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Complaint.

IN CHANCERY OF NEW JERSEY

TO THE HONORABLE EDWIN ROBERT WALKER,
Chancellor of the State of New Jersey.

The complainants, Abraham Friedman and Jacob 10
Friedman, a partnership trading under the firm name
and style of Abraham Friedman & Jacob Friedman,
respectfully show:

1. The said complainants are engaged in the whole-
sale plumbing and supply business in the City of Pas-
saic, and have been for the last past number of
years.

2. That Max Slaff, one of the defendants herein 20
named, also resides in the City of Passaic, in the
County of Passaic and State of New Jersey and is an
Uncle of the said Abraham Friedman and Jacob
Friedman.

3. That on or about the 14th day of April, 1919,
and the 22nd day of April, 1919, the said complain-
ants did enter into an agreement with their Uncle,
the said Max Slaff, wherein and whereby the said Max 30
Slaff did agree to purchase the hereinafter described
real estate known and designated as lot number three
(3) Block One Hundred Twenty-four (124) on map
of the City of Passaic and which is known as tract
one hereinafter set forth, and lot number six (6)
Block One hundred twenty-one (121) on map of
the City of Passaic, which is known as tract two,
hereinafter set forth.

Complaint

FIRST TRACT:

All that certain tract or parcel of land and premises, situate, lying and being in the City of Passaic, in the County of Passaic and State of New Jersey, and described as follows:

- 10 Beginning at a point on the southerly side of Monroe Street distant 45.69 feet easterly from the corner formed by the intersection of the southeasterly side of Monroe Street and the easterly side of Lexington Avenue and running thence (1) Southerly at right angles to Monroe Street 80 feet; thence (2) Easterly and parallel with Monroe Street 25 feet; thence (3) Northerly and parallel with the first course 80 feet to the southeasterly side of Monroe Street and thence
20 (4) Westerly along the same 25 feet to the point or place of beginning.

SECOND TRACT:

All that certain tract or parcel of land and premises, situate, lying and being in the City of Passaic, in the County of Passaic and State of New Jersey, and described as follows:

- 30 Beginning at the corner formed by the intersection of the northerly side of Monroe Street with the westerly side of Elm Street and running (1) Westerly along the northerly side of Monroe Street 50.75 feet; thence (2) Northerly parallel with Elm Street 100 feet; thence (3) Easterly and parallel with Monroe Street 50.75 feet to the Westerly side of Elm Street and thence (4) Southerly and along the westerly side
40 of Elm Street 100 feet to the point or place of beginning.

Complaint

4. That the said arrangement had between the said complainants and the said defendant, Max Slaff, concerning the two tracts of land above described were as follows: That the said Max Slaff, on the 14th day of April, 1919, did receive a check for the sum of Five Hundred Dollars representing the amount to be paid to John H. Kehoe with whom negotiations had been consummated for the sale of the said piece of property, the purchase price to be the sum of Four Thousand Dollars, Five Hundred Dollars to be paid on account thereof, in cash, when deed of conveyance to be executed, and the balance of Thirty-five Hundred Dollars by a purchase money mortgage. That the said defendant, Max Slaff, was to have a one-third interest in and to the said property and that the said Abraham Friedman was to have a one-third interest in and to the said property and the said Jacob Friedman was to have a one-third interest in and to same. That each of said parties were to have an undivided one-third interest in and to the same. That at the time when the said check for Five Hundred Dollars was paid unto the said Max Slaff, the said defendant did not have sufficient moneys and requested that the one-third which he was to pay on account of the purchase price should be advanced by the said complainants. That at the time of the said advancement the said defendant, Max Slaff, executed a note for this one-third advancement. That all of the expenditures necessarily incurred in the maintaining of the said property were to be paid in equal one-third parts by the complainants and the said defendant.

5. Complainants further say that on the 15th day of April, 1919, the said Max Slaff did, by deed conveyance, acquire title to the said property above de-

Complaint

scribed as tract one, which said deed of conveyance bears date April 15, 1919, and which was duly acknowledged on the 15th day of April, 1919, and duly recorded on April 24, 1919, in Book M27, of Deeds, page 105. That the said deed of conveyance was duly executed by John H. Kehoe and Mary Kehoe, his wife, who were the grantors therein named. That on the date of the execution of the said deed of conveyance the said Max Slaff, a defendant herein, and Bella Slaff, his wife, also a defendant, did execute a certain mortgage to the said John H. Kehoe in the sum of Three Thousand Dollars to run for the term of three years and yielding interest at the rate of six per cent, payable semi-annually. That there also appears of record affecting the title to said premises, a purchase money mortgage bearing date November 3, 1913, duly acknowledged on the 3rd day of November, 1913, and recorded on the 13th day of November, 1913, in book P9 of mortgages, page 395, given to secure the payment of the sum of Two Thousand Dollars in five years with interest at the rate of 5 1/2% payable semi-annually. That the said mortgage appears to be a lien of record as against the said property.

6. That the said Max Slaff, the grantee named in the foregoing warranty deed, after acquiring title to the premises hereinbefore described as tract one, refused to convey unto the complainants herein a deed for the undivided two-third interest in and to the said property in accordance with the agreement made by and between the said complainants and the said Max Slaff. That notwithstanding the fact that the funds used in the payment of the purchase price were moneys advanced by the said complainants in the pro-

Complaint

portions agreed upon, the said defendant, without just cause or excuse, refuses to convey unto the said complainants the respective interests unto which the said complainants are entitled. That the said complainants charge that the conduct of the said defendant, Max Slaff, is fraudulent and that as a matter of fact the title to the said premises are held by the said Max Slaff as trustee for them. 10

7. That the said complainants, having implicit confidence in the said Max Slaff and imposing trust in him because of the relationship existing, trusted and permitted the title to be taken in his name with the understanding that he was to have a deed executed therefor. That said complainants have repeatedly made demands of the defendant for a deed conveying unto them the undivided two-third interest in and to the foregoing described tracts of land but the said defendant had refused and absolutely disregarded their many requests. 20

8. That the said Max Slaff, on the 22nd day of April, 1919, did receive a check for the sum of One Thousand Dollars, representing the amount to be paid to John H. Kehoe, with whom negotiations had been consummated for the sale of the said piece of property, the purchase price to be the sum of Ten Thousand Dollars—One Thousand Dollars to be paid on account thereof, in cash, when deed of conveyance is to be executed and the balance of Nine Thousand Dollars as follows: Four Thousand Dollars by the defendants, Max Slaff and Bella Slaff executing a purchase money mortgage yielding interest at the rate of 6%, payable semi-annually and covering the second tract of premises above described. Five Thousand Dollars by mortgage covering the said property and 30 40

Complaint

which was a lien thereon at the time of the conveyance, yielding interest at the rate of 5 1/2 per cent. That the said defendant, Max Slaff, was to have a one-third interest in and to the said premises and the said Abraham Friedman was to have a one-third interest in and to the said property and the said Jacob Friedman was to have a one-third interest in and to same. That each of said parties were to have an undivided one-third interest in and to the same. That at the time when the said check for One Thousand Dollars was paid unto the said Max Slaff, the said defendant did not have sufficient moneys and requested that the one-third which he was to pay on account of the purchase price should be advanced by the said complainants. That at the time of the said advancement the said defendant, Max Slaff, executed a note for this one-third advancement. That all of the expenditures necessarily incurred in the maintaining of the said property were to be paid in equal one-third parts by the complainants and the said defendant.

9. Complainants further say that on the 15th day of April, 1919, the said Max Slaff did, by deed of conveyance, acquire title to the said property described as tract two, which said deed of conveyance bears date April 15, 1919, and which was duly acknowledged on the 15th day of April, 1919, and recorded on April 26, 1919, in book M27 of deeds, page 106. That the said deed of conveyance was duly executed by John H. Kehoe and Mary Kehoe, his wife, who were the grantors therein named. That on the date of the execution of the said deed of conveyance the said Max Slaff, a defendant herein, and Bella Slaff, his wife also a defendant, did execute a certain mortgage to the said John H. Kehoe in the sum of Four Thousand

Complaint

Dollars to run for the term of three years and yielding interest at the rate of six per cent payable semi-annually.

10. That the said Max Slaff, the grantee named in the foregoing warranty deed, after acquiring title to the premises hereinbefore described as tract two, refused to convey unto the complainants herein a deed for the undivided two-third interest in and to the said property in accordance with the agreement made by and between the said complainants and the said Max Slaff. That notwithstanding the fact that the funds used in the payment of the purchase price were moneys advanced by the said complainants in the proportion agreed upon, the said defendant, without just cause or excuse, refuses to convey unto the said complainants the respective interests unto which the said complainants are entitled. That the said complainants charge that the conduct of the said defendant, Max Slaff, is fraudulent and that as a matter of fact the title to the said premises are held by the said Max Slaff as trustee for them. 10
20

11. That the said complainants, having implicit confidence in the said Max Slaff and imposing trust in him because of the relationship existing, trusted and permitted the title to be taken in his name with the understanding that he was to have a deed executed therefor. That said complainants have repeatedly made demands of the defendant for a deed conveying unto them the undivided two-thirds interest in and to the foregoing described tracts of land but the said defendant has refused and absolutely disregarded their many requests. 30

12. Complainants further show that subsequently, 40

Complaint

after repeated demands, said Max Slaff did, as a matter of fact, state unto the complainants that a deed was duly executed by him and his wife conveying unto them the two-third interest in and to the foregoing first and second tracts of land above described, and that the same was duly recorded in the Register's
10 Office of the County of Passaic. That the said complainants relying upon the said representation made by the said Max Slaff, defendant in this cause, made no further inquiry. That subsequently the said complainants called to see the said Max Slaff to inquire when the interest became due on account of the mortgages affecting the first and second tracts and the said Max Slaff thereupon stated to the complainants that he insisted that he ought to receive one-half interest
20 in and to the said property and the complainants were entitled to a one-half interest and that he would not accept interest payments on account of the two-third interest in and to the property. That the said complainants immediately inquired of the said Max Slaff as to what he meant by that he having already assured them that a deed had been recorded conveying unto the complainants a two-third interest in and to the said property. That immediately thereupon Max
30 Slaff stated to them that the deed purporting to convey unto them the two-third interest as a matter of fact did not embrace the property in question. That thereupon the said complainants immediately consulted their attorneys and requested that a search be made forthwith to determine just what the records disclosed with relation to the said property. That the said complainants learned of the fact that the title to the said property as appeared of record was vested in Max Slaff as to both
40 tracts. The said complainants immediately thereupon made demand of the said Max Slaff that he convey

Complaint

unto them title to the said property in accordance with the agreement and understanding had by and between the complainants and the said Max Slaff. That he refused so to do. That the said fraudulent conduct and the said misrepresentations made by the said Max Slaff concerning the fact that a conveyance had been made is a fraud upon the complainants herein. That notwithstanding the fact that the said complainants advanced all of the moneys on account of the purchase price on both tracts and notwithstanding the fact that the said defendant, Max Slaff, agreed that he would convey a two-third interest in and to both of said tracts unto the complainants herein the said Max Slaff has refused without just cause or excuse and still refuses to convey unto the said complainants the undivided two-third interest in and the respective tracts hereinbefore described.

13. Complainants further say that the said tracts are in fact owned by the said Max Slaff, Abraham Friedman, and Jacob Friedman, each being entitled to an undivided one-third interest in and thereto, the first tract subject to mortgages amounting to Forty-five Hundred Dollars and the second tract to mortgages aggregating the sum of Nine Thousand Dollars. That the said complainants have paid the taxes on account of said tract of land and in all respects carried out their agreement in accordance with the understanding had by and between the complainants herein and the said defendant.

14. Complainants further say that they have repeatedly made demand of the said defendant, Max Slaff, for a deed conveying unto the complainants herein an undivided two-third interest in and to all of the lands hereinbefore described, but the defend-

Complaint

ant has refused and absolutely disregarded the many requests.

10 15. Complainants further say that the said defendant, Max Slaff, contriving to injure and to defraud them out of the said land and premises, refused to convey to the complainants, as in justice and equity ought to have been done. That the said inequitable and fraudulent conduct and acting are contrary to equity and tend to the manifest wrong and injury of the complainants in the premises.

20 16. That the said Max Slaff is married and the name of his wife is Bella Slaff who claims an inchoate right of dower in and to both tracts. That the said claim is unjust and a fraud upon the complainants herein.

Complainants are without adequate remedy in the courts of law, and therefore pray:

1. That the said defendants, Max Slaff and Bella Slaff, who are the defendants to this suit, may answer this bill of complaint and each statement made therein.

30 2. That the said defendants may be decreed or compelled to convey to the complainants the undivided two-third interest in and to the said lands and real estate described as aforesaid, or that the interest of the said complainants in and to the said lands may be determined by a decree of this court, or that the right, title and interest in and to the said lands and premises may be definitely fixed by a decree of this Honorable Court and that necessary conveyances may be executed conveying to the said complainants the
40 interest so determined.

Complaint

3. Whether the said Max Slaff obtained a deed for the above mentioned tracts and if so what consideration he paid or agreed to pay therefor, with what money he paid therefor, whether or not he received any moneys from the said complainants herein on account of the purchase price of the said lands, on what dates he received the moneys of the said complainants, if any. 10

4. That he, the said Max Slaff account for all of the moneys obtained from the said complainants mentioned in the foregoing bill and paid by the said complainants to the said defendants on the respective dates hereinbefore set forth and for all moneys received by the said Max Slaff from the said complainants for the payment of taxes and all other indebtedness which become due on said premises described hereinbefore. 20

5. That a writ of subpoena may issue commending the said defendants to answer this bill of complaint and to abide by such decree as this Court may make in the premises.

WEINBERGER & WEINBERGER,
Solicitors for and of counsel
with the complainants. 30

Answer.

IN CHANCERY OF NEW JERSEY.

Between:

10 ABRAHAM FRIEDMAN and JACOB
FRIEDMAN, a partnership trad-
ing under the firm name and
style of Abraham Friedman and
Jacob Friedman,

Complainants,
and

MAX SLAFF and BELLA SLAFF,
Defendants.

On Bill &c.
Answer.

20 The defendants, Max Slaff and Bella Slaff, resid-
ing in the City of Passaic, County of Passaic and State
of New Jersey, answering the bill of complaint, re-
spectfully say that:

1. Paragraphs one (1) and two (2) are admitted.

2. Paragraph three (3) is denied.

30 3. Paragraph four (4) is denied with the excep-
tion that the said defendant, Max Slaff, did borrow
the sum of Five Hundred Dollars but not for the pur-
pose therein set forth.

4. Paragraph five (5) is admitted.

5. Paragraphs six (6) and seven (7) are denied.

6. Defendants deny all of paragraph eight (8),
with the exception that the said defendant, Max Slaff,
did borrow the sum of \$1,000.00, but not for the
purpose therein set forth, for which he gave the com-
plainants a note and which note has since been paid.

40 7. Paragraph nine (9) is admitted.

8. Paragraphs ten (10) to sixteen (16), both in-
clusive, are denied.

CHARLES SLAFF,
Solicitor of Defendants.

Testimony.

IN CHANCERY OF NEW JERSEY.

Between:

ABRAHAM FRIEDMAN & JACOB
FRIEDMAN, a partnership trad-
ing under the firm name and
style of A. & J. Friedman Co.,
Complainants,
and

MAX SLAFF & BELIA SLAFF,
Defendants.

On Bill, &c.

10

Transcript of the testimony and proceedings taken
in the above-stated cause, on final hearing, at the Chan-
cery Chambers in Paterson, on Tuesday, November
15, 1921, at 10 o'clock in the forenoon, before his
Honor, Eugene Stevenson, Vice Chancellor.

20

Appearances:

Messrs. Weinberger & Weinberger, by Harry Wein-
berger, Esq., for the Complainants.

Charles Slaff, Esq., Solicitor, and Peter Backes,
Esq., of counsel for the Defendants.

30

Arthur R. Bailey, Official Shorthand Reporter, 52
Glen Ave., Glen Rock, N. J.

The Court: Are counsel ready to proceed with the
case of Friedman against Slaff?

Mr. Slaff: Yes, your Honor, we are ready for the
defendants.

Mr. Weinberger: We are ready to move the case
on behalf of the complainants.

40

The Court: You may proceed.

Testimony

Mr. Weinberger: This is an action instituted by A. and J. Friedman against the defendants Max Slaff and his wife Bella Slaff, to impress a trust or compel the conveyance of a two-thirds interest in two tracts of land described in the bill of complaint. The facts, briefly, are that Max Slaff was requested by the
10 complainants in this cause to purchase certain property, described in the bill of complaint. The property was, in fact, purchased. It appears that the money paid on account of the purchase price was paid by the complainants to Max Slaff, pursuant to an arrangement made between Max Slaff and the complainants. It appears, further, that the arrangement was that Max Slaff was to have one-third interest in the real estate and that two-thirds interest was to be owned
20 by the complainants, each of the complainants to be entitled to a one-third interest.

The moneys were advanced, as I have already stated; in fact, Max Slaff, the defendant, had no money of his own, and they loaned to him a one-third of the purchase price necessary to be paid so that he could enjoy the benefit of the one-third interest in that property.

One parcel was purchased for \$10,000; a thousand
30 dollars was paid on account of the purchase price by check of the complainants, one-third of that amount being advanced as a loan to the defendant and the balance of that amount being advanced for the two-thirds interest of the complainants. That check was the check of the complainants. A mortgage of \$9,000 covering the property—in the form of two mortgages, rather; one then on the property of \$5,000 and a purchase money mortgage was executed for the balance,
40 \$4,000. That was for the one parcel.

The Court: And then \$1,000 cash made up the \$10,000?

Testimony

Mr. Weinberger: Exactly; and that was paid by the complainants, as evidenced by their check which we will produce.

The other parcel was purchased for \$4,000, and apparently the answer admits those facts. We have had a search made of the property, and we find that there was a mortgage of record of \$2,000 on this property. How that is we don't know. We have no evidence to show that; but the fact remains that a second tract was purchased for \$4,000 and a deposit of \$500 paid on account of the purchase price and the balance by a purchase money mortgage, executed by the defendant in this case to the then owner, Mr. Kehoe. 10

The Court: For what amount?

Mr. Weinberger: That we don't know; he reported back to us that the price was \$4,000, and we paid him in accordance with that. 20

The Court: A mortgage was then made by the defendant?

Mr. Weinberger: Exactly.

The Court: And title taken by him?

Mr. Weinberger: Yes, to both tracts. Both tracts were taken in the name of the defendant.

The Court: And he gave the mortgages? 30

Mr. Weinberger: Exactly.

It appears, further, that they bought some other property in the same manner, and that property was known as the Falstrom property, and the purchase price was \$20,000, and as in these two other cases, \$2,000 was paid on account of that property by the check of the complainants in this case. I will correct that and say that the purchase price was \$22,000 and the deposit being \$2,000. 40

Testimony

Mr. Slaff took title to all of these parcels in his own name and, as the evidence will disclose, the Friedman Brothers were not experienced in the real estate business and they relied implicitly on Mr. Slaff. When the time came for the payment of interest they paid it; when the time came to pay the taxes they also paid the taxes, the bills having been submitted by the defendant to the complainants. It will appear, therefore, that the interest and taxes were paid by the complainants for the entire amount due, they advancing in each instance the amount necessary to pay these amounts to their uncle who was then financially embarrassed.

The Court: Do I understand that this other parcel which was purchased for \$22,000 and for which the complainants contributed \$2,000 in cash, is in this suit?

Mr. Weinberger: It is not, but I am explaining the entire affair so that your Honor will get a picture of the situation.

They had an accounting, and Mr. Max Slaff at that time gave them a one-third interest in all the parcels of land, as evidenced by a note which will be produced by one of the banks; and after this accounting took place and their affairs had been adjusted upon the assumption that, first, the title was in Friedman Brothers, Mr. Slaff having represented that he had taken the title in the name of the two complainants and not his own name, they relied upon that information and paid the interest and the taxes.

One day they met the former owner, Mr. Falstrom, and asked him why he didn't send them the interest bill, and he said he had been paid the interest by Mr. Slaff. They then went to Mr. Slaff and said, "Why didn't you tell us about paying the interest on the

Testimony

third parcel?" And Mr. Slaff said, "I forgot all about this transaction; I forgot to tell you that I took title in my own name. I will have an assignment at once, and I will have my nephew Charles Slaff draw a deed"; and a deed was drawn up for a two-thirds interest in the third tract; and at that time he stated that the other parcels were in their name, and nothing more was done. But later they learned that these two parcels were in his name, and they made a demand for a two-thirds interest in the two tracts described in the bill of complaint. He claimed he wanted a half interest and that he would only give them a half. They refused that and insisted that he carry out the arrangement. 10

We contend in this case that the complainants were fraudulently deprived of the benefit of their bargain, namely, two-thirds interest, and that the defendant wrongfully refused to deliver to them a two-thirds interest in the property; and we submit, if your Honor please, from the evidence conclusive proof will be established showing that these transactions were a fraudulent attempt on the part of the defendant, Mr. Max Slaff, to deprive these complainants of the interest they were entitled to in the two tracts described in the bill of complaint. 20 30

The Court: Does your bill pray that a resulting trust be established to the extent of two-thirds?

Mr. Weinberger: Exactly.

Mr. Backes: If your Honor please, it is true these people were closely related; Max Slaff, the defendant, is a relative of the complainants. We will be prepared to show that the property in question—and I desire particularly to call your Honor's attention to the fact that there is only one parcel divided into two tracts under two separate deeds, and that is the prop- 40

Testimony

erty involved in this suit and nothing more; we will show that that property was purchased by Mr. Max Slaff as his own, without any knowledge or concern on the part of the complainants; that for the purpose of purchasing the property he borrowed \$500 first off and then subsequently \$1,000 to pay on account of
10 the purchase price; that when the money was borrowed his nephews desired to know what he was borrowing this money for, and then it was disclosed that he had purchased these lots from Kehoe, and that he was also negotiating for some Falstrom property to which counsel has referred. Then the nephews requested the uncle to join them in the purchase of the Falstrom property. They wanted it, and they desired to know whether a partnership or a joint ad-
20 venture would be agreeable, and they agreed with him to take a two-thirds interest and he should take a one-third interest. That purchase was made on an agreement which we will produce. The purchase price was paid, and the moneys for that purchase price were borrowed by Mr. Max Slaff and advanced by the two Friedmans, and immediately upon the purchase of that property he executed a declaration of trust for that property.

30 There was never any such conversation as has been related here between the parties, of any kind whatsoever, so far as we know. This is the first disclosure we have had of that. We are prepared to show that the property in question is absolutely the property of Max Slaff. He borrowed the money to pay for it, and he has returned to these complainants that purchase price.

40 As to the other property, that is not in controversy here. There is a full and existing agreement between them. We will, therefore, ask, on establishing those

Complainants' Witness, Abraham Friedman, Direct

facts, that it be found that no trust has been established.

ABRAHAM FRIEDMAN, sworn in his own behalf, testified as follows:

Direct-examination by Mr. Weinberger:

- 10
- Q. Mr. Friedman, where do you live? A. Passaic.
 Q. How long have you lived in Passaic? A. Since I am here.
 Q. Well, how long is that? A. About nine years.
 Q. What is your business? A. Plumbing supplies.
 Q. And whom are you in business with? A. With my brother.
 Q. What is his name? A. Jacob Friedman.
 Q. And you trade under the name of A. & J. Friedman? A. A. & J. Friedman Company. 20
 Q. Do you know Max Slaff, the defendant in this case? A. He is my uncle.
 Q. Where does he live? A. In Passaic.
 Q. When you first came to this country about nine years ago did you start in business in Passaic immediately? A. No, I worked for my brothers.
 Q. Where? A. In Passaic.
 Q. How long have you been in the plumbing supply business? A. Six and one-half years. 30
 Q. When you first came whom did you live with?
 A. First with my brothers, and then I boarded with my uncle.
 Q. Which uncle? A. Max Slaff.
 Q. That is the defendant in this case? A. Yes, sir.
 Q. How long did you live with him? A. About two years.
 Q. And later on you branched out for yourself? 40
 A. For myself.

Complainants' Witness, Abraham Friedman, Direct

Q. Now, in April, 1919, did you have occasion to have any conversation with your uncle relative to the purchase of any real estate? A. Yes, sir.

Q. When was it that you first spoke to him about the purchase of property? A. In April.

Q. And where was this conversation? A. At our
10 store.

Q. Where was that at? A. 263 Monroe Street.

Q. And what was that conversation? A. My uncle came in to me and started to talk about real estate—how to make money—and I said to him, “Uncle, I have great faith in this street, especially these corners—the two corners here; now, what do you think about it?” He says, “I think it is all right.”

Q. You say that your business was on Monroe
20 Street? A. Yes, sir.

Q. And you said that you had great faith in that street? A. Great faith in that street.

Q. Meaning Monroe Street? A. Meaning Monroe Street.

Q. And pointing to Monroe Street? A. Yes.

Q. And what land was it you pointed to?

Mr. Backes: It doesn't appear that he pointed to any land.

30 Mr. Weinberger: I will withdraw that.

Q. Did you point to any land? A. The two corners.

Q. And what are those properties known as? A. On our side of Falstrom and Kehoe, and on the other side the Kehoe property, also. That is what he told me. I think it belongs to Harry Meyers, too.

Q. What did you say? A. He said, “I think it is
40 all right; it is a growing section.” I said to him, “What would you think if I shall decide to buy this

Complainants' Witness, Abraham Friedman, Direct

property?" and he said to me, "You are talking foolish. What do you have to go and tell anybody you want it for? I will go and find out about it, and I can buy it for you. I know Mr. Meyers and I also know Kehoe, and I know everybody, and I can make a better deal than any agent could do."

Q. Then what happened after you said that to him? 10

A. And we went home to dinner. It happened about half-past ten in the morning, and in the meanwhile I spoke to my brother, and says—

Q. Never mind what you said to your brother. You had a talk with your brother, and after you talked with your brother did you again see Mr. Slaff? A. Mr. Slaff came in to me after dinner.

Q. Your uncle Max Slaff? A. My uncle Max Slaff. 20

Q. And what happened at that time? A. And I told him, "Listen here, Uncle, I decided with my brother that I should take you in as a third partner, because he figured that you are experienced as a real estate man; we have great confidence in you."

Q. What did he say? A. He says, "You know I haven't any money." I said, "It is all right."

By the Court:

30

Q. Was that first mentioned about his going in with you? A. Yes, first mentioned.

Q. How long was that after you had first opened the matter to him? A. Just a few days.

By Mr. Weinberger:

Q. A few days after you had told about taking him in? A. No, the same time.

Q. His Honor, the Vice Chancellor, just asked you how long afterwards, and you said a few days. A. 40

Complainants' Witness, Abraham Friedman, Direct

I thought he meant how long after the property was bought.

Q. The Vice Chancellor didn't ask you that.

By the Court:

Q. Mr. Friedman, this is what I want to know:
10 You say that you opened this matter with your uncle, and told him about the Monroe Street corners and he undertook to go and look up the information? A. Yes, sir.

Q. And then, subsequently, you told him, you said, you and your brother had agreed to take him in? A. Yes, sir.

Q. Was that the first time you mentioned his going in? A. The first time.

20 Q. Now then, how long was that after you had sent him out to get the information? A. The same time.

Q. The same day? A. Yes, sir; the same day.

Q. Now, I want to make that clear to you: You spoke to your uncle first on your own behalf, I understand? A. Yes.

Q. And he went out to make the inquiry? A. No, he made the inquiry.

30 Q. And then did he come back and report to you the same day? A. Yes, the same day.

Q. And was it then that you told him that you and your brother would take him in? A. Yes, sir.

Q. As a partner? A. Yes, before he came back, and then I told him that I would take him in as a partner in our first talk.

By Mr. Weinberger:

40 Q. So that before Mr. Slaff had gone to inquire about the property you had then already suggested

Complainants' Witness, Abraham Friedman, Direct

to him that you would give him one-third interest in the property? A. Yes, sir.

Q. What did he say when you said that to him?

A. He says, "All right."

Q. He said, "All right"? A. Yes, sir.

Q. Was anything said about money at the time?

A. Yes; he told us he hasn't any money. 10

Q. What did you say to him? A. I told him I would advance his third.

Q. Now, after this talk took place did your uncle go out to purchase the property? A. Yes, sir.

Q. And, as a matter of fact, what did he report to you he could buy the property for? A. \$4,000.

Mr. Backes: Let us fix the property you are talking about. 20

Q. Which property was that? A. Kehoe's property, the first parcel.

Q. What were the dimensions of that property? A. 25 x 80.

Q. On what side of Monroe Street is that, going toward Garfield? A. Right-hand side.

Q. That would be on the southerly side of Monroe Street? A. Yes.

Q. I show you a check bearing date April 14, 1919, upon the Fourth Ward Trust Company, there is no number on the check; made by A. & J. Friedman to Max Slaff, and ask you whether or not that was the check which was delivered to Mr. Slaff as the check for deposit? A. This is the check for deposit for the Kehoe property. 30

(The check is handed to Mr. Backes for examination.)

Mr. Weinberger: May I say to the Court that there appears a notation— 40

Complainants' Witness, Abraham Friedman, Direct

Mr. Backes: Now, please don't—

10 Mr. Weinberger: I want to say this for your Honor's benefit and for the purpose of the record. I have asked that a notation be made on each check, in pencil, showing what check it is, and I want to explain that that doesn't belong on the check. If your Honor desires that that be stricken off I will do it; but I had that put on for my own convenience.

The Court: Very well, as long as we understand that it was not on the original check. You may read the check.

20 Mr. Weinberger: Fourth Ward Trust Company; pay to the order of Max Slaff, \$500; check signed by the makers, A. & J. Friedman, by Abe Friedman.

Mr. Backes: What is the date of that?

Mr. Weinberger: April 14, 1919. The cancellation appearing on the check is April 15, 1919; and then numerals 55,134. Endorsed "Max Slaff." I offer it in evidence, if your Honor please.

Admitted and marked Exhibit C1.

30 Q. Now, Mr. Friedman, when you gave this check to Mr. Slaff, referring to Exhibit C1, that was the amount of the deposit on what property? A. Kehoe property.

Q. The plot 25 x 80? A. Yes.

Q. What was the price that Mr. Slaff reported back for this property? A. \$4,000.

Q. And how much of that \$500 represented what you advanced to Mr. Slaff? A. One-third interest.

Q. One-third of that sum? A. Yes.

40 Q. Was there any talk as to whose name the property was to be taken? A. Yes, sir.

Complainants' Witness, Abraham Friedman, Direct

Q. Will you state to the Court what that conversation was?

Mr. Backes: With whom did he talk?

Q. With whom did you talk about that? A. My uncle.

Q. The defendant in this case? A. Yes, sir. 10

Mr. Backes: Fix the time.

Q. And when was this talk? A. Before I gave the check I asked him how we will take the property, and he said he would take the property in A. & J. Friedman.

Q. That is what he said, that he would take the property in your name? A. Yes, sir.

Q. Did you then and there give him the check? A. Yes, sir. 20

Q. When did you next hear from him after you gave him the check? A. When he bought the property and "Everything is all right."

Q. He told you that he had bought the property? A. Yes, sir; and he brought me in the tax bills at that time and also a bill from Harry Meyers.

Q. Now, Mr. Friedman, did he get a deed at once, did he say? 30

Mr. Backes: Now don't.

Q. What did he say about what he had done with reference to it? A. He says that he had bought the property and everything is all right."

By the Court:

Q. Had you made any arrangements with him about the mortgage on the property? A. No, sir. 40

Q. What was the price? A. \$4,000.

Complainants' Witness, Abraham Friedman, Direct

Q. Was that mentioned between you and your uncle? A. Yes, sir.

Q. You both agreed to it? A. Yes, sir.

Q. Was anything said between you and him as to how that money was to be paid? A. \$500 in cash and the balance in mortgage.

10 Q. What balance? A. \$3,500.

Q. Was there anything said between you and your uncle as to who should give the mortgage? A. No, he didn't say that.

By Mr. Weinberger:

Q. Had you ever bought real estate before, Mr. Friedman? A. No, sir.

20 Q. Never had owned any real estate before? A. No, not before.

Q. This was the first parcel of property you bought? A. Yes, sir.

Q. Now, Mr. Friedman, as a matter of fact, did you have any further talk concerning any other property with your uncle? A. Yes, sir.

Q. When? A. The same time that property is bought.

30 Q. What happened at that time? A. We made up that we would go ahead and buy the Falstrom property to join the other property.

Q. Adjoining the other property? A. Yes, sir.

Q. Did you go and buy the Falstrom property? A. Yes, sir.

Q. At what price? A. \$22,000.

Q. Who gave the check? A. We gave the check.

Q. I show you a check bearing date April 15—

40 Mr. Backes: Now, if your Honor please, I understand the Falstrom property is not in

Complainants' Witness, Abraham Friedman, Direct

question here. It is immaterial as to what was done with that.

The Court: Well, I cannot say that it is immaterial. The transactions being so near—so closely connected in point of time—I will take it and see. It can't do any harm. I would like to inquire of Mr. Weinberger: I have before me your bill, and it describes two tracts on Monroe Street; the first tract is 25 x 80? 10

Mr. Weinberger: That is the tract he has been talking about.

The Court: And the second tract is not the Falstrom tract, I understand?

Mr. Weinberger: No, it is the other one in dispute.

The Court: Did the Falstrom transaction intervene between these? 20

Mr. Weinberger: It did, and I will say that the money is so interwoven that the accounting will prove the case conclusively before I am through.

Q. I show you a check dated April 15, 1919, bearing number 2396, upon the Peoples Bank & Trust Company, and ask you whether or not that was the check which you delivered to Mr. Slaff? A. Yes, sir. 30

Q. On account of what property? A. On account of the Falstrom property.

Mr. Weinberger: I offer it in evidence.

By the Court:

Q. Is that your signature, Mr. Friedman? A. Friedman Brothers. 40

Q. Was the check paid at the bank?

Complainants' Witness, Abraham Friedman, Direct

10 Mr. Weinberger: I am going to recite that. It was paid on the 16th day of April, 1919, and the check is made to Max Slaff. It bears date April 15, 1919, and is for \$2,000. The makers are A. & J. Friedman, by J. Friedman, 263 Monroe Street; bearing the endorsement of Max Slaff on its back. The check was paid at the Hobart Trust Company on the 16th of April, 1919.

Mr. Backes: It seems to be endorsed in lead pencil.

20 Mr. Weinberger: I will say, as I said with reference to the previous check, that there appears the pencil endorsement on that of "Falstrom property." It was not on that check originally, but was put on by me for identification.

Admitted in evidence and marked Exhibit C2.

By Mr. Weinberger:

Q. Now, Mr. Friedman, in whose name did he say that property would be taken? A. The same as the others.

30 Q. In whose name was it taken? A. A. & J. Friedman.

Q. In whose name? A. Max Slaff.

Q. You didn't know that at the time? A. No.

Q. When did you learn that? A. When I asked Mr. Slaff about the interest that was due on that property.

Q. When was that? A. Four or five months later.

By the Court:

40 Q. What was the bargain between you in regard

Complainants' Witness, Abraham Friedman, Direct

to the purchase of the Falstrom tract? How much was the purchase price? A. \$22,000.

Q. How was it to be paid? A. \$2,000 in cash and the balance should be paid by mortgage.

Q. The whole of the \$20,000, or was there a mortgage on the property? A. No, the balance in mortgage. 10

Q. Twenty thousand? A. Yes.

Q. Was there anything said between you and your uncle as to who should execute the mortgage? A. No.

Q. Nothing said? A. No.

Q. Did your uncle say that he would make the mortgage? A. No.

Q. Did your uncle ask you to make the mortgage? A. No. 20

The Court: Proceed.

By Mr. Weinberger:

Q. Now, with relation to this \$2,000, as evidenced by the check marked Exhibit C2, was there any arrangement as to whether he was to have an interest in that property? A. A third part, the same as the others. 30

Q. Did he pay any money of his own on this purchase price? A. No.

Q. Who advanced the money? A. We advanced the money.

Q. And was that done just as it was in regard to the Kehoe property? A. The same thing.

Q. And how much did you advance of this \$2,000 on behalf of your uncle for his one-third interest? A. He paid in only \$1,500.

Q. When did you learn that he only paid \$1,500 on account? A. After he bought it. 40

Complainants' Witness, Abraham Friedman, Direct

Q. Was that \$2,000 given to him to pay on account? A. Yes, sir.

Q. And, in fact, he paid only how much? A. \$1,500.

Q. How much did you advance for your uncle on account of the purchase price? A. \$500.

10 Q. What became of the other \$500 he didn't pay on account? A. He bought some more property.

Q. What other property? A. Kehoe's property.

Q. And that is the property in which you are now claiming a two-thirds interest with your brother? A. Yes, sir.

Q. How much was the price of that property? A. \$10,000.

Q. The purchase price was \$10,000? A. Yes, sir.

20 Q. And who did you send to buy that for you? A. My uncle Max Slaff.

Q. And was that on the same day or later? A. Later.

Q. How many days later? A. I can't recollect; I think a day or two; a few days; I can't recollect.

30 Q. I show you a check bearing date April 22, 1919, check No. 2406, made on the Peoples Bank & Trust Company, signed by A. & J. Friedman, by Abe Friedman, on the check of A. & J. Friedman, plumbing supplies, 263 Monroe Street, and ask you whether or not that check is signed by you? A. Yes, sir.

Q. And was that check delivered to Max Slaff? A. Yes, sir.

40 Mr. Weinberger: I offer it in evidence, being a check for \$1,000, and dated April 22, 1919; endorsed "Max Slaff"; paid on the 23d of April, at the Hobart Trust Company, Passaic, N. J. There is likewise a notation on that

Complainants' Witness, Abraham Friedman, Direct

check identifying the check for the Kehoe property, Lots 202 and 3, Monroe Street, Passaic.

Admitted in evidence and marked Exhibit C3.

Q. That thousand dollar check (referring to Exhibit C3) was paid as a deposit on the third parcel of the Kehoe property? A. Yes, sir. 10

Mr. Backes: Let the witness testify, if you please.

The Court: Too leading, Mr. Weinberger.

Q. Now, as a matter of fact, whom did you give the check to? A. My uncle.

Q. And for what purpose? A. To buy the property.

Q. What was the price? A. \$10,000. 20

Q. How much was the deposit? A. One thousand.

Q. Was he to have any interest in that property? A. The same, like the others, one-third.

Q. And did he have his own money for his one-third? A. No.

Q. What arrangement was made concerning the money? A. I advanced one-third for him.

By the Court: 30

Q. Mr. Friedman, I don't quite understand your testimony in regard to this check for \$2,000— A. Yes, sir.

Q. That was delivered, you say, as part payment on what land? A. The \$22,000 land.

Q. And do I understand you to say that only \$1,500 was paid for the land? A. Yes, sir.

Q. What became of the \$500; do you know? A. We bought all this property together and we advanced 40

Complainants' Witness, Abraham Friedman, Direct

\$3,500 of our money, and Mr. Slaff, my uncle, figured up how much it was and gave me his note for his one-third interest, and he gave me a check for the \$500.

Q. Oh, he repaid you the \$500, did he? A. We only put the \$3,000 in the property; he said he put
10 it through at \$1,500 and I advanced him \$3,000 to buy this property and he only paid in \$3,000, and he figured out how much he paid me and he gave his note for his one-third interest and \$500 in cash.

Q. So that the \$500 which was not used, represented by this check, he repaid to you? A. Yes, sir; later.

The Court: Proceed.

20 By Mr. Weinberger:

Q. Now, Mr. Friedman, what if anything did your uncle report back concerning in whose name the property was taken? A. A. & J. Friedman.

Q. In all, you paid on account of the purchase price of these three plots of property how much money? A. \$3,000.

Q. \$3,000? A. Yes.

30 Q. You gave checks for how much money? A. \$3,500.

Q. The three checks, C1, 2 and 3, in evidence, total \$3,500? A. Yes, sir.

Q. But you actually paid on account of that property how much? A. \$3,000.

Q. What became of the other \$500? A. He gave me a check for that.

Q. And do you recall on what date? A. Yes, sir.

Q. What date was it? A. I can't tell exactly.

40 Q. Will your books show it? A. My books will show it; yes, sir.

Complainants' Witness, Abraham Friedman, Direct

Q. Now, what evidence, if any, did you receive from Mr. Max Slaff, your uncle, as to the moneys which you advanced, representing one-third interest in these three parcels of land; what did you get for that? A. He gave me a note for his one-third.

Q. For how much money? A. One thousand.

Mr. Weinberger: I call upon the defendant to produce note for \$1,000, made by Max Slaff to the complainant.

10

Mr. Backes: We have no such note. The fact is that such a note was given.

Mr. Weinberger: Well, for the purpose of the record, counsel say they have not the note and cannot produce it, but admit that a note for \$1,000 was given.

Mr. Backes: And that note must be in the possession of A. & J. Friedman, because the note was subsequently renewed, and we have the renewal which was subsequently paid by Mr. Max Slaff.

20

Mr. Weinberger: Well, the point is, we don't dispute as to what happened later on; we admit it was later on paid, but we say there was a note given at the time bearing date May 7.

30

The Court: But I understand your adversary admits that there was a note given and that note was subsequently renewed and the renewal note was paid and he has the renewal note.

Q. Have you any note for \$1,000, Mr. Friedman, which was given at that time for the one-third interest that Mr. Slaff had to these parcels of land? A. Why, I paid the note when it came due to my bank.

40

Q. Well, have you the note? A. No, I have not.

Complainants' Witness, Abraham Friedman, Direct

Q. Have you looked through your files for all of the notes and checks in this case? A. I don't remember.

Q. Did you look up your papers in the office? Did you look through all your files for the notes and checks in this case? A. Yes, I did.

10 Q. Have you brought all of the papers you have got? A. Yes, I did.

Mr. Weinberger: I ask that the defendant produce check bearing date June 7, 1919, for \$500.

Mr. Backes: Check of whom?

Mr. Weinberger: Made by Max Slaff to A. & J. Friedman.

20 Mr. Backes: Defendant produces check of June 7, 1919, drawn on the Hobart Trust Company, made by Max Slaff to A. & J. Friedman, for \$500.

30 Mr. Weinberger: I offer in evidence, if your Honor please, the check produced upon request of the complainant, bearing date June 7, 1919, made on the Hobart Trust Company to the order of A. & J. Friedman, for \$500, the maker's name appearing to be Max Slaff, and the endorsement on the back "For deposit to the credit of A. & J. Friedman"; which check was paid on the 10th day of June, 1919, at the Fourth Ward Trust Company of Passaic, N. J., and ask that it be marked Exhibit C4.

The same is marked Exhibit C4.

40 Mr. Weinberger: So that the record may be clear, may I call for the production of the note which represents the renewal note for \$1,000.

Mr. Backes: We have a note here, if your

Complainants' Witness, Abraham Friedman, Direct

Honor please, dated September 8 for \$900, and this note was given in renewal of the \$1,000 note.

Mr. Weinberger: There was \$100 paid on the original note, if your Honor please. We will bring that out by the evidence and our books.

10

I offer in evidence the note produced upon the request of the complainant, bearing date September 8, 1919, for \$900, payable in four months after date, the maker being Max Slaff; note payable at the Fourth Ward Trust Company, Passaic, New Jersey, and endorsed "A. & J. Friedman by Abe Friedman"; which note was paid on the 8th of January, 1920, I am told that it is—paid, as I say, on January 20. And I ask that that be marked.

20

The same is marked Exhibit C5.

Mr. Weinberger: I call for the production of the check paid on account of the original note of \$1,000, installment of \$100, bearing date September 8, 1919.

Mr. Backes: We produce check of September 8, for \$100 on the Hobart Trust Company; and another check of September 8 for \$20, both made to the order of A. & J. Friedman and signed Max Slaff, one check being on account of the note and the other being on account of the discount.

30

Mr. Weinberger: I offer in evidence two checks, each bearing date September 8, 1919, made on the Hobart Trust Company, the maker being Max Slaff, payee A. & J. Friedman, one for \$100 and the other for \$20, and endorsements appearing on the back, and both

40

Complainants' Witness, Abraham Friedman, Direct

checks being cashed or paid on September 9, 1919, at the Fourth Ward Trust Co., Passaic, N. J.; and I ask that they be marked C6 and C7.

The check for \$100 is marked Exhibit C6, and the one for \$20 is marked Exhibit C7.

10 Mr. Weinberger: Counsel for the defendant very kindly produces and I offer in evidence, if your Honor please, check bearing date January 8, 1920, for the sum of \$918; maker Max Slaff; on the Hobart Trust Company; payee A. & J. Friedman; endorsement on the back "For deposit to account of A. & J. Friedman," and paid on January 10, 1920, at the Fourth Ward Trust Company, Passaic, N. J.; and I ask that that be marked Exhibit

20 C8.

The same is marked Exhibit C8.

Mr. Backes: Let it be made clear that that check was to pay the note.

Mr. Weinberger: There is no dispute about that.

30 Q. Now, Mr. Friedman, after these three parcels had been purchased, when did you first learn of the fact that the property was not taken in your name?

A. I met Mr. Falstrom and asked him when is the interest due.

Q. Well, you met Mr. Falstrom on the street and had a conversation with him? A. Yes, sir.

Q. Now, will you tell the Court what transpired or happened between you and your uncle when you met him? A. Yes, sir—

40 Q. When was this, Mr. Friedman, if you can tell us? A. Three or four months later, or five months later—something like that.

Complainants' Witness, Abraham Friedman, Direct

Q. What happened? A. I seen my uncle and I asked him, "How is that that you took the Falstrom property in your name?" He says, "What do you care about it? The reason I took the Falstrom property in my name is because you know he is an old man, and he told me himself he is liable to go every day, and if I should speak to him and mention that you boys want to buy he knows you boys are on the same street and he would perhaps raise the price, and I had some job to get it at the price." 10

The Court: Won't you please repeat that?

The Witness: I asked my uncle, "How is it that you took the Falstrom property in your name and not in us," and he says, "I will tell you why: The reason I didn't take it in your name is because you know Falstrom is quite an old man and I had quite a job to get the property from him; he didn't want to sell it. If I started to tell him that you fellows want to buy and he knows you fellows are on the same street perhaps he would raise the price. That is why I took it in my name." 20

Q. Now, after he had this talk with you you say that he told you that he would have Charley Slaff draw a deed? A. Yes, sir. 30

Q. Or agreement? A. An agreement; yes, sir.

Q. And did he, in fact, later on give you this agreement? A. Yes, sir.

(Mr. Weinberger hands paper to Mr. Backes; Mr. Backes looks at it and hands it back.)

Mr. Weinberger: I offer in evidence, if your Honor please, certified copy of what purports to be articles of agreement, bearing date 40

Complainants' Witness, Abraham Friedman, Direct

the 17th day of April, 1919, signed by Max Slaff, Abraham Friedman and Jacob Friedman; acknowledged on the 20th day of August, 1919; and recorded on the 26th day of August, 1919, for a two-thirds interest to Abe Friedman and Jacob Friedman, of the property known as the Gustav W. Falstrom property.

The Court: Is it a conveyance?

Mr. Weinberger: An assignment of articles of agreement. It appears that he took the property by contract and he never got a deed for this property.

The Court: Suppose you read the important part of it.

Mr. Weinberger (reading from paper):

ARTICLES OF AGREEMENT.

This agreement made this 17th day of April, 1919, between Max Slaff, of the City of Passaic, County of Passaic, and State of New Jersey, of the first part, and Abe Friedman and Jacob Friedman, of the City of Passaic, County of Passaic, and State of New Jersey, of the second part, WITNESSETH:

That in consideration of the sum of one dollar and other valuable consideration, the said party of the first part does hereby convey to the said party of the second part a two-thirds interest in a certain agreement made the 17th day of April, 1919, between Gustav W. Falstrom and Max Slaff, for the sale of a certain tract of ground at the corner of the southerly side of Monroe Street and the westerly side of Elm Street, Passaic, New Jersey.

Complainants' Witness, Abraham Friedman, Direct

It is further agreed that the said Abe Friedman and Jacob Friedman assume two-thirds of the obligations and liabilities expressed in the said agreement between Gustav W. Falstrom and Max Slaff.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals the day and year first above mentioned.

10

MAX SLAFF,
ABRAHAM FRIEDMAN,
JACOB FRIEDMAN.

Signed, sealed and
delivered in the presence
of Maurice Slaff.

20

It is dated, as I said before, on the 17th day of April, 1919, acknowledged on the 26th day of August, 1919, in Book Q27 of Deeds for said county, page 416.

Admitted in evidence and marked Exhibit C9.

Mr. Weinberger: I also offer in evidence a deed from John H. Kehoe and Mary Kehoe, his wife, bearing date the 15th day of April, 1919, to Max Slaff; consideration one dollar; property being 25 x 80 in dimensions; a warranty deed, subject to no mortgages recited therein, which is acknowledged on the 15th day of April, 1919, before Harry Meyers, Master in Chancery of New Jersey, and duly recorded on the 26th day of April, 1919, in Book M27 of Deeds, page 105.

30

Admitted and marked Exhibit C10.

40

Complainants' Witness, Abraham Friedman, Direct

10 Mr. Weinberger: I also offer in evidence a deed bearing date the 15th day of April, 1919, from John H. Kehoe and Mary Kehoe, his wife, to Max Slaff, bearing date April 15, 1919; consideration one dollar, describing property 50 x 100; warranty deed, subject to no mortgages or encumbrances; acknowledged on the 15th day of April, 1919, before Harry Meyers, Master in Chancery of New Jersey, and duly recorded on the 26th day of April, 1919, in Book M27 of Deeds, page 106.

Admitted and marked Exhibit C11.

The Court: I understand that both of these deeds of the Kehoe property are warranty deeds, and no encumbrances?

20 Mr. Weinberger: Yes, your Honor.

The Court: As a matter of fact, there was an encumbrance of \$4,000 on one of them, was there not?

Mr. Weinberger: Yes, of course, I don't know how that came about.

30 Mr. Backes: In order that your Honor may be set clear, these deeds are for the property described in the bill of complaint for the Kehoe property.

The Court: Certainly; I understand it. They are, I understand, adjacent, one being 80 x 25 and the other 100 x 50.

Mr. Backes: No, not adjacent.

Mr. Weinberger: One is on one side and the other on the other side.

40 Mr. Backes: I have here a rough plan which might aid your Honor in fixing the location. There is the Kehoe property, this is the Falstrom property.

Complainants' Witness, Abraham Friedman, Direct

Q. Now, Mr. Friedman, when you had this talk with Mr. Slaff concerning the parcel of land he told you he would have this contract drawn by Mr. Slaff?

Mr. Backes: Now, let the witness understand what contract you are referring to.

Mr. Weinberger: The Falstrom contract. He has testified to that.

10

Q. Did you get your contract over? A. Yes, I got it.

Q. When? A. Several months later.

Q. Who gave it to you? A. Mr. Maurice Slaff I think. I can't recollect, but I think he gave it to me.

Q. Can't you tell us just when Mr. Maurice Slaff gave it to you? A. I really don't remember when. I know Mr. Maurice Slaff brought in a paper to me, but I don't know whether he took that paper back or left it there; I don't remember for sure.

20

Q. Now, Mr. Friedman, as a matter of fact, after the property was bought—the two Kehoe properties—did you get a bill from Mr. Slaff which he received from Miller & Meyers? A. Yes, sir.

Q. I show you a bill and ask you who gave it to you? A. My uncle, Mr. Max Slaff.

Q. How much was the bill for? A. \$17.75.

30

Mr. Weinberger: I offer in evidence, if your Honor please, this bill, bearing date April 23, 1919, on the letterhead of Miller & Meyers, made to Max Slaff as debtor to Miller & Meyers, for the drawing of two bonds and mortgages, \$4 each; revenue stamp on a \$1,500 bond 75c; revenue stamp on the \$4,000 bond \$2; recording 2 mortgages at \$1.75, \$3.50; recording two deeds \$1.75 each, \$3.50; total \$17.75. It is receipted by Miller & Meyers.

40

Admitted and marked Exhibit C12.

Complainants' Witness, Abraham Friedman, Direct

By the Court:

Q. What is the bill for, do you know? A. For the two tracts of land conveyed, Kehoe and Kehoe that he bought, except Falstrom tract.

By Mr. Weinberger:

10 Q. For the two Kehoe tracts of land? A. Yes, sir.

Q. Was there any talk between you about the deeds? A. Yes, sir; he said the deeds would be mailed direct to us.

Q. Now, as a matter of fact, Mr. Friedman, when did you next have occasion to talk to Mr. Slaff about the two Kehoe properties? A. The same time that I went up about the Falstrom tract.

20 Q. Now, in the meantime did you collect any rents from the Falstrom property? A. Yes, sir.

Q. For what did you collect rents? A. For a few garages on the empty lots.

Q. What did Mr. Slaff say to you about collecting the rents? A. He told me to collect the rents and give it over to Mr. Falstrom to apply on his account.

Q. And why did Mr. Falstrom want them? A. Because this is the way it was arranged.

30 Q. I show you a check bearing date the 8th month, 20th day and year 1919, made to Falstrom for \$120, on the Peoples Bank & Trust Company, signed by A. & J. Friedman, by J. Friedman; endorsed "For deposit, G. W. Falstrom"; and cashed on the 8th month, 23rd day, 1919, at the Peoples Bank & Trust Company, and ask you whether or not that was the rent that you collected on the Falstrom property? A. Yes, sir.

40

Complainants' Witness, Abraham Friedman, Direct

Mr. Weinberger: I offer that in evidence.

Mr. Backes: I object to this check. I can't see that it has any relevancy here; I can't see what it applies to.

The Court: As I stated a little while ago, these transactions are so intermingled that it is almost impossible to sever them. I will take the check. 10

The same is marked Exhibit C13.

Q. Now, Mr. Friedman, I show you a check made to the tax collector of the City of Passaic, Mr. Frylinck, bearing date January 12, 1920, on the Fourth Ward Trust Co., made by A. & J. Friedman for taxes for the Falstrom property; endorsement on the back, "For deposit in the Peoples Bank & Trust Company"; the check having been cancelled and marked "paid" on the 1st month, 14th day, 1920, deposited by the City of Passaic, Collector of Taxes; who wrote on there "Taxes for Falstrom property"? Do you know whose handwriting that is (handing paper to the witness)? A. Mine. 20

Q. When was that put on? A. The same time that I gave the check.

Q. I show you a bill for taxes of the City of Passaic for the year 1919, made to Gustav W. Falstrom, 303 and 297 Monroe Street, in the sum of \$308.07, stamped "Received payment Jan. 12, 1920," and ask you who gave you that bill? A. My uncle. 30

Q. When did he give you that bill? A. Together with the other bills.

Q. Did you issue a check for that bill, as per the face of the bill? A. Yes, sir.

Q. And was that the check (showing paper to witness)? A. Yes, sir. 40

Complainants' Witness, Abraham Friedman, Direct

Q. And did you advance any money for your uncle at that time? A. One-third.

The Court: That is for the Falstrom property, I understand?

Mr. Weinberger: For the Falstrom property and for the others, too.

10

I offer the check in evidence.

Admitted and marked Exhibit C14.

20

Q. I show you two checks, one bearing date January 4, 1920, and one for January 8, 1921, to the Collector of Taxes, made by A. & J. Friedman, per A. Friedman; endorsed for the Falstrom property, cashed by the City of Passaic, Collector of Taxes, on the 9th day of January, 1920; and another check bearing date January 8, 1921, on the Fourth Ward Trust Company, made to T. Frylinck for \$194.34, by A. & J. Friedman, by Abe Friedman; endorsed for taxes for Falstrom property, Monroe Street; and paid at the Peoples Bank & Trust Company on the 11th of January, 1921, and ask you whether you gave that and who gave you that bill? A. My Uncle Max gave me the bill.

30

Q. And did you pay that bill with that check? A. I did.

Q. And what property was the taxes for? A. Falstrom property.

Q. And did you advance any of it for your uncle? A. One-third.

Q. The remaining two-thirds you paid for whom? A. A. & J. Friedman.

40

Mr. Weinberger: I offer that in evidence.

Mr. Backes: No objection.

Admitted and marked Exhibit C15.

Complainants' Witness, Abraham Friedman, Direct

Q. I show you a tax bill for the year 1921, made to Gustav W. Falstrom, for the Monroe Street property, and ask you who gave you that bill? A. That was in a letter from Mr. Falstrom.

Q. Mr. Falstrom himself? A. Yes, sir.

Q. He gave you that bill? A. Yes, sir.

Q. Did you issue a check bearing date June 27, in payment of that bill? A. Yes, sir. 10

Mr. Weinberger: I offer in evidence the bill and check.

Admitted and marked Exhibit C16.

Q. Was that in payment of the bill? A. Yes, sir.

Q. And was there any money advanced on behalf of your uncle? A. One-third.

Q. As a matter of fact, two-thirds of that went for your share? A. Yes, sir. 20

Q. Now, I show you a tax bill on the Kehoe property—John H. Kehoe— A. Yes.

Q. —Block 121, Lot 6, for \$141.75, and ask you who gave you that bill? A. My uncle.

Q. Who gave you all these Kehoe bills? A. The first two bills my uncle, for the taxes.

Q. The first two? A. Yes, sir.

Q. Now, who paid those bills? A. We paid them. 30

Mr. Weinberger: Any objection?

Mr. Backes: Prove it; I don't know.

Mr. Weinberger: Well, I guess you don't contend you paid the taxes, Mr. Backes.

Mr. Backes: Well, that is not pertinent.

Mr. Weinberger: I would like to save time, that's all.

Q. Did you issue that check in payment of those bills? A. Yes, sir. 40

Complainants' Witness, Abraham Friedman, Direct

Mr. Weinberger: I offer in evidence the bills, accompanied by check bearing date December 2, 1919—

The Court: You offer the two tax bills? Are there two years' bills?

Mr. Backes: For separate parcels.

10 Mr. Weinberger: The total of the bills is \$202.66, for both plots of property in dispute.

The Court: What is your offer, Mr. Weinberger, the original tax bills? For what year?

Mr. Weinberger: 1919.

The Court: And I understand you offer the check with them?

20 Mr. Weinberger: The check accompanying those bills which was given to the tax collector in payment of the taxes—Check No. 2805, on the Peoples Bank & Trust Company, bearing date December 2, made by A. & J. Friedman, to T. Frylinck, collector of taxes, and designated as the Kehoe property; which check was cashed at the Passaic National Bank—well, it looks like the 10th month and 22nd day; I don't know, maybe your Honor is better at deciphering these things than I am. Young fellows like me ought not to pass the buck to your Honor, but I can't make it out (counsel handing it to the Court).

30

By the Court:

Q. Mr. Friedman, do I understand your Uncle Max gave you these two Kehoe tax bills? A. Yes, sir.

Q. Which have just been offered in evidence? A. Yes.

40 Q. Where was it given to you? A. He got all the

Complainants' Witness, Abraham Friedman, Direct

bills and brought them to my store, together with a bill from Mr. Meyers.

Q. He brought these tax bills the same day that he brought the bill from Mr. Meyers? A. Yes, sir.

Q. Tell us what took place; what was said between you and your uncle when he gave them to you. A. He said, "Here is the bill that I got from Mr. Meyers, and here is also the year's taxes." I says, "Are the taxes all paid?" And he says, "No; lots of time; but I wouldn't mind if I got paid for what I laid out to Mr. Meyers, \$17.75," and I took out the cash and gave it to him for that Meyers bill and wrote out the checks. 10

By Mr. Weinberger:

Q. And the taxes you paid on the day the check bears date? A. Yes. 20

Mr. Weinberger: I offer that, if your Honor please, as one exhibit.

The two tax bills and the check are pinned together and marked Exhibit C17.

Q. Now, Mr. Friedman, I show you tax bills for the year 1920, and ask you if you paid the first half of your taxes for the year 1920, with the accompanying check attached to those bills? A. Yes, sir. 30

Q. On what property? A. The Kehoe property.

Q. Which was taken in whose name? A. Max Slaff's name.

Mr. Weinberger: I now offer in evidence check made by A. & J. Friedman Company, No. 3508, on the Fourth Ward Trust Co., to the order of T. Frylinck, tax collector, for \$124.50, with the memorandum on the back "Taxes for Manroe Street property on lot 40

Complainants' Witness, Abraham Friedman, Direct

purchased from John H. Kehoe, Abe Friedman and Jacob Friedman"; and endorsed, "Max Slaff."

Q. Who wrote that out; do you know? A. I wrote it out.

10 Q. That is your own writing? A. Yes, sir.

Mr. Weinberger: And with the further endorsement, "Cashed by the City of Passaic Collector of Taxes, at the Passaic National Bank on the 9th of June, 1920."

Q. And that check was in payment of the taxes for the first half of 1920 for both Kehoe parcels; is that right? A. Yes, sir.

20 Admitted in evidence and marked Exhibit C18.

Q. Now, Mr. Friedman, you advanced, therefore, on all of these checks for taxes how much for Mr. Slaff's proportion? A. One-third.

Q. Did you, in fact, ever get any part of that back from your uncle? A. No.

30 Q. When he delivered to you these tax bills was there any request made by him, or statement made by him, at that time concerning your advancing the money for him? A. Yes, sir.

Q. What did he say, if anything? A. He says, "Here's the tax bills and we shall pay them later, and go ahead and sell at whatever profit we will make and deduct everything from that and straighten everything up."

Q. Who paid the interest on the Falstrom mortgages? A. We do.

40 Q. Did you ever get any part of it back from your uncle? A. No, sir.

Complainants' Witness, Abraham Friedman, Direct

Q. Did he at any time ever pay you his one-third interest on the Falstrom mortgage? A. No, sir.

Q. Who advanced all the money for that? A. We do.

Q. How much money?

Mr. Backes: Well, is that material who advances the money on these properties? 10

The Court: Well, I have ruled already that you can hardly sever the Falstrom transaction from the whole transaction. They are so closely allied and each throws some light on the other, that I will take it for what it is worth. It may not be worth a great deal. Counsel has certainly gone into a great deal of detail about the payment of the taxes and interest on this Falstrom property, when I understand there is no dispute about that. The property was purchased in April and, according to Mr. Friedman's story, he succeeded in August in getting an instrument which showed what the right of himself and his brother was in that property, and after that he seemed to have gone along in the regular way, and the Falstrom interest and taxes were advanced and may be subject to an accounting between the uncle and these two nephews; but there is no dispute over the property, as I understand it. 20 30

Mr. Backes: That is correct.

Mr. Weinberger: While, of course, the figures in this case concerning the Falstrom—

The Court: Oh, I will take it.

By the Court:

Q. Was this Kehoe property vacant or improved property? A. Vacant. 40

Complainants' Witness, Abraham Friedman, Direct

Q. There was no tenant, then? A. No.

Q. No rent of any kind? A. No.

Q. Is there now a building on it? A. No.

By Mr. Weinberger:

10 Q. Now, Mr. Friedman, when did you first learn that the Kehoe properties were not in your name? A. Well, I felt a little suspicious and right away I went over to my attorney, and I told him to search it, and he searched it and told me that the property was taken in Max Slaff's name and Bella Slaff's name.

Q. What did you do then? A. I went to Mr. Harry Meyers, and I asked him—no, the first thing I did was to go to Mr. Kehoe, and I says, "How is it, Mr. Kehoe, that you didn't make out the deeds in our name"—

20 Q. You had a talk with Mr. Kehoe? A. Yes.

Q. And after you talked with Mr. Kehoe you did what? A. After I spoke to Mr. Kehoe I saw my uncle and says, "How is it you fooled me in this transaction? You said you would take it in our names and we find no deeds in our name." He says, "That's all right; I will take it and assign it the same as I did the others." I says to him, "It don't make me

30 feel very good; why did you do it the first time?" He says, "It doesn't make any difference to you. I will come up to see you tonight," and he made an appointment for eight o'clock at our office, and he came over, and he says, "Listen here; all I want to give you is half and no more. If you are willing to take it all right; if not it is up to you. I feel that I have put in work to buy the property, and I will give you a half and no more," and I didn't want to take

40 it.

Complainants' Witness, Abraham Friedman, Direct

Q. What happened then? A. Then I went over to Mr. Meyers' office and I asked him, "How is it; what can he do for me," because I know I paid Mr. Meyers' bill and he knows everything about the transaction; and Mr. Meyers says, "It is all right; leave everything with me; I know him very well and I will get hold of Mr. Slaff and see if I can make him give you two-thirds interest as your interest." 10

Q. After you went to see Mr. Meyers and you told him about that when did he tell you to come back? A. To come back the next day or two. He wrote me a letter, in fact.

Q. And when he wrote you the letter to come back did you go back? A. Yes.

Q. And when you went back to see him what did he ask you to do? A. Mr. Slaff was sitting there in the back room with Mr. Meyers, and Mr. Meyers handed me a paper and said that I should sign the paper, and I took the paper home and said, "I will show it to my brother," and he put in it some property that doesn't belong to this transaction. I came back to Mr. Meyers and I made an appointment with him, and I said, "Listen here, Mr. Meyers; why do you put in property that doesn't belong to that transaction altogether?" He said, "Mr. Slaff told me to do it." I says, "If Slaff wants to arbitrate everything"— 20 30

Mr. Backes: Is that agreement executed?

Mr. Weinberger: It is not.

Mr. Backes: Then you can't offer it.

Mr. Weinberger: I submit it is relevant, because it was delivered to this complainant by Mr. Meyers, who was then acting as attorney for Mr. Slaff. 40

The Court: That hasn't been brought out.

Complainants' Witness, Abraham Friedman, Direct

Mr. Weinberger: No; I want to bring it out.

The Court: If this paper is a communication from Mr. Slaff, of course it is competent whether it is executed or not.

10 Mr. Weinberger: I think it is brought out, and Mr. Meyers wrote a letter to him to call two days later.

Q. Now, Mr. Friedman, after you received the communication from Mr. Meyers did you go to his office?

A. Yes, sir.

Q. Who was there when you came there? A. Mr. Meyers.

Q. And who else? A. Mr. Slaff in the back office.

Q. Which Mr. Slaff? A. My uncle, Mr. Slaff.

20 Q. And then did Mr. Slaff come in the room while you were there? A. No.

Q. He did not? A. He did not.

Q. While you were in Mr. Meyer's office did he request you to sign this paper? A. Yes, sir.

Q. What did you say to him?

By the Court:

30 Q. Was your uncle present? A. No, he was in the back room but was not present.

Q. Could he hear what was said? A. Yes.

By Mr. Weinberger:

Q. Was he in a position where he could hear what was being said? A. Yes. I said, "I don't sign this." He says, Mr. Slaff said, "Never mind, let him sign it."

Q. Did you take the paper away with you? A. Yes.

40 Q. And you read it over with your brother? A. Yes, sir.

Complainants' Witness, Abraham Friedman, Direct

Q. And then you came back to Mr. Meyers' office?
A. Yes.

Q. What did you say to him? A. I told him—

Q. Did you say you would or would not sign it?
A. I told him I wouldn't sign it.

Q. And the reason you refused to sign which you told him was what? A. It was an unnatural thing to take in another property. 10

Q. What property was it that you objected to having in this agreement? A. The Summer Street property.

Q. Had you bought that property? A. Yes, sir.

Q. Yourself? A. Yes, sir.

Q. Had you paid for it? A. Yes, sir.

Mr. Weinberger: I ask that that agreement be marked in evidence, if your Honor please. 20

Mr. Backes: I object, if your Honor please. It doesn't appear to be a communication from Slaff; in fact, it doesn't disclose what it is, except it is a paper handed to this man by counsel which he refused to execute.

The Court: It doesn't appear by the testimony that it was not a communication from Mr. Slaff, but the presumption is that it was. It seems that Mr. Meyers was acting in Mr. Slaff's behalf as attorney or counsel, according to what the witness says, and he went there and met counsel, and thereupon counsel produced that paper, and when the witness declined to sign it or made some objection to it he made a remark to the effect that it was not dealing entirely with this property but included some other property. I will take it as 30 40

Complainants' Witness, Abraham Friedman, Direct

a communication from Mr. Slaff. What its relevancy is I can't yet see until we hear it. It stands in the same position as a statement made by Mr. Slaff.

The paper is marked Exhibit C19.

10 Mr. Weinberger (reading): "This agreement"—

Mr. Backes: Will you read the under agreement first?

Mr. Weinberger: Why, yes, but the under agreement follows this.

20 Mr. Backes: Before the admission of this paper in evidence I desire to have an opportunity of testing this man, to know why he went to Meyers' office and how this paper came to be drawn. It appears to be a submission to arbitration of the parties as to their differences.

30 The Court: I don't see, Mr. Backes, that your proposition involves any test of the admissibility of the paper, and that is all, of course, that you now want to cross-examine on. You can cross-examine abundantly on that point later when you come to your main cross-examination of the witness. You can then refer to this and travel over the whole field.

Mr. Weinberger: May I read the paper, if your Honor please?

The Court: Yes.

Mr. Weinberger (reading from Exhibit C19 as follows):

40

Complainants' Witness, Abraham Friedman, Direct

THIS AGREEMENT made the 22nd day of March, A. D., 1920, by and between Max Slaff, of the City and County of Passaic, and State of New Jersey, party of the first part, and Abraham Friedman and Jacob Friedman, of the City and County of Passaic, and State of New Jersey, parties of the second part,

10

WITNESSETH: That whereas a difference has arisen concerning the share of ownership in four certain tracts of land located in the City and County of Passaic, and State of New Jersey, the first tract being a plot on the southerly side of Monroe Street, purchased from John H. Kehoe, for the sum of four thousand dollars; the second being the northwest corner of Monroe and Elm Streets, purchased from John H. Kehoe for ten thousand dollars; the third being the southwest corner of Monroe and Elm Streets, purchased from Falstrom for twenty thousand dollars; and the fourth being a parcel of land on Summer Street, purchased from John Post for the sum of fifteen thousand dollars.

20

The difference that has arisen is, what share in each of these parcels of land belong to the party of the first part and what share in each of these parcels of land belongs to the parties of the second part;

30

NOW, THEREFORE, the said parties do hereby agree to submit all matters in difference between them to the award and final determination of said differences in the following manner:

Each of the parties hereto do hereby agree to appoint an arbitrator, the two arbitrators so selected to agree upon a third person to act as an umpire, and the award of any two of the three persons so appointed

40

Complainants' Witness, Abraham Friedman, Direct

shall be final, and the said parties hereto do hereby mutually covenant and agree to submit to the same;

And the said parties do further hereby mutually covenant and agree, each with the other, that they will furnish a bond in the sum of twenty-five hundred dollars; that they, and each of them respectively,
 10 shall and will stand to, abide, and perform the award and determination of the said arbitrators, or any two of them, so that the same may be made in writing, signed by said arbitrators or the majority of them, and ready to be delivered to the said parties, or such of them as shall demand the same, and the said parties do agree that this submission may be made a rule of the Circuit Court of the County of Passaic, upon the application of either party.

20 IN WITNESS WHEREOF, the said parties have hereto set their hands and seals the day and year first above written.

Signed, sealed, and delivered
 in the presence of

30 And then there is a bond accompanying the agreement, for the carrying out of the terms of the agreement.

The Court: Whose bond?

Mr. Weinberger: I will read it:

40 KNOW ALL MEN BY THESE PRESENTS, That we, Abraham Friedman and Jacob Friedman, of the City and County of Passaic and State of New Jersey, are

Complainants' Witness, Abraham Friedman, Direct

held and firmly bound unto _____ the
 umpire named in a certain matter in dispute between
 Max Slaff and Abraham Friedman and Jacob Fried-
 man, in the sum of twenty-five hundred dollars, law-
 ful money of the United States, to be paid to the
 said _____, his certain attorney, execu- 10
 tors, administrators, or assigns, to which payment
 well and truly to be made, we do hereby bind our-
 selves, our heirs, executors, and administrators firmly
 by these presents. Sealed with our seals. Dated the
 twenty-second day of March in the year of our Lord
 one thousand nine hundred and twenty.

WHEREAS, the said Max Slaff and Abraham Fried-
 man and Jacob Friedman have agreed to submit all 20
 matters in difference between them to the award and
 final determination of two arbitrators, which said ar-
 bitrators are to be appointed, one by the said Max
 Slaff and one by the said Abraham and Jacob Fried-
 man, and which said two arbitrators are to agree up-
 on an umpire.

Now the condition of this obligation is such that
 if the said Abraham Friedman and Jacob Friedman
 shall and do stand to, abide, and perform the award
 and determination of the said arbitrators, or any two 30
 of them, so that the same be in writing, signed by
 said arbitrators, or any two of them, and ready to
 be delivered to the said parties, or such of them as
 shall demand the same, on or before the first day of
 May next; it being understood that the said Abraham
 and Jacob Friedman are to furnish any deed of con-
 veyance or other instrument that may be necessary
 to convey any interest which he may have in said
 properties, then the above obligation to be void, other- 40
 wise to remain in full force and virtue.

Signed, sealed and delivered
 in the presence of:

Complainants' Witness, Abraham Friedman, Direct

Q. Now, Mr. Friedman—

The Court: One moment. Before you proceed let me ask a question.

By the Court:

10 Q. This Exhibit C19, Mr. Friedman, is it now in the same condition as it was when it was delivered to you? A. Yes, sir.

Q. How many sheets were there? A. I can't remember; I think about three or four sheets. I can't remember.

Q. What did you do with it? A. I gave it to my counsel, Weinberger & Weinberger, and told them to go ahead with the suit.

20 By Mr. Weinberger (direct-examination resumed):

Q. And where the papers have been ever since; is that correct? A. Yes, sir.

Q. Now, Mr. Friedman, how much did he want to give you of the properties at that time?

30 Mr. Backes: Now, I object. What is the purpose of all this, what property was to be given to him, or what was given to him? Now, here we have a paper which they say was disputed, which apparently sets out all the terms, and this man refuses to execute it. He goes off and hands it to an attorney, and how can we get beyond that?

40 The Court: Statements made by the parties, of course, are admissible when they are offered by the right side. The complainant here has a right to show the statements made by Mr. Slaff. Now, whether those statements are

Complainants' Witness, Abraham Friedman, Direct

relevant or not we can't tell until we hear what they are. I will allow it.

Q. How much did he want to give you? What share did he want to give you in the Kehoe property?

Mr. Backes: Pardon me—

10

Mr. Weinberger: Just let me ask the question, Mr. Backes, and we will get along very nicely.

Mr. Backes: I hope we will.

Mr. Weinberger: I hope so, too.

Q. How much of an interest did he want to give you in the Kehoe property?

Mr. Backes: If there was a conversation or declaration made by the defendant to this man let him say what that declaration is, not what his conclusions are. What was said by your uncle or what was said by you to your uncle I think is relevant.

20

Q. Mr. Friedman, in line with what Mr. Backes has suggested—I think he is right about that—what did your uncle say to you at the time when these papers were offered to you for signature? A. I didn't see my uncle at that time.

30

Q. Was he in the other room? A. Yes.

Q. Well, I am asking you, up to the time that that paper was drawn by Mr. Meyers how much did he offer you—what share or interest did he say he would give you in the Kehoe property? A. One-half.

Mr. Backes: One moment.

The Court: The same objection, I suppose. You are referring to some occasion upon which

40

Complainants' Witness, Abraham Friedman, Direct

Mr. Slaff, you think, made a statement; now draw the attention of the witness to the particular occasion and ask him what was said.

Q. Before you came to Mr. Meyers' office did you have a talk with your uncle? A. Yes.

10 Q. Where was it? A. At our store.

Q. When was it? A. Just the day before I went to Mr. Meyers.'

Q. And at that time what conversation did you have with him? A. That I should have this drawn to me and I should receive the deeds.

Q. From where? A. I should receive that from the Court.

20 Q. And then what happened? A. And I didn't get my deeds, and I got hold of him again and I asked him down to the store and had a talk with him, and we were talking about three hours and he says, "Well, I have decided I should never give you any more than a half in the Kehoe property."

Q. What did you say? A. He got me so angry that I told him to get out; I wouldn't have anything more to do with him any more.

30 Q. When you told him to get out what did you do to him, if anything? A. I opened the door and told him to get out; I didn't want to have anything more to do with him any more.

Q. What did he say to you at that time that you put him out? A. He says, "If you don't want to take it I'll make you; I'll fake you good now."

Q. Who was present at the time? A. Mr. Gus Crieger.

Q. And is he here in court? A. Yes, sir.

40 Q. Then it was that day that you went up to Mr. Meyers' office? A. The next day I went to Mr. Meyers.'

Complainants' Witness, Abraham Friedman, Direct

Q: When you came to Mr. Meyers' office did Mr. Meyers say anything to you about how much of the property Slaff wanted to give you, of the Kehoe? A. He didn't say anything at that time, but Mr. Meyers told me first about something else, and I started to ask Mr. Meyers what he can do for me because he knows all about it, and he says, "Well, I told Mr. Slaff why was he buying so much, and Mr. Slaff says"— 10

Mr. Backes: I object to anything that was said by Mr. Slaff or Mr. Meyers, and I move that that be stricken out. If he did anything with Mr. Slaff in Meyers' office I think it would be competent, but certainly not conversation had.

Mr. Weinberger: I don't understand the rule to be limited. 20

Mr. Backes: It doesn't appear yet that Meyers was the attorney for Slaff at that time, or that he was attorney for anybody connected with this matter.

Mr. Weinberger: It does appear.

The Court: There is no objection. Proceed.

Q. What happened? A. I asked Mr. Meyers, "Is there anything you can do for me?" And he asked him why he was buying so much property— 30

Mr. Backes: If your Honor please, I object as incompetent, irrelevant and immaterial on this issue, and I urge the same reason that I made before, that it appears to have been a conversation between this man Meyers and the witness.

The Court: If there is any doubt about Mr. Meyers being the representative of the defend- 40

Complainants' Witness, Abraham Friedman, Direct

ant Slaff at this time you can cross-examine him before the statement will be received. You can cross-examine him on the authority Mr. Meyers had to speak for Mr. Slaff.

By Mr. Backes:

10 Q. When did you first go to Mr. Meyers' office?

A. After I told my uncle I didn't want to have anything more to do with him.

Q. When was that? A. I don't recollect the date.

Q. When did you have the misunderstanding with your uncle when you put him out of the store? A. I don't recollect the date.

Q. Can't you tell us approximately? A. I don't recollect.

20 Q. Was it in the winter time? A. In the summer time.

Q. In summer? A. Summer time.

Q. In the summer of what year?

Mr. Weinberger: I won't press the question; it is of so little consequence I don't want to waste time.

Mr. Backes: All right.

30 Q. Now, Mr. Friedman, as a matter of fact did you ever receive a deed for a two-thirds interest in the Kehoe property? A. No, sir.

Q. Did you ever receive one-third of the money back that you advanced for the taxes, interest on the mortgage, and the deposits on the two Kehoe parcels? Did you ever get your money from Mr. Slaff for his one-third share? A. One-third of the investment in Mr. Kehoe's property, but I have not received any

40 other money that I laid out.

Q. A one-third in the investment? A. Yes, sir.

Complainants' Witness, Abraham Friedman, Cross

Q. And that was paid by what? A. A note.

Q. And aside from that note and the interest paid on account of that note did you ever receive any of the money that you advanced on the Kehoe property?

A. No, sir.

By the Court:

10

Q. Did you ever receive from your uncle or anybody else the two-thirds of the \$2,500 that you and your brother put in? A. Yes, I received from my uncle a thousand dollars for his one-third; I received it in a note.

Q. Did you ever receive from him or anybody else two-thirds of the money? A. No.

Q. Did your uncle ever offer to give back that money? A. No, sir.

20

CROSS-EXAMINATION by Mr. Backes:

Q. How old were you when you came to this country, Mr. Friedman? A. About 19 or 20.

Q. And you immediately went to live with your uncle? A. No, not immediately. I worked a few months and then went to my uncle's.

30

By the Court:

Q. Where did you come from? A. Russia.

Q. Did you speak any English when you came here? A. Not a word.

By Mr. Backes:

Q. Did your uncle bring you over here? A. No, sir.

Q. Now, you have been in business how long? A. 40 Six and one-half years.

Complainants' Witness, Abraham Friedman, Cross

Q. Your uncle frequented your place of business, didn't he? A. He came in.

Q. Came in and out, and made it a sort of headquarters? A. Yes.

Q. Took a great deal of interest in you? A. No.

Q. Purchased a lot of material from you, didn't he?
10 A. Yes.

Q. And it was used in his building operations, wasn't it? A. Yes.

Q. He erected a number of buildings for which he bought the building material from you? A. No, sir.

Q. He did buy some? A. A little bit; lot of odds and ends.

Q. Now, you say you know nothing about the real estate business? A. I didn't know anything about it
20 then; now, I know something.

Q. You know something now? You have had how many real estate deals with your uncle? A. Well, the first one is—(witness hesitates).

Q. Well, which was the first one that you had? A. The Kehoe, \$4,000; Falstrom \$22,000; Kehoe, \$10,000.

Q. Is that all? A. Yes, sir.

Q. Isn't it a fact that you had still another real estate transaction with him? A. By a partnership?
30

Q. No, whereby he went off and bought for you certain properties? A. Yes, he did.

Q. And that was after these properties were purchased, as you say? A. After these properties were purchased.

Q. And didn't you agree that you should be a partner in each? A. No, sir.

Q. Wasn't there an agreement made between you
40 and him whereby a certain piece of property which

Complainants' Witness, Abraham Friedman, Cross

you now own, and which your uncle bought for you, was, at some future time, to be exchanged for another property in case your uncle bought it? A. No, sir.

Q. And you bought both properties? A. No, sir.

Q. And then you refused to have any further dealings with your uncle? A. No, sir; no such arrangement was made. 10

Q. Didn't you agree that if he bought this property for you and a subsequent property was purchased by you that the first property he bought was to be returned to him or else you were to give him \$1,000? A. No, sir.

Q. Well then, we will forget about that. Wasn't that property referred to as the fourth property described in this agreement of arbitration that Meyers submitted to you? A. You are referring to it; I'm not referring to any. 20

Q. But you did have such a transaction with your uncle? A. He consented to buy property for us, and he got a commission, and he collected that commission. He came to me and I wanted to make him out the check right there for eighty-eight dollars and some cents, and he says, "All right; I need some repairs for my house"—a house which he built—a different house—and he says, "You just give me this, the goods I need, at cost and we will call it square." 30

Q. That was the Post property? A. Yes.

Q. And he bought the Post property for you? A. Yes; we sent him.

Q. And who collected the commission of \$375? A. He did.

Q. And handed it back to you? A. Yes.

Q. When was that? A. After both transactions.

Q. Now, when was the time? A. I don't remember exactly; I can look it up. 40

Complainants' Witness, Tony Frylinck, Direct

Q. Would you remember if I showed you the check you made for \$375? A. Yes, sir.

Q. Simply for the purpose of fixing the time, I ask you if that is the check for the commission that he handed back to you? A. Yes, sir; that is the check for the commission that he handed back to me.

10 Q. That is a check of Mr. Post, dated July 8, 1919?

Mr. Weinberger: May I see it?

Mr. Backes: I haven't offered it. It is used simply for the purpose of fixing the time.

Q. So that as late as July, 1919, there was no question between you and your uncle about these properties? A. No, sir.

20 Mr. Weinberger: May I have that check marked for identification?

The Court: Certainly; it should be marked.

The check is marked Exhibit C20 for identification.

Mr. Weinberger: May I interrupt the examination just a moment. The tax collector is here and I would like to put him on the stand. His testimony will not be long.

30 (The witness steps aside.)

TONY FRYLINCK, sworn on behalf of the complainants, testified as follows:

Direct-examination by Mr. Weinberger:

Q. You are the tax collector of the City of Passaic?

A. Yes, sir.

40 Q. And have been for how long? A. Three years.

Complainants' Witness, Tony Frylinck, Cross

Q. I show you a bill, addressed to Max Slaff, and ask you whether or not that bill was sent to Max Slaff—whether these bills were sent to Max Slaff (showing witness several papers).

Mr. Backes: No question about it.

Mr. Weinberger: We want to show that they 10
went by mail to him, that is all.

A. Yes, they did.

The Court: What is it you are showing the witness?

Mr. Weinberger: Referring to Exhibit C18.

The Court: Which consists of two tax bills and a check pinned to them.

Mr. Weinberger: Exactly; and I ask whether 20
or not those tax bills were sent to Max Slaff and if so by what method.

A. (Witness continuing his answer.) When we send a tax bill out it goes to "Max Slaff, Block 121, Lot 6," if there is a duplicate to be made out, for example, we mark it as such. These are not marked "duplicate," and for that reason I am sure they went to Max Slaff 300 or 302 Monroe Street.

Q. By what method? A. By mailing. 30

Q. That is all.

CROSS-EXAMINATION by Mr. Backes:

Q. Postage paid? A. Yes, sir.

Q. In a sealed envelope? A. Yes, sir.

Q. When did you send it? A. I should judge between the 13th and the 15th of May. It is marked on there. 40

Complainants' Witness, Abraham Friedman, Cross

Q. I show you tax bills for the year 1920; and I ask you when those tax bills left your office? A. Anywheres from the 10th to the 12th of May. We have to have them out, according to law, by the 15th of May.

10 Q. So that sometime between the 12th and 15th of May these tax bills were mailed? A. Yes, sir.

Q. And is that your practice with all tax bills; has it been for 1919? A. Yes.

Q. And for 1921? A. Yes, sir.

Q. They are all sent out about that time? A. Yes, sir; we have got to have them out before the 15th.

By Mr. Weinberger:

Q. Duplicates are marked "duplicate"? A. Yes.

20 By Mr. Backes:

Q. There is more than one "Max Slaff" in Passaic? A. I presume there is.

Q. You don't know which Max Slaff they went to? A. Max Slaff of 300 and 302 Monroe Street.

Q. That is the only designation? A. Yes, sir.

30

ABRAHAM FRIEDMAN resuming the stand testified as follows:

Cross-examination by Mr. Backes resumed:

Q. Now, your place of business, you say, is on Monroe Street? A. Yes, sir.

Q. How near to the Kehoe property? A. Next block.

40 Q. And the Falstrom property? A. Next block; it is adjoining.

Complainants' Witness, Abraham Friedman, Cross

Q. When did you first become interested in either of these properties? A. In April.

Q. April of what year? A. 1919. Or '18, I don't know which. I don't remember that. I am quite a busy man and don't keep those things in mind.

Q. Well, it is quite important? A. I should say April, 1919. You can look it up on all these checks. 10

Q. How did you become interested in these properties? What was your reason for it? A. Well, I liked the property on that street and had been on that street several years, and I considered that a growing street, and I had money, and I wanted to invest it in real estate.

Q. Who first spoke to you about purchasing the property in question? A. Nobody. 20

Q. Whom did you first speak to about purchasing it? A. My uncle.

Q. When was that? A. In April.

Q. Which property did you first speak to him about? A. Monroe Street; the two corners.

Q. Which particular piece? A. Kehoe, Falstrom and Kehoe.

Q. And which one was the first? They came from different people? A. Yes, sir.

Q. Which one did you first try to acquire? A. Kehoe and Falstrom together. 30

Q. You wanted them together? A. Yes, sir.

Q. Did you fix a price on what you would give for the property? A. No, sir.

Q. Whom did you ask to go and buy this property? A. My uncle.

Q. What did you say to him? A. I said to him, talking about real estate, how that street is improving. I said, "You know, Uncle, I would like to own some real estate on Monroe Street, and there is two 40

Complainants' Witness, Abraham Friedman, Cross

empty lots on the corners that could be gotten, and I wonder who we shall send up to buy them." He says, "Why do you want to send up somebody else; I will go and find out now."

Q. That was for the Falstrom property? A. For the Kehoe and Falstrom.

10 Q. The conversation that you related just now was with reference to the Falstrom property; wasn't it?
A. No, sir.

Q. Didn't your uncle say he would go and see about that property for you? A. No, sir.

Q. Isn't this the fact? A. No, sir.

Q. One moment— A. I understand.

20 Q. One moment, isn't this the fact, Mr. Friedman; your uncle was in the habit of borrowing money from you? A. Yes, sir.

Q. And you always loaned it to him? A. Yes, sir.

Q. And he came to you sometime in April to borrow \$500? A. In April?

Q. Yes? A. I don't remember.

Q. And that he came to you a few days after and wanted to borrow a thousand dollars? A. No, sir; he did not.

30 Q. That you then asked him what he wanted this money for? A. He didn't come after me to ask me for any money.

Q. Isn't it a fact that you loaned him in April, 1919, \$1,500? A. Not that I can recollect.

Q. Sir? A. I don't recollect that.

Q. You don't recall that? A. I don't recollect. I loaned him money. What time?

40 Q. One moment now; I will find the checks here for you. I show you check which is marked Exhibit

Complainants' Witness, Abraham Friedman, Cross

D1 and I ask you whether that wasn't a loan to your uncle? A. This is for property—the first parcel of the Kehoe property.

Q. Isn't that \$500 that your uncle borrowed from you? A. No, sir; this is the parcel—

Q. One moment now; I show you Exhibit C3, dated April 22, \$1,000, and I ask you whether that isn't a thousand dollars that your uncle borrowed from you? 10

A. The Kehoe property this is. This is a thousand dollar deposit for the Kehoe property.

Q. You are quite positive about that? A. Yes.

Q. Has this money ever been repaid to you? A. The \$1,000 in a note.

Q. And \$500 in cash? A. \$500 in cash several weeks after giving me the note.

Q. Wasn't that a repayment of this money? Didn't your uncle repay this money to you? A. When we paid him \$3,500 for the property he afterwards paid us \$1,000 for his third and he gave a check later. 20

Q. Did you advance the entire money? A. Yes, we did.

Q. When the Falstrom property was bought did you advance any money? A. Perhaps we did. I would have to look at the books.

Q. Didn't you loan your uncle some money then to pay on the Falstrom property? A. Perhaps. I would have to look at the books. 30

Q. Don't you know? A. I cannot recollect.

Q. How did you buy the Falstrom property? A. We bought the Kehoe property first.

Q. No, no; I am speaking of the Falstrom property now? A. We bought the Kehoe first, and then the Falstrom, and then the Kehoe.

Q. No, I want to know what the terms of purchase were for the Falstrom property? A. \$22,000. 40

Complainants' Witness, Abraham Friedman, Cross

Q. How much in cash? A. We were supposed to pay \$2,000, but we only paid \$1,500.

Q. Did you pay the \$2,000 in cash? A. I gave a check for \$2,000 to pay for that Falstrom property.

10 By the Court:

Q. I understood you to say earlier that the whole of the \$2,000 was not used—only \$1,500? A. Yes.

Q. And did your uncle pay back the \$500? A. After we figured up what we purchased.

Q. Then the amount that you actually advanced for the purchase of the three properties was \$3,000? A. \$3,500.

20 Q. No; you got \$500 back, didn't you? A. \$500, and we got a note for \$1,000.

By Mr. Backes:

Q. Didn't your uncle say to you that he had paid \$1,600 on the Falstrom property? Didn't your uncle tell you \$1,500 to Falstrom and \$100 to the tenant? A. He didn't say any such thing as that.

Q. He did not? A. No, I don't recall that. Perhaps he did.

30 Q. Now, there was some building on the Falstrom property? A. Yes, sir.

Q. And you have had full charge of that Falstrom property? A. Yes.

Q. Collect the rents? A. Yes, sir.

Q. And you keep an account of it? A. No.

Q. You haven't any account? A. The buildings we don't collect any rent on that; there are only a few garages we collect.

40 Q. Well, how long have you collected the rents? A. As long as we bought the property.

Complainants' Witness, Abraham Friedman, Cross

Q. How long is that? A. 1918 and 1919, I think.

Q. What date in 1919; do you recall that? A. It is between the 5th and 25th; during those several weeks.

Q. 5th and 25th of what month? A. April.

Q. Of April? A. Yes.

10

By the Court:

Q. What occurred then? A. We bought.

Q. What do you mean; something occurred at that time? A. We put up the capital.

By Mr. Backes:

Q. And you immediately took possession of the Falstrom property and collected the rents? A. We did a few days afterwards.

20

Q. You have always had charge of the Falstrom property, haven't you? A. Yes.

Q. Now, how was the balance of the price of the Falstrom property paid? A. What do you mean by "balance of the price"?

Q. Well, \$20,500? A. That is a mortgage.

Q. Who made the mortgage? A. My uncle. It is not a mortgage; it is a contract.

Q. Well, how was Mr. Falstrom to be paid, by you or by your uncle for that property, and who was to pay it? A. I don't know; I cannot figure it out. I didn't make the purchase.

30

Q. Have you made any payments on it? A. Yes, sir.

Q. What payments have you made? A. Interest and taxes.

Q. What have you paid interest on? A. We made the investment and had to pay the interest.

40

Complainants' Witness, Abraham Friedman, Cross

Q. Whom did you pay the interest to? A. To Falstrom.

Q. And have you got a deed of the Falstrom property today? A. No, sir.

Q. You only have an agreement? A. Yes, sir.

10 Q. Didn't you testify on direct-examination that a deed was made to your uncle? A. For what?

Q. For the Falstrom property? A. Well, I think it was made. That's a thing I can't tell you. He bought this property the same as he bought the other; but the only thing I asked Falstrom was, why doesn't he come up after the interest, and he says, "Well, ask Slaff about it."

20 Q. I show you a paper, Mr. Friedman, and I ask you if you have ever seen that paper before? A. This is the first time I saw this paper.

Q. The first time you ever saw that paper? A. Yes, sir.

Mr. Weinberger: If there is no objection I would like to have it marked, Mr. Backes.

Mr. Backes: I haven't any objection. I was about to offer it.

30 The paper is offered by Mr. Weinberger and marked Exhibit C21.

Mr. Backes: This is a contract for the purchase of the Falstrom property. It is dated April 17, 1919, between Gustav W. Falstrom and Max Slaff. In consideration of the sum of \$22,000 Mr. Falstrom agrees to convey a certain tract of land described therein, upon the following terms: The sum of \$1,500 on the signing and delivery of this agreement.

40 Interest at the rate of six per cent on the balance of \$20,500 is to be paid by the party

Complainants' Witness, Abraham Friedman, Cross

of the second part to the party of the first part each and every six months from and after the date hereof, but said balance shall be fully paid and satisfied within five years from the date hereof.

Said party of the second part, upon paying to the said party of the first part the sum of \$6,000 shall be entitled to a deed for a plot of ground not exceeding 25 feet wide, both front and rear, fronting on Monroe Street, to the full depth; and he shall also be entitled to deeds for the remaining portion of the property upon paying the same amount for a like portion of said land. 10

Said party of the second part is also to pay any and all taxes or assessments hereafter assessed against said premises and also one-half the expense of drawing the deeds. 20

Then it says, "Whereas, there are now standing on the premises intended to be conveyed a storage house, on the rear southerly corner," and then it provides for the carrying of that storage warehouse.

Q. You never saw that contract before—the one upon which you purchased the Falstrom property? 30

A. Perhaps.

Q. Have you ever made any payments on account of that purchase price? A. Yes, \$120.

Q. That is, the interest? A. No, payment.

Q. Payment? A. Yes.

Q. How much of the purchase price is due on this contract? A. My uncle told me \$20,500.

Q. How much are you paying interest on? A. 40
\$615.

Complainants' Witness, Abraham Friedman, Cross

Q. Per year? A. Six months.

Q. So the whole purchase price is still due?

(The witness does not answer.)

Q. I show you another paper; is that your signature? A. Yes, sir.

10 Q. When did you sign that paper? A. Several months later; since I bought these properties.

Q. When was the paper first given to you? A. Several months later; since we bought all this property.

Q. Who gave you the paper? A. Maurice Slaff.

Q. Do you know what the paper is that I refer to?
A. Yes, sir.

20 Mr. Backes: This is articles of agreement. I think it has already been marked in evidence or a copy of it; this is the original. I offer the paper in evidence.

Mr. Weinberger: I have no objection.

Q. That is Max Slaff's signature (showing paper to the witness)? A. Well, I don't know.

Q. It is your signature? A. It is my signature, all right.

30 Q. And you say you didn't see this paper until several months afterwards. A. Several months afterwards.

Mr. Backes: I offer the agreement in evidence.

Admitted and marked Exhibit D1.

40 This agreement was made on the 17th day of April, 1919, between Max Slaff of the first part, and Abe Friedman and Jacob Friedman of the City of Passaic, of the second part, witnesseth, and then it continues "Whereas" and so on.

Complainants' Witness, Abraham Friedman, Cross

The Court: What is the date of the certificate of acknowledgment?

Mr. Backes: It is dated on the 20th day of August, 1919, before Maurice Slaff, attorney at law, and it was recorded on the 26th day of August, 1919, in Book Q27 of Deeds, page 416.

10

Q. That agreement refers to Gustav W. Falstrom property, doesn't it? A. Yes.

Mr. Backes: Now, I offer the Gustav W. Falstrom agreement with Max Slaff, dated April 17, 1919.

The Court: Was not that put in evidence?

Mr. Weinberger: Yes, it was.

Mr. Backes: Which is marked C21, and I ask the witness:

20

Q. Isn't it a fact that you had in your possession, and received in your possession about April the 17th, 1919, the two agreements which I now show you (showing witness Exhibits D1 and C21)? A. No, sir; it is not so.

Q. That is not so? A. No, sir.

Q. Did you ever have in your possession the agreement marked D1? A. No, sir, I didn't have no other papers until Mr. Maurice Slaff came in several months later—I can't recollect how many months—and I found out that the Falstrom property is not in our name, and I made a big howl about it, and Mr. Maurice Slaff came up with a paper and said that the property will be assigned to me.

30

Q. Which Mr. Slaff? A. Maurice Slaff; and I signed a paper, and that is all I know.

Q. That, you say, was several months afterwards?

40

Complainants' Witness, Abraham Friedman, Cross

A. Well, I can't recollect how many months it was, because I don't keep tab on that.

Q. And then after you signed that paper to whom did you hand it? A. Mr. Maurice Slaff.

Q. Did you read this paper, Exhibit D1? A. This paper? I am not quite sure. I read the paper,
10 I signed my name too.

Q. You knew that that paper referred to the Falstrom property? A. Yes, sir.

Q. You also knew that your uncle had purchased the Kehoe property, didn't you? A. I knew that that property was purchased in our name.

Q. What property was purchased in your name?

A. The Kehoe, 25x80.

Q. What other property? A. Also the corner.

20 Q. And what others? A. He was to assign the Falstrom.

Q. Did your uncle ever tell you that he purchased any of the property in your name? A. All in our name.

Q. Did your uncle ever tell you that he purchased the Kehoe property in your name? A. This was the understanding—

30 Q. I don't want your understanding. A. This was what it was supposed to be. The properties were taken in our name—in the name of A. & J. Friedman.

Q. Why, then, didn't you, when you signed the agreement for the Falstrom property, also ask your uncle to include the Kehoe property in this agreement? A. I saw him before yet—before I signed it.

Q. Answer my question. You executed this agreement for the Falstrom property? A. Yes.

40 Q. Why didn't you include in this agreement the Kehoe property? A. Because the deed was mailed direct to us and it was from the court.

Complainants' Witness, Abraham Friedman, Cross

Q. Had you received a deed? A. No.

Q. Did you know anything about it? A. Not before we searched it.

By the Court:

Q. Mailed or made? A. Made out and mailed direct to us. 10

Q. When did he tell you it had been made out to you? A. At the same time that he purchased the property.

Q. What did he say to you, then? What property? A. Kehoe.

Q. What did he say to you? A. This is drawn direct to A. & J. Friedman.

Q. And the agreement for the Falstrom property was made afterwards, wasn't it? A. No, sir; this was the same thing, to A. & J. Friedman, on the same style as the other property, until I found out— 20

Q. One moment; I am trying to get this cleared up. You say the Kehoe property was bought first? A. Yes, sir.

Q. And you advanced the money? A. Yes.

Q. And the Falstrom property was bought second? A. Bought second; yes, sir.

Q. And you say your uncle was to take a deed for the Kehoe property in your name? A. In our name, on all the property. 30

Q. When did he agree to that, on all the property? A. When we gave him the money, the first check. I asked him in whose name he took it, A. & J. Friedman or Max Slaff, and he says, "No, I will take it in A. & J. Friedman's name." That was when I gave him the check for \$500.

Q. That you say was when you gave him the first 40

Complainants' Witness, Abraham Friedman, Cross

money, the \$500 for the Kehoe property? A. Yes, sir.

Q. You are positive of that now? A. Why, sure.

Q. You are sure about that? A. Sure.

Q. How much were you to pay for the Kehoe property? A. \$4,000.

10 Q. For all of it? A. One piece, 25 x 80.

Q. Were the pieces bought at different times? A. The piece 25 x 80 was \$4,000.

Q. I know, but were they all bought at the same time or at different times? A. During a few days.

Q. Did you send him out to buy the two pieces or one? A. All the property.

Q. All the properties? A. Yes, sir.

20 Q. And then, he dealt with Kehoe for all the property? A. Kehoe, Falstrom, and Kehoe.

Q. Is there any difference between the two Kehoes? A. No.

Q. Same man? A. Yes.

Q. He bought them at the same time? A. Yes, sir.

Q. Took the two deeds for them at the same time? A. Yes, sir.

30 Q. Do you know what the terms of that agreement were? How was the Kehoe property to be paid for; do you know that? A. Only what he told me.

Q. What did he tell you? A. \$500 paid and \$3,500 mortgage.

Q. And that was for one piece, you say? A. Yes, sir.

Q. Now, what was the other piece? A. Then, we bought the Falstrom.

40 Q. No, no; I am confining you to the Kehoe property. A. All right; but he bought the Kehoe, Falstrom, and then the Kehoe.

Complainants' Witness, Abraham Friedman, Cross

Q. What were the terms for the Kehoe property that was 50 feet in width? A. \$10,000 was the price.

Q. How were you to pay for it? A. A thousand dollars cash and the rest of it mortgage.

Q. Did you ever give him a mortgage? A. No.

Q. Did you ever get a deed for all the property? A. That is what I am waiting for. 10

Q. You knew you couldn't get Kehoe's deed without giving the mortgage, didn't you? A. I didn't know it.

Q. You knew that you couldn't get a deed for the property from Kehoe without paying for it? Did you know that? A. We paid a deposit.

Q. Now, you say your agreement was to give a mortgage? A. Not my agreement. He was supposed to execute all these things. That is what he was sent for. 20

Q. Now, the terms of the agreement were that a certain purchase money mortgage was to be made by him? A. I don't know.

Q. Didn't you say awhile ago that you were to give a mortgage back? A. A mortgage back, but I didn't know the difference between a purchase money mortgage and any other mortgage. 30

Q. I know, but did you give a mortgage back—you or your brother—to Kehoe or anybody else on this property of Kehoe's?

Mr. Weinberger: No one says that there was any.

The Court: Are you objecting?

Mr. Weinberger: I am, Your Honor.

The Court: On what ground? 40

Mr. Weinberger: On the ground that it assumes a fact not proven.

Complainants' Witness, Abraham Friedman, Cross

The Court: It is a repetition of a question put to the witness a little while ago, pure and simple.

Mr. Weinberger: I will also object to it on that ground.

10 Mr. Backes: All right; if Your Honor has the fact clearly in mind.

By the Court:

Q. Mr. Friedman, did you talk to your uncle at the start about all these three properties? A. Yes, on all the land.

Q. Was there any special reason why you wanted to get the Falstrom tract before you bought the Kehoe tract? A. No, we bought the Kehoe first.

20 Q. You bought the corner first? A. No, we bought this lot.

Q. And you bought that before you bought the Falstrom? A. Yes.

Q. And then, you say you bought the Falstrom? A. Yes, sir.

Q. And then you bought the Kehoe? A. The Kehoe first; then the Falstrom, and then the Kehoe.

30 Q. Did you ever get a deed from Kehoe for any of this property? A. No.

Q. And you never gave him any mortgage? A. Well, uncle was supposed to take care of that.

Q. Have you had any settlement with your uncle for the Falstrom property as to the rentals, interest and taxes? A. No.

Q. Now, who has paid the interest on the mortgage on the Kehoe property? A. We paid our part.

40 Q. Whom did you pay it to? A. I gave it to my uncle and he is to take care of it.

Complainants' Witness, Abraham Friedman, Cross

Q. Have you paid any interest on the Kehoe property? A. Sure; yes.

Q. When did you pay it? A. I gave my check to my counsel and he takes care of it.

Q. Did you ever pay any taxes on the Kehoe property? A. Yes.

Q. When? A. I don't remember.

10

Q. Did you pay it more than once? A. Three times.

Q. Three times? A. Yes, sir.

Q. When did you pay it last? A. About a year ago.

Q. I show you Exhibit C18 and ask you if that is the only tax bill you ever paid on the Kehoe property? A. Yes, and I will show you some more.

Q. I am asking you if you paid any other taxes on that property excepting that one?

20

Mr. Weinberger: He says, "I will show you the checks," and here they are (counsel producing two checks).

Q. Now, I would like to have you fix the time when you had this controversy with your uncle, when you put him out of the store; when was that? A. About a year ago.

Q. Wasn't it after you had the row with your uncle that you paid these taxes? A. I don't recollect.

30

Q. Isn't it a fact that you did pay these taxes after you did have this row? A. I don't recollect if it was before or after. I don't recollect that.

Mr. Weinberger: Referring to what exhibit, Mr. Backes?

Mr. Backes: I am referring to Exhibits C17 and C18.

40

Mr. Weinberger: I submit that counsel did not direct the witness's attention to both bills.

Complainants' Witness, Abraham Friedman, Cross

Mr. Backes: I am referring to the taxes on both properties.

Mr. Weinberger: Counsel ought to state in his question what he is referring to, so that the record can be made clear.

10 The Court: What tax bills were referred to?

Mr. Backes: Tax bill C17, which is for the taxes for the year 1919, and which was paid, according to the check on December 7, 1919; and the Exhibit C18, which was a tax bill for 1920, and the check is dated the 6th month, 15th day, 1920, and was after the filing of the bill in this case.

20 Mr. Weinberger: It was not after the filing of the bill in this case.

By the Court:

Q. I show you two bunches of papers, Exhibits C17 and C18, each consisting of two tax bills with a check attached; will you look at the dates and answer the question which was put to you whether or not you had the row with your uncle before or after those taxes were paid. A. After the taxes were paid.

30 Q. Which one? A. 1919, and I believe 1920.

Q. Now, look carefully, Mr. Friedman? A. After 1919.

Q. That is, after the bills which are a part of Exhibit C17 were paid you had the row with your uncle? A. Yes, sir.

By the Court:

40 Q. (Continued.) Are those the papers which you said a little while ago your uncle brought to you? A. Yes, sir.

Complainants' Witness, Abraham Friedman, Cross

Q. Did he bring the others which are a part of Exhibit C18? A. No.

Q. Where did you get those bills? A. I had to go over and ask if the taxes were paid and if they weren't paid, I was supposed to pay them.

Q. Did you get those two bills at the tax office— C18? A. No, I did not. 10

Q. How did you get them? A. They were sent up to me.

Q. But your uncle had nothing to do with it? A. Nothing to do with it.

The Court: Proceed.

Q. Who sent those tax bills, Exhibit C18, to you? A. I don't remember.

Q. The tax bills are not made out to you, are they? A. No. 20

Q. You don't know who brought the original, C17, to you? A. I remember this first one; I don't remember the other ones.

Q. Who brought this first one, C17? A. My uncle, Max.

Q. And what did he say to you when he brought that bill to you? A. "Here is the tax and here is the bills for you; Harry Meyers and I paid it." 30

Q. When was that conversation? A. When the property was bought.

Q. How soon after the property was bought? A. Several days.

Q. The property was bought, you say, when? A. April.

Q. And you say in April he brought you these tax bills? A. Yes, he brought me the tax bills.

Q. In April? A. Yes, sir. 40

Complainants' Witness, Abraham Friedman, Cross

Q. A few days after the property was bought?

A. After everything was negotiated.

The Court: We will pause here, gentlemen,
and take our recess until 2 o'clock.

10

Afternoon session.

Q. Mr. Friedman, I wish you would fix for me, as near as you can recall, the time when you had the misunderstanding with your uncle about this property. I want that time fixed as near as you can fix it.

A. What misunderstanding do you mean?

20 Q. I mean the time when you told him to get out of the store; fix that time if you can. A. I think it was in the month of March.

Q. Of what year? A. 1920.

Q. How do you fix it as being in the month of March? A. Because I remember—

Mr. Weinberger: Wait a minute.

A. (Continued.) I can recollect a little bit, I suppose, in the month of March.

30 Q. Wasn't it earlier than that—sometime before the holidays in 1919? A. Later than that.

Q. Was it before you went to Mr. Meyers' office?

A. Yes, sir; a few days before.

By the Court:

Q. Was it before you brought this suit? A. Yes, before I brought the suit.

40 Q. Can you tell how long before you went to your lawyer and he began the suit? A. Several weeks.

Complainants' Witness, Abraham Friedman, Cross

Q. How long was it before you went to Mr. Meyers? A. I went to Mr. Meyers after.

Q. And what did you go to Mr. Meyers for? A. To see what he can do for me.

Q. To employ him as your attorney? A. No.

Q. Did you employ him as your attorney? A. No. 10

Q. Did you ask him to draw this arbitration agreement that you have presented here? A. No, sir.

Q. Did you ask him to get your uncle to agree to a settlement? A. No.

Q. What did you go there for, then? A. To see what he can do for me.

Q. Well, what was he to do for you? A. To ask my uncle that he should assign to me the two pieces of property. 20

Q. Then, you went to employ him as your attorney didn't you? A. Well, I don't know how you take it.

Q. That was the purpose of your going there, wasn't it? A. Not exactly my purpose.

Q. You went there to consult Mr. Meyers, whom you knew to be an attorney, for the purpose of getting your uncle to assign over to you certain property? A. Yes. 30

Q. Now, how many times did you see Mr. Meyers? A. Once and after that—the other time when they handed me the arbitration papers.

Q. Who told Mr. Meyers to prepare the arbitration papers? A. Not me.

Q. Who asked Mr. Meyers to make a settlement between your uncle and you? A. Not me. I asked for my deeds.

Q. What did you tell Mr. Meyers then, when you went there? A. I came up there and asked him why 40

Complainants' Witness, Abraham Friedman, Cross

he drew the deeds in somebody else's name and not mine.

Q. Well, anything else? Did you ask him anything else? A. I did not.

Q. Did you ask him to bring it about? A. (No answer.)

10 Q. How did Mr. Meyers know that you had trouble with your uncle? A. I came up and I told him.

Q. You told Mr. Meyers? A. Yes, sir.

Q. And you told him your whole difficulty with your uncle? A. Yes, sir.

Q. Explained the whole thing to him? A. Yes, sir.

20 Q. Told him about the various transactions in all these properties? A. Yes.

Q. Sure about that? A. Yes, I told him.

Q. And what did Mr. Meyers say to you? A. Mr. Meyers said to me—I asked Mr. Meyers, “Why did you take this Summer Street property in?”

Q. No, no; after you told Mr. Meyers your whole trouble with your uncle what did Mr. Meyers say to you? A. He says, “You see Slaff and he should know why he transferred the property that way.”

30 Q. What else did he say? A. He didn't say nothing else.

Q. Why should Mr. Meyers say that; he was not your attorney? A. Well, I know that the deeds came from Meyers' place, and that is why I went to Mr. Meyers.

Q. What deeds came from Mr. Meyers' place? A. I know that my uncle handed me the bill for Mr. Meyers.

40 Q. Now, when did your uncle hand you that bill

Complainants' Witness, Abraham Friedman, Cross

from Mr. Meyers? A. After we bought the property.

Q. How long after? A. Several days.

Q. Are you sure about that? A. Yes, sir.

Q. Now, after this conference with Mr. Meyers, did you see him again? A. No.

Q. Didn't you again see Mr. Meyers after that? 10
A. No.

Q. Didn't you see Mr. Meyers, as you testified this morning, in Mr. Meyers' office when he tried to bring about a settlement between you and your uncle? A. Well, that was the last time.

Q. But you have been testifying to the first time?
A. I met Mr. Meyers twice.

Q. Now, the second time what did Mr. Meyers say to you? A. Handed me the papers. 20

Q. What did he say about the papers? A. I took the papers home and read it over.

Q. Did he tell you anything about what the papers contained? A. He didn't tell me anything, but I looked it over and I saw he put it in Summer Street property, and I told him I cannot take those papers because it was not natural papers.

Q. What did you mean by "natural papers"? A. 30
On the property that we both bought together.

Q. Well, what were those papers, as you recall it?
A. Those papers was made out with the Kehoe property and he also put it in my own property on Summer Street.

Q. And he was to try and bring about a settlement between you and your uncle of all the differences between you, wasn't he? A. That wasn't what the papers said.

Q. Wasn't that what you went to Mr. Meyers for? 40

Complainants' Witness, Abraham Friedman, Cross

A. For settlement on the property together, not my own property.

Q. But Mr. Meyers tried to effect a settlement between you and your uncle? A. What do you mean "effect a settlement"?

10 Q. Tried to bring about peace and harmony between you and your uncle? A. Yes.

Q. Tried to be a good friend to both of you? A. I don't know about that.

Q. And it was you that went to him? A. Yes.

Q. For that purpose? A. He wanted to put in the Summer Street and it didn't belong to it.

Q. Nothing came from it? A. I didn't sign it.

Q. It was after that you went to your other attorneys? A. Yes, sir.

20 Q. And as a result of going to your other attorneys this suit was started? A. Yes, sir.

Q. That's right, is it? A. Yes, sir.

Q. Now, you know Mr. Falstrom quite well, don't you? A. Yes, sir.

Q. See him frequently? A. Yes, sir.

Q. See him nearly every day? A. Well, sometimes.

30 Q. He is right in your own neighborhood? A. We are neighbors, but I don't see him very often.

Q. And when did you first talk to Mr. Falstrom about the purchase of this property? A. Several months after we bought that property.

Q. Didn't Mr. Falstrom take you to the tenants who were on the property? A. No.

Q. Didn't he give you a list of the names of the tenants who were occupying the property? A. No.

40 Q. Where did you get them from? Who furnished you with the names of the tenants who were occupying the property? A. My uncle.

Complainants' Witness, Abraham Friedman, Cross

Q. And you collected all the rents from the time the property was taken over? A. Yes, sir. The first check my uncle brought to me.

Q. Did Mr. Falstrom tell you how the property was purchased and on what terms? A. No.

Q. Never had any conversations about the property being purchased by you and Slaff together? A. Yes, he told me—he asked me to pay the interest on it. I asked him about the interest and he told me. 10

Q. When was that? A. Several months later after we purchased that property.

Q. And you paid the interest on that Falstrom property, and have paid it ever since? A. Yes.

Q. Now, you testified this morning that the deeds for those properties were to be taken in A. & J. Friedman's name? A. Yes, sir. 20

Q. Wasn't it Slaff who was to take the deeds in his name? A. No.

Q. Was he not to appear as an owner with you? A. Yes, one-third interest.

Q. How was that to be evidenced? What were you to give him to show what interest he had? A. That is what I told him at that time before I gave him the \$500 check.

Q. One moment; you don't understand the question: If the deed was to be taken as you say in the name of A. & J. Friedman, and Max Slaff and a one-third interest with you in it, why wasn't the deed to be taken in the names of all three of you? A. That's what I asked him, if the deed shouldn't be taken in three of us, and he says he didn't want to take the deed in the three of us as he is pretty well tied up and has got no money, and as soon as people find out that he takes some property, they will "choke" him, 30 40

Complainants' Witness, Abraham Slaff, Direct

and that's the reason why he wanted to take it in our name.

Q. Max Slaff was a holder of a lot of real estate in Passaic at that time, wasn't he? A. It wouldn't make any difference—

10 Mr. Weinberger: I object to that, Mr. Slaff might better tell you that.

RE-DIRECT EXAMINATION by Mr. Weinberger:

Q. Mr. Friedman, who was your bookkeeper that kept your books? A. May Slaff.

20 Q. When did she leave your employ, do you remember? A. About a year and half or two years ago.

Q. About June, 1919? A. About a couple of years ago.

Q. Was it in June, 1919? A. I think she left that time.

30 Mr. Weinberger: Now, Mr. Abraham Slaff has requested that he be excused; he is not feeling very well and we will call him out of order.

ABRAHAM SLAFF, sworn on behalf of the complainants, testified as follows:

Direct-examination by Mr. Weinberger:

40 Q. Mr. Slaff, what is your business? A. Real estate.

Complainants' Witness, Abraham Slaff, Direct

Q. And you have lived in Passaic, how long? A. About 25 years.

Q. Do you know Mr. Max Slaff, the defendant in this case? A. I do; yes, sir.

Q. How long have you known him? A. He is an uncle of mine and I have known him ever since he was a child. 10

Q. Mr. Max Slaff bought some property known as the Kehoe property and the Falstrom property, in Passaic, did he not? A. I didn't know it at the time when he bought it, but it was about a year ago, I understood, they were quarrelling between themselves over this particular deal.

By Mr. Backes:

Q. Who was quarrelling? A. Max Slaff and Abraham. 20

By Mr. Weinberger:

Q. You are subpoenaed here by Mr. Max Slaff as a witness, aren't you?

Mr. Backes: Well, I object.

Mr. Weinberger: I want to show that there is no reason for surprise in the witness's testimony. 30

Mr. Backes: He has not been subpoenaed by our side.

Q. Have you been requested to be here by Mr. Max Slaff as a witness? A. No, I was not.

Q. As a matter of fact, there was a quarrel, you say, between them? A. Yes.

Q. Who spoke to you concerning that matter first—about these lots? 40

Complainants' Witness, Abraham Slaff, Direct

Mr. Backes: Now, I object, if your Honor please. It is entirely irrelevant who spoke to him about it.

Mr. Weinberger: I want to lay the basis for my question, if you will allow me to.

10 Q. Did you know that there was a quarrel concerning these lots? A. I didn't know anything about it until afterwards.

Q. A year ago you learned about it; did you, at the request of Max Slaff, come there with J. Friedman? A. No.

Q. Never?

Mr. Backes: One moment; I object.

The Court: Why is that objectionable?

20

Mr. Backes: I want the witness to have an opportunity of saying why and wherefore. I don't want any heat displayed.

The Court: Proceed.

Q. Never? A. No, I didn't go at his request; no.

Q. Didn't you tell me today out in the corridor that you went at his request? A. No.

30 Q. Did you? Yes or no? A. I didn't go exactly at his request.

Q. Not exactly, but did you go at his request? A. I went in his store and I went to Max Slaff, and I suggested to them that they come to a settlement; and I was the one to say that they should compromise because they were both stubborn. And I couldn't get them to come to a settlement.

40 Q. Did you go back to Mr. Max Slaff and tell him what A. & J. Friedman told you? A. I don't remember exactly what A. & J. Friedman told me at that time, but I do remember that I tried to bring it

Complainants' Witness, Abraham Slaff, Direct

to a settlement—bring both parties together, and they would not come together. It was a year ago and I do not remember exactly what Mr. Friedman told me and what Max Slaff told me, but I do remember that I was trying every way to bring them to a settlement at that time.

Q. Can't you state to the Court what it was that A. & J. Friedman asked you to do for them and what you went to Max Slaff for? A. I really don't remember, to tell the truth. 10

Q. Your memory is a blank on that subject, is it? A. Absolutely. I don't remember.

Q. Did you state to me in the corridor today that since Abraham Friedman was on the stand your memory has been refreshed so that you could tell us what happened? A. Yes, sir. 20

Q. Do you remember? A. I do not remember how much, whether two parts or one-third. I heard it here in court that Friedman claims two-thirds.

Q. Did you tell that to Slaff a year ago before hearing Mr. Friedman testify on the stand? A. Now that you refresh my memory, I believe Friedman at that time did claim two-thirds.

Q. And how much did Mr. Slaff say he claimed when you made statement to Friedman? A. I do not remember exactly what Max at that time told me; whether it was half or one-third I do not remember. 30

Q. Your memory is blank on that score? A. Absolutely.

Q. That is all.

Mr. Backes: No questions.

Complainants' Witness, Jacob Friedman, Direct

JACOB FRIEDMAN, sworn on behalf of the complainants, testified as follows:

Direct-examination by Mr. Weinberger:

10 Q. Mr. Friedman, you are a brother of the gentleman who was on the stand all the morning? A. Yes, sir.

Q. You are in the plumbing supply business with your brother? A. Yes, sir.

Q. And your uncle is Max Slaff? A. My uncle is Max Slaff.

Q. How long have you been in the plumbing supply business? A. We started in at the same time as a partnership about six and one-half or seven years ago.

20 Q. And did you live with your uncle when you came over to this country? A. For a short time I was under my uncle's employ for about a year and a half.

Q. In what capacity were you employed by him? A. Working for him. He was the owner of property and I was working for him at the time.

Q. Now, Mr. Friedman, when you started in the plumbing business, you started at what place? A. 263 Monroe Street.

30 Q. How long were you in business at that place? A. Well, we stayed at that place for a period of about five years.

Q. And you are now in what place? A. 555 Lexington Avenue.

Q. Do you recall the occasion of purchasing the three plots of ground known as the Kehoe plots and the Falstrom plot? A. Yes, sir.

40 Q. Where were you at the time those properties were purchased? A. I was in the office when my brother first broached the subject to Mr. Slaff—to

Complainants' Witness, Jacob Friedman, Direct

my uncle, Slaff—and told him that he would be interested in buying the property.

Q. You said that you would be interested in buying it or your brother? A. My brother said it.

Q. In buying what property? A. The Falstrom and Kehoe, both, and both on the same day. One of the properties adjoined the Falstrom property. 10

Q. And did your brother and Mr. Slaff discuss the purchase of them? A. Well, at last, when my brother told him that he was interested, he wanted to know who he could send down to find out about it, and my uncle offered his services, and said he would find out just how much it could be bought for.

Q. As a matter of fact, did he then go out to get the information? A. He went out to lunch and then he came back in the afternoon, and he told my brother everything was all right; he was ready to go and buy the property. 20

Q. Did he come back with any price that it could be bought for? A. He did.

Q. How much? A. \$4,000 for a single Kehoe lot.

Q. Did your brother give him a check at that time? A. He did.

Q. I show you a check marked Exhibit C1 and ask you whether you saw that check made out? A. I did. 30

Q. By whom was it made out? A. The check is made by A. & J. Friedman, by A. Friedman.

Q. Who is A. Friedman? A. My brother.

Q. And was that check given on account of that property? A. Yes.

Q. What did Mr. Slaff say concerning whose name the property should be taken in? 40

Complainants' Witness, Jacob Friedman, Direct

Mr. Backes: I object to the form of the question as leading. Let the witness tell what happened between them—what was said and done between them.

Mr. Weinberger: I will change it.

10 Q. Will you state in your own way just what conversation took place between your uncle and your brother, in your presence. A. First, my brother asked him to find out about the property; and my uncle then went out to lunch—it was about lunch hour—and my brother and I went over the matter and we decided between the two of us that we should offer one-third interest to my uncle, because he is a real estate man, and if at any time, we should want
20 to do anything with that property, he was the one who would know more about how to do it or to put up a building than we did. Of course, we were entirely strange in the real estate business.

Q. When he came in, what was said? A. When he came in, my brother told him if he would take me in as a third partner if I have any money to invest. I told him that was all right; we could put up the money, and if he should do anything with that property, we would see him later.

30 Q. Then as a matter of fact, was the check given to him? A. The check of \$500 was given to him to apply on the \$4,000 on that day.

Q. I show you a check, dated April 15th, marked Exhibit C2, and ask you who made that check out?

A. I made the check out.

Q. What was that check given for? A. That check of \$2,000 was for the Falstrom property.

40 Q. What day was it issued? A. April 18th.

Q. And was it the day after the property was bought? A. The next day.

Complainants' Witness, Jacob Friedman, Direct

Q. Now, what conversation, if any, was had at that time? A. Well, all these properties were supposed to be bought by the three partners, and to be taken in A. & J. Friedman's name. At that time the firm name was A. & J. Friedman.

Q. Now, as a matter of fact, Mr. Friedman, were you present when the next check was given on April 22nd (referring to check marked Exhibit C3) for \$1,000? A. I was out on business at the time, but my brother told me that they were buying the Kehoe property at the same time, and I said it was all right.

10

Q. And was that check issued? A. Yes, for the \$1,000 for deposit on that property.

Q. Now, as a matter of fact, Mr. Friedman, after these three checks were paid to your uncle for the three parcels, the Falstrom and two Kehoe properties, was there an accounting had between yourselves and your uncle? A. Yes.

20

Q. When was that, do you recall? A. That was after all the purchases were made and my uncle Max came in and told me and my brother that he advanced \$3,000 on the property and the original advance was \$3,500 on the Falstrom, so that it made my uncle Max's amount \$1,000 for his third interest, and he gave a note for that.

30

Q. There was a note given for \$1,000? A. Note given for \$1,000.

Q. And that represented what? A. One-third interest.

The Court: In what?

The Witness: In the three parcels.

Q. And what were those three parcels? A. Both of the Kehoe and the Falstrom property.

40

Complainants' Witness, Jacob Friedman, Direct

Q. Now was \$500 repaid which was supposed to have been paid on account of the Falstrom deposit?

A. It was.

Q. By what? A. That was paid by check.

10 Q. Do you recall the date when it was paid—the check? A. No; that was paid sometime later, because at that time he used the \$500 for something else and he couldn't pay it back immediately; but he paid that after awhile, after a month or so.

Q. Would your books show this transaction? A. Yes, sir.

Q. Now, Mr. Friedman, later on this note was renewed, was it not? A. It was.

Q. How much was paid on account of the old note, the first note issued? A. \$100.

20 Q. I show you the renewal note marked C5, and ask you whether that was the note that was then given to you to take up the first note issued for the first \$100 that was paid on account? A. Yes, that was the note. That was made out by myself.

Q. In your handwriting? A. In my handwriting, and Mr. Slaff signed it.

Q. That note was later on paid, was it not? A. It was.

30 Q. Did you ever receive the \$2,000 which you advanced on account of the purchase of these three properties, representing as you claim the two-thirds interest which you acquired? A. No.

Q. Did you ever receive any part of that \$2,000? A. I received the \$500 that wasn't used.

Q. I am asking you whether you received any part of that \$2,000? A. No.

40 Q. Now things ran along smoothly and peacefully, Mr. Friedman, until what time? A. Until my brother

Complainants' Witness, Jacob Friedman, Direct

found out of Falstrom—he inquired when the interest was due and he told him—

Q. Well, Falstrom told your brother something, but you were not present? A. No.

Q. And in pursuance of what he reported back to you did you and your brother have a conversation in the presence of Slaff concerning that matter? A. I 10
guess I will have to think (witness pauses). Why, I can't recall.

Q. You do not remember whether you were present or not? A. No, I do not.

Q. Was there a dispute between your uncle and your brother? A. Yes, there was.

Q. And as a result of that what happened? A. He sent up for Maurice Slaff.

Q. A lawyer in Passaic, a nephew of Mr. Slaff? 20
A. Yes.

Q. What did Mr. Maurice Slaff do? A. He had my brother sign a paper promising that he would assign the contract.

Q. I show you an agreement bearing date the 17th of April, acknowledged the 20th of August, 1919, and ask you whether or not you signed that agreement? A. Yes, there is my name, "Jacob Friedman."

Q. And in whose presence did you sign it? A. I 30
signed it in the presence of Maurice Slaff.

Q. And is that his name there? A. That is his name.

Q. Do you recall when it was you signed that? A. It was sometime later, four or five days after the purchases were made.

Q. Now, Mr. Friedman, was that the first knowledge that you ever had of anything being wrong, the knowledge imparted to you by your brother that he 40
received from Mr. Falstrom? A. Yes.

Complainants' Witness, Jacob Friedman, Direct

Q. And in pursuance of that this agreement, Exhibit D1, was signed by you? A. Yes.

Q. When did you learn of the Kehoe not being in your name? A. Sometime later, when my brother had it searched. He asked his counselor to have the property searched, and find out whether it was taken in

10 A. & J. Friedman's name.

Q. And when he learned that it was not, what was done? Did you have a talk with your uncle, or did your brother, in your presence? A. I didn't have any talk at first. My brother talked with my uncle.

Q. Did your brother talk with your uncle in your presence? A. No, my brother told me all about it.

Q. Did you ever speak to your uncle after that? A. After that I did.

20 Q. What did you say to him and what did he say to you? Pardon me, when was that? A. Well, it was about seven or eight months later after the purchases were made.

Q. About seven or eight months later? A. Yes, sir.

Q. What happened then? A. My uncle at that time told me for certain reasons he took it in his name, but he wants to settle up this matter, and I asked my
30 brother how about the deed. I wasn't on speaking terms with my uncle then, and I arranged a settlement that we should divide the parcels into three parts.

Q. Which parcels? A. At that time we were supposed to divide the three parcels, the two Kehoe parcels and the Falstrom parcel; that I should take one parcel and he take the other parcel, and if there was any difference in money we should pay each other in
40 cash, but it should be in three parts.

Q. That is what who suggested? A. He suggested

Complainants' Witness, Jacob Friedman, Direct

to me, and it was agreeable, and my uncle and I fixed the date that we go to an attorney and draw the papers, and a week later when I called him up and asked him whether he was ready he says his wife wouldn't let him do it.

Q. Did you then talk to him after that? A. No; I didn't speak to him after that, because I left it entirely to my brother. 10

Q. Were you in the store at the time this fight took place between your uncle and your brother? A. No.

Q. Where were you at that time? A. I was out on business somewhere.

Q. Mr. Friedman, when these checks were given by your brother to buy these parcels of property was there any other arrangement except the one you have stated, namely, that he was to have one-third interest and you were to have two-thirds interest in those properties? A. No other interest. 20

Q. You were not in Mr. Meyers' office, were you? A. No.

Q. Now, concerning the payment of taxes on these properties, I show you Exhibit C7, and ask you if the check accompanying those bills was a check of the A. & J. Friedman Company? 30

Mr. Backes: There is no question about that.

Mr. Weinberger: Well, it is corroboration of the facts of the case.

The Court: It isn't necessary to prove it; it has already been proved, and I understand there is no contest over those checks. If anything develops you will have an opportunity afterwards to put in your proof.

Mr. Weinberger: Very well, your Honor. 40

Complainants' Witness, Jacob Friedman, Direct

Q. Who paid the taxes on the Falstrom and Kehoe properties?

Mr. Backes: I object, if your Honor please. That already appears by these checks, unless this witness did it himself.

10 The Court: We can assume that he did not. But the witness might know.

Q. Do you know who paid the taxes on the Kehoe property? A. The first taxes that were paid were paid by us.

Q. Who delivered the bill to you to be paid? A. My uncle.

Q. Did you advance any money in payment of those taxes on behalf of your uncle, and, if so, what share or proportion? A. We advanced one-third interest in the payment of those taxes for my uncle.

By the Court:

Q. How do you know that this tax bill referred to came from your uncle? A. Because when we purchased the property he brought those tax bills and the bill of Mr. Harry Meyers and gave them to my brother, and my brother told me he was going to take care of them and advance the interest of Max Slaff.

30 Q. Were you present when he brought the papers in? A. I was present, but they had some other talk about the property and I walked out. I was present when the papers were handed to my brother.

Q. I show you Exhibits C17 and C12; will you look at those papers, Mr. Friedman (handing papers to the witness)? A. This is the bill that he gave to my brother for services, and that he paid to Miller & Meyers. My brother paid Max Slaff for this.

40 Q. Do you remember that your brother paid Max

Complainants' Witness, Jacob Friedman, Direct

Slaff the amount of that bill of Miller & Meyers?

A. Two-thirds interest he paid. We carried these small bills on the books, and my uncle said, "I want to give you a check; I will pay you in cash for my one-third interest."

Q. Was that offer of payment made by check or in cash? A. Cash. 10

Q. Any receipt taken for it? A. No.

Q. When did you first see that paper, Mr. Friedman, the bill from Miller & Meyers, C12? A. I saw him hand it to my brother, together with the tax bills on the Kehoe property and the Falstrom.

Q. You say you saw him; whom do you mean? A. My uncle, Max Slaff.

Q. And where was it? A. At our store.

Q. Did you examine the bill of Miller & Meyers then? A. I just looked at it; I hadn't gone over the charges. 20

Q. Do you know how long after the bill of Miller & Meyers that your uncle brought the tax receipts and gave them to your brother? A. That was only a short time after the purchase was made. I can't recollect the exact date. It was sometime ago.

Q. Are you sure that the bill from Messrs. Miller & Meyers that Mr. Slaff brought to your place had been paid? A. To Miller & Meyers? 30

Q. Yes? A. I don't know, but I know my brother paid it and we advanced my uncle's one-third interest and our two-thirds interest was also paid, but whether he paid Meyers the bill, I don't know.

Q. Do you know whether the bill was brought to you receipted? A. Yes; it was just as it is now.

By Mr. Weinberger (direct-examination resumed):

Q. And it has remained with you as it is now until handed to your lawyer? A. Yes, as it is now. 40

Complainants' Witness, Jacob Friedman, Cross

Q. Did your uncle ever claim that that property belonged to him altogether?

Mr. Backes: I object.

Mr. Weinberger: I submit that is a proper question.

10

Mr. Backes: I say that is entirely improper. Let him tell what his uncle claimed. Don't put it in the manner in which it is framed.

The Court: How would you frame it, Mr. Backes?

Mr. Backes: It is a leading question to which this man can say "yes" or "no."

20

The Court: Yes, sometimes you have to suggest a topic. Very frequently the question is whether the witness ever heard Mr. Max Slaff state, in substance, that he, Max Slaff, was the owner of the property. Is that your question, Mr. Weinberger?

Mr. Weinberger: That is the question precisely.

A. He never claimed that it belonged to him.

Q. How much was the amount that he ever claimed belonged to him? A. At first—

30

Q. No, the most. A. The most, one-half.

CROSS-EXAMINATION by Mr. Backes:

Q. What property did he make that claim on? A. On the Kehoe property—well, he claimed it on all the property, on all the parcels.

40

Q. He claimed one-half, did he? A. Originally when he assigned the paper to us it was in three parts, but afterwards, when we come to examine it, we

Complainants' Witness, Jacob Friedman, Cross

found he took it in his name and not in our name, and he had an argument with my brother about it, and then he claims that he owns half of that property.

Q. Now, you say there was an accounting made between your uncle and yourselves of this property; I wish you would fix the time when that was done.

A. Why, the accounting was that we kept a record of all the money that we paid right along. We didn't make the accounting on one particular day, but we kept the entries of the payments that were made as we paid them. 10

Q. In your transactions with your uncle, would you always very frequently borrow money back and forth?

A. Yes.

Q. You would give him a check, and what would he give you to show that he borrowed any money from you? A. There were several loans that we made to him and that happened many times. 20

Q. And when you would loan him money would you take anything in return as evidence that he owed you anything, or would you just trust him for it? A. Any time he wanted money he used to give me a note.

Q. Always? A. Not always. My brother used to make loans to him, which I wasn't taking care of, because I left it all to my brother that he take care of it. 30

Q. When did you first learn of the sale to Mr. Max Slaff of the Kehoe property? A. That he took it in his name, do you mean?

Q. When did you first learn that he had bought the property? A. I don't quite understand you what you ask me, what you want to get.

Q. Well, I want to know when you first learned from anybody, from Mr. Max Slaff or through your brother, communicated to him by Mr. Max Slaff, that 40

Complainants' Witness, Jacob Friedman, Cross

the Kehoe property had been purchased by Mr. Max Slaff? A. Well, when the Kehoe property was purchased, I supposed right along it was in the name of A. & J. Friedman Company, but we found it was in the name of Max Slaff about eight months later when we had it searched.

10 Q. About eight months later? A. Yes, about seven or eight months later.

Q. There were three different parcels; which property was purchased first, do you know A. The \$4,000 property.

Q. And whom was that purchased from? A. Supposed to be purchased by A. & J. Friedman by Max Slaff.

Q. And the next purchase was made when? A.
20 The next purchase was the Falstrom property.

Q. Made the following day? A. About a week later.

Q. Isn't it a fact that the two Kehoe properties were purchased at the same time? A. Well, not the same day.

Q. Not the same day? A. No; it wasn't purchased on the same day.

Q. Isn't it true that the Kehoe property had been
30 purchased by Mr. Slaff, and he so informed you, before he went off and purchased the Falstrom property, in which you were to have an interest? A. They were trying to make a deal for the Falstrom property on the same day, but the purchase of it was a day or two afterwards.

Q. A day or two afterwards, you say? A. Yes, the following day.

Q. It was made after the Kehoe property had been
40 bought? A. Yes.

Complainants' Witness, Jacob Friedman, Cross

Q. Are you sure now that both pieces of Kehoe property were not bought as one property and one transaction? A. No; I think not, the \$4,000 parcel was bought first, and next the Falstrom property, and third, the \$10,000 parcel from Kehoe.

Q. When was the Kehoe parcel purchased—the third parcel? A. I think I gave a check for that about one week later. 10

Q. What check? A. We gave them a check for \$1,000.

Q. I show you a check which is marked C1, \$500; that is your check given to Mr. Max Slaff? A. Yes.

Q. Wasn't that money borrowed from you? A. No; it was for the purpose of buying the Kehoe property.

Q. When you gave him that check did Mr. Max Slaff give you any writing showing what it was for? A. No; he didn't give us any writing. 20

Q. I show you Exhibit C3, check of \$1,000; didn't Mr. Max Slaff borrow a thousand dollars from you? A. No; he hasn't borrowed—not these checks. He possibly borrowed money some other time, but this was given him for the purpose of purchasing the \$10,000 property.

Q. What have you to show what that check was given for? A. From our books. 30

Q. Nothing from Mr. Max Slaff? A. No.

Q. Did Mr. Slaff repay you that \$500? A. No.

Q. Did he repay you the \$1,000? A. No.

Q. Isn't it a fact that Mr. Max Slaff did give you a check, which is marked Exhibit C4, for \$500? A. That was the \$500 which he did not use, of the money that we advanced more than he used for the purchase of the property. 40

Complainants' Witness, Jacob Friedman, Cross

Q. Wasn't that check the return of the loan which you made to Mr. Max Slaff on April 14? A. That was not a loan. We gave him \$3,500 to purchase the property and only \$3,000 was paid.

Q. The note which he gave you—can you fix the time when this note was given? Was it a four
10 months' note? A. Four months, yes.

Q. That would make it the same date as this check, or the day after this check? A. No; the check was given later than the note, because he didn't have the money to pay the \$500.

Q. I know, but you say this was a renewal of a four months' note. A. Yes.

The Court: Showing the witness what?

20 Mr. Backes: Exhibit C5.

By the Court:

Q. Do you know whether it was a three months' note or a four months' note? A. I don't remember.

Q. Would you recall if I showed you this check for \$20 for interest? A. That I can't remember.

Q. Do you recall when that original note was given you by him? A. I don't remember; I know a note was given.

30 Q. Don't you recall, and isn't it a fact, that the check and note were given as one transaction to pay for Mr. Slaff's interest in the property? A. I don't think he gave it to us the same day that he gave us the \$1,000 for his one-third interest because he didn't have any note that day, and he told us he would give us \$500 that was left over from the \$3,500 we advanced him, and that he would give us that at a later date.

40 Q. What were the terms of the purchase, the price,

Complainants' Witness, Jacob Friedman, Cross

and how the payments were to be made on the Kehoe property? A. Why, I don't know. I know the purchase price, but I don't know the other terms.

Q. Did you ever give a mortgage? A. No; we never gave a mortgage.

Q. Now, when was the Falstrom property purchased? A. It was sometime in April. I think it was on the 4th or 5th of April. 10

Q. I show you the agreement of sale, which is marked Exhibit C21, and ask you if that isn't the agreement for the Kehoe, as well as the Falstrom property? A. No; I don't remember seeing this agreement.

Q. I show you Exhibit D1; do you recall ever seeing that agreement before? A. (After examining paper.) Yes. 20

Q. When did you first see that agreement? A. That was about four or five months after this property was purchased.

Q. Didn't you see this agreement at the same time (showing witness Exhibit C21)? A. No; I haven't seen this agreement.

Q. Quite positive about that? A. Yes; I am positive about that.

Q. If you hadn't seen the first agreement, C21, which is the Falstrom agreement, how, then, would you know what you were agreeing to in this agreement, D1? A. Well, Mr. Maurice Slaff asked me—I had this one here, which is the assignment of the contract for the purchase of this property from Falstrom, and he asked me to sign this one, and I signed it. 30

Q. What was the purchase price of the Falstrom property? A. \$4,000 for the first parcel and \$10,000 for the second one. 40

Complainants' Witness, Jacob Friedman, Cross

Q. I am talking about the Falstrom property. A.
For the Falstrom, \$22,000.

Q. How much money was paid on account of that?
A. We gave our Uncle Max \$2,000 for the purchase
of that property, but he used only \$1,500.

Q. I show you Exhibit C2; is that the check that
10 you gave for the purchase price? A. Yes.

Q. Did Mr. Max Slaff give you anything to show
what that check was given for? A. No.

Q. Or any acknowledgment to show what it was
for? A. No.

Q. Your firm had immediate possession of the Fal-
strom property and collected the rents? A. Yes.

Q. And you have been doing that how long? A.
Ever since we had the property. We have collected
20 the rents of that property since the day the property
was purchased.

Q. And the date of purchase was when? A. April
17th.

Q. 1919? A. Yes.

Q. You have paid the interest on this property? A.
Yes, sir.

Q. And the taxes? A. Yes.

Q. You have no account as between your uncle as
30 to how much is due each of you on this Falstrom
property, have you? A. No.

Q. There is an open account between you now?
A. There is.

Q. And the understanding was that you were to col-
lect the rents and keep an account of it, and it was
to be settled between you later? A. As well as we
can collect the rents, and not keep them but pay them
on that property.

40 Q. Did you ever go to Mr. Meyer's office? A. No.

Complainants' Witness, Jacob Friedman, Cross

Q. Is Mr. Meyers your attorney? A. Why, when my brother wanted to find out about that deed he went down to Harry Meyers', because he was familiar with the transaction.

Q. Well, was Mr. Meyers attorney for your firm?
A. No, not for the firm.

Mr. Weinberger: Why don't you answer yes or no? 10
The Witness: No.

Q. You and your uncle have always been on friendly terms, haven't you? A. Yes; we were on very good terms.

Q. And you are now? A. No.

Q. When did you first have differences between you. Fix the time if you can? A. Why, I can't remember just when; it was about a year and a half ago. 20

Q. How soon after the purchase of this property?
A. About eight or nine months after that.

Q. When did you first see that bill of Mr. Meyers', which is marked Exhibit C12? A. This was a few days after the property was purchased.

Q. When did you first see it?

Mr. Weinberger: I object, on the ground that it is repetition. Your Honor will recall that Mr. Backes has been over that. 30

Mr. Backes: Not with this witness. I am trying to fix the time. It is important to fix the time when this bill was received.

Q. Do you know when that bill came into your hands? A. It was a few days after the property was purchased.

Complainants' Witness, Jacob Friedman, Re-direct

RE-DIRECT EXAMINATION by Mr. Weinberger:

10 Mr. Weinberger: I call upon the defendant to produce three checks, each for \$250, representing the payments made on account of the Kehoe interest, referred to in the bill, one check bearing date, April 12, 1920, another, October 26, 1920, and one for the same amount of April 14, all being checks of the A. & J. Friedman Company.

Mr. Backes: I would like to know what the call is for.

Mr. Weinberger: Three checks, each for \$250.

20 The Court: Your own checks?

Mr. Weinberger: Checks of A. & J. Friedman Company, the complainant, to Max Slaff, on account of the Kehoe property.

The Court: Haven't you got your own checks?

Mr. Weinberger: No; they were never deposited. They have the checks. We have the registry receipts.

30 Mr. Backes: So far as I know, we have no such checks.

Mr. Weinberger: I want the record clear; I make a formal demand for check, bearing date April 12, 1920, for \$250, made by A. & J. Friedman Company.

The Court: What is the point, Mr. Weinberger?

40 Mr. Weinberger: We want these checks which were given for interest due on the property. They still have the checks.

Complainants' Witness, Jacob Friedman, Re-direct

The Court: That was after the suit was brought?

Mr. Weinberger: Before.

The Court: No, this bill was filed on the 19th day of April, 1920.

Mr. Weinberger: On the 12th of April this was, which check was enclosed in a letter of Weinberger & Weinberger, 315 Paulson Ave., Passaic, N. J. 10

The Court: But that was after the contest arose—it was after the parties were fighting. What do you want the checks for, as evidence?

Mr. Weinberger: They haven't paid our money to him, as per agreement. Your Honor may think it is irrelevant and immaterial, but I think it is quite relevant. 20

The Court: I don't think it is worth while, but if you think the putting of the checks in is of any value to your case, you may put them in.

Q. Mr. Friedman, I had forgotten to ask you in my direct-examination, whether any payments were made to Falstrom for that property besides the interest and deposit? A. Yes, at the time the property was bought it was in the bargain that certain incomes from the property, from the buildings turned over to Mr. Falstrom and the balance was to be applied on the purchase price. 30

Q. And were those allowances collected by you or your brother and turned over to Mr. Falstrom?

Mr. Backes: There is no question about that; \$120 was paid him.

Complainants' Witness, May N. Slaff, Direct

MISS MAY N. SLAFF, sworn on behalf of the complainants, testified as follows:

Direct-examination by Mr. Weinberger:

Q. Miss Slaff, what is your occupation? A. Book-keeper and stenographer.

10 Q. And you are employed now by whom? A. Simon Realty & Investment Co.

Q. In Passaic? A. Yes, sir.

Q. Were you at one time employed by the A. & J. Friedman Company? A. Yes, sir.

Q. Can you fix the time when you were employed there? A. Well, I don't know just when I did come or when I left, but I think I was there about two and one-half or three years.

20 Q. You live in Passaic? A. Yes, sir.

Q. And have lived in Passaic how long? A. Ever since I was born.

Q. Well, I won't press it. Did you, in the capacity of bookkeeper, have occasion to keep the records of the A. & J. Friedman Company? A. Yes, sir.

Q. I show you a book, and ask you what that book is? A. That is a book of accounts—business account of merchandise—all the goods, in fact.

30 Q. And in whose handwriting has this book been kept, referring particularly to the accounts on pages 162, 163, 164 and 165? A. That is mine.

Q. Your handwriting? A. Yes.

Q. Have you the account in this book with Mr. Max Slaff, and, if so, will you kindly refer to the page where that account can be found? A. (The witness examines the book.)

40 Mr. Backes: You are now speaking of an account against Mr. Max Slaff?

Mr. Weinberger: I am going to ask her.

Complainants' Witness, May N. Slaff, Direct

Q. Will you point out the account of Mr. Max Slaff, if you find one there? A. This is the only account (witness referring to a page in the book).

Q. Who wrote the items that appear in that account? A. I did.

Q. And will you state to the Court on what page you find that account? A. Page 167. 10

Q. What do you call this book? A. This is the ledger.

Q. And are all the items appearing in that account in your handwriting? A. They are in my handwriting, yes.

Q. Where did these items come from? A. From the check book.

Q. And the title of that account is what? A. "Property Investment." 20

Q. And when were those entries made in that book? A. In 1919. There is no date there.

Q. Were the entries made about the time the checks were issued? A. Yes. You can tell that by the checks.

Q. When did you leave the employ of the company? A. May 30, 1919.

Q. So that all the entries in that book must have been made before you left the employ of the company? A. Yes. 30

Q. Is that correct? A. Yes.

Q. Do you know who succeeded you? A. I don't know his name.

Q. That gentleman there, Mr. Greenberg? A. Yes, Mr. Greenberg.

Q. Now, I call your attention to what is known as the "Loan Account, 1919," and ask you what that account shows, referring to page 164 of the same book? 40

Complainants' Witness, May N. Slaff, Direct

By Mr. Backes:

Q. Is that in your handwriting? A. Yes, sir.

Q. All of it? A. Yes, sir.

By Mr. Weinberger:

Q. What does that show? A. It shows loans.

10 Q. Loans made by whom to whom? A. A. & J. Friedman to different people.

Q. All loans were entered under this title? A. Yes, sir.

Q. None of the checks appearing on page 167 are entered on that page, are they? That is, the property investment checks do not appear under the loan account, do they? A. I really don't know whether there is any reference—

20

Mr. Backes: Now, pardon me, what is the purpose of this offer? Are they going to tie Max Slaff up to such a self-serving statement?

The Court: They haven't offered it yet.

Mr. Backes: I don't know; I would like to ask what the purpose of the offer is.

The Court: There is no offer yet.

30 Q. Was there any loan entered in the account on pages 164 and 165? A. I don't remember whether it was entered as a loan.

Q. Do any of the checks which you have got marked under "Property Investment" appear under them, so far as you can see? A. No.

Q. When you were employed by the A. & J. Friedman Company were you familiar with these transactions? A. Through the books, yes.

40 Q. Are you related to Mr. Max Slaff? A. Yes, sir.

Complainants' Witness, May N. Slaff, Direct

Q. What relation? A. A niece.

Q. Can you tell us whether or not a check was paid by Slaff to Friedman of \$500 on the 7th of June?

A. Unless there is—

Q. Were you there on the 7th of June? A. No; I wasn't there after June 1st.

Q. Do you know about the purchase of these three parcels of land? A. Except that I made out the checks, otherwise I don't know anything about it. 10

Q. You don't know anything about it, excepting the fact that you made out the checks? A. No.

Mr. Backes: Is there any objection to these books going in evidence?

Mr. Weinberger: No.

Mr. Backes: Well, I will see. 20

By Mr. Backes:

Q. Referring to page 167, is that entry in your handwriting? A. Yes, sir.

Q. All of it? A. Yes, sir.

Q. The caption is "Property Loans and Investments"? A. No, that shouldn't be "Loans"; that should be "Property Investment."

Q. Who made that entry in there? A. I did.

Q. "Property Loans & Investment"? A. I did. 30

Q. By whose direction did you make that entry? A. Why, through the check book.

Q. The check book shows to whom these checks were given? A. Yes; those entries come from the check book.

Mr. Backes: Then, I call for the original check book and object to the offer of this book, because it is not a book of original entry. 40

Complainants' Witness, Gustav Kreger, Direct

Mr. Weinberger: Well, do you object to the book or don't you?

Mr. Backes: I have made my statement. I object to the book in its present form.

10 Mr. Weinberger: Then, I will withdraw the offer and I will produce the check book, if counsel wants to be technical. We will be glad to produce the check book if you want it, but you will have to serve us with notice to produce.

Mr. Backes: Then, I object to the offer of this book that is offered.

The Court: It hasn't been offered yet.

20 Mr. Weinberger: I offer it. If Mr. Backes wants the book he can have it; if he doesn't he doesn't have to have it.

By Mr. Weinberger:

Q. How frequently did Max Slaff come around the place? A. I don't know anything about their personal conversation.

Q. Did he come around often? A. He came around every once in a while.

30 Q. How frequently was that? A. I couldn't really say how frequently that was.

No cross-examination.

GUSTAV KREGER, sworn on behalf of the complainants, testified as follows:

Direct-examination by Mr. Weinberger:

40 Q. Mr. Kreger, what is your business? A. General manager of the A. & J. Friedman Co.

Complainants' Witness, Gustav Kreger, Direct

Q. How long have you been general manager? A. Since May 3, 1919.

Q. Are you still in their employ? A. Yes, sir.

Q. In the same capacity? A. Yes, sir.

Q. How long have you lived in Passaic? A. All my life except the last four years when I moved to Clifton.

10

Q. How long did you live in Passaic? A. About 27 or 28 years.

Q. Do you know Mr. Max Slaff, the defendant in this case? A. Yes, sir.

Q. Did you have occasion to see Mr. Slaff very frequently at the place of A. & J. Friedman? A. Very often.

Q. How often? A. Maybe a number of times a day, and maybe every other day.

20

Q. With whom would he talk generally when he got there? A. Talk to Mr. A. Friedman, and he would say to me, "How are things, Gus," and that is about all, so far as I know.

Q. In April, 1919, were you employed by the A. & J. Friedman Company? A. No, sir.

Q. You were not? A. No, sir. I was employed by the N. J. Engineering & Supply Co.

Q. When did you start to work for A. & J. Friedman Co.? A. I started May 3, 1919, with them.

30

Q. 1919? A. Yes.

Q. Now, as a matter of fact, were you ever present when a dispute took place, or an argument of some kind between Mr. Friedman and Mr. Max Slaff? A. Pertaining to what?

Q. Did you hear an argument of any kind? A. I have heard arguments.

Q. Can you tell us when? A. I don't know just

40

Complainants' Witness, Gustav Kreger, Direct

when. There was one argument one Saturday afternoon.

Q. With relation to what matter? A. That was a personal matter over property between Mr. Max Slaff and Mr. Friedman.

10 Q. What did you hear Mr. Slaff say to Mr. Friedman?

Mr. Backes: Let us fix the time.

Q. Can you tell us when that was? A. Yes, Saturday afternoon. There was nobody in the place but myself and Mr. Friedman.

Q. Do you know what month? A. Well, I don't know; I really can't tell.

20 Q. Well, was it in the winter? A. In the summer time. It was Saturday afternoon I know, because my help was off and I was there alone.

Q. How long after you had started your work there, can you tell us that? A. No; I don't remember the time.

Q. Well, what was said? A. I would merely hear them talking about property and he was arguing, "You said this."

30 Q. You said what? A. "You said I would get two-thirds and you would get one-third," and such stuff. I didn't pay much attention to it, because I had business of my own to look after as general manager, but I couldn't help hearing some things.

Q. Tell us what you heard. A. I heard the commotion afterwards when Mr. Abe Friedman ordered him out of the store and Mr. Slaff said, "I will fake you out of everything."

Q. Who said that? A. Mr. Max Slaff.

40 Q. Whom did he say it to? A. Mr. Abe Friedman, the only man in the place.

Complainants' Witness, Gustav Kreger, Direct

Q. You said that was Saturday afternoon? A. Yes.

Q. And Mr. Friedman put him out that afternoon?
A. Yes, sir; they were talking in the store, one saying this and the other arguing, and they talked so loud that I went out there and tried to quiet them down.

10

Q. Did you quiet them down? A. I did, and Mr. Friedman went so far as to order him out, and Mr. Slaff made the remark after that, "I will fake you out of everything."

By the Court:

Q. Did you hear about this present suit being brought? A. No.

Q. You know about the present suit? A. I do, but I never went into it personally. 20

Q. Did you learn when it was commenced? A. No.

Q. Is there any way by which you can fix the time when this altercation occurred and Mr. Friedman ordered Mr. Slaff out of the place? A. I should judge it would be around the months of June or July.

Q. Are you sure it was summer? A. Yes.

Q. Might it not have been in the winter? A. No.

Q. You are sure of that, are you? A. No.

30

Q. Couldn't it have been in March, 1920? A. As I said a moment ago, I couldn't say, but it might have been around in March or April—around those months, because there was no heat in the place.

The Court: Proceed.

By Mr. Weinberger:

Q. Mr. Kreger, was that the last time Slaff came in? A. That is the last time I saw him in the store. 40

Complainants' Witness, Gustav Kreger, Re-direct

CROSS-EXAMINATION by Mr. Backes:

Q. And didn't this occurrence which you now relate take place only a few months after you had returned to the company? A. I hadn't returned; I started to work for the company then.

10 Q. Well, a few months after you started to work for them? A. No.

Q. Was it in the summer following the time when you started to work for them? A. It was in the summer time, yes.

Q. Was it the summer immediately following the time you went to work for Friedman? A. I don't think so.

20 Q. What summer was it, then? A. (The witness pauses, and then replies.) Yes, it was that summer.

Q. Then, it was sometime during the summer of 1919, wasn't it? A. I believe it was.

Q. That they had this row; is that right? A. 1919? Why, no.

Q. You won't swear that it was the summer following the 3rd of May, 1919, that you went to work for the Friedmans that you heard this row between these men? A. I believe it was, yes.

30 Q. And Mr. Max Slaff hasn't been in the store since, has he? A. That's right.

RE-DIRECT EXAMINATION by Mr. Weinberger:

40 Q. His Honor asked you whether it might have been April or March, 1920; might it have been that time? You answered in reply to the Court that it might have been in March, or April, or February, 1920; might it have been that time? A. Yes.

Complainants' Witness, Thomas David Sachs, Direct

Q. Do you hear, or don't you hear my question?

A. Yes; I hear you.

Q. Might it have been in February, April or March, 1920? A. I don't believe it was in February; it was in the summer time. It wasn't cold weather; it was mild, warm weather.

Q. Might it have been mild in February or March, 1920? A. It might have been. 10

Q. You say you came there in May; how many months after you went there might it have been? A. It might have been around 8 or 10 months.

THOMAS DAVID SACHS, sworn on behalf of the complainants, testified as follows. 20

Direct-examination by Mr. Weinberger:

Q. What is your business? A. Insurance.

Q. You are also one of the Justices of the Peace in Passaic County? A. Not any more; I moved out of the ward.

Q. That is either to your credit or discredit. A. To my credit, probably.

Q. How long have you been in the insurance business, Mr. Sachs? A. Seven years. 30

Q. And in the course of your insurance business have you been engaged in any other business? A. I have engaged in the real estate business.

Q. Do you know Mr. Max Slaff, the defendant in this case? A. Yes; I do.

Q. How long have you known him? A. I have known him a good many years, as long as I can remember. 40

Q. Well, that is how far back. I don't know

Complainants' Witness, Thomas David Sachs, Direct

whether you have a good or bad memory? A. I didn't know him personally; I knew him by sight for about 20 years.

Q. And you have lived in Passaic, you say, how long? A. All my life.

Q. And that is— A. Twenty-eight years.

10 Q. Did you ever have occasion to talk to Mr. Slaff concerning real estate on Monroe Street, Passaic, N. J.? A. Yes; I spoke to him about the Kehoe property and the Falstrom property.

Q. And where is that property situated? A. The Kehoe property is—let me see, northwesterly side of Monroe and Elm Street.

20 Q. The Kehoe property is on either side of Monroe Street, and the Falstrom property adjoins one of the Kehoe tracts, is that correct? A. That might be another tract; I am talking about the one on the corner of Elm and Monroe, on the northwesterly corner.

Q. Now, whom did you first come to see concerning that property, if anyone? A. I saw the young fellow, Jacob Friedman.

Q. And in pursuance of any conversation did you see anybody? A. He referred me to his brother.

30 Q. What were you there to see him for? A. I had a party that was interested in one of the lots.

Q. Interested in what? A. Lots—Falstrom lots or Kehoe lots.

Q. To do what? A. To buy.

Q. As a matter of fact, you did speak to Mr. Friedman concerning that? A. Yes.

Q. And in pursuance of the conversation you had with the Friedmans, whom did you see later? A. Why, I saw Max Slaff later.

40 Q. And did you speak to him concerning the purchase or sale of those lots? A. I asked him if he was the owner of the lots.

Defendants' Witness, Max Slaff, Direct

Q. What did he say to you? A. He says he has got an interest in it.

Q. Did he tell you who else had an interest? A. Why, yes; he told me.

Q. Who did he tell you? A. Friedman Brothers.

CROSS-EXAMINATION by Mr. Backes: 10

Q. What lots were you referring to at the time? A. Falstrom lots and Kehoe lots.

Q. He didn't tell you what interest he had, did he? A. No; he didn't.

Q. He didn't tell you what interest Friedman had, did he? A. No.

Mr. Weinberger: Complainants rest. 20
The Court: Proceed with the defense.

MAX SLAFF, the defendant, sworn in his own behalf, testified as follows:

Direct-examination by Mr. Backes:

Q. Mr. Slaff, you live in Passaic? A. Yes, sir. 30

Q. How long have you lived in Passaic? A. 33 years.

Q. And your business is what? A. Real estate and building.

Q. Building operations? A. Yes.

Q. These complainants, the Friedman Brothers, are nephews of yours? A. Yes, sir.

Q. What was the relationship as to the manner of doing business between you and your nephews? A. What business? 40

Defendants' Witness, Max Slaff, Direct

Q. Any business. A. Why, very friendly.

Q. Did you frequently borrow money from them?

A. Oh, yes, quite often.

Q. When you borrowed money from them did you give them any evidence of your indebtedness, showing what you had borrowed? A. No.

10 Q. You trusted them? A. Yes.

Q. And they trusted you? A. Yes.

Q. You have brought them up, haven't you, as boys? A. Yes, sir.

Q. And you frequented their store, didn't you? You frequently visited at their store? A. Yes.

Q. Was that your place of business also? A. No, no.

20 Q. How often would you go in and out? A. Well, quite often. Of course, I couldn't state how often.

Q. Every day or two? A. Yes, about that.

Q. And how long had that practice gone on between you, ever since they were in business? A. Well, yes, ever since they were in business.

Q. Did you establish them in business? A. I helped them.

30 Q. Coming to the month of March or April, 1919, were you, in the course of your business, negotiating for the purchase of certain property in Passaic? A. Yes, sir.

Q. On Monroe Street? A. Yes, sir.

Q. The one known as the Kehoe property and the other known as the Falstrom property? A. Yes, sir.

40 Q. Tell us, if you will, in your own way, what those negotiations were and with whom, and what the terms of the negotiations were, and what conversation, if any, relating to these negotiations you had with your nephews, or either one of them. Tell it your own way now. A. In about the latter part

Defendants' Witness, Max Slaff, Direct

of March or the early part of April, 1919, I was negotiating to buy property from Kehoe and Falstrom, and about the 3rd or 4th I purchased three lots from Mr. Kehoe, and the terms were a purchase money mortgage, no payments to be made. Mr. Kehoe knew me well for the last 30 years, and Mr. Kehoe said—

Mr. Weinberger: I object to the conversation. 10

Mr. Backes: All right, we won't say anything about the conversation.

Q. Well, go on; don't tell the conversation had with Mr. Kehoe, but tell what the negotiations were for the other lots. A. I made up with him about the price, and Mr. Kehoe told me that he would go to Miller & Meyers and tell them to make out a deed. 20

Q. Now, what properties were they? A. Three lots, one on one side and two on the other side.

Q. Are they the lots described in the bill of complaint? A. Yes.

Q. You went to Miller & Meyers' office? A. He said he would go to Miller & Meyers' office, to tell them to make out deeds. About six or seven days later Mr. Kehoe called me up and I went over to his place, and he said, "Mr. Slaff, I went to have the deeds made out and you know that Mr. Harry Meyers is my counselor, and he advised me that I should get \$500 on each lot"— 30

Mr. Weinberger: I object to these conversations, on the ground that they are not proper.

Q. As the result of what he said did you do anything? A. I said, "All right, Mr. Kehoe; I will get it," and he says— 40

Defendants' Witness, Max Slaff, Direct

Mr. Weinberger: Never mind what he said.
I again object.

The Court: Don't tell us what he said, but what took place between you and Mr. Kehoe.

A. Then, about on the 14th I went in to Abraham
10 Friedman and Jacob Friedman in the store, and I says,
"I have got to have \$500." He made me out a check
and I went away. The next morning, on the 15th,
I came into the store, and I says, "Abe, I will have
to have another thousand dollars in about four or
five days." He says, "We can let you have it; I have
got \$15,000 laying in the bank doing nothing," but
he says, "What do you need the money for?" I told
him I have bought three lots on Monroe Street; I
20 didn't tell him no name or anything. And then after
a while he kept on talking and he says, "You know,
Uncle, I would like to have a lot or two also here on
this street." Well, I thought awhile and I says,
"Look here, Abe, I am negotiating for a parcel with
Falstrom and I have made arrangements with Mr.
Falstrom to buy this property at a certain price and
certain payments to pay on it, but Mr. Falstrom and
Mr. Lindholm, his brother-in-law, they will not sell
30 the property to be used immediately, because they have
got a shop on the back and they want a three-year
lease on the shop in back; I have been hesitating to
buy these lots because I can't use it immediately." He
says, "I will see if I can get you a lot or two over
there." I says, "I have bought these three lots now,
and I don't want to get any more, because this is an
expensive property."

Q. You then told him that you had bought the
40 Kehoe property? A. Yes. Then he says, "Uncle, we
will buy it with you." I says, "All right, but I don't

Defendants' Witness, Max Slaff, Direct

want to buy it if I have got to invest too much money." I says, "Well, my agreement or understanding with Mr. Falstrom is that he wanted \$8,000 paid in, and I induced him to take \$2,000 or probably less—I induced him to take a little less than that." I says, "If you are satisfied to buy this way, you give me a check of \$2,000 and I am going to purchase that." Then he went out and looked around the corner—it was not far from where he was—and he says, "Uncle, I am satisfied." 10

Q. Did you go with him? A. Yes.

Q. Did you go on the ground? A. Not exactly on the ground.

Q. But you went and looked at the Falstrom property? A. Yes.

Q. Well, after you looked at the property what took place? A. He says, "I am satisfied to buy it with you, because," he says, "I don't need so much property myself, and as you are a real estate man probably we will do something, and in the meanwhile we will invest the money and keep it for three years until the lease is up." I went and I purchased the Falstrom property. That was about two days later. I don't remember whether I got it the first day or the second day. 20 30

Q. I show you the agreement which has been marked Exhibit C21, and I ask you whether that is the agreement for the purchase of the Falstrom property? A. Yes, sir.

Q. After you came to that agreement did you inform your nephews what the terms of the purchase were? A. I took this agreement with me—

Mr. Weinberger: Answer yes or no. I object to his answer to the question. 40

Defendants' Witness, Max Slaff, Direct

The Court: It is for the examining counsel to determine that; as long as what the witness says is competent evidence, it doesn't make any difference whether it is responsive or not.

Mr. Weinberger: That is true, your Honor.

10 Q. Then, who furnished you with the money for the purchase of the Falstrom property? A. Mr. Friedman.

Q. How much was it? A. \$2,000.

Q. I show you a check which has been marked Exhibit C3, for \$2,000, and I ask you if that is the check? A. Yes, sir.

Mr. Backes: The check is dated April 15th.

Mr. Weinberger: June 7th, it ought to be.

20 Q. Then, you did purchase the property by giving your check to Mr. Falstrom? A. Yes, sir.

Q. For what amount? A. \$1,600.

Q. And the date of it? A. April 17th.

Q. That is your check, is it, Mr. Slaff (showing witness check)? A. Yes, sir.

Q. Made to the order of Gustav Falstrom? A. Yes, sir.

30 Q. What was that check given to Mr. Falstrom for, do you know? A. That was given in payment for the property \$1,500 and \$100 for a small shanty that was there that I took from him and paid him \$100 for it.

Mr. Backes: I offer the check in evidence. Admitted and marked Exhibit D2.

40 Q. Now, after you had obtained the agreement from Mr. Falstrom and paid him for the property what next took place between you and your nephews?

Defendants' Witness, Max Slaff, Direct

When did you next see them? A. I went right to them, and I showed them the agreement, and I told them that I would take this agreement and make an agreement with them.

Q. What kind of an agreement? A. The same agreement that I got from Falstrom in two parts, which I did. 10

Q. And I now show you Exhibit D1, and ask you if that is the agreement you now refer to? A. Yes, sir.

Q. With whom did you arrange the terms of that agreement—which one of the Friedmans? A. I can't remember exactly whether only one of them was there or both were there.

By the Court: 20

Q. How long after the purchase of the Falstrom property was it that this agreement, Exhibit D1, was made? A. About two days afterwards.

Q. Are you sure of that? A. I took this agreement and showed it to Mr. Friedman, and I don't know whether the one or two were there, and I made out with him this agreement. I made the agreement with them before this original agreement that I got from Falstrom, and I turned this agreement over to Maurice Slaff. 30

Q. Now, then, referring to Exhibit D1, which I will ask you to look at (handing paper to the witness), do you notice its date, April 19th, isn't it? A. April 17th.

Q. Yes, April 17th. Now, look at the agreement that you made with Falstrom and tell us what the date of that is. A. This is the 17th.

Q. Now, do you say these two papers were made on the same date? A. No; I don't say that. 40

Defendants' Witness, Max Slaff, Direct

Q. Then, Exhibit D1 was dated back, was it? A. I say that I took this agreement to Maurice Slaff and told him to make an agreement for the Friedman boys according to the date.

Q. Now, I ask you how long after you had made this agreement with Mr. Falstrom, which bears date
10 April 17, 1919, and was acknowledged on that day before a Master in Chancery—how long after this agreement was made and acknowledged was it that you had this agreement with Abraham and Jacob Friedman, Exhibit D1? A. I don't remember that.

Q. Can you tell whether it was days, or weeks, or months? A. Oh, no; it was probably a week or ten days.

Q. Not more than that? A. Not more than that.

20 Q. Quite sure of that? A. Yes.

Q. I call your attention to the fact that it was acknowledged on the 20th of August, 1919, by yourself. A. It was acknowledged by myself?

Q. Yes, I think so; I may be mistaken. A. I don't remember.

Q. It says here: "Be it remembered that on this 20th day of August, 1919, before me the subscriber, an attorney at law of New Jersey, personally appeared
30 Max Slaff, who I am satisfied is the grantor in the within-named agreement; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses therein mentioned. Maurice Slaff, Attorney at Law of N. J." A. I don't quite understand what your Honor wants.

Q. I am not surprised. The agreement that you made with Falstrom is dated on the 17th of April and
40 was acknowledged on that day? A. Yes, yes.

Defendants' Witness, Max Slaff, Direct

Q. Now, the agreement that you say was made between you and your two nephews, giving them a writing showing their interest, was made only a few days after, but I call your attention to the fact that, while it is dated the same day, April 17, 1920, it was acknowledged on the 20th of August, about three months after you made the agreement with Falstrom. 10
 A. I asked Maurice Slaff. He had this agreement and offered that to me.

Q. Do you recollect taking the acknowledgment of the paper before Maurice Slaff? A. I do, but I wouldn't want to say what date it was.

Q. Wasn't it the day you executed it? A. Yes, but I wouldn't say the date.

Q. But you remember, do you, that on the day this paper, Exhibit D1, was drawn and executed by yourself and the two Friedmans in the presence of Maurice Slaff, that same time you acknowledged it? A. No, your Honor, I didn't acknowledge it the same time that the Friedmans did. 20

Q. You mean you didn't execute it the same time? A. No; I didn't execute it.

Q. Who executed it first? A. I don't remember, but I think I did.

Q. Well, did you execute it the same day that you acknowledged it? A. Oh, yes. 30

Q. It was drawn and executed by you before Mr. Slaff, and the acknowledgment taken by him? A. Yes.

The Court: Proceed.

By Mr. Backes:

Q. That agreement you say was drawn by Mr. Slaff—the agreement that his Honor has just called attention to? A. It wasn't drawn by me. 40

Defendants' Witness, Max Slaff, Direct

Q. But it was drawn by Mr. Slaff at your request?

A. Yes.

Q. And when was it drawn, if you can fix the time?

A. A day or two after this, or the same day or the next day after I had a contract from Mr. Falstrom.

Q. What became of the agreement after you had
10 signed it? A. Mr. Maurice Slaff I think took it over to them.

Q. To have the Friedmans sign? A. Yes.

Q. Did he have the Friedmans sign it? A. I think he did.

Q. When next after you had signed the agreement, Exhibit D1, did you see it? A. When did I see this?

Q. Yes, after it was drawn and after it was signed
20 by Mr. Max Slaff, when did you next see it? A. I don't get you, quite.

Q. Well, you say you signed it and left it with Mr. Maurice Slaff in his office? A. Maurice Slaff, yes.

Q. When did you next see the agreement after that?
A. After it was recorded.

Q. Do you know what became of the agreement after you had signed it and left it in Mr. Maurice Slaff's office? A. Mr. Maurice Slaff was supposed to
30 take it over to my nephews and have them sign it.

Q. Who collected the rent of the property known as the Falstrom property? A. Friedman Brothers.

Q. Who paid the taxes on that? A. They paid it and the interest and everything.

Q. Have you had any accounting? A. Nothing.

Q. Do you know whether you are in their debt?
A. No.

Q. Now, taking up the question of the Kehoe prop-
40 erty again, I show you two deeds, Exhibits C10 and

Defendants' Witness, Max Slaff, Direct

C11, both made by John H. Kehoe and wife to Max Slaff, both dated the same day, and ask you with whom you made the bargain for the purchase of that property? A. With Mr. Kehoe.

Q. Was it one transaction? A. One transaction; yes, sir.

Q. Did you purchase one piece of property one day and another piece the following day or the following week? A. Both in one day. I purchased the property two weeks before. 10

Q. Before the date of the deed? A. Before the date of the deed. The only thing I changed was, on the advice of counsel, the purchase money mortgage, that I should pay him \$500 on each lot; that made me borrow \$1,500.

Q. And I show you now a check dated April 14th, which is marked Exhibit C1, for \$500, and ask you if that is the \$500 you borrowed from Friedman? A. Yes, sir. 20

Q. For what purpose did you borrow it? A. To buy this lot, or those lots.

Mr. Weinberger: Which lots?

The Witness: The Kehoe property.

Q. I show you Exhibit C3, dated April 20, for \$1,000, and ask you if that is the Friedman check to you? From whom did you borrow that money? A. From the Friedman Brothers. 30

Q. For what purpose? A. To buy this property.

Mr. Weinberger: What property?

The Witness: The Kehoe property.

Q. Did you have an understanding or agreement with Friedman Brothers that you were to purchase 40

Defendants' Witness, Max Slaff, Direct

the Kehoe property on joint account with them? A. No, sir.

Q. Have you paid back the money that you borrowed, as shown by these checks? A. Yes, sir.

Q. How did you do it, and when did you do it? A. I think in May I gave them a note for \$1,000. He
10 asked me for some money; he says, "We can use it, or," he says, "you give me a note and I can discount it." I says, "All right, I will give you a note." He says, "You give me a \$1,000 note, because I am just going to open an account in the Fourth Ward Trust Co., and I don't want too small a balance in there." Then I made out a note for four months, and he says, "You needn't be in a hurry to pay it off," which I did
20 not, but about a month later he asked me if I got rich, and I says, "I have got a little money now and I will give you \$500, the balance of the money that I borrowed from you," and I gave him a check for \$500.

Q. I show you Exhibit C4, and ask you whether that is the check that you gave him in return for the money loaned you? A. Yes, sir, June 7th.

Q. I also show you a note, Exhibit C5, for \$900, and ask you if that is the renewal of the note which you have just referred to? A. Yes, sir.

30 Q. Now, when the original note came due how much did you pay on it? A. \$100.

Q. Whom did you pay it to? A. I think I paid it to Abraham Friedman.

Q. I show you your check— A. Yes, sir; this is the check (referring to Exhibit C6).

Q. And I show you another check, Exhibit C7 for \$20; what was that for? A. That was the interest.

40 Q. Then when the renewal note came due what was done with it? A. The renewal note for \$900?

Defendants' Witness, Max Slaff, Direct

Q. Yes. A. Well, about the latter part of November I had a big argument with him, and when this note came due he says he will let me know that I will have to pay the whole note.

Q. I show you Exhibit C8 for \$918, being your check to the order of Friedman— A. Yes.

Q. —is that the check in payment of this note? A. 10
Yes, in payment of this note.

Q. Now, when did the big argument, as you call it, take place between you and your nephews? A. About in November; the middle of November or the latter part, I can't exactly remember what date, but it was in November.

Q. 1919? A. 1919.

Q. What did this argument occur about? What was the difficulty? What was the cause of your dispute? A. What was the cause? 20

Q. Yes. A. Of the argument?

Q. Yes. A. What argument?

Q. Well the argument between you and your nephews that you just referred to. What was the cause of it? A. In about four or five months after this transaction, Mr. Abraham Friedman came to the house where I stayed with my brother-in-law; I didn't have no house then, I had to move out of the house I lived in, and he was trying to induce me to sell him two parts of the Kehoe property, the adjoining property; that he should have two parts in all and I should have one part. Well, he said to me, "What would you want to make on the two parts?" 30

I said, "Abe, now this is actually selling you two lots."

"Well," he said, "you figure selling; it wouldn't be selling, because we would still be together." He 40

Defendants' Witness, Max Slaff, Direct

says, "On these we would probably build together some property."

I thought it over and I says, "Pay you \$5,000 and give you the profit on two lots?"

Q. Speaking of the Kehoe lots? A. Speaking of the Kehoe lots; that is, of my lots, of the three that I
10 had.

Well, he said "That would be a little too much."

Well, finally, like a business transaction, I said I would probably consider \$4,000; I would not consider any lots because those lots are worth \$10,000 apiece, and by selling them to you for \$5,000 or \$4,000 profit the lots would only make it about \$7,000 apiece and they would be still making money, but I told him, "being together as we are I would be satisfied."

20 Well, he didn't tell me any definite thing; he said he would talk it over with his brother. Shortly after that, if I can remember correctly, I think the other brother came and said they were satisfied to take it.

Q To take what? A That he would be satisfied to give me \$4,000 profit on the two lots; that I should turn them in. He said that he would take it, and left. It was about 9 o'clock in the evening and he left for home. Then the next day the Mrs. heard of that and she says, "I wouldn't want you to sell any of those
30 lots."

Mr. Weinberger: I object to what the Mrs. said.

The Court: Yes, you needn't tell what your wife said.

A. Well, I talked it over and concluded that I would not want to put in any more property in partnership.
40

Defendants' Witness, Max Slaff, Direct

Mr. Weinberger: I object to his talking it over and his conclusion.

The Court: Yes, it may be stricken out.

Q. When did you next see the Friedmans? A. About two weeks later.

Q. What did you say to them? A. One of them came over— 10

By the Court:

Q. When was this? A. Well, I think that was in the month of November; I can't say exactly. It was quite a while.

The Court: Proceed.

A. One of the Friedmans came over. Whether it was two weeks after he said that he would be satisfied, or whether it was 10 days, I don't remember; and he said that evening, "We will go to find a lawyer to make the papers." 20

I says, "I have changed my mind, and I don't want to sell any of this property"; that I had talked with my wife, and had decided not to go in partnership. She didn't want me to go into any partnership, and I should have the lots in a different partnership and build houses yet, because I have got my own boys and so on, and I told him that. 30

By Mr. Backes:

Q. Then what took place? A. He got a little sore and talked back a little bit, and then he went away, and about—I think he called me up on the telephone and said to come to his store; he wanted to talk to me. Shortly after that, I don't remember how long it took, I went over to the store, and he insisted upon that I 40

Defendants' Witness, Max Slaff, Direct

should sell him these two parts yet, and he said, "You have made it up; why are you backing down?" And I explained, "What is the use of your insisting upon my going in with you in a partnership deal if I don't feel like it and I have straightened up with you on the lots we have." And finally he got a little bit hot and
 10 he insulted me very bad; in fact, I was never insulted like that since I was alive; and I walked out of the store and I haven't see him since.

Q. When was that now; fix the time when that occurred. A. Well, whether that was in the very end of November or very early in the month of December I don't remember.

By the Court:

20 Q. How long was that before this suit was brought—before the sheriff served you with papers in this suit?
 A. Oh, it was quite a while.

Q. About how long? A. Your Honor, I can't tell.

Q. Weeks or months? A. Oh, I think it was months probably about four or five or six months after that.

Q. Think about that, Mr. Slaff, so as to be as certain as you can. You recollect when you heard that you were going to be sued, don't you? A. Yes.

30 Q. Do you recollect when the sheriff came and served the papers at your house? A. I can recollect that.

Q. You remember the fact? A. Yes.

Q. Can't you tell us how long before the sheriff served the papers in this suit that you had your violent quarrel? A. Before he brought the suit against me?

Q. Yes. A. The long argument I had with him?

40 Q. Yes, that's right. A. How long that was before this suit was brought?

Defendants' Witness, Max Slaff, Direct

Q. Yes. A. Well, it wasn't very long.

Q. Did you and he have anything to do with each other after that quarrel when he ordered you out of his place? A. No, nothing at all.

Q. The suit followed your quarrel? A. I think it followed the quarrel.

Q. Well, how long after? A. March or in April; 10
I can't tell.

Q. Well, weeks or months? A. Oh, no; I didn't quite get your Honor before. It wasn't months; it was weeks.

Q. A few weeks or many? A. A few weeks; something like that.

Q. That is, a few weeks after you had this quarrel with your nephew and he ordered you out of the store and insulted you he brought this suit against you? A. 20
Yes, I think it was. It is quite a while and I can't remember the whole thing very well, your Honor.

The Court: I think we will take our adjournment here until tomorrow morning at 10 o'clock.

Mr. Weinberger: I would like Mr. Slaff to produce his check book and his pass book. We have ordered him to do that, and that there may be no misunderstanding about it I mention it again at this time. 30

Defendants' Witness, Max Slaff, Direct

Chancery Chambers, Paterson,
 Wednesday, November 16, 1921.
 10 A. M.

All counsel present as before.

10 MAX SLAFF resuming the stand, testified as follows:

Direct-examination by Mr. Backes (continued):

Q. At the time of the adjournment last night you were about telling your quarrel with your nephew, and you fixed that sometimes— A. Sometime the latter part of October or the early part of November.

Q. Did you have more than one quarrel with your nephews? A. Yes.

20 Q. About this property? A. About two times.

Q. Did you at any time when you had the controversy with your nephews, and particularly in the last controversy, threaten them by saying, "Now I will fake you good"? A. I have never said anything like that.

Q. Did you ever make any threats at all? A. Not at all.

30 Q. Now, after this last occurrence when did you next hear of the trouble between your nephews and yourself? A. Well, when Mr. Meyers sent to me that I should come up to see him.

Q. And can you fix that time? A. Well, that was in March sometime.

Q. Did you go? A. Yes, sir.

Q. Well, for what purpose? A. I didn't know for what purpose.

40 Q. Well, when you got there what did you learn?
 A. I found Mr. Friedman there and Mr. Meyers

Defendants' Witness, Max Slaff, Direct

walked in. As soon as I seen Mr. Friedman I walked out of the room and Mr. Meyers came in, and Mr. Friedman started to talk. So I said to Mr. Meyers, "If Mr. Friedman has got anything to say he will talk to you; I don't want to have any conversation with Mr. Friedman; I'm not on speaking terms with him," and I walked out.

10

Q. Did you tell Mr. Meyers then what the controversy was between you and Friedman? A. Not then.

Q. When did you tell him? A. About the same afternoon or the next morning; I don't remember exactly.

Q. And was Mr. Meyers your attorney at that time? A. No, sir.

Q. Has Mr. Meyers ever been your attorney? A. No, sir.

20

Q. You have done business with him? A. I have done business with him, yes.

Q. Now, as a result of your going to see Mr. Meyers was anything done between you and your nephew? A. Well, the next morning when I came to Mr. Meyers, or the same afternoon, I don't remember exactly, Mr. Meyers said that my nephews came in to engage him as their counsel, and he told me that if he could make—

Mr. Weinberger: Just a minute. I make the formal objection, if your Honor please, that the witnesses on the stand have already testified that Mr. Meyers was not their counsel, and I submit that any conversation had with Mr. Meyers cannot be binding upon the complainants or either of them, because they were not present.

30

The Court: How is it competent?

Mr. Backes: Well, perhaps not.

40

Defendants' Witness, Max Slaff, Direct

Q. Now, did Mr. Meyers prepare for you any arbitration agreement? A. Not for me.

Q. Did he submit an arbitration agreement for your consideration? A. Yes.

Q. Between you and your nephews? A. Yes.

Q. And was that the paper which was shown here
10 yesterday? A. There is one page short on that.

Q. I show you a paper which has been marked Exhibit C19, and I ask you if that was the paper you have just referred to? A. Well, this is the paper, with the exception of one page short.

Q. What page is short? A. I have got the copy myself to show you if you will let me.

Q. Have you got your copy? A. Yes, sir.

Q. Got it with you? A. Yes, sir. If you don't
20 mind, in my coat pocket there (witness addressing counsel). Get me the whole thing. (Mr. Backes hands the witness some papers.) Here is the same copy.

Q. I guess it is the same thing only the other has a bond attached to it. A. There was a bond on Mr. Friedman's side.

Q. Was that paper which I show you, Exhibit C21, ever executed by you? A. No, sir.

Q. Or by Friedman? A. No.

Q. Do you know why it was not executed? A. Be-
30 cause they refused to sign.

Q. Tell me, if you know, who prepared this agreement. A. In Mr. Meyers' office.

Q. Well, who furnished Mr. Meyers with the information whereby he was competent to prepare this paper; do you know? A. I can't remember, but I suppose it was furnished by Mr. Friedman and myself.

Q. And the paper contemplated or provided for an
40 arbitration of all disputes between you pertaining to all properties? A. Yes, sir.

Defendants' Witness, Max Slaff, Direct

Q. Kehoe property and Falstrom property? A. Yes, and the Post property.

Q. That property has not been brought in question here. But that property is the one that you had purchased for your nephews? A. Yes, sir.

Q. And the one that you testified the title had been taken in them? A. Yes, sir. 10

Q. And they paid the purchase price? A. Yes.

Q. But you had an interest in it?

Mr. Weinberger: Now counsel shouldn't tell him what he had. I object to the leading nature of the questions.

Mr. Backes: Well, he testified to that. I was merely trying to refresh his memory.

Q. So that when this paper was prepared it was for the purpose of settling all disputes whatever between you, wasn't it? A. Yes, sir. 20

Q. Was it ever done? A. Yes, sir.

Q. I know, but did you actually settle the disputes between you? A. No, sir.

Q. The Friedmans testified yesterday and produced here Exhibit C12, which is Mr. Meyers' bill, and Exhibit C17, which is the tax bill for the taxes of 1919; they testified that you presented to them these bills (handing papers to the witness)? A. These bills? 30

Q. These bills. A. No, sir. Let me see the tax bill. (Papers handed to the witness.) That ain't in my name, Counsellor—those tax bills.

The Court: The question is whether you gave the papers, Miller & Meyers bill and the tax bills, to your nephews.

A. No, sir.

Q. Did your nephews at any time pay you in cash 40

Defendants' Witness, Max Slaff, Direct

two-thirds of the bill of Miller & Meyers? A. No, sir; they never had any accounting of anything yet.

Q. Who has paid the taxes on the Kehoe property since 1919? A. I did.

Q. All of it? A. I am not sure, Counsellor, whether all of it or not.

10 Q. When did you first learn that the taxes for 1919 were paid by somebody else on the Kehoe property? A. I haven't learned it yet only until day before yesterday when they looked it up in the City Hall and found that somebody paid them. I don't know yet who paid it.

By the Court:

20 Q. Did you pay the taxes for 1919 on the Kehoe property? A. No, I didn't.

Q. Why not? A. Well, I didn't pay any taxes at all lately.

Q. You mean you were behind hand and hard up and couldn't pay the taxes? A. Yes, on all the taxes on my property. I have the checks here to prove when I paid the taxes.

By Mr. Backes:

30 Q. Now, who paid the interest on the mortgages on the Kehoe property? A. I did.

Q. All of it? A. All of it.

Q. None in arrears? A. I don't think so.

By the Court:

Q. Who were the mortgagees on the Kehoe property? A. At that time there was several mortgages.

40 Q. Who are the mortgagees? A. I think Mr. Kehoe and Mrs. Hadley. I can't exactly remember who were the mortgagees.

Defendants' Witness, Max Slaff, Cross

Q. Don't you remember to whom you paid the interest? A. I paid the interest to Mr. Meyers—in Mr. Meyers' office.

Q. Collected by Mr. Meyers? A. Yes. There was a couple of mortgages, \$2,000 or \$1,600—something like that—and I used to bring in the interest to Mr. Meyers.

10

Q. Did you pay by checks? A. By checks.

Q. Got your receipts? A. Yes, sir.

CROSS-EXAMINATION by Mr. Weinberger:

Q. You say Mr. Meyers was never your attorney in any matter; yes or no. A. No, sir.

Q. Never was? A. Never.

Q. Did you consult him about this case, to try this case for you? A. No, sir.

20

Q. Who got Mr. Backes for you in this case? Didn't Mr. Meyers get him for you; yes or no. A. No, sir.

Q. What? He didn't get Mr. Backes for you? A. I think that Charley Slaff did.

Q. You think; don't you know who got Mr. Backes in this case for you?

Mr. Backes: Well, how is that material? 30

Mr. Weinberger: Well, I submit, if your Honor please—

The Court: Proceed; I will allow it.

Q. Didn't he? A. Mr. Meyers?

Q. Yes. A. I think he did.

Q. Why did you just a minute ago say you didn't know who did? A. I don't know who did,—whether he did, but it was through his advice.

40

Q. Mr. Slaff, haven't you done business in Mr.

Defendants' Witness, Max Slaff, Cross

Meyers' office during the last seven years? A. 20 years.

Q. And hasn't he represented you in the purchase of property? A. Property? I haven't bought from him property.

Q. Hasn't he made searches for you? A. Besides 10 mortgages—

Q. Answer my question; any searches, I said. A. Any searches or mortgages that I got from the company he is interested in; he made the searches for those.

Q. Hasn't he given bills to you for services rendered, as attorney? A. No, sir.

Q. Never? You mean that now? A. I know that—

By the Court:

20 Q. I suppose, Mr. Slaff, you except this bill that has been produced here? A. Yes; Oh, yes, your Honor.

Q. Is that the only bill you ever got from Miller & Meyers? A. That is the bill for the deeds and recording.

Q. Is that the only bill you ever got from them for services rendered? A. Yes, your Honor.

30 Q. Then I ask you if it isn't a fact that you got other bills from Miller & Meyers who have acted for you in certain matters in making searches? A. Searches?

Q. Yes. A. Yes.

Q. You just said no. Which is correct? A. Bills but not as attorney. I want to understand what you are asking me.

Q. Did you pay those bills? A. I did.

Q. And you paid those bills which were rendered to you? A. Just a minute now—

40 Q. Will you answer my question? A. I want to know what you are asking me.

Defendants' Witness, Max Slaff, Cross

The Court: One at a time. Wait until the question is put and then you can answer.

Q. There have been several searches made in your behalf by Miller & Meyers, haven't there? A. Yes, searches.

Q. And that has been done for a period covering about how many years? A. Oh, about 20 years, or 18 years. 10

Q. Now, Mr. Slaff, you were in need of money in 1919, weren't you? A. I need it now, too.

Q. Particularly in 1919? A. Yes, sir.

Q. And you were unable to pay your taxes on the property which you own? A. You want to know if I ever paid my taxes? I want to know what you are asking.

Q. You were unable to pay your taxes for 1919 because you had no money? A. I was able to pay my taxes always. 20

Q. You were always able to pay your taxes? A. Yes, sir.

Q. And you were able to pay them in 1919? A. I think I was.

Q. Well, were you or weren't you? A. Well, I don't see what question that is.

Q. Perhaps you will see before I am through with you. Were or were you not able to pay your taxes in 1919? A. I have paid all my taxes for years. 30

Mr. Weinberger: May I ask that that be stricken out on the ground that it is not responsive.

The Court: It will be stricken out.

Q. Will you answer my question: Were you or were you not able to pay your taxes for 1919? A. I was. 40

Defendants' Witness, Max Slaff, Cross

Q. But you didn't pay them? A. I didn't pay what taxes.

Q. The taxes on your property for the year 1919?
A. For what property?

Q. Did you pay your taxes for 1919 on any of your property? A. Yes, sir.

10 Q. When it was due and when the tax bill was presented? A. I don't know when the tax bills were presented, but they were paid. I will look for the bill.

Q. Just answer my question. A. What question?

Q. Did you testify this morning that you did not pay your taxes for 1919 because you were short of money?
A. I did not. On which property?

Q. Kehoe. A. I did not.

20 Q. Have you yet paid your taxes for 1919? A. On the Kehoe?

Q. Yes. A. I did not.

Q. You claim that you paid the taxes for 1920 on the Kehoe property? A. I will look at that.

Q. Look it up and tell us. A. If you don't mind (the witness indicating to Mr. Maurice Slaff).

Q. You handed your bills to Mr. Maurice Slaff and he will look up the question whether you paid the taxes for 1919 or 1920? A. There's the bills there.

30 Q. Did you present the bills to Mr. Maurice Slaff to look it up? A. Yes, sir.

Q. You of course ought to know. Don't you know?
A. No, sir.

Mr. Maurice Slaff: There are nine (handing papers to counsel).

The Court: Note that the witness hands to counsel bunch of papers.

40 Mr. Weinberger: I want to offer them, if I may, for identification, if your Honor please.

Defendants' Witness, Max Slaff, Cross

The witness produces bills for 1920 and 1921, together with check bearing date May 10, 1921, on the Hobart Trust Company, signed by Max Slaff for \$85, which is endorsed by the tax collector of taxes of the City of Passaic and paid by the Passaic Trust & Deposit Company; and another check bearing date May 12, 1921, for \$104.98, on the Hobart Trust Company, endorsed by the City of Passaic tax collector and stamped Pay the Passaic Trust & Deposit Company, which are offered for identification. 10

A. (Witness continuing.) There is another check, Counsellor, that includes some of this here for the other taxes—check of \$800. That includes taxes for this year, too. 20

Q. All right, I will take that check, together with the bill, whatever it is together with the check bearing date July 6, 1921, on the Hobart Trust Company bank for \$829.18, endorsed by the collector of taxes of the City of Passaic, marked "cancelled on the 30th day of July, 1921"—

The Court: Marked "paid."

Mr. Weinberger: Marked "paid July 31, 1921." I will offer them. 30

Admitted in evidence as one exhibit and marked Exhibit C22.

A. There is another check, Counsellor, in between.

The Court: It is entirely within your control that they go in evidence, Mr. Backes.

Mr. Backes: I am entirely willing that they should go in.

Q. I call your attention to the fact, Mr. Slaff, that 40

Defendants' Witness, Max Slaff, Cross

none of your taxes on the Kehoe property were paid until May 12, 1921; is that correct? A. I don't know.

Q. Well, look at your checks. None of them were paid until May, 1921? A. None of the tax bills on the Kehoe property?

Q. Yes, weren't paid until May, 1921. A. The
10 taxes on all property was paid.

Q. Mr. Slaff, I ask you to look at this check or those checks, rather and tell us whether it isn't a fact that none of your taxes on the Kehoe property were paid until 1921. A. I would have to look it up. Can I?

The Court: Oh yes; but perhaps you can tell. The taxes, I understand, for 1919 were paid by your nephews?

20 A. I understand now, your Honor—

The Court: After that did you or did you not pay any taxes on the Kehoe property until 1921 when you paid up the arrears?

A. Well, I would have to look it over, your Honor, because my son used to take care of the tax bills.

The Court: Well, is there any dispute about that?

30 Q. Well, let me take that, Mr. Slaff: You didn't pay for the first half of 1920, did you? A. I don't know until I look it up.

Q. I show you a check that was paid for the first half on the Kehoe property by Friedman; you know that was paid? A. I do not.

Q. You never knew until day before yesterday? A. Exactly.

40 Q. You knew you were sued by A. & J. Friedman Co. in April, 1920? A. Yes, sir.

Defendants' Witness, Max Slaff, Cross

Q. And you knew that they claimed title to the property, didn't you—to two-thirds interest? A. When I was sued I did.

Q. You knew that? A. Yes.

Q. Nevertheless you paid the taxes in May, 1921, in spite of that; is that correct? A. Not in spite of that. I paid no attention to that; I paid attention to this property the same as to all the property I own. 10

Q. If you had money in May, 1919, or April, 1919, or in 1919, why didn't you pay the Kehoe taxes? A. Why, didn't I pay all my taxes?

Q. Don't ask me any questions; I'm not the witness. A. I can't answer that.

Q. You did get the tax bills from Mr. Kehoe when you bought the property? A. No, sir.

Q. You didn't? Will you tell the Court how the tax bill got into the possession (referring to C17) of Friedman Brothers? A. I would like somebody to tell me. 20

Q. You don't know, do you? A. No, sir.

Q. I show you Exhibit C12 and ask you if that bill was handed to you by Miller & Meyers? A. It was handed to me by Miller & Meyers and I paid it.

Q. Tell me how it got into the possession of Friedman brothers, if you know. A. I would like to know myself; I don't know. 30

Q. You didn't give it to them, did you? A. No, sir.

Q. You were very friendly with the Friedman brothers, were you not? A. Yes.

Q. And when you paid that bill you paid it on April 23rd by check? A. Yes, sir.

Q. And have you the check here? A. Yes, sir.

Mr. Weinberger: I call for its production. 40

Defendants' Witness, Max Slaff, Cross

Q. The bill was receipted when you paid it, by Miller & Meyers, wasn't it? A. Yes, sir.

Q. And that is the bill (counsel referring to Exhibit C12)? A. Yes.

Q. And you never gave it to Friedman brothers? A. Never.

10 Q. Until yesterday you never knew they had it? A. I never knew they had it.

Mr. Weinberger: May I have the check?

A. (Witness continuing.) The only thing—

Q. Never mind; I don't want any remarks. Just answer my questions and we will get along very nicely.

20 Mr. Backes: Here you are (counsel producing paper).

Q. I show you a check bearing date April 23, 1919, to Miller & Meyers, and ask you whether or not that check was made by you and delivered by you to Miller & Meyers in payment of Bill C12. Yes or no. A. Yes, sir.

Mr. Weinberger: I offer it.

Admitted and marked Exhibit C23.

30 Q. Now, Mr. Slaff, how long had you known the Friedman brothers in this country? A. Since they came to this country.

Q. And they were very friendly with you? A. Yes, sir.

Q. Lived in your own home? A. Well, they did for a while.

40 Q. And your relations with them were very, very pleasant, were they not, until this dispute arose concerning the share they had in the Kehoe property? A. Yes, sir.

Defendants' Witness, Max Slaff, Cross

Q. And up until that time your relations were of the most cordial and of the most pleasant type and character? A. Yes, sir.

Q. You had occasion to frequently come into their place of business to borrow money? A. Yes, sir.

Q. And they gave it to you when you asked for it, and they trusted you implicitly and took no receipts for the money which they advanced you? A. I think that sometimes I gave them a note. 10

Q. Did you always give them a note when you took a loan from them? A. No, only when they got the money for me at the bank I gave them a note.

Q. Can you tell us what your balance was in the Hobart Trust Co. on April 14, 1919? A. No, sir.

Q. I show you what purports to be your account in the Hobart Trust Company, bearing date April 14, 1919, which shows you what the balance was on the 14th day of April, 1919, and ask you to tell the Court what your balance was by referring to that paper. A. According to that paper? No, my balance is not this. My balance is this including six hundred and some odd dollars. Take off six hundred and some odd dollars and that is my balance. 20

Q. That was taken off? A. No, it was not.

Q. How much is your balance there shown on that statement? A. This statement includes— 30

Mr. Backes: Don't quibble about it. The statement will speak for itself.

Mr. Weinberger: Certainly it will, but I want him to tell us, and this is shown him for the purpose of refreshing his recollection.

The Court: Aren't we wasting time? The paper is admitted by consent as a true statement and it speaks for itself. 40

Defendants' Witness, Max Slaff, Cross

Mr. Weinberger: I offer in evidence this statement showing the balance of Max Slaff in the Hobart Trust Company, dated April 14, 1919, showing a balance of \$1,382.72.

By the Court:

10 Q. Do you know, Mr. Slaff, whether you had checks outstanding against that balance? A. That balance includes another check that I had deposited that day of six hundred and some odd dollars. My balance was something like \$700.

Q. Did you have any other checks out? A. No, your Honor, I don't know.

Q. Don't you know what your balance was on that day? A. No, I didn't have a very big balance on that
20 day.

By Mr. Weinberger:

Q. You don't know what your balance was on the 14th of April, or from the 14th of April, down to the first of May? A. I would have to look it up.

The paper is marked Exhibit C24.

Q. Have you your account here, showing your balance in May? A. If there is any it is here.
30

By the Court:

Q. Mr. Slaff, does your check book show just exactly what your balance was on that day, April 14th? A. I would have to look that up, your Honor.

Q. Yes; but would your check book show? A. It would.

By Mr. Weinberger:

40 Q. Where is it? A. I haven't got it here.

Defendants' Witness, Max Slaff, Cross

Q. You didn't bring it? A. I didn't think it was necessary.

Q. I asked you yesterday to produce all books that would show what your bank account was? A. I didn't get my accounts for years before.

Q. Mr. Slaff, I asked you yesterday in the presence of Mr. Backes, your lawyer, to produce here today anything that would help the Court to find out what your balances were in April, May, June, July and August, 1919. A. Yes, you did. 10

Q. Did you bring them? A. I think they are there.

Q. Did you bring your bank book with you?

Mr. Backes: You said check books. We are not going to quibble about that; they are here.

The Court: One moment; the examining counsel has control of the witness. 20

Q. Have you any check books here? A. I have my checks.

By the Court:

Q. Don't you remember yesterday afternoon that you were asked to produce your check books? A. He didn't say the check books.

By Mr. Weinberger: 30

Q. You haven't your check books here, have you? A. No, I have not.

Mr. Backes: If your Honor please, the young man here who takes care of the check book says he will immediately go back and bring the check books.

Mr. Maurice Slaff: They will not show any balance, because they are small books he carries in his pocket. 40

Defendants' Witness, Max Slaff, Cross

Mr. Weinberger: You are the lawyer in this case; you are not the bookkeeper, are you?

Mr. Maurice Slaff: No.

The Court: The check books will be produced and undoubtedly the balance can be figured out from those check books.

10 Mr. Backes: Do you desire to have the check books?

Mr. Weinberger: I do, Mr. Backes.

Mr. Backes: All right; we will send for them.

Q. Mr. Slaff, on the 14th of April you bought a piece of property from Mr. Kehoe, did you? A. Yes, sir.

20 Q. For whom? A. For myself.

Q. And you were then in need of money; you had insufficient funds to pay for the property; is that correct? A. Well—

Q. Yes or no. A. I didn't have sufficient funds.

Q. The purchase of that property was how much?

A. It was \$14,000.

Q. How many parcels are you speaking of? A. One parcel.

30 Q. Which parcel was that? A. Three lots on Monroe Street.

Q. And are those the lots which we are fighting over now? A. Yes, sir.

By the Court:

Q. Mr. Slaff, do you mean that the price of those two corner lots was \$14,000 or \$10,000? A. \$14,000, for the corner with the other one.

Q. With the lot across the street? A. Yes.

40 Q. 80 feet deep? A. Yes, 25 x 80.

Defendants' Witness, Max Slaff, Cross

Q. What was the price of the two corner lots? A. \$10,000.

Q. What was the price of the other? A. Four.

The Court: Proceed.

Q. You claim now that you bought all these together, do you? A. Yes, sir. 10

Q. At one time? A. Yes, sir.

Q. You got two different deeds, did you not, for the different properties? A. There is two deeds.

Q. Do you know why two deeds were drawn? A. I do not.

Q. You didn't ask for two deeds, did you? A. I didn't ask for two deeds, no.

Q. I show you a check marked Exhibit C1, April 14, 1919, for \$500, and ask you whether you received that check? A. Yes, sir. 20

Q. Did you use this check to pay for the property? A. Yes, sir.

Mr. Weinberger (addressing counsel):
Where is that check given to Mr. Kehoe?

Mr. Backes: I produce on call the check given to Harry Meyers for \$500, dated April 14th. We have no checks to Mr. Kehoe. 30

Q. I show you a check bearing date April 14, 1919, to Mr. Harry Meyers, for \$500, and ask you whether or not that check was given to Mr. Kehoe? A. To Mr. Meyers.

Q. At whose request? A. At my own request.

Mr. Weinberger: I offer in evidence check dated April 14, 1919, to Mr. Harry Meyers, for \$500, endorsed, "Pay to the order of John H. Kehoe," and cancelled the 23rd of April, 1919. 40

Admitted and marked Exhibit C25.

Defendants' Witness, Max Slaff, Cross

Q. Mr. Slaff, when you came to Friedman brothers for the check of \$500 (referring to Exhibit C1), did you tell them that you wanted that to buy the Kehoe property? A. I didn't tell them nothing.

Q. There was no conversation concerning the property? A. Nothing at all.

10 Q. When was the first time you spoke to them about property or they spoke to you about buying any property? A. The 15th of April.

Q. And that was the first time you had any talk about the purchase of property? A. Yes, sir.

Q. When you spoke to them on the 15th of April of course they had no knowledge that you had bought the Kehoe property? A. I told them when I came in on the 15th; I said that I would have to have another thousand dollars in a week or so, and he said, "All right," and afterwards he turned around and said, "Do you need the money now?" I said, "I have bought three lots here on Monroe Street"; I hadn't told them no names—Kehoe or anybody.

20 Q. So the conversation came about because you had mentioned to them that you had bought certain property on Monroe Street? A. Yes, sir.

Q. Of course you trusted the young man? A. 30 What trust do you mean?

Q. You didn't hesitate to tell them what you needed the money for? A. Oh, no.

By Mr. Weinberger:

Q. As soon as you came after that \$500, you didn't have any suspicion in your mind then that it would be unwise for you to tell them what you wanted the money for, did you? A. I didn't tell them anything then. I asked them for the \$500 and I got the check 40 and went away. I didn't have any conversation at that time.

Defendants' Witness, Max Slaff, Cross

By the Court:

Q. One moment. Do I understand when you got the first amount of \$500, you didn't tell your nephews, or either of them, that you were about to buy some property and needed the money? A. Nothing at all. I borrowed the \$500 as usual and walked off.

10

Q. And then the next day the first intimation concerning property came up in the conversation concerning the Falstrom property? A. Yes, sir.

Q. That was the first time there was any talk about real estate? A. Yes, sir. Oh, about real estate? Weeks before, probably, about real estate.

Q. You know what I mean—this Falstrom property? A. Yes.

Q. So that on the 15th day of April, you then got the check for \$2,000? A. Yes, sir.

20

Q. And that check was given to you to buy what property? A. The Falstrom property.

Q. Who suggested that \$2,000 was necessary to be paid? A. I did.

Q. And of course you then knew of the \$2,000 as being the amount that would be needed? A. Yes, sir.

Q. Did you give the \$2,000 to Mr. Falstrom? A. No, sir.

30

Q. How much did you use of it? A. About sixteen hundred and fifteen or eighteen dollars.

Q. Wasn't only \$1,500 used and the balance of it the tenants' money? A. What is it?

Q. You heard me, didn't you? A. I want to hear you another time; I didn't understand.

Q. There was only \$1,500 used to pay Mr. Falstrom of the \$2,000 that you received from Friedman, and the balance was what the tenants paid you? A. What the tenants paid me?

40

Defendants' Witness, Max Slaff, Cross

Q. You or the Friedman brothers. A. Just a minute. A hundred dollars was paid for a building standing on there to Mr. Falstrom.

Q. Now, Mr. Slaff, how much of the \$2,000 that you got on the 15th of April, as evidenced by the Check C2, did you use to pay Mr. Friedman? A.
10 \$1,600.

Q. Are you sure of that? A. There's the check there.

Q. Are you sure of that? A. I am sure.

Q. Do you now say to the Court that you didn't get \$100 from the tenant to pay Mr. Falstrom the additional \$100, making up that \$1,600, which you gave Mr. Falstrom? A. I don't say anything of that kind.

20 Q. Well, do you say it or not? A. No.

Q. Then I again ask you, isn't it a fact that only \$1,500 of the money you received from Friedman, as evidenced by the check, was used? A. Sixteen hundred and about eighteen dollars.

Q. Where did the other money come from? A. From the \$2,000.

Q. Who gave that money to Friedman brothers—that \$100? A. Nobody gave it yet.

30 Q. Who was supposed to give it to him?

Mr. Backes: Now, I object. The objection is that it is immaterial who was supposed to give this \$100 or any other money to Friedman brothers. The inquiry is, how much money did this man pay to Mr. Falstrom on that property.

40 The Court: I cannot follow counsel; I do not understand what the drift of the examination is. The witness says he used \$1,600 and

Defendants' Witness, Max Slaff, Cross

some \$16 or \$18 for the purchase of this Falstrom property and he used \$1,500 to pay Mr. Falstrom and \$100 went to the tenant of the building. Is that right?

The Witness: No, your Honor; the \$100 went to Mr. Falstrom, the same thing. It was his property that was there—a shanty—and he wanted to get \$100 for it. It went to Mr. Falstrom direct for his property and this building.

10

By the Court:

Q. Oh, then, you mean that that \$100 was not included in the price of the land? A. Yes, sir.

Q. He wanted \$100 extra on account of the building? A. Yes, sir.

20

By Mr. Weinberger:

Q. You mean to say this, don't you, Mr. Slaff, that there was a tenant there who was paying \$100 rent? A. No, sir.

Q. Wasn't Mr. Falstrom to get that \$100 as rent from the tenant? A. Mr. Falstrom is here.

Q. Well, was he? A. No, sir.

Q. What was the purchase price of the Falstrom property? A. \$22,000.

30

Mr. Weinberger: The defendant produces check bearing date April 17, 1919.

Mr. Backes: It has already been offered, if your Honor please.

Mr. Weinberger: It has been?

Mr. Backes: Yes, and marked an exhibit.

Q. I show you a check for \$1,600, marked Exhibit C2, and ask you if that is the check you gave to Mr. Falstrom? A. Yes, sir.

40

Defendants' Witness, Max Slaff, Cross

Q. Now, when you got the \$2,000 from your nephew that was given to you to pay on account of that property, wasn't it? A. Yes, sir.

Q. Why did you deposit that check in your name if the purpose was to pay it to Mr. Falstrom? A. Why did I deposit it?

10 Q. Yes. A. I don't understand you.

Q. What did you do with the balance of the money that you got? A. We haven't accounted yet. We didn't have any accounting since then.

Q. Well now, on the 22nd of April you got another thousand dollars? A. Yes, sir.

Q. What was that for? A. I borrowed that.

Q. For what? A. For my deal.

20 Q. What deal? Wasn't it the Kehoe deal? A. Yes, sir.

Q. On the other side of the street? A. Yes, for the property that I bought.

Q. For the \$10,000 purchase, wasn't it? A. No, it was for the whole purchase.

Q. Was it on account of the two lots that cost \$10,000? A. On account of the three lots, the two for \$10,000 and one for 4.

30 Q. Did you tell them at that time what you wanted the money for? A. At what time?

Q. On April 22nd when you got the check? A. I told them on the 15th I would have to have \$1,000 more and they were satisfied.

Q. Well now, Mr. Slaff, after you got these three checks you say you never had any accounting with them; is that right? A. Yes, sir.

Q. Did you give them a note on the 7th of May? A. Yes, sir.

40 Q. For how much? A. \$1,000.

Defendants' Witness, Max Slaff, Cross

Q. And did you give them a check on June 7th? A. Yes, sir.

Q. Did you ever return to them the money which you got from them? A. What money?

Q. The \$1,500? A. Yes, sir.

Q. All of it? A. All of it.

Q. By what? A. By a note for \$1,000 and a check of \$500. 10

Q. So that cleaned up all of the money that you had— A. (Interrupting counsel.) That I had borrowed.

Q. Wait a minute now. A. The \$1,500 that I borrowed from them.

Q. That you returned by a note and a check? A. Yes, sir.

Q. Now, when you made the note out how much money did you owe to them, according to your figures? A. I don't know; I haven't figured that. I figured what I borrowed from them. 20

Q. Now, you say, Mr. Slaff, that on April the 14th you borrowed \$500? A. Yes, sir.

Q. You knew that, didn't you? A. Yes.

Q. And on April 22nd you borrowed \$1,000, according to your statement. Is that correct? A. Yes, sir. 30

Q. That was \$1,500? A. Yes.

Q. On May the 7th you owed to the Friedman brothers \$1,500, didn't you? A. Yes, sir.

Q. You knew that? A. Yes, sir.

Q. Why did you give them a note for only \$1,000? A. He didn't ask me for any more.

Q. Well, you owed him at that time \$1,500? A. I was going to give him a note for whatever he wanted, and he said that he just went in a new bank and he said he could only take a \$1,000 note and bring it in. 40

Defendants' Witness, Max Slaff, Cross

Q. Did he tell you he was short of money? A. I don't remember his telling me he was short.

Q. Didn't you tell us here yesterday that he said to you he was flush; that he had \$15,000 in the bank?

A. Not at that time when I gave him the note.

10 Q. In April didn't he tell you he had \$15,000 in the bank? A. I had ready money from him, Counsellor.

By the Court:

Q. Mr. Slaff, let me see if I understand your statement: How much money did you get, all together, from your nephews for the purpose of buying the three properties—the two Kehoe tracts and the Falstrom tract? A. For the two Kehoe tracts?

20 Q. No, no; for all three of them; what is the total amount? A. \$3,500.

Q. And you didn't use \$500 of it, I understand. A. I didn't use about \$385.

Q. Now, did you pay that money back? A. No, your Honor.

Q. You never paid that back? A. No, we have had no accounting.

Q. Then, all together, \$3,000 of their money went into these properties? A. Well, I figure only \$1,500.

30 Q. \$3,100? A. For the entire property.

Q. How much money went into the Falstrom property? A. About \$1,615.

Q. Well, all together, on the three properties, the Falstrom and the two Kehoe properties, all their money went in to the extent of \$2,100? A. Your Honor, I don't figure it that way.

40 Q. Well, figure it your own way. A. I figure what they put in or advanced on the property that they have with me.

Q. No, I'm not raising the question, Mr. Slaff,

Defendants' Witness, Max Slaff, Cross

whether this money was loaned or not; you got from them \$3,100, which you used in buying the property?

Mr. Backes: \$3,500.

The Court: Not at all. He paid back \$300 or three hundred and some odd dollars.

A. No, I have not paid it back, your Honor. 10

Q. Oh, you haven't paid it back; but that didn't go into the property? A. No.

Q. The amount of money that you got from your nephews that went into the property was \$3,100? A. Yes, and some \$285 that didn't go in.

Q. Now, then, you paid back— A. (Interrupting.) \$1,500.

Q. You paid back \$1,500; how did you pay it back?

A. By a note for a thousand and a check for \$500, that is the money that I borrowed. 20

Q. Now then, did you ever pay back the rest of this money? A. No, your Honor.

Q. Which amounts to about \$1,600? A. About three hundred and some dollars, the moneys over.

Q. No, no— A. I have not, your Honor; I understand what you mean.

Q. Then you owe them the three hundred and odd dollars; that is a separate matter? A. Yes. 30

Q. That money didn't go into the property? A. That didn't go into the property.

Q. And you owed them also about how much money that went into the property? A. We have not figured it out yet.

Q. How much money do you say you owe them that you used in buying the property? A. I would have to figure that out.

Q. It is perfectly clear from your statement, Mr. Slaff— A. (Interrupting.) Well, let me get you all right so that I should understand. 40

Defendants' Witness, Max Slaff, Cross

Q. I will repeat it: How much money do you owe them, that you used to buy this property, all three of them? A. Well, what I owe them is \$385.

Q. That didn't go into the property. A. And a third of \$1,600 and some odd dollars on the money that they advanced for me.

10 Q. A third of \$1,600? A. A third of \$1,600.

Q. Don't you owe the whole of the \$1,600? A. Well, they have got the two parts of the Falstrom property, your Honor.

Q. You paid by your note \$1,000? A. Yes, sir, and \$500 money that I owed.

Q. And that money and a thousand and five hundred dollars went into these properties, didn't it? A. Went into my property.

20 Q. Very good; these properties? A. Yes.

Q. And in addition you got \$1,600 from them that went into the property? A. But they had two parts and I had a third part.

Q. Suppose you take the Falstrom property out altogether. A. Then I would owe them three hundred and some dollars.

Q. You have paid \$1,000 by your note, haven't you? A. Yes, sir.

30 Q. Was that paid on account of the Falstrom property? A. On account of the money that I borrowed, your Honor. It was agreed that I should turn them over two-thirds of the Falstrom property at the time that I bought it, and we agreed to hold the property because there was a mortgage for five years, and Mr. Falstrom had a shed over there, and before I would give him a lease back on his shed or shop I turned it over to him, the whole thing, to collect the rent
40 and pay the taxes.

Q. Mr. Slaff, how much money did you get from

Defendants' Witness, Max Slaff, Cross

your nephews that went into the Kehoe property?

A. \$1,500.

Q. How much of that did you pay back, if any?

A. \$1,500; a note for \$1,000 and \$500 check.

Q. Well, then, how much money did you get from them that went into the Falstrom property? A. Something like \$500 and some dollars, and \$385 that I haven't used for the property. We never had any accounting of any of the property that I got. 10

Q. You say you paid back the \$1,500 that you got?

A. That I borrowed from them?

Q. That you borrowed from them for the purchase of the Kehoe property? A. Yes, sir.

Q. Have you paid back any part of the money that you got for the purchase of the Falstrom property?

A. No, sir; we have never had any accounting of how much he collected of rents or how much he didn't, or how much he owes me, or something like that. 20

CROSS-EXAMINATION resumed:

Q. Did you at any time claim an interest in the Post property? A. Interest in money.

Q. In the property? A. A thousand dollars of this— 30

Q. Will you answer my question: Did you ever claim any interest in that property? A. In the Summer Street property, no.

Q. That was known as the Post property, wasn't it? A. Yes, sir.

Q. And that is the property that was mentioned in that arbitration agreement—the Post property—in which you claimed you had an interest; is that correct? 40

A. Yes, sir.

Defendants' Witness, Max Slaff, Cross

Q. Did you ever loan any more money from the Friedman brothers after you got these three checks?

Mr. Backes: Borrow, you mean?

Q. Borrow, I mean? A. I don't remember.

Q. Well, will you say that you didn't get some more
10 money from the Friedman brothers after you had your settlement of the three pieces? A. What is that that I didn't do?

Q. Would you say that you didn't get any more money? A. Would I say what?

Q. Did you ask for more money if you needed it? A. I don't remember.

Q. Isn't it a fact that in July, 1919, you borrowed money from Friedman brothers? A. Maybe I did; I
20 don't remember.

Q. Isn't it a fact that in April, 1919, you borrowed from Friedman brothers—on the 5th of April? A. Maybe I did.

Q. You were short of money then, weren't you? A. Maybe I was.

Q. You needed considerable money, didn't you? A. Maybe I needed considerable money.

Q. You did discount notes in the bank at that time
30 and they endorsed your notes, too? A. Yes, maybe they did.

Q. Maybe? Don't you know? A. I think they did.

Q. Well, Mr. Slaff, what is there about your memory today that doesn't seem to recall these incidents when you borrowed thousands of dollars? A. I give my check and everything, but I can't keep that in my mind.

Q. Now let's see; when your nephews gave you
40 some money to buy the Falstrom property there was an

Defendants' Witness, Max Slaff, Cross

agreement that they were entitled to two-thirds and you one-third interest, was there? A. No.

Q. Why didn't you take the property in your name at that time? A. Why didn't I take the property in my name?

Mr. Weinberger: I don't like to have this witness to repeat the question each time. If your Honor can rule on that— 10

The Court: It seems to be natural for the witness to repeat the question to make sure that he understands it.

Q. Why didn't you take the Falstrom property in your own name? A. Because I was anxious to buy the property from Mr. Falstrom, and I had been dickering with him on the price and on the payment of the lots. He wanted \$25,000 for the lots and about \$8,000 payment. So I said, "Mr. Falstrom"— 20

Mr. Weinberger: I object to the conversation; I want the witness to answer my question.

The Court: He answers you. You asked him why and he is explaining it.

A. (Continuing.) And I said, "Mr. Falstrom, you need the money." He says, "No, but I want sufficient payment." I says, "Mr. Falstrom, you have been dealing with me 10 years and you know that my dealing is all right; I can't pay you that much money out; why not take a couple of thousand dollars?" "Well," he says, "I wouldn't be able to give you any deed" or something like that. I says, "I don't care about that unless you make the payments small." When I had arranged with Friedman brothers to buy that Falstrom property I told them at that time that I wouldn't like 30
40

Defendants' Witness, Max Slaff, Cross

to go back to Mr. Falstrom and tell him that I am buying it for somebody else, because Mr. Falstrom probably would change his mind and ask for more payment, because the boys are here on the street and doing good business, and he might say, "Why can't they pay in some more money"; and my nephews know and I
10 told them that I would take it in my name and give them an agreement back.

Q. Then you did take it in your name, as per agreement between your nephews and yourself? A. Yes.

Q. And that arrangement was that you were to take the title to that property in your own name? A. Yes, sir.

Q. And you were to hold for their benefit a two-thirds interest in that property? A. I would give
20 them back an agreement for the two-thirds.

Q. And according to the terms of the agreement you were to hold it in your name for their benefit? A. I wasn't to hold it; I gave it the same day or the next day that the contract was signed by me.

Q. Now, since when have you changed that story that you gave it to them on the same day? A. I signed the contract the same day or the next day.

Q. Do you deny now that you said yesterday in this
30 court room that you signed the contract on the same day or the next day? A. I don't remember what I said, but I remember that I signed the deed the same day or the next day.

Q. Mr. Slaff, you will answer my question, sir: Do you now say that on the witness stand in this court room yesterday you said that you signed the contract on the same day? A. If I said yesterday that I signed it the same day? That I say today.

40 Q. That is my question? A. I don't remember what I said yesterday.

Defendants' Witness, Max Slaff, Cross

Q. Do you mean to tell the Court that you don't remember the Court's question to you concerning when you signed the contract? A. If I can't remember it—

Q. Do you mean to say you don't remember the Court asking you that question yesterday? A. I don't remember, no.

Q. Is Mr. Maurice Slaff a nephew of yours? A. 10
Yes, sir.

Q. He is a lawyer? A. He is a lawyer.

Q. Do you remember what you said here in this court room yesterday afternoon?

Mr. Backes: Now, if your Honor please, we are not getting anywhere with this line of examination.

The Court: Oh, it is a waste of time, Mr. Weinberger. 20

Mr. Weinberger: I want the record to show the fact.

The Court: He said yesterday that he thought he signed the contract within a few days after he got the contract from Mr. Falstrom. That is my recollection of the testimony.

Q. Now, Mr. Slaff, did you have a conversation 30
with your nephews concerning the Falstrom property and the fact that they didn't have the contract in their name? A. No, sir.

Q. You had two arguments with them, did you not? A. I think I did; perhaps.

Q. The one was concerning the Falstrom property and the other was concerning the Kehoe property? A. Nothing concerning the Falstrom property, Counsellor.

Q. What were the two arguments about? A. 40
About the Kehoe property.

Defendants' Witness, Max Slaff, Cross

Q. When was the first argument? A. About the last of October or early in November; I can't tell.

Q. What was that argument about? A. What was the argument?

Q. Yes, where was it and what took place?

10 The Court: Mr. Backes, will you let me see the agreement dated the 17th of April and acknowledged on the 20th of August.

Mr. Backes: Yes, your Honor (counsel handing paper to the Court).

Q. What was that about? A. Shall I answer?

20 Q. Why certainly answer; you have had time to think. A. What I had the last of October or the first of November with Mr. Friedman—one of the Friedmans, Mr. A. Friedman, came to the house that I was living in with my brother-in-law I think and started to talk about business, and he said, "Uncle, how would you feel about it if we would combine the properties that you have got, the Kehoe property, with this here, selling me two parts so that we shall have all in one adjoining property, and we will probably build together?" Well, I thought a while and I said, "Well, I probably will decide something about what to do."

30 He says, "What would you think would be a fair price?" Well, I started with \$5,000 and we finally dickered around, and I said I would not consider less than \$4,000, because that would be practically selling two lots, and then I left.

Q. But there was no argument? A. No, there was no argument.

Q. There was no fight or quarrel? A. No.

40 Q. Then you only had one quarrel? A. Now, just a minute; there was two quarrels. The second one—

Defendants' Witness, Max Slaff, Cross

Q. When was the first? A. The first one a few days later. He said that he would like to talk it over with his brother, and a few days later he came and he said that he had decided "with my brother that we will take it," and of course he was trying to drive a bargain again, and he says finally, "We will take it," and he left. And then shortly after that—I don't remember whether it was three or four days or a week, or maybe longer than that, that he came and said, if I am ready to go and make the papers, and I answered him—whether it was the older or younger brother I don't remember—but I answered, "I have changed my mind. I had it out with my wife and she doesn't want me to go in any other partnership," and that I should divide the lot that I have got with them and I would do something for my own boys; that she didn't want me to go into any partnerships, and he was a little surprised and said a lot about it.

By the Court:

Q. When was this, Mr. Slaff? A. About the early part of November—the latter part of October or the first part of November. This whole conversation was within two or three weeks.

Q. And when was the next quarrel that you had with your nephew, when he put you out of the store? 30

A. Well, that was, I think, the very last of November.

Q. Wasn't it later than that? A. No.

Q. Wasn't it a short time before this suit was started? A. No, your Honor.

Q. Sure of that? A. I am sure of that.

Q. I understood you to say yesterday, Mr. Slaff, that it might have been in February or March, 1920. 40

A. That the suit was begun?

Defendants' Witness, Max Slaff, Cross

Q. No, no; the suit was begun on April 19, 1920, but I understood you to say yesterday that the occasion when you were put out by your nephew and was insulted was a short time before the suit was brought?

A. Well, your Honor, I didn't know when the suit began; I only know that this happened in about the
10 latter part of November.

Q. Do you say, Mr. Slaff, after you had been turned out of the store by your nephew and you had ceased all relations with him, and this contest was really on between you, that no suit was brought for six months? Do you really say that? A. Well, he was trying to settle through Mr. Meyers and some other people, and it had dragged along three or four or five months.

Q. I understood you to say yesterday that you
20 thought you were put out of your nephew's store a few weeks before this suit was brought. A. No, your Honor.

Q. You didn't mean to say that? A. Maybe I didn't understand. I didn't have no talk with Mr. Friedman from the time I had the last quarrel with him and was put out of the store only through other people who tried to make a settlement and Mr. Slaff who was a witness here yesterday and some other
30 people, and then through Mr. Meyers, and then the suit was begun.

Q. I call your attention to this agreement that you signed and that you have told us about, wherein you assigned to your nephews their share in the Falstrom property—this agreement dated April 17, 1919, and marked Exhibit D1; I understood you to say that you had that drawn by a lawyer? A. Yes, sir.

Q. Around the time that the other agreement was
40 made with Mr. Falstrom or the day after? A. It was the same day I think, your Honor.

Defendants' Witness, Max Slaff, Cross

Q. Why wasn't it delivered then to your nephews?

A. Your Honor, I signed it the same day or the next day, the contract, and left both contracts to my nephews and Mr. Slaff to take care of them and take them over to be signed by the Friedmans, and then they went there with him and at the same time the lawsuit began.

10

Q. You left it with your nephew and lawyer? A. Yes.

Q. And did he attend to having them both recorded?

A. I think that he did, or I left it to him, your Honor. I wouldn't say that they were recorded.

Q. They are both recorded on the same day? A. I wouldn't hear anything about that.

Q. Have you nothing further to say about the fact that the agreement with your nephews is acknowledged on the 20th of August? A. I don't know anything about that, your Honor.

20

Q. You say it was acknowledged on the day you signed it? A. I signed it on that day or the day after.

Q. And acknowledged it? A. About the acknowledgment I don't know.

Q. You told us that you acknowledged it the same day you signed it? A. Maybe I didn't understand your Honor about that.

30

The Court: Proceed.

By Mr. Weinberger:

Q. Since you left the court did you talk that fact over with anybody, Mr. Maurice Slaff your nephew?

A. About what?

Q. About the acknowledgment and the signing of that agreement? A. No, I have not.

40

Defendants' Witness, Max Slaff, Cross

Q. Sure about that? A. Of course I am sure about it.

Q. Now, Mr. Slaff, I must be persistent in getting an answer from you which is intelligent, on the question of these checks; you were anxious to buy real estate for your own uses, weren't you? A. Yes.

10 Q. At the time that you bought these Kehoe and Falstrom properties you were wanting to buy real estate, weren't you? A. Well, I bought real estate to do something with it.

Q. And you were at that time very tight with money; you say you didn't have any money? A. I didn't have much.

Q. And on May the 8th you gave your note to your nephews for a thousand dollars? A. Yes, sir.

20 Q. Was that note discounted by them at that time? A. I can't tell.

Q. Don't you know that they didn't discount that note? A. I can't tell; I don't know.

Q. You say that they needed the money, didn't you, to start a new account? A. I say that he said that he needed the money. I don't know whether he needed it or not.

30 Q. Well, don't you know, Mr. Slaff, that the check that you got on April 14th (referring to Exhibit C1), is a check on the Fourth Ward Trust Company, and that they had an account in that bank at that time? A. Yes.

Mr. Backes: Does that demonstrate whether they did have an account or didn't have an account? The question now, I take it, is whether this man borrowed this money and didn't pay it.

40

The Court: I will allow it.

Defendants' Witness, Max Slaff, Cross

Q. I will withdraw that question. I show you Exhibit C1 and ask you on what bank that is drawn.

The Court: Doesn't that speak for itself?

A. I see it is on the Fourth Ward Bank.

Q. And you testified that in June or May, when you gave the note for \$1,000 they at that time told you that they wanted that note to open a new account in the Fourth Ward Trust Company? A. No, I didn't say that. 10

The Court: No, I don't think he said that.

Mr. Weinberger: I submit, if your Honor please, that the witness said that in May they told him that they wanted him to please let them have some money, and that he then gave a note for \$1,000, and he said also that they told him they wanted to start a new account in the Fourth Ward Trust Company, and that, as a matter of fact, he then gave that note for that purpose because they didn't want to touch the money they had in the other bank. 20

The Court: You may interrogate him about it, but I didn't hear any such testimony from this witness yesterday. I got the impression that what he testified to was they were a little short of money and he gave a note for \$1,000 at that time so that they could discount it. 30

Q. I will ask you, did you say anything yesterday about the Fourth Ward Trust Company? A. I did.

Q. What did you say and what did they say about that? A. They said that they just went in a while ago—I don't mean by "a while ago" an hour before or anything like that, but what they said at that time was that they went into the Fourth Ward Trust Company and they would discount the note over there. 40

Defendants' Witness, Max Slaff, Cross

By the Court:

Q. Well, did he tell you why he wanted the note?

A. Because he is a little short of money. They started to do a big business for the summer and they had a lot of cars on the tracks and so forth.

10 Q. Did he say he wanted to discount the note? A. He said he might discount the note in the bank.

By Mr. Weinberger:

Q. He might discount it? A. Yes, he may or he will; I don't remember, Counsellor, whether he said he may discount it or he will discount it.

20 Q. Mr. Slaff, when you gave this original note for \$1,000, of which Exhibit C5 is a renewal, how much money did you then owe to Friedman brothers? A. I can't tell; I don't remember.

Q. No idea? A. No idea at all. I would have to look up the checks and books and so forth.

Q. When you gave them the note for \$1,000 on the 8th day of May was there any figuring done by you and them? A. Nothing.

30 Q. When you gave them the note for \$1,000, was there anything said about making the note for any more money or was just one thousand dollars fixed upon as the amount they wanted? A. Well, he said, "You just give me a thousand dollars" when I asked him, and I gave them a note because he was a little busy at that time and I was busy.

Q. Why did you pay \$100 on that note and then renew it? A. Why did I pay it?

Q. Yes. A. Because it was my note to take care of.

40 Q. You were just accommodating them at that time, were you not, by giving your note for \$1,000? A. Accommodating them?

Defendants' Witness, Max Slaff, Cross

Q. Yes. A. This is the note that I gave them when I owed them the money.

Q. What money? A. A thousand dollars on the \$1,500 that I owed them.

Q. Was this note given to them for the money which you owed them? A. Yes, sir.

Q. Why didn't you give a note for the \$1,500? A. 10
Why, they only asked me for a thousand.

Q. Well, you owed them \$1,500, you say? A.
He only asked me for a thousand.

Q. Did you offer to give them a note for \$1,500?
A. No, sir.

Q. Did you make any payment after that? A. I
gave him then \$500.

Mr. Weinberger: May I have the \$500
check, please? 20

(Mr. Backes produces check and hands it to
counsel.)

Q. On the 7th of June you gave him a check for
\$500? A. Yes, sir.

Q. Did you owe them \$500 at that time? A. Yes,
sir; I owed them \$500 on the \$1,500.

Q. Wasn't that the \$500 which, as a matter of fact,
you hadn't paid on the Falstrom property? A. No. 30

Q. Had you ever returned the Falstrom money to
them? A. No, sir.

Q. You didn't pay it to them yet? A. No, sir.

Q. Why didn't you pay them? A. We have had no
accounting since to find out whether it is three hun-
dred or four hundred. There was rent due on the
Falstrom property.

Q. What rents were coming in on the Falstrom
property? A. I don't know. I know nothing about 40
that. I turned it right over to them.

Defendants' Witness, Max Slaff, Cross

Q. You had an interest in the property? A. That was the understanding that they would take over the property and pay the interest and taxes.

Q. You still owe them one-third on the Falstrom property which they advanced? A. Well, we haven't figured that yet.

10 Q. Did they advance any money for you on that?
A. They did.

Q. How much? A. All the money.

Q. How much is that? A. Sixteen hundred and some dollars.

Q. Did they advance a one-third for you? A. Yes, sir.

Q. Now, isn't it a fact, Mr. Slaff, that the total of all these checks was \$3,500? A. Yes.

20 Q. And isn't it a fact that you didn't use all the money in the purchase of the Falstrom property? A. No.

Q. That is a fact, isn't it? A. Yes.

Q. Isn't it also a fact that the money used for the Falstrom property plus the money that went into the other plots completed the transaction so that they had a two-thirds interest in each of these properties? A. No, sir.

30 Q. You claim that that isn't a fact? A. We haven't figured anything yet.

Q. You know Mr. Abraham Slaff, do you not? A. Yes, sir.

Q. He is related to you, is he not? A. Yes, sir.

Q. He came to you and told you that the Friedman brothers demanded of you two-thirds—

Mr. Backes: Abraham Slaff is not a party to this suit, and I object.

40 The Court: I don't know what the question is yet.

Defendants' Witness, Max Slaff, Cross

Mr. Weinberger: I haven't finished the question. I will withdraw that for the moment.

Q. You know that the taxes for 1919 on the Kehoe property have never been paid, don't you? A. I never knew it.

Q. Why didn't you pay the 1921 and 1920 taxes, too? A. That is up to the tax collector. I paid the 1919 taxes. I didn't attend to that; my son attended to it. 10

Q. Is that the best answer you can give us? A. That was done. I can't give you any better answer than that.

Q. Who paid the Falstrom taxes? A. I don't know.

Q. Did you ever get the Falstrom bills from Mr. Falstrom? A. No, sir. 20

By the Court:

Q. Mr. Slaff, as I understand it you put \$1,600 of your nephews' money into the Falstrom property? A. Yes, sixteen hundred and about fifteen or sixteen dollars.

Q. Then one-half of that you owed to them? A. One-third.

Q. One-third? That would be about \$540 or something like that? A. It would be something like that. 30

Q. Now then, how much did you get from them and put into the Kehoe property? A. \$1,500.

Q. And then you owe them in addition to that about \$380? A. \$380 or 85; something like that.

Q. That makes, all together, \$2,500 in round numbers, according to my addition—no, \$2,420; now, you have paid them back \$1,500, haven't you? A. Yes, sir. 40

Defendants' Witness, Max Slaff, Cross

Q. Then, according to your theory of these transactions you owe them about \$900, don't you? A. Yes, but I don't know whether the rents are all collected.

Q. I mean without taking into account the rents collected or any taxes they have paid, but on these particular transactions you owe them about \$900? A.
10 Yes, but there is something coming to me that will have to be figured up.

By Mr. Weinberger :

Q. I show you a bill addressed to Mr. Gustav W. Falstrom, for taxes for the year 1919 and I ask you whether you didn't get that bill from Mr. Falstrom when you bought the property? A. When I bought the property?

20 Q. Yes? A. When I bought the property I got at the same time the bill from Falstrom.

Q. Who paid the bill? A. I don't know who paid it.

Q. Look at the check? A. If you show me the check I will know.

Q. Didn't they tell you that they had paid that? A. I never knew of it.

Q. There is no question about the fact that you don't remember that Mr. Falstrom gave you the tax bills? A. I don't remember about that.
30

Q. If you got it from Falstrom you gave it to Friedman brothers, didn't you? A. I don't remember about this one.

Q. Mr. Slaff, you say you were insulted in a way that you have never been insulted before at the Friedman store; is that right? A. Yes.

Q. You know what "insulted" means? A. Yes.

40 Q. You were insulted in a manner that you have never before been insulted, in the Friedman store? A. Yes, sir.

Defendants' Witness, Max Slaff, Cross

Q. That was when he ordered you out of the store?

A. Yes.

Q. That was a fight concerning his interest in the Kehoe property? A. No.

Q. What was the fight about? A. Because I backed out.

Q. Because they claimed you tried to "fake" them out of the property? A. No, sir. 10

Q. Wasn't it? A. No, sir.

Q. It was because they claimed you were trying to "fake" them out of their two-thirds interest, wasn't it?

A. Not at all.

Q. Because you backed out was the only reason?

A. Yes, sir; because I changed my word that I told them.

Q. In other words, you went back on your word; that is the reason? A. Yes. 20

By the Court:

Q. Do I understand, Mr. Slaff, that when you told your nephew that you had talked the matter over with your wife and you concluded not to go into any more partnership arrangements, that that was the occasion when your nephew insulted you and ordered you out of his store? A. I don't remember, your Honor, if it was that time, but the conversation that I had in the store was this; that he started to say that he had got the money ready to pay for the property, and he said, "After you had borrowed money to pay for the property you bought it for yourself and now you are backing out." And finally we had a little argument about another piece of property that I bought for them later on, and so on, and he got hot and said insulting words, and of course I told him back that he didn't have no business to tell me words like that, 30
40

Defendants' Witness, Max Slaff, Cross

and he got so wild he didn't order me out of the store; I started to walk out myself, and he was after me.

Q. Was that the occasion when you say he insulted you? A. Yes, your Honor; that was the last that I had to do with him.

10 Q. And your quarrel was over your refusal to make this partnership deal with him? A. Yes.

Q. You are sure of that, are you? A. I am sure of it.

By Mr. Weinberger:

Q. And you never had any other quarrel of any kind with him after that? A. No, sir.

20 Q. So that he never made any further claim of interest in that Kehoe property after that? A. I haven't talked to them; I don't know anything about it.

Q. So far as you know did they make any claim concerning an interest in the Kehoe property after that? A. To me?

Q. To you? A. No.

By the Court:

30 Q. Mr. Slaff, did your nephews or either of them ever claim to you that they had an interest in the Kehoe property until this suit was brought? A. No, sir.

Q. Then you didn't know that they made any such claim until they brought this suit? A. No, your Honor.

Q. Wasn't that a great surprise to you that they should make such a claim? A. It was.

40 Q. From whom did you procure a copy of the bill, from your solicitor or lawyer? A. The sheriff brought it.

Defendants' Witness, Max Slaff, Re-direct

Q. He brought the subpoena, not the bill? A. Yes.

Q. Did you go to your lawyer then? A. Yes.

Q. And secure a copy of the bill? A. Yes.

Q. And did you read it? A. Yes.

Q. Was that the first time that they claimed to own an interest in the Kehoe property? A. Yes. 10

By Mr. Weinberger:

Q. There can't be any question about that? You understand what the vice chancellor is asking you? A. Yes.

Q. The first time that you ever heard that they claimed any interest in the Kehoe property was at the time you were served with the subpoena? A. Just exactly. 20

Q. Is that correct? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Backes:

Q. I think you testified that the dispute between you and your nephews was trying to be patched up by some members of your family and then finally by Mr. Meyers? A. Yes, sir.

Q. Did you learn then that they made a claim to the Kehoe property? A. I didn't know; they were trying only to make peace between us, and trying to make a settlement. 30

Q. What were they trying to settle up? A. They said that I went back on my word and changed my mind not to sell the two parts, and they thought that I should try to divide the property.

Q. Divide what property? A. The Falstrom property. 40

Defendants' Witness, Max Slaff, Re-direct

Q. What was said about the Kehoe property, if anything? A. Well, I don't remember anything that was said about the Kehoe property, but he was trying to make a settlement.

By the Court:

10 Q. Who was? A. My nephew, the witness who was here yesterday.

Q. What witness do you refer to? A. Abraham Slaff.

By Mr. Backes:

Q. And then was the matter again brought up when you got your nephew in Mr. Meyers' office? A. Yes.

Q. And when this arbitration paper was drafted?
20 A. Yes.

Q. Wasn't the claim made then by your nephews that they might have an interest in the Kehoe property?

Mr. Weinberger: Just one moment. I object to counsel leading the witness on the most vital part of the testimony, if your Honor please.

30 Q. All right Then you did learn on or before the suit was brought that your nephews claimed an interest in the Kehoe property?

Mr. Weinberger: I object to the question.

The Court: It is very objectionable.

Mr. Backes: I am trying to set you straight, if you must be.

Mr. Weinberger: If that's possible.

40 Mr. Backes: Well, his Honor has tried, you have tried, and I have had a hitch at it. Well, let's put it this way:

Defendants' Witness, Maurice Slaff, Direct

Q. Can you tell when the first claim was made that your nephews had an interest in the Kehoe property? When did you first learn it? A. When Abraham Slaff, the one that testified—

Mr. Weinberger: I object. He says he never learned it until the bill was filed.

The Court: I will allow the question. The question is proper; the testimony is another matter.

10

A. I first learned from him that they claimed they have got an interest in the Kehoe property.

MAURICE SLAFF, sworn on behalf of the defendants, testified as follows:

20

Direct-examination by Mr. Backes:

Q. You are a member of the Bar of New Jersey?

A. Yes, sir.

Q. Practicing where? A. I was practicing until about—

Q. Well, were you practicing law in April, 1919?

A. I think I had my office at the Peoples Bank in Passaic, New Jersey.

30

Q. Max Slaff, the defendant in this suit, is a relative of yours? A. Yes, sir; my uncle.

Q. Did you represent him in any matters concerning a certain agreement with Abraham and Jacob Friedman? A. Yes, sir.

Q. I show you a paper, which has been marked Exhibit D1, and I ask you if you recognize that paper (handing paper to the witness)? A. Yes, sir.

40

Q. Did you prepare that paper? A. I did, sir.

Defendants' Witness, Maurice Slaff, Direct

Q. And you were a witness to the signatures of the parties? A. Yes, sir.

Q. I call your attention to Exhibit C21 and ask you if you have ever seen that paper before (handing paper to the witness)? A. Yes, sir.

Q. When did you first see Exhibit C21? A. Which
10 is Exhibit C21?

Q. The agreement between Falstrom and Max Slaff? A. I saw this agreement on the 17th day of April, 1919.

Q. Where? A. At my office.

Q. Who brought it there? A. Mr. Max Slaff.

Q. And did he give you any instructions concerning it? A. Yes, sir.

Q. And in pursuance to those instructions or direc-
20 tions what did you do? A. I drew this agreement.

Q. The agreement exhibit what? A. D1.

Q. When did you draw that agreement? A. It must have been on the 17th day of April, 1919.

Q. Was it signed on that day? A. It was signed on that day by Max Slaff in my office.

Q. Was it acknowledged by him before you? A. Yes, sir.

30 By the Court:

Q. On that day? A. He signed it on that day but I did not witness his acknowledgment on that day.

By Mr. Backes:

Q. What orders or requests, if any, were made by Max Slaff to you? A. Max Slaff told me to take these papers to A. & J. Friedman and have them sign them, and I did.

40 Q. Any further orders? A. And have them put on record.

Defendants' Witness, Maurice Slaff, Direct

Q. After the paper had been signed and acknowledged what did you do with it? A. I took those papers to the office of A. & J. Friedman.

Q. When did you take them there? A. Whether it was on the 17th day of April or on the 18th, or within the immediate vicinity of the 17th, I do not remember, but I took those papers to A. & J. Friedman at their office, 55 Lexington Avenue, and there met Mr. Abraham Friedman and Jacob Friedman in the store. 10

Q. Did you tell them your errand? A. Yes, sir, and I handed them both those papers.

Q. For what purpose? A. For the purpose of having them sign. I told them that that was the agreement that my uncle had given me orders to draw up to sign. Mr. Abraham Friedman took the paper after I read it to him and said, "I will have to have it looked over by my lawyer before I will sign it." I thereupon left both papers with them, and I gave them to Abe Friedman and he put them right in his safe. 20

Q. And when next did you see those papers? A. And Abe Friedman told me—I pass his place of business on my way home three or four times a day, and he says, "When those papers are ready I will call you in." I was friendly with him then and have been friendly with him. 30

Q. And when, if he did, did he call you in about these papers? A. He called me in on the 20th day of August, 1919.

Q. What occurred between you? A. He says, "The papers are all right; we will sign them."

Q. Did he sign them? A. Yes, sir; Abraham Friedman signed them and Jacob Friedman signed them.

Q. And then what did you do? A. I for the pur- 40

Defendants' Witness, Maurice Slaff, Direct

pose of putting them on record looked up the calendar and saw the 20th of August, signed my name, and took the papers on the 20th of August and put them on record.

Q. When did you put them on record? A. The 20th day of August, 1919.

10 Q. After they were recorded what became of them?
A. They came to the office and were placed in the files of the office.

By the Court:

Q. Your files? A. Yes; that was my brother's office. It was returned to Charles Slaff's office.

20 Q. Why didn't you send the agreement, Exhibit D1, to the Friedmans? A. Why, there was no particular reason why I didn't send it. The papers were returned and placed in the files.

Q. That was the only evidence of their interest in the property; why didn't you send it to them? A. I just put it in the file with other papers.

Q. And those other papers were papers that were brought to your office by your uncle that showed his title to the whole property? A. You mean Mr. Max Slaff?

30 Q. Yes? A. Yes, sir.

Q. And this other paper represented the interest of your two nephews? A. Yes, sir.

Q. What use was it to them if you didn't have it on record? A. It was on record.

Q. And you thought that was sufficient? A. Yes, sir.

Q. Didn't it occur to you you ought to send it to them? A. No, sir; it did not occur to me.

40 Q. Did the two Friedmans sign this paper at the same time (referring to D1)? A. Yes, sir.

Defendants' Witness, Maurice Slaff, Cross

Q. Your uncle Max Slaff had signed it before? A. Yes, in my office.

Q. Some months before? A. Some months before.

Q. And when did you sign as a witness? A. At the time that A. & J. Friedman signed the paper.

Q. Do you know what kind of pen your uncle used when he signed it? A. No, sir. 10

Q. Do you know what kind of a pen Abraham Friedman and Jacob Friedman used when they signed the paper? A. I don't remember what kind of a pen they used.

Q. Do you know what kind of pen you used when you signed as a witness? A. You mean whether fountain pen or otherwise?

Q. Yes? A. No, I don't remember.

Q. And when did you sign the certificate of acknowledgment? A. On the 20th day of August. 20

Q. You filled in the date on that day; you didn't sign it the date of it? A. Yes, sir.

Q. Was that the day when the Friedmans signed? A. Yes, sir.

Q. And you signed it in their presence? A. Yes, sir, in the Friedman office.

Q. Didn't it occur to you that it was an improper thing for you to do to certify the acknowledgment on the 20th of August that was actually taken by you on the 17th? A. It did not occur to me; no, sir. 30

CROSS-EXAMINATION by Mr. Weinberger:

Q. How long were you in the army? A. About a year and a half.

Q. When did you get out? A. March 28, 1919.

Q. You were in Passaic, you say, after March 28th, 40

Defendants' Witness, Maurice Slaff, Cross

regularly? A. I was in Passaic after March 28th, 1919.

Q. Sure of that, are you? A. Absolutely sure.

Q. And you prepared this agreement yourself? A. I did.

Q. Who typewrote it? A. I did.

10 Q. You typewrote it yourself? A. I did.

Q. At whose request? A. Max Slaff's.

Q. And you took the paper where after you had it typewritten? A. To the office of A. & J. Friedman, on Lexington Avenue.

Q. At what number? A. I heard them say 55; right near Monroe Street.

Q. You have no doubt about that? A. Absolutely.

20 Q. The place you went into was 55 Lexington Avenue? A. I won't say that that was the number, but it was right near the corner of Monroe Street, right where they are now located.

Q. And that is the place where you took that paper to have them sign it on the next day after your uncle signed it? A. It was that same day or the next day. It wasn't later than two or three days; I would say that.

30 Q. At that time you had not witnessed your uncle's signature? A. I had not written my name; I had witnessed the signature but not in writing.

Q. When did they sign it? A. On August 20th.

Q. And when did you deliver the paper to them? A. To whom?

Q. To Friedman brothers? A. One or two days after.

Q. To whom did you deliver it? A. To Abe Friedman.

40 Q. Was it signed when they delivered it to you? A. No, sir.

Defendants' Witness, Maurice Slaff, Cross

Q. When did you come back for the paper? A. On August 20th. Abe Friedman called me into the store.

Q. Was it then already signed? A. It was not already signed.

Q. And on the 20th of August he called you in?
A. He did. 10

Q. You remember that? A. Yes; of course I remember it.

Q. Distinctly? A. Absolutely.

Q. You remember looking at the calendar? A. Yes, that's how I got the date in the acknowledgment.

Q. This was in 1919? A. This was in 1919.

Q. Now, Mr. Slaff, don't you know that the A. & J. Friedman Company were not in possession of 55 Lexington Avenue, Passaic, New Jersey, on the 13th of April, or at any time in April, 1919? A. They were in that place. It was there that I brought them that paper. 20

Q. That is somewhat different, "When you brought the paper." I am asking you, sir, if it isn't a fact that in April, 1919, A. & J. Friedman were not in the store at 55 Lexington Avenue, and that you at no time came into that store? A. No, sir.

Q. That is not a fact? A. No, sir. 30

Q. Don't you know that there was a pool room in 55 Lexington Avenue in 1918? A. No.

Q. Do you still insist that that is not the fact? A. Yes, sir.

Q. In spite of the fact that I tell you there was a pool room in those premises in April, 1919? A. The A. & J. Friedman Company were in there.

Q. Mr. Slaff, there can't be any mistake in your mind that when you brought the paper there they were 40

Defendants' Witness, Maurice Slaff, Cross

in 55 Lexington Avenue? A. I don't mean the number. I may be mistaken about the number.

Q. I am not speaking of the number; I am speaking of Lexington Avenue; there can't be any quibbling about that. Do you now say, when you took the paper to A. & J. Friedman that you took it to them on

10 Lexington Avenue? A. Yes, sir.

Q. So that if they were not there in April you were not there in April? A. Yes, sir.

Q. That is what you mean to say now? A. Yes.

Q. You know that they never occupied any premises on Lexington Avenue except the one they are in now? A. Yes.

Q. You know that? A. Yes.

Q. By the way, Mr. Slaff, you say that they took
20 these papers to their lawyer to have them examined?
A. That is what they said. Abe Friedman told me that.

Q. You weren't their attorney, were you? A. No, sir.

Q. And you say they returned the paper to you to record for them, although you were not their attorney? A. They told me to put them on record.

Q. Did they pay you for that? A. No, sir.

30 Q. Did you ever ask them to pay you? A. No, sir.

Q. Did you send a bill for recording? A. Yes.

Q. You advanced the fees? A. I did, and never was paid for it—for recording those papers.

By the Court:

Q. Did your uncle Max Slaff? A. He may have
40 paid my brother in the office. I laid out the money
and never got it back.

Defendants' Witness, Gustav W. Falstrom, Direct

By Mr. Backes:

Q. Mr. Slaff, one more question I want to ask you: Did you ever speak to the Friedman boys about your being able to get them a deed for their two-thirds interest if they gave you 5 per cent commission? A. That is an absolute lie.

Q. You are an attorney of this court? A. I am.

Q. That is all?

10

GUSTAV W. FALSTROM, sworn on behalf of the defendants, testified as follows:

Direct-examination by Mr. Backes:

Q. You live in Passaic? A. Yes, sir.

20

Q. And are you engaged in business there? A. Yes, sir.

Q. And you were the owner of certain property on Monroe Street that was sold to Max Slaff? A. Yes.

Q. I show you a contract which has been marked Exhibit C21 and ask you if that is the contract that was made between you and Max Slaff? A. It is.

Q. Have you ever given a deed for this property? A. No, sir.

30

Q. Has any of the purchase price been paid? A. It seems \$1,500 is paid.

Q. I show you a check for \$1,600— A. Well, the \$100 I think—I'm not sure—was for a shed on the land that they paid for separate.

Q. A shed on the land that you agreed to sell them? A. Yes; I think that must be the \$100.

Q. That is what the \$100 is for? A. Yes, because

40

Defendants' Witness, Gustav W. Falstrom, Direct

I sold that to them. I was called just an hour before I came here, so I didn't have a chance to look to see what was done, and I am speaking from memory, and I think I told him that he could have the shed for a hundred dollars.

Q. So that he paid \$1,600 at the time you signed
10 this agreement? A. No, he paid \$1,500—

Q. On account of the purchase price? A. But then he wanted me to sell the shed, but the shed did not belong to me; it belonged to Falstrom & Tornqvist Company.

Q. It wasn't a part of the property; it was prop-
erty you sold to him and didn't embrace a part of
your bargain? A. No, the Falstrom & Tornqvist Com-
pany owned that and he wanted to have it, and I got
20 a hundred dollars for the company for it.

By the Court:

Q. Is the shed there yet? A. Yes, it is there yet.

By Mr. Backes:

Q. And was the shed on the ground at the time you
sold the ground? A. Yes; that shed I think is rented
there to some company.

30 Q. And who has had charge of the property and
collected the rent, if you know, since you made this
agreement of sale? A. Well, I have not collected any
rent, except for a storage place of Falstrom & Torn-
qvist Company, and that I get \$20 a month for it, and
that \$20 a month I am going to credit on the price.
That is, it is \$2,250 and I will credit that on the pur-
chase price as interest.

40 Q. The rentals you receive are to be credited on
the purchase price? A. Yes.

Defendants' Witness, Gustav W. Falstrom, Direct

Q. Now, have any of the rentals been paid and credited on the purchase price? A. Well, I haven't credited it in any other way except I have kept an account of the \$20 I get, and that I intend to take off the \$22,500. That was the agreement—that was the idea.

Q. Has anything been paid on account of the purchase price of the sale of the lots excepting the original payment since the making of the agreement? A. Well, there was an oil stand there and Mr. Slaff collected that himself. It was a little house that I threwed in and told him he could have, an oil stand, and that is rented and he collects that rent; but I don't know how much he has collected.

10

Q. Has any deed ever been made for this property?
A. No.

20

Q. Have you taken back a purchase money mortgage on the property? A. No.

Q. Has any interest been paid on account of the purchase price? A. Oh, yes, I get the interest every six months.

Q. And who has paid you? A. Mr. Friedman sends the check to me.

Q. Mr. Max Slaff didn't? A. No.

Q. Were there any taxes due the City of Passaic?
A. Well, they might be due the first of December, but I think Mr. Friedman has paid all the taxes.

30

Q. Did you give Mr. Max Slaff a tax bill at the time you made this agreement of sale, Exhibit C21?
A. I don't know. Somebody must have got the tax bill, because the taxes were paid.

Q. The question is, did you give him a tax bill, for taxes then due, for 1919? A. I expect I did. I couldn't remember that now.

40

Q. Now, with whom did you conduct the negotiations for this property? A. Mr. Slaff.

Defendants' Witness, Gustav W. Falstrom, Cross

Q. And how long did those negotiations take? How long a time before you finally made the agreement?

A. Oh, probably inside of a month or something like that. He was anxious to get it and he wanted me to come down in the price; that is about all.

10 Q. Did he make a comparison with the prices of any other property in the neighborhood?

Mr. Weinberger: I object to that, on the ground that it has no binding force on the complainants, or either of them.

Mr. Backes: Surely he haggled about the price.

20 Mr. Weinberger: That is objected to as immaterial—anything that happened prior to the execution of the contract is merged, sir.

Mr. Backes: Yes, I grant you that.

Q. Did Max Slaff tell you that he had bought adjoining property?

Mr. Weinberger: I object to the question, on the ground as immaterial, irrelevant, and incompetent, and not binding upon the complainants or either of them.

30 The Court: How is it competent? You are bringing out statements of your own client, the defendant.

Mr. Backes: Does your Honor disallow it?

The Court: Unless you can show some novel aspect which makes it competent.

CROSS-EXAMINATION by Mr. Weinberger:

40 Q. Mr. Falstrom, I show you the bill, Exhibit C14, and ask you whether you didn't get that bill and give

Defendants' Witness, Gustav W. Falstrom, Cross

that bill to the man who bought the property—Mr. Slaff? A. This is the first bill?

Q. Yes? A. Well, I should think he know about the bill, I suppose.

Q. You didn't have any dealings with Mr. Friedman about the purchase of this property? A. No.

Q. The only man you dealt with was Mr. Slaff? A. That's all.

Q. And, as a good business man, you of course handed him this bill to see that it was taken care of? A. Of course, I found out that it was paid and that was all I wanted.

Q. I show you a check, bearing date August 20, 1919, being Exhibit C13, for \$120; that check was received by you, was it not? A. Yes. That must have been the interest, but the interest was much more than that. I don't know about that check; I couldn't tell you from memory.

Q. That check of August 20, 1919, was given to you for \$120; that was Friedman Brothers' check? A. Yes.

Q. What was that given to you for; do you remember? A. That must have been for interest, possibly; I don't remember.

Q. Do you remember Friedman Brothers meeting you in the street one day and asking you when the interest would become due? A. Yes.

Q. And you told them at that time when it would become due, did you not? A. Yes.

Q. Didn't you at that time ask them, "What have you got to do with the property?"

Mr. Backes: Now, I object. How does that throw any light upon the transaction? It is immaterial.

Defendants' Witness, Gustav W. Falstrom, Cross

10 Mr. Weinberger: The point is this: We say that we understood the title was in our name, and when one of the Friedman Brothers spoke about the property this man asks, "What interest have you got in the property, or what have you got to do with the property." Then Friedman said—

The Court: Your question wasn't directed to bringing that out.

Q. Mr. Falstrom, when Mr. Friedman asked you concerning the interest did you ask him what he had to do concerning the property? A. I might have; I don't remember whether I did or not.

20 Q. Did he tell you he had an interest in it? A. Yes, he told me he had an interest.

Examination by the Court:

Q. Mr. Falstrom, will you look at this paper that you have identified, Exhibit C21—just look at that paper; who drew it? A. Mr. Walter Kip.

Q. Was he your attorney? A. Yes.

Q. Did you go with Mr. Slaff to his office for that purpose? A. No, Mr. Slaff was up in Mr. Kip's office.

30 Q. You met there, did you? A. Yes, we met there.

Q. How long was it before that that Mr. Slaff began negotiating with you for the purchase of that property? A. Well, if I had known I was going to be asked that before I came here I would have looked it up. I couldn't tell you now. It was within a month, I think, or it might have been less. I had some memorandum regarding it, but it has been lost. I will probably find it.

40 Q. Was it two weeks, do you think? A. Oh, yes, it was two weeks all right.

Defendants' Witness, Gustav W. Falstrom, Cross

Q. Are you quite sure of that? A. Yes.

Q. And when did you come to an agreement? A. Well, we came—he came one day and asked me if I wouldn't sell for any less and I said no, and he seemed to be willing to settle it at that time when he talked with Mr. Kip.

Q. And do you recollect whether Mr. Kip took your acknowledgment? A. Yes. 10

Q. What was done with the paper after you had signed it and acknowledged it? A. Well, it was recorded, wasn't it?

Q. Well, do you recollect what was done with it when you met Mr. Slaff in Mr. Kip's office and this paper was drawn and you signed it and acknowledged it? Do you recollect what was done with the paper? Did you take it or leave it there? A. It was left with Mr. Kip. 20

By Mr. Weinberger (cross-examination resumed):

Q. You have no definite recollection now how soon before you got the check from Mr. Slaff it was that he first saw you? You have no definite recollection of that? A. No, because I never knew Mr. Slaff before, you know, or Mr. Friedman, I mean.

Q. You knew Mr. Slaff? A. I had known Mr. Slaff for years, but I didn't know Mr. Friedman. 30

Q. Do you know how soon after the contract was signed, Mr. Slaff was up to see you? Might it have been a week? A. It might have been a week?

Q. And \$1,500 was paid on account of the purchase price; you remember that distinctly? A. Yes.

Q. And the \$100 was a separate transaction belonging to a different company? A. No.

Q. It had nothing to do with this parcel at all? A. No. 40

Defendants' Witness, Gustav W. Falstrom, Re-direct

RE-DIRECT EXAMINATION by Mr. Backes:

Q. Were there two copies or only one made of the contract Exhibit C21, that you signed in Mr. Kip's office? A. I think there were two.

10 Q. Then you had one? A. There must be one in Mr. Kip's office yet, I guess.

Q. Are you sure there were two? A. That I wouldn't say. I am pretty certain that Mr. Kip made two.

Q. I should think so. Then your impression is that there were two contracts made? A. Yes; must be one up in Kip's office yet.

20 Q. Isn't this the fact: That when the contracts were signed at Mr. Kip's office you carried one off and Mr. Slaff carried the other off? A. Well, I wouldn't remember that now—two or three years.

Examination by the Court:

Q. Mr. Falstrom, do you know whether you have a copy of this agreement now in your possession among your papers? A. I couldn't say that without looking.

30 Q. I call your attention to the fact that this was quite an important transaction, involving the sale of property for \$22,000; can't you say whether you had a copy of the contract in your possession? A. Well, I haven't looked up any papers. If I knew I was coming up here to testify I would have done so.

Q. Was Mr. Kip your lawyer at the time? A. Yes.

Q. And was he afterwards your counsel? A. Afterwards? Yes, sir, he was.

40 Q. Do you know anything about the recording of this contract on the 28th day of August? A. No, of course I don't know about that. Mr. Kip may have had it recorded, or Mr. Slaff got it recorded.

Defendants' Witness, Harry Meyers, Direct

HARRY MEYERS, sworn on behalf of the defendants, testified as follows:

Direct-examination by Mr. Backes:

Q. Mr. Meyers, you are a member of the bar of this state? A. Yes, sir.

Q. Of how long standing? A. Twenty-five years. 10

Q. Do you know those contestants here? A. Yes. That is, I—I know them, yes, sir.

Q. You know Max Slaff? A. Yes, sir.

Q. And also Friedman Brothers? A. Yes, sir.

Q. I show you Exhibits C10 and C11, and ask you who prepared those papers? A. They were prepared in our office.

Q. And when were they prepared and signed and executed? A. They were prepared on the 15th. 20

Q. On the day that they bear date? A. Yes, sir.

Q. They were acknowledged before you? A. Yes, sir.

Q. And prepared under your direction? A. Yes, sir.

Q. Who asked you to prepare them and how did you come to prepare them? A. Why, the title was in the name of Mr. John H. Kehoe, but I had an interest in the property myself. I don't know that what I am about to say is quite relevant, but if it is not Mr. Weinberger will stop me. 30

Mr. Weinberger: Undoubtedly.

A. Mr. Kehoe had sold these properties to Mr. Slaff and had agreed to take back a purchase-money mortgage for the entire amount. He came into my office and told me to prepare the deeds. This was perhaps 10 days prior to these deeds being drawn, and I said, "That is no way to sell real estate." 40

Defendants' Witness, Harry Meyers, Direct

Mr. Weinberger: Of course I object to this conversation and ask that it be stricken out, on the ground as obviously hearsay and not binding on the complainants or either of them.

The Court: It will be excluded.

10 A. (Witness continuing.) Well, Mr. Slaff came in then, and I told him—

Mr. Weinberger: I object to the conversation between Mr. Meyers and Mr. Slaff.

The Court: I will admit the conversation between Mr. Meyers and Mr. Slaff. It involves a statement made by Mr. Slaff.

20 Mr. Weinberger: True; but in the absence of the complainants, or either of them, I assume that it wouldn't be binding on them.

The Court: Mr. Slaff is the defendant in this case, or one of them, is he not?

Mr. Weinberger. True; but I don't see how a statement by him can bind the complainants.

The Court: This is not offered by the complaint. I shall not admit any statement of Mr. Slaff that came from him through his counsel.

30 Q. Well, as a result, Mr. Meyers— A. Well, on the 14th day of April, Mr. Slaff came in and said—

Mr. Weinberger: The Court has excluded that.

The Court: In pursuance of that, Mr. Meyers, what did you do?

40 The Witness: In pursuance of the terms that were to be carried out, according to my understanding, I drew two bonds and mortgages of the same date, one for \$1,500—

Defendants' Witness, Harry Meyers, Direct

Mr. Weinberger: I object to what the contents of the papers are, the papers being the best evidence of their contents.

The Court: The objection will be sustained, if pressed.

A. Here is one of the originals (witness exhibiting 10 paper).

The Court: Proceed, Mr. Backes. The witness has one of them.

Q. What have you there, Mr. Meyers? A. I have the mortgage for \$4,000, drawn to Mr. Kehoe and acknowledged subsequently by his wife to me—bond and mortgage.

Q. And that is for the piece of property 50 feet— 20
A. That called for \$10,000 piece of property.

Q. Was there another mortgage signed and executed before you? A. There was one for \$1,500.

By the Court:

Q. Mr. Meyers, you were about to tell us, I think, something about the deal being changed by your direction or under your advice— A. Yes, sir.

Q. What was that change? A. That he had to pay 30
us \$500 on each lot. He had to turn in \$1,500 cash.

Q. Was that done, to your knowledge? A. Yes, 40
sir, on the 14th day of April, he gave us \$500. The check was filled in by me in my office, and Mr. Slaff signed the check, and about a week or so later he came in and the papers had all been prepared on the 15th, and he came in and paid the other \$1,000, and that is how my bill was made out for the drawing of the bond and mortgage and so forth, and we sent the deeds up to be recorded, together with the mortgages.

Defendants' Witness, Harry Meyers, Direct

By Mr. Backes:

Q. I show you Exhibit C12 and ask you if that is your bill? A. Yes, sir, receipted by Miller & Meyers, signed by myself.

10 Q. I show you three checks, Mr. Meyers, Exhibits C25—just read the exhibit marks off. A. This is C25 yes, dated April 14th, and is the check that I just alluded to as a deposit I had Mr. Slaff make before I drew the deed. I filled out the check and he signed it for \$500.

20 This check is marked C23, of April 23rd, and is in payment of the bill here. I also filled out that check and Mr. Slaff signed it, for \$1,000. I see that was also filled out by me and was signed when Mr. Slaff came in, and that \$1,000 was the balance of the purchase price.

Mr. Weinberger: I don't think that has ever been referred to or used. It is not our exhibit.

Mr. Backes: I think that was Max Slaff—

The Court: Yes, Mr. Weinberger, I think you are right. I don't think it has been put in.

By the Court:

30 Q. I understand Mr. Meyers, that you filled out that check? A. Yes, sir.

The Court: Let it be marked for identification.

The same is marked Exhibit D3 for identification.

Mr. Weinberger: I have no objection to it going in.

40 Q. Was the check afterwards endorsed by you? A. Yes, he gave it to me and I gave it to Mr. Kehoe.

Defendants' Witness, Harry Meyers, Direct

Q. And you testified that that was the balance of the purchase price paid on account of those lots? A. Yes, sir.

Mr. Backes: Now I think there is no question about it.

The check is designated as Exhibit D3. 10

Q Mr. Meyers, how long were the negotiations pending for the purchase of this property, if you know? A. About a month.

Q. And when were they consummated, if you know? A. They were finally consummated on the 14th of April.

Q. On the day that the \$500 was deposited with you? A. Yes, sir; the first check. 20

By the Court:

Q. As I understand it, you took that \$500 check as a part of your interest? A. No, I didn't want to go to work and draw the bonds and mortgages and everything unless \$500 was paid down. There had been no contracts drawn—only negotiations. When Mr. Slaff said he would take the property I insisted upon a \$500 deposit.

Q. Yes, but you didn't understand my question. (Addressing counsel.) Let me see that check for \$1,000, D3. (Paper is handed to the Court.) I think you stated you filled that check out and Max Slaff signed it? A. Yes. 30

Q. And Mr. Kehoe endorsed it to you? A. Yes, sir.

Q. Was that a part of your interest in the property? A. No; simply that I had charge of the financing. 40

The Court: Proceed.

Defendants' Witness, Harry Meyers, Direct

By Mr. Backes:

10 Q. Who has collected the interest on the mortgages, if you know? A. That was in the final settlement that we made with Mr. Kehoe. I think I took over the mortgages, but the interest was always paid in our office. Part of it went to Mrs. Adley who had a first mortgage on both of these properties, and the rest Mr. Kehoe and I had a joint account in the money and we received it.

Q. The interest was always paid at your office? A. So far as I know. Oh, yes, the interest was always paid.

By Mr. Weinberger:

20 Q. On this \$4,000 mortgage? A. On this particular \$4,000 mortgage that is now assigned to me.

Q. Well, has it been paid? A. I don't recall whether the last interest has been paid, but all the interest on these mortgages was paid in our office.

By Mr. Backes:

Q. And who paid it, if you know? A. Mr. Slaff.

30 Q. Did the Friedmans ever pay any interest? A. No.

Q. After the closing of this transaction did you hear anything further about it? A. Nothing in reference to the transaction until about March, when Mr. Friedman came in to see me—the March following, that is, March of 1920.

Q. Which Mr. Friedman came to see you? A. The taller of the two—Abe, I think, is the one.

40 Q. For what purpose did he come to your office? A. Why, he said to me that he had had trouble with his uncle Max Slaff concerning the property—now, I don't know just how far I am to continue this talk.

Defendants' Witness, Harry Meyers, Direct

The Court: You can state whatever Mr. Abe Friedman said to you and what you said to him.

The Witness (continuing):—He said, "I would like you to be my lawyer." I think he went on to explain what his troubles were. So I said, "I think I know Max Slaff; he has always been very decent so far as my dealings with him are concerned; our office has loaned him considerable money." 10

Mr. Weinberger: Now, if your Honor please, I don't want to appear to be captious, and I don't desire to have the record lumbered up with what I regard as things immaterial in this case. If he was told these things as attorney, I make the objection that he has no right to testify to them. 20

The Court: It doesn't appear that he was counsel for Mr. Friedman. He has only got this far in his story, that Mr. Friedman wanted him to act as his counsel. Now the question is whether he agreed to or not.

The Court: How is that, Mr. Meyers?

The Witness: I said to Mr. Friedman—

The Court: No, did you agree to act as his counsel? 30

The Witness: No. I said to him that I would act as far as preparing the arbitration papers were concerned, but if it came to a lawsuit I would not want to act as his counsel.

Mr. Weinberger: I have no objection now to his stating what he knows.

The Witness (continuing): So, as a result, I sent for Mr. Slaff, and I told him what his nephew had 40

Defendants' Witness, Harry Meyers, Direct

told me, and Mr. Slaff said he was prepared to arbitrate all their differences. There was one piece of property known as the Summer Street property, I think, and he said, "If we are going to arbitrate I want everything arbitrated." So I drew up these arbitration papers and sent for Mr. Friedman, and he came over and looked at it, and he said, "Summer Street has got nothing to do with it." I believe I had Mr. Slaff in the outer office; and he said, "Would you mind my taking one of these papers?" and I said, "Not at all," and he took one and that was the last I saw of it.

By the Court:

Q. Did he say to whom the Summer Street property belonged? A. No; he simply said he didn't want to arbitrate with the Summer Street property in, and that piece was put in after I had my talk with Mr. Slaff who said, "If there is going to be an arbitration we want everything arbitrated."

By Mr. Backes:

Q. Then, in pursuance of the information you received from both of these men you prepared this arbitration agreement, which has been marked Exhibit C1? A. Yes.

Q. And do you know who requested or directed you to include in that the property known as the Kehoe property? A. Mr. Friedman.

Q. Was there any question about the Falstrom property between them? A. That I don't know.

Q. Was there ever any question about the railroad property that has been referred to? A. That was suggested when I sent for Mr. Slaff by Mr. Slaff.

Defendants' Witness, Harry Meyers, Direct

The Court: That is the Summer Street property?

Mr. Backes: Yes.

Q. Do you know whether there was any other controversy or controversies between them that they wanted to adjust? A. No.

10

Q. Were you acting as the attorney for either side up to that time? A. No. As I said before, I told Mr. Friedman that I couldn't act for him except so far as to put through the arbitration; that I would not care to act in any other capacity for them.

Q. Then at whose request did you prepare this arbitration agreement, at the request of Mr. Friedman or Mr. Slaff? A. Probably at the request—in fact, it was my suggestion. I wouldn't say of either of them.

20

Q. Acting under the instructions of either of them, or, as you say, at your own suggestion did you prepare the arbitration agreement? A. I prepared the arbitration agreement after listening to the stories on both sides.

Q. Did you talk with both of them as to what was best to be done to bring them together? A. Well, most of the conversation I had with Mr. Friedman.

30

By the Court:

Q. Did Mr. Slaff tell you about his being insulted and ordered out of the store by Mr. Friedman? A. Why, when I sent for Mr. Slaff he told me that he had been insulted, and it was very difficult to talk with him at all when I first sent for him.

Q. Did he say when that happened? A. There was no time mentioned.

40

*Defendants' Witness, Harry Meyers, Cross**CROSS-EXAMINATION by Mr. Weinberger:*

Q. Mr. Meyers, these papers were drawn and a copy given to Mr. Slaff at the time, which he produced here in court this morning? A. There were two copies drawn at the time.

10 Q. One went to Friedman and the other to Max Slaff? A. Yes.

Q. And you delivered a copy to each of the parties? A. As near as I can recall.

Q. Friedman made it clear to you, did he not, that he demanded two-thirds interest in the Kehoe property? A. Why, that I don't recall just exactly. I would have to look at the paper itself. (Witness examines a paper.) There is nothing in there that refers to any interest claimed. It says here, "That
20 whereas, a difference has arisen concerning the share of ownership in four certain tracts of land," and so forth.

Q. The whole contention was as to the amount of ownership in the Kehoe property, wasn't it? A. No. He claimed when he saw me he had bought certain properties with his uncle, and the uncle now refused to share with him in those properties.

30 Q. And in pursuance of that this arbitration paper was prepared by you? A. Yes, sir.

Q. And after being prepared, a copy was submitted to Mr. Slaff? A. Yes; but at that time there was nothing said about a two-thirds interest, or anything of that sort. He simply said that his uncle had bought certain properties and he claimed to be in partnership with his uncle in these properties.

40 Q. And you communicated that to Mr. Slaff and told him what the grievance was? A. I told him that his uncle had been in to see me and I thought it would

Defendants' Witness, Harry Meyers, Cross

be very foolish for them to litigate and go to tremendous expense when the thing could be settled between them by arbitration.

By the Court:

Q. Did Mr. Slaff say that his nephews had no interest in the Kehoe properties? A. Yes, he said in the Kehoe properties. 10

By Mr. Weinberger:

Q. Why, Mr. Meyers, didn't you tell me, when I spoke to you after I had gotten that arbitration agreement, that Mr. Slaff was willing to give him half?

Mr. Backes: Now—(counsel laughing).

Mr. Weinberger: Wait a minute; this is your witness. 20

A. Now, Mr. Weinberger, I never made that statement to you or anybody else.

Q. Do you recall having a conversation with me on the phone before I filed the bill in chancery? A. I had a conversation with you when you said you were going to start suit, and I said it was too bad that it couldn't be arbitrated.

Q. And didn't you at that time say that Mr. Max Slaff was willing to give half? A. No, I never made that statement. 30

Q. Did you say, Mr. Meyers, that you have not been the attorney for Mr. Max Slaff on previous occasions? A. I would like to explain that.

Q. No, I would like an answer to my question. A. I would have to say no, then, but that answer may be misleading.

Q. You never made searches in behalf of Mr. Slaff? A. I never considered that attorney work. 40

Defendants' Witness, Harry Meyers, Cross

Q. You do not? A. No. We have a company that does that work, of which I happen to be president.

Q. So you mean to say, Mr. Meyers, that you never received fees from Mr. Max Slaff for any work of any kind in the way of litigation or services as a professional man? A. Outside of search work, no; and I don't consider that the work of an attorney. I wouldn't consider myself his counsel or his attorney.

Q. I don't ask you that; I'm not asking you what you consider yourself. A. If doing search work is being a man's attorney, then I have been his attorney.

Q. Mr. Meyers, I ask you again—do you now say that you or any member of your firm have never accepted a retainer in any litigation from Max Slaff, or received fees for any services rendered in a professional capacity on behalf of Max Slaff?

Mr. Backes: Now, I object, unless it is shown that it was in this matter. It may have been; I don't know whether it is so or not; but let's assume that an attorney received a fee 10 years ago to carry on a litigation, would he still be the attorney of this party?

The Court: I don't know what the object of the inquiry is.

Mr. Weinberger: I won't press it. It was only a question of getting from Mr. Meyers his view as to whether or not he was his attorney.

The Court: The inquiry doesn't relate to the status of the parties at the time the agreement was drawn. Mr. Meyers says he has made searches, and the Court will certainly take cognizance of the fact when searches are

Defendants' Witness, Max Slaff, Cross

made they are usually turned over to a searcher and the lawyer has to pay somebody else for making the search very often.

Q. You acted as attorney in the purchase of the Kehoe property, didn't you? A. Well, I buy and sell a great deal of real estate and I don't consider that legal work at all. We have a number of real estate men in Passaic who are not attorneys. 10

Mr. Backes: It is possible that all the exhibits that have been referred to have not been marked. I think, however, all have been marked. That check was not marked, and that is the reason for my making the suggestion. 20

The Court: If counsel on either side discover that a paper has not been marked they can bring it to my attention. Does that close your case, Mr. Backes? 20

Mr. Backes: That is all.

Mr. Weinberger: May I have Mr. Max Slaff recalled for a question?

The Court: We will take our recess now until 2 o'clock. 30

Afternoon session.

MAX SLAFF, resuming the stand for further cross-examination, testified as follows:

Cross-examination by Mr. Weinberger continued:

Q. Have you produced here the check book for the months of April, May, June and July, 1919? A. Yes, sir. 40

Defendants' Witness, Max Slaff, Cross

Mr. Weinberger: I call for the production of the check book of April, 1919.

10 Q. While your attorneys are looking for the book, let me ask you: Did you receive any checks from Weinberger & Weinberger or A. & J. Friedman for the interest on the Kehoe property?

Mr. Backes: I object, if your Honor please, until it is proven that the checks were sent.

The Court: He is asking if he received them.

Mr. Backes: All right; let us specify what checks. I didn't know that there were any checks sent. Specify what checks, Mr. Weinberger, if any.

20 Q. Did you receive any checks from Weinberger & Weinberger or A. & J. Friedman for interest on account of the Kehoe property? A. I received one check after the papers were served on me, a month or so later.

Q. When were the papers served on you? A. In about April.

Q. What year? A. 1920.

30 Q. Have you got the check here and the letter? A. No, sir.

Q. Where is the check and the letter? A. I destroyed it.

Q. You destroyed the check? A. Yes.

Q. Why did you destroy the check? A. I was so mad then when the check came for the interest after waiting a year and half or two years, that after they served me with papers I threw them in the wastebasket.

40 Q. Have you got the letter? A. No, sir.

Defendants' Witness, Max Slaff, Cross

Q. Where is the letter? A. I don't know where it is.

Q. Did you destroy the letter, too? A. I suppose so.

Q. You were so mad when you read the letter that you destroyed it? A. Yes, sir.

Q. That is all you did about it? A. That is all. 10

Q. Did you ever get any check from A. & J. Friedman or Weinberger & Weinberger to pay the interest on account of the Kehoe property? A. No, sir.

Q. Never did? A. No, sir.

Q. I show you a letter, the original of which you say you destroyed, and ask you whether you received that letter dated April 14, 1920? A. I don't remember.

Q. Look at it, please. A. I looked at it. 20

Q. And read it and see whether you received it? A. I don't remember. I have read the letter and I don't remember.

Q. I ask you to take the letter in your hand and read it and tell the Court whether you received the original of that letter.

Mr. Backes: Now I object, if your Honor please, to asking the witness to read a carbon copy until it is proven that the original of which this purports to be a carbon, was sent to Max Slaff. 30

The Court: I understood him to say that he destroyed such a letter.

Mr. Backes: But whether it is this check or letter, there is no identification of it. And I make the further objection, that the letter is, as stated by counsel, a letter from Weinberger & Weinberger, the attorneys of the complain- 40

Defendants' Witness, Max Slaff, Cross

ants in this case, and evidently was prepared for the purpose of making evidence. It is a self-serving document.

10 The Court: I will take it for what it is worth. This suit was commenced on April 19th, and you say the letter was dated the 14th of April.

Q. Will you read the letter and tell us whether or not you received the original of that letter.

Mr. Backes: Just read it, Mr. Slaff, and see.

The Witness: I don't remember if it is home.

20 Mr. Weinberger: May I have it marked for identification. The witness has testified, if your Honor please, that he at no time ever received any intimation as to the demand of the complainants in this case.

The Court: And then he stated otherwise.

Mr. Weinberger: It is one of the things that will throw light on whether or not the witness is endeavoring to hide something from the Court.

30 Mr. Backes: I think that is unfair. The witness is here and speaks for himself.

Mr. Weinberger: He has.

Mr. Backes: He has undoubtedly spoken for himself, and it is through his evidence that this letter was not the letter of these complainants but of the attorney to strengthen his case. I don't see how it can bind this defendant at all, even if he had received it and destroyed it.

40 The Court: I don't admit it for the purpose which you indicate, but counsel says that he wishes to offer this letter to show that the defendant received notice of the claim before

Defendants' Witness, Max Slaff, Cross

the filing of the bill, and that has a very remote connection with this case. The defendant has testified both ways on that subject. He was in error at one time or the other. I will take it for what it is worth.

The letter is marked Exhibit C26 for identification.

10

The Court: What does the witness say in regard to this letter; does he identify it? My attention was distracted.

Mr. Backes: He says he doesn't recall it.

The Court: Then you cannot put the copy in until you prove it.

Mr. Weinberger: I have offered it for identification only.

20

Q. Mr. Slaff, I read from that letter and ask you whether or not—

Mr. Backes: I object to his reading from that letter until he connects it with whether this witness ever received it, or whether he received the original of which this is a copy and that the original was sent to him.

Mr. Weinberger: I withdraw the question.

Q. You say the letter that you received from Weinberger & Weinberger you destroyed and you do not recall the contents of it; is that correct? A. Yes.

30

Q. Let me read this part of the letter to refresh your recollection: "I am enclosing you herewith a check in the sum of \$250, being the amount of interest due from A. & J. Friedman on account of both parcels," etc. Do you recall that part of the letter? A. No, sir.

Q. Do you recall whose check it was? A. I don't remember.

40

Defendants' Witness, Max Slaff, Cross

Q. Do you recall this part of the letter: "In order that no complication may arise, and in order that our clients have their records straight, we have made this check out to Harry Meyers, and would request that you send a receipt to him the moment that you pay the interest." Does that refresh your recollection? A. No, sir; Counsellor, I told you I don't remember anything that was said in the letter or to whom that check was made.

Q. Does this refresh your recollection: "We are sorry there should be any trouble but think you are absolutely responsible and to blame." A. I don't remember that.

Q. You will not say that you did not get that letter, will you—the original of that letter? A. I got one letter and I don't know which; I can't recall.

Q. That was the letter in which there was enclosed a check? A. There was a check in it.

Q. Now, Mr. Slaff, I ask you for your check books. A. If you don't mind, Counsellor, what is the address of that letter that was sent to me—if you don't mind?

Q. Did you live at 315 Paulison Avenue April 14, 1920? A. I don't think I did.

Q. Didn't you? A. I don't think I did.

Q. Didn't you? A. I don't remember; I don't think I did.

Q. You may have lived there? A. I don't remember the number on Paulison Avenue. I did live on Paulison Avenue, but I moved from there; I sold the house.

Q. You got the check, didn't you? A. I got the letter and the check. I don't know where I got it—in which house.

Defendants' Witness, Max Slaff, Cross

Q. When did you move out of the house 315 Paulison Avenue? A. I don't remember.

Q. When did you move into the house at 315 Paulison Avenue?

Mr. Backes: Now, if your Honor please, we are not getting anywhere. 10

Mr. Weinberger: I am just merely trying to effect the credibility of the witness.

A. I think I moved in there sometime in January, or something like that.

Q. Of what year? A. 1919.

Q. And you moved out five months ago? A. I moved out what?

Q. How long ago? A. Moved out where?

Q. From 315 Paulison Avenue? A. I don't remember when I moved out. I didn't live very long in there; I sold the house. 20

Q. Mr. Slaff, you have produced a check book on the—in what bank did you deposit in 1919? Hobart Trust Company, was it? A. Yes.

Q. I call your attention to the stub of what purports to be your bank book, one side being the deposit side and the other side being the checks drawn, and ask you who made those entries in that book? 30
A. I don't know.

Q. Don't know? A. I don't know.

Q. Did your son or you write those? A. I didn't.

Q. You never wrote any of them? A. I didn't.

Q. Did not? A. No.

Q. I call your attention to an entry made there on April 14, 1919, of \$500, and ask you who wrote out that? A. I don't know.

Q. Who kept your books at that time? A. I think my son or somebody. 40

Defendants' Witness, Max Slaff, Cross

Q. Well, who did? A. I can't remember.

Q. Can't you look at the writing and tell us who wrote it? A. No, I can't say that.

Q. Who besides your son kept your books? A. Well, two of my sons.

10 Q. Anyone besides your two sons? A. No, I don't think anyone besides my two sons.

Q. I direct your attention—

Mr. Backes: It looks like Harry Meyers' handwriting. Can you tell that, Mr. Slaff?

Mr. Weinberger: I am examining this witness and I would like to be permitted to do so.

20 Q. I direct your attention to the deposit side and show you an entry on the balance side of April 18, of \$2,155.65— A. I don't know anything about it.

Q. You don't know anything about the moneys you had in the bank? A. No, sir.

Q. Don't know anything about who wrote that page? A. No.

Q. Don't know about the deposits which appear on that page? A. I did know at that time.

30 Q. Will you say that you didn't order someone to make entries on April 18 in your deposit account? A. I presume I did.

Q. Will you say that on about the 15th of April you didn't direct someone to make an entry of \$2,057.65? A. My son was taking care of that; he does it without direction, Counsellor, or with directions.

40 Q. Will you say that you didn't have a balance on the 14th of April or the 15th and 16th of April amounting to \$2,057? A. I would have to look it up.

Defendants' Witness, Max Slaff, Cross

Q. As per the statement in this book? A. I would have to look it up and see.

Q. Where? A. In this book here, and the bank book, and on the balance sheet over there.

Mr. Weinberger: May I have the balance sheet? 10

Mr. Backes: I don't know; what balance sheet?

Mr. Weinberger: Of April 14, 1919, which was offered this morning.

A. The balance was brought up before in something that you were asking me. It was brought up before and I have answered on that.

Q. Mr. Slaff, do you say that some of those entries are not in your handwriting? A. I will see (witness looks at book). 20

Q. What will you say? A. I will recognize my handwriting when I see it. I will say yes.

Q. You do some of that, don't you? A. Very little.

Q. Some of it? A. No, sir.

Q. Then what did you mean by "very little"? A. Maybe just make a few marks for myself where I can understand it for myself. 30

Q. I want you to write out, Mr. Slaff—let me have a pen and paper (addressing the sergeant at arms)?

Mr. Backes: I would like to object to the offer of this evidence. I cannot see the relevancy of it. The evident intent is to prove the balance this man had on hand.

Mr. Weinberger: Then we will stand by 40 the balance that is shown on the book there,

Defendants' Witness, Max Slaff, Cross

as of that date, no matter who made the entries.

The Court: That is his own check book?

Mr. Backes: That is his own check book, but whether he made the entries is another matter.

10 Mr. Weinberger: I submit, if your Honor please, that I have a right to show that this man himself wrote these entries, and that he kept a part of this book himself.

The Court: What bearing has that on the case?

Mr. Weinberger: He has stated that he did not read or write.

20 Mr. Backes: How is that material? There's the check book.

The Court: We are not trying to determine whether he is literate or illiterate, and he did say something about his inability to read and write, but he has read here before the Court, and it is evident that he can read.

Mr. Weinberger: May I offer this, your Honor?

30 The Court: Yes. What are the balances shown there?

Mr. Weinberger: The total is \$2,051.65.

40 Mr. Backes: Let us put the record in as it appears in this book. It says this: That sometime between April the third, which is the last date and April 14th, he had a balance of \$200.12. On April 14th he deposited \$602; on April 16th he deposited \$50; and on April 15th the deposit was \$2,010, making a total of \$2,882.12, from which is deducted

Defendants' Witness, Max Slaff, Cross

checks to the amount of \$810.47, leaving a balance of \$2,051.65 sometime after April the 16th.

The Court: When was that deposit of \$2,000 made?

Mr. Backes: The deposit of \$2,000 appears to have been made April 15th. 10

Mr. Weinberger: \$2,010.

Mr. Backes: Yes, \$2,010 according to this book.

The Witness: That was two checks, \$2,000 of Friedman Brothers, and another little check of \$10 that I had.

By Mr. Backes: 20

Q. What was the \$602? A. That was also one of the checks of Friedman Brothers—another check that I had.

Mr. Weinberger: I ask that this check book be marked.

The same is marked C27 for identification.

Q. Didn't you say the property you lived in in 1920 was 215 Paulison Avenue? 30

Mr. Backes: I object. He lived there; there is no question about it.

The Court: Proceed, gentlemen.

Mr. Weinberger: That is all.

Complainants' Witness, Abraham Friedman, Direct

Complainants' Rebuttal.

ABRAHAM FRIEDMAN, recalled on behalf of the complainants, in rebuttal, testified as follows:

Direct-examination by Mr. Weinberger:

10 Q. Mr. Friedman, were you in the property, 55
Lexington Avenue on the 17th of April, 1919? A.
No, sir.

Q. Where were you in business in April, 1919?
A. 263 Monroe Street.

Q. When did you first take possession of the prem-
ises 55 Lexington Avenue? A. Around the 30th.

Q. Of what? A. April.

20 Q. I show you a lease of the premises and ask
you if that is the lease for 55 Lexington Avenue?
A. Yes, sir.

Q. And did you have anything to do with the
property 55 Lexington Avenue up to the 30th of
April? A. No, sir.

Q. Who was in the premises up to the 30th of
April? A. Pool room.

Q. Whose pool room? A. Mr. McDonald.

30 Mr. Weinberger: I offer the lease in evi-
dence.

Mr. Backes: For what purpose. I object,
if your Honor please. What is the purpose?

The Court: The purpose is manifest. He
wants to contradict the testimony of Mr. Slaff.

Mr. Backes: Young Slaff—Maurice Slaff?

The Court: Yes.

40 Mr. Backes: I would like to examine him
before the paper is admitted.

Complainants' Witness, Abraham Friedman, Direct

By Mr. Backes:

Q. Weren't you in possession of this property before that? A. No.

Q. Weren't you there making repairs and alterations? A. No.

Q. Hadn't you taken possession before that, March 16th, two weeks before the lease was made? A. No.

Q. Didn't you have your desk and office there? A. No.

Q. Sure about that? A. Yes, sir.

Mr. Weinberger: I now offer the lease in evidence.

Admitted and marked Exhibit C28.

20

By Mr. Weinberger (direct-examination resumed):

Q. Mr. Friedman, did you ever have occasion to borrow any money from Mr. Max Slaff?

Mr. Backes: I object.

A. No.

Mr. Backes: There is no evidence, either on the direct or cross-examination, that there was ever any borrowing by Mr. Friedman. The borrowing was always done by Mr. Slaff.

30

Mr. Weinberger: Well, if you will concede that on the record I won't press the question. I thought he said they borrowed from each other.

The Court: There is no such testimony.

Mr. Weinberger: All right; I will withdraw it.

40

Complainants' Witness, Abraham Greenberg, Direct

Q. Did you ever have any rows or fights with Mr. Slaff, excepting concerning the Falstrom property which you have testified to when you put him out of the store? A. No fights.

Q. Mr. Friedman, how many checks for interest did you send to Mr. Slaff? A. Three.

10 Q. Have you your books here showing when they were sent? A. Yes, sir.

No cross-examination.

ABRAHAM GREENBERG, sworn on behalf of the complainants in rebuttal, testified as follows:

20 *Direct-examination by Mr. Weinberger:*

Mr. Backes: What is the purpose of this witness?

Mr. Weinberger: To ask him questions.

Mr. Backes: I know it, but I thought we might have the matter opened now. If it is only on the question of rebutting the cross-examination—

30 Mr. Weinberger: We are going to show the sending of the checks. It is only rebuttal, and I will abide strictly by the rule, if your Honor please, to rebut.

Mr. Backes: Now, if your Honor please, I want to make this objection—

The Court: There is nothing to which you can object, Mr. Backes.

40 Mr. Backes: I mean to the offer that has been made.

Complainants' Witness, Abraham Greenberg, Direct

The Court: No offer has been made. We have no question and no offer.

Q. Mr. Greenberg, were you employed by A. & J. Friedman as accountant? A. Yes, sir.

Q. And when did you start working for them? A. In 1918. 10

Q. Where was their place of business in 1918? A. 263 Monroe Street.

Q. When did they move into the premises 55 Lexington Ave.? A. May 1, 1919.

Q. And were you there at the premises 55 Lexington Ave.? A. Yes, sir.

Q. What did you do there? A. I was taking inventory and starting the new books.

Q. Who was in possession of those premises up to the last day of April? 20

The Court: What premises?

Mr. Weinberger: 55 Lexington Ave.

A. Eddie McDonald, the pool room man.

Q. Now, were you there after the 30th of April when they took possession? A. Yes, sir.

Q. That is, Friedman Brothers? A. Yes, sir.

Q. What did you do there? A. Took inventory and opened a new set of books. 30

Q. Where were the goods brought from that you were taking there? A. From Monroe Street.

Q. What number? A. 263 Monroe Street.

Q. You have complete records, have you not, of all of the transactions between Mr. Max Slaff and A. & J. Friedman? A. Yes, sir.

Q. Which have all of the loans made by the Friedmans to Slaff? A. Yes. 40

Complainants' Witness, Abraham Greenberg, Direct

Q. Now, can you tell us on what date it was that the Summer Street property, or the Post property, check was paid by Slaff to Friedman, the payment by Slaff back of commission? Refer to your book.

10 Mr. Backes: I will give better proof than that; I will hand him the check.

Mr. Weinberger: You haven't offered it. I want to get it in.

Mr. Backes: You haven't asked for it.

A. July 8, 1919.

Q. How much money was Mr. Slaff indebted to A. & J. Friedman at the time that the \$1,000 note was given to A. & J. Friedman, as they claim, in settlement of the interest on the property?

20 Mr. Backes: How is that in rebuttal, if your Honor please? I raise that objection. He is evidently trying to open his whole case. We say there was an open account; that we owed them a debt; we say that we never paid them the \$2,000, never gave them back the \$385; we admit there was an open account.

The Court: I will take it.

30 Mr. Backes: Subject to my objection?

The Court: Subject to your objection.

A. I can give it to you right now: Before the \$1,000 note was given Max Slaff had in his possession \$3,500 of A. & J. Friedman's money, which was on the books as a property account. He also owed them \$1,100 on a note—a separate loan of \$1,100, which was paid on June 27, 1919.

By Mr. Backes:

40 Q. What are you reading from? A. My statement. I can show you these on the records.

Complainants' Witness, Abraham Greenberg, Cross

By Mr. Weinberger:

Q. In June, 1919, Mr. Slaff paid that debt, did he?

Mr. Backes: Pardon me, "What did he do,"
I think is better.

Q. What did he do? Was that \$1,100 outstanding debt paid? A. Paid June 27, 1919. 10

Q. Was any part of the moneys which were advanced by Friedman as their share in the Kehoe property ever returned? A. \$500.

Q. And that was what? A. A check.

Q. In payment of what? A. To give back to Friedman the balance of the money not used in the property account.

Q. For which property? A. For all property, both the Kehoe properties and the Falstrom property. 20

Q. This \$500 was on account of which particular piece of property, however? A. The Falstrom property.

Q. Do your records disclose that? A. Yes.

CROSS-EXAMINATION by Mr. Backes:

Q. What do your records disclose about that \$500 payment? A. \$500 was returned by Mr. Max Slaff on June 7. 30

Q. And it is credited to what account? A. Credited to his property investment account.

Q. Show me where you keep a property investment account. Do you keep these books? A. These books are not kept by me. I was the accountant.

Q. Did you make any of these entries to which you have testified? A. No, sir. 40

Q. You don't know anything about the correctness of these books? A. They are correct.

Complainants' Witness, Abraham Greenberg, Re-direct

Q. How do you know? A. I have audited these books.

Q. Do you know anything as to the truth of the records from which you have been testifying? A. I have audited these books from the original books of entry—from the cash book and the check books.

10 Q. You made no original entries? A. I did not.

Q. Then you don't know as to the correctness of the original entries which you have transcribed in these books? A. These books are correct from the original books of entry. I did not make the entries myself.

Q. And therefore you don't know whether the transactions are correctly stated. A. I must take the records as they are written.

20 Q. You don't know that they were correctly written from which you have taken them? That is all. A. (No answer.)

RE-DIRECT EXAMINATION by Mr. Weinberger:

Q. Well, have you inspected the checks and all of the data upon which the records are based? A. I
30 have.

Mr. Backes: I object unless this witness can prove the original records. All this testimony he has given is incompetent and immaterial.

A. (Continuing.) Let me have the check books there.

By the Court:

40 Q. You said the original entries were not made by you; do you know who made them? A. Miss May

Complainants' Witness, Abraham Greenberg, Re-direct

Slaff, who testified here yesterday. Here is one of the entries made by her, and here is the other one (showing Mr. Backes book).

Q. When were you called in to audit these books?

A. I have been doing the work of A. & J. Friedman since 1918.

Q. That is to say, from time to time you audit their books? A. After they moved into their new headquarters. Previous to that I didn't do their work only every once a year, but when they moved into the new place I did the work every month. 10

Mr. Weinberger: I will offer them, if you have no objection, Mr. Backes.

Mr. Backes: I object to the offer of those books. 20

Mr. Weinberger: I submit that this accountant has had occasion to check and verify the account with the original books of entry, and the original books themselves are produced, each item is shown, and this would become a chain which, under our law would become admissible in evidence, especially where checked up and proven by a certified public accountant.

The Court: Are you arguing that a party who is in business and keeps books from which entries are made, may call in an accountant and have him write up a ledger or other book and then have his testimony received to prove the account? If he gets his data from the books which are laid before him he doesn't know anything about it. 30

Mr. Weinberger: I don't think I made my point clear in answering your Honor. 40

The Court: Mr. Weinberger, take one spe-

Complainants' Witness, Abraham Greenberg, Re-direct

cific instance by this gentleman and see in regard to that.

10 Mr. Weinberger: Here is Voucher No. 89, April 14, 1919, a note by Mr. Slaff who testified here yesterday is produced. The accountant says, "I have checked up all of the entries made and I find them correct."

The Court: What do you mean by "correct"?

Mr. Weinberger: That the figures are correct.

20 The Court: The accountant takes the figures of the bookkeeper and the bookkeeper has testified. You have the books, and the books are admissible for certain purposes; but I cannot see how an accountant who is brought in once a year to write up books can testify to anything. He can do this: He can make a statement from the books for the convenience of the Court and counsel, such as is very often done, and he says, "I have drawn off this statement from the books." That is used merely to save the time of the Court and counsel in going through the details and doing the figuring, and the paper which he produces is generally marked by the stenographer as an exhibit, but it is not of itself an instrument of evidence; it is a mere guide to aid the Court and counsel in looking through the books which are instruments of evidence. There is no suggestion of anything that this gentleman can testify to.

30
40 Mr. Weinberger: Of course, your Honor will appreciate that I haven't had him prepare such a statement from the books.

Complainants' Witness, Abraham Greenberg, Re-direct

The Court: That would be merely a guide for the Court and counsel. The other side would have an opportunity to go through the books and see that that abstract is fairly drawn off from the books.

Mr. Backes: Now, if your Honor please, what possible guide can an abstract taken off from these books be to the Court and counsel. The open account between them is there. We are not concerned about that. We say we do owe them a certain amount of money. 10

The Court: Mr. Weinberger, I cannot see what possible help this will be to the Court. We are dealing with certain very definite transactions, namely, three. We are dealing with the character of three checks given by the complainants to the defendant. This gentleman doesn't pretend to know anything at all about those transactions. 20

Mr. Weinberger: I won't press that any further. That is all, Mr. Greenberg. He is your witness.

Mr. Backes: I don't want him.

By the Court: 30

Q. Mr. Greenberg, did you have any conversation with Mr. Slaff about any of the transactions? A. No, sir.

Complainants' Witness, Gustav Kreger, Cross

GUSTAV KREGER, recalled on behalf of the complainants, in rebuttal, testified as follows:

Direct-examination by Mr. Weinberger:

Q. Mr. Kreger, when did you start to work for A. & J. Friedman? A. May 3, 1919.

10 Q. When did they move into the place 55 Lexington Avenue? A. They were moving as I was starting to work there.

Q. And that was when? A. May 3rd.

Q. What is the store you started to work in? A. 55 Lexington Avenue.

Q. Had you ever worked for them before that time? A. No, sir.

20 Q. Do you know what store they occupied in April, 1919? A. 263 Monroe Street.

CROSS-EXAMINATION by Mr. Backes:

Q. They had been moving when you went in their employ? A. No, sir; while I was there I saw things on the floor, and May 3rd they were moving.

Q. They had moved in? A. No, they had not moved in; they were moving.

30 Q. They were in the act of moving? A. Yes.

Q. How long was the moving taking place? A. A week or so after I was there.

Q. You don't know how long? A. No, I don't.

Complainants' Witness, Jacob Friedman, Cross

JACOB FRIEDMAN, recalled on behalf of the complainants, in rebuttal, testified as follows:

Direct-examination by Mr. Weinberger:

Q. Mr. Friedman, did you ever tell your uncle that you were willing to give up your two-thirds interest in the Kehoe property for any purpose? A. No. 10

Q. When did you move into 55 Lexington Avenue? A. May 3rd was the first day we started to move.

Q. Were you occupying the premises 55 Lexington Avenue on the 17th of April, or at any time up to the 30th of April, 1919? A. No, sir.

Q. Did you ever speak to Maurice Slaff, the attorney, at any time before August 19th, concerning that property in 55 Lexington Avenue? A. No. 20

Q. I believe Mr. Maurice Slaff is a brother of Mr. Charles Slaff, who is the attorney of record in this case? A. Yes, sir.

CROSS-EXAMINATION by Mr. Backes:

Q. Do you recall Mr. Maurice Slaff bringing you and handing you two agreements between Falstrom and your uncle and your uncle and yourselves? A. He didn't give it to me personally; it was handed to my brother, and my brother signed it and he left instructions that I should sign the papers, and I signed it, and then Mr. Maurice Slaff called for the paper which was left at the store. 30

Q. Do you know the time? A. Why, I signed in the afternoon.

Q. I mean about the date. A. About the month?

Q. Yes. A. That was signed in August.

Q. How long had it been lying in your store? A. Why, a couple of hours only. 40

Defendants' Witness, Maurice Slaff, Direct

Q. When did your brother sign it? A. He signed it in the morning and I signed it in the afternoon the same day.

Q. You are sure that paper wasn't delivered to you as early as April? A. No.

10 *RE-DIRECT EXAMINATION by Mr. Weinberger:*

Q. You mean, when you say "no" you are sure it wasn't? A. I am sure it wasn't.

Mr. Weinberger: We rest, if your Honor please.

20

MAURICE SLAFF, recalled on behalf of the defendants, in rebuttal, testified as follows:

Direct-examination by Mr. Backes:

Q. Do you recall when you delivered these two agreements that have been so often referred to this morning, to Mr. Friedman—whether they were in the act of moving their place of business or whether they
30 had actually entered into their new place of business?

Mr. Weinberger: I object to that, on the ground that this witness has been over that very thoroughly.

Mr. Backes: No, not on the question whether these people had taken possession.

The Court: I will allow it.

A. Yes, sir, I do remember it.

40

Defendants' Witness, Maurice Slaff, Cross

By the Court:

Q. Well, what is the fact, Mr. Slaff? A. The fact is that they were moving into that store during the entire month, or at least three weeks, from the early part of April until they took possession.

Q. How do you know? A. They were fixing up their place at that time; they were putting up shelves and getting their place in shape for business. 10

Q. How do you know that, from personal observation? A. I was in there and saw it.

Q. When were you in there? A. When I brought in those agreements, on the 17th, or 18th, or 19th, within a few days of that date.

Q. You think they had then moved in? A. They were in the place and were occupying the office, and they were putting up shelves and bringing in material into the cellar. 20

CROSS-EXAMINATION by Mr. Weinberger:

Q. You say the paper was brought in either the 18th or 19th? A. I say it was the 17th or a day or two after.

By the Court: 30

Q. Who were the parties that were moving in? A. A. & J. Friedman.

Q. Did you take these papers to the place they were leaving or the place they were moving into? A. The place they were moving into.

Q. And that was as early as the 19th or 20th of April? A. Yes, sir.

Q. And do you know who if any persons were moving into the place they vacated? A. No, sir. 40

Defendants' Witness, Maurice Slaff, Cross

Q. You didn't go and inspect those premises? A. No.

Q. Was anybody else in possession or occupying the premises that the Friedmans were moving into, except themselves? A. Yes, sir.

10 Q. Who? A. There was some pool tables in the back there.

Q. Was there any owner of the business there? A. No, Eddie McDonald was the owner of that pool room.

Q. Where is he now? A. I don't know.

Q. Have you seen him recently? A. No, sir.

Q. And did you know of the place being run as a pool room, with pool tables? A. I knew it, yes.

20 Q. Did you sometimes go there yourself? A. No, sir.

Q. Do you know of any patrons of the place? A. No, sir.

By Mr. Weinberger (cross-examination resumed):

Q. Mr. Slaff, it is important for you to understand that time is of the essence of what you have testified to, isn't it? A. Yes, sir.

30 Q. And knowing that fact do you still persist in saying that you went to 55 Lexington Avenue and found there at the same time both Abe Friedman and J. Friedman, and that at that time they both signed this agreement (referring to Exhibit C21)? A. That is not the fact.

40 Q. What is the fact? A. I found them both there and I left the agreement with them. I handed both agreements to Abe Friedman and Jacob Friedman was right at his side, and they did not sign them. The only man that had signed the agreements at that time was Max Slaff.

Defendants' Witness, Maurice Slaff, Cross

Q. You never personally saw them sign it? A. I certainly did.

Q. When? A. On August the 20th.

Q. And where did they sign it then? A. Right in their office.

Q. In your presence? A. Absolutely in my presence. 10

Q. Why did you acknowledge the contract on August 20th when it was in fact acknowledged on April 17th?

Mr. Backes: That is not rebuttal, if your Honor please.

A. I stated this morning and I still state it as a fact as it happened on the 20th. I was going by and Abe Friedman called me in— 20

Q. But why did you acknowledge the instrument at a date months later than you took the acknowledgment? A. Because on the 20th of August Abe and Jake Friedman signed that agreement, and I looked at the calendar and I signed as attorney-at-law for the purpose of the acknowledgment.

Q. Did you when you wrote out the acknowledgment insert the date in ink? A. I did.

Q. The same that you took the acknowledgment? 30

A. The very same pen that I took the acknowledgment of Abe Friedman and Jake Friedman and with the same ink, in their office.

By the Court:

Q. Did you take their acknowledgment also? A. No, sir.

Q. Did you write out the acknowledgment of Mr. Max Slaff in the presence of the Friedmans? A. All 40

Defendants' Witness, Maurice Slaff, Cross

that I had to do was to insert the date. It was typewritten on the back of it with a blank space for the date.

Q. Yes, but you signed the acknowledgment of Max Slaff on the paper? A. Yes, yes, yes.

10 Q. Did you sign that as attorney-at-law—I think it is (the Court looking at paper)? A. Yes, sir.

Q. In the presence of the Friedmans? A. Yes.

Q. Why didn't you take their acknowledgment also? A. Because on the back it was written in typewriting. I wrote everything in ink with the exception of "Max Slaff on August 20th," and he wrote that.

CASE CLOSED.

20 The arguments to be heard on Monday, January 3rd, 1922, at 11 o'clock, at the Chancery Chambers in Paterson, subject to contested and uncontested motions.

30

40

Exhibit C1.

FOURTH WARD TRUST COMPANY 55-134

Passaic, N. J., April 14, 1919

Pay to the
 order of Max Slaff \$500.00
 Five Hundred 00/100 _____ Dollars 10

Collectible through Collection department New York
 Clearing House.

No.

A. & J. FRIEDMAN
 by ABE FRIEDMAN

(Stamped on back): Paid April 15 1919 The
 Hobart Trust Co. Passaic, N. J.

(Perforated): Canceled 415 19 55 134.

20

30

40

Exhibit C2.

PEOPLES BANK & TRUST COMPANY

of the City of Passaic, N. J.

April 15, 1919 No. 2396

10 Pay to the
order of Max Slaff \$2,000.00/100
Two Thousand 00/100 _____ Dollars
Two Thousand Dollars
A. & J. FRIEDMAN
by J. FRIEDMAN

20 A. & J. FRIEDMAN
PLUMBING SUPPLIES
263 Monroe Street

(Endorsed): Falstrom property Max Slaff.
(Stamped on back): Paid Apr 16 1919 The Hobart
Trust Co. Passaic, N. J.

(Perforated): Paid 4 16 19.

30

40

Exhibit C3.

PEOPLES BANK & TRUST COMPANY 55-131

of the City of Passaic, N. J.

April 22nd 1919 No. 2406

Pay to the				
order of	Max Slaff	\$1,000.00/100		
One Thousand Dollars		Dollars		10
	A. & J. FRIEDMAN			
	by ABE FRIEDMAN			

A. & J. FRIEDMAN

PLUMBING SUPPLIES

263 Monroe Street

(Stamped on back) : Paid Apr 23 1919 The Hobart **20**
Trust Co. Passaic, N. J.

(Endorsed) : Kehoe Property Cr. Lots 302-300 Mon-
roe St. Max Slaff.

(Perforated) : Paid 4 23 19.

30

40

Exhibit C4.

Passaic, N. J. June 7 1919 No.

THE HOBART TRUST COMPANY 55-132

Pay to the
 order of A. & J. Friedman Co.
 Five Hundred 00/100 _____ Dollars
 10 MAX SLAFF
 \$500.00/100

(Stamped on back): Paid Jun 10 1919 Fourth Ward
 Trust Co., Passaic, N. J., S. D. Scudder, Vice Pres.
 & Treas.

(Stamped on back): For Deposit to the Credit of
 A. & J. Friedman.

20 (Perforated): Paid 6 10 19.

Exhibit C5.

\$900 00/100 Passaic, N. J. Sept. 8, 1919.

Four months after date I promise to pay to the order
 of A. & J. Friedman Co.

30 Nine Hundred 00/100 _____ Dollars
 at the FOURTH WARD TRUST COMPANY, Pas-
 saic, N. J.

Value received with interest.

MAX SLAFF

Protest is waived by the undersigned and by any en-
 dorser of this note, also all notice of demand or non-
 payment. If it is determined to protest this note,

40

Exhibit C6

then notice of such protest is likewise waived by all the obligators hereto.

No. 1572 Due June 8/1920.

(Written on face) : Paid Jan. 8, 1920 A. & J. Friedman Co. J. F. Int. 9. 18

10

(Endorsed on back) : A. & J. Friedman Co. by Abe Friedman.

Exhibit C6.

Passaic, N. J. Sept. 8, 1919 No.

THE HOBART TRUST COMPANY 55-132

20

Pay to the

order of A. & J. Friedman

One Hundred 00/100 _____ Dollars

MAX SLAFF

\$100.00/100

(Stamped on back) : For Deposit Account of A. & J. Friedman Co.

30

(Stamped on back) : Paid Sep 9 1919 Fourth Ward Trust Co., Passaic, N. J. S. D. Scudder, Vice Pres. & Treas.

(Perforated) : Paid 9 9 19.

40

Exhibit C7.

Passaic, N. J. Sept. 8, 1919 No.

THE HOBART TRUST COMPANY 55-132

Pay to the
 order of A. & J. Friedman
 Twenty 00/100 _____ Dollars
 10 MAX SLAFF
 \$20.00/100

(Stamped on back): For Deposit Account of A. & J.
 Friedman Co.

(Stamped on back): Paid Sep 9 1919 Fourth Ward
 Trust Co., Passaic, N. J. S. D. Scudder, Vice-Pres.
 & Treas.

20 (Perforated): Paid 9 9 19.

Exhibit C8.

Passaic, N. J. Jany. 8, 1920 No.

THE HOBART TRUST COMPANY 55-132

30 Pay to the
 order of A. & J. Friedman Co.
 Nine hundred & eighteen _____ Dollars
 MAX SLAFF
 \$918.

(Stamped on back): Paid Jan 10 1920 Fourth Ward
 Trust Co. Passaic, N. J. S. D. Scudder, Vice-Pres.
 & Treas.

40 (Stamped on back): For Deposit Account of A. & J.
 Friedman Co.

(Perforated): Paid 1 10 20.

Exhibit C9.

No. 116229.

Max Slaff

And

Abe Friedman, *et al*

Articles of Agreement. This Agreement made this Seventeenth day of April nineteen hundred and nineteen. 10

Between Max Slaff, of the City of Passaic, County of Passaic and State of New Jersey, of the first part;

And Abe Friedman, and Jacob Friedman, of City of Passaic, County of Passaic and State of New Jersey, of the second part;

Witnesseth, that in consideration of the sum of One dollar and other valuable consideration the said party of the first part does hereby convey to the said party of the second part a two-third interest in a certain agreement, made the seventeenth day of April, 1919, between Gustav W. Falstrom and Max Slaff, for the sale of a certain tract of ground at the corner of the southerly side of Monroe St. and the westerly side of Elm Street, Passaic, N. J. 20

It is further agreed that the said Abe Friedman and Jacob Friedman assume two-thirds of the obligations and liabilities expressed in the said agreement between Gustav W. Falstrom and Max Slaff. 30

In Witness Whereof, the said parties have hereunto set their hands and seals the day and year first above mentioned.

MAX SLAFF

ABRAHAM FRIEDMAN

JACOB FRIEDMAN

Signed, sealed and delivered 40

in the presence of

Maurice Slaff

Exhibit C9

State of New Jersey,
County of Passaic, ss:

10 Be it Remembered, that on this 20th day of August
nineteen hundred and nineteen, before me the sub-
scriber An Attorney at law of New Jersey, personally
appeared Max Slaff, who, I am satisfied is the grantor
in the within named agreement, and I having first
made known to him the contents thereof he did ac-
knowledge that he signed, sealed and delivered the
same as his voluntary act and deed for the uses there-
in mentioned.

MAURICE SLAFF
Attorney at Law of N. J.

20 Received for Record August 26th
A. D. 1919 at 2:13 P. M.
John R. Morris,
Register.

State of New Jersey,
Passaic County, ss:

30 I, John R. Morris, Register of Deeds and Mort-
gages in and for said County and State, do hereby
certify that the foregoing is a true copy of the record
of the Agreement made between Max Slaff and Abe
Friedman, *al.*, as the same is taken from and com-
pared with the original entry thereof, recorded in
Book Q-27 of Deeds, on page 416, for said County
and now remaining on record in my office.

40 IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed the official seal
of said County, at Paterson, this Twen-
tieth day of November, A. D., Nine-
teen hundred and twenty.

JOHN R. MORRIS
Register.

Fee: One dollar and fifteen cents.

155859
(Seal.)

Exhibit C10.

THIS DEED,

Made the Fifteenth day of April nineteen hundred and nineteen Between John H. Kehoe and Mary J. Kehoe, his wife, of the City of Passaic, in the County of Passaic, and State of New Jersey (hereinafter known as the grantors),

10

AND Max Slaff, of the City of Passaic, in the County of Passaic and State of New Jersey (hereinafter known as the grantee),

WITNESSETH, that in consideration of One Dollar, the said grantors do grant, bargain, sell and convey, unto the said grantee, his heirs and assigns, all that certain tract of land and premises situate in the City of Passaic, in the County of Passaic, and State of New Jersey.

20

Beginning at a point on the Southerly side of Monroe Street, distant forty-five and sixty-nine hundredths (45.69) feet Easterly from the corner formed by the intersection of the Southeasterly side of Monroe Street and the Easterly side of Lexington Avenue and running thence (1) Southerly at right angles to Monroe Street, eighty (80) feet; thence (2) Easterly and parallel with Monroe Street, twenty-five (25) feet; thence (3) Northerly and parallel with the first course, eighty (80) feet to the Southeasterly side of Monroe Street; and thence (4) Westerly along the same, twenty-five feet (25) feet to the point or place of beginning.

30

TO HAVE AND TO HOLD, all and singular the above described land and premises, with the appurtenances, unto the said grantee, his heirs and assigns forever:

And the said grantors covenant with the said grantee as follows:

40

Exhibit C10

(1) That they are lawfully seized of the said land.

(2) That they have the right to convey the said land to the grantee.

(3) That the grantee shall have quiet possession of the said land and that the same are free from all
10 incumbrances.

(4) That they will execute such further assurances of the said land as may be requisite.

(5) That they have done no act to encumber the said land.

(6) That they will warrant generally the property hereby conveyed.

20 IN WITNESS WHEREOF, the said grantors have hereunto set their hands and seals the day and year above written.

JOHN H. KEHOE

MARY J. KEHOE

Signed, Sealed and Delivered

in the presence of

Henry Meyers

30 (50-cent revenue stamp.)

State of New Jersey,
County of Passaic, ss:

Be it Remembered, That on this Fifteenth day of April, in the year of our Lord, One Thousand Nine Hundred and Nineteen before me, A Master in Chancery of New Jersey, personally appeared John H. Kehoe and Mary J. Kehoe, who I am satisfied are
40 the grantors in the within deed of Conveyance named;

Exhibit C10

and I, having first made known to them the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed, for the uses and purposes therein expressed: And the said Mary J. Kehoe, wife as aforesaid, being by me privately examined, separate and apart from her husband, did further acknowledge that she signed, sealed and delivered the same as her voluntary act and deed, Freely, without any fear, threats or compulsion of her said husband. 10

HENRY MEYERS
Master in Chancery of New Jersey.

Received in the Register's office of the County of Passaic N. J. on the 26th day of April A. D., 1919, at 9 o'clock in the forenoon, and recorded in Book M-27 of Deeds for said County, on pages 105 &c. 20

JOHN R. MORRIS
Register
Chg 133

105675
Compared
A. P.
M. W.

(Stamped): Received Registers office Apr 26 '19
Passaic County. 30

Exhibit C11.

THIS DEED,

Made the Fifteenth day of April nineteen hundred and nineteen Between John H. Kehoe and Mary J. Kehoe, his wife, of the City of Passaic, in the County of Passaic, and State of New Jersey (hereinafter known as the grantors),

10

AND Max Slaff, of the City of Passaic, in the County of Passaic and State of New Jersey (hereinafter known as the grantee),

WITNESSETH, that in consideration of One Dollar, the said grantors do grant, bargain, sell and convey, unto the said grantee, his heirs and assigns, all that certain tract of land and premises situate in the City of Passaic, in the County of Passaic and State of New Jersey.

20

Beginning at the corner formed by the intersection of the Northerly side of Monroe Street with the Westerly side of Elm Street and running thence (1) Westerly along the Northerly side of Monroe Street, fifty and seventy-three hundredths (50.73) feet; thence (2) Northerly and parallel with Elm Street, one hundred (100) feet; thence (3) Easterly and parallel with Monroe Street, fifty and seventy-three hundredths (50.73) feet to the Westerly side of Elm Street; and thence (4) Southerly and along the Westerly side of Elm Street, one hundred (100) feet to the point or place of beginning.

30

TO HAVE AND TO HOLD, all and singular the above described land and premises, with the appurtenances, unto the said grantee, his heirs and assigns forever:

And the said grantors covenant with the said grantee as follows:

40

Exhibit C11

(1) That they are lawfully seized of the said land.

(2) That they have the right to convey the said land to the grantee.

(3) That the grantee shall have quiet possession of said land and that the same are free from all incumbrances. 10

(4) That they will execute such further assurances of the said land as may be requisite.

(5) That they have done no act to encumber the said land.

(6) That they will warrant generally the property hereby conveyed.

IN WITNESS WHEREOF, the said grantors have hereunto set their hands and seals the day and year above written. 20

JOHN H. KEHOE L. S.
MARY J. KEHOE L. S.

Signed, Sealed and Delivered
in the presence of
Henry Meyers

(\$1 revenue stamp.) 30

State of New Jersey,
County of Passaic, ss:

Be it Remembered, That on this Fifteenth day of April, in the year of our Lord, One Thousand Nine Hundred and nineteen before me, the subscriber, A Master in Chancery of N. J. personally appeared John H. Kehoe and Mary J. Kehoe, his wife, who I am satisfied are the grantors in the within deed of Con- 40

Exhibit C11

veyance named; and I, having first made known to them the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed, for the uses and purposes therein expressed: And the said Mary J. Kehoe, wife as aforesaid, being by me privately examined, separate and apart from her husband, did further acknowledge that she signed, sealed and delivered the same as her voluntary act and deed, Freely, without any fear, threats or compulsion of her said husband.

HENRY MEYERS

Master in Chancery of New Jersey.

Received in the Register's office of the County of Passaic N. J. on the 26th day of April A. D., 1919, at 9 o'clock in the forenoon, and recorded in Book M-27 of Deeds for said County, on pages 106 &c.

JOHN R. MORRIS

Register

Chg 133

105677

Compared

A. P.

M. W.

30

(Stamped): Received Registers office Apr 26 '19
Passaic County.

40

Exhibit C12.

MILLER AND MEYERS
 Counsellors at Law
 Hobart Building
 Cor. Main and Howe Avenues
 Passaic, N. J.
 Albert O. Miller, Jr. Harry Meyers
 City Counsel 10

April 23, 1919.

Max Slaff, Esq.,
 to

Miller and Meyers.

To drawing 2 bonds mortgages, @ \$4.00 each,	\$8.	
To Rev. stamp on \$1,500 bond,	.75	
“ “ “ on \$4,000 bond,	2.	
To recording 2 mortgages @ \$1.75	3.50	20
To recording 2 deeds @ \$1.75	3.50	
	<hr/>	
	\$17.75	

Received payment,
 MILLER & MEYERS

30

40

Exhibit C13.

PEOPLES BANK & TRUST COMPANY 55-131

of the City of Passaic, N. J.

8/20 1919 No.

Pay to the
order of Falstrom \$120.00/100
10 One Hundred and Twenty 00/100 ——— Dollars
A & J FRIEDMAN CO
by J FRIEDMAN

J. Malcolm,
Passaic, N. J.

(Endorsed): Falstrom for Deposit Gus W Falstrom

(Perforated): 8 23 19

20

30

40

Exhibit C14.

FOURTH WARD TRUST COMPANY 55-134

PASSAIC, N. J.

Jan 12 1920

Pay to the

order of T. Frylinck \$316.07 10
 Three hundred and Sixteen 07/100————Dollars
 Collectible Through Collection Department
 New York Clearing House.

A & J FRIEDMAN
 by ABE FRIEDMAN

No.

Taxes

(Endorsed): Taxes for Foulstrom Property For 20
 Deposit in Peoples Bank & Trust Co. To the credit
 of The City of Passaic, Collector of Taxes. Tony
 Frylinck Peoples Bank & Trust Co. Paid Jan.
 14 1920 Passaic, N. J.

(Perforated): Cancelled 1 14 20 55 134

30

40

Exhibit C15.

No. 3411

FOURTH WARD 1919 PASSAIC, N. J.

TAX BILL

Taxes Due and Payable on or Before

10 1st Half—June 1, 1919
 2nd Half—Dec. 1, 1919

The Rate of Taxation is 252 Per 100

M Gustav W. Falstrom
 Street 303-297 Monroe
 Block 124 Lot 4

	Valuation of above Land,	\$11,375.
20	“ “ Building,	850.
	“ “ Personal Property
	<hr/>	
	Total	\$12,225.

Arrears for Last Two Years

Tax Sale of 1917.....

Tax Sale of 1918.....

30 For further arrearage apply at Tax Office, and make
 all checks payable to T. Frylinck, Collector.

Collector of Taxes.

Your Poll Tax is \$

“ State Tax is .26787)

“ County Tax is .39182)

“ City Tax is 1.75757)

“ State Road Tax .10

40 Removal of Snow,
 Repairs of Sidewalks,

	Total	<hr/>
		\$308.07
		<hr/>

Exhibit C15

Advise Change of Address

Collector's Office—City Hall
 Open from 9 A. M. to 4 P. M.
 Saturdays, 9 A. M. to 12 M.

First Half		Second Half		
Amount	154.04	Amount	154.03	10
Exemption		Exemption		
Penalty	6.74	Penalty	1.26	
Costs		Costs		
Total	<u>160.78</u>	Total	<u>155.29</u>	

Received Payment	Received Payment	
Jan 12 1920	Jan 12 1920	20
Tony Frylinck	Tony Frylinck	

Checks accepted if certified *Checks accepted if certified*

All return information must be accompanied by Self
 Addressed Stamped Envelopes

PRESERVE THIS BILL, NEW BILLS WILL NOT BE SENT
 OUT FOR SECOND HALF

(Stamped): This receipt is subject to payment of check. 30

(Written in red pencil): 31607

Exhibit C15.

PEOPLES BANK & TRUST COMPANY 55-131

OF THE CITY OF PASSAIC, N. J.

June 4 1920 No. 3275

Pay to the
 order of T. Frylinck (collector of taxes) \$192.74/100
 10 One Hundred Ninety Two 74/100———— Dollars
 A. & J. FRIEDMAN CO.
 by ABE FRIEDMAN

A. & J. Friedman Co.
 Jobbers, Plumbers & Mill Supplies
 55 Lexington Ave.

Taxes

20 (Endorsed): For Foulstrom Prop. Taxes. For De-
 posit in Passaic Nat'l Bank to the credit of The
 City of Passaic, Collector of Taxes. Tony Frylinck.
 Passaic National Bank Paid Passaic, N. J.

(Perforated): 55-131 6-9-20.

30

40

Exhibit C15

FOURTH WARD TRUST COMPANY 55-134

Passaic, N. J. Jan 18 1921

Pay to the
 order of T. Frylinck \$194 34/100
 One hundred and ninety four 34/100 Dollars 10
 Collectible through Collection Department New York
 Clearing House
 No. 4275

A. & J. FRIEDMAN CO.
 by ABE FRIEDMAN

A. & J. Friedman Co.
 Jobbers, Plumbers & Mill Supplies
 55 Lexington Ave.

(Endorsed): Taxes for Foulstrom Prop. Monroe St. 20
 City. For Deposit in Peoples Bank & Trust Co. to
 the credit of The City of Passaic, Collector of
 Taxes. Paid Jan 21 1921 Peoples Bank & Trust
 Co. Passaic, N. J. Tony Frylinck.

(Perforated): Cancelled 1-21-21 55-134. .

30

40

Exhibit C15

Folio 3441

Ward 4

Receipt for First Half of Tax

Receipt for Second Half of Tax

Please Read Your Bill

1920

10

Office Hours from 9 A. M. to 4 P. M.

Saturdays from 9 A. M. to 12 M.

OFFICE OF COLLECTOR OF TAXES, CITY HALL

20

CHECKS FOR PAYMENT OF TAXES SHOULD BE CERTIFIED, and made payable to the order of T. FRYLINCK, Collector of Taxes. Taxes may be paid in two installments, the first half is due JUNE 1st, the second half is due DECEMBER 1st. A penalty of 7% per annum will be added if taxes are not paid when due. If a receipt or other information is desired by mail, enclose stamped envelope, addressed. Always give block and lot number (not house number) when requesting information regarding property.

M Gustav W. Falstrom
297-303 Monroe St.

30

Location of Property

To CITY OF PASSAIC, N. J., Dr.

State Tax	.24592
County Tax	.37362
City Tax	2.43046
<i>State Road Tax</i>	<i>.10</i>

40

 Rate 3.15000

Exhibit C15

Block Lot	Valuation of Land Building	Whole Amount of Tax	First Half of Tax	Second Half of Tax
124 4	11375 850	385.09	192.55	192.54

Deduction				10
Penalty			.11	1.80
Total			192.66	194.34
Paid by				
Balance				

Preserve this bill and bring it with you for both first and second payment.

If lost a new bill will not be furnished.

When specifying property please mention Lot and Block numbers and street, on which same is located.

If the word Arrears appears after the Years 1918 or 1919, you owe either Taxes or Assessments or both for that year.

1918

1919

For further arrears apply at tax office.

(Stamped): This receipt is subject to payment of check. 30

(Perforated): PAID 6-4-20 Passaic, N. J. 2. PAID 1-18-21 Passaic, N. J. 2.

Exhibit C16.

PEOPLES BANK & TRUST COMPANY 55-131
OF THE CITY OF PASSAIC, N. J.

June 27 1921 No. 5011 1/2

Pay to the
order of T. Frylinck (Coll. of Taxes) \$230 15/100
10 Two Hundred and Thirty 15/100 _____ Dollars
A. & J. FRIEDMAN CO.
by ABE FRIEDMAN

A. & J. Friedman Co.
Jobbers, Plumbers & Mill Supplies
55 Lexington Ave.

(Endorsed): For Falstrom Prop. Monroe St. and
20 Ellerman. For Deposit in Passaic Nat'l Bank, to
the credit of The City of Passaic, Collector of
Taxes Tony Frylinck. Passaic National Bank
Paid Jun 28 1921 Passaic, N. J.

(Perforated): PAID 6-29-21.

30

40

Exhibit C16

First Half
Folio 3651

Second Half
Ward 4

Folio 3651 Second Half Ward 4
1921

1921

Office Hours from 9 A. M. to 4 P. M.
Saturdays from 9 A. M. to 12 M.

OFFICE OF COLLECTOR OF TAXES, CITY HALL

CHECKS FOR PAYMENT OF TAXES SHOULD BE CERTIFIED, and made payable to the order of T. FRYLINCK, Collector of Taxes. Taxes may be paid in two installments, the first half is due JUNE 1st, the second half is due DECEMBER 1st. A penalty of 7 per cent per annum will be added if taxes are not paid when due. If a receipt or other information is desired by mail, enclose stamped envelope, addressed.

M Gustav W. Falstrom
297-303 Monroe St.

M G. W. Falstrom
Monroe

Location of Property

Location of Property

CITY OF PASSAIC, N. J.

County Tax	.41
State Tax	.25
City Tax	2.60
State Soldiers' Bonus Tax	.03
State Bridges and Tunnels	.01
State Road Tax	.10

Rate 3.40

10

20

30

40

Exhibit C16

Block	Lot	Valuation of Land	Valuation of Building	Whole Amount of Tax	First Half of Tax	Second Half of Tax	Block	Lot	Second Half of Tax
124	4	12450	1000	457.30	228.65	228.65	124	4	228.65

10 Deduction

Penalty 1.50
 Total 230.15
 Paid by
 Balance

Balance
DeductionPenalty
Total
Check
or
Cash

PLEASE READ YOUR BILL CAREFULLY

20 Preserve this bill and bring it with you for both first and second payment.

Specify property by Lot and Block numbers and street, on which same is located.

If the word Arrears appears after the Years 1919 or 1920, you owe either Taxes or Assessments or both for that year.

1919

1920

For further arrears apply at tax office.

30

(Stamped): This receipt is subject to payment of check.

(Stamped): Date Rec'd May 8 1921 Ext'n O. K.
Prices O. K. Ent'd P. Cash

(Perforated): PAID 6-28-21. Passaic, N. J. 1.

40

Exhibit C17.

PEOPLES BANK & TRUST COMPANY 55-131

OF THE CITY OF PASSAIC, N. J.

Dec. 2, 1919 No. 2805

Pay to the
 order of T. Frylinck Collector of Taxes \$202 66/100
 Two hundred and two 66/100 Dollars 10
 A. & J. FRIEDMAN
 by ABE FRIEDMAN

A. & J. Friedman & Co.
 Jobbers, Plumbers & Mill Supplies
 55 Lexington Ave.

(Endorsed): Kebos Property For Deposit in Passaic
 Nat'l Bank, to the credit of The City of Passaic, 20
 Collector of Taxes Tony Frylinck. Paid Passaic
 National Bank, Passaic, N. J.

(Perforated): PAID.

30

40

Exhibit C17

No. 3381

FOURTH WARD 1919 PASSAIC, N. J.

TAX BILL

10 Taxes Due and Payable on or Before
 1st Half—June 1, 1919
 2nd Half—Dec. 1, 1919

The Rate of Taxation is 252 Per 100

M John H. Kehoe
 Street 302-300 Monroe
 Block 121 Lot 6

20	Valuation of above Land	\$5625.
	“ “ Building,	\$
	“ “ Personal Property,	\$

Total

Arrears for Last Two Years

Tax Sale of 1917.....

Tax Sale of 1918.....

30 For further arrearage apply at Tax Office, and make
 all checks payable to T. Frylinck, Collector.
 Collector of Taxes.

Your Poll Tax is	\$
“ State Tax is (.26787)	
“ County Tax is (.39182)	
“ City Tax is (1.75757)	
“ State Road Tax .10	

40 Removal of Snow,
 Repairs of Sidewalks,

Total,	<u>\$141.75</u>
--------	-----------------

Exhibit C17

Collector's Office—City Hall
 Open from 9 A. M. to 4 P. M.
 Saturdays, 9 A. M. to 12 M.

Advise Change of Address

First Half		Second Half		
Amount	70.88	Amount	70.87	10
Exemption		Exemption		
Penalty	2.54	Penalty	1	
Costs		Costs		
	<hr/>		<hr/>	
Total	73.42	Total	70.88	

Received Payment	Received Payment	
Dec 2 1919	Dec 2 1919	
Tony Frylinck	Tony Frylinck	20
Per F	Per F	

Checks accepted if certified Checks accepted if certified

All return information must be accompanied by Self
 Addressed Stamped Envelopes

PRESERVE THIS BILL, NEW BILLS WILL NOT BE SENT
 OUT FOR SECOND HALF

(Stamped): This receipt is subject to payment of
 check.

30

40

Exhibit C17

No. 3410

FOURTH WARD

1919

PASSAIC, N. J.

TAX BILL

10 Taxes Due and Payable on or Before

1st Half—June 1, 1919

2nd Half—Dec. 1, 1919

The Rate of Taxation is 252 Per 100

M John H. Kehoe

Street 305 Monroe

Block 124 Lot 3

20	Valuation of above Land,	\$2,275
	“ “ Building	\$
	“ “ Personal Property,	\$
	Total	

Arrears for Last Two Years

Tax Sale of 1917.....

Tax Sale of 1918.....

30 For further arrearage apply at Tax Office, and make
all checks payable to T. Frylinck, Collector.

Collector of Taxes.

Your Poll Tax is	\$
“ State Tax is .26787)	
“ County Tax is .39182)	
“ City Tax is 1.75757)	
“ State Road Tax .10	

40 Removal of Snow,
Repairs of Sidewalks,

Total	<u>\$57.33</u>
-------	----------------

Exhibit C17

Advise Change of Address

Collector's Office—City Hall
 Open from 9 A. M. to 4 P. M.
 Saturdays, 9 A. M. to 12 M.

	First Half		Second Half	
Amount	28.67	Amount	28.66	10
Exemption		Exemption		
Penalty	1.03	Penalty		
Costs		Costs		
	<hr/>		<hr/>	
Total	29.70	Total		

Received Payment	Received Payment	
Dec 2 1919	Dec 2 1919	20
Tony Frylinck	Tony Frylinck	
Per F	Per F	

Checks accepted if certified Checks accepted if certified

All return information must be accompanied by Self
 Addressed Stamped Envelopes

PRESERVE THIS BILL, NEW BILLS WILL NOT BE SENT
 OUT FOR SECOND HALF

(Stamped): This receipt is subject to payment of
 check. 30

Exhibit C18.

55-134

FOURTH WARD TRUST COMPANY

Passaic, N. J. 6/5 1920

Pay to the
order of T. Frylinck \$124 56/100
10 One Hundred Twenty-four Dollars Fifty-six Cents
Only _____ Dollars

A. & J. FRIEDMAN CO.

by ABE FRIEDMAN.

Collectible through Collection Department
New York Clearing House
No. 3508

20 A. & J. FRIEDMAN CO.
JOBBER IN PLUMBERS SUPPLIES
55 Lexington Ave.
Taxes

(Endorsed): Taxes for Monroe St. prop., City
Block 124, lot 3 Block 121, lot 6. Purchased
from John Kehoe Abe Friedman & Jacob Fried-
man and Max Slaff For deposit in Passaic Nat'l
30 Bank, to the credit of the City of Passaic, Col-
lector of Taxes Tony Frylinck Passaic National
Bank Paid Passaic, N. J.

(Perforated): Canceled 6 9 20 55-134.

40

To
Block
121
Dedu

Exhibit C18

Penalty	.10
Total	88.70
Paid by	
Balance	

121	6	88.59
Balance		
Deduction		
Penalty		
Total		
Check or Cash		

10 Preserve this bill and bring it with you for both first and second payment.

If lost a new bill will not be furnished.

When specifying property please mention lot and block numbers and street, on which same is located.

If the word Arrears appears after the years 1918 or 1919, you owe either Taxes or Assessments or both for that year.

1918

20 1919

For further arrears apply at tax office.

(Perforated): Paid 6 7 20 Passaic N. J. 1.

30

40

Exhibit C18

Receipt for First
Half of Tax
Folio 3440
1920

Receipt for Second
Half of Tax
Ward 4

Folio 3440
Second Half 1920
Ward 4

Please Read Your Bill

Office Hours from 9 A. M. to 4 P. M.
Saturdays from 9 A. M. to 12 M.

10

OFFICE OF COLLECTOR OF TAXES, CITY HALL

CHECKS FOR PAYMENT OF TAXES SHOULD BE CERTIFIED, and made payable to the order of T. FRYLINCK, Collector of Taxes. Taxes may be paid in two installments, the first half is due JUNE 1st, the second half is due DECEMBER 1st. A penalty of 7% per annum will be added if taxes are not paid when due. If a receipt or other information is desired by mail, enclose stamped envelope, addressed. Always give block and lot number (not house number) when requesting information regarding property.

20

M Max Slaff
305 Monroe St.
Location of Property

M M. Slaff
Monroe
Location of Property 30

State Tax	.24592
County Tax	.37362
City Tax	2.43046
State Road Tax	.10

Rate 3.15000

To CITY OF PASSAIC, N. J., DR.

Block Lot	Valuation of Land Building	Whole Amount of Tax	First Half of Tax	Second Half of Tax
124 3	2275	71.66	35.83	35.83

Block Lot
124 3
Second Half of Tax 35.83
Balance Deduction 40

Exhibit C18

Deduction

Penalty	4
Total	35.87
Paid by	
Balance	

Penalty
Total
Check or Cash

10

Preserve this bill and bring it with you for both first and second payment.

If lost a new bill will not be furnished.

When specifying property please mention lot and block numbers and street, on which same is located.

If the word Arrears appears after the years 1918 or 1919, you owe either Taxes or Assessments or both for that year.

20

1918

1919

For further arrears apply at tax office.

(Perforated): Paid 6 7 20 Passaic N J 1.

30

40

Exhibit C20 for Identification.

Passaic, N. J. July 8th 1919 No. 140

55-132

THE HOBART TRUST COMPANY

Pay to the order of Max Slaff
Three hundred Seventy-five and no/100—Dollars
\$375 no/100 JOHN POST 10

(Endorsed): Max Slaff For deposit account of A.
& J. Friedman Paid Jul 9 1919 Fourth Ward
Trust Co., Passaic, N. J. S. D. Scudder, Vice Prest.
& Treas.

(Perforated): Paid 7 9 19.

20

30

40

Exhibit C21.

GUSTAV W. FALSTROM	Agreement for Sale. Dated April 17, 1919
to	Ack. " " "
MAX SLAFF.	Rec. August 26, 1919 Book Q-27, page 414 Cons. \$22,000.

10

Premises in the City of Passaic, in the County of Passaic and State of New Jersey, particularly described as follows:

Beginning at point formed by the intersection of the southerly line of Monroe Street and the westerly line of Elm Street and running thence (1) southerly and along said westerly side of Elm Street 120.30 feet to line of lands of adjoining owner; thence (2) 20 westerly and along land of adjoining owner 100 feet; to lands of another adjoining owner; thence (3) northerly and along land of adjoining owner and parallel with Elm Street 120.94 feet to said southerly side of Monroe Street; thence (4) easterly and along same one hundred feet to point or place of beginning.

Purchase price \$22,000. Payable as follows:
Deposit, \$1500.

30

Acknowledged before Walter C. Kip, M. C. C.

"Interest at the rate of 6% on the balance of \$29,500 is to be paid by party of the second part to party of the first part each and every six months from the after the date hereof. But said balance shall be fully and satisfied within 5 years from the date hereof.

40

"Said party of the second part upon paying to said party of the first part the sum of \$6,000 shall be entitled to a deed from a plot of ground not exceeding

Exhibit C21

25 feet side both front and rear (fronting on Monroe St.) to the full depth and he shall also be entitled for deeds for the remaining portion of property upon paying the same amount for a like portion of said land.

“Said party of the second part is also to pay any and all taxes or assessments hereafter assessed against said premises and one-half of expense of drawing any deeds or other papers in connection with the purchase of the said premises. 10

“Whereas there are now standing on premises intended to be conveyed a storage house on the rear southerly corner an oil station on the northerly corner fronting on Monroe Station which said two buildings are owned by the Falstrom Tornqvist Company who is paying a monthly rental for the same.” 20

It is understood that the rent for said two buildings shall be collected by said party of the second part and paid to said party of the first part every three months from and after date hereof and money so paid from such rent shall be applied by party of the first part on account of balance of principal sum due him. It is also understood that said Falstrom Tornqvist Company shall be allowed to have said storage house remain where it is now located for the term of 3 yrs. from and after the date hereof upon payment of the rent of \$20 per month. 30

It is further understood and agreed that said Falstrom-Tornqvist Company shall have the full use of a strip of ground the width of the storage house above mentioned from said storage house to Elm Street for the term of 3 years above mentioned.

And it is further agreed by the parties to these presents that said party of the second part, his heirs 40

Exhibit C21

and assigns, may enter into and upon said lands and premises on first of May next ensuing the date hereof and from thence take the rents, issues and profits to his and their use as hereinbefore mentioned.

10 And it is further agreed by the parties hereto that said deed or deeds and payments shall be delivered and received at the office of the Falstrom Tornqvist Company, 295 Monroe Street in said City of Passaic, between the hours of ten in the forenoon and four o'clock in the afternoon on said day hereinbefore mentioned.

20 And it is further understood and agreed that in case said party of the second part shall for the space of thirty days neglect to make any of the payments hereinbefore mentioned then any and all money paid on account of the purchase of the premises hereinbefore mentioned shall be forfeited and the money so paid shall be considered as rent paid for said premises, and said party of the second part may be dispossessed from said premises the same as tenants are dispossessed for nonpayment of rent.

30

40

Exhibit C22.

(DUPLICATE)

Receipt for First
Half of TaxReceipt for Second
Half of Tax

1920

Folio 3415

Ward

10

Please Read Your Bill

Office Hours from 9 A. M. to 4 P. M.

Saturdays from 9 A. M. to 12 M.

OFFICE OF COLLECTOR OF TAXES, CITY HALL

CHECKS FOR PAYMENT OF TAXES SHOULD BE CERTIFIED, and made payable to the order of T. FRYLINCK, Collector of Taxes. Taxes may be paid in two installments, the first half is due JUNE 1st, the second half is due DECEMBER 1st. A penalty of 7% per annum will be added if taxes are not paid when due. If a receipt or other information is desired by mail, enclose stamped envelope, addressed. Always give block and lot number (not house number) when requesting information regarding property.

20

M. M. Slaff

30

305 Monroe St.

Location of Property

State Tax .24592

County Tax .37362

City Tax 2.43046

State Road Tax .10Rate 3.15000

40

Exhibit C22

To CITY OF PASSAIC, N. J., DR.

			Whole	First	Second
	Valuation of		Amount	Half	Half
	Flock Lot	Land Building	of Tax	of Tax	of Tax
	121	6 5625	177.19	88.60	88.59
10				.10	
				<hr/>	
		<i>Pd. June 7-1920</i>		88.70	
	Deduction				
	Penalty				5.53
	Total				94.12
	Paid by	<i>Dec. 2 1919</i>			
	Balance	<i>Entire pd.</i>			

20 DUPLICATE

Preserve this bill and bring it with you for both first and second payment.

If lost a new bill will not be furnished.

When specifying property please mention lot numbers and street, on which same is located.

30 If the word Arrears appears after the years 1918 or 1919, you owe either Taxes or Assessments or both for that year.

1918

1919

For further arrears apply at tax office.

(Stamped on exhibit): This receipt is subject to payment of check.

(Perforated): Paid 7 25 21 Passaic N J.

40

NOTE: Italics appear on exhibit in pencil writing and red ink.

Exhibit C22

(DUPLICATE)

Receipt for First
Half of TaxReceipt for Second
Half of Tax

Folio 3440

Ward 4

1920

10

Please Read Your Bill

Office Hours from 9 A. M. to 4 P. M.

Saturdays from 9 A. M. to 12 M.

OFFICE OF COLLECTOR OF TAXES, CITY HALL

CHECKS FOR PAYMENT OF TAXES SHOULD BE CERTIFIED, and made payable to the order of T. FRYLINCK, Collector of Taxes. Taxes may be paid in two installments, the first half is due JUNE 1st, the second half is due DECEMBER 1st. A penalty of 7% per annum will be added if taxes are not paid when due. If a receipt or other information is desired by mail, enclose stamped envelope, addressed. Always give block and lot number (not house number) when requesting information regarding property.

20

M Max Slaff

30

17 Monroe St.

Location of Property

State Tax .24592

County Tax .37362

City Tax 2.43046

State Road Tax .10Rate

 3.15000

40

Exhibit C22

TO CITY OF PASSAIC, N. J., DR.

	Valuation of Block Lot Land Building	Whole Amount of Tax	First Half of Tax	Second Half of Tax
10	124 3 2275	71.66	35.83	35.83
			.04	
			<hr/>	
		<i>Pd. June 7-20</i>	35.87	
	Deduction			
	Fenalty			3.14
	Total			38.97
	Paid by	<i>Dec. 2 1919</i>		
	Balance	<i>Entire tax pd.</i>		

20 Preserve this bill and bring it with you for both first and second payment.

If lost a new bill will not be furnished.

When specifying property please mention lot and block numbers and street, on which same is located.

If the word Arrears appears after the years 1918 or 1919, you owe either Taxes or Assessment or both for that year.

1918

30 1919

For further arrears apply at tax office.

(Stamped on exhibit): This receipt is subject to payment of Check.

(Perforated): Paid 7 25 21 Passaic N. J.

40 NOTE: Italics appear on exhibit in pencil writing and red ink.

Exhibit C22

(DUPLICATE)

First Half

Folio

3650

Second Half

Ward

4

1921

10

Office Hours from 9 A. M. to 4 P. M.

Saturdays from 9 A. M. to 12 M.

OFFICE OF COLLECTOR OF TAXES, CITY HALL

CHECKS FOR PAYMENT OF TAXES SHOULD BE CERTIFIED, and made payable to the order of T. FRYLINCK, Collector of Taxes. Taxes may be paid in two installments, the first half is due JUNE 1st, the second half is due DECEMBER 1st. A penalty of 7 per cent per annum will be added if taxes are not paid when due. If a receipt or other information is desired by mail, enclose stamped envelope, addressed.

20

M Max Slaff

305 Monroe

Location of Property

County Tax .41

State Tax .25

City Tax 2.60

State Soldiers' Bonus Tax .03*State Bridges and Tunnels* .01*State Road Tax* .10

 Rate 3.40

40

Exhibit C22

CITY OF PASSAIC, N. J.

			Whole	First	Second
Block Lot	Valuation of	Amount	Half	Half	Half
	Land Building	of Tax	of Tax	of Tax	of Tax
124 3	2500	85.00	42.50	42.50	
10	Deduction				
	Penalty	Paid May 12 1921	42.50	42.50	
	Total				
	Paid By Balance		Annd		

Please Read Your Bill Carefully

Preserve this bill and bring it with you for both first and second payment.

20 Specify property by lot and block numbers and street, on which same is located.

If the word Arrears appears after the years 1919 or 1920, you owe either Taxes or Assessments or both for that year.

1919

1920

For further arrears apply at tax office.

30

40

Exhibit C23

Passaic, N. J. Apr. 23 1919 No.

55-132

THE HOBART TRUST COMPANY

Pay to the order of Miller & Meyers
Seventeen and 75/100 _____ Dollars
MAX SLAFF

10

\$17 75/100

(Endorsed): Miller & Meyers.
(Perforated): Paid 4 25 19.
(Stamped on face): Cash.

Exhibit C23.

20

Passaic, N. J. May 12 1921 No.

55-132

THE HOBART TRUST COMPANY

Pay to the order of T. Frylinck
Eighty-five 00/100 _____ Dollars
MAX SLAFF

30

\$85 00/100

(Endorsed): For deposit in Passaic Trust & Safe
Deposit Co., to the credit of The City of Passaic,
Collector of Taxes, Tony Frylinck.
(Stamped): The Passaic Trust and Safe Deposit
Company Paid May 14 1921 Passaic, N. J.
(Perforated): Paid 5 14 21.

40

Exhibit C24.

Max Slaff

In Account with

THE HOBART TRUST COMPANY

PASSAIC, N. J.

10

Statement of Account Ending April 14, 1919

Vouchers Returned 28 + 135 = 163

If no Errors are Reported within Ten Days
the Account will be considered correct.

	Date	Checks	Date Checks	Date Checks	Date	Deposits
	1 Feb. 7 19	21.12	Balance Brought Forward		Feb. 6 19	659.70
	2 Feb. 8 19	550.00			Feb. 7 19	95.00
	3 Feb. 11 19	18.50			Feb. 8 19	328.00
20	4 Feb. 15 19	10.00			Feb. 10 19	42.00
	5 Feb. 21 19	30.00			Feb. 19 19	200.00
	6 Feb. 24 19	25.00			Feb. 24 19	50.00
	7				Feb. 27 19	35.00
	8 Feb. 25 19	24.20			Mar. 3 19	380.00
	9 Feb. 28 19	4.67			Mar. 4 19	500.00
10					Mar. 5 19	148.00
	11 Mar. 1 19	20.00			Mar. 8 19	1,477.50
	12 Mar. 4 19	120.00			Mar. 18 19	250.00
30	13				Apr. 2 19	300.00
	14 Mar. 5 19	5.00			Apr. 3 19	135.00
	15 Mar. 6 19	15.00			Apr. 5 19	1,100.00
	16 Mar. 11 19	35.00			Apr. 8 19	127.00
	17 Mar. 11 19	15.00			Apr. 14 19	602.00
	18					
	19 Mar. 15 19	500.00				
	20 Mar. 14 19	1,721.40				
	21 Mar. 15 19	20.00				
40	22 Mar. 15 19	14.29				

Exhibit C25.

Passaic, N. J. Apr. 14 1919 No.

THE HOBART TRUST COMPANY 55-132

10 Pay to the
order of Harry Meyers
Five Hundred 00/100 _____ Dollars
MAX SLAFF
\$500.00/100

(Endorsed on back): Pay to order of John H. Kehoe
Harry Meyers John H. Kehoe.

(Perforated): Paid 4 23 19.

20

Exhibit C26 for Identification.

April 14, 1920.

Max Slaff, Esq.,
315 Paulison Ave.,
Passaic, N. J.

Dear Sir:

30

I am enclosing you herewith a check in the sum of \$250. being the amount of interest due by A. & J. Friedman on account of both parcels of land to which you took title without their authority they being under the impression that the deed was made out in their names.

40

In order that no confusion arise and in order that out clients have their records straight, we have made this check out to Harry Meyers and would request that you send a receipt to them the moment that you pay the interest.

Exhibit C27

We are sorry that there should be any trouble but think that you are absolutely responsible and to blame.

Very truly yours,

HHW/SS Encl.

10

Exhibit C27 for Identification.

MEMO.

REPORTS

Bal forward	200.12	
Apr. 14	602.	
“ 16	50.	
“ 15	2010.	

20

 2862.12

Less Check	810.47
------------	--------

Bal forward	2051.65
-------------	---------

Checks drawn

Apr. 4/19	D. Darmstatter	100.	
“ 14/19	Miller & Meyer	500.	30
“ 15	Water Co	175.60	
	Gas Co	14.87	
		<hr/>	
		810.47	

Friedman vs. Slaff. This is a copy from check book made by me.

PETER BACKES.

40

Exhibit C28.

LEASE

FROM

Algernon S. Norton and Charles Rowland

TO

Abraham Friedman and Jacob Friedman

10 FROM May 1 1919
To April 30 1924

Bring this Lease when you pay your rent

A. F. BORIG

STATIONER

226 Main Ave., Passaic, N. J.

20

THIS INDENTURE, made this 20th day of December in the year One thousand Nine Hundred and eighteen BETWEEN Algernon S. Norton of New York City and Charles Rowland of Passaic N. J. AND Abraham Friedman and Jacob Friedman of Passaic N. J.

30 WITNESSETH, That the said Party of the First Part, do hereby demise and Lease unto the said party of the Second Part, the store and basement known as 55 Lexington Avenue Passaic N. J. and the use in common with others of the driveway at the rear of said store with the appurtenances, and the sole and un-interrupted use and occupation thereof (except as hereinafter mentioned) for the term of five years from the 1st day of May 1919 for the total rent of four thousand six hundred twenty dollars payable in monthly installments in advance on the first day of each month as follows namely \$70 per month the first
40 year, \$75 per month the second year and \$80 per

Exhibit C28

month thereafter AND the said Party of the Second Part do, hereby agree to pay to the said Party of the First Part their heirs, assigns, agents or attorney, the said sum at the time and in the manner aforesaid.

AND the said Party of the Second Part do further promise and agree that they will not Re-Let or Under-Let the whole or any part of said premises, nor assign 10
this lease nor use or permit any part thereof to be used for any other purpose than a store for plumbing supplies and factory supplies without the written consent of the said Party of the First Part their heirs, assigns agents or attorneys under the penalty of forfeiture and damages, and the said Party of the Second Part further covenants that they will remove all snow and ice from the sidewalks and gutter in front of said premises within the Time fixed by the City Ordinances, 20
and the said Party of the Second Part further covenants that they will permit the said Party of the First Part their heirs, assigns, agents or attorneys, to enter into and upon said premises at reasonable hours in the day time, to examine the same, or to make such repairs or alterations therein as shall be necessary for the preservation thereof, and to exhibit them at any time during the last three months of said term from Ten o'clock in the morning to Five o'clock in the afternoon 30
(Sunday excepted) to any person or persons; and put up notices "To Let" or "For Sale" on the outside wall thereof without hindrance or molestation.

AND it is further agreed between the parties to these presents that in case the principal building erected on the premises hereby demised shall be partially damaged by the elements the same shall be repaired as speedily as possible at the expense of the said Party of the First Part, that in case the damages shall be so extensive as to render such building untenable, the 40

Exhibit C28

rent shall cease until such time as the building shall be put in complete repair, but in case of the total destruction of such building the rent shall be paid to the time of said destruction and from then and thereforth the lease shall cease and come to an end.

10 AND it is further agreed that if any rent shall be due and unpaid, or if the said premises shall become vacant or deserted, or if default shall be made in any of the covenants herein contained, then it shall be lawful for the said Party of the First Part to re-enter the said premises and remove all persons therefrom and to re-let said premises as agent of the said Party of the Second Part, in which event the said Party of the Second Part shall be liable to said Party of the First Part for the expenses of re-entering, and for a sum
20 equal to the rent hereby reserved and payable at the same periods, less any sum that shall be received by the said Party of the First Part as rent of the said premises for the said periods.

AND the said Party of the Second Part do further agree to keep the premises in as good repair as the same shall be at the commencement of said term (wear and tear arising from a reasonable use of the same and damage by the elements excepted) and at the ex-
30 piration of said term to yield up the peaceable possession thereof, to the said Party of the First Part, heirs, assigns, agents or attorney.

The parties of the second part shall be permitted to place an elevator in the rear of the said store at their own expense and according to plans to be approved by the parties of the first part and at the expiration of their occupancy of said store the parties of the second part shall remove said elevator and restore the premises
40 to the same condition as near as possible, in which they now are.

Exhibit C28

The parties of the first part reserve sufficient space in the south east corner of the basement for a furnace and coal bins, not to exceed ten by twenty feet, with access thereto by the stairway from the sidewalk and through the floor of said basement, such space being reserved for the use of other tenants of the building.

The parties of the first part also reserve the right to erect another story or stories upon the present structure.

The parties of the second part shall maintain the sidewalk (where the new driveway crosses it) in good repair and shall make such repairs as they need on the driveway in the rear.

The parties of the second part shall have the option, to be exercised not less than three months before the expiration of their lease, to an extension of two years at a monthly rental of \$100 per month.

AND it is further understood and agreed that the covenants and agreement herein contained are to bind the heirs, executors, administrators, assigns, agents or attorneys of the respective parties hereto.

IN WITNESS WHEREOF, the said parties have hereunto, in duplicate, set their hands and seals the day and year first above mentioned.

Sealed and delivered in the presence of

Bronson R. Reynolds as to
Algernon S. Norton.

ALGERNON S. NORTON
CHARLES ROWLAND
ABRAHAM FRIEDMAN
JACOB FRIEDMAN

(Seal.)

10

20

30

40

Exhibit D1.

ARTICLES OF AGREEMENT.

This agreement made this 17th day of April, 1919,
 between Max Slaff, of the City of Passaic, County
 of Passaic and State of New Jersey, of the first
 part, and Abe Friedman and Jacob Friedman, of the
 10 City of Passaic, County of Passaic and State of New
 Jersey, party of the second part.

Witnesseth, that in consideration of the sum of
 One Dollar and other valuable consideration, the said
 party of the first part does hereby convey to the
 said party of the second part a two-thirds interest
 in a certain agreement made the 17th day of April,
 1919, between Gustave W. Falstrom and Max Slaff
 20 for the sale of a certain tract of ground at the corner
 of the southerly side of Monroe Street and the west-
 erly side of Elm Street, Passaic, N. J.

It is further agreed that the said Abe Friedman
 and Jacob Friedman assume two-thirds of the obliga-
 tion and liability expressed in the said agreement be-
 tween Gustave W. Falstrom and Max Slaff.

In Witness Whereof the said parties have here-
 unto set their hands and seals the day and year first
 30 above mentioned.

(signed) MAX SLAFF

“ ABRAHAM FRIEDMAN

“ JACOB FRIEDMAN

Signed, sealed and delivered

in the presence of

(signed) Maurice Slaff.

Exhibit D1

State of New Jersey,
County of Passaic, ss:

Be it Remembered that on the 20th day of August, 1919, before me, the subscriber, an attorney-at-law of New Jersey, personally appeared Max Slaff, who I am satisfied is the grantor in the within named agreement, and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses therein mentioned. 10

(signed) MAURICE SLAFF,
Attorney-at-Law.

Received for record August 26th, 1919.

20

30

40

Exhibit D2.

Passaic, N. J. April 17, 1919 No.

THE HOBART TRUST COMPANY 55-132

Pay to the

order of Gustav W. Falstrom

Sixteen hundred _____ Dollars

10

MAX SLAFF

\$1600.

(Endorsed): For deposit Gustav W. Falstrom.
 Paid Apr 21 1919 Peoples Bank & Trust Co. Pas-
 saic, N. J.

20

Exhibit D3.

Passaic, N. J. Apr. 23, 1919 No.

THE HOBART TRUST COMPANY 55-132

Pay to the

order of John H. Kehoe

One thousand 00/100 _____ Dollars

30

MAX SLAFF

\$1000.00/100

(Endorsed): John H. Kehoe cr a/c Harry Meyers.

40

Opinion.

August 8, 1923.

IN CHANCERY OF NEW JERSEY.

Between

ABRAHAM FRIEDMAN and JACOB
FRIEDMAN, partners,

Complainants,

and

MAX SLAFF and BELLA SLAFF, his
wife,

Defendants.

10

Suit in the nature of a suit for specific performance of a contract to convey an interest in real estate and for the establishment of a resulting trust in favor of the complainants.

20

Heard on bill, answer and proofs taken in open court.

Mr. Harry Weinberger for complainants.

Mr. Charles Slaff and Mr. Peter Backes for defendants.

STEVENSON, ADVISORY MASTER:

30

My conclusion in the above stated cause is that the complainants have failed to establish their case by sufficient evidence and that therefore the bill of complaint must be dismissed.

1. A complete discussion of the pleadings and evidence in this case, the study of which has brought me to the conclusion above stated, will not be attempted. The case is in many respects perplexing and difficult. The bill of complaint is extremely unsatisfactory and defective and indicates (although this may be a mis-

40

Opinion

take) that the definite claims advanced on behalf of the complainants by their counsel in his argument and brief were not at the start clearly defined.

10 When we come to the evidence we find a large number of matters of fact about which the complainants and the defendant Max Slaff contradict each other flatly. It is difficult to adopt any theory which will explain these contradictions and absolve the parties, or one of them, from the charge of wilful perjury.

20 After perusing and reperusing the record in this case I find it impossible to satisfy myself on which side the truth lies. The burden being upon the complainants under a well settled rule to convince the Court by a preponderance of evidence of the correctness of their contentions I can only say that after having given
30 to the cause the most careful study and consideration in my power, my mind remains unconvinced in respect to the propositions of fact upon which any decree for the complainants must be based. It must be conceded most amply that this conclusion of fact may be erroneous. If the truth could be established it may be that the complainants by the dismissal of their bill lose a remedy to which they are entitled. Such a result often is reached in courts of law and courts of equity
40 because of the necessarily imperfect instruments and processes which must be employed in the attempt to administer justice.

2. If, viewing this case in one respect, there is room to argue that the remedy which the complainants ask for is within the discretion of the court, it may be worth while to note that the amount of money which the complainants claim they supplied for the purchase of these lands is very small—that there is no dispute between
40 the parties as to the amount of this fund which the de-

Opinion

fendant claims was a personal loan, for which he is liable and which it does not appear he cannot readily pay.

3. I find in this case no fiduciary relation which could materially affect business transactions between the complainants and their uncle, the defendant Max Slaff. 10
The complainants have been in business for five or six years or more and apparently have been successful. From time to time they have lent money to their uncle. They appear to be shrewd strongminded young men abundantly able to take care of themselves in a business transaction. The important point in this connection is that these complainants, according to their own admissions, saw fit to disregard the most obvious well settled rules of business which all men should follow in matters so important as the purchase of twenty or thirty thousand dollars' worth of real estate. 20
The amount of money which they put in is trifling compared with the amount paid or to be paid by the execution or assumption of mortgages by the defendant Max Slaff. The complainants are not children who confidingly committed themselves to their uncle. They knew that they were doing business and they deliberately refrained from taking any writing, even a receipt, to show the character of the small advance of money which they made. It may be remarked here that practically at the same time when the land in controversy was purchased the defendant purchased a large and valuable property on account of himself and his nephews, the complainants, and in this transaction the complainants advanced \$2,000 and subsequently the defendant executed an ample instrument showing the interests of both parties in the purchased land. 30

I think that it is safe to state that the sound policy 40

Final Decree

of the law is to compel business men to transact business according to business rules. Courts of equity in large numbers of instances must protect women, children and incompetents from fraud perpetrated by cunning individuals who take advantage of the trust and confidence reposed in them. In many such cases the Statute of Frauds is cast aside when the facts are proved an ample equitable remedy is granted. This, in my judgment is not that sort of a case. If any guessing is to be done I think that it should be against the claims of the complainants.

Final Decree.

IN CHANCERY OF NEW JERSEY.

Between

ABRAHAM FRIEDMAN and JACOB
FRIEDMAN, partners,
Complainants,

and

MAX SLAFF and BELLA SLAFF,
his wife,
Defendants.

} Final
Decree.

This matter coming on to be heard before the Honorable Eugene Stevenson, Vice Chancellor, during his term as such Vice Chancellor and the matter being held over after the expiration of the Vice Chancellor's term, and the cause again being referred to him as an Advisory Master, and upon the taking of the testi-

Final Decree

mony in open Court in the presence of Harry H. Weinberger of Weinberger and Weinberger, Solicitors and of counsel with the Complainants, and Peter Backes, Solicitor and of counsel with the Defendants, and upon hearing the argument of the Solicitors and Counsel of the respective parties and the Court having considered the matter and reached the conclusions that the Complainants have failed to establish their case by sufficient evidence and that therefore the bill of complaint should be dismissed,

10

It is thereupon on this 17th day of August, 1923, on motion of Peter Backes, Solicitor and of counsel with the Defendant, Ordered, Adjudged and Decreed that the bill of complaint in the above-entitled cause be and the same is hereby dismissed with costs to be taxed in favor of the defendant.

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Respectfully Advised,

EUGENE STEVENSON,

Advisory Master.

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Notice of Appeal.

IN CHANCERY OF NEW JERSEY.

Between

10 ABRAHAM FRIEDMAN and JACOB
 FRIEDMAN, partners trading un-
 der the firm name and style of
 A. & J. Friedman Co.,
 Complainants,
 and

MAX SLAFF and BELLA SLAFF,
 Defendants.

On Bill, &c.
 Notice of
 Appeal.

20 The complainants, Abraham Friedman and Jacob
 Friedman, partners trading under the firm name and
 style of A. & J. Friedman Co., hereby appeal from
 the final decree made in this court in the above stated
 cause on August 17th, 1923, and from the whole and
 every part thereof to the Court of Errors and Appeals
 in the last resort in all causes.

WEINBERGER & WEINBERGER,
 Solicitors for and of Counsel
 with Complainants.

30

We conceive there is good cause for appeal in the
 above-stated cause.

WEINBERGER & WEINBERGER,
 Of Counsel with Complainants.

40

**On Appeal From Chancery—Petition of
Appeal.**

NEW JERSEY COURT OF ERRORS AND AP-
PEALS.

Between

ABRAHAM FRIEDMAN and JACOB
FRIEDMAN, partners trading un-
der the firm name and style of
A. & J. Friedman Co.,
Complainants-Appellants,
and

MAX SLAFF and BELLA SLAFF,
Defendants-Appellees.

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On Appeal
from Chan-
cery. Petition
of Appeal

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To the Honorable the Court of Errors and Appeals in
the last resort in all causes:

The petition of Abraham Friedman and Jacob
Friedman, partners trading under the firm name and
style of A. & J. Friedman Co., the appellants in the
above stated cause, respectfully shows:

That your petitioners find themselves aggrieved by
a final decree made in the Court of Chancery by his
Honor Edwin Robert Walker, Chancellor of the State
of New Jersey, bearing date August 17th, 1923, in
the cause wherein the said Abraham Friedman and
Jacob Friedman, partners trading under the firm name
and style of A. & J. Friedman Co. were complain-
ants and Max Slaff and Bella Slaff were defendants, in
this respect, to wit: that the said decree adjudges that
the bill of complaint filed by the complainants be dis-
missed and that the relief prayed for by the complain-
ants in their said complaint be denied and your peti-

30

40

On Appeal From Chancery

tioners humbly appeal from each and every part thereof upon the ground that same is erroneous and contrary to the evidence in the cause, inequitable and contrary to law.

10 Your petitioners therefore pray that the said decree of the Chancellor may be reversed, set aside and for nothing holden, and that your petitioners may have such relief in the premises as to this court shall seem meet.

WEINBERGER & WEINBERGER,
Solicitors of and of Counsel
with Complainants-Appellants.

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Answer to Petition.NEW JERSEY COURT OF ERRORS AND AP-
PEALS.

 Between

 ABRAHAM FRIEDMAN and JACOB
 FRIEDMAN, partners trading un-
 der the firm name and style of
 A. & J. Friedman Co.,
 Complainants-Appellants,

and

 MAX SLAFF and BELLA SLAFF,
 Defendants-Appellees.

10

 On Appeal from
 Chancery.

20

These defendants-appellees, not acknowledging all or any of the matters which in the said petition of appeal are contained to be true, for answer thereto, nevertheless, say and admit, that a decree made in the Court of Chancery by Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date August 17, 1923, in the above entitled cause, is in all respects agreeable to equity; that the same is not contrary to the evidence in the cause nor contrary to law and pray that the same may be affirmed, with costs to be adjudged to these defendants-appellees.

30

PETER BACKES,
 Solr. and of Counsel with
 Defendants-Appellees.

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Answer to Petition

NEW JERSEY COURT OF COMMON PLEAS
1912

State of New Jersey
 Atlantic County and 1/200
 On Appeal from
 A. S. Fishman Co.
 and
 Mrs. Sara and Belle Gray
 Defendants-Appellees

These defendants were not authorized to
 any of the matters which in the said petition of appeal
 are contained to be true, for the said petition
 has not and shall not be a proper one in the Court
 of Chancery before Peter Fisher, Chancellor of
 the State of New Jersey, bearing date August 14,
 1912, in the above entitled case, it is shewn that
 a copy of the said petition was not served on
 the petitioners in the case nor on any of them and
 that the said petition was not filed with the
 clerk of the said court.

PETER FISHER
 Chancellor of the State of New Jersey

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/

New Jersey Court of Errors and Appeals

Between ABRAHAM FRIEDMAN AND
JACOB FRIEDMAN, partners trad-
ing under the firm name and
style of A. & J. FRIEDMAN Co.,
Complainants-Appellants,

AND

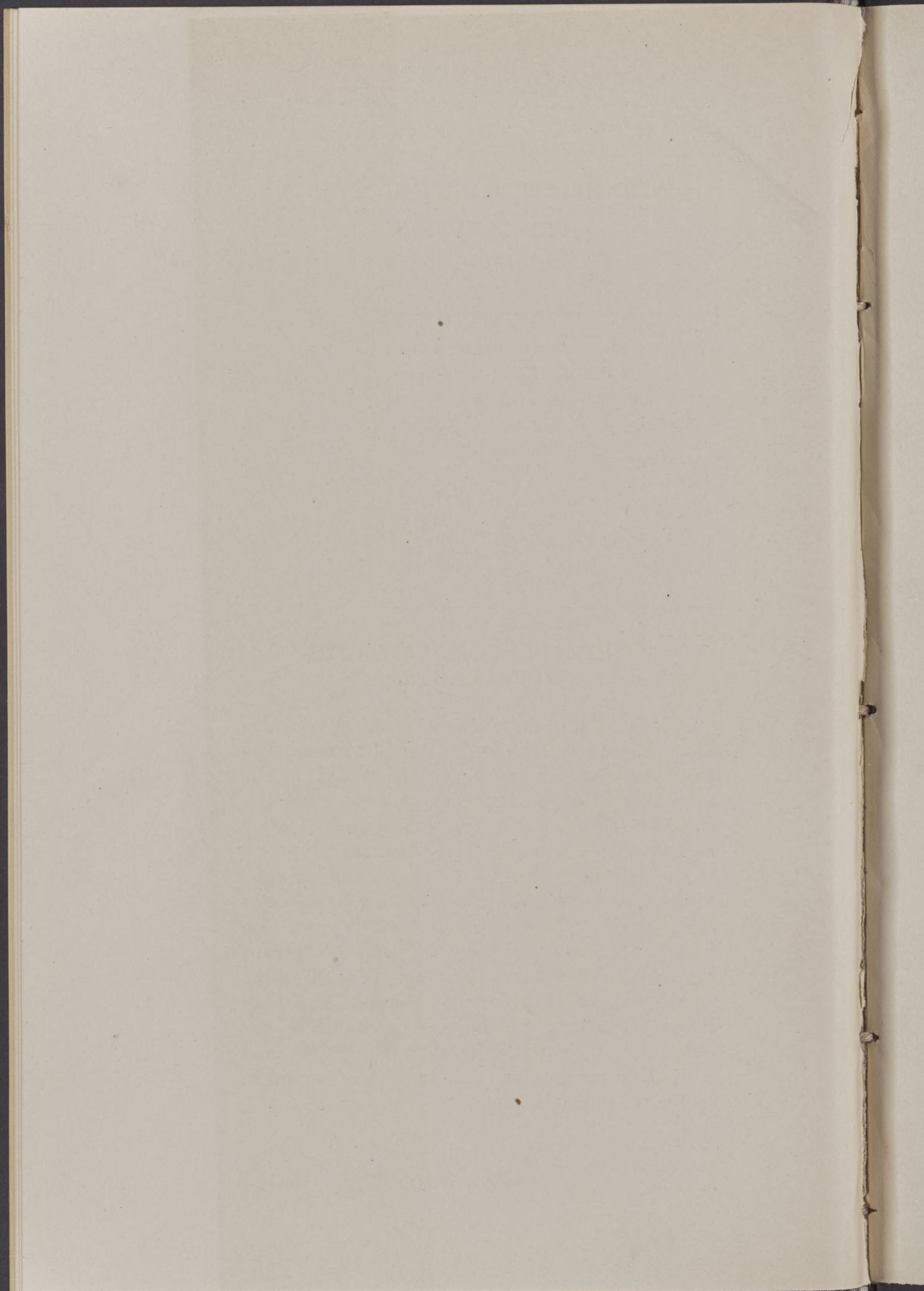
MAX SLAFF AND BELLA SLAFF,
Defendants-Appellees.

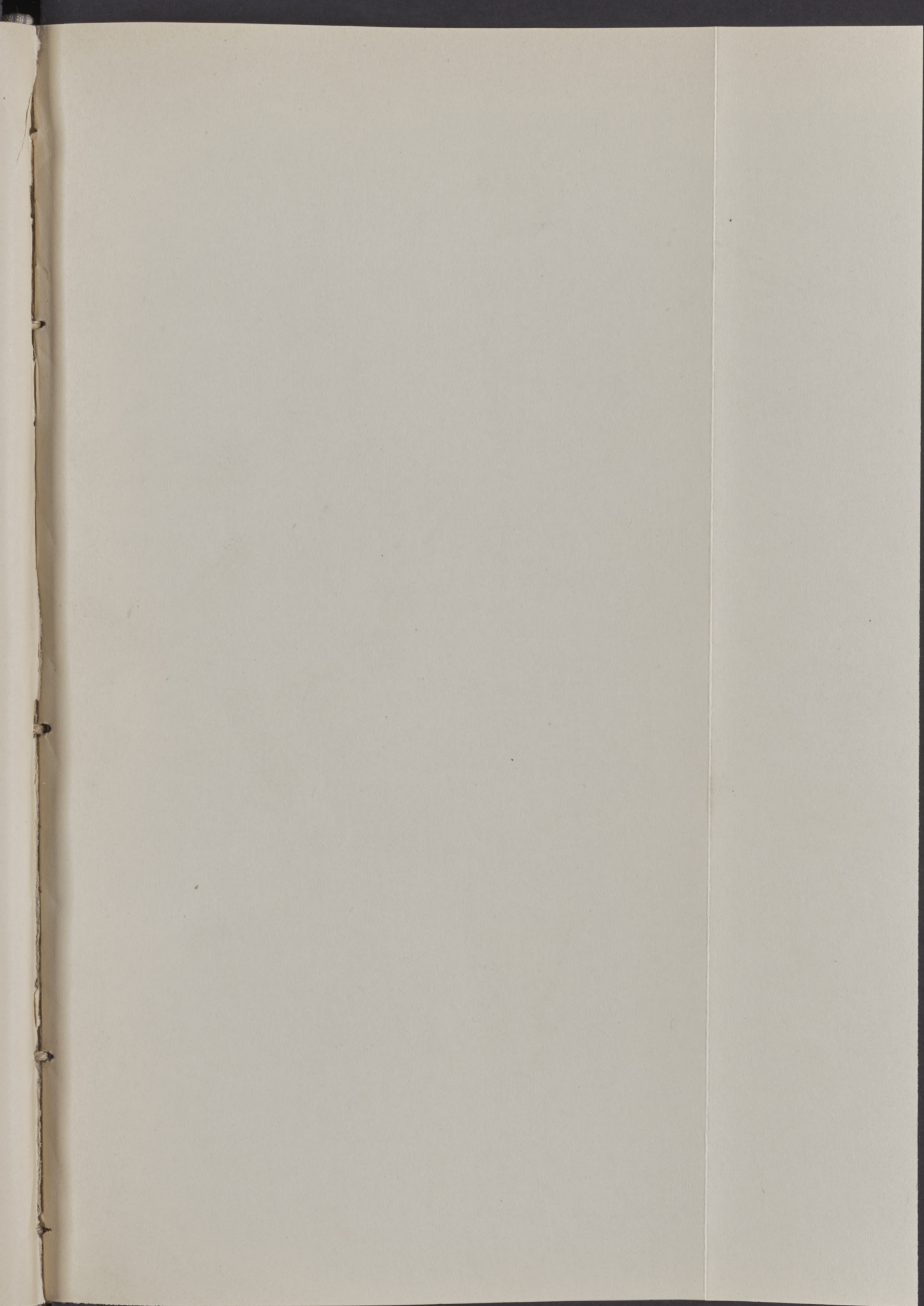
On Appeal
From
Chancery.

BRIEF FOR COMPLAINANTS- APPELLANTS.

This is an appeal from a decree dismissing the bill, advised by Advisory Master Stevenson. The case was heard by him in November, 1921, while he was still Vice-Chancellor, but was not decided until August 8th, 1923 (Case, p. 305) after he had retired from the Vice-Chancellorship.

The bill was filed by the two complainants, young men engaged in the plumbing business in the City of Passaic, against their uncle, a real estate dealer, seeking to impose a resulting trust in their favor two tracts of land on the south and north sides of Monroe Street in Passaic, which they claim was purchased by the defendant, their uncle, at their suggestion and with their money, but title to which was taken in the defendant's name.

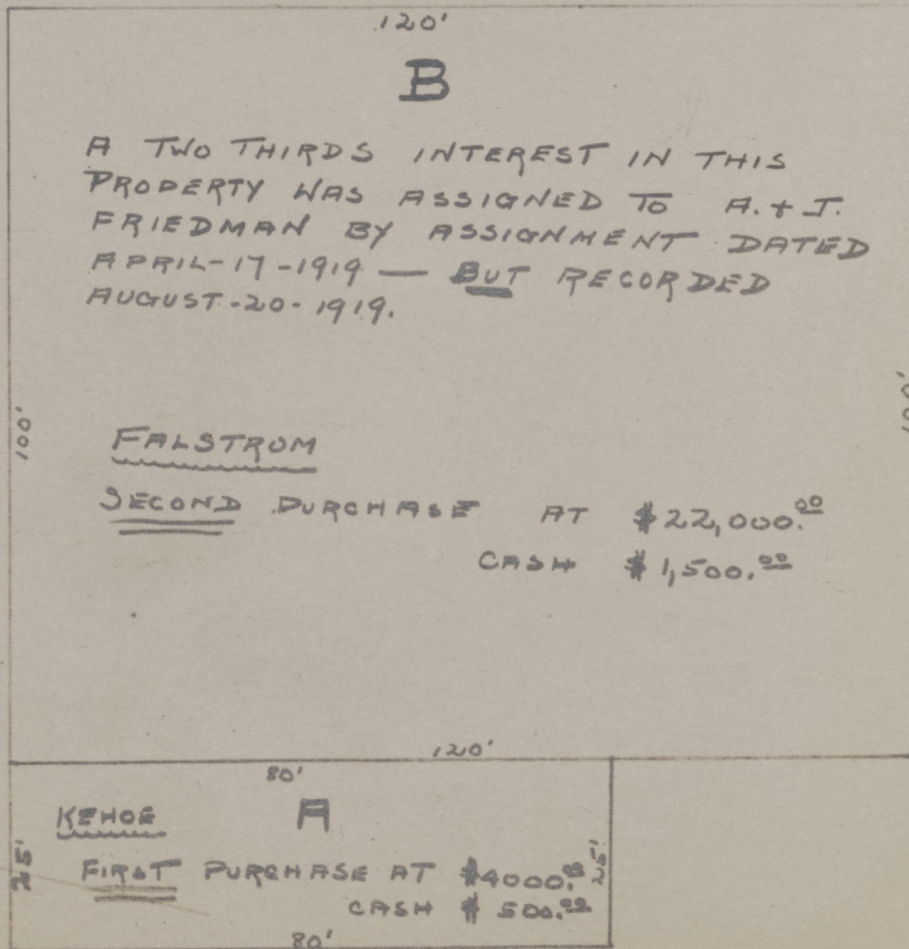
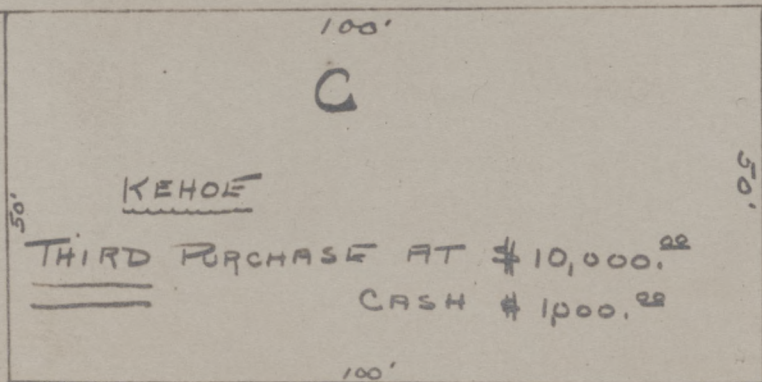




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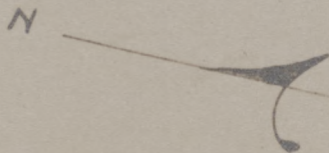
ELM

STREET.



MONROE

STREET



The accompanying sketch illustrates, roughly, the locality of the land and the property in dispute in this suit are the two tracts marked Kehoe. The lot marked Falstrom was also a part of the same transaction but the defendant has recognized the complainants' interest therein and so that tract is not involved in this suit except so far as the facts in connection with it bear upon and have relation to the two Kehoe parcels.

The complainants' place of business was on Monroe Street, a short distance from the property in question. The complainants, Russians by birth, immigrated to this country and settled in Passaic where they have built up a small plumbers' supply business. They had had no real estate transactions prior to their unfortunate experience with their uncle in this instance. In the early days the complainants had boarded with their uncle who, necessarily, was much older than they, and the proofs show that they had implicit confidence and trust in him.

In April, 1919, one of the complainants, Abraham Friedman, had an important conversation with his uncle, the defendant, concerning the purchase of three tracts of vacant land, the two Kehoe tracts and the Falstrom tract, all of which are situated on Monroe Street, a short distance from the complainants' place of business. On page 20 Abraham Friedman thus describes the conversation he had with his uncle in this matter:

“Q. Now, in April, 1919, did you have occasion to have any conversation with your uncle relative to the purchase of any real estate? A. Yes, sir.

Q. When was it that you first spoke to him about the purchase of property? A. In April.

Q. And where was this conversation? A. At our store.

Q. Where was that at? A. 263 Monroe Street.

Q. And what was that conversation? A. My uncle came in to me and started to talk about real estate—how to make money—and I said to him, ‘Uncle, I have great faith in this street, especially these corners—the two corners here; now, what do you think about it?’ He says, ‘I think it is all right.’

Q. You say that your business was on Monroe Street? A. Yes, sir.

Q. And you said that you had great faith in that street? A. Great faith in that street.

Q. Meaning Monroe Street? A. Meaning Monroe Street.

Q. And pointing to Monroe Street? A. Yes.

Q. And what land was it you pointed to?

Mr. Backes: It doesn't appear that he pointed to any land.

Mr. Weinberger: I will withdraw that.

Q. Did you point to any land? A. The two corners.

Q. And what are those properties known as? A. On our side of Falstrom and Kehoe, and on the other side the Kehoe property, also. That is what he told me. I think it belongs to Harry Meyers, too.

Q. What did you say? A. He said, ‘I think it is all right; it is a growing section.’ I said to him, ‘What would you think if I shall decide to buy this property?’ and he said to me, ‘You are talking foolish. What do you have to go and tell anybody you want it for? I will go and find out about it, and I can buy it for you. I know Mr.

Meyers and I also know Kehoe, and I know everybody, and I can make a better deal than any agent could do.'

Q. Then what happened after you said that to him? A. And we went home to dinner. It happened about half-past ten in the morning, and in the meanwhile I spoke to my brother, and says—

Q. Never mind what you said to your brother. You had a talk with your brother, and after you talked with your brother did you again see Mr. Slaff? A. Mr. Slaff came in to me after dinner.

Q. Your uncle Max Slaff? A. My uncle Max Slaff.

Q. And what happened at that time? A. And I told him, 'Listen here, Uncle, I decided with my brother that I should take you in as a third partner, because he figured that you are experienced as a real estate man; we have great confidence in you.'

Q. What did he say? A. He says, 'You know I haven't any money.' I said, 'It is all right.'

It appears from Friedman's evidence that, after the foregoing conversation, his uncle went out to see what he could do about acquiring the property—the Kehoe lot (marked "A" on the sketch) and (p. 22) reported to the complainants on the same day that the property could be purchased for \$4,000 and that \$500 in cash would be necessary to be deposited, the balance to remain on mortgage. Whereupon the complainants gave the defendant their check (Exhibit C-1) for \$500, the complainants agreeing to permit their uncle to enjoy a one-third interest in the property and advancing one-third of the \$500 for that purpose, as the defendant had no money. Shortly thereafter the defendant reported that the Fal-

strom tract could be bought for \$22,000 by the payment of \$2,000 in cash, the balance to remain on mortgage and the same arrangement was made with reference to the acquisition of that tract. The complainants, on April 15th, 1919 gave the defendant their check (Exhibit C-2) for \$2,000 and likewise agreeing that he should own a third interest in that property. The same arrangement was verbally made as to the title of the Falstrom tract being taken in the name of the complainants. It later transpired and is undisputed that the defendant was only compelled to pay \$1,500 in cash on account of the Falstrom purchase so that he was overpaid, on that account, \$500 by the complainants (p. 29).

As before stated, and as we will subsequently see, the defendant recognized the complainants' right in the Falstrom tract. Shortly thereafter the defendant reported that he could purchase the other Kehoe tract (marked "C" on the sketch) for \$10,000 with a cash deposit of \$1,000 and the same arrangement was made between the complainants and the defendant as to the title to this tract, the complainants drawing their check, on the 22nd of April, to the defendant's order for \$1,000 (Exhibit C-3). This completed the transaction, the complainants having advanced, in all, \$3,000 all the cash that was reported by the defendant as necessary for their acquisition of the three tracts. Upon the complainants learning that the defendant had been able to acquire the Falstrom tract for \$1,500 the defendant repaid the complainants, by check (Exhibit C-4) \$500 and gave them his note for \$1,000 and renewal note thereof dated September 8th, 1919 for \$900 (Exhibit C-5) to represent his

payment for the third interest that the complainants have always conceded the defendant was to have, but for which the complainants paid in manner above, in the property. (Case, page 33, ls. 1-10 and pages 34 and 35.)

The proofs demonstrate that after these purchases were all made, Mr. Slaff reported back that title to each of the tracts was taken in the names of the complainants.

After the three parcels had been thus purchased and the complainants assumed that everything was all right, they first learned of the fact that the title to the Falstrom tract had not been taken in their names, from a conversation had with Mr. Falstrom (case p. 36, lines 28-33). This appears to have been some time in August, 1919. Thereafter the complainants immediately interrogated their uncle as to how it was that the Falstrom property was taken in his own name, to which the defendant replied:

“I will tell you why: The reason I didn't take it in your name is because you know Falstrom is quite an old man and I had quite a job to get the property from him; he didn't want to sell it. If I started to tell him that you fellows want to buy and he knows you fellows are on the same street perhaps he would raise the price. That is why I took it in my name.”

It further transpired at this conversation that the defendant had only procured a contract for the Falstrom tract and that he thereupon had his nephew Maurice Slaff, who is a lawyer, draw an assignment to the complainants of a two-thirds interest in the Falstrom tract (Exhibit C-9, p. 253).

This paper, though purporting to be dated April 16th, 1919 was not acknowledged until the 20th of August, and was left for the record on the 26th of August. Young Mr. Maurice Slaff, defendant's nephew, who drew and took the acknowledgment of this paper, was unable satisfactorily to explain how it happened that the dates of the document, and of the certificate of acknowledgment varied so greatly, and it is our contention, as the complainants both testify, that this paper was not, in fact, either drawn, or given to them until August and that, indeed, they did not know until that month that the title to the Falstrom property had not been taken in their own name.

The documents in connection with the agreements to purchase these three tracts were drawn in the office of Messrs. Miller & Meyers, lawyers in Passaic and their bill for legal services in connection therewith was brought to the complainants by the defendant and was paid by the complainants and the receipted bill has, ever since, been held by them and was presented by them at the hearing (p. 104, ls. 35 and 40 and p. 105).

The complainants, having their suspicions aroused by the Falstrom transaction consulted an attorney (p. 50) and had the title to the Kehoe tracts examined and, to their surprise, learned that the title to those tracts had been taken in the names of the defendant, Max Slaff and his wife. Thereupon one of them confronted the defendant with their discovery in the following language: "How is it you fooled me in this transaction? You said you would take it in our names and we find no deed in our name?" To

which the defendant replied "That's all right; I will take it and assign it the same as I did the others—it doesn't make any difference to you. I will come up to see you tonight—Listen here; all I want to give you is a *half and no more*. If you are willing to take it all right; if not it is up to you. I feel that I have put in work to buy the property, and I will give you a half and no more" (p. 50, ls. 25 to 40).

The result was that the defendant, Max Slaff offered to convey to the complainants a half interest in the two Kehoe tracts. The complainants went to the office of Miller & Meyer with reference to the matter. Max Slaff was already present there and, after a conference, Mr. Meyers drew a proposed agreement of compromise (p. 55) dated March 22nd, 1920, which recites the difference between the complainants and the defendant concerning the title to the three parcels and to an additional parcel, about which there had been no dispute, and provided for arbitrating these differences and contemplated securing the performance of the award by the giving of a bond.

The complainants were unwilling to sign this agreement although they took away a draft of it and produced it at the hearing. The significant thing about it is that with the acquiescence of the defendant this agreement recites the dispute between the parties complainant and defendant hereto. The attitude of the defendant at the hearing was that there never had been any such dispute and that the complainants had no rights whatever in the two Kehoe tracts.

There is no dispute about the fact that the defendant, at all times, previous to the filing of the

bill herein, offered to convey a one-half interest in the Kehoe property to the complainants, and that on or about the 19th of March, 1920, an argument took place in the office of A. & J. Friedman, at the time this offer was made by the defendant to the complainants, as the result of which the defendant was put out of the complainants' store, they demanding their full two-thirds share as had been agreed. (Case, p. 60, lines 19-24).

Notwithstanding all this the defendant took the position on the stand that there never was any agreement to share the title to the two Kehoe tracts with the complainants, and that the check of \$500 (Exhibit C-4) dated June 7th, 1919, and the note (Exhibit C-5) of the defendant to the complainants for \$900 which note was later paid by check (Exhibit C-8) dated January 8th, 1920, were payments made by the defendant to the complainants for their advancements on his behalf for his interest in the Falstrom property.

We shall proceed to show how improbable is this position of the defendant and how the complainants are corroborated in substantially all important respects by documentary and impartial testimony of other persons. The Vice-Chancellor, nearly two years after the hearing, filed his opinion (p. 305) concluding to dismiss the bill. He says:

“The case is, in many respects, perplexing and difficult. * * * When we come to consider the evidence we find a large number of matters of fact about which the complainants and the defendant, Max Slaff, contradict each other flatly. It is difficult to adopt any theory which will explain these contra-

dictions and absolve the parties, or one of them, from the charge of wilful perjury * * * I can only say that after having given the case the most careful study and consideration in my power my mind remains unconvinced in respect to the propositions of fact upon which any decree for the complainants must be based. It must be conceded most amply that this conclusion of fact may be erroneous. * * * If any guessing is to be done I think that it should be against the claims of the complainants."

Notwithstanding the sharp dispute between the two complainants on the one hand and the defendant, to which the Vice-Chancellor alludes as above, he seems, probably owing to the lapse of time between the hearing and argument, and the decision of the case, entirely to have overlooked the important corroboration found in the case supporting the contention of both complainants which we respectfully but confidently contend is of sufficient weight, when added to the testimony of the two complainants, not only to justify, but to require a reversal of the decree below and a direction that a decree be entered establishing their right to a two-thirds interest in the two Kehoe tracts.

The uncontradicted evidence is that on the 14th of April, 1919 the complainants gave to their uncle a check for \$500 (Exhibit C-1) which was applied by him to the purchase of the Kehoe tract. He, himself, from his own funds, paid nothing whatever on account of the purchase at that time. On April 15th, 1919, a check for \$2,000 of the complainants was given to their uncle of which \$1,500 was applied by him to the purchase of the Falstrom tract and the \$500 excess was retained by him. On June 7th, 1919

(p. 34) he gave a check for that amount to the complainants. No deed was taken by the defendant for this property but he had an agreement for its purchase signed by the owner. On April 22nd, 1919, the complainants likewise gave their check to the defendant for \$1,000 being all the cash that was advanced by the defendant for the purchase of the third tract, the purchase being made subject to mortgages for \$9,000 on that tract. All of this money was advanced by the complainants to the defendant within a period of eight days, arrangements were made by the defendant to purchase the three tracts within that time, the circumstances, so far as they relate to what occurred between the complainants and the defendant, were identical with reference to the acquisition of all three tracts. The defendant, when pressed, recognized the complainants' right to an interest in the Falstrom tract but repudiated their right to an interest in either of the Kehoe tracts.

Turn, for a moment, to the Falstrom property. The defendant represented that \$2,000 cash was necessary for its acquisition. He conceded he was paid that money by the complainants. While the advance was made on the 15th of April, 1919 of \$2,000 the defendant took an agreement, unbeknown to the complainants, for the purchase of the tract in his own name and left the complainants in utter ignorance, not only of that fact but of the fact that he had received \$500 more than was required until June 7th, 1919, when he restored that sum. He still remained silent with reference to the fact of his taking the agreement in his own name and it was not until after the complainants learned from a con-

versation with Mr. Falstrom that he had done this that the agreement (Exhibit C-9) was prepared and executed. Indeed the complainants never received this paper from the defendant, they having procured and produced from the Register's office a certified copy thereof.

There is no denial in the case that the complainants pointed out the three parcels on both sides of Monroe Street as being desirable purchases. It was their suggestion that brought the matter to Max Slaff's attention. It was their money that purchased each of the tracts. Why should there have been an agreement on Slaff's part to recognize their interest in the Falstrom property and not a similar agreement with reference to the two Kehoe tracts? Why should these young men have advanced \$500 on account of the Kehoe tract "A" and \$1,000 on account of the Kehoe tract "C" without a line or anything to indicate that they had any interest whatever therein and at the same time and in the same transaction make the advance of \$1,500 for tract "B" with an understanding that they were to have an interest therein? The thing is unlikely on its face. As Abraham Friedman testifies, it was the lots on the opposite corner of Monroe and Elm Streets that affected him. The Falstrom property had no greater lure than the Kehoe property "C" had, and the exact similarity of the three transactions gives strong credence to the claim that there was the same understanding with reference to the two Kehoe tracts that the defendant admits existed with reference to the Falstrom tract.

A most significant fact in this connection is the discrepancy between the date and the date of the

acknowledgment of the agreement (Exhibit C-9) by which the defendant tardily recognized the complainants' interest in the Falstrom tract. This agreement, as we have seen, was drawn by Maurice Slaff, a young lawyer of Passaic County, and nephew of the defendant. He testifies on pages 192 and 193 that he prepared the agreement (Exhibit D-1) for the defendant and that it "must have been prepared on the 17th of April, 1919" (p. 192, line 23) and that while it was acknowledged by his uncle before him on that day he did not note the acknowledgment till the 20th of August following, although he claims that on the 17th or 18th of April he took it and left it with the complainants at No. 55 Lexington Avenue (p. 193, line 11) for the purpose of having them sign it. He claims he left the paper there, and did nothing further till about the 20th of August when, passing by, the paper was re-delivered to him by the complainants. Thereupon he (p. 194, line 1) "looked up the calendar and saw the 20th of August" and put the paper on record. After it was recorded he kept it in his own possession. He was interrogated by the Court (p. 195) "Didn't it occur to you that it was an improper thing for you to do to certify the acknowledgment on the 20th of August that was actually taken by you on the 17th of April?" and he answered "It did not occur to me, no, sir."

On the cross-examination (p. 196) of this young nephew lawyer he insists that he left the paper, on the 17th of April, with the complainants at their office on Lexington Avenue. The fact is (p. 230) that the complainants did not take possession of the Lexington Avenue office until the

thirtieth of April, their lease for that property (Exhibit C-28) being produced showing that their term did not commence till the first of May, 1919. (See also the evidence of Abraham Greenberg, p. 233.)

Of course the object the defendant has in having his nephew mis-state the facts in regard to the matter is to indicate that as early as April 17th, the complainants were aware of his, the defendant's, agreement being submitted in writing with reference to the Falstrom tract, ignoring their claim for the two Kehoe tracts. If the complainants had, knowingly, permitted the defendant to put himself on record with reference to the Falstrom property in April, and ignored their rights with reference to the two Kehoe tracts there would be a strong presumption against their claim with regard to the Kehoe tracts. Both of the complainants positively deny (p. 77) that they ever saw the document in question prior to August, which was the month they learned from Mr. Falstrom that the title to the agreement to purchase had not been taken in their own names but in that of the defendant. They also say that the agreement (Exhibit D-1) was the direct outcome of their protest and, at that time, they of course supposed that the title to the other two tracts was correctly taken, and only learned the facts with reference to them after the search had been made as we have already seen.

Can there be any doubt but that this contract, conveying the two-thirds interest to the complainants in the Falstrom tract was ante-dated? Can there be any doubt but that it was acknowledged on the 20th of August? Why have ac-

knowledgments if they don't mean what they recite? Following this discovery they, after consulting their legal advisor, confronted their uncle and demanded an explanation of what he had done with regard to the Kehoe tracts. He suggested that he ought to have half of the Kehoe tracts instead of one-third. This they refused to accept and forthwith consulted Abraham Slaff, an uncle of the defendant, and Mr. Harry Meyers. The result was the drafting of the proposed agreement dated March 22nd, 1920 (Exhibit C-19) in which, as we have seen, with the acquiescence of the defendant, the proposition is made to arbitrate the differences between the parties with reference to the two Kehoe tracts. The difference between the parties, so far as the Kehoe tracts were concerned, was as to the extent of the interest of the complainants and the defendant, respectively, in these two tracts. Why, if there never had been any agreement with reference to the rights of the complainants in the Kehoe tracts, should the arbitration agreement, with the acquiescence of the defendant, be prepared reciting the fact of the difference? Can there be any doubt that this agreement was drafted because there was a dispute concerning the share that the Friedman brothers were entitled to in this property? Couple this fact with the testimony of Abraham Slaff, the uncle of the defendant, who was called under subpoena by the complainants, and after balking and endeavoring to avoid answering, testifies (p. 95, lines 20 to 25) that at the time of the drafting of this agreement the Friedmans claimed a two-thirds interest and that Max Slaff, the defendant, at that time told him, that he made a claim but

whether it was for a third or a half he can't remember. Again, note the following corroborative testimony of Thomas D. Sachs, an old acquaintance of the defendant (p. 125). He testified that he had a customer for the lots in question and that he first saw the complainants and continues (p. 126, lines 38 to 40 and p. 127, lines 1 to 12):

“Q. And did you speak to him concerning the purchase or sale of those lots? A. I asked him if he was the owner of the lots.

Q. What did he say to you? A. He says he has got an interest in it.

Q. Did he tell you who else had an interest? A. Why, yes; he told me.

Q. Who did he tell you? A. Friedman Brothers.

Cross-examination by Mr. Backes:

Q. What lots were you referring to at the time? A. Falstrom lots and Kehoe lots.”

In this connection the testimony of Gustav Kreger (p. 122) fits in nicely. He happened to be in the complainants' store at the interview that occurred there between one of the complainants and the defendant, resulting in the latter being put out of the store, and he recalls Friedman claiming that he was entitled to a two-thirds interest and Slaff expressing a willingness to give a half interest in this property and that, as a result of the argument, Slaff was put out of the store.

More important than this, perhaps, is the undisputed fact that the complainants paid the taxes for the balance of the then current year and the next year upon both the Falstrom and the Kehoe tracts. The original tax bills for the

balance of the year 1919 were delivered by Max Slaff to the complainants and paid by them on the 2nd of December, 1919 (see case p. 146, lines 1 to 30). The taxes for the first half of the year 1920 for both the Kehoe tracts were also paid by the complainants with original tax bills made to Max Slaff (p. 41, lines 25 to 40). Tony Frylinck, the tax collector for Passaic testifies that the tax bills were sent from the office of Max Slaff, thereby confirming the complainants' testimony that the defendant sent these bills to them to be paid. If the arrangement was not as the complainants contend, that they were interested in this property, why did the defendant send them the tax bills and permit them to pay them? While Max Slaff denies taking these bills to the complainants, the tax collector, as we have seen, says that they were sent to Slaff and how did the complainants get possession of them? Slaff does not claim that he ever asked the complainants to advance money for the taxes. Does it seem probable that the complainants should, of their own volition, pay tax bills on property in which they had no interest at a time when, admittedly, there was no argument or hostile feeling existing between the parties? This payment was December 2nd, 1919. The bills, duly receipted, and the checks of the complainants paying them were produced and marked in evidence.

When Slaff was pressed for an answer on the question of taxes and other matters of the most vital importance, we find this testimony given by him (p. 148, lines 3-6, 13-21):

“Q. Who has paid the taxes on the Kehoe property since 1919? A. I did.

Q. All of it? A. I am not sure, Counsellor, whether all of it or not. * * *

By the Court:

Q. Did you pay the taxes for 1919 on the Kehoe property? A. No, I didn't.

Q. Why not? A. Well, I didn't pay any taxes at all lately.

Q. You mean you were behind hand and hard up and couldn't pay the taxes? A. Yes, on all the taxes on my property? I have the checks here to prove when I paid the taxes.

(P. 151):

Q. Now, Mr. Slaff, you were in need of money in 1919, weren't you? A. I need it now, too.

Q. Particularly in 1919? A. Yes, sir.

Q. And you were unable to pay your taxes on the property which you own? A. You want to know if I ever paid my taxes? I want to know what you are asking.

Q. You were unable to pay your taxes for 1919 because you had no money? A. I was able to pay my taxes always.

Q. You were always able to pay your taxes? A. Yes, sir.

Q. And you were able to pay them in 1919? A. I think I was.

Q. Well, were you or weren't you? A. Well I don't see what question that is.

Q. Will you answer my question: Were you or were you not able to pay your taxes for 1919? A. I was.

(P. 152):

Q. Did you testify this morning that you did not pay your taxes for 1919 because you were short of money? A. I did not. On which property?

Q. Kehoe? A. I did not.

Q. Have you yet paid your taxes for 1919? A. On the Kehoe?

Q. Yes. A. I did not.

(P. 155):

Q. If you had money in May, 1919, or April, 1919, or in 1919, why didn't you pay the Kehoe taxes? A. Why, didn't I pay all my taxes?

Q. Don't ask me any questions; I'm not the witness. A. I can't answer that. * * *

Q. * * * Will you tell the Court how the tax bill got into the possession (referring to C-17) of Friedman Brothers? A. I would like somebody to tell me.

Q. You don't know, do you? A. No, sir.

Q. I show you Exhibit C-12 and ask you if that bill was handed to you by Miller & Meyers? A. It was handed to me by Miller & Meyers and I paid it.

Q. Tell me how it got into the possession of Friedman brothers, if you know. A. I would like to know myself; I don't know.

Q. You didn't give it to them, did you? A. No, sir.

(Pp. 156 and 7):

Q. And your relations with them were very, very pleasant, were they not, until this dispute arose concerning the share they had in the Kehoe property? A. Yes, sir.

Q. And up until that time your relations were of the most cordial and of the most pleasant type and character? A. Yes, sir.

(P. 188):

By the Court:

Q. Mr. Slaff, did your nephews or either of them ever claim to you that they had an interest in the Kehoe property until this suit was brought? A. No, sir.

Q. Then you didn't know that they made any such claim until they brought this suit? A. No, your Honor.

Q. Wasn't that a great surprise to you that they should make such a claim? A. It was.

Q. From whom did you procure a copy of the bill, from your solicitor or lawyer? A. The sheriff brought it.

(P. 189):

Q. He brought the subpoena, not the bill?
A. Yes.

Q. Did you go to your lawyer then? A. Yes.

Q. And secure a copy of the bill? A. Yes.

Q. And did you read it? A. Yes.

Q. Was that the first time that they claimed to own an interest in the Kehoe property? A. Yes.

By Mr. Weinberger:

Q. There can't be any question about that? You understand what the vice-chancellor is asking you? A. Yes.

Q. The first time that you ever heard that they claimed any interest in the Kehoe property was at the time you were served with the subpoena? A. Just exactly.

Q. Is that correct? A. Yes, sir.

Comment upon this testimony is surely unnecessary. It clearly indicates that Mr. Slaff is utterly unreliable as a witness. At one time he claims he paid the taxes for 1919, then he denies this. He claims both that he was short of funds and that he was not. He claims that there never was a dispute concerning a share in the Kehoe properties and then he denies this. On every vital point the defendant made inconsistent and contradictory statements. The reading of this man's testimony both on direct and cross examination, clearly presents the picture of a shrewd real estate man, a schemer in mind, short of funds, ingratiating himself into the confidence of two young men, but a short time in

this country, and implicitly confiding and trusting in him, and attempting to take advantage of them at the first opportunity that presents itself. Mr. Slaff admits that he was unable to buy the Falstrom property because he had no money. He admits that he took the agreement for this property in his own name. Either defendant had money in the bank or he did not have money in the bank. When he said that he had money in the bank and the facts showed that he did not, it was obvious that statement was made for the purpose of deceiving the court so as to force the conclusion that he was in a position to buy real estate for himself. Note too the fact that Mr. Slaff testified (p. 188, l. 30-40) that the first he ever knew of any claim made by the complainants for a two-thirds share in the Kehoe property was when suit was instituted and a copy of the bill obtained by him. This must have been false to his knowledge and have been stated with the deliberate intention of deceiving the court for, at p. 146, lines 20 to 40, we find that the defendant produced a copy of the agreement prepared by Mr. Meyers on March 22nd, 1920 (Exhibit C-19) and that he had had a copy of this agreement in his possession since that date. He further testifies that the Friedmans received a copy and that there was a bond attached to their draft, and that the complainants refused to execute the paper and at p. 146, lines 38-40, on direct examination, he was asked "And the paper contemplated and provided for an arbitration of all disputes between you, pertaining to all properties?" and he answered "Yes, sir"; and on p. 147, line 1 "The Kehoe property and Falstrom property? A. Yes."

The court's attention is particularly invited to all of the evidence of the defendant Slaff. It abounds in contradictions and forces the conclusion that it was designed to give the court, regardless of its inconsistencies, the impression that he, Slaff, was perfectly able to make these purchases and that the complainants slept on their rights. The fact is just the contrary, and not only did the complainants testify concerning that, but they are corroborated in every substantial particular as has been shown.

The conclusion is, therefore, inevitable that the complainants advanced the moneys for the purchase of these two properties, just as they did for the purchase of the Falstrom property, under an understanding with their uncle that they were to own two-thirds of the property and he one-third. They paid the taxes, the lawyer's bill for drawing the papers, and other expenses in connection with the property, and now they find themselves in the predicament of having nothing to show for their money and the defendant the owner of the properties in question. In such a case the law is well settled that a resulting trust will arise in favor of the complainants. 3 *Pom. Eq. Juris* (4th Ed.) Section 1031.

This is not a case where a husband or wife or a parent is seeking to overcome the natural presumption that arises when title to property is placed by one in the name of the other. It is the ordinary case of the supplying of the purchase money by one person and the fraudulent taking of title by another in his own name. In such a case, *Cutler v. Tuttle*, 19 N. J. Eq., 549, it was held by this court that proof must be very

clear of the payment of the purchase money by the person in whose favor a trust by implication of law is sought to be raised. Not only does the evidence in this case satisfy that rule, but there is no denial that the complainants supplied the money and it is, therefore, respectfully but confidently believed that this court will direct a reversal.

We have seen from the quotations from the Vice-Chancellor's opinion that he, himself, was in grave doubt about the correctness of his decision. He considered the case so long after it was presented, that he apparently overlooked all the corroborating evidence supporting the complainants' contention.

The decree should be reversed and an order made directing the court to decree that the complainants are entitled to a two-thirds interest in the property in question.

Respectfully submitted,

WEINBERGER & WEINBERGER.

ROBERT H. McCARTER,
Counsel for Appellants.

November Term, 1923.

New Jersey Court of Errors and Appeals.

Between

ABRAHAM FRIEDMAN and JACOB
FRIEDMAN, a partnership trading
under the firm name and style of A.
& J. FRIEDMAN CO.,

Complainants-Appellants,

and

MAX SLAFF and BELLA SLAFF,

Defendants-Appellees.

On Appeal from
Chancery.

Brief for Defendants-Appellees.

STATEMENT OF FACTS.

Complainants seek to establish a resulting trust in certain land referred to at the hearing as the "Kehoe" lots.

The testimony discloses that the defendant Max Slaff is a dealer in real estate in Passaic, N. J. (p. 127). The complainants, who are defendants' nephews, are engaged in the business of plumbers' supplies (p. 19).

Slaff frequently borrowed sums of money from his nephews (pp. 70, 128).

On April 14th, 1919, he borrowed from the complainants \$500 (p. 130), receiving their check (p. 24, *Exhibit C-1*),

which he deposited to his account in the Hobart Trust Co. The day following, on the 15th, he advised the complainants that within a few days he would require another \$1,000 (p. 130). Upon receiving this information, the nephew said to him: "Uncle, what do you want all this money for?" and thereupon the defendant informed the complainants that he had negotiated for the purchase of some lots, without mentioning names; that he had paid \$500 and was required to pay \$1,000 more. Complainants then expressed an interest in the purchase of land and desired the defendant to join them in the purchase of two other lots, referred to as the "Falstrom" lots. To this the defendant agreed. He informed them that he had already had the price for the "Falstrom" lots, but was not certain how much payment he would have to make thereon (p. 131). The complainants then, on the 15th, gave defendant their check for \$2,000 to make part payment on the "Falstrom" lots (p. 28), and this was likewise deposited by defendant to his account. On the 17th day of April, defendant made an agreement with Falstrom for the purchase of his lots (p. 131), agreeing to pay therefor the sum of \$22,000, paying \$1,500 on account of the purchase price and paying an additional sum of \$100 for a shanty or building which was on the ground which belonged to the tenant (*Exhibit C-21*), and an additional sum of \$15 for attorney's fees for drafting the agreement of purchase. This agreement, Falstrom to Slaff (*Exhibit C-21*), is dated April 17th, and was delivered on said day. On April 23d, the complainants gave to defendant their check for \$1,000 (p. 30). This sum was also deposited by the defendant to his account in the Hobart Trust Co., and on the same day the defendant gave to John H. Kehoe his check for \$1,000 and executed a purchase-money mortgage for the balance of the consideration. Kehoe and his wife delivered to the defendant at the same time, through Mr. Harry Meyers, two deeds conveying the lots in question. These deeds are dated April 15th, being the day when the agreement of purchase was actually made and instructions given by Kehoe for the delivery of the same. Both deeds were ac-

knowledge on the same day and the purchase-money mortgage given by Slaff bears date the same day, but was not acknowledged until April 23d. On that day the transaction was closed, the deed delivered and the balance of the purchase-money paid by check (Slaff to Meyers, *Exhibit C-25*, p. 161, and Slaff to Kehoe, *Exhibit D-3*, p. 211).

Slaff negotiated with Kehoe for a month before he closed the purchase of his lots and for a period of several weeks before he closed the Falstrom purchase.

The complainants claim a two-third interest in both the 10
Kehoe and Falstrom lots. The defendant, on the other hand, contends that they never acquired and have no interest in the Kehoe lots. Their only interest is in the Falstrom lots, and for this he executed to them an assignment of a two-third interest in the contract he made with Falstrom, dated April 17th.

The Falstrom purchase is held under an agreement to purchase. No conveyance is to be given until further payments are made on the purchase price. The complainants also contend that the defendant deceived them by leading 20
them to believe that a deed for the Kehoe lots had been made to them jointly and placed on record.

The testimony shows that the purchase of the Kehoe lots was one transaction; the defendant first negotiated for the purchase of the Kehoe lots, agreeing to give a mortgage for the entire purchase price. Harry Meyers, who held an interest with Kehoe in these lots, refused to sanction this agreement, and insisted on a cash payment of \$500 on each lot, and when the agreements of purchase were closed, a \$500 check was drawn to the order of and 30
delivered to Harry Meyers by Slaff. Meyers prepared the deeds, which were executed on the 15th of April. He likewise prepared on the same day purchase-money mortgages for the balance, and the transaction was closed on April 23d, when Slaff drew another check for \$1,000 to Kehoe and delivered the same to Harry Meyers, and executed the purchase-money mortgages. The deeds were then delivered and the mortgages put on record by Harry Meyers.

From the foregoing recital it appears that the Kehoe transaction was one whole and not two separate purchases. The purchase-money mortgages were executed by Slaff and the deed was taken by him. Complainants admit that they never joined in any mortgage.

The complainants testified that an accounting was made between them. This the defendant denies. Complainants state the alleged accounting was made in the following manner:

10 As against their advances of \$3,500, they say that the defendant returned to them \$500, which complainants say was the balance of the moneys advanced by them to purchase the Falstrom property; that the defendant gave to them in payment of his note for \$1,000 a one-third interest in the land. The defendant, on the other hand, contends that no such accounting was ever made.

He admits that he gave to the complainants his note for \$1,000, dated May 8th, and renewed in September, and finally paid; and that he subsequently gave to the
 20 complainants his check for \$500, dated June 7th (*Exhibit C-4*, p. 34), and these payments were in full settlement of \$1,500 advanced him by complainants to buy the Kehoe lots. He further insists that of the \$2,000 given to him with which to make payment on the Falstrom lots, he had paid Falstrom \$1,600 (check dated April 17th, *Exhibit D-2*, p. 132), and \$15 paid to Walter Kipp for drawing the contract between Falstrom and the defendant, and that the difference of \$385 he still retains; that no accounting has been had between them of the rents collected,
 30 or the interest or taxes paid on this property since the purchase thereof. He further admits that he owes to the complainants on the Falstrom purchase one-third of the sum paid on the purchase price, namely, one-third of \$1,615, the amount paid on account of the Falstrom lots.

The evidence shows that the defendant executed an agreement showing complainants' interest in these Falstrom lots. The assignment by Slaff to complainants (*Exhibit D-1*) of their two-third interest, was signed and acknowledged by the defendant on the same day or the day following, and it is

admitted that these agreements came into the possession of the complainants. The complainants say that the assignment of this two-third interest from Slaff to them was not signed by them until August 20th, 1919. The certificate of Slaff's acknowledgment bears this date. The attorney who drew said assignment is positive that he delivered the same to the complainants on April 17th, or a day after, and that they retained possession of it until August 20th when they signed and returned it to him and he placed both contracts on record, August 26th, and it will be observed that this assignment especially provides for complainants' two-third interest in the Falstrom lots only. The inquiry here arises, if the complainants had a like interest in the Kehoe lots, why did they not demand from the defendant Slaff a like acknowledgment for their interest in the same? 10

Their testimony is that they were assured that a deed had been given to them jointly for the Kehoe lots, but they cannot and do not explain why such a deed was never shown them or why they did not join in giving and executing the mortgages for payment of part of the consideration. 20

The testimony also shows that defendant's title to the Kehoe lot was not questioned until some time in the month of November or December following. In the meantime, the defendant had purchased for the account of the complainants, certain other land, the title to which they took in their own name and returned to them the sum of \$375 commission which he collected on account of the purchase price.

Up to the time the relationship between the parties continued to be friendly, and that some time in November a dispute arose between the parties which finally culminated in a violent quarrel and the ejection of the defendant from complainants' store. Thereafter no communication was had between them. 30

The evidence also discloses that some time in the month of March following, complainants consulted Harry Meyers, an attorney, who sent for and obtained the attendance of the defendant at his office; that at least two interviews took place and as a result of these interviews, said attorney- 40

ney after hearing the stories of both parties, proposed that the whole matter in difference should be submitted to arbitrators who were to consider, not only the interest of the parties in the Kehoe and the Falstrom lots, but also in other lands which the defendant purchase for the complainants, and in which he claimed to have an interest of \$1,000. At the hearing, copies of the arbitration agreement were produced by both parties. Complainants refused to join in the arbitration because they said that there was nothing to be arbitrated with reference to the railroad property, and the defendant declined because he denied that the complainants had any interest in the Kehoe property.

When the complainants refused to arbitrate, Mr. Meyers retired from the case, and thereafter the complainants conferred with the present counsel who instituted this suit by filing their bill on April 19th, 1920.

The complainants by their complaint are seeking to establish a resulting trust by showing that their moneys was given for the specific purpose of purchasing the Kehoe lots. That they advanced to the defendant \$1,500 is not disputed.

The defendant's contention that this advance was a loan, is borne out by the following facts:

The complainants' checks, April 14th and 23d, in defendant's favor, were deposited by him to his own personal account in the Hobart Trust Co. and he in turn gave his own personal check of \$500 to Harry Meyers, dated April 14th (*Exhibit C-25*, p. 161), and the other of \$1,000 (*Exhibit D-3*, p. 210), dated April 23d. Both of these checks were paid by the bank on April 23d, 1919.

The purchase of all Kehoe lots was one transaction, consummated on April 14th, and was not two separate purchases as the complainants insist it was. The title was taken by the defendant in his own name, and he executed the purchase-money mortgage.

The defendant's testimony also shows that he repaid to the complainants this \$1,500 advanced him, by giving his note dated May 8th for \$1,000 (p. 33), and then by paying them on June 7th, the \$500 (*Exhibit C-4*, p. 34), and that these two payments were in full settlement of the moneys

which he borrowed from his nephews, on April 14th and April 23d.

As to the Falstrom lots, there is no dispute as to the parties' rights therein. The agreement to purchase was taken by the defendant from Falstrom in his own name. He assigned in writing a two-third interest to his nephews in this agreement (*Exhibit C-9*, p. 39). The nephews have since paid the interest and taxes and collected the rents, the defendant admits that no accounting or settlement has ever been made by him for the Falstrom lots. He 10 admits that he owes his nephews the one-third purchase price of \$1,615; that he has retained the \$385, balance of the advances given him on the Falstrom purchase price; and further that he owes his proportionate share of the interest and taxes less the amount of rents collected.

Defendant denies making an accounting with complainants or that the payments made by him to complainants; namely, \$1,000 note and \$500 in cash, were to be applied in settlement as testified to by complainants, but insists that these payments were made to satisfy the loans 20 made by complainants to him and which he applied to the purchase of the Kehoe lots.

ARE THE PROOFS OFFERED BY THE COMPLAINANTS CONVINCING AND DO THEY LEAVE NO REASONABLE DOUBT?

The undisputed testimony is that the defendant negotiated for the purchase of all the properties in question. The negotiations for the purchase of the Kehoe lots were pending fully a month or more before finally consummated, and that the purchase was to be made without the payment 30 of money and for a purchase-money mortgage.

The negotiations for the purchase of the Falstrom lots were pending several weeks, yet these negotiations had never reached a point of completion, or a fixing of the purchase price until April 17th, the day the complainants gave the defendant \$2,000 to pay on account of the purchase price of the same.

Let us examine the testimony of the parties for the purpose of ascertaining if the proofs offered by the complainants are convincing and do not leave a reasonable doubt, bearing in mind that Slaff had negotiated with Kehoe for the purchase of the lots for a purchase-money mortgage without the payment of any ready money; that Meyers refused to sanction this bargain unless \$500 was paid on account of each lot; that Slaff borrowed in the usual way on April 14th, \$500 to make the initial payment, and that not
 10 until the next day, April 15th, was there any mention made of the need for an additional \$1,000, and then the purchase of the Falstrom lot.

Abraham Friedman says (pp. 19, 20) in April, 1919, he first spoke to his uncle, the defendant, about the purchase of the property, that he pointed to the two corners on Monroe Street (The Falstrom and Kehoe properties) (p. 20) and that after this conversation he decided to take his uncle in as a third partner (p. 21).

Friedman further testifies that when on April 14th,
 20 1919, he gave Slaff the \$500 check, the same was the deposit on the plot 25 x 80 (p. 23), and he said he (Slaff) would take the title in A. & J. Friedman (p. 25). This \$500 was to be paid in cash and the balance on mortgage; nothing said who was to give the mortgage (p. 26). It will be noted that the foregoing relates to one and only a part of the Kehoe lots, and then they talked about the Falstrom property; that Slaff should buy it, and he gave him a check April 15th (p. 28) for \$2,000 (pp. 28, 29, *Exhibit C-2*).

30 On cross-examination, he says Slaff purchased the one Kehoe lot, then the Falstrom lot, and then the other Kehoe lot (p. 80).

In reply to the Court's question: "Was there any special reason why you wanted to get the Falstrom tract before you bought the Kehoe tract?" he says: "No, we bought the Kehoe first." And further: "And you bought that before you bought the Falstrom?" Friedman's answer is: "Yes, sir." Q. "And then you bought the Kehoe?" A. The Kehoe first; then the Falstrom, and then the Kehoe" (p.

82). Friedman further testifies that he never got a deed or gave back a mortgage (p. 82).

Jacob Friedman also says that the Kehoe property was bought in two separate parts at different times and the Falstrom purchase intervened (p. 109).

This title was also to be taken in A. & J. Friedman, and he did not discover until four or five months later that this had not been done (p. 28).

In answer to the question: "What became of the other \$500 he didn't pay on account? (referring to the balance 10 left over from the Falstrom purchase), Friedman's answer is that he bought some more property.

Q. What other property?

A. Kehoe's property.

Q. And that is the property in which you are now claiming a two-thirds interest with your brother?

A. Yes, sir.

Friedman says he sent his uncle to buy the other Kehoe property (p. 30), and on being shown his, A. & J. Friedman's check for \$1,000, says this check was paid as a de- 20 posit on the other parcel of the Kehoe property.

This story shows:

(1) The purchase of one lot of Kehoe.

(2) The purchase of the Falstrom lot and then some days later the purchase of the remaining Kehoe lots. Abraham Friedman's testimony is positive that this money was given to buy this property (Kehoe lot) for \$10,000 (p. 31). Yet, in reply to the Court (p. 31, 32), Friedman testifies:

Q. What became of the \$500; do you know? 30

A. We bought all this property together and we advanced \$3,500 of our money, and Mr. Slaff, my uncle, figured up how much it was and gave me his note for his one-third interest, and he gave me a check for the \$500.

Q. Oh, he repaid you the \$500, did he?

A. We only put the \$3,000 in the property; he said he put it through at \$1,500 and I advanced him \$3,000 to buy this property, and he only paid

in \$3,000, and he figured out how much he paid me, and he gave his note for his one-third interest and \$500 in cash.

Q. So that the \$500 which was not used, represented by this check, he repaid to you?

A. Yes, sir: later.

Friedman said to his uncle three, four or five months later: "How is it that you took the Falstrom property in your name and not in us?" (p. 37). Slaff's excuse was
 10 that he didn't want Falstrom to know about their (Friedman's) purchase, and that he would have Charley Slaff draw an agreement which was given to them later.

Max Slaff's testimony as to the purchase of these properties is as follows:

He says about the 3d or 4th of April, 1919, he purchased three lots from Kehoe and the terms were a purchase-money mortgage (pp. 128, 129). Afterwards, Kehoe advised him that he must pay \$500 on each lot, and he said: "All right, Mr. Kehoe, I will get it." Then on about the
 20 14th he went to the Friedmans and said: "I have got to have \$500." "He made me out a check and I went away" (p. 130). On the next morning, the 15th, he said: "Abe, I will have to have another \$1,000 in four or five days," and his reply was: "We can let you have it," and then Abe asked: "What do you need the money for?" and then Slaff told him: "I have bought three lots on Monroe street. I didn't tell him no name or anything" (p. 130).

And here permit me to call the attention of the Court that this conversation did not take place on the occasion of
 30 when Slaff borrowed the first \$500, *but on the day following (April 15th)*, and then the parties for the first time talked about the purchase of other lands, and Friedman said: "You know, uncle, I would like to have a lot or two also here on this street" (p. 130), and then Slaff suggested the purchase of the Falstrom lots and telling them of the price and terms, and received from the Friedmans their check for \$2,000, and the first or second day thereafter he bought the Falstrom lots, and took the agreement to the Friedmans, showed it to them and told them he would have

an agreement prepared showing their interest (p. 133). This agreement was prepared about two days afterward (pp. 133 to 136).

The purchase of the Kehoe lots (*Exhibit C-10 and C-11*) was one transaction. The purchase was made two weeks before the date of the deeds (p. 136). The only change was the cash payment, and for this he had to borrow the money. Slaff had no understanding with the Friedmans to purchase for a joint account (p. 137).

Slaff repaid Friedman by his note for \$1,000 (pp. 137, 10 138) and check for \$500. He said: "I have got a little money now and I will give you \$500, the balance of the money that I borrowed from you" (p. 138).

The testimony of Slaff shows that in the summer of 1919 Friedman tried to acquire a one-half interest in the Kehoe lots and the parties had some negotiations which were not concluded, and thereafter in November or early in December, weeks before the bringing of the suit, the parties had a violent quarrel, caused by Slaff's refusal to let his nephews share in the Kehoe lots. This resulted in an estrangement 20 and a final bringing of the suit.

The testimony of the complainants and defendant to this litigation is contradictory, the complainants asserting that it was their money which purchased the lands in question. The defendant on his hand denies this fact and asserts that the moneys advanced for the Kehoe lots was a loan to him and the moneys advanced for the Falstrom lot was for their joint account. Defendant's testimony is corroborated by the testimony of Harry Meyers, and also by the testimony of Mr. Falstrom, two disinterested parties. 30

Meyers testifies that Slaff had negotiated for the purchase of the Kehoe lots at least ten days before the actual purchase took place, and then this purchase was made on a mortgage consideration and no money was required of him; that he refused to sanction this sale and insisted upon a payment of \$500 on each lot, and that on the day the purchase was actually made, April 14th, Slaff came to his office and gave him a check for \$500 and arranged the details of the purchase, the balance of the \$1,000 purchase

price was subsequently paid and the transaction closed on April 23d. Meyers further testified on page 209.

Q. Was that done, to your knowledge?

A. Yes, sir; on the 14th of April he gave \$500. The check was filled in by me in my office and Mr. Slaff signed the check, and about a week or so later he came in and the papers had all been prepared on the 15th, and he came in and paid the other \$1,000, and that is how my bill was made out for the drawing of the bond and mortgage, and so forth, and we sent the deeds up to be recorded, together with the mortgages.

And his testimony further shows that he recorded the deeds and the mortgages and that Slaff alone executed the mortgages.

Meyers' testimony further shows that the contract for the purchase of the Kehoe lots was one transaction consummated on April 14th and not two separate purchases as testified to by the complainants.

20 Falstrom also corroborates Slaff's story that Slaff had been negotiating for several weeks for the purchase of his lots and that no fixed price or terms were actually agreed upon until the very day the agreement was signed, namely, April 17th. As to this purchase there is no dispute and Slaff in accordance with his agreement with his nephews immediately executed an assignment of a two-third interest in this contract to his nephews.

Slaff's testimony is also corroborated by certain record evidence, namely, the stub of his check book shows that 30 on the day when he borrowed the \$500 from his nephews he had an actual cash balance of \$200 in his bank account (p. 228) and that he was compelled to borrow, and did borrow, from his nephews \$500 to make the initial deposit.

On another point, Slaff's evidence is more convincing than that of the complainants, in that he clearly shows that no accounting was ever made between the parties as the complainants testified. In fact, the testimony of the complainants is very vague and uncertain, but if an accounting had taken place between them as they assert, then they 40 were certainly mistaken in such an accounting because it

clearly appears from all the proofs in the case that on June 7th when Slaff gave his nephews a \$500 check, he was not indebted to them on such an accounting only in the sum of \$385, and because it also appears that he did not owe his nephews the \$500 as a balance due them on the moneys advanced for the Falstrom purchase, but only the sum of \$385, and it is evident that the nephews did not know it, that the defendant had paid Falstrom \$1,600 rather than \$1,500 as they testified.

And still another point in favor of the defendant is this, 10 if it be true that the defendant had \$500 surplus remaining out of the moneys advanced for the Falstrom lots in his hands and held this money from April 15th until he again called on his nephews on the 23d to borrow an additional \$1,000 as they, the complainants, testify the purchase of these lots was a joint adventure, they would not have to give him this last \$1,000, but only an additional \$500 to pay the balance due on the Kehoe lot.

The position now taken by the defendant is further corroborated by the attempt made by the complainants, after 20 they had the quarrel with their uncle, in making payment of the taxes for the one-half of the year 1919 on the Kehoe lot, and further attempting just previous to the bringing of this action by their endeavor to pay him through their counsel the entire interest charge on the mortgages on the Kehoe lots.

These incidents clearly show that the complainants endeavored to fortify their present position that the purchase of this land was a joint adventure, but one other point remains to be considered, namely, the fact that a 30 two-third assignment in the Falstrom purchase was executed by the defendant in favor of the complainants and delivered to them within a day or two after the date of the document, and was certainly signed by the complainants not later than August 20th, 1919, when harmony still existed between all the parties, when no controversy had arisen and the most natural thing for the complainants to have done then with the knowledge that they assert that the deed was to be taken in their own name, and the document before them showing that the assignment was only 40

made for the Falstrom lots, would have said to their uncle: Where is our deed for the Kehoe lots, or why are not the Kehoe lots included in this assignment?

From all the proofs presented the evidence of the complainants does not measure up to the rule which requires that in order that they may establish a resulting trust, the testimony and circumstances relied upon must be convincing and leave no reasonable doubt as to the intention of the parties.

10

LAW.

Complainants seek to establish a resulting trust in the "Kehoe" property, on the theory that the purchase price therefor was paid by them, and the title conveyed to the defendant.

Pomeroy Equity Jurisprudence, Vol. 3, 4th Ed., section 1031.

Down *v.* Down, 80 N. J. Eq. 68.

"The circumstances relied on by the complainant to establish a resulting trust must be convincing, and leave no
20 reasonable doubt as to the intention of the parties."

Peer *v.* Peer, 11 N. J. Eq. 432.

Read *v.* Huff, 40 N. J. Eq. 234.

McGee *v.* McGee, 81 N. J. Eq. 190.

"The proofs which shall raise a resulting trust, or rebut the presumption of a gift or settlement in the case of a child or wife, must be of facts antecedent to, or contemporaneous with, the purchase, or else immediately afterwards, so as to be in fact part of the same transaction, a resulting trust cannot be raised from matters arising *ex post*
30 *facto.*"

Prisco *v.* Prisco, 90 N. J. Eq. 290.

PETER BACKES,

Of Counsel.

