Michael Wheat attempted
17 to have Ms. Otani held in contempt of court, even though
18 he failed to serve her with any subpoena. Recognizing his
19 motion was meritless, Michael Wheat quickly withdrew it.

20 On Thursday, May 20th, Michael Wheat sent 7 FBI
21 agents with rifles drawn and 3 FBI agents in -- agents in
22 street clothes to arrest Arnold Koya, a 73 year-old man
23 who recently suffered a severe stroke and is a Mitsunaga &
24 Associates, Inc., employee, even though Michael Wheat
25 failed to serve Mr. Koya with any subpoena, just like with

1 Ms. Otani. While Mr. Koya was being arrested, the FBI
2 agents refused to tell him why he was being arrested, and
3 failed to read him his Miranda rights, just like they did
4 with me. Michael Wheat had Mr. Koya strategically spend 4
5 nights in Federal Prison before the Court ordered
6 Mr. Koya's no bail release on Monday.

7 It is shocking how unethical Michael Wheat --
8 Wheat's conduct is. Michael Wheat and the FBI threatened,
9 harassed, and endangered the safety of myself and my
10 children for no reason. Michael Wheat made my wife
11 testify on three different occasions in these Grand Jury
12 Proceedings because he was unprepared, wanted to further
13 harass, terrorize, and intimidate my family, and try to
14 charge my wife with perjury. Michael Wheat refused to
15 tell me why I am here today and what this Grand Jury
16 Proceeding is about.

17 It is my understanding that a witness can become a
18 subject or target at any point in time. I therefore have
19 no idea what is self-incriminating or not. Moreover,
20 Michael Wheat and the FBI's terrorizing and appalling
21 conduct has violated myself, my family, and other
22 witnesses' basic constitutional rights. Michael Wheat is
23 wasting my time, your time, taxpayer dollars, and engaging
24 in a fishing expedition because he has no case.

25 For the foregoing reason and due to Michael Wheat's

1 abuse of power as a special prosecutor and failure to act
2 ethically as an officer of the court, I hereby invoke my
3 fifth right amendment against self-incrimination and
4 therefore respectfully decline to answer any questions.

5 Q. Mr. Shindo, did you just read from a pre-prepared
6 statement that you brought to the Grand Jury?

7 A. It is my statement that I wrote.

8 Q. Okay. And you just read from it, correct?

9 A. Correct.

10 Q. Okay. And do you have copies there?

11 A. I do have copies.

12 Q. Okay. Is -- are those for the Grand Jurors?

13 A. If they would like one.

14 Q. Okay, great. If I could collect those from you,
15 sir?

16 A. You sure can.

17 Q. And for the record, I'm going to mark one of those
18 copies as Grand Jury Exhibit RAS-1.

19 A. If you're coming here, can I put my mask on?

20 Q. Yes, you can, if you'd like to.

21 A. Okay.

22 MR. ORABONA: Let the record reflect that I have
23 handed copies of Mr. Shindo's statement which he has
24 provided to me to the Grand Jury.

25 BY MR. ORABONA:

1 Q. Mr. Shindo, I know that it's probably more
2 comfortable to sit back in that chair, but I'm going to
3 ask you to make sure that when -- yeah, you just lean into
4 the microphone. Just don't forget the individual in the
5 back who's a little hard of hearing, okay?

6 A. Understood.

7 Q. All right. Sir, my first question to you is just
8 how old are you?

9 A. I'm going to hereby invoke my fifth right amendment
10 against self-incrimination.

11 Q. And where do you live, sir?

12 A. Sorry. Again, not knowing what this investigation
13 is about, I invoke my Fifth Amendment.

14 Q. What is your cell phone number?

15 A. Again, without knowing what this investigation is
16 about, I invoke my Fifth Amendment.

17 Q. And you work for Mitsunaga & Associates; is that
18 correct?

19 A. Again, I hereby invoke my Fifth Amendment right
20 against self-incrimination.

21 Q. And you know that their general number is (808)
22 945-7822; is that right?

23 A. Again, not knowing what this investigation is about,
24 I invoke my Fifth Amendment.

25 Q. And what do you do for Mitsunaga & Associates?

1 A. I'd like to invoke my Fifth Amendment.

2 Q. And how long have you worked for Mitsunaga &
3 Associates?

4 A. Again, 'cause I don't know what the case is about, I
5 would like to invoke my Fifth Amendment.

6 Q. And who are your supervisors at Mitsunaga &
7 Associates?

8 A. Again, I would like to invoke my Fifth Amendment.

9 Q. Do you know who Dennis Mitsunaga is?

10 A. Again, I'd like to invoke my Fifth Amendment not
11 knowing what the investigation's about.

12 Q. Do you know who Lois Mitsunaga is?

13 A. Again, I'd like to invoke my Fifth Amendment.

14 Q. So, sir, just so we're clear, you're invoking the --
15 your Fifth Amendment right to answer the question who is
16 Lois Mitsunaga; is that correct?

17 A. I am invoking my Fifth Amendment right against
18 self-incrimination.

19 Q. Okay. Do you know who Chad McDonald is?

20 A. I'm invoking my Fifth Amendment right.

21 Q. And you mentioned during your pre-prepared statement
22 Arnold Koya.

23 Do you know who that is?

24 A. Yeah, I'm invoking my Fifth Amendment right.

25 Q. Also during the reading of your pre-prepared

1 statement, sir, you mentioned the name Terri Otani.

2 Do you know who that is?

3 A. Again, not understanding what the investigation is
4 about, I invoke my fifth right amendment.

5 Q. Do you know where Arnold Koya works?

6 A. Again, I hereby invoke my fifth right amendment.

7 Q. And, sir, who is Sheri Tanaka?

8 A. I hereby invoke my fifth right amendment.

9 Q. And does she have office space at Mitsunaga &
10 Associates?

11 A. I hereby invoke my fifth right amendment.

12 Q. And earlier when I was advising you of your rights,
13 you told this Grand Jury that Sheri Tanaka was your
14 lawyer, but now when I ask you who she is, you're invoking
15 the Fifth Amendment; is that correct?

16 A. Not knowing what the investigation is about, I
17 invoke my fifth right amendment.

18 Q. Okay. Have you ever made any political
19 contributions as a member of -- an employee of Mitsunaga &
20 Associates?

21 A. Again, not knowing what the investigation is about,
22 I invoke my Fifth right -- Amendment right.

23 Q. Do you know if your wife, Lois Mitsunaga, made any
24 political contributions to a man named Keith Kaneshiro?

25 A. Again, I'd like to invoke my Fifth Amendment right.

1 Q. And, sir, do you work in the accounting department
2 at Mitsunaga & Associates?

3 A. Again, not knowing what the investigation is about,
4 I invoke my Fifth Amendment right.

5 Q. Is Lois Mitsunaga your supervisor, or do you
6 supervise Lois Mitsunaga as part of the accounting
7 function at Mitsunaga & Associates?

8 A. Again, I would invoke my Fifth Amendment right.

9 Q. Do you know who the tax accountant is for Mitsunaga
10 & Associates?

11 A. Again, invoking the Fifth Amendment right.

12 Q. How many members are there in the accounting
13 department at Mitsunaga & Associates?

14 A. Again, not knowing what the case is about, I invoke
15 my Fifth Amendment right.

16 Q. Do you know where the bank accounts are held for
17 Mitsunaga & Associates?

18 A. Again, I'll be invoking the Fifth Amendment right.

19 Q. Do you know if they have bank accounts at First
20 Hawaiian?

21 A. I invoke my Fifth Amendment right.

22 Q. Sir, are you going to invoke your right under the
23 Fifth Amendment to each and every question that I ask you
24 here today?

25 A. Not knowing what the investigation is about, I will

1 invoke my Fifth Amendment right.

2 Q. Sir, do you understand what it means to invoke your
3 Fifth Amendment right?

4 A. I will be invoking the Fifth Amendment right.

5 Q. And, again, this is a yes or a no question. Are you
6 going to invoke your right under the Fifth Amendment to
7 each and every question I ask you here today?

8 A. If under oath that my choices are no or yes?

9 Q. That's correct. It's a yes-or-no question. Is
10 that -- what is your answer?

11 A. My answer is yes.

12 MR. ORABONA: Does anybody have any questions for
13 Mr. Shindo?

14 BY MR. ORABONA:

15 Q. Mr. Shindo, is there anything else you want to tell
16 this Grand Jury?

17 A. Not at this time.

18 Q. I'm sorry, sir, could you speak into the microphone?

19 A. No.

20 MR. ORABONA: Madam Foreperson, will you inform
21 Mr. Shindo that he is excused at this time but subject to
22 recall pending a motion before the District Court to
23 compel him to testify?

24 THE FOREPERSON: So requested.

25 MR. ORABONA: Mr. Shindo, you are excused today

1 subject to recall.

2 THE WITNESS: Yeah.

3 MR. ORABONA: Thank you, Mr. Shindo.

4 (Testimony concluded at 3:17 p.m.)

5 -o0o-

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

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

06/01/21

Date

Wendy M. Watanabe

WENDY M. WATANABE, CSR, RPR