

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA : Criminal Action No.

5 v. : PJM 10-734

6 ANDRIS PUKKE, : Greenbelt, Maryland

7 Defendant. : Friday, November 13, 2015

8 _____/ 9:45 A.M.

9
10 TRANSCRIPT OF VIOLATION OF SUPERVISED RELEASE
11 HEARING BEFORE THE HONORABLE
12 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

13 FOR THE GOVERNMENT: NICOLAS MITCHELL, Esquire
14 Office of the U.S. Attorney for the
15 District of Maryland
16 6500 Cherrywood Lane, Suite 200
17 Greenbelt, Maryland 20770
18 301-344-4124

17 FOR THE DEFENDANT: JASON DE BRETTEVILLE, Esquire
18 KRISTIN L. MCGOUGH, Esquire
19 717 D Street, NW
20 Suite 300
21 Washington, D.C. 20004
22 202-681-6410

23 OFFICIAL COURT REPORTER: LINDA C. MARSHALL, (301) 344-3229

24 COMPUTER-AIDED TRANSCRIPTION OF STENOTYPE NOTES
25

I-N-D-E-X**WITNESSES**On behalf of the Government:

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Thomas Herskowitz (By Mr. Mitchell)	40			
(By Mr. De Bretteville)		92		
David Hadlum (By Mr. Mitchell)	21			
(By Mr. De Bretteville)		143		
Jon Berndsen (By Mr. Mitchell)	149			
(By Mr. De Bretteville)		170		
(By Mr. Mitchell)			185	

On behalf of the Defendant:

Rod Kazazi (By Mr. De Bretteville)	190			
(By Mr. Mitchell)		206		
(By Mr. De Bretteville)			216	
Brandi Greenfield (By Mr. De Bretteville)	220			
(By Mr. Mitchell)		224		
Andris Pukke (By Mr. De Bretteville)	266			
(By Mr. Mitchell)		273		

P-R-O-C-E-E-D-I-N-G-S

1
2 THE DEPUTY CLERK: The matter now pending before this
3 Court is Criminal Action Number PJM 10-734, United States of
4 America versus Andris Pukke. The matter now comes before this
5 Court for hearing on violation of supervised release.

6 THE COURT: All right. Counsel, identify yourselves
7 first for the government and then for defendant.

8 MR. MITCHELL: Good morning, Your Honor. Nick
9 Mitchell on behalf of the United States. And sitting at counsel
10 table with me is FBI Special Agent Monique Winkis, as well as
11 Probation Officer William Tavik.

12 MS. MCGOUGH: Good morning, Your Honor. Kristin
13 McGough on behalf of Andris Pukke. And with me is Jason
14 De Bretteville. Mr. De Bretteville is from a firm in
15 California. We attempted to enter his appearance pro hac vice,
16 but it turns out when you send a person's notice of appearance,
17 what you get back is confirmation that you'll receive a ECF
18 log-in confirmation -- information two days after. And so he
19 hasn't gotten that yet and so we haven't been able to formally
20 enter his appearance.

21 THE COURT: Can he do that, madam clerk, on the record
22 right now? I mean, is there --

23 THE DEPUTY CLERK: He can do it on the record, Your
24 Honor.

25 THE COURT: All right.

1 MS. MCGOUGH: Thank you, Your Honor.

2 And Mr. Pukke is here as well.

3 THE COURT: Very well. Are there any preliminary
4 matters? There are a number of issues you want to cover, but in
5 terms of any developments I don't know about, Mr. Mitchell, go
6 ahead.

7 MR. MITCHELL: Your Honor, there very well might be
8 preliminary matters. The government would at this time,
9 however, invoke the rule on witnesses.

10 THE COURT: All right.

11 MR. MITCHELL: I think it would be appropriate in this
12 case.

13 THE COURT: I'll come back to that in a moment. Let
14 me just hear what else is out there by way of preliminaries.

15 MS. MCGOUGH: We would agree with Mr. Mitchell.

16 THE COURT: All right. Anybody who is to be called as
17 a witness in this case with exception of Mr. Pukke is asked to
18 remain outside of the courtroom, not to discuss your testimony
19 with other witnesses or counsel. So, just step out now.

20 MS. MCGOUGH: Your Honor, it appears there are a
21 number of other individuals behind Mr. Mitchell who are
22 remaining. I just want to be clear that if they do remain that
23 they would not be able to be called even as rebuttal witnesses.

24 MR. MITCHELL: Your Honor, I don't recognize any of
25 the individuals in the gallery. I do not intend to call them as

1 witnesses.

2 THE COURT: All right. Goes for them as well. You're
3 not to discuss in-court testimony with people who are not in
4 court at this time, at least during the trial.

5 All right. Here's what I'd like to do by way of
6 sequence. I want to give the defendant an opportunity, again,
7 to make briefly the jurisdictional argument that we had in the
8 telephone conference, which in fact I've already ruled on, but
9 you make your record now. And, perhaps, I can sharpen it with a
10 question or two of you, so who will argue that.

11 MR. DE BRETTEVILLE: I will, Your Honor.

12 THE COURT: Mr. De Bretteville, go ahead.

13 MR. DE BRETTEVILLE: Thank you, Your Honor.

14 As the Court is aware, this matter is proceeding by
15 way of a petition that was filed during the term of Mr. Pukke's
16 supervised release. It was filed at the very end of that term
17 and it's based upon a petition that was under oath.

18 However, the facts that supported the summons that
19 issued to Mr. Pukke was not based upon facts that were given.

20 THE COURT: All right. That's the essence of your
21 claim. You don't think there is probable cause to have issued
22 the summons.

23 MR. DE BRETTEVILLE: Not precisely, Your Honor. That
24 to the extent there was a probable cause showing, that showing
25 was not made under oath.

1 THE COURT: I'm not sure what you're arguing. There
2 is in the petition itself and under penalties of perjury a
3 statement by Mr. Tavik. Now, what are you saying beyond that?

4 MR. DE BRETTEVILLE: That is correct.

5 So just to explain a little bit more fully, Your
6 Honor, in order for the Court's jurisdiction to toll, a summons
7 or warrant has to issue. And as the Court correctly identifies,
8 a summons or warrant must issue on the basis of a probable cause
9 showing under oath.

10 Here the petition is under oath, but the memorandum
11 itself as written by Mr. Tavik, that is not sworn to.

12 THE COURT: Where does it say that that's required?
13 When there's a petition that is signed under oath, why doesn't
14 that cover all the attachments? I have never encountered this
15 argument before.

16 Ms. McGough, why don't you have a seat if he's going
17 to be talking for a while?

18 MR. DE BRETTEVILLE: Well, Your Honor, the petition
19 makes no reference to any attachment. The memorandum talks
20 about it having an attached form to it, but there's no
21 indication in the record that anyone attested to the facts
22 contained in the memorandum under oath.

23 THE COURT: Well, was the memorandum attached to the
24 petition? Were the documents attached to the petition?

25 MR. DE BRETTEVILLE: There's been no testimony or

1 evidence to that effect, Your Honor.

2 THE COURT: Well, how do you know whether it was or
3 wasn't? I mean, usually -- the practice in this court -- been
4 on the bench now 30 years in state and federal court. I never
5 heard this argument before, that there is the request for the
6 summons that is under oath with attachments. And I think you're
7 saying, does each attachment have to be under oath?

8 MR. DE BRETTEVILLE: Well, Your Honor, what's -- what
9 certainly must be under oath is the factual attestation that
10 supports probable cause. Unless that factual affidavit is under
11 oath and the summons issue on the basis of a probable showing,
12 that was not sworn.

13 Here, the only evidence I see is that the petition
14 itself was under oath. The memorandum has no indication.

15 THE COURT: Is there authority for that proposition or
16 the authority more for the proposition that some sort of summons
17 or warrant has to be issued under oath?

18 MR. DE BRETTEVILLE: There is authority, Your Honor.
19 Regardless of my -- if I understand the Court's question
20 correctly, *Vargas Amaya* goes through a careful analysis and
21 explains that the word "summons" means -- what it means to the
22 Fourth Amendment. And that means a summons or warrant that's
23 issued on the basis of a probable cause showing that was under
24 oath.

25 And the reason for that, going beyond form to

1 substance, is that the Court needs to have the ability to rely
2 on the veracity of the factual showing. Doesn't matter that
3 violations are alleged under oath. What matters is whether the
4 factual showing itself is under oath.

5 THE COURT: Okay. I hear that argument. Let me see
6 how it joins with Mr. Mitchell. You want to respond to that?

7 MR. MITCHELL: Your Honor, I don't really have much to
8 say. I was looking at my phone for a citation here.

9 Court's indulgence.

10 (Pause.)

11 MR. MITCHELL: And during the telephone status
12 conference call on Tuesday of this week, the government pointed
13 to a particular case within the Fourth Circuit that, I guess in
14 dicta, arguably, discussed this very issue that's brought out by
15 defense counsel here today.

16 The Court without deciding the constitutional issue,
17 essentially, it's a due process requiring the Court's
18 jurisdiction, held that in that particular case, the District
19 Court had continuing jurisdiction over the violation hearing
20 based on the petition that was signed, that was accompanied that
21 specifically set forth how the allegations of the violation, of
22 why this particular individual was being violated, what this
23 particular individual allegedly -- which terms, specific terms
24 of supervised release he allegedly violated.

25 And then attached to that was a, if I understand the

1 Fourth Circuit's opinion correctly, was a state charging
2 document. In that case, the individual had been charged in the
3 state with homicide. And the Court in that case found, again,
4 without determining this due process question, that in that case
5 under those facts and circumstance, the petition itself in
6 connection with the charge -- state charging document was
7 sufficient for the Court to continue to have jurisdiction over
8 the case.

9 The cases that -- the case that is cited by defense
10 counsel in the memorandum and I believe that defense counsel is
11 referring to here, is a case outside of the Fourth Circuit.
12 It's not binding on this Court. And Your Honor rightly notes
13 that under our facts and circumstance, there was a petition, a
14 notice of apparent violation which sets forth numerous facts,
15 numerous allegations and had Exhibits A through I, I believe,
16 including one document which was a -- an affidavit by one of the
17 witnesses who was going to appear here today.

18 So based on facts in this case, based on the law in
19 the Fourth Circuit, the government believes certainly Your Honor
20 has continuing jurisdiction over this matter.

21 THE COURT: All right. Any response,
22 Mr. De Bretteville?

23 MR. DE BRETTEVILLE: Thank you, Your Honor.

24 The case to which counsel refers is *U.S v. Brennan*.
25 It's an unpublished case, albeit in the Fourth Circuit in 2008.

1 And what that Court actually says in the unpublished case to
2 which counsel refers, is that -- it notes that there's a
3 disagreement among the circuits regarding whether a warrant
4 issued under Section 3583(i), here a summons, must strictly
5 comply with the Fourth Amendment in order to vest the Court with
6 jurisdiction. As to that question, this unpublished decision
7 says, we need not take a position on this question.

8 THE COURT: All right. Well, look, don't -- let's not
9 spend more time on it. I reject your argument. I do think that
10 there is continuing jurisdiction in the court with regard to
11 this issue. It is under oath. It's accompanied by a number of
12 documents. It's essentially information believed, which is the
13 way petitions for revocation or hearing on supervised release or
14 probation traditionally go forward. Each item, exhibit beyond
15 that is not required to be under oath and I think it satisfies
16 any kind of due process requirement. So, your argument in that
17 regard is rejected.

18 All right. Now, what I want to go to next, because I
19 think it logically follows is, I think what you're arguing in
20 part on the defense side is because the government is not
21 seeking money in this case or cash or anything of that order,
22 that there is really no basis to use the provision regarding
23 supplying financial information or information as to financial
24 condition as a basis for this hearing. Is that a correct
25 statement of your position?

1 MR. DE BRETTEVILLE: Not really, Your Honor.

2 THE COURT: All right. Well, get to that point and
3 see if you can articulate it as you best want it stated.

4 MR. DE BRETTEVILLE: Sure. So, Your Honor, to answer
5 that precise question the Court asked, this Court did impose
6 among the conditions of supervised release a condition that
7 Mr. Pukke give access to probation, access to any financial
8 information requested.

9 So, notwithstanding the fact that the probation form
10 doesn't quite fit due to the fact that Mr. Pukke was not under
11 any order to pay restitution or a fine, the fact remains that
12 probation was, at least, arguably entitled to ask Mr. Pukke to
13 fill out that form pursuant to this Court's condition that
14 Mr. Pukke provide access to financial information.

15 So, we're not contesting that he has some obligation
16 to fill out that form. The issue comes from the precise
17 allegations in this case. The petition asks or alleges that
18 Mr. Pukke violated his obligation to provide probation with
19 access to financial information by failing to include certain
20 information in Section K of Probation Form 48.

21 So again, that -- as matter of first principle, the
22 only way in which an omission by Mr. Pukke in Section K could be
23 a violation is if the information omitted is financial
24 information. And I would only ask the Court to be mindful of
25 the fact that the only omissions that are relevant are, again,

1 admissions that are financial information.

2 That, for example, becomes very germane here because
3 one of the positions that probation is claiming was omitted from
4 Section K is a position that says, a subscriber to a homeowners
5 association. Well, that's not a business holding. It's not
6 financial information by any stretch of the imagination.

7 I would submit that the other positions also are not
8 financial information, but that one most clearly is not. But
9 that again is not the gravamen of our objection to this
10 proceeding. The gravamen of our objection is that the
11 allegations by probation and the government, as I understand it,
12 are that Mr. Pukke failed to list positions.

13 Well, first or foremost, Section K does not ask for a
14 listing of positions. So government and probation are --

15 THE COURT: Why are you ignoring the language that
16 says, include all businesses in which you have an ownership
17 interest or with which you had an affiliation.

18 MR. DE BRETTEVILLE: Well, certainly, if the petition
19 said, Mr. Pukke -- Your Honor, the petition said, whereas
20 Andris Pukke using the name of Marc Romeo in his 2012 Probation
21 48 in Section K did fail to list certain business holdings, we
22 can talk about that. That's not what they allege. They say
23 that he failed to list positions. So the Court first has to --

24 THE COURT: Why can't you use the one to reach the
25 other? I mean, you're saying, sure, it would be better if it

1 were more precise, but why doesn't the broader language
2 incorporate that?

3 MR. DE BRETTEVILLE: Well, Your Honor, is asking us to
4 look at this form -- Mr. Pukke to look at this form, which is
5 his source of notice and say, oh, when they say, he failed to
6 list positions, what they meant was, I failed to list business
7 holdings. So what I'm really accused of failing to do is to
8 list business holdings. So we have to import the word "business
9 holdings", replace the word "positions" in the petition.

10 And I'm proceeding on the assumption the Court is
11 willing to do that, but I do want to note our objection for the
12 record that the allegation in this petition is not that
13 Mr. Pukke failed to list any business holdings, but that he
14 failed to list positions as director, as subscriber.

15 And there's nothing in Form 48 --

16 THE COURT: Well, what do we do about the core
17 allegation here that he is -- at least, we'll hear more
18 testimony on, that he's impersonating somebody else who may hold
19 positions in all this; not reporting it and saying, well, I
20 don't hold that position, he does, but I'm impersonating him.
21 You think that somehow is not potentially covered by the
22 language?

23 MR. DE BRETTEVILLE: I have a feeling it's not, but
24 I'm prepared to address that, Your Honor.

25 THE COURT: Well, you don't have to jump to that yet,

1 but I'm -- you're arguing a different point, which is -- right
2 now, it's as I understand it that he shouldn't have to list
3 positions where he's acting -- he's impersonating somebody else.
4 And presumably, he wouldn't want to do that, but the question is
5 --

6 MR. DE BRETTEVILLE: That's not my argument, Your
7 Honor. He is certainly obligated under the language of Section
8 K to list business holdings. Whether he holds them in his own
9 name or under an alias, any business holding that he has
10 whether -- and strangely enough, Section K has that
11 parenthetical and --

12 THE COURT: You know, I don't -- let's jump ahead to
13 this. I don't know at all what your defense is going to be as
14 far as what Mr. Pukke is going to say, but what I understand the
15 likely testimony is going to be is from some people who are
16 going to say, he was doing a lot of work under somebody else's
17 name.

18 I don't know whether he's getting paid for that or
19 not. I also understand all these businesses were in the same
20 building. Now, there's some issue --

21 That also goes back to the probable cause, by the way,
22 but having said that, I mean, you're saying it can't even
23 somehow be looked into because it doesn't go into his business
24 holdings. Right now, there is probable cause to believe that,
25 perhaps, he did have holdings or whether he did not. Even if he

1 did not, but was affiliated in some significant way with these
2 businesses under somebody else's name, that would, I think, be
3 covered within the rubric of the supervised release conditions.

4 MR. DE BRETTEVILLE: Well, I agree with everything
5 Your Honor said, except the last bit, which is, yes, there is
6 certainly probable cause to go forward on the theory that
7 Mr. Pukke held business holdings either in his own name or in
8 someone else's name. And that's what we're here for today and I
9 can move on to that.

10 But the simple, inescapable truth is that the petition
11 does not use the word "business holdings" even once. It does
12 not say, Mr. Pukke failed to list business holdings in Section
13 K. It says -- Your Honor, it says that he failed to list
14 positions. So, that may be a technical argument, but again,
15 what we have to all agree upon here is that if we're going to
16 proceed today, we're going to read the word "positions" in the
17 petition as meaning business holdings. If we don't do that, we
18 got no reason to go forward.

19 So, if we assume that we're going forward on that
20 basis, our defense and it will be constant throughout today is
21 that -- is what has multiple tiers, but the first and main point
22 is that the positions which are the tie to the business holdings
23 here that are alleged in the petition did not exist during
24 Mr. Pukke's term.

25 THE COURT: I don't know that until I see the

1 evidence. I know what you're telling me, but that's obviously
2 not dispositive.

3 MR. DE BRETTEVILLE: And to be clear, that is
4 established by the affidavit of Rod Kazazi we submitted and the
5 affidavit of Mr. Pukke himself.

6 THE COURT: All right. Let me see how the government
7 responds to what you say.

8 Mr. Mitchell.

9 MR. MITCHELL: Thank you, Your Honor.

10 And I think defense counsel is, too clever by half
11 here, to use a colloquial phrase. There are two parts, as I
12 understand, to defense counsel's argument with regard to the
13 petition. I frankly don't understand whether it's a due process
14 argument or a jurisdictional argument, but whatever box you put
15 it in, my understanding is that the first contention by defense
16 counsel is that this particular section, Section K of Form 48 --

17 I'll go ahead and put it up on the screen for Your
18 Honor.

19 THE COURT: Is my screen working, Rita?

20 Are you putting it up there, Mr. Mitchell?

21 MR. MITCHELL: I'm going to introduce various
22 exhibits, Your Honor.

23 THE COURT: Well, I'm not sure I'm working here. Hold
24 on.

25 (Pause.)

1 THE COURT: Go ahead. I've got the hard copy. Just
2 tell me what page you're looking at here.

3 MR. MITCHELL: It's Government's Exhibit Number 1,
4 Your Honor, which will be introduced through witnesses, which
5 happens to be -- pages are not marked.

6 THE COURT: Sorry, which?

7 MR. MITCHELL: Government Exhibit 1.

8 THE COURT: Government's 1, hold on a second.

9 MR. MITCHELL: Yes, Your Honor.

10 THE COURT: Give me a moment, if would you,
11 Government's Exhibit 1?

12 (Pause.)

13 THE COURT: Am I supposed to have a copy of this?

14 MR. MITCHELL: Yes, Your Honor, I gave a copy to --
15 If I may approach, Your Honor.

16 THE COURT: Does the clerk have a copy?

17 (Pause.)

18 THE COURT: All right. Go ahead.

19 MR. MITCHELL: So, Government's Exhibit Number 1, the
20 fifth page, Your Honor, there are not -- there are not page
21 numbers on it. In the top right hand corner it says -- it
22 actually says, page 4 of and then it's underlined.

23 THE COURT: So it's page 4, all right, I've got that.
24 Go ahead.

25 MR. MITCHELL: At the bottom of that page, it's also

1 on the screen says, business holdings. This is the provision of
2 the form that has allegedly been --

3 THE COURT: All right. This is dated 10/6. I'm not
4 sure what --

5 MR. MITCHELL: This particular one is dated 10/6 of
6 2012.

7 THE COURT: Fifteen, is that --

8 MR. MITCHELL: Excuse me, Your Honor.

9 THE COURT: No, that wouldn't be right. What's the
10 date on that? What's the year?

11 MR. MITCHELL: 2012, Your Honor.

12 MR. DE BRETTEVILLE: October 6, Your Honor.

13 THE COURT: Go ahead.

14 MR. MITCHELL: And this happens to be attached to the
15 Exhibit I to the petition. The bottom section here has business
16 holdings reads --

17 THE COURT: Right, I have it.

18 MR. MITCHELL: Include all businesses in which you
19 have an ownership interest or with which you had an affiliation
20 within the last three years, and it provides some examples.
21 Defense counsel is arguing, I think, two points. First, that
22 the provision that has allegedly been violated, the original
23 supervised release that alleges violation concerns financial
24 information.

25 And if I understand, defense counsel is arguing that

1 this box here, business holdings in which it's requiring
2 ownership interest as well as affiliations falls outside of
3 financial information and, therefore, would not be covered by a
4 term of supervised release. At least, that's how I understand
5 defense counsel's argument.

6 I don't read that language as precisely and as
7 narrowly as defense counsel does. I certainly think that this
8 business holding section relates to financial information and
9 that it's covered by the additional condition of supervised
10 release, which require Mr. Pukke to provide the probation
11 officer with access to any requested financial information.

12 The second part of defense counsel's argument is that,
13 is -- is going to focus on ownership interest as opposed to
14 affiliation. I think affiliation is an important word here in
15 regards to this particular form. What's also important is it
16 says, within the last three years. And so, the date that this
17 is signed is October 6th, 2012. The time period covered by this
18 particular paragraph would be three years prior. So it would be
19 going back all the way to 2009.

20 Of course, on this particular example, Mr. Pukke wrote
21 "none" and the government believes there'll be some testimony
22 today which might contradict that statement.

23 THE COURT: All right. Now, the actual supervised
24 release period, though, is post-2009, just so -- I have
25 September 20th, 2012 through September 20th, 2015 as the period.

1 Now, whether that has an affect or not, I think you need to bear
2 that in mind.

3 MR. MITCHELL: That is absolutely correct, Your Honor.
4 That's absolutely correct.

5 THE COURT: In any event, this -- this particular
6 document is September 20th, 2012?

7 MR. MITCHELL: That's correct, Your Honor.

8 And then the other argument that defense counsel is
9 making is, again, closely analyzing the language that's
10 contained in the petition at ECF 38. And here the petition
11 talks not about affiliations, okay, which is what's in the form.

12 THE COURT: Sorry. Give me the page reference now.

13 MR. MITCHELL: I'm looking at the petition on
14 supervised release.

15 THE COURT: The petition. All right, hold on.

16 MR. MITCHELL: ECF 38.

17 THE COURT: Is there a Bates stamp on that?

18 MR. MITCHELL: No, no, Your Honor. I'm sorry. It's
19 not an exhibit. It's in the record. It's ECF 38, the petition
20 itself.

21 THE COURT: I have the petition, but you said when
22 reference to it.

23 MR. MITCHELL: So on the first page of the petition --

24 THE COURT: Right.

25 MR. MITCHELL: -- nowhere in the petition does it use

1 the word "affiliation". So, in other words, it does not mirror
2 the language of this business holdings provision in Form 48.
3 And so, my understanding is defense counsel is arguing that
4 the -- the petition -- there's an incongruity between petition
5 and the form that Mr. Pukke should have filled out. And as a
6 result of that, the petition does not cover --

7 THE COURT: But isn't the network statement requested
8 pursuant to the condition that requires reporting of financial
9 information?

10 MR. MITCHELL: That would certainly be the
11 government's position, Your Honor.

12 THE COURT: All right. And then further delineation
13 of what that means is set forth in the instructions, in the --
14 that form itself that defines business holdings and so on and so
15 forth.

16 MR. MITCHELL: Yes, Your Honor.

17 THE COURT: It's all done under the rubric of that
18 general term of providing financial information.

19 MR. MITCHELL: Yes, Your Honor. And with regard to
20 due process, if the due process argument which required under
21 the petition that the defendant be put on notice as to the
22 allegations here, the government would certainly argue that the
23 allegations that are set forth in the petition put the defendant
24 on notice that he incorrectly, allegedly incorrectly filled out
25 the business holdings portion of Form 48. Whether it's a

1 quote-unquote position that he failed to list or whether it's,
2 quote-unquote, an affiliation he failed to list or whether it's
3 a, quote-unquote, ownership interest that he failed to list.
4 And he's been put on notice of that and there's no due process
5 violation, and the government believes it can proceed.

6 THE COURT: Reply, Mr. De Bretteville.

7 MR. DE BRETTEVILLE: Very briefly, Your Honor, just
8 to -- I think we're all on the same page here, but if I can
9 borrow the Elmo for a moment.

10 THE COURT: Okay. We're good now.

11 MR. DE BRETTEVILLE: Now, the petition says that
12 Mr. Pukke did fail to list that he was the director of Sittee
13 River Wildlife Reserve; did fail to list that he was the
14 president of Eco Futures. There's nothing on this form, Your
15 Honor, that would ask Mr. Pukke to list that he's director of
16 Sittee River Wild Life Reserve. It says, name and address of
17 business. You couldn't put director of Sittee River Wildlife
18 Reserve there.

19 THE COURT: It says, board member. Why are you
20 excluding that? It says, self-employed, self-proprietor,
21 officer, shareholder, board member -- that usually means
22 director -- partner, associate.

23 MR. DE BRETTEVILLE: That's in the definition of
24 business holding. What that's saying, sir, Your Honor, is to
25 Mr. Pukke, if you have one of those titles, then even though you

1 don't own it or may not seem like a finance interest to you, you
2 should still list that business holding.

3 THE COURT: Right.

4 MR. DE BRETTEVILLE: But the petition, the language of
5 the petition, Your Honor, is that Andris Pukke using the name
6 Marc Romeo, did fail to list that he was director of Sittee
7 River Wildlife Reserve. And if we go back to the form, none of
8 the columns in Section K asks him to list director of anything.
9 There's no -- director would not be responsive to name and
10 address of business.

11 THE COURT: Well, there's board member and you keep
12 skirting over those words. Board member is ordinarily a
13 director. It's called a board of directors. You're saying, he
14 doesn't use the word "director" and therefore he shouldn't --

15 MR. DE BRETTEVILLE: I can answer the question back,
16 Your Honor. I don't know which column Mr. Pukke was supposed to
17 write down, director of Sittee River Wildlife Reserve. Was he
18 supposed to write it down in response to name and address of
19 business?

20 THE COURT: The problem is, of course, he was using
21 somebody else's name. Likelihood, he wouldn't list it at all.

22 MR. DE BRETTEVILLE: Let's assume the allegation is
23 true, that Mr. Pukke used the name Marc Romeo. And let's jump
24 to the inference that because he used that name on various
25 occasions, any time you see that name, it must be him. Now,

1 that's a big leap, but I'll take that leap.

2 THE COURT: Well, we'll have to see what the testimony
3 shows.

4 MR. DE BRETTEVILLE: Let's assume it's true. Let's
5 assume all the allegations are true. The question is, Your
6 Honor, when --

7 Let's assume that Mr. Pukke was Mr. Romeo. Where on
8 this form was he supposed to write down director of Sittee River
9 Wildlife Refuge.

10 THE COURT: I'm assuming he wouldn't do that, but
11 suppose he was effectively acting as Marc Romeo, as -- who was
12 the director of there. He's not going to put it down at all.
13 You're saying, where would he have put if he was going to put
14 it, but he wouldn't have put it. But somebody who -- wait now.
15 If there really --

16 If there was an individual who really was a director
17 of another entity, he'd put it on here one way or another,
18 because it says, type of business. It doesn't say, under the
19 particular title. It doesn't say, put whether you're a board
20 member or so on, but it says, that's who we're talking about.
21 So, ordinarily, you would put it somewhere on there because
22 that's what you're defining.

23 MR. DE BRETTEVILLE: Yes, Your Honor. A person who
24 fully understands the somewhat confusing form, acting in good
25 faith would write down business holdings with which he or she

1 was affiliated.

2 And so, for example, if I was advising a client, I
3 would hopefully say, Mr. Johnson, any entity for which you are a
4 board member, a director at any time, please put down business
5 holding information.

6 THE COURT: Right, I think that's what it says.

7 MR. DE BRETTEVILLE: Exactly, that's what it says.
8 But that's what the petition says, Your Honor. The petition
9 says that he failed to list positions, not business holdings.
10 And there's nothing in any of these columns that asked him to
11 write down, I am the director of this entity. I am the
12 president of this entity. I'm a subscriber to this other
13 entity, but not a single column here, it says, business, name
14 and address of business, type of business, industry of business,
15 date business started, capital investment to start, your
16 ownership interest percentage, sale price or fair market value
17 of your interest --

18 Not one of these columns asks a probationer or a
19 supervised releasee to write down director, subscriber,
20 president. And that is exactly what the petition says. The
21 petition says that Mr. Pukke using the name Marc Romeo failed to
22 list that he was director. But no one is instructed to fill out
23 Form K by writing out the word director or president. They're
24 instructed to list business holdings. That is not what
25 probation alleged in this case.

1 THE COURT: What if he did list it because he knew he
2 was the director, but didn't write the word "director" because
3 it says, write down the name of the entity? I'm one of these
4 things. I'm officer, I'm board member, I'm shareholder, I'm
5 something. He doesn't have to write that down, but that's what
6 we mean when we ask you to report under this category. And
7 people may fill out that category and never specify what the
8 name is.

9 The mere fact that the petition says, well, here's
10 actually one position that he held impersonating somebody else
11 that he didn't list. Maybe he wouldn't have had to write
12 director. He could have just wrote the name of the company and
13 that he was functioning there.

14 MR. DE BRETTEVILLE: That's correct. That's not
15 what's been charged.

16 THE COURT: No, all it does is it specifies that he
17 hasn't listed the company of which he was director, so called.
18 Not that he didn't list -- you're reading it so literally that
19 he didn't write the word, director. He didn't list the company
20 of which purportedly he was the director. That's what the --
21 that's the common sense reading of what this says.

22 MR. DE BRETTEVILLE: I understand the Court's
23 position.

24 THE COURT: Well, again, I reject your position. I
25 think it's very technical and, frankly, not very compelling.

1 So, the Court rejects that argument as well.

2 Now, are there any other arguments you want to make
3 before we get to testimony, government or defendant?

4 MR. DE BRETTEVILLE: Only one very briefly.

5 THE COURT: All right. Go ahead.

6 MR. DE BRETTEVILLE: Your Honor, on the call with the
7 Court on Tuesday, I think it was, the government said that it
8 had no intention of putting on any evidence that Mr. Pukke
9 financially benefited in any way from any of these positions.
10 And given that representation, I'm not sure what relevance any
11 of these allegations have, because again, the question before
12 this Court is whether or not to revoke Mr. Pukke's supervised
13 release for failure to provide access to financial information.

14 And if the government's position is that Mr. Pukke did
15 not benefit financially from any of these positions, then I
16 don't know how there could be any violation. And even if there
17 was a technical violations, how it could ever rise to a level
18 that would warrant revocation, Your Honor.

19 THE COURT: Mr. Mitchell.

20 MR. MITCHELL: Just with regard to defense counsel's
21 representations about what government said on Tuesday of this
22 week, I think, Your Honor, my point was slightly more precise
23 than that, which is the government does not intend -- it does
24 not intend on introducing any bank records today which show any
25 monetary deposits into any bank accounts that are controlled by

1 Mr. Pukke.

2 There very well might be testimony by witnesses based
3 on their understanding that Mr. Pukke had some sort of financial
4 benefits from these ventures. Frankly, I don't know, Your
5 Honor. I don't know how the testimony is going to come out
6 today. All I was making in representations to both defense
7 counsel and to the Court was that today the government does not
8 intend on providing any bank statements, direct deposits,
9 anything of that nature. That's all.

10 Whether -- and I guess backing up one step, whether he
11 financially benefited or not is, is not the additional condition
12 which has allegedly been violated here. The additional
13 condition says, the defendant shall provide the probation
14 officer with any requested financial information. Whether he
15 received some sort of monetary benefit or not is irrelevant to
16 that condition. And it's irrelevant to Section K of Form 48,
17 which has allegedly been falsely completed by the defendant.

18 THE COURT: Well, I would agree with that. I don't
19 think it has to show that he got some monetary value from
20 what -- these positions, if in fact he was holding them.
21 Although, he well may have and it may indicate that if he was
22 getting money at a time when he was Marc Romeo, well, I'd like
23 to know about that, but I don't know if they have any bank
24 records that are going to show that.

25 Look, what I understand the allegations in part and

1 these entities all operate out of the same place, same common
2 shareholder -- common directorate. And the idea -- I may be
3 wrong about that. We'll see. Some different people, perhaps,
4 one entity to the next, but the suggestion is that Mr. Pukke is
5 sort of going around, got some of these collateral agencies that
6 are working. And he says, I'm only working for \$10 an hour for
7 the single entity.

8 And there's a question about that, about whether he
9 really is doing that. Well, particularly in this case where the
10 core violation involved the so-called non-profit credit
11 counseling, and there were a lot of for-profit organizations
12 with Mr. Pukke involved, in fact, substantially benefiting.

13 That was the scam. And that's what led to the
14 prosecution and the class action suits, and sort of has the
15 feeling that maybe he's acting as Marc Romeo around this one
16 central activity. At least, it's enough to look at under the
17 circumstances.

18 MR. DE BRETTEVILLE: I understand, Your Honor, and I
19 think it's time to proceed to the evidentiary --

20 THE COURT: Let's go forward. I understand your
21 argument. I don't -- the government is not seeking to recover
22 any finances at this point. That's clear and I don't understand
23 them to be doing that.

24 MR. DE BRETTEVILLE: If I may, Your Honor, just to
25 frame what I think the Court is about to hear, our position is

1 very simple. Mr. Pukke did, in fact, meet with certain
2 individuals before he was sentenced in the underlying case and
3 none of those individuals using the name Marc Romeo. That
4 happened.

5 THE COURT: All right. Well, that's something worth
6 knowing about.

7 MR. DE BRETTEVILLE: But then, Your Honor, the
8 question for the Court is whether Mr. Pukke violated supervised
9 release. So again, the point I just conceded and I'm making is
10 that before Mr. Pukke was even sentenced, he met with
11 individuals who knew him as Marc Romeo.

12 Now, the --

13 THE COURT: But I understand there's some allegations
14 that go during his tenure -- during his time on supervised
15 release that masquerade, if you will, continued.

16 MR. DE BRETTEVILLE: And to the extent that evidence
17 is before the Court, Your Honor, it comes before the Court now
18 about conduct during the term of supervised release, I would ask
19 the Court to focus on those allegations.

20 THE COURT: Well, except that people may say, again,
21 reading the papers the best I can at this point, that he was
22 identified as Marc Romeo before supervised release started and
23 continued to be Marc Romeo after. So, obviously, the initial
24 identification of himself as Marc Romeo becomes --

25 MR. DE BRETTEVILLE: Yes, Your Honor. And the factual

1 question for the Court is whether the evidence such as it exist
2 regarding conduct either before or during supervised release as
3 to the conduct reflecting the use of an alias, Marc Romeo,
4 whether that evidence goes the extra mile and, actually,
5 establishes that not only did Mr. Pukke use historically or meet
6 with individuals who thought he was Marc Romeo, historically,
7 but does that evidence actually establish that Mr. Pukke held
8 the positions, had the business holdings that are -- that
9 reading the petition is alleging.

10 THE COURT: Well, let's see what develops.

11 MR. DE BRETTEVILLE: My core point, Your Honor, is
12 just using an alias, historically, is not a basis for revocation
13 here.

14 THE COURT: Well --

15 MR. DE BRETTEVILLE: It's only if the use of the alias
16 convinces the Court that Mr. Pukke had the business holdings or
17 positions alleged in the petition.

18 THE COURT: That's your argument. We'll revisit that
19 at the appropriate time.

20 All right. Call your first witness.

21 MR. MITCHELL: Thank you, Your Honor.

22 Just very briefly before I call the first witness, I'd
23 like to set forth a very brief timeline based on things already
24 in the record.

25 THE COURT: Go ahead.

1 MR. MITCHELL: The other thing I want to address is a
2 line and, perhaps, I'm reading too much into it, is the defense
3 counsel's Motion to Dismiss the Petition.

4 THE COURT: All right.

5 MR. MITCHELL: So, first, Your Honor, I just want to
6 set forth some relevant dates here.

7 THE COURT: Are you going to give us a copy of this
8 too?

9 MR. MITCHELL: I can give you a copy, yes, Your Honor.

10 THE COURT: Do we have a copy of this,
11 Mr. De Bretteville? Do you have a copy of this?

12 MR. DE BRETTEVILLE: I can see it on the screen, Your
13 Honor.

14 THE COURT: All right. Well, I didn't know whether
15 you had it in your --

16 MR. DE BRETTEVILLE: I'm okay with the screen, Your
17 Honor. Thank you.

18 THE COURT: Go ahead, that's fine. I can see it on
19 the screen for now. If I need it in hand, we'll talk about it
20 or hand it up to the clerk.

21 All right. Go ahead.

22 MR. MITCHELL: Thank you.

23 So, December 1st, 2010, there was a Criminal
24 Information filed in this case for obstruction of justice
25 against Mr. Pukke. And then several months later, on

1 January 20th, 2011, the defendant pled guilty pursuant to a Plea
2 Agreement before Your Honor.

3 In May, mid-May, he was sentenced to 18 months
4 imprisonment followed by three years of supervised release.

5 On September 20th, 2012, he was released from BOP
6 custody and his three year term of supervised release began on
7 that date and was set to expire on September 21st, 2015. So
8 that the period of supervised release here is September 20, 2012
9 through September 21st, 2015.

10 And on July 31st, Your Honor signed a petition on
11 supervised release based on the Notice of Violation filed by
12 Senior Probation Officer Mr. Tavik dated July 29, 2015.

13 There was then an initial appearance in August in
14 which Mr. Pukke was represented by counsel and did not appear.
15 And then on November 7 -- with permission of the Court.

16 And then on November 7th, defense counsel filed a
17 Motion to Dismiss the Petition. November 10th, the Court held a
18 telephone conference in which we discussed the issues regarding
19 the Motion to Dismiss the Petition. And on November 12, of
20 course, we're here today for the hearing on supervised release.
21 The 13th, there is an error.

22 THE COURT: Should be the 13th.

23 MR. MITCHELL: Friday the 13th, we are here today for
24 the petition on supervised release.

25 There was one comment, Your Honor, on page 23 of the

1 defense counsel's Motion to Dismiss the Petition. That's at
2 ECF 45 and, perhaps, I'm reading too much into it, Your Honor,
3 but I feel like I should address it. I feel like I should
4 address it now.

5 In the paragraph at the bottom of that page, it says
6 that the probation office has merely parroted the complaints or
7 disgruntled former employees without investigating both sides of
8 the story or bothering to identify the profound bias suffered by
9 their sources. In so doing, the probation office abandoned its
10 role to act as -- and then there's a quotation, neutral
11 information gathering agent of the court and not an agent of the
12 prosecution, close quote. And that's a citation to a Fourth
13 Circuit case.

14 Your Honor, again, perhaps I'm reading too much into
15 this. I just want to dispel any notion that U.S. Attorney's
16 office for the District of Maryland was responsible for filing a
17 petition in this case.

18 So, by way of background, in February of this year,
19 Tom Herskowitz who is going to be one of the witnesses who is
20 going to testify today, first contacted a contractor for the
21 U.S. Attorneys office for the District of Maryland alleging
22 certain fraudulent activities by Mr. Pukke.

23 There were correspondences sent between Mr. Herskowitz
24 and my office, and those subsequent correspondences have been
25 provided to defense counsel in this case yesterday, even though

1 the government would take a position that it was not required to
2 do so yesterday.

3 Then on May 20th, Supervisory Probation Officer
4 Tara Baxa offered a memo for international travel request. That
5 was based on request by the defendant to travel. The memo
6 correctly noted that I had been contacted and I did not oppose
7 the request for international travel.

8 On May 21st, the FBI noted Mr. Herskowitz that his
9 allegations regarding Mr. Pukke would be sent to the FBI's
10 Las Angeles office.

11 Then on May 28, I was notified by the probation office
12 that Mr. Herskowitz sent a letter to Your Honor and to
13 probation. This is the first time I learned he sent a letter.

14 My office, myself neither requested nor encouraged
15 Mr. Herskowitz to file that petition. Or excuse me, to file
16 that letter with the Court or with the probation office. Then
17 of course, on June 6th, 2015, Your Honor denied the travel
18 request.

19 On July 29th, Probation Officer Tavik drafted a Notice
20 of Violation and Petition on Supervised Release. And on that
21 first page of that notice it says, the letter was spurred by a
22 letter to probation received from Mr. Herskowitz on May 13th,
23 2015. Of course, that's the same letter that Your Honor
24 received.

25 Again, my office, myself did not request that the

1 probation office file that petition before the Court. Of
2 course, Your Honor signed the petition on July 31st, 2015.

3 I say this by way of background, Your Honor, and
4 simply to dispel, perhaps, the suggestion and the Motion to
5 Dismiss that the government somehow was in -- conspiring with
6 probation office to get this petition filed. Perhaps I'm
7 reading too much into it, but I wanted to dispel that notion.

8 The other reason that I bring this up is the
9 government intends on calling three witnesses to testify here
10 today, and they will shortly come in and testify. Namely,
11 Thomas Herskowitz, Jon Berndsen and David Hadlum. They are at
12 the heart of the petition and that's why they are going to
13 testify here today.

14 The government recognizes that all three of these
15 individuals have a long history with Sanctuary Belize
16 Development and as suggested by the Defendant's Motion to
17 Dismiss the Petition, and as Your Honor noted on Tuesday during
18 the telephone status conference, these witnesses may have their
19 own motivations, they may have their own desires and their own
20 interests. And defense counsel will no doubt try to impeach
21 them today when they take the stand.

22 The defendant has also proffered a competing set of
23 facts through various affidavits and, perhaps, there will be
24 some testimony from defense witnesses today as well. Candidly,
25 Your Honor, I come into this hearing not knowing exactly how

1 this petition will be resolved. I don't know which way it's
2 going to ring. I simply am putting for witnesses that have been
3 referenced in the petition that I believe are key witnesses to
4 this case, that I believe have information related to the
5 allegations. And I think in large part, this case will hinge on
6 witness credibility.

7 So with that said, Your Honor, the government is
8 prepared to call its first witness, Thomas Herskowitz.

9 THE COURT: You want to say anything by way of
10 opening, Mr. De Bretteville?

11 MR. DE BRETTEVILLE: No, Your Honor. I just want to
12 correct one thing. I do think counsel may be reading more into
13 that line than is meant. I did not mean to impugn the genesis
14 of the petition itself. I don't have information that would
15 lead me to do so.

16 The one correction I make is I received last night a
17 stack of materials from the government. Included in those
18 materials is a first draft of the letter that was sent to Your
19 Honor and probation on May 13. It's a draft that was written by
20 Mr. Herskowitz on March 5th.

21 The importance of that and it will become apparent
22 hopefully in hearing is that at the time probation and United
23 States Attorneys' office did not oppose Mr. Pukke's travel
24 request to Cabo San Lucas.

25 At the time that probation told this Court that it

1 would not oppose that request because Mr. Pukke had
2 substantially complied with the terms of his release for the
3 prior almost three years, it had already received most of this,
4 including the March 5th iteration of a letter that was submitted
5 to this Court.

6 THE COURT: I made the decision, didn't I?

7 MR. DE BRETTEVILLE: Yes.

8 THE COURT: So, whatever probation said in the end
9 really was just to bring it to my attention.

10 MR. DE BRETTEVILLE: Yes. My point is, Your Honor,
11 after probation and the U.S. Attorneys Office received that
12 letter, their view was that Mr. Pukke should be allowed to
13 travel to Cabo San Lucas for work.

14 MR. MITCHELL: One point of clarification, Your Honor.
15 The U.S. Attorneys' office certainly received a draft of that
16 letter in March as defense counsel represented. I'm not aware
17 of probation. It was a draft letter. It was my understanding
18 from the cover letter that was sent to me that it had not yet
19 been sent to Your Honor and had not yet been sent to the
20 probation office.

21 So, I will agree with defense counsel that I received
22 that letter and I read it, and I still did not oppose his
23 travel. I don't know whether the probation office was aware --

24 THE COURT: I'm not sure where that takes us in any
25 event. I made the decision not to approve the travel. And I

1 can tell you right now, I made it because there was a serious
2 question about what he was doing on his travel. And he had been
3 asking to travel a lot, which is not entirely consistent with
4 being on supervised release.

5 That was my rationale. I have no problem telling you
6 now that's what it was even if probation took the position that
7 we're not going to oppose, I had some concerns.

8 MR. DE BRETTEVILLE: Oh, I understand, Your Honor. I
9 just want to make clear that when probation took the other
10 position notwithstanding the Court's decision, it had not only
11 the March 5th letter, but also the May 13th letter.

12 THE COURT: All right, so --

13 MR. MITCHELL: That's false, Your Honor.

14 MR. DE BRETTEVILLE: At least, the May 13th letter
15 because the memo is written May 20, and I believe May 20 comes
16 after May 13.

17 THE COURT: You can raise that certainly by way of
18 cross and for what it's worth.

19 All right, are we ready?

20 MR. MITCHELL: Yes, Your Honor.

21 THE COURT: All right.

22 MR. MITCHELL: The government calls Thomas Herskowitz.

23 THE COURT: All right. Sir, if you'll step up to the
24 front, the clerk will swear you. Take the witness stand. Come
25 up here first, face this lady.

1 THOMAS HERSKOWITZ, GOVERNMENT WITNESS, SWORN

2 THE DEPUTY CLERK: Please be seated, sir.

3 Sir, could you please speak directly into the
4 microphone and state your name for the record, and spell your
5 last name please.

6 THE WITNESS: Thomas Herskowitz, H-E-R-S-K-O-W-I-T-Z.

7 DIRECT EXAMINATION

8 BY MR. MITCHELL:

9 Q Good morning, sir.

10 A Good morning.

11 Q Where do you currently live?

12 A I live in Belize.

13 Q Whereabouts in Belize?

14 A In a development called Sanctuary Belize, 98 Chachalaca.

15 Q And how long have you lived there?

16 A About three years.

17 Q When did you first learn of Sanctuary Belize?

18 A I believe it was in 2010. I am planning on retiring and
19 looked into different places, and found that project and ended
20 up going down and looking at it.

21 Q Do you recall how you found out about Sanctuary Belize?

22 A Yes, we had decided we wanted to retire in the Caribbean
23 and so I was doing Internet searches looking at several
24 different companies and the Sanctuary Belize information popped
25 up.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q Once that information popped up, what did you do next?

2 A I followed up on the phone number, called into the office.
3 Talked to a gentleman by the name of Bill Bannon. We talked
4 about different lots that were available and that we saw one
5 that we liked, and my wife and I flew down and investigated the
6 property then.

7 Q So, when did you fly down to Belize for the first time?

8 A I believe it was in March, 2010.

9 Q And you flew down to Belize specifically to visit Sanctuary
10 Belize, is that right?

11 A That's correct. That was the only project we looked at.

12 Q At the time, did Sanctuary Belize go by a different name?

13 A Yes, it was called Sanctuary Bay.

14 Q Sanctuary Bay and Sanctuary Belize, are the same thing?

15 A Yes.

16 Q So, if I refer to Sanctuary Bay and Sanctuary Belize, will
17 you understand what I'm saying?

18 A Yes.

19 Q Who did you meet with in March, 2010 in Belize?

20 A John Usher.

21 Q Anyone else?

22 A There was a sales guy down there. I think his name was
23 Phil.

24 Q Mr. Usher, who is Mr. Usher?

25 A Johnny Usher is the Belizean developer for the Sanctuary

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Belize project.

2 Q How do you know that?

3 A He told me he was.

4 Q And when did he tell you that?

5 A When I met with him and I heard it from Bill Bannon also
6 that he was the project developer the Belizean in charge of the
7 project.

8 Q Who is Bill Bannon?

9 A Bill Bannon is the salesman that we bought the lot from.
10 He was located in Newport Beach in the Sanctuary office in
11 Newport.

12 Q Was Bill Bannon in Belize as well at that time?

13 A No.

14 Q Did there come a time when you learned a person who you
15 believed had, I'll put it very bluntly, run-ins with the law had
16 been involved in Sanctuary Belize?

17 A Yes, prior to my going down, I had done some research and
18 found out that there was a person involved that had been, my
19 understanding, found guilty of consumer fraud and had, had some
20 problems, and that Sanctuary Bay at the time had had some
21 problems because of that as well.

22 Q Explain to the Court exactly how you figured that out?

23 A From the Internet. There was a lot of articles talking
24 about the fraud and the Sanctuary Bay information that the --
25 that was tied in. And I wasn't sure all of the aspects of it at

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 the time, but there was some link between Sanctuary Bay and this
2 person in California that had been found guilty of fraud.

3 THE COURT: Do you recall this person's name?

4 BY MR. MITCHELL:

5 Q Well, at the time, did you know this person's name?

6 A No, I did not.

7 THE COURT: What was the name you read about is what
8 I'm asking?

9 THE WITNESS: At the time, I didn't associate it with
10 a name. I just knew that there was somebody that had been
11 convicted and was linked to the project.

12 THE COURT: All right.

13 BY MR. MITCHELL:

14 Q Did you learn about this issue before you traveled to
15 Belize in March, 2010 or after?

16 A Before.

17 Q So, you nevertheless traveled to Belize in March, 2010
18 knowing that there was an individual who was affiliated with the
19 development who had had run-ins with the law?

20 A I didn't know he was affiliated, but I knew he was linked
21 to the Sanctuary Bay project at that time.

22 Q Okay. Did you bring up any of your concerns in March, 2010
23 when you were in Belize?

24 A Yes, I addressed it to Johnny Usher.

25 Q Can you please describe to the Court how that conversation

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 went?

2 A We met in the office with Johnny talking about the
3 development and I said I understood that there was a person
4 involved with them and that there had been a lot of legal
5 problems. And he assured me at that time that that person was
6 no longer involved, that he had two new partners; a Luke
7 Chadwick and a Marc Romeo.

8 THE COURT: And this is in March of 2010?

9 THE WITNESS: Yes, sir.

10 BY MR. MITCHELL:

11 Q At that time, did Mr. Usher use the name of the individual
12 who had trouble with the law?

13 A I don't remember. I just remember who he told me his new
14 partners were.

15 Q Okay. And when he said that he had two new partners, I
16 believe he said, Mr. Chadwick and Mr. Romeo, partners in what
17 specifically?

18 A In the project.

19 Q And project being Sanctuary Bay?

20 A At that time, yes.

21 Q So, what was your understanding of Mr. Chadwick and
22 Mr. Romeo?

23 A My understanding was that they were one-third partners in a
24 real estate development called Sanctuary Bay that was looking to
25 develop like 14,000 acres into a master plan community.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q And as I understand it, the basis for your belief was
2 representations made by Mr. Usher?

3 A Yes, that is correct.

4 Q Did there come a time when you purchased land in Sanctuary
5 Belize?

6 A Yes, I think it was either March or April. We'd gone home,
7 we talked about it, we liked what we saw and we bought a lot.

8 Q So, it was after you left Belize in March?

9 A I think it was. I don't think he signed the time that we
10 were there, but we were having discussions with Bill Bannon. So
11 I don't remember the exact date, but shortly thereafter we
12 signed a contract to buy a lot.

13 Q Who were you negotiating the contracts with?

14 A Bill Bannon.

15 Q Anybody else?

16 A No.

17 Q Did you -- in March 2010, did you meet Mr. Chadwick?

18 A No.

19 Q In March, 2010 did you meet Mr. Romeo?

20 A No.

21 Q I'm going to show you on the screen in front of you to your
22 right what's been marked as Government's Exhibit Number 3.

23 And I'll represent to the Court that this is also attached
24 to the Notice of Apparent Violation as Exhibit A. Do you
25 recognize this document, sir?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A This is an Offer to Purchase.

2 Q And so to orient you a little bit with the screen in front
3 of you, if you touch the screen you actually can manipulate it
4 and have some arrows and drawings show up.

5 A Yeah.

6 Q So if you want to clear it hit the bottom right corner here
7 on the screen and it clears it. If you want to draw like that.

8 A I wanted to scroll up so I can see.

9 Q I'll do that for you?

10 A Okay. It looks like the contract Offer to Purchase that I
11 probably signed, because I see --

12 THE COURT: Is there a signature page?

13 THE WITNESS: Yeah, it says office -- it says,
14 preserve and, yeah, that's me.

15 BY MR. MITCHELL:

16 Q I'll draw your attention to the last page of this exhibit,
17 page 6. Do you see signatures there?

18 A Yes, I do.

19 Q And do you see your signature?

20 A Yes, I do.

21 Q So, what do you recognize this document to be, sir?

22 A I recall Sittee River Wildlife Preserve and it's actually
23 reserve, and so there was a change made on that name is why I
24 recognized that.

25 Q And you recognized it as what? This document, what is it?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A It's a Purchase Agreement for my lot.

2 Q And turning to the last page, what is the date on this
3 document?

4 A 26th of March, 2010.

5 Q Again, this would be consistent with your recollection of
6 it being shortly after your travel to Belize?

7 A That's correct.

8 Q You also identified your signature. Whose signature is
9 below yours?

10 A That's my wife, Patricia.

11 Q And to the right, also a signature. Do you see that, sir?

12 A Yes.

13 Q And whose signature is that?

14 A That's John Usher, the chairman of Sittee River Wildlife
15 Reserve.

16 Q And was this document signed by Mr. Usher in front of you?

17 A No, it was not.

18 Q I'm going to show you what's been marked as Government's

19 Exhibit Number 4 and I'll represent it's a Guarantee and

20 Indemnity Agreement. I'll turn to the second page and show you

21 the signature on that page. Do you recognize this document?

22 A Yes. This was a Guarantee and Indemnity Agreement that was
23 dealing with our purchase.

24 Q Have you seen this document before today?

25 A Yes, I signed it.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q You said you signed it, sir?

2 A I thought I did.

3 Q Showing you the second page here. Whose signature appear
4 on --

5 A John Usher.

6 Q And below that?

7 A Marc Romeo.

8 Q And what are the dates on there?

9 A 29th of November, 2010 and 29th November, 2010.

10 Q Does this relate to your property in Sanctuary Belize?

11 A Yes.

12 Q This was Exhibit B to the Notice of Apparent Violation.

13 THE COURT: What's the date on that again?

14 THE WITNESS: 29 March was the sign date. I'm sorry,
15 November, 29 November, 2010.

16 MR. MITCHELL: Signed by Mr. Usher and Mr. Romeo.

17 THE COURT: Mr. Romeo's title there?

18 MR. MITCHELL: I'm sorry, Your Honor.

19 THE WITNESS: Eco Futures Development, Inc. by
20 Marc Romeo, its president.

21 BY MR. MITCHELL:

22 Q Showing you what's been marked as Government's Exhibit 5.
23 It's titled Amendment to Purchase Agreement?

24 A Yes.

25 Q You'll see in the first paragraph, you see your name there?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A Yes.

2 Q And then the last page, there's a signature. Do you see
3 this?

4 A Yes, this is the one I thought I had signed.

5 Q And what's the date of this document?

6 A It was the 14th of July, 2010.

7 Q And is that your signature?

8 A Yes, it is.

9 Q And on the right hand side, who is that signed by?

10 A Says, Marc Romeo. It's director for Sittee River Wildlife
11 Reserve. Says "preserve" here.

12 Q And what is your understanding of the Sittee River Wildlife
13 Reserve?

14 A It was my understanding it was a non-profit corporation
15 that was the legal developer of the project.

16 Q How did you gain that understanding?

17 A The agreement was signed, the Purchase Agreement was signed
18 by Sittee River Wildlife, so it was the seller of the property.

19 Q I'll represent to the Court that this was attached Exhibit
20 A to the Notice of Apparent Violation.

21 Q So, after you purchased these properties -- excuse me --
22 the property in approximately March, 2010 in Sanctuary Belize,
23 what happened next?

24 A We were -- we started talking to architects and builders.
25 We were planning on building a property, a retirement home out

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 there.

2 Q So, can you explain to the Court the distinction between
3 the real property, the land versus the structure of the house
4 that's on the land and what you -- what you actually purchased
5 from Sittee Wildlife Reserve?

6 A I purchased the land.

7 Q So, again, my understanding is you purchased the land, not
8 a house --

9 Yes, Your Honor.

10 THE COURT: Go ahead.

11 BY MR. MITCHELL:

12 Q You purchased the land, not the house on the land, correct?

13 A That is correct. It was just a bare piece of land that we
14 were planning on building a retirement home.

15 Q And who was responsible for building the home?

16 A I was.

17 Q So Sittee River Wildlife Reserve was not responsible in any
18 way for building the home?

19 A No.

20 Q And so, I believe you were saying that you engaged in
21 discussion with builders; is that correct?

22 A Yes.

23 Q Which builders of relevance did you enter into negotiations
24 with?

25 A I think there were four. The one I ended up going with is

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 EBT, Eco Builders Technology. I also talked to another that was
2 a U.S. builder and I talked to two local Belizean builders. So
3 there were total of four builders I was discussing on building
4 the house.

5 Q So, as I understand it, you spoke with four different
6 builders in 2010 after you purchased the property?

7 A That's correct.

8 Q One of the builders that you mentioned was Eco Building
9 Technologies?

10 A Yes.

11 Q Is Eco Builders Technologies also known as EBT?

12 A Yes.

13 Q Who did you interact with at EBT?

14 A A gentleman by the name of Robert Kathman.

15 Q Could you spell Kathman please?

16 A K-A-T-H-M-A-N.

17 Q What's your understanding of Mr. Kathman's role with EBT?

18 A He was the president and the primary builder for EBT.

19 Q Did you gain an understanding of anyone else who was
20 involved in EBT?

21 A Yes.

22 Q And who was that?

23 A I was told that Johnny Usher and Marc Romeo each had a
24 one-third interest in that company.

25 Q Who told you that?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A Johnny Usher did and Robert Kathman did.

2 Q Just to orient the Court, what time period are we talking
3 about here?

4 A This is in middle of 2010. This is after I bought the
5 property.

6 THE COURT: This is -- I need to slow down a bit,
7 because I want to keep track in the end. This is a prospective
8 builder?

9 THE WITNESS: Yes.

10 THE COURT: And the name again of the prospective
11 builder?

12 THE WITNESS: Eco Builders Technologies.

13 THE COURT: And who did you speak to about that,
14 Mr. Usher?

15 THE WITNESS: I'm sorry?

16 THE COURT: Who did you speak to about that?

17 THE WITNESS: Robert Kathman.

18 MR. DE BRETTEVILLE: Just a brief note of word, Your
19 Honor. That's not one of the entities that the government is
20 alleging Mr. Pukke failed to list.

21 THE COURT: Noted, overruled.

22 Go ahead.

23 BY MR. MITCHELL:

24 Q So you interacted with Mr. Kathman and did you gain
25 understanding of other individuals who were involved in EBT?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A Yes, beside the three --

2 Q I'm sorry. You testified that there were three individuals
3 that you were aware of involved in EBT; is that correct?

4 A That's correct.

5 Q And that was Mr. Kathman?

6 A Yes.

7 Q Mr. Usher?

8 A Yes.

9 Q And Mr. Romeo?

10 A Yes.

11 Q And you learned that information from Mr. Usher?

12 A And Mr. Kathman.

13 Q And Mr. Kathman.

14 A Yes.

15 Q Did you ever speak to Mr. Romeo at this time, the middle of
16 2010 regarding EBT?

17 A No.

18 Q Did you ever meet with Mr. Romeo again in the middle of
19 2010 regarding EBT?

20 A No.

21 Q Did you eventually enter into an agreement with EBT to
22 build your home?

23 A Yes, I did. We entered into a construction contract
24 agreement to build the house.

25 Q After you -- when did you enter into that contract?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A I believe it was in September, 2010.

2 Q What of relevance, if anything, happened in December of
3 2010?

4 A I had gone down to Belize to look at the project. We were
5 getting ready to lay the foundation, so it was Christmas
6 vacation, so I went down there and was working on that. And I
7 went on one of the tours. The project used to bring people in
8 to look at it, so I went on one of the towers.

9 Q Can you describe generally what the tours consisted of?

10 A The tours were prospective buyers that were interested in
11 the property. They'd come down for a weekend and they would
12 tour the property, go off to the key and island that's owned by
13 Sanctuary Belize. And, basically, it was a sales promotion
14 weekend for prospective buyers.

15 Q In December, 2010, when you went on this tour, you had
16 already purchased?

17 A That's correct, yeah. Owners could go on those tours also
18 at that time.

19 Q Who did you interact with with regard to representatives of
20 Sanctuary Belize while on this tour?

21 A With John Usher and the sales people that would have been
22 there. I'm not sure who all of those would have been.

23 Q Anyone else?

24 A I did meet Mr. Marc Romeo for the first time on that tour.

25 Q Okay. And again, this was December 2010, you met Mr. Romeo

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 for the first time?

2 A Yes.

3 Q I'm going to show you what's been marked as Government's
4 Exhibit Number 6 and this was attached as Exhibit C to the
5 notice of --

6 THE COURT: When you say you met with Mr. Romeo, you
7 say you met with the person who identified himself as Mr. Romeo
8 or you met with the real Mr. Romeo or what? What are you
9 saying?

10 A This is the gentleman I met with right here on the right
11 hand side.

12 THE COURT: Let's be clear what the record shows on
13 that.

14 MR. MITCHELL: Yes, Your Honor. I'm showing the Court
15 and the witness a photograph.

16 BY MR. MITCHELL:

17 Q Do you recognize this photograph, sir?

18 A Yes, sir, I took it.

19 Q And it's Government's Exhibit Number 6. Is there a date on
20 the bottom right hand corner of that photograph?

21 A 12/28/2010.

22 Q Is that date accurate to your knowledge?

23 A Yes, it is.

24 Q Where did you take this photograph?

25 A I took this photograph on a boat that was part of the tour.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 At the time, the gentleman that is squatting on the left is
2 Johnny Usher, the Belizean developer. The person on the right
3 at the time I was -- who I was introduced to as Marc Romeo.

4 Q The person on the right, is he sitting in the courtroom
5 today?

6 A Yes, sir, he is.

7 Q Can you please identify where he is sitting based on an
8 article of clothing he is wearing, perhaps, the color of his
9 tie?

10 A He's the gentleman sitting over here on the right hand side
11 of this desk.

12 THE COURT: Record reflects it's Mr. Pukke. Go ahead.

13 MR. MITCHELL: Thank you, Your Honor.

14 BY MR. MITCHELL:

15 Q Would you please describe your interactions? And I'll
16 refer to him as Marc Romeo.

17 THE COURT: Well, let's be clear so we don't have to
18 keep jumping back and forth.

19 Did you ever meet someone who really is Marc Romeo?

20 THE WITNESS: No, sir, I did not.

21 THE COURT: Never met that person. So when you talk
22 about Marc Romeo, you're talking about Mr. Pukke?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right.

25 THE WITNESS: That is absolutely correct.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 THE COURT: So the record is clear on that.

2 BY MR. MITCHELL:

3 Q I'm going to show you what's been marked as Government's
4 Exhibit Number 13. I'll zoom in on the photograph here. Do you
5 see that photograph, sir?

6 A Yes, sir.

7 Q Do you recognize this individual?

8 A No, I do not.

9 Q Ever met this individual before?

10 A No, I have not.

11 Q Show you what's been marked as Government's Exhibit Number
12 14. Do you see that individual there?

13 A Yes, sir.

14 Q And do you recognize that individual?

15 A No, sir.

16 MR. MITCHELL: I'll represent to the Court that what
17 I've shown the witness here is a copy of a passport, as well as
18 a drivers license of Marc Romeo. They were filed at ECF 45-4
19 and they were attachments to Mr. Romeo's affidavit that was
20 submitted by defense counsel in this case.

21 BY MR. MITCHELL:

22 Q Going back to December of 2010, Mr. Herskowitz, when you
23 were on this tour with Mr. Pukke, who you believed to be
24 Marc Romeo, what were your interactions with this individual at
25 that time?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A Would have just been social. Excuse me. He was on the
2 tour and I would have just interacted with him as I would with
3 Johnny or some of the other people on the tour.

4 Q So, at this time, did -- I'll refer to him as Mr. Pukke.
5 Did Mr. Pukke disclose to you what role or responsibilities he
6 had with regard to Sanctuary Belize?

7 A No, he did not.

8 THE COURT: You referred to him as Mr. Romeo. I think
9 maybe that's the way -- as long as we know he's talking about
10 Mr. Pukke, just to keep the record clean on this.

11 MR. MITCHELL: I will do my best, Your Honor. Thank
12 you.

13 BY MR. MITCHELL:

14 Q So, after December 2010, when you took this tour, what
15 happened next?

16 A Came back down to Belize several times to monitor the
17 development of my house. And in September of 2012, my wife and
18 I moved down to Belize.

19 Q And what was the condition of your house at that time?

20 A It was partially completed.

21 Q Can you be a little -- describe that a little more?

22 A The home was supposed to have been done long before we
23 moved down there, but it was delayed. We moved down there and
24 we did have a guest house that had been completed. And my wife
25 and I for six months lived in the guest house while the house

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 was trying to be completed.

2 Q And just to be clear on this point, the builder for that
3 home was EBT, correct?

4 A Yes, sir.

5 Q It was not Sanctuary Belize or Sittee River Wildlife
6 Reserve, correct?

7 A It was a separate builder, Eco Building Technologies,
8 Mr. Kathman.

9 Q Okay. You testified earlier it was Mr. Kathman -- your
10 understanding, it was Mr. Kathman, Mr. Usher, Mr. Romeo?

11 A Yes, sir.

12 Q Did there come a time when work stopped your home
13 completely?

14 A Yes.

15 Q And when was that?

16 A We came down on the first of -- the 11th of September and I
17 think Mr. Kathman walked off the job two or three weeks later.
18 It was before the end of September, he walked off the job.

19 Q Did he tell you why he was walking off the job?

20 A Yes, we had a contract dispute. The contract was a cost
21 contract with a guaranteed maximum price. I believed that I had
22 paid the guaranteed maximum price. Mr. Kathman thought that I
23 had not, so we had a dispute on that and he pulled all the
24 workers off because I wouldn't continue paying above the maximum
25 price that I had signed on the contract for.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q So after the workers are pulled off, shut the site, what
2 did you do next?

3 A We were living in the guest house. I started talking to
4 other people. I talked to Johnny, because he was a partial
5 owner in EBT. They had me start working with a gentleman by the
6 name of Anthony Mock, who was the builder for Sanctuary Belize.

7 There was a lot of discussion as to whether or not I had
8 paid the full amount or not, so as we had some meetings with
9 Mr. Kathman and Mr. Mock and myself, and we also met with Johnny
10 trying to sort out who owed who what. And so, that process was
11 taking place.

12 Q Could you spell Mr. Mock's last name?

13 A M-O-C-K.

14 Q Did there come a time when you traveled to Newport,
15 California?

16 A Yes, concerning this matter, yes.

17 Q And when was that?

18 A That was, I believe, in November of 2012.

19 Q And when you say concerning this matter, you mean
20 specifically your dispute with EBT regarding the construction of
21 your home?

22 A Yes.

23 Q Okay. What office did you go to in Newport, California?

24 A I believe it was on Campus Drive. It was the Sanctuary
25 Belize office.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q And so even though it was EBT, you went to the Sanctuary
2 Belize offices?

3 A Yes, because a meeting was set up with Marc Romeo to
4 discuss this contract dispute and how we were going to finish my
5 house.

6 Q So who was present for this meeting?

7 THE COURT: Let me clear. Was there ever a EBT office
8 in Newport?

9 THE WITNESS: No, sir.

10 THE COURT: Only the Sanctuary Belize?

11 THE WITNESS: Yes, sir.

12 THE COURT: So any dealings you had at all with
13 respect to Belize in United States is in the Newport office?

14 THE WITNESS: Yes, sir.

15 THE COURT: Is that also true in Belize? Were there
16 different offices for the builder, Kathman versus Sanctuary --

17 THE WITNESS: Yes, Mr. Kathman had his -- his office
18 was in one of the houses on the property, but it was -- he did
19 not have an office inside the Sanctuary Belize offices.

20 THE COURT: Were there other entities, though? Was
21 Sittee River Wildlife there?

22 THE WITNESS: Again, that was the headquarters for
23 Sittee River Wildlife Reserve. There is no company called
24 Sanctuary Belize. It's a marketing name used for the
25 development and the ownership is Sittee River Wildlife.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 BY MR. MITCHELL:

2 Q And how do you know that, sir?

3 A I have looked at the corporate documents and the document
4 that I signed, the Purchase Agreement and all the other Purchase
5 Agreements state that the seller is Sittee River Wildlife
6 Reserve.

7 THE COURT: What is Sanctuary Belize today? Is there
8 a separate entity called Sanctuary Belize or is that the same
9 conglomerate?

10 THE WITNESS: It's the same conglomerate. Sanctuary
11 Belize is a marketing term for the project itself. There is
12 no -- I've never found any company named Sanctuary Belize, per
13 se.

14 THE COURT: So that includes Sittee River Wildlife.

15 THE WITNESS: Sittee River Wildlife Reserve is a
16 non-profit company that Johnny Usher is the chairman of and that
17 is the owner of the property.

18 THE COURT: Okay. But that's within the Sanctuary
19 Belize umbrella?

20 THE WITNESS: Yes, sir.

21 THE COURT: Are there other entities within the
22 umbrella there that you know of?

23 THE WITNESS: Yes. There's a company called Eco
24 Futures Development, which is the designated developer for the
25 project. And there's a company called Global Property Alliance,

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 which is the primary marketing company that's located in
2 Newport.

3 THE COURT: Okay. And they all operate out of the
4 same office, is that right?

5 THE WITNESS: No, sir. The Eco Futures Development
6 and the Sittee River Wildlife operate out of an office in
7 Belize. And GPA, Global Property Alliance operates out of an
8 office in Newport Beach.

9 THE COURT: Did you understand, Mark Romeo, the person
10 calling himself Marc Romeo had some affiliation with one or more
11 of these entities?

12 THE WITNESS: Yes, sir.

13 THE COURT: Which ones?

14 THE WITNESS: The GPA, the company in Newport Beach.

15 THE COURT: What about the ones in Belize?

16 THE WITNESS: Those were owned by -- one is a company.
17 It's a non-profit, so there's no stakeholders, no owners in it.

18 THE COURT: Well, people own non-profits. They just
19 don't make a profit.

20 THE WITNESS: Yes, but it only has members. It
21 doesn't have -- and Mr. Romeo was never shown as a member of
22 Sittee River.

23 THE COURT: But he was shown -- of Sittee River?

24 THE WITNESS: Yes, sir. And Eco Futures is owned
25 100 percent by Johnny Usher.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 THE COURT: Eco.

2 THE WITNESS: Well, 99.9 percent.

3 THE COURT: Well, Eco Futures Development, I
4 understand that Marc Romeo signed a document as president, did
5 he not?

6 THE WITNESS: Yes, sir.

7 THE COURT: And then Eco Building Tech, he also had,
8 as you understood it, an affiliation of ownership?

9 THE WITNESS: I never saw the documents, but I was
10 told that he was a one-third owner.

11 THE COURT: By Kathman and Usher?

12 THE WITNESS: Yes, sir.

13 THE COURT: All right.

14 BY MR. MITCHELL:

15 Q The information you just provided regarding the various
16 different entities, how did you come to learn the relationships
17 between these entities, the owners of these entities, the
18 locations of these entities?

19 A I started looking at the corporate documents in Belize to
20 find out what the actual ownership of all these entities that
21 had been thrown around so frequently. So, I did some -- I just
22 went up to the corporate offices in Belize and started
23 looking -- on the Belize side on the documents and then I did
24 some -- just some research on the names in the U.S., the Global
25 Property Alliance, Eco Futures, Eco Futures Development. As

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 this whole process developed, I began trying to find out more
2 about what the legal entanglements were of all of these
3 different companies and all the names that were being thrown
4 out.

5 Q So, there's one thing you said about Eco Futures that I
6 want to clarify. Who did you say that was owned by?

7 A One of the documents was shown that Marc Romeo had signed
8 as the president. I don't know who owned it, but it was --

9 Q You mentioned 99.9 percent?

10 A Oh, that was Eco Futures Belize. You have to be very
11 careful because there's a lot of companies with very similar
12 names.

13 There's a Eco Futures Belize, which is owned 9,998 shares
14 by Johnny Usher. His son and an associate own one share each.
15 That's Eco Futures Belize.

16 Then there's a company called Eco Futures Development and
17 that's primarily connected with GPA, Global Property Alliance.
18 So, Eco Futures Development and the research I did on it shows
19 that it's really just a fictitious name owned by GPA.

20 Q What research did you do on Eco Futures Development?

21 A I did some name searches in the county register in
22 California.

23 Q And why do you say it's a fictitious name?

24 A Because it was -- what I saw was a file that said it was a
25 fictitious name from the county recorder in Orange County.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 BY MR. MITCHELL:

2 Q All right. I want to take you back to -- I think you said
3 it was approximately November 2012 when you flew to Newport,
4 California concerning the construction of your home and the
5 dispute that you had with EBT. Do you recall that?

6 A Yes, yes.

7 Q Who did you meet with in Newport, California?

8 A The meeting was set up by Bill Bannon to come back and talk
9 to Marc Romeo because of the dispute with EBT. I met with Bill
10 Bannon, Luke Chadwick and Marc Romeo.

11 Q Okay. And when you say you met with Marc Romeo, the person
12 who you met with, was it in fact Andris Pukke?

13 A As I learned subsequently, yes. It's the gentleman that's
14 here in court today, yes.

15 Q So, at that time you believed it to be Marc Romeo. Now,
16 you recognize it to have been actually Mr. Andris Pukke?

17 A Yes.

18 Q Thank you.

19 How did you -- why did you think his name was Marc Romeo at
20 the time?

21 A I had been introduced to him by Johnny previously, so I
22 recognized him from my previous meeting. And when I went into
23 the offices, everybody called him Mark. Luke Chadwick called
24 him Mark, Bill Bannon called him Mark. Everybody that was
25 related referred to him as Mark.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q And this person you knew to be Marc Romeo, did he ever a
2 time correct anyone who called him Mark?

3 A No, no. I mean, he was introduced and came in.

4 Q What was his role in this meeting?

5 A He was -- if you would call it from a business meeting, he
6 was like the lead negotiator. He was the one that basically ran
7 the meeting.

8 Q Can you describe a little bit more?

9 A We were going over a lot of the construction costs, the
10 disputes that we'd had. He was asking questions about, you
11 know, change orders and allowances. And just, you know, a lot
12 of the stuff that was at issue on why Mr. Kathman had stopped
13 construction. And so, he was the one that was most interested
14 in getting into that level of detail.

15 Q Skipping around a little bit here, but did there come a
16 time when you sued EBT?

17 A Yes, sir, I did.

18 Q And what was the basis for the lawsuit? And I'm asking for
19 a 30,000 foot explanation here.

20 A It was breach of contract for the construction contract.

21 Q Are you an attorney, sir?

22 A Yes, sir, I am.

23 THE COURT: Where did you sue it?

24 THE WITNESS: Excuse me?

25 THE COURT: Where did you sue it, what jurisdiction?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 THE WITNESS: Oh, I was -- in California. I'm a
2 member of the California Bar.

3 THE COURT: No, no. I said, where did you sue?

4 THE WITNESS: Oh, I'm sorry, I thought you asked --
5 I sued in Belize.

6 BY MR. MITCHELL:

7 Q And what was the result of the lawsuit against EBT?

8 A The judgment was in favor of myself for \$220,000 U.S.

9 Q And what was the date of that judgment?

10 A That would have been early 2015 and that was this year.

11 Q Okay. Was Marc Romeo involved in any aspects of that
12 lawsuit to your knowledge?

13 A No, he was not.

14 Q Was Mr. Pukke involved in any aspects of that lawsuit to
15 your knowledge?

16 A No, he was not.

17 Q Did there later come a time when you learned that the
18 person you knew to be Marc Romeo was, in fact, Mr. Pukke?

19 A Yes, sir.

20 Q And when was that approximately?

21 A Probably, February or March of 2013.

22 Q So beginning of 2013. And how did you learn that?

23 A There was a -- some concern raised by a number of owners
24 because and HOA had been formed and there were some HOA fees
25 being collected, and there was a very rising of a lot of the

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 owners. And one or two of them began doing a lot of research
2 and posting it on Facebook. And then one of them posted a
3 picture of Mr. Pooky [ph], excuse me. Mr. Puck [ph], I
4 apologize.

5 THE COURT: Puk-ke is correct?

6 MS. MCGOUGH: Puk-ke.

7 THE WITNESS: There was a picture of Mr. Pukke making
8 testimony in front of the Congress. And I looked at that
9 picture and said to myself, oh, that's Marc Romeo.

10 BY MR. MITCHELL:

11 Q Did there come a time after you learned of Mr. Pukke's
12 identity where you met with him again?

13 A Yes, sir.

14 Q And when was that?

15 A Would have been, I believe, in June of 2013. He was in
16 Belize and we were having a meeting and he would have attended
17 that meeting.

18 Q I'm going to show you -- well, what kind of meeting was it?

19 A I had been appointed to the interim board for an HOA and we
20 were having an interim board meeting for the HOA.

21 THE COURT: HOA means homeowners association?

22 THE WITNESS: Yes, sir, homeowners association.

23 THE COURT: How much more do you have on direct, just
24 so we know how we're doing on time?

25 MR. MITCHELL: Another ten, 15 minutes, Your Honor.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 THE COURT: Well, in the next five minutes or so, find
2 a convenient break point.

3 MR. MITCHELL: Thank you, Your Honor.

4 BY MR. MITCHELL:

5 Q I'm going through you what's been marked as Government's
6 Exhibit Number 12. Do you recognize this document?

7 THE WITNESS: Yes, sir. It's the June 3rd, 2013
8 minutes of the Interim Board of Directors for the Sanctuary
9 Belize Homeowners Association.

10 Q And 2A, where it says -- under it says, quorum, it says,
11 board members present. Do you see that?

12 A Yes.

13 Q And do you see your name listed there?

14 A Yes, sir.

15 Q And then underneath that is a sub-bullet B, says
16 developers, whose name appears there?

17 A The developers, Johnny Usher and Andris Pukke.

18 Q And were Mr. Usher and Mr. Pukke there?

19 A Yes, sir.

20 Q And you were there as well?

21 A Yes, sir.

22 Q At this meeting, how was Mr. Pukke introduced?

23 A As one of the co-developers.

24 Q And why do you say that? What's your basis for that?

25 A That's how he was -- we all knew him as one of the

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 co-developers, that Johnny and Luke, and Mr. Pukke were the
2 developers of Sanctuary Belize.

3 Q Okay. Did somebody tell you that Mr. Pukke was a developer
4 of Sanctuary Belize?

5 A Yes, Mr. Usher did.

6 Q Did Mr. Pukke tell you that he was a developer of Sanctuary
7 Belize in this meeting?

8 A I don't remember a specific statement like that, no.

9 Q Who was responsible for drafting these minutes?

10 A I was the board secretary, so I drafted them.

11 Q So, it was your understanding that Mr. Pukke was a
12 developer and that's why you wrote in 2B, Andris Pukke next to
13 developer; is that correct?

14 A Well, yes. And you'll notice, he was welcoming the
15 developers who were welcomed by Dianne Allen, who was the
16 president of the interim board.

17 Q So, you recall -- I'm sorry, what was Dianne's last name?

18 A Allen.

19 Q Do you recall Ms. Allen introducing Mr. Pukke as a,
20 quote-unquote, developer?

21 A Yes, she introduced both Johnny -- well, didn't introduce
22 them. We knew them, but they had welcomed them to the meeting
23 as the developers, yes.

24 MR. MITCHELL: Just very briefly, Your Honor.

25 BY MR. MITCHELL:

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q You said you were involved with the homeowners association;
2 is that correct?

3 A Yes.

4 Q Are you familiar with the Articles of Incorporation --
5 excuse me, the Articles of Association of the homeowners
6 association?

7 A Yes, sir.

8 Q I'm showing you what's been marked as Government's Exhibit
9 Number 8, which was Exhibit E to the Notice of Apparent
10 Violation. Do you see that, sir?

11 A Yes, sir.

12 Q You do you recognize this document?

13 A Yes, sir.

14 Q And what is it?

15 A It's the -- what I would call Articles of Association is
16 the legal document that forms the corporation in Belize.

17 Q Okay. Well, on the front it says, Memorandum and Articles
18 of Association of Sanctuary Belize Homeowners Association; is
19 that correct?

20 A Yes.

21 Q And I go to the last page here and there's a series of
22 names here; is that correct?

23 A Yes.

24 Q And signatures next to those, correct?

25 A Yes.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q Top name, could you read that out?

2 A That's Marc Romeo of Newport Beach, California.

3 Q And then to the right, is there a signature?

4 A Yes.

5 Q And underneath that, if you could just read the names of
6 all the individuals on this document?

7 A It's Luke Chadwick, Bill Bannon, Rod Kazazi, Brandi
8 Greenfield, Kathleen Quicklo and Brent Born, all of Newport
9 Beach.

10 Q Zoom in a little bit. Give me that last name again.

11 A Oh, Botes, Brent Botes. Thank you.

12 Q What's the date on that?

13 A 13th, October, 2012.

14 Q And you said you were familiar with the Articles of
15 Association. How are you familiar with them?

16 A I went to the equivalent to the Department of Corporations
17 in Bella Palm in Belize, and got copies of them.

18 Q Show you Government's Exhibit Number 9. Do you recognize
19 this document?

20 A This is the Articles of Association for the Sanctuary
21 Belize Homeowners Association.

22 Q Is this document different than the document we just looked
23 at?

24 A Can you make it a little smaller please?

25 Q Actually, why don't I hand them to you?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A Okay.

2 Q Could you describe for the Court the relationship between
3 those two documents?

4 A The document that you had shown is the actual corporate
5 document that forms the Sanctuary Belize Homeowners Association.
6 And the first document is what they call Memorandum of
7 Association which is the -- which we would call probably the
8 bylaws, equivalent to. So but that they are both for the same
9 organization, the Sanctuary Belize Homeowners Association.

10 Q Turn to the last page of Government's Exhibit Number 9.
11 It's again, a list of signatures here. Do you see that?

12 A Yes.

13 Q And what's the first name?

14 A It's names, addresses and descriptions of subscribers. And
15 the first name is Marc Romeo.

16 Q On the right hand side, is there a signature there?

17 A Yes.

18 Q And what is the date of this document?

19 A 30th of October, 2012.

20 MR. MITCHELL: Your Honor, now might be a good time
21 for a short break.

22 THE COURT: All right. Take about a seven or eight
23 minutes break. See you shortly.

24 (Brief recess.)

25 THE COURT: All right. Mr. Mitchell, go ahead.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 MR. MITCHELL: Thank you, Your Honor.

2 BY MR. MITCHELL:

3 Q So, Mr. Herskowitz, we were last talking about the
4 homeowners association and prior to that you talked about a
5 meeting you had with Mr. Pukke as Mr. Pukke in June, 2013?

6 A Yes, sir.

7 Q Now, since June of 2013, have you met -- other than today,
8 had you met or seen Mr. Pukke in person?

9 A Not that I recall. The answer is, no, to my recollection,
10 I had not met him or talked to him since.

11 Q Had you had any communications with Mr. Pukke since June of
12 2013?

13 A Yes.

14 Q What kind of communications?

15 A Some e-mails. And I think we might have had a phone
16 conversation or two. I don't remember exactly.

17 THE COURT: Now, is this Mr. Pukke as Mr. Pukke?

18 THE WITNESS: Yes, sir.

19 THE COURT: All right.

20 BY MR. MITCHELL:

21 Q You had an opportunity to review affidavits that were
22 submitted in this case?

23 A Yes, sir.

24 Q And the affidavits that I'm referring to specifically are
25 the affidavits that were attached to the Defendant's Motion to

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Dismiss the Petition?

2 A Yes, sir.

3 Q I want to go ahead and give you a copy of those affidavits
4 so that you can refer to them on the stand.

5 A Yes, sir.

6 Q And for reference for the record, I'm handing
7 Mr. Herskowitz ECF 45-2 through 45-6, as well as ECF-46. These
8 were all exhibits to the Motion to Dismiss.

9 A Thank you.

10 Q I'm not going go through all of these with you. I'd like
11 to draw your attention to an exhibit top -- middle of the top of
12 the page says, Document 45-3. Can you go to 45-3 please?

13 A Yes.

14 Q It says -- whose affidavit is this?

15 A It's the affidavit of Brandi Greenfield.

16 Q Do you know Brandi Greenfield?

17 A Yes.

18 Q Have you met Brandi Greenfield?

19 A Yes.

20 Q Who is Ms. Greenfield?

21 A She works in the GPA, Global Property Alliance office and
22 has been on a number of tours involved in sales.

23 Q And the GPA office located where?

24 A At that time, it was -- it was still in Newport Beach. It
25 was on Campus Drive when I knew her.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q Where have you met Ms. Greenfield, physically met
2 Ms. Greenfield?

3 A On several tours in Belize and also in the office in
4 Newport Beach.

5 Q Do you recall approximately when you first met
6 Ms. Greenfield?

7 A No.

8 Q Was it before you purchased property in Sanctuary Belize?

9 A No, I had not met anybody before I purchased, other than
10 Johnny and Bill Bannon.

11 Q So, it was sometime after 2010?

12 A Yes.

13 Q I'm going to draw your attention to paragraph eight of
14 Ms. Greenfield's affidavit. Do you have that in front of you,
15 sir?

16 A Yes, I do.

17 Q And it reads, "In 2012, I attended a meeting in Newport
18 Beach, California with Mr. Herskowitz and Mr. Pukke." Do you
19 recall that meeting, sir?

20 A Yes. That was the meeting I referred to earlier concerning
21 the EBT situation.

22 Q Okay. It says, "I did not refer to Mr. Pukke as Marc Romeo
23 during this meeting, and do not recall Mr. Pukke using any name
24 other than his own."

25 Let me ask you this: You recall the meeting. Do you

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 recall Ms. Greenfield attending that meeting?

2 A She did not attend. The meeting was only between the four
3 of us; Bill Bannon, Luke Chadwick and at that time, Marc Romeo.

4 Q Do you recall whether Ms. Greenfield referred to Mr. Pukke
5 as Marc Romeo?

6 A Not specifically. Everyone in the office referred to him,
7 but I can't remember a specific instance where she did.

8 Q And then the last sentence of that paragraph says, after
9 this meeting, I drove Mr. Herskowitz to the airport? Is that
10 true?

11 A That is correct.

12 THE COURT: Wait. She wasn't at the meeting, but she
13 drove you to the airport?

14 THE WITNESS: She worked in the office. She was like
15 an administrative assistant or something like that.

16 THE COURT: She was in the office --

17 THE WITNESS: She was in the office.

18 THE COURT: -- but not at the meeting.

19 THE WITNESS: Not at the meeting, yes, sir.

20 BY MR. MITCHELL:

21 Q Next paragraph, paragraph nine, first sentence, during the
22 2012 meeting in Newport Beach, Mr. Herskowitz discussed his
23 efforts to switch contractors for his house and to borrow
24 approximately \$100,000 from Eco Futures Belize to fund the
25 completion of his house.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 So, let me ask you this: How many meetings in 2012 did you
2 have in Newport Beach?

3 A One.

4 Q So, in 2012 in a meeting in Newport Beach, did you meet
5 with Ms. Greenfield?

6 A I met her. I did not meet with her.

7 Q So, she was not a participant in any meeting in 2012 with
8 you in Newport Beach?

9 A She was not.

10 Q At the meeting that you attended in Newport Beach in 2012,
11 whether Ms. Greenfield was there or not, was the subject
12 discussed of, quote, your efforts to switch contractors for your
13 house and borrow approximately \$100,000 from Eco Futures Belize?

14 A The discussion was to switch contractors. There was no
15 discussion about a hundred thousand dollar loan from Eco Futures
16 Belize.

17 Q Next sentence, Although Mr. Herskowitz ultimately secured
18 the loan from Eco Futures Belize -- well, is that true?

19 A No.

20 Q And completed construction of his house, is that true?

21 A Yes, I did complete the construction of my house.

22 Q Says, he has not paid back the loan to Eco Futures Belize.

23 And your position is that you never had a loan from Eco Futures
24 Belize?

25 A Never had a loan -- no, that is correct, I never had a loan

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 from Eco Futures Belize.

2 Q Did you ever receive any remuneration or money from Eco
3 Futures Belize?

4 A I did not, but I know money was put into the construction
5 of my home.

6 Q Can you explain to the Court what that means?

7 A There was Mr. Mock, Anthony Mock was the builder. And when
8 I came back from my meeting in Newport, he told me that Marc
9 Romeo had agreed to put \$60,000 into my house because of the
10 contract problems that we had.

11 I never saw that money because the work was being done by
12 Mr. Mock and was being paid for outside of my paying for it.
13 So, the plumbing, the electrical, the gutters, things like that
14 were being done on the house and I was told that that was being
15 paid for by Mr. Romeo.

16 Q Who told you that?

17 A Anthony Mock.

18 Q Did Mr. Romeo ever tell you that he was going to foot the
19 bill for the construction of your house?

20 A No. We had talked about his assistance at the meeting,
21 but we had not talked about a specific amount or how it would be
22 done.

23 Q Okay. And just so we're clear, when we talk about
24 Mr. Romeo here, are we in fact talking about Mr. Pukke?

25 A Yes, sir. Subsequently, I found that out.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q So, other than your understanding that Mr. Romeo, a/k/a
2 Mr. Pukke, was going to pay for, sounds like, \$60,000 of
3 construction on your home as a result of this dispute that you
4 had with EBT. Did you receive any other money from Eco Futures
5 Belize that could relate to the \$100,000 loan that's alleged in
6 this paragraph?

7 A No, not at all. Eco Futures Belize was not even
8 represented at the meeting.

9 Q All right. Paragraph ten, Mr. Herskowitz assisted with
10 marketing tours in Belize in his capacity as the owners'
11 advocate; is that correct?

12 A That is correct, yes.

13 Q And it says, until his termination on or about August 15th,
14 2013; is that correct?

15 A I believe that's about the right date, yes.

16 Oh, wait, I'm sorry. Let me go back to when it said I
17 started.

18 Q It doesn't --

19 A Oh, it's another affidavit says that.

20 Okay, yes.

21 Q Next sentence, Mr. Herskowitz' termination was in response
22 to reports of Mr. Herskowitz being intoxicated during the tours,
23 making false statements regarding development of new lot owners
24 and offering to sell services to new lot owners.

25 Let me ask you this: Were you ever told why you were

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 terminated from your position as owners' advocate?

2 A No, not at all.

3 THE COURT: I'm not sure how far we need to get into
4 all of this. I mean, this is a question about what Mr. Pukke
5 was doing, whether he was using a false name and didn't report
6 it. A little far afield now about whether Mr. Herskowitz was
7 fired for intoxication or whatever. I know you're challenging
8 the credibility of the affiant, but let's move on. We're not
9 going to correct every alleged proposition in this case. Let's
10 keep it on the main chance here.

11 MR. MITCHELL: Thank you, Your Honor. And, Your
12 Honor, you're absolutely correct. My intention was simply to
13 show inconsistencies in the testimony and these affidavits.

14 THE COURT: Understood.

15 MR. MITCHELL: I'll move on to another affidavit here
16 and I only have two more to go, and I'll be brief, Your Honor.

17 BY MR. MITCHELL:

18 Q The next one is 45-5 and this is the affidavit of
19 Rod Kazazi.

20 A Yes, sir.

21 Q This may or may not be an individual who will testify
22 before the Court today. It's not going to be a government
23 witness, but --

24 THE COURT: Do you have an affidavit from that
25 individual?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 MR. MITCHELL: Yes, it's at 45-5, Your Honor.

2 THE COURT: Go ahead.

3 BY MR. MITCHELL:

4 Q So, I'm going to draw your attention to paragraph seven and
5 in the middle there it says, Mr. Herskowitz -- here he's
6 referring to a letter you sent to the United States probation
7 office. It says, "Mr. Herskowitz recounts as supposed
8 telephonic conversation in which he purportedly overheard
9 Mr. Usher speaking to Mr. Pukke on another phone regarding the
10 use of funds to complete the Sapodilla Ridge section of the
11 Sanctuary Belize Development." Do you see that sentence?

12 A Yes, sir. Yes, I do.

13 Q And in your letter, you described this conversation,
14 correct, that you overheard?

15 A Yes, yes.

16 Q You stand by what you wrote in that letter?

17 A That is correct, yes.

18 Q And so underneath, it says, Mr. Herskowitz reports
19 recognizing Mr. Pukke is in fact --

20 THE COURT: Slow down, if you would.

21 BY MR. MITCHELL:

22 Q Mr. Pukke was not present for that conversation or any
23 other related conversation with Mr. Usher. That's inconsistent
24 with your belief; is that correct?

25 A That's correct.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 Q All right.

2 THE COURT: Well, how certain are you as opposed to
3 this affirmation? Are you certain that Mr. Pukke/Romeo was
4 present or not?

5 THE WITNESS: I heard a phone conversation and I
6 recognized Mr. Pukke's voice from having met him before.

7 THE COURT: All right. Let's move on.

8 BY MR. MITCHELL:

9 Q Paragraph eight says, "Mr. Herskowitz made false statements
10 in connection with Mr. Herskowitz's efforts to gain property
11 owners' support for demands related to pace and priority of the
12 construction of improvements in Sanctuary Belize and, otherwise,
13 gain leverage in his negotiations with the developer of
14 Sanctuary Belize."

15 I'm not going to focus here on the false statements because
16 I think that could be a rabbit hole, but I will ask you about
17 any motivations that you have or concerns. I'll put it this
18 way, concerns you have with regarding the pace and priority of
19 the construction in Sanctuary Belize?

20 A Yes, I do.

21 Q You do have concerns?

22 A Absolutely.

23 Q And it says, "Gain leverage in negotiations with developer
24 of Sanctuary Belize." Are you in negotiations with Sanctuary
25 Belize?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A I have no idea what that means. No, I am not in
2 negotiations with the developer of Sanctuary Belize.

3 Q All right. I'm going to turn to a different affidavit.
4 This is at 45-6, Dianne Allen?

5 A Yes.

6 Q Paragraph six says, "I attended the June 3rd, 2013, SB-HOA
7 Interim Board of Director's meeting as interim president. Do
8 you see that?"

9 A Yes.

10 Q And was this the meeting you were discussing earlier?

11 A This is the meeting that Mr. Pukke was at, yes.

12 MR. DE BRETTEVILLE: Just for the record, Your Honor,
13 can we establish who Dianne Allen is briefly?

14 THE WITNESS: Dianne Allen was the interim president
15 of the Sanctuary Belize HOA.

16 BY MR. MITCHELL:

17 Q And as she states -- so, she correctly states that she was
18 the interim president at that time?

19 A Yes.

20 Q And says that Andris Pukke also attended that meeting.
21 That's correct, right?

22 A That is correct, yes.

23 Q And it says, Mr. Pukke's attendance and participation
24 related solely to his role as director of marketing at Buy
25 Belize. Is that consistent with your recollection?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A Not at all.

2 Q During the meeting -- I'm reading again. "During the
3 meeting, any questions concerning development, design,
4 management and operational matters were directed either to the
5 developer, John Usher or Andrew Usher, not to Andris Pukke." Is
6 that consistent with your recollection?

7 A That is not.

8 THE COURT: All right. Now, at this point, it's Marc
9 Romeo, so-to-speak, sir?

10 THE WITNESS: No, Your Honor. This was in 2013 when
11 it had already been disclosed that he was no longer Marc Romeo
12 and he attended as Andris Pukke.

13 BY MR. MITCHELL:

14 Q Final affidavit. Document 46, this is the affidavit of
15 Luke Chadwick. Do you see that, sir?

16 A Yes.

17 Q Last page -- sorry, paragraph 15?

18 A Fifteen.

19 Q Yes.

20 A Yes.

21 Q I'll read, "I understand that Eco Futures Belize lent
22 Mr. Herskowitz approximately \$100,000 to fund the completion of
23 his house." Again, you testified to this earlier, that is not
24 correct?

25 A There was never a loan for my house, no.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 THE COURT: You never signed a note or anything like
2 that?

3 THE WITNESS: No, sir. It was never even discussed
4 verbally or in writing.

5 BY MR. MITCHELL:

6 Q Paragraph sixteen says, "I'm not aware of Andris Pukke
7 using the name Marc Romeo at any time between 2012 and the
8 present.

9 THE COURT: And the question based on that, is that
10 consistent with your experience? Is that what you're asking
11 him?

12 MR. MITCHELL: I'm about to, Your Honor. I'm just
13 checking my dates.

14 THE COURT: All right.

15 BY MR. MITCHELL:

16 Q I have here that, that your last meeting with Marc Romeo or
17 Mr. Pukke as Marc Romeo was in -- well, when was that meeting?

18 A It was November, 2012.

19 Q November, 2012?

20 A And that's when Mr. Luke Chadwick was involved in the
21 meeting concerning EBT.

22 THE COURT: And that's when Marc Romeo was -- the name
23 was being used --

24 THE WITNESS: Yes, sir. Everyone referred to him as
25 Marc. Mr. Chadwick referred to him as Marc. And it made sense

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 because I had been told that he was a equity owner in EBT.

2 BY MR. MITCHELL:

3 Q All right. So this sentence where Luke Chadwick says, I'm
4 not aware of Andris Pukke using the name Marc Romeo at any time
5 between 2012 and the present is not true?

6 A That is not true, correct.

7 Q After that he says, "To the contrary, I've witnessed Andris
8 Pukke repeatedly meeting with lot owners and other persons
9 involved in the development as Andris Pukke, specifically
10 meeting with John -- you don't have any specific recollection of
11 that?

12 THE WITNESS: No.

13 BY MR. MITCHELL:

14 Q You testified a little bit earlier that it was represented
15 to you that Mr. Romeo was a partner in EBT. Do you recall?

16 A Yes.

17 Q Okay. Did you ever -- did there come a time when you did
18 any research into the ownership of EBT?

19 A Yes.

20 Q And what did you discover?

21 A I discovered that the ownership was minority by Robert
22 Kathman, a corporation owned by Robert Kathman. Mr. Usher,
23 through a corporation that he owned was a minority shareholder.
24 And Angie Chittenden was the largest shareholder of EBT.

25 Q And how did you come to learn that?

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 A During my lawsuit, I went up to the Department of
2 Corporations and I pulled the corporate documents in Belize.
3 Every corporation has to identify its directors and its
4 shareholders on a annual basis, and so I looked at those
5 documents.

6 Q Do you know who Angie Chittenden is?

7 A Yes.

8 Q Who is she?

9 A It's my understanding, she is Mr. Pukke's girlfriend at one
10 time and I believe she's his wife now.

11 Q Have you ever met Ms. Chittenden?

12 A No, I have not.

13 MR. DE BRETTEVILLE: Your Honor, again, in the
14 interest of time, I don't understand the relevance of this,
15 because Mr. Pukke is not accused in petition of having --

16 THE COURT: I'm not sure what this is going to show
17 me.

18 MR. DE BRETTEVILLE: Yes, this is irrelevant, Your
19 Honor.

20 THE COURT: September of 2010, Mr. Mitchell, what does
21 it show? I don't see what --

22 MR. MITCHELL: Your Honor, I will proffer that witness
23 will testify that these are the documents he was just referring
24 to regarding Eco Building Technologies, EBT, and the ownership
25 interest.

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 MR. DE BRETTEVILLE: And again, Your Honor, Mr. Pukke
2 is not accused of failing to report a business holding in the
3 name EBT. That's not in the petition.

4 THE COURT: This is as of 2010?

5 MR. DE BRETTEVILLE: Just an entity that's not listed
6 as an alleged holding of Mr. Pukke.

7 THE COURT: Well, there may be some questions. If
8 Mr. Pukke is going to testify, we want to know about his
9 relationship with Ms. Chittenden, financial or otherwise,
10 inquire as to that, all right.

11 MR. MITCHELL: I can move on.

12 THE COURT: This is 2010, Mr. Herskowitz, or --

13 THE WITNESS: I'm sorry, sir?

14 THE COURT: This document that's being shown now, when
15 did you find it?

16 THE WITNESS: I found the document in late 2014 or
17 early 2015.

18 THE COURT: It's dated 2010, though, right?

19 THE WITNESS: Yes, those were the corporate documents
20 that I pulled from the Department of Corporations.

21 THE COURT: Very well. Let's finish up.

22 MR. MITCHELL: I'm going to mark it as Government's
23 Exhibit Number 15, Your Honor, and the government would pass the
24 witness.

25 THE COURT: All right. Let me ask one question before

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 we get to Mr. De Bretteville.

2 Why -- I gather you don't have any financial claims
3 against Mr. Pukke at this point, do you?

4 THE WITNESS: No, sir.

5 THE COURT: Why did you write this letter? I mean, I
6 understand you have some concerns about the posing that was
7 going on, but why was it -- why did you think it was important
8 to bring to the Court's attention that Mr. Pukke had been doing
9 this, particularly in light of the fact that, I think, as of
10 February of 2014, was it, 13, you knew he was -- Pukke was
11 Pukke.

12 THE WITNESS: Yes.

13 THE COURT: And you continued to deal with him. Why
14 does it then become significant to receive a letter -- send a
15 letter to the Court in the middle of 2000 -- or early part of
16 2015.

17 THE WITNESS: Your Honor, one of the owners had
18 disclosed to the that Mr. Pukke was on parole. As I moved
19 forward from 2013, 2014 and learned more and more of what was
20 going on, I'd become very concerned as to the value of my
21 property and the ability of finishing the development. And
22 quite honestly, I felt that Mr. Pukke was promulgating another
23 scam, if you will.

24 You want to know what my motivations were?

25 THE COURT: Yeah, just what you were after when you

THOMAS HERSKOWITZ - DIRECT EXAMINATION

1 filed this letter.

2 THE WITNESS: I felt and I feel to this day that
3 Mr. Pukke is manipulating what's going on in Sanctuary Belize.
4 There's been 150, \$200 million paid. A lot of that has been
5 gone off and not into the development, and I'm very concerned
6 that he is violating his parole by doing things and holding
7 himself out as a person that's not involved when he is.

8 THE COURT: Are there other homeowners joining you in
9 this? Is there any kind of concerted action against Mr. Pukke
10 or Sanctuary Belize because of your feelings?

11 THE WITNESS: Yes, sir.

12 THE COURT: Or are you out there by yourself?

13 THE WITNESS: No, there is a number of other owners
14 that are looking at other legal actions against both the Belize
15 side and the U.S. side.

16 THE COURT: All right, Mr. De Bretteville.

17 CROSS-EXAMINATION

18 BY MR. DE BRETTEVILLE:

19 Q Almost still morning. Good morning, Mr. Herskowitz.

20 A Good morning.

21 Q No other homeowner has submitted an affidavit supporting
22 your position in this case. Is that correct, Mr. Herskowitz?

23 A Not that I know of.

24 Q Now, when your testimony began this morning, you were asked
25 about how when you first were looking into buying a lot in

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 Sanctuary Belize in 2010, you did some research?

2 A Yes.

3 Q Do you recall that?

4 A Yes.

5 Q And some of that research was online, correct?

6 A Yes, sir.

7 Q You used Google?

8 A I -- I don't remember. I just did -- I was doing research
9 online for retirement and the Caribbean, yeah.

10 Q And you used a search engine of some kind, maybe Google,
11 maybe Yahoo, but a search engine?

12 A Yes, sir.

13 Q And when you were on the stand, this is the very first part
14 of your testimony under oath to His Honor. You said that when
15 you did that research, you became concerned about the
16 association, the historic association between Sanctuary Bay, now
17 Sanctuary Belize and some sort of fraud. Do you recall that
18 testimony?

19 A With a person that was involved in some type of fraud, yes.

20 Q Well, no, Mr. Herskowitz. What you specifically told His
21 Honor was that you did not recall Mr. Pukke, specifically, and
22 in fact, that you don't recall any person, any individual being
23 associated with the Ameridebt issues. That's what you said
24 under oath several times, correct?

25 A Yes.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 Q So again, you told His Honor that at the time you did the
2 research, you did not associate any individual, much less
3 Mr. Pukke with the fraudulent history, correct?

4 A I did not have a name. I did associate an individual that
5 had been involved with Sanctuary Bay.

6 Q Okay. So you're now correcting your testimony. You're
7 saying you were wrong before when you said that you did not
8 associate an individual. You did, in fact, associate an
9 individual, but just not Mr. Pukke specifically?

10 A Not a specific name, yes, sir.

11 Q Well, I'm going to read from your letter to this Court, if
12 I may. And I'll put it on just so the Court can see I'm not
13 misreading it. You said in the second full paragraph, "I
14 purchased a lot in 2010 and started building my retirement home.
15 I had heard about Mr. Pukke's involvement with Sanctuary Bay and
16 inquired about whether he was still involved in the project."

17 And then down below you say again, "Had I known that
18 Mr. Pukke was involved, I would not have invested in the
19 project. It was over two years later that I learned that, in
20 fact, Mr. Pukke was involved and was using the alias of Marc
21 Romeo."

22 So contrary to your testimony today, sir, back in May of
23 2015, you told this Court that when you did the research, not
24 only did you specifically identify the individual, but you
25 specifically identified Mr. Pukke. Why are you minimizing the

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 fact that you knew in 2010 that Mr. Pukke was associated with
2 the development? Why?

3 A I'm sorry. I don't understand the question. Why am I
4 minimizing what?

5 Q That you knew the fact -- in 2010, you knew Mr. Pukke was
6 associated with Sanctuary Bay. Why did you testify falsely
7 under oath this morning and say that not only did you not know
8 about any individual, but you did not know about Mr. Pukke in
9 2010?

10 A In 2010, I specifically -- I was concerned that there was
11 an individual who I later found out was Mr. Pukke and I asked,
12 specifically, whether or not this individual was still involved
13 and I was told specifically that he was not.

14 Q So, in 2010, sir, you had learned about Mr. Pukke's
15 historic involvement, correct?

16 A No.

17 Q Well, sir, you said to the Court in your letter, I had
18 heard about Mr. Pukke's involvement and then you inquired about
19 that in 2010. It says that right here in your letter to the
20 Court?

21 A I knew of previous involvement of Mr. Pukke because of the
22 research on the Ameridebt, but I did not know that he was still
23 involved. And that was the question that I asked Mr. Usher,
24 because I was not wanting to get involved in a project where
25 there was somebody that had been guilty of fraud.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 Q So the truth of the matter is that this morning, you told
2 His Honor that you did not even know about his historic
3 involvement in the project. That's what you said earlier, sir,
4 and that was incorrect, right?

5 A I didn't know the details. I just knew that he was accused
6 of being involved in the project, yes.

7 Q You did not know the details, but you knew his name?

8 A I knew an individual.

9 Q You knew Andris Pukke. You said so in your letter to the
10 Court. Was the letter false?

11 A No, the letter was reflecting my current knowledge when I
12 wrote the letter.

13 THE COURT: All right. I think you've made your
14 point. Move on.

15 BY MR. DE BRETTEVILLE:

16 Q Okay. So the fact of the matter is that you typed in
17 words, whatever they were, into the Internet and you found out
18 about Mr. Pukke having historic associations with Sanctuary
19 Belize in 2010?

20 A Sanctuary Bay at that time, yes, sir.

21 Q In fact, you saw pictures of Mr. Pukke on the Internet when
22 you did that online research, didn't you, sir?

23 A No.

24 Q Well, the photograph that you say was the revelation in
25 2013 is a photograph of Mr. Pukke's testimony during the 2005,

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 2006 congressional session, but somehow you were unable to
2 locate that photograph when you searched on the Internet in
3 2010?

4 A I had no memory of that at the time. I don't remember
5 seeing that picture until it was posted in 2012 or 2013, I
6 guess. 2013, yes, beginning of 2013.

7 Q So the truth of the matter is that you've known who Andris
8 Pukke is since 2010?

9 A No, I don't. I'm sorry, I don't know what you mean. I
10 knew who he was. I knew there was an individual that had been
11 found guilty of fraud. I did not know that it was this
12 Mr. Pukke.

13 I may have seen the name, but it wasn't high on my memory.
14 When I asked Mr. Usher, I asked if this individual was still
15 involved in the development and I was told that he was not
16 involved in the development at that time.

17 Q So, your position is that until the revelation in February,
18 2013, you were under the impression that -- you had no idea what
19 Andris Pukke looked like?

20 A I don't have any memory of it, no.

21 Q So, this came up towards the end of your direct. When did
22 you start working as the owners' advocate for GPA?

23 A It was around March of 2013.

24 Q And you were paid \$2,500 per month for that position,
25 correct?

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 A No, that's not correct.

2 Q What's your testimony under oath here today about how much
3 you were paid?

4 A I was paid about 1200 a month.

5 Q Is there some reason why you -- well, we'll leave that as
6 it is.

7 Now, you continued to work for GPA and received money from
8 GPA promoting this project all the way through August, 2014 when
9 you were terminated, is that right?

10 A No, that is not correct.

11 Q So you were not -- I'm sorry. I thought I heard you
12 testify that you were terminated August, 2013?

13 A Yes, I did testify that, yes.

14 Q So you continued to work promoting this project on behalf
15 of GPA after you found out in February of 2013 that Andris Pukke
16 is Andris Pukke?

17 A That is not correct. I never worked for GPA.

18 Q Well, you received your payment from GPA?

19 A Yes, I was paid as an owners' advocate for coming in
20 attending the meetings, but I was never worked for GPA. I was
21 never an employee. I was never directed on what to say or what
22 to do. They asked me to come to tours and explain what I was
23 doing and how much I enjoyed living in Belize, and that's what I
24 did.

25 Q Let's stick with the facts. Even after you supposedly had

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 learned that Andris Pukke was Andris Pukke in 2013, you
2 continued to accept money, your testimony is 1200 bucks a month
3 from GPA?

4 A Yes.

5 Q You continued to then go on tours that were -- the purpose
6 of which was to promote the project?

7 A Yes.

8 Q And in fact, by -- in December of 2013, several months
9 after this revelation, you invited Mr. Pukke to your home to
10 attend a Christmas potluck, correct?

11 A I could have. I don't remember. I have -- I have no
12 reason not to have.

13 No, I met him and we -- at the June meeting and if he were
14 in town, I would have invited him to a potluck.

15 Q So, just so the Court understands this, after your
16 revelation in February of 2013, you continued to accept payments
17 from GPA and you continued to promote the project for, at least,
18 17 months?

19 A Yes.

20 Q And you would have longer, but for the fact they terminated
21 you?

22 A I'm not sure that's true, but --

23 Q I guess what confuses me is that in your letter to the
24 Court, you told the Court that you never would have bought if
25 you had known that Mr. Pukke was involved?

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 A That's correct.

2 Q And yet, after you found out that he was involved, you
3 convinced others to buy for at least 17 months?

4 A I had a lot of money invested at that time and we were busy
5 working on a homeowners association, which I thought would give
6 the homeowners voice and be able to move the project forward,
7 yes.

8 Q Oh, so, when it's in your financial interest, you'll join
9 with Mr. Pukke. And after they terminated you, you change your
10 tune. Is that what you're saying?

11 A No, I'm not sure what you mean.

12 Q Well, you say in your letter to the Court you wouldn't have
13 bought your property if you knew about Mr. Pukke's involvement.
14 And then you say, you were going to sell others that property or
15 help sell them that property for at least 17 months. And your
16 explanation to the Court as to why is because you had a lot of
17 money sunk into your lot?

18 A And at the time the project was working really well, and I
19 thought Mr. Pukke was doing a good job.

20 Q Okay. So now the project is not working -- going forward
21 well and he's not doing a good job, and now you write to the
22 Court, right? Now you raise objections.

23 A Yes, I did raise objections as I learned more and more of
24 what was going on, yes.

25 Q I want to direct our attention back to what I think ought

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 to be the focus of this hearing, which is this actual
2 allegations in the petition here.

3 As I'm sure you're familiar --

4 I apologize, Your Honor.

5 As I'm sure you're familiar, Mr. Herskowitz, there are
6 several specific positions that Mr. Pukke is accused of holding
7 in the name of Marc Romeo?

8 A Yes.

9 Q And I want to briefly review those with you.

10 The first is Director of Sittee River Wildlife Reserve. Do
11 you know when Mr. Romeo or someone using Mr. Romeo's name first
12 took on the position of -- as the Director of Sittee River
13 Wildlife Reserve?

14 A I know for sure it was at least in 2010, June, 2010. And I
15 think it started in June of 28.

16 Q And when did he -- did Mr. Romeo or someone else using his
17 name stop being a director of Sittee River Wildlife Reserve? Do
18 you know that, sir?

19 A I believe it was 2011. That name no longer showed up on
20 2011 of the Sittee River Wildlife directors.

21 Q So, neither Mr. Romeo, nor anyone using his name held that
22 position as of 2011?

23 A I -- it was not -- that is correct, it was not shown on the
24 Sittee River Wildlife after 2010.

25 Q Okay. And then going on to the next position, it says,

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 president of Eco Futures Development. Do you know when
2 Mr. Romeo or someone else using his name first became president
3 of Eco Futures Development?

4 A No, I do not.

5 Q Do you know when Mr. Romeo or anyone using his name stopped
6 being president of Eco Futures Development?

7 A No, I do not.

8 Q It could have been before 2012?

9 A I have no knowledge of that at all.

10 Q Do you know when the entity Eco Futures Development was
11 shuttered?

12 A I've seen documents signed in 2012 under the name Brandi
13 Greenfield, under the name of Eco Futures Development. But
14 honestly, until I saw the affidavits, I did not realize that
15 Eco Futures Development had been, quote, shuttered.

16 Q I want to briefly go to two matters that were at the end of
17 your testimony and then I'll be done, Your Honor.

18 I want to go back to the Kazazi Declaration and really to
19 an allegation that shows up in your submissions to the probation
20 office. It's that phone call with Mr. Usher where you claimed
21 to have overheard another phone call with Mr. Pukke on the other
22 end of the other phone call. Can you just do your best and I'll
23 try and help you too, but explain to His Honor exactly the
24 context, you know, how it is that you heard and purportedly
25 recognized Mr. Pukke's voice?

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 A Yes. It was in the evening. I had been at the -- been
2 over at the beach club. I was walking back. There was a fire
3 that was coming near the development. I called Mr. Usher to
4 tell him that there was a fire and that they needed to get
5 somebody out there to take care of it.

6 He took the cell phone that he had and set it on the desk
7 and he was talking to Mr. Pukke on the other phone on the
8 speaker. And so, I think Mr. Usher didn't realize that he had
9 set his phone down, but I was hearing the conversation as
10 Mr. Usher and Mr. Pukke were talking about the matter of
11 spending another \$400,000 for Sapodilla Ridge.

12 Q So just to make sure I get this right, you're talk on your
13 phone?

14 A Yes.

15 Q On the other end of that line is Mr. Usher on his mobile
16 phone?

17 A The phone is probably sitting on the desk, yes.

18 Q Well, first, you're talking in the beginning of the
19 conversation on your mobile phone?

20 A Yes.

21 Q And to Mr. Usher who is on his mobile phone?

22 A Yes.

23 Q And then Mr. Usher on the other end of that line puts that
24 phone down and is speaking on speaker phone on another phone?

25 A As I remember, yes.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 Q And the person on the other end of that other line is a
2 voice?

3 A Yes.

4 Q And you across your mobile phone to Mr. Usher's mobile
5 phone, across the other line on the other end, you recognized
6 that voice definitively as Mr. Pukke?

7 A Absolutely, yes.

8 Q So much so that you're willing to say that Mr. Kazazi's
9 contrary testimony is false?

10 THE COURT: All right. That's not a proper question.
11 Ask another question.

12 BY MR. DE BRETTEVILLE:

13 Q I'd like to turn to Government's Exhibit Number 12. Now,
14 this is that meeting in 2013 where Mr. Pukke appeared as
15 himself?

16 A Yes, the board meeting, yes.

17 Q Now, I mean, you -- when you -- you were asked by the
18 government to comment on the accuracy or veracity of various
19 searches assertions about this meeting, including the
20 allegations of Ms. Allen under oath where she said that
21 Mr. Pukke was there solely as a marketing director. Do you
22 recall that?

23 A Yes.

24 Q And you said that her characterization was not true?

25 A Yes.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 Q Okay. And she's a fellow lot owner like yourself?

2 A Yes.

3 Q And so, she has no reason to favor Mr. Pukke over, you
4 know, the interest of the homeowners' association?

5 A My understanding is she's an employee of GPA.

6 Q Much like you used to be?

7 A However, much longer. Still is until just recently, my
8 understanding was.

9 Q And notwithstanding that assertion, these minutes were
10 prepared by you?

11 A Yes, sir.

12 Q And so, if you want to figure out what role Mr. Pukke was
13 playing in the minutes and you want to get your version of that,
14 this is a pretty good document to rely upon. It's your
15 document?

16 A Yes.

17 Q And Mr. Pukke was not appearing there as a board member of
18 the HOA, correct?

19 A No, he was appearing as a developer, yes.

20 Q And he's not appearing -- well, what else would he be? He
21 works on behalf of the development, does he not?

22 A He was introduced as one of the developers just as Johnny
23 was.

24 Q Well, if you list him, you're going to put him as developer
25 because he's the guy who markets the development, right?

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 A No, I put him as a developer, because I was told he was a
2 developer. And if Bill Bannon had been there, I would have
3 listed him as one of the GPA salesmen.

4 Q That's interesting.

5 Well, let's just go then to the meat then of what you
6 wrote.

7 A Yes.

8 Q So, in the first subsequent part of page 1, there's no
9 mention of Andy Pukke whatsoever, is there, other than the fact
10 that he attended?

11 A I take your word for it. Let me pull it out.

12 Oh, I don't have a copy of it.

13 THE COURT: Well, let's accept that there isn't any
14 mention. Don't go beyond that. I don't want to spend time
15 reading through his document.

16 MR. DE BRETTEVILLE: Sure, the second page, I'll
17 represent to the Court, again, there's no mention whatsoever of
18 Andris Pukke, but there are references to the developers and
19 Luke Chadwick, and the -- to all kinds of other folks. No
20 mention of Andris Pukke on the second page.

21 THE WITNESS: Scroll up a little bit please.

22 THE COURT: All right. Well, let's allow that that's
23 so, that he's not named by name. Let's move on because --

24 MR. DE BRETTEVILLE: Or by any other name?

25 THE COURT: No, but it takes time to read a document.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 BY MR. DE BRETTEVILLE:

2 Q Sure. And on the next page, it goes on again, no mention
3 whatsoever of Mr. Pukke being involved in any of the discussions
4 regarding the development; not the financial management, not the
5 association documents, not the budget. No mention of Andris
6 Pukke whatsoever?

7 A Nor Mr. Usher, that's correct.

8 Q So, just for the record, we've gone through topics
9 including membership and voting rights for the HOA, liens and
10 assessments, extensive discussions regarding CCNRs, design
11 guidelines; no mention of Andris Pukke; budget, no mention of
12 Andris Pukke; financial management, no mention of Andris Pukke;
13 website, no mention of Andris Pukke.

14 We finally get to incentive to build and on the next page,
15 which is I guess, for the record, the one, two, three, fourth
16 page, very briefly, there's mention of Andris Pukke joining in a
17 conversation about the importance of getting financing and to
18 get more houses built to help market the development, which is
19 entirely consistent with his job as a marketer?

20 THE COURT: Well, wait a minute now. Now you're
21 saying there is a mention of it on page 4. You've been arguing
22 all along there's no mention whatsoever of it. Is there
23 something in this document you want to call our attention to
24 now? Do that.

25 MR. DE BRETTEVILLE: My point is, Your Honor --

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 THE COURT: No, call our attention to what you were
2 just talking about. You've been representing that his name is
3 never mentioned there. Where are you?

4 MR. DE BRETTEVILLE: This is a paragraph, Your Honor
5 --

6 THE COURT: What number?

7 THE WITNESS: It's "I".

8 MR. DE BRETTEVILLE: Section I on the screen.

9 THE COURT: Number five under that?

10 No, I'm sorry. Are we looking at the Sanctuary Belize
11 Homeowners Association minutes of June 3, 2013?

12 MR. DE BRETTEVILLE: Yes, Your Honor.

13 THE COURT: All right. What page are you referring to
14 when you say there is a mention of him besides page 1?

15 MR. DE BRETTEVILLE: It's top of page 4 and it's the
16 continuation of a section called, entitled, "Incentive To
17 Build".

18 THE COURT: All right.

19 MR. DE BRETTEVILLE: And I will represent to the
20 Court, this is the only time in these --

21 THE COURT: All right. And there's reference to Andy
22 and we understand that to be Andris Pukke?

23 MR. DE BRETTEVILLE: Yes. There are other references
24 to Andrew in the document and that is as to Andrew Usher, is
25 that not correct?

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 THE WITNESS: Yes, that's correct.

2 BY MR. DE BRETTEVILLE:

3 Q This sole paragraph which relates to the effort to help
4 finance the building of new homes to try and further the
5 marketing of development to new lot owners. That's the only
6 time that Andris Pukke's name comes up?

7 THE COURT: Why are you asking about that?

8 MR. DE BRETTEVILLE: The point being that despite his
9 characterization of Mr. Pukke as a developer, whatever that
10 means, the actual role at this meeting is to discuss matters
11 that pertain directly to the marketing of the development.

12 THE WITNESS: That is not correct.

13 THE COURT: That's his answer.

14 THE WITNESS: The discussion was talking about
15 financing --

16 MR. DE BRETTEVILLE: There's no question pending, sir.

17 THE WITNESS: -- not about marketing.

18 BY MR. DE BRETTEVILLE:

19 Q Sir, is it helpful for marketing of the development to have
20 houses get built?

21 A The discussion was about --

22 Q I have a question. Is it helpful to the marketing of the
23 development to get houses built?

24 A Yes.

25 Q Thank you.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 THE COURT: All right. Let's finish up, if you can.

2 MR. DE BRETTEVILLE: One moment, Your Honor.

3 BY MR. DE BRETTEVILLE:

4 Q One last line of questioning, Mr. Herskowitz? You started
5 a alternatives or competing homeowners' association that related
6 to Sanctuary Bay; is that correct?

7 A I did not start it. There are a number of homeowners that
8 have been involved in starting a new independent homeowners a
9 Sanctuary Belize Homeowners Association, yeah.

10 Q Well, you're running it, aren't you, sir, effectively?

11 A Yes. Well, I'm not running it. I'm on the board, yes.

12 Q You created the website for it?

13 A No, I did not.

14 Q You're responsible for the website?

15 A No, I'm not.

16 Q And the Mission Statement content, did you create that?

17 A I participated in it, yes.

18 Q The logos that are on the logo page that calls yourself an
19 Internet troll. Are those your logos?

20 A No, the logo was a Jaguar.

21 Q But all over the page, there are images of trolls, correct?

22 A Yes, mm-hmm.

23 Q And that's your doing, isn't it?

24 A No, it is not.

25 Q You think of yourself as being an Internet troll.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 A I don't know what a Internet troll is, but I don't think of
2 myself as one, no.

3 Q Well, you're soliciting other homeowners for money to pay
4 for that other association, correct?

5 A No, that is not correct.

6 Q You haven't asked any other homeowners to contribute to
7 you?

8 A No, not at all.

9 Q Not to that cause, not to that --

10 A I would ask people to donate to that cause, yes.

11 Q You asked people for money?

12 A No.

13 Q You just said you asked --

14 THE COURT: I'm just not sure where this is taking me.

15 MR. DE BRETTEVILLE: It's a final question, Your
16 Honor.

17 BY MR. DE BRETTEVILLE:

18 Q Mr. Herskowitz who is Jerry Brown?

19 A Jerry Brown is one of the owners. He's on the current
20 interim board.

21 Q Are you familiar with the Facebook page post that I just
22 put up on your screen?

23 A Yes.

24 Q Is it true that you are cyber squatting on various domain
25 names that belong to Kanantik and Sanctuary Belize?

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 A No, that's not correct.

2 Q You have not registered kanantikdevelopment.org in your own
3 name?

4 A Yes, I have.

5 Q You don't consider that to be cyber squatting?

6 A No, I do not.

7 Q What is your legitimate purpose in taking control of domain
8 name -- using the name of the development?

9 A My concern is that what's happening in Kanantik is similar
10 to what's happened in Sanctuary Belize and that there may be a
11 need in the future to let those owners know that some of the
12 fraud and some of the misperceptions, and some of the ways that
13 Sanctuary Belize has been marketing may be happening there.

14 So, there may be a need in the future to do a public web
15 page to explain what's going on there, just like there's a
16 public web page describing what's going on in Sanctuary Belize.

17 Q Do you own any property in the Kanantik development?

18 A No.

19 Q It's so important to you that to get out the word that
20 you're registering the Kanantik Development name on the Internet
21 as your own?

22 A As I may need it in the future, yes.

23 Q So, you may need in the future to control
24 kanantikdevelopment.com, a commercial website that is associated
25 with a development that you don't even own a lot in?

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 A No. The reason I'm concerned about that is there's been a
2 lot of speculation that a lot of the hundred million dollars
3 that's being paid out from Sanctuary Belize is going into this
4 project. And if that money is being siphoned off there, it can
5 affect our development in Sanctuary Belize.

6 THE COURT: Look, I've got to move along in this. I
7 want to keep my eye on the main chance here. The allegation
8 which has been admitted is that Mr. Pukke was using the name
9 "Marc Romeo" for a period of time and he's now testified that it
10 included the time when he was on supervised release. That's
11 what I'm talking about.

12 MR. DE BRETTEVILLE: And my point is, Your Honor --

13 THE COURT: He may have other flies on him, this
14 witness, but you're not really disputing his core testimony --

15 MR. DE BRETTEVILLE: Oh, I am, Your Honor.

16 THE COURT: -- with regard to whether an alias was
17 used. Maybe you are. Maybe I misunderstood your concession
18 when you opened these proceedings.

19 MR. DE BRETTEVILLE: Your Honor, the key point is
20 Mr. Herskowitz -- and I'm done now, pretty much, is engaged in a
21 vendetta against Mr. Pukke. And that's not my word. It's going
22 to come up later, Your Honor. And that vendetta began when he
23 was terminated as the owners' advocate.

24 When he talks about Mr. Usher introducing Mr. Pukke as
25 Mr. Romeo back in 2010, 2011, we're not disputing that. When he

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 comes in this room and he testifies under oath that he went to
2 Newport Beach and met with Mr. Pukke, and at that time in 2012
3 Mr. Pukke was using Mr. Romeo's name, he's testifying falsely,
4 Your Honor.

5 And what I'm trying to do is to help the Court
6 understand just how much this man wants to punish Mr. Pukke and
7 how far he's willing to go.

8 THE COURT: Okay.

9 MR. DE BRETTEVILLE: No further questions, Your Honor.

10 THE COURT: Anything more from you, Mr. Mitchell?

11 MR. MITCHELL: No, Your Honor.

12 THE COURT: Just to be clear before you step down,
13 Mr. Herskowitz, you are saying that sometime after September,
14 2012, that Mr. Pukke held himself out as Marc Romeo?

15 THE WITNESS: Yes, sir.

16 THE COURT: And was that on more than one occasion?

17 THE WITNESS: After September 12, yes, sir.

18 THE COURT: Okay, 2012.

19 THE WITNESS: 2012.

20 THE COURT: The question is, did he ever hold himself
21 out as working -- having affiliation with Sittee River Wildlife
22 Reserve?

23 THE WITNESS: As Mr. Romeo?

24 THE COURT: Yes.

25 THE WITNESS: Yes.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 THE COURT: After 2012. And again, recite the
2 occasion when he did that?

3 THE WITNESS: That would have been in our meeting. My
4 understanding was -- we went to meet on EBT, but my
5 understanding was at that time that he was one of the
6 co-developers in 2012 of --

7 THE COURT: Of Sittee River?

8 THE WITNESS: Of the --

9 THE COURT: And that's a meeting where he was
10 identified by Usher and Chadwick as being one of the developers?

11 THE WITNESS: No, sir. That was -- I want to be very
12 clear on this. The discussion was on EBT, but the meeting that
13 we had was in the Sanctuary Belize offices and he was being
14 represented not only as the owner of the EBT, but as one of the
15 principals of Sanctuary Belize.

16 THE COURT: All right. That was after September,
17 2012?

18 THE WITNESS: Yes, sir.

19 THE COURT: And you're saying that the man who is
20 Mr. Pukke was present and was referred to as Mr. Romeo?

21 THE WITNESS: Yes, sir.

22 THE COURT: And, specifically, with regard to Eco
23 Futures Development, is that who we're talking about now or is
24 that another entity?

25 THE WITNESS: Eco Futures Development.

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 THE COURT: Did Mr. Pukke hold himself out with regard
2 to that entity as Marc Romeo?

3 THE WITNESS: At the meeting? No, sir.

4 THE COURT: Any time after September, 2012?

5 THE WITNESS: I have no information on that.

6 THE COURT: And with regard to being involved -- well,
7 he was a subscriber of Sanctuary Belize Homeowners Association.
8 When was that?

9 THE WITNESS: That was November, 2012.

10 THE COURT: And there was a signature that was there
11 from Marc Romeo; is that correct?

12 THE WITNESS: Yes, sir.

13 THE COURT: All right. And what about being a
14 director of Eco Futures Development?

15 THE WITNESS: I don't -- I don't know of anything
16 about his representing --

17 THE COURT: Coming at this one other way and then I'll
18 finish. Are there any entities after September 2012, not only
19 where you saw someone named Marc Romeo, but where that
20 Marc Romeo was held out to you as an officer, director,
21 shareholder, any other sort of affiliation with those entities?

22 THE WITNESS: The two entities would have been
23 Sanctuary Belize and the homeowners association. Those are the
24 two that -- he was held out as a partner or an owner in the EBT,
25 Eco Builders Technologies. He held himself off as one of the

THOMAS HERSKOWITZ - CROSS-EXAMINATION

1 owners of that company.

2 THE COURT: So, that's one entity. Is there another
3 entity that he said that?

4 THE WITNESS: The Sanctuary Belize Homeowners
5 Association.

6 THE COURT: Was a subscriber?

7 THE WITNESS: Was a subscriber, yes, sir.

8 THE COURT: All right. Was anybody compensated for
9 being a subscriber to the homeowners association? Was it a
10 voluntary position? What was it?

11 THE WITNESS: I don't know.

12 THE COURT: Were you a subscriber?

13 THE WITNESS: No, I was not a subscriber. I was on
14 the interim board and there were no payments made to anybody on
15 the interim board.

16 THE COURT: Anything further?

17 MR. DE BRETTEVILLE: I think the Court ably clarified
18 things, so.

19 THE COURT: All right. Anything further for you?

20 MR. MITCHELL: No, Your Honor.

21 THE COURT: All right. Thank you, sir. You may step
22 down.

23 (Witness excused.)

24 THE COURT: Can we connect with Australia?

25 Do you have another question? I'm sorry.

1 MR. MITCHELL: Well, no. I don't know whether this
2 witness -- the government does not intend on calling
3 Mr. Herskowitz again. I don't know whether --

4 THE COURT: Do you intend to call this witness again?

5 MR. DE BRETTEVILLE: No, Your Honor. He may be
6 excused.

7 THE COURT: All right. If he sits in, you can't call
8 him again.

9 MR. MITCHELL: The government is not calling him, Your
10 Honor.

11 THE COURT: All right. You can sit in on the rest of
12 the proceedings, but you're not to discuss your testimony with
13 other witnesses, but you will not be called.

14 Can we connect with Australia to get this gentleman
15 before lunch? I don't know how long -- lengthy his testimony
16 will be.

17 MR. MITCHELL: Yes, we can do that, Your Honor.

18 THE COURT: All right. Let's see if we can't get him
19 before lunch.

20 How do we hook it up? Will it show up on one of these
21 screens?

22 MR. MITCHELL: I think it's just telephonic. My
23 understanding is the video is not working.

24 THE COURT: Is not working?

25 MR. MITCHELL: Correct, Your Honor. That's my

1 understanding.

2 MR. DE BRETTEVILLE: While we're waiting, Your Honor,
3 if I may.

4 The Court very ably focused us on, I think, the
5 important factual findings or considerations for the Court. We
6 have a November, 2012 meeting where Andris Pukke is alleged by
7 Mr. Herskowitz to attend as Marc Romeo regarding matters
8 pertaining to EBT, an entity that's not listed in the petition
9 as being omitted.

10 The other allegation we have now is that Marc Romeo is
11 a subscriber to a homeowners association in 2012. So to the
12 extent that the Court concludes that Mr. Romeo and Mr. Pukke are
13 interchangeable with respect to that allegation, we have that
14 allegation in 2012. As of this point in the hearing, we only
15 have those two things.

16 THE COURT: Well, I haven't heard from the other
17 witnesses yet.

18 MR. DE BRETTEVILLE: Understood, Your Honor.

19 THE COURT: All right. How are we doing?

20 (Pause.)

21 (David Hadlum present via the telephone.)

22 THE COURT: All right. I'll address -- let me speak
23 to him first.

24 Sir, this is Judge Messitte of the U.S. District Court
25 in Greenbelt, Maryland. Would you state your name please?

1 THE WITNESS: David Hadlum.

2 THE COURT: Spell your last name?

3 THE WITNESS: H-A-D-L-U-M.

4 THE COURT: All right. We are in a courtroom in
5 Greenbelt, Maryland, the federal courthouse and I think you
6 understand you're being called as witness in a matter involving
7 Andris Pukke, and whether he is -- has violated terms of his
8 supervised release in connection with a criminal conviction. Do
9 you understand that?

10 THE WITNESS: Yes, I do.

11 THE COURT: All right. I'm going to now administer an
12 oath to you or have the clerk do it, and you have to answer it
13 because your testimony has to be given under oath. Do you
14 understand that?

15 THE WITNESS: Yes.

16 THE COURT: All right. Madam clerk, would you just
17 read the oath then at this time?

18 DAVID HADLUM, GOVERNMENT WITNESS, SWORN

19 THE COURT: All right. I'm going to now turn this
20 inquiry over to the U.S. Attorney who is here, Nicolas Mitchell.
21 He's going ask you questions and then Mr. Jason De Brettville,
22 presumably, or Ms. McGough, I'm not sure who, will ask you some
23 questions as well. And, perhaps, along the way, I will too, all
24 right.

25 MR. DE BRETTEVILLE: Just for the record, Your Honor,

1 we have no ability to verify or validate whether or not this
2 witness is, in fact, Mr. Hadlum, so we would object to his
3 testimony.

4 THE COURT: All right. Why don't you establish who he
5 is first, Mr. Mitchell, and then we'll go forward.

6 Go ahead, Mr. Mitchell.

7 MR. MITCHELL: Thank you, Your Honor.

8 Mr. Hadlum, you are participating by teleconference.
9 There is a slight delay in the audio. I'm going to do my
10 absolute best to not speak over you and I would ask you to do
11 the same. The reason for that is we have a court reporter here
12 who is diligently preparing a transcript of every word we are
13 saying, so I'm also going to ask you to speak slowly as you can.
14 Do you understand that, sir?

15 THE WITNESS: Yes, thank you.

16 THE COURT: All right. Go ahead, Mr. Mitchell.

17 DIRECT EXAMINATION

18 BY MR. MITCHELL:

19 Q So, Mr. Hadlum, you and I have spoken before today, isn't
20 that correct?

21 A Correct, yes.

22 Q And did there come a time in the last 24 hours that you
23 sent me an e-mail with a photograph of your passport?

24 A Yes, I did.

25 Q Okay. And did that passport photograph have your name and

DAVID HADLUM - DIRECT EXAMINATION

1 your photograph?

2 A Yes, it does.

3 Q I put on the screen just for the Court a copy of the
4 passport that was sent to me by Mr. Hadlum. It indicates the
5 name is David James Hadlum, Australian, with a date of birth.

6 Can you please provide your date of birth, sir?

7 A Eighteen November, 1963.

8 Q And in connection with this case, have you been in
9 communications with the United States Probation Office?

10 A I think so, yes.

11 Q Well, let me give you a name. Does the name William Tavik
12 ring a bell?

13 A Yeah, Bill Tavik, yes.

14 Q Did you submit an affidavit prior to today in connection
15 with this case?

16 A Yes, I did.

17 Q Do you have a copy of that affidavit, sir?

18 A I do, yes.

19 Q All right.

20 MR. DE BRETTEVILLE: Just for the record, Your Honor,
21 that's not a sworn affidavit. There's no notary, there's no --

22 THE COURT: Well, you can ask him the question whether
23 that's true and correct having taken an oath under penalty of
24 perjury, and that answers your objection.

25 Why don't you ask him that?

DAVID HADLUM - DIRECT EXAMINATION

1 MR. MITCHELL: I will, Your Honor.

2 BY MR. MITCHELL:

3 Q Sir, do you have a copy of the affidavit in front of you
4 now?

5 A Yes, I do.

6 Q And at the bottom of that affidavit, is that a signature?

7 A Yes, there is.

8 Q And is that your signature?

9 A That's my signature, yes.

10 Q And what's the date?

11 A Six of --

12 Q I'm sorry. What's the date that's next to your signature?

13 A Sixth of --

14 THE COURT: The date here reads 22-7-15, is that the
15 date? What are you saying?

16 THE WITNESS: Okay. There's this -- affidavit, about
17 the same, but I sent two copies over to Bill Tavik. One was on
18 the 22nd of the seventh, and a copy of the signed, which was --
19 has also witnessed by a --

20 COURT REPORTER: Your Honor, I'm having trouble
21 understanding everything the witness is saying.

22 THE COURT: Well, that's the way Australians speak
23 sometimes. It is difficult.

24 Try to speak as much American as you can, Mr. Hadlum.

25 THE WITNESS: Okay. I'll do that for you.

DAVID HADLUM - DIRECT EXAMINATION

1 MR. DE BRETTEVILLE: Your Honor, just for the record,
2 I've never seen a copy of a declaration from the sixth of the
3 eighth.

4 THE COURT: Well, let's stay with the one that you did
5 get. Let's stay with the affidavit of 7/22/15.

6 MR. MITCHELL: Okay. I will do that, Your Honor, and
7 that one that you're referring to marked as Government's Exhibit
8 Number 11, the probation officer just handed it to me and it's
9 the first time I've seen it as well.

10 THE COURT: You can show it certainly to Mr. --

11 MR. MITCHELL: I'm going to and I'm going to,
12 obviously, allow defense counsel to compare it to see if there
13 are any differences and he can cross-examine the witness on
14 those.

15 THE COURT: Let's move on to the July 22nd, 2015
16 affidavit.

17 BY MR. MITCHELL:

18 Q Again, turning back to the July 22, 2015 affidavit, that
19 affidavit, sir, you've sworn -- you've been sworn here to
20 testify under oath, correct?

21 A Correct, yes.

22 Q All right. Having read the affidavit that's in front of
23 you dated July 22nd, 2015, are all the statements in that
24 affidavit correct?

25 A Yes.

DAVID HADLUM - DIRECT EXAMINATION

1 Q Is there anything that you now want to correct in that
2 affidavit?

3 A No.

4 Q All right. Sir, where do you currently live?

5 A In Drouin, Australia.

6 Q And what do you do for a living?

7 COURT REPORTER: Mr. Mitchell, can you ask him to
8 repeat the last answer?

9 MR. MITCHELL: Certainly.

10 THE WITNESS: A sales consultant for a building
11 company.

12 BY MR. MITCHELL:

13 Q So the witness just said that he's a sales consultant for a
14 building company and he indicated --

15 Could you spell the name of the town you live in, sir?

16 A D-R-O-U-I-N.

17 Q I think the court reporter has it.

18 Do you know an individual named Luke Chadwick?

19 A Yes, I do.

20 Q And how do you know Mr. Chadwick?

21 A I known him for five years, since I around about 2000,
22 2001. I worked with him in a investment company here in
23 Australian.

24 Q Are you familiar with Sanctuary Belize?

25 A Yes.

DAVID HADLUM - DIRECT EXAMINATION

1 Q And when did you first learn of Sanctuary Belize?

2 A It would be around 2009, 2010.

3 Q 2009, 2010. How did you learn of the Sanctuary Belize?

4 A Through Luke Chadwick.

5 Q Through Luke Chadwick.

6 Did there come a time when you purchased property in

7 Sanctuary Belize?

8 A Yes.

9 Q When was that?

10 A Initially in 2002 and there was another piece of property
11 that I purchased in 2012, I think it was.

12 Q So, as I understand it, you purchased one piece of property
13 in 2010; is that correct?

14 A Yes.

15 Q And then you purchased a second piece of property in
16 approximately 2012; is that correct?

17 A Yes.

18 Q Do you still own both of those pieces of property?

19 A No, just one of them.

20 Q Okay. What happened to the other piece of property?

21 A It was foreclosed on.

22 Q It was foreclosed on because you failed to make payments on
23 that piece of property; is that correct?

24 A Correct, yes.

25 Q And do you know when that happened?

DAVID HADLUM - DIRECT EXAMINATION

1 A Yeah, the foreclosure notice was done in June 22, 2015.

2 Q June 22nd, 2015 is when the property was foreclosed on; is
3 that correct?

4 A That's right, yes.

5 Q Did there come a time when you began working for Sanctuary
6 Belize?

7 A Yeah, I started working for Sanctuary Belize in 2012.

8 Q So you began working for Sanctuary Belize in 2012. What
9 was your role or responsibilities?

10 A My role was to head up the sales team in Belize.

11 Q What does that mean?

12 A Well, there would be clients that would be chartered onto a
13 tour that would come down from the U.S. or Canada, and they
14 would be down in Belize for a few days and we would tour them
15 around the Sanctuary Belize property.

16 Q So you were responsible for giving tours down at Sanctuary
17 Belize?

18 A Correct.

19 Q Did you have any responsibilities when it came to sales
20 contracts?

21 A Yes, I would be signing the sales contracts once the
22 negotiations with sales had been done.

23 Q You signed the sales contracts. Is that what you just
24 testified?

25 A Yes, I did.

DAVID HADLUM - DIRECT EXAMINATION

1 Q And did you sign those sales contracts in your own name?

2 A Yes.

3 Q And I think you mentioned negotiations. Were you
4 responsible for negotiations of those sales contracts?

5 A Yes, I was.

6 Q Did there come a time when you moved to Sanctuary Belize
7 permanently?

8 A Yeah, I moved in August of 2012 down to Belize.

9 Q So you moved in August, 2012, correct?

10 A Yeah, yes.

11 Q And you were employed by Sanctuary Belize at that time,
12 correct?

13 A Yes.

14 Q Okay. Do you know the name of the specific corporate
15 entity that was your employer?

16 A Well, I was paid from GPA.

17 Q You received paychecks from GPA; is that correct?

18 A Yes, but I thought I was employed by Eco Futures
19 Development.

20 Q But you thought you were employed by Eco Futures
21 Development; is that correct?

22 A Yes.

23 Q Okay. Who did you work with? What individuals did you
24 work with down in Belize?

25 A There was Chad Harting.

DAVID HADLUM - DIRECT EXAMINATION

1 Q Could you spell that last name, please?

2 A H-A-R-T-I-N-G.

3 Q Let me just shortcut this a little bit. Did you meet an
4 individual named Andris Pukke?

5 A Yes, I did.

6 Q And did you meet him in person?

7 A Yes, several times.

8 Q And I'm sorry, did you say several times?

9 A Yeah.

10 Q Do you recall when the first time you met Andris Pukke?

11 A It would have been -- I think it was around August, 2012.

12 Q Okay. I want to make sure I got that date right.

13 August 2012, approximately?

14 A I think so, yeah.

15 Q And at that time, you met him in person?

16 A Yes.

17 Q What was your understanding of Mr. Pukke's role in
18 Sanctuary Belize?

19 THE COURT: Let me be clear, sir. He was introduced
20 to you as Andris Pukke?

21 THE WITNESS: Yes.

22 THE COURT: Not Marc Romeo?

23 THE WITNESS: Correct.

24 THE COURT: Okay, go ahead.

25 BY MR. MITCHELL:

DAVID HADLUM - DIRECT EXAMINATION

1 Q So what was your understanding of Mr. Pukke's role in
2 Sanctuary Belize?

3 A He was the owner. He was the guy in charge.

4 Q What made you think that he was the owner?

5 A Luke Chadwick.

6 Q Luke Chadwick?

7 A Luke Chadwick told me and, yeah, I had to sit with Luke and
8 Andy before I started working for them.

9 Q And when you say Andy, are you referring to Mr. Pukke?

10 A Yes, ma'am.

11 Q So Mr. Chadwick told you that Mr. Pukke was the, in your
12 words, owner of Sanctuary Belize. Is that what you said, sir?

13 A Yes.

14 Q Did Mr. Pukke ever represent to you that he was the owner
15 of Sanctuary Belize?

16 A No, he never told me that he was the owner.

17 Q Okay. You said you sat down with Mr. Pukke; is that
18 correct?

19 A Yes.

20 Q And --

21 A Yes.

22 Q And was there discussion about Sanctuary Belize in that
23 meeting?

24 A The initial meeting was in regard to the joining them in
25 moving down to Belize to work.

DAVID HADLUM - DIRECT EXAMINATION

1 Q Okay. So, did Mr. Pukke hire you?

2 A Yes.

3 Q While working at Sanctuary Belize, did you ever hear the
4 name, Marc Romeo?

5 A Yes.

6 Q Now, in the affidavit, there are two documents attached
7 your affidavit; is that correct?

8 A That's correct, yes.

9 Q All right. I'm going to draw your attention to the first
10 document which appears to be a PowerPoint slide that says "our
11 principals". Do you see that?

12 A That's right, yes.

13 Q And the one I'm actually showing the Court has your
14 signature, kind of, to the right there with a date. Do you see
15 that?

16 A Yes.

17 Q And is that your signature, sir?

18 A Correct, it is.

19 Q Okay. You mentioned that you did hear the name "Marc
20 Romeo". Can you explain to us the relevance of this PowerPoint
21 presentation?

22 A Yeah. This slide was the presentation, obviously, that's
23 delivered to potential clients of Sanctuary Belize. And I first
24 saw the slide in, I think it was late 2012, when we were in --
25 Luke, myself and Robert Chadwick were in Texas. And there was a

DAVID HADLUM - DIRECT EXAMINATION

1 group of doctor clients of Robert's that were there as potential
2 clients and Luke presented this presentation, which had the
3 slide in it.

4 Q Luke is Luke Chadwick; is that correct?

5 A Correct, yes.

6 Q All right. Was Marc Romeo present for this meeting?

7 A No.

8 Q Was Mr. Pukke present for this meeting?

9 A No.

10 THE COURT: Sorry, what was the date that you first
11 saw it? You said in 2012. Can you be a little more specific
12 about --

13 THE WITNESS: It was -- I think it was about October
14 and it could have been September. It was mid to late 2012.

15 THE COURT: Okay. Did you see it again afterwards,
16 though, the same slide?

17 THE WITNESS: Yes, the slide is part the presentation
18 that I had to give to Belize City to a --

19 THE COURT: Is it fair to say, though, that this slide
20 was shown after September, 2012, on one or more occasions?

21 THE WITNESS: Yes.

22 THE COURT: Okay. How many do you think? Can you
23 estimate?

24 THE WITNESS: That I was involved with, two.

25 THE COURT: All right, two.

DAVID HADLUM - DIRECT EXAMINATION

1 MR. MITCHELL: Two.

2 BY MR. MITCHELL:

3 Q And in your affidavit, I think you talked a little bit
4 about this meeting in 2013, January, 2013, in Belize city.

5 A Yes.

6 Q I'm going to draw your attention to paragraph three. Do
7 you see that, sir?

8 A Yes, I do.

9 Q It says in paragraph three that you asked Luke Chadwick
10 about Marc Romeo as you had never met Marc Romeo, and wanted to
11 know who he was. Is that correct?

12 A Yes, it is.

13 Q And what did Mr. Chadwick say to you in response?

14 A Well, at that point, it was really just a name that Andy
15 had gone under so that people didn't connect him with the
16 Sanctuary Belize project.

17 Q Okay. In your affidavit, you have a quotation here. It
18 says, "Mark Romeo is an alias that we use for Andris as we don't
19 want people to know that Andris Pukke is connected to Sanctuary
20 Belize because of his past." Is this a verbatim quotation or is
21 this just to the best of your recollection?

22 A It's pretty much verbatim. Obviously, that's how I recall.

23 Q And then the next sentence says, "Luke instructed me when
24 delivering that particular slide to announce Marc Romeo as
25 Director of Sales and Marketing USA." Is that correct?

DAVID HADLUM - DIRECT EXAMINATION

1 A Yes.

2 Q And he also said to, quote-unquote, spend some time on
3 Johnny Usher and Chadwick, and not to spend much time on
4 Marc Romeo?

5 A That's right, yes.

6 Q Next paragraph, it says that you further asked -- it says,
7 "I asked further about Marc Romeo." Are you here asking
8 Luke Chadwick further?

9 A That's right, yes.

10 Q And are we still talking about early 2013 here?

11 A Correct, we're talking about the same presentation that I
12 needed to prepare.

13 Q And it says, if there -- you asked whether there was a real
14 person named Marc Romeo. Did you ask Mr. Chadwick that?

15 A Yes, I did.

16 Q And what did Mr. Chadwick respond?

17 A He said, that's -- Marc Romeo is a clean skin that Andris
18 pays to use his name.

19 Q Is that a direct quotation from what -- the best you can
20 recall?

21 A Yes.

22 Q So, in other words, the phrase "clean skin", is that a
23 phrase that you came up with or are those the words, as best you
24 can recall, that Mr. Chadwick said to you?

25 A Yeah, it's what Luke said. I -- I didn't or wouldn't use

DAVID HADLUM - DIRECT EXAMINATION

1 the term "clean skin". It was something that Luke said.

2 THE COURT: It says in your affidavit, this is the
3 Judge again, so that he doesn't have to disclose that Andris is
4 part of the project, end quote. Did Mr. Chadwick say that as
5 well?

6 THE WITNESS: Yes.

7 BY MR. MITCHELL:

8 Q Other than the presentation slides that we just discussed,
9 have you ever personally witnessed Mr. Pukke using the name
10 Marc Romeo?

11 A No.

12 Q Have you ever met an individual claiming themselves to be
13 Marc Romeo?

14 A No, I haven't.

15 Q Did there come a time when you stopped working for
16 Sanctuary Belize?

17 A Yes. It was around December, 2013.

18 Q Can you describe briefly the circumstances under which you
19 separated your employment with Sanctuary Belize?

20 A Yeah. I had a meeting with Andy and Luke in the Newport
21 office, like, in December, 2013, where we went through a
22 different payment structure for me to run the tours and for a
23 position available to head up the franchise in Belize. So there
24 were two options that I could have chose and I chose to move
25 across to the Coldwell Banker management route.

DAVID HADLUM - DIRECT EXAMINATION

1 Q Was Brandi Greenfield present for that meeting?

2 A No.

3 Q Had you had an opportunity to review the affidavits that
4 were attached to the Defendant's Motion to Dismiss the Petition?

5 A Yes, I have.

6 Q Do you happen to have copies of them in front of you?

7 A Yes, I've got them here.

8 Q I'm going to -- at the top in the middle of the page,
9 you'll see it says document and there's a number after that. Do
10 you see that, sir?

11 A Yes.

12 Q All right. I'm going to draw your attention to document
13 45-3, which is the affidavit of Brandi Greenfield, and I'm going
14 to ask you to look at paragraph 12. Just let me know when
15 you're there.

16 A Yes.

17 Q In that paragraph, it says that Mr. Hadlum regularly
18 communicated with Mr. Pukke regarding matters affecting
19 marketing of the Sanctuary Belize Development; is that correct?

20 A Yes.

21 Q In your affidavit that you submitted to the probation
22 officer that's dated July 22nd, 2015, you went into a little bit
23 more detail about what topics you discussed with Mr. Pukke in
24 paragraph five, correct?

25 A Yes, I have.

DAVID HADLUM - DIRECT EXAMINATION

1 Q For example, you said that anything that I wanted or had to
2 have happen from a management level had to go through Andris
3 Pukke; is that correct?

4 A Yes, that's correct.

5 Q And were those issues solely related to marketing?

6 A Well, it was really anything that had to happen on a major
7 level. Prominently, I was dealing with Luke Chadwick, but
8 anything -- anything with -- needed to happen from management
9 level had to go through Andy and he had to approve it.

10 Q So anything that had to happen from a management level had
11 to go through Mr. Pukke. Is that what you're saying?

12 A Yes, and even a lot of what I started to Luke about, he had
13 to get authorization from Andy for it to happen.

14 Q But again, your role was as a tour director, correct?

15 A Yes.

16 Q Okay. Would you characterize your role as being part of
17 marketing?

18 A Yes.

19 Q Okay. So why would you have to have Mr. Pukke involved in
20 issues related to topics other than marketing?

21 A Well, it was also all encompassing of anything that needed
22 to happen on tours that was necessary to complete my job.

23 Q But is that -- is that not related to marketing?

24 A Yeah, if you -- general sales and marketing, and closing of
25 sales, and the operation down there is marketing, then yes.

DAVID HADLUM - DIRECT EXAMINATION

1 Q Next sentence says, "Mr. Hadlum was terminated due to poor
2 performance." Is that correct?

3 A Not to my knowledge.

4 Q Again, did Ms. Greenfield ever talk to you about your
5 termination?

6 A No, I never had any conversations with Brandi about that.

7 Q Did you as the tour director ever have any discussions with
8 anyone regarding the development of Sanctuary Belize?

9 A Yes.

10 Q And let me be more precise about that. When I say
11 development, I mean, for example, development of a marina,
12 development of infrastructure such as roads, electricity;
13 development of, perhaps, an air strip, those type of topics?

14 A Yes.

15 Q Okay. Did any of those topics involve Mr. Pukke?

16 A Yes.

17 Q Okay. So, you said earlier that you, you -- perhaps,
18 Mr. Pukke was discussing things with you with regard to
19 marketing, but it sounds like you're now saying he was also
20 discussing development issues too; is that correct?

21 MR. DE BRETTEVILLE: Objection, leading.

22 THE WITNESS: Yes, correct.

23 THE COURT: Now, what was Mr. Pukke holding out as his
24 title during this time?

25 MR. DE BRETTEVILLE: Director of marketing and sales.

DAVID HADLUM - DIRECT EXAMINATION

1 THE COURT: I want to ask the witness.

2 MR. DE BRETTEVILLE: I'm sorry, Your Honor.

3 THE COURT: Was there any other entity that he was
4 associated with, such as the Sittee River Wildlife Reserve where
5 he was holding himself out as some sort of officer, director,
6 whatever or was it just Director of Marketing for Sanctuary
7 Belize?

8 THE WITNESS: I never knew Andy as any title as such
9 or job title. It was -- he was the main man. He was the owner.

10 THE COURT: Let me just jump ahead. You needed his
11 authority apparently to sign contracts on whose behalf? What
12 would be the name of the entity that would be selling,
13 so-to-speak?

14 THE WITNESS: It was Sittee River Wildlife.

15 THE COURT: All right. So you needed his permission
16 to sign eventually for Sittee River, is that right?

17 THE WITNESS: Correct, yes.

18 THE COURT: Okay. And you didn't -- and you
19 understood this because he was, at least, de facto operating as
20 someone with that kind of authority for Sittee River, is that
21 right?

22 THE WITNESS: Correct. Johnny Usher at one stage when
23 I started signing contracts down there didn't want me to sign
24 contracts and said he wanted somebody else to do it, because I
25 wasn't authorized to do it. And that's when I asked Andy about

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1 that and Andy authorized me to sign contracts.

2 THE COURT: He told you, you could sign on behalf of
3 Sittee River?

4 THE WITNESS: Yes, correct.

5 THE COURT: Okay. Go ahead. Let's see how you're
6 doing on time, because we've got this gent on --

7 MR. MITCHELL: I'm almost done, Your Honor.

8 THE COURT: All right.

9 BY MR. MITCHELL:

10 Q I'm going to turn your attention to the affidavit of Luke
11 Chadwick. It's at Document 46. Do you have that in front of
12 you, sir?

13 A Let me just get that one. Just give me a moment please.

14 (Pause.)

15 THE WITNESS: Yes.

16 BY MR. MITCHELL:

17 Q I'm going to draw your attention to paragraph nine. Do you
18 see that paragraph?

19 A Yes.

20 Q It says, "After his termination, Mr. Hadlum made various
21 demands for money that were refused by me and by the developer
22 of Sanctuary Belize."

23 After you were terminated, sir, did you ever make any
24 demands of money of Mr. Chadwick?

25 A What I asked Luke for was what he promised me and -- before

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1 I left, before I left Belize, which was an amount about \$40,000
2 that he said that he would provide me to assist me getting back
3 home to Australia.

4 Q And was that money ever provided to you?

5 A No, it wasn't.

6 Q Paragraph 13, do you see that, sir?

7 A Yes.

8 Q It says, "In making his demands, Mr. Hadlum offered to
9 cease posting defamatory comments in exchange for certain
10 payments." Is that accurate, sir?

11 A Not at all. I haven't posted any defamatory comments.

12 Q Did you ever tell Mr. Chadwick that you would not post
13 defamatory comments if he paid you money?

14 A No.

15 MR. MITCHELL: Court's indulgence.

16 (Pause.)

17 BY MR. MITCHELL:

18 Q You testified earlier that Mr. Pukke never used the name
19 Marc Romeo with you. So -- I'm sorry. Strike that question.
20 Let me rephrase it.

21 You were never in the presence of Mr. Pukke in which he
22 used the alias Marc Romeo; is that correct?

23 A Correct.

24 Q Have you ever been in the presence of Mr. Pukke where he's
25 used a different alias?

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1 A Yes, I have.

2 Q And what alias is that?

3 A Andy Storm.

4 Q Was that in connection with anything to do with Sanctuary
5 Belize?

6 A Yes, it was.

7 Q When was that?

8 A That would have been June, 2014, on one of the tours.

9 Andy and Pete Baker had come down and was on one of the tours
10 while clients were there. And Andy approached me and said that
11 if anybody wanted to know who he was, he was to be called --
12 introduced as Andy Storm as a returning owner of Sanctuary
13 Belize.

14 Q Did he explain to you why he wanted you to refer to him as
15 Andy Storm?

16 MR. DE BRETTEVILLE: Objection, Your Honor. There's
17 no allegation in the petition that Mr. Pukke has used the alias
18 Andy Storm.

19 THE COURT: You just heard it. Somebody under oath
20 just said it.

21 MR. DE BRETTEVILLE: But that --

22 THE COURT: Have a seat. Overruled. Let him answer.

23 Ask your question again.

24 BY MR. MITCHELL:

25 Q Did Mr. Pukke explain to you why he wanted you to refer to

DAVID HADLUM - DIRECT EXAMINATION

1 him as Andy Storm?

2 A No.

3 Q And if I -- I think I missed it. I want to make sure I got
4 the date right. What was the date of this conversation?

5 A I'm not specific on the date, but I would suggest it's
6 probably around mid-2013, possibly up towards September.

7 Q And this was in Belize?

8 A Yes, it was at the resort of Kanantik in Belize.

9 Q On a tour for Sanctuary Belize? Oh, I'm sorry, not
10 Sanctuary Belize. You said it was a different development?

11 A No, the Kanantik was the resort that we used to stay at
12 with the clients while touring in the Sanctuary Belize.

13 Q Okay. So, it was in connection with Sanctuary Belize?

14 A Absolutely, yeah.

15 MR. MITCHELL: Thank you.

16 The government will pass the witness, Your Honor.

17 THE COURT: All right. Mr. De Bretteville.

18 Mr. Pukke's counsel is now going to inquire,

19 Mr. Hadlum.

20 THE WITNESS: Okay.

21 CROSS-EXAMINATION

22 BY MR. DE BRETTEVILLE:

23 Q It's afternoon for us, but morning for you. Good morning,

24 Mr. Hadlum.

25 A Good morning and good afternoon.

DAVID HADLUM - CROSS-EXAMINATION

1 Q Thank you.

2 You testified today on several occasions that you viewed
3 Mr. Pukke as the owner of Sanctuary Belize; is that correct?

4 A Correct, yeah.

5 Q That assertion is not contained anywhere in either of your
6 two affidavits; not in the June 8th affidavit and not in the
7 July 22nd affidavit, correct?

8 A Correct.

9 Q Mr. Hadlum, who wrote your June 8th affidavit?

10 A I did.

11 Q Well, I'm just suddenly confused because at the top of that
12 affidavit and the top of the July 1 as well, there's a blank
13 space for where you live. It's not filled in; is that correct?

14 A Yes.

15 Q Were you suffering from some confusion as to where you
16 lived or why is there a blank space there?

17 A No, just -- I wasn't sure of the format in which an
18 affidavit had to be provided in the states.

19 Q Mr. Hadlum, again, your job was, essentially, to help with
20 the marketing and sales of lots at Sanctuary Belize, correct?

21 A Correct.

22 Q And so, when you're doing your job in marketing and
23 sales -- hold on one second. I'm sorry.

24 THE COURT: Go ahead.

25 BY MR. DE BRETTEVILLE:

DAVID HADLUM - CROSS-EXAMINATION

1 Q Mr. Hadlum, your job again was in marketing and sales of
2 property in the Sanctuary Belize Development, correct?

3 A Yes.

4 Q And Mr. Pukke supervised you in that role, correct?

5 A Yes.

6 Q So, it comes as no surprise that he was a very active
7 person in controlling and directing your activities?

8 A Yes. Most of my involvement was with Luke on a daily
9 level.

10 Q I'm sorry, I didn't catch that Mr. Hadlum?

11 A Most of my involvement generally was with Luke on a more
12 frequent level.

13 Q Well, with whomever you were working, it was regarding
14 marketing issues predominantly, correct?

15 A Yes, several issues. Selling properties in Sanctuary.

16 Q Now, I was a bit confused. You said that you -- I think
17 the Judge asked you, actually. You said you signed contracts.
18 You were authorize by Mr. Pukke to sign contracts on behalf of
19 an entity. Again, what entity was that?

20 A Sittee River Wildlife Reserve.

21 Q Okay. And when Mr. Pukke authorized you to sign those
22 sales documents on behalf of Sittee River Wildlife Reserve, when
23 was that?

24 A That would be in 2013.

25 Q And Marc Romeo is no longer nominally the director of

DAVID HADLUM - CROSS-EXAMINATION

1 Sittee River Wildlife Refuge as of that date; is that correct?

2 A Sorry, I didn't get that.

3 Q So, Marc Romeo was no longer listed nominally as the
4 director of Sittee River Wildlife Refuge as of 2013?

5 A I don't know.

6 Q And, lastly, just to confirm one thing, I believe you
7 testified to this Court that -- about a presentation where the
8 name Marc Romeo is listed on the PowerPoint. Do you recall
9 that?

10 A Yes, I do. That was in early 2013, yes.

11 Q And I believe you said that that presentation was displayed
12 on two occasions, correct?

13 A Yes.

14 Q And on both occasions, neither Marc Romeo nor Andris Pukke
15 attended; isn't that correct?

16 A Correct.

17 MR. DE BRETTEVILLE: No further questions, Your Honor.

18 THE COURT: Redirect.

19 MR. MITCHELL: Nothing further, Your Honor.

20 THE COURT: Let's see. Did you have any -- this is
21 the Judge again, Mr. Hadlum.

22 Did you have any connection with Mr. -- no skip that.
23 I think I got my answer to that already.

24 Well, let me put it this way: Were there any other
25 entities that haven't been mentioned yet that you were dealing

1 with Mr. Pukke, but in fact he was being held out as Mr. Romeo?

2 THE WITNESS: No.

3 THE COURT: Okay. Anything further from counsel?

4 MR. MITCHELL: No, Your Honor.

5 MR. DE BRETTEVILLE: No, thank you.

6 THE COURT: Mr. Hadlum, thank you very much for
7 participating with us. We're going to sign off now. Actually,
8 it's about 1:15 here now in the Washington area, so we're going
9 to recess for lunch now. And wherever you are, whatever time it
10 is, we wish you good day.

11 THE WITNESS: Thank you.

12 THE COURT: Thank you, bye.

13 (The telephonic testimony of Mr. Hadlum was concluded.)

14 MR. MITCHELL: Your Honor, before we take a lunch
15 break, just for record purposes, the copy of the passport that
16 was shown to the Court on the Elmo, the government would like to
17 mark it as Exhibit Number 16.

18 There's also a document defense counsel showed, I
19 think, Mr. Herskowitz earlier, the government would just request
20 again that it be marked as a defense counsel exhibit.

21 THE COURT: That's fine.

22 Let me tell you, we're going to recess. Let's try and
23 make it for maybe 45 minutes for the following reason rather
24 than an hour. I've got a 3:00 o'clock must plea that I must
25 take, because it's somebody who is prepared to go to trial on

1 Tuesday if I don't take it and there's some concern that if we
2 don't take it, he may change his mind, so I need to do that.
3 And we'll have to break at three. It should take a half an
4 hour. We'll pick up and do the rest of the case at the end of
5 that plea to make sure we get everybody on.

6 Now, defendants have people to put on as well too, so
7 I'm trying to think of timing. How much time do you project,
8 Mr. Mitchell, with regard to your last witness?

9 MR. MITCHELL: I don't think it will be very long,
10 Your Honor. Maybe 15, 20 minutes on direct, if that.

11 THE COURT: That will get us started anyway very
12 possibly with some of the defense witnesses, but I'd like to
13 try, even if we have to stay a little longer today -- after
14 3:30, we're going to try and wrap that part up if we can so that
15 you understand.

16 Thank you. Be in recess then until 2:00 o'clock.

17 (Recess taken at 1:22 p.m., and resuming at 2:12 p.m.)

18 THE COURT: All right, folks. Next witness,
19 Mr. Mitchell.

20 MR. MITCHELL: Thank you, Your Honor. The government
21 calls its final witness, Jon Berndsen.

22 THE COURT: All right. Sir, take the stand and be
23 sworn.

24 JON BERNDSEN, GOVERNMENT WITNESS, SWORN

25 THE DEPUTY CLERK: Sir, could you please speak

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1 directly into the microphone, state your name for the record and
2 spell your last name please?

3 THE WITNESS: Jon Berndsen, J-O-N, first name;
4 B-E-R-N-D-S-E-N.

5 DIRECT EXAMINATION

6 BY MR. MITCHELL:

7 Q Good afternoon, Mr. Berndsen.

8 A Good afternoon.

9 Q You received a subpoena to testify today; is that correct?

10 A Correct.

11 Q And you are here because you were compelled to testify
12 pursuant to that subpoena, correct?

13 A Correct.

14 Q And where do you currently live, sir?

15 A Currently live in Cumming, Georgia, 2144 Stoney Point Road.

16 Q And what do you do for a living?

17 A Builder.

18 Q What kind of builder?

19 A Residential.

20 Q Are you familiar with Sanctuary Belize?

21 A I am.

22 Q How are you familiar with Sanctuary Belize?

23 A I'm a property owner there.

24 Q When did you first become familiar with Sanctuary Belize?

25 A It was the summer of 2010. Saw some write-ups on it in a

JON BERNDSEN - DIRECT EXAMINATION

1 newsletter that I had gotten via e-mail and looked into it, and
2 contacted the office in California and set up to attend a tour,
3 I guess it's probably about two months later.

4 Q So when did you go attend that tour?

5 A It was late August of 2010.

6 Q And was that tour in Belize?

7 A Yes, it was.

8 Q Who did you meet as far as representatives of Sanctuary
9 Belize is concerned when you went down to Belize in August,
10 2010?

11 A Right. It was my wife and I. Our first contact was our
12 salesperson we were assigned to, Robert Shaftnitz.

13 Q Could you spell the last name please?

14 A S-H-A-F-T, actually, N-I-T-Z, Shaftnitz.

15 Q Okay. Other than that individual, whom else did you meet
16 with down there?

17 A Well, while there we were introduced to John Usher who was
18 there, individual named Marc Romeo, Bill Bannon. Those were the
19 primary people I remember meeting with down there.

20 Q Are you familiar with an individual named Luke Chadwick?

21 A Yes. And excuse me, Luke Chadwick was there also.

22 Q You mentioned Mr. Usher, Mr. Chadwick and Mr. Romeo; is
23 that correct?

24 A That's correct.

25 Q And those are the three individuals you actually physically

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1 met in Belize in August, 2010?

2 A Correct.

3 Q Did you interact with each of these individuals?

4 A Yes, I did.

5 Q And what was your understanding at the time of what their
6 role was with regard to Sanctuary Belize?

7 A As far as those three individuals?

8 Q Yes.

9 A They --

10 Q Let's take them in turn. So -- well, are they any
11 different?

12 A Well, they were introduced to me as being the three
13 partners in the development.

14 Q Who introduced them to you as the three partners?

15 A Luke Chadwick, I asked him who the partners in the
16 development were. He told me, Bill Bannon. Also Robert
17 Shaftnitz, the salesperson that I was assigned to also had
18 agreed that that was the partners, three partners in the
19 development.

20 Q Just so I understand, the salesperson who you interacted
21 with told you that Mr. Usher, Mr. Chadwick and Mr. Romeo were
22 the three partners of Sanctuary Belize; is that correct?

23 A That's correct.

24 Q And you said you met Mr. Romeo; is that correct?

25 A That's correct.

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1 Q Okay. The individual that you met and you knew to be
2 Mr. Romeo, is he present in the courtroom today?

3 A Yes, he is.

4 Q Could you describe where he is located and an article of
5 clothing he's wearing?

6 A Sitting on the end here wearing the dark suit, white shirt.

7 MR. MITCHELL: Let the record reflect that the witness
8 has identified the defendant?

9 THE COURT: Mr. Pukke.

10 MR. MITCHELL: Mr. Pukke.

11 THE COURT: All right. And the date again, sir, of
12 that meeting?

13 THE WITNESS: The date? It was the very last, last
14 week of August, 2010.

15 THE COURT: Okay.

16 THE WITNESS: I think the last day of the tour was
17 August 30th, if I remember correctly.

18 BY MR. MITCHELL:

19 Q And in August, 2010, when you were in Belize, what did you
20 do when you were down there?

21 A Well, as part of the property tour, the first day we were
22 shown the property, driven around the property, shown the
23 different aspects of it, the different lots, what was available.

24 The second day, if I remember, we did a boat ride up the
25 river. Another day we spent out on the private island and the

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1 last day was, basically, just wrapping up any loose ends and
2 then departing around noon to go back home.

3 Q Did the name or the person named Andris Pukke come up in
4 August, 2010, during your trip to Belize?

5 A Not until I brought it up.

6 Q So, please explain to the Court how you brought it up and
7 why you brought it up?

8 A Yeah. Well, when I first saw the newsletter, it was from a
9 company called Living Invest Overseas and they had written a
10 piece about Sanctuary, and that's where I first learned about
11 it.

12 Contacted the sales department. They sent me some
13 information on the development. I then booked the trip in
14 August. Before going on the trip, I went online and did some
15 searching, just trying to get some more information on the
16 development, due diligence.

17 And when I entered Sanctuary, there's a number of, you
18 know, Google hits that pulled up and one of them listed Andris
19 Pukke and his involvement early on in the project, and his legal
20 issues that had transpired.

21 Q Okay. So even though you knew of the legal issues that
22 Andris Pukke had had and that you also knew that at some point
23 he was involved in Sanctuary Belize, you still went to travel in
24 August, 2010, to Belize to check out the development?

25 A Correct.

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1 Q And in August, 2010, when you're in Belize, it sounds like
2 you brought up the topic of Mr. Pukke?

3 A I did. You know, he wasn't there. There was no mention of
4 him. And it might have been on the second day of the tour, I
5 asked Bill Bannon. I said, what's the story with this Andris
6 Pukke guy who I read about online and his involvement in the
7 development and his legal issues.

8 And Bill replied that Andris Pukke no longer had any
9 involvement in the development; that he was bought out and money
10 from that was given to the government to settle whatever claims
11 took place. But he assured me that Andris Pukke had no longer
12 any interest or involvement in the project, that was old
13 history.

14 Q And you now know that the person who represented himself to
15 be Marc Romeo was, in fact, Mr. Pukke, correct?

16 A Yeah, it was about two years later when I learned that.

17 Q Okay. But at the time in August, 2010 Mr. Pukke, even
18 though he was saying that he was Marc Romeo, was in fact there
19 at Sanctuary Belize with you, correct?

20 A Correct.

21 Q So, Mr. Bannon was saying Mr. Pukke had nothing to do with
22 Sanctuary Belize and you now know that that was not true?

23 A Correct.

24 Q Did there come a time when you decided to purchase a
25 property in Sanctuary Belize?

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1 A Say again.

2 Q Did there come a time when you decided to purchase property
3 in Sanctuary Belize?

4 A Yes, on that tour. It was the very last night we were
5 there is when my wife and I felt comfortable making a purchase.
6 And so, we -- we had selected one particular lot, an estate lot
7 that we liked. And so, we made an offer on that. At that
8 time, they were offering a discount if you bought multiple lots.
9 And so, then we decided to make an offer for a secondary lot on
10 the water.

11 Q Did you enter into any negotiations on the purchase of
12 these two lots?

13 A Yes. So, they had the asking price of lots. You know,
14 with the multiple lot purchase, there's a -- I don't remember, a
15 10 percent discount on each lot. So factor that in and if you
16 paid down, like, 25 percent down, you got an additional
17 discount. So, I was factoring those in and there was one other
18 discount that I had requested. And so, that was given to
19 Robert Shaftnitz, our salesperson. And he said, well, okay.
20 Let me take this and see if I can get it approved.

21 And so he took it. John Usher was there, Marc Romeo was
22 there. This gathering was at the Placencia Hotel and we were
23 having a dinner, private dinner group out in the end of the dock
24 on the palapa. And Robert came back and said, well, you know,
25 Marc Romeo said he won't do that deal. That's too much, too

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1 discounted.

2 You know, we made another offer and, finally, it was
3 accepted. Marc Romeo was the person who was making the decision
4 on what would be acceptable and what's not.

5 THE COURT: Where are you and when, when this takes
6 place, this discussion?

7 THE WITNESS: We were at the -- we were staying, the
8 whole group was staying at the Placencia Hotel. That's where
9 they put up all the tour guests.

10 BY MR. MITCHELL:

11 Q That's in Belize, correct?

12 A In Belize, correct.

13 THE COURT: And the date?

14 THE WITNESS: If I remember the date in my sales
15 contract, it was August 30th, I think, 2010.

16 THE COURT: 2010?

17 THE WITNESS: Correct.

18 THE COURT: So, the Marc Romeo person who you
19 identified as Mr. Pukke was there?

20 THE WITNESS: Correct.

21 THE COURT: And you were talking with him about price
22 terms and so on?

23 THE WITNESS: Yeah. The first offer we had made,
24 Robert Shafnitz took it to him and he -- Marc Romeo personally
25 said, no, I can't do that. That's too low.

JON BERNDSEN - DIRECT EXAMINATION

1 BY MR. MITCHELL:

2 Q And when you say, took it to him, I mean, did he leave the
3 hotel, get in his car and --

4 A No, he was right there with the group at the table we were
5 sitting at.

6 Q So Marc Romeo, Andris Pukke was present at the same
7 location as you?

8 A That's right.

9 Q And Robert Shaftnitz was going between yourself and
10 Mr. Romeo; is that correct?

11 A That's correct.

12 Q And based on representations that Shaftnitz made to you,
13 it's your understanding that Marc Romeo, a/k/a Mr. Pukke, was
14 the one to determine what the terms would be?

15 A That's correct. I mean, I heard that myself when he said,
16 no, that's too low, I can't accept that.

17 Q You heard Mr. Pukke say it?

18 A That's correct.

19 Q I'm going to show you what's been marked Government's
20 Exhibit Number 7. It was attached to the petition, I think,
21 Exhibit D. Do you recognize this document, sir?

22 A Yeah, that looks like our sales contract from, from that
23 tour.

24 Q Turn to the last page, Government's Exhibit Number 7. Do
25 you see the date there, sir?

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1 A August 30, 2010.

2 Q And then underneath, do you see a -- well, to the right,
3 the first signature there on the right, do you see that?

4 A I do.

5 Q Whose signature is that?

6 A That I believe was Marc Romeo's signature.

7 Q Why do you say that?

8 A Because he was the one, after we agreed on the pricing.

9 And on that sales contract, there's lots of changes of pricing
10 because, you know, that's when we were going back and forth on
11 the negotiation of pricing. So that evening, on August 30th,
12 when we did come to an agreement on the price, that's when the
13 sales contract was signed by Marc Romeo. And what I remember
14 was Luke Chadwick witnessed it and witnessed my signature on it.
15 So that would be Luke Chadwick's signature on the left.

16 Q Let's go down to the bottom right there. Do you see
17 another signature?

18 A Yes, that is my signature.

19 Q That is your signature?

20 A Correct.

21 Q To the left, there's -- on the left-hand side, there's two
22 signatures. They appear to be very similar?

23 A Correct.

24 Q Whose signature is that?

25 A That would be Luke Chadwick.

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1 Q Did you witness Mr. Chadwick sign that?

2 A Yes.

3 Q Signature above on the right, you identified as

4 Marc Romeo's, is that right?

5 A Correct.

6 Q Who signed this in front of you?

7 A It was the individual who was presented to us as Mr. Romeo.

8 Q But again, that individual you now know to be Mr. Pukke, is

9 that correct?

10 A Correct.

11 Q So, Mr. Pukke signed this as Marc Romeo?

12 A Correct.

13 Q And that was August 30th, 2010?

14 A That's correct.

15 Q And you actually witnessed him signing this?

16 A Yes, it was done there at the table where we were all
17 sitting. And then we were given a copy of it to take with us.

18 Q You mentioned handwritten notes on -- well, interlineations
19 on the Memorandum of Sale. I'm showing you page 1 of Exhibit 7.

20 You see an interlineation of the purchase price. Is that what
21 you were referring to?

22 A Correct.

23 Q And then on the second page, there are a number of

24 interlineations in this first paragraph how payable -- again,

25 are these interlineations that you were discussing in

JON BERNDSEN - DIRECT EXAMINATION

1 negotiations with Mr. Pukke?

2 A That's correct.

3 THE COURT: So all those initials are MR, is that
4 right? Is that what you're saying on pages 1 and 2 next to the
5 numbers?

6 THE WITNESS: It's hard to say. I guess that could be
7 an MR.

8 BY MR. MITCHELL:

9 Q Well, let me ask you this: Are those your initials?

10 A No.

11 Q Do you know whether Luke Chadwick signed that?

12 A I mean, that could have been Luke making those changes.

13 Q Does that look like an LC to you?

14 A It's hard to say what -- it almost looks like an MR.

15 Q After you entered into this contract, what happened next?

16 A We returned back to Atlanta the next day. And then in the
17 mail -- and we forwarded the funds for the 25 percent down
18 payment. And then once those funds were received in Newport
19 Beach, then we were sent the official contract for the purchase
20 that had all the terms, you know, for payments and whatnot.

21 Q Let me go back for a second to the Memorandum of Sale.

22 Well, who did you send the funds to, do you recall, what entity?

23 A It would have been Eco Futures, I'm sure. That's who the
24 check actually is made out to.

25 Q Underneath that it says -- there's two lines. It says

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1 vendor and developer?

2 A Right.

3 Q Under vendor it says, Sittee River Wildlife Reserve, do you
4 see that?

5 A Correct.

6 Q What was your understanding at the time of what Sittee
7 River Wildlife Reserve was?

8 A On the tour it was explained that that was the entity that
9 owned the whole 14,000 acres and they are the ones that had the
10 permission from the Belize government to develop a portion of
11 that.

12 Essentially, it was presented to us that Sittee River
13 Wildlife Reserve was the organization that was designated by the
14 government to protect the property and develop a small part of
15 it.

16 Q And note that says, developer, Eco Futures Development,
17 Inc. What was your understanding at that time of this entity?

18 A At that time, Eco Futures was, you know, also the
19 organization in California that we were dealing with. So I
20 didn't know the details of, you know, how the development versus
21 the vendor arrangements. You know, I didn't know all those
22 details. All I knew is we were dealing with Eco Futures at the
23 time.

24 Q And so, did you have an understanding at the time of what
25 the relationship was between Marc Romeo and Eco Futures

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1 Development?

2 A I had to assume that Marc Romeo and John Usher, and Luke
3 Chadwick were the three partner in Eco Futures doing the --
4 building the development.

5 Q You assumed that, but you testified earlier that Mr. Usher,
6 Mr. Chadwick, Mr. Romeo were introduced to you as the three
7 partners of Sanctuary Belize Development?

8 A Yes.

9 Q So, you're just not -- I guess what you're saying now is
10 you're not sure whether Sanctuary Belize Development kind of
11 colloquially or Eco Futures Development specifically?

12 A Correct.

13 Q Okay. After you purchased, made the transaction, you left
14 Belize, did you travel back to Belize?

15 A Yeah, we went back many times since then.

16 Q And why did you go back?

17 A Well, we always enjoy going down there and we went back
18 quite a few times when there was property tour going on simply
19 because it was a great opportunity to interact with other
20 people, you know, on the property. You know, when it wasn't a
21 tour going on, there was nothing going on on the property, no
22 reason to really be there.

23 Q And at the time, what did you think of Sanctuary Belize?

24 A I thought it was fantastic. We had looked at real estate
25 all over in many different countries, and with my background in

JON BERNDSEN - DIRECT EXAMINATION

1 real estate, you know, I saw the potential for this development
2 to be first class, something really special. So I was a very
3 big proponent of it and I got quite a few of my personal friends
4 involved, and they bought lots also.

5 Q You mentioned earlier that there came a time when you
6 learned that Marc Romeo was, in fact, Mr. Pukke; is that
7 correct?

8 A That's correct.

9 Q Do you recall roughly when that was?

10 A It was two, two and-a-half years after we purchased. So
11 that would have been maybe mid-2012 or early 2012.

12 Q You purchased in August, 2010?

13 A Correct.

14 Q So two years after August, 2010, would be end of 2012?

15 A So, yes, so it would have been -- could have been early
16 part of 2013.

17 Q Okay.

18 A Yeah.

19 Q How did you react when you learned of this news?

20 A Well, my wife and I both were quite surprised and felt
21 somewhat betrayed. You know, we questioned, said, well, if that
22 dishonesty occurred, what else is not on the up and up.

23 Q What steps, if any, did you take?

24 A Didn't take any.

25 Q Well, let me ask you more specifically. With regard to

JON BERNDSEN - DIRECT EXAMINATION

1 the -- were you at the time, were you in the process of
2 constructing a home on your property?

3 A I had plans drawn up by my architect and I had taken them
4 down to Belize and shown them to John Usher and some other folks
5 about what I planning to build. But, yeah, I was very much into
6 the process to start the building process within that year.

7 Q And then when you learned that Mr. Pukke was -- Marc Romeo
8 was in fact Mr. Pukke, what did you do with regard to your
9 design plans for your house?

10 A I put the plans on hold.

11 Q Do you now have a house on the property?

12 A Do not.

13 Q Still on hold?

14 A Correct.

15 Q Did there come a time when you traveled to Newport,
16 California?

17 A Yes, I had a business meeting in L.A. March of 2014.

18 Q What was the purpose of that meeting?

19 A It was an architectural group, a peer group I belong to
20 where you can get together every six months different parts of
21 the country to visit other peer members' offices and projects.
22 And that particular trip was with a builder there in L.A.

23 Q And did you take opportunity to visit any offices related
24 to Sanctuary Belize?

25 A I did.

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1 John Usher who I stayed in very close contact with at that
2 time had mentioned that he was going to be in Newport Beach in
3 March of 2014, that same week that I was going to be in L.A.
4 And I said, well, great, I'll come down after my meeting is done
5 and meet with you. Be good to see you, because at that point, I
6 had not been to Belize in about, probably a year and a half. So
7 it was just -- I never been to the office there in Newport
8 Beach.

9 Q Who did you meet with in the office?

10 A When I got there, it was late on a Friday afternoon, what I
11 recall. Luke Chadwick was there, Robert Shaftnitz, Mr. Pukke
12 was there, John Usher was there and his son-in-law, Andrew
13 Usher.

14 Q At this meeting in March, 2014, did Mr. Pukke tell you that
15 his name was Marc Romeo?

16 A He did not.

17 Q Okay. Can you please describe your interactions -- well,
18 when you saw Mr. Pukke, how did you address him?

19 A It was real casual meeting. It wasn't an official meeting.
20 Very casual. You know, say, hey, Andris, good to see you. It's
21 been -- at that point, it had been, what, four years.

22 Q So you used his real name?

23 A Correct.

24 Q And was that the first time you had seen him and you used
25 his real name to talk to him?

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1 A Yes.

2 Q How did he react when you used his real name?

3 A He responded, said, yeah, good to see you also.

4 Q At the end of that meeting when you said good-bye, can you
5 describe what happened with Mr. Pukke?

6 A Well, I think it was around five o'clock in the afternoon.
7 Everyone is ready to go home, so we were all saying our
8 good-byes. And Mr. Pukke responded, yeah, good to see you
9 again. He made some comment, like, after several name changes,
10 to that effect.

11 Q So, he was acknowledging that he had -- he had interacted
12 with you under different names?

13 A That's how I took it.

14 THE COURT: And when was that, approximately, you're
15 saying?

16 THE WITNESS: That was in March of 2014 when I was
17 visiting their office.

18 THE COURT: That's when he, specifically, admitted
19 that he had used different names or a different name?

20 THE WITNESS: I wouldn't say that he admitted, but he
21 just made the comment that, yeah, it's good to see you again
22 after several name changes.

23 THE COURT: He said those words?

24 THE WITNESS: Correct.

25 BY MR. MITCHELL:

JON BERNDSEN - DIRECT EXAMINATION

1 Q What is your involvement in Sanctuary Belize today?

2 A I'm member of an HOA steering group. We have four property
3 owners that have been working for the last nine, ten months
4 trying to get all the covenants, restricted covenants drafted,
5 written, in place where the members can vote on it and accept
6 it, and also get the HOA organization properly structured and
7 set up where the homeowners can then take control of it and
8 start running their own HOA.

9 Q You mentioned four property owners, but are there also
10 members of the Sanctuary Belize Development that are also
11 involved in this HOA?

12 A Well, sitting in on those meeting, we usually have weekly
13 teleconference meetings. John Usher and Andrew Usher are
14 usually part of those meetings.

15 Q Is the relationship between this HOA and the developers,
16 how would you describe that relationship?

17 A Between developers and --

18 Q And the HOA?

19 A Good, good. I mean, they're -- they realize that UCCNRs
20 and HOA structures all should have been set up and recorded and
21 in place before lots ever started being sold. And John Usher
22 has made numerous comments that he welcomes our input and wants
23 us to come up with something that we can live with, rather than
24 him just writing his own and recording them.

25 Q So you were working collaboratively?

JON BERNDSEN - DIRECT EXAMINATION

1 A Correct.

2 Q Do you know an individual named Thomas Herskowitz?

3 A I do.

4 Q And have you had an opportunity to talk with him about this
5 HOA?

6 A Yeah, early on. Probably two, two and-a-half years ago,
7 Tom and I and other members were in a -- in a earlier steering
8 group doing this very task and so we worked very closely then.
9 That group was abruptly terminated after about, I don't know,
10 maybe four months of work by the developer.

11 Q Mr. Herskowitz is not a -- is not actively participating in
12 this current HOA; is that correct?

13 A Correct.

14 Q Show you what's been marked as Government's Exhibit 13. Do
15 you see the photograph of that individual there?

16 A Yes.

17 Q Do you recognize that person?

18 A I do not.

19 Q This one is hard to see. If you can't make it out, that's
20 fine. This is Government's Exhibit 14. Do you recognize that
21 individual there?

22 A It looks hike a photo that Brandi Greenfield had posted on
23 Facebook saying, this is Marc Romeo. This was probably, maybe,
24 a year ago or less than a year ago, she did that.

25 Q So that photograph that you're referring to that Brandi

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1 posted of reportedly Marc Romeo, had you ever met that
2 individual before?

3 A No.

4 Q Have you had an opportunity to review the affidavits that
5 were attached to the Defendant's Motion to Dismiss the Petition?

6 A Yes.

7 Q Do you happen to have them there in front of you? Is there
8 a stack of papers in front of you?

9 A Is there what?

10 Q Is there a stack of papers in front of you?

11 A No, just napkins.

12 Q That's not going to be helpful.

13 Well, I'll read to you a paragraph in the affidavit of
14 Luke Chadwick. It's at ECF 46. It says in paragraph 16, "I
15 have witnessed Andris Pukke repeatedly meeting with lot owners
16 and other persons involved in the development as Andris Pukke,
17 including specifically Jon Berndsen." That's actually correct,
18 right?

19 A State that again?

20 Q I'm sorry.

21 A Yeah.

22 Q Mr. Chadwick says, without putting a date on it, he says, I
23 have witnessed Andris Pukke repeatedly meeting with lot owners
24 and other persons involved in the development as Andris Pukke,
25 including, specifically, Jon Berndsen?

JON BERNDSEN - DIRECT EXAMINATION

1 A That statement is not correct if he's referring to, on the
2 Belize property. I never met with Andris Pukke under that name.

3 Q I don't think that's what the affidavit says, but I guess
4 the bottom line is, is that you met with Mr. Pukke as Mr. Pukke
5 in March, 2014, correct?

6 A Correct.

7 Q And then prior to that, in Belize you met Mr. Pukke as
8 Marc Romeo?

9 A That's correct, yes.

10 MR. MITCHELL: Court's indulgence.

11 Nothing further, Your Honor.

12 THE COURT: Cross.

13 MR. DE BRETTEVILLE: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. DE BRETTEVILLE:

16 Q Good afternoon, Mr. Berndsen.

17 A Good afternoon.

18 Q And just for the record, you and I ran into one another at
19 breakfast this morning?

20 A Yes, we did.

21 Q And just to be clear, if I gather your testimony from this
22 afternoon, Mr. Pukke was not held out to you as Marc Romeo any
23 time after 2011; is that correct?

24 A That's correct.

25 Q You --

JON BERNDSEN - CROSS-EXAMINATION

1 THE COURT: Sorry, let me get that.

2 After 2011?

3 THE WITNESS: Yeah, the only time I had any contact
4 with Marc Romeo was in 2010. After that point, I had no --

5 THE COURT: So there was no contact with Marc Romeo in
6 2011?

7 THE WITNESS: Correct.

8 THE COURT: Or 2012?

9 THE WITNESS: Correct.

10 THE COURT: Not until '14?

11 THE WITNESS: '14, when I met at their office in
12 California is when I had contact with Mr. Pukke.

13 BY MR. DE BRETTEVILLE:

14 Q At that time, Mr. Pukke was introduced to you and known to
15 you as Mr. Pukke?

16 A Correct.

17 Q A moment ago when you were being questioned by the
18 government, you were asked, how is the relationship between the
19 HOA that you're working with and the developer. And I believe
20 in your response, you said that the HOA and Mr. Usher are
21 getting along well; is that correct?

22 A Yeah. You know, both parties don't trust the other
23 completely, so -- but we're working together to try to get
24 through this, you know, and see how it turns out.

25 Q And to date, your understanding of Mr. Pukke's role in

JON BERNDSEN - CROSS-EXAMINATION

1 connection with the development is as the marketing -- the head
2 of marketing for the development; is that correct?

3 A That's what I understand is that he is in charge of the
4 marketing portion of GPA, which that's basically what GPA does
5 is marketing.

6 Q You feel he's done a good job in that role?

7 A Yeah, they're a great marketing company, no doubt.

8 Q So, Mr. Pukke is the marketer and Mr. Usher is the
9 developer; is that correct?

10 A That's how Mr. Usher explains it to us is that he is the
11 developer under Eco Futures Belize and GPA is the marketing
12 company that does the sales, marketing and also is paid monthly
13 to send out billings and receive funds.

14 Q And as you work in your capacity with the HOA on issues
15 pertaining to the development of the project, the person with
16 whom you interact is John Usher, not Mr. Pukke, correct?

17 A That's correct.

18 Q I'd like to put in front of the witness, Your Honor, a
19 document, I suppose is Defense Exhibit Number 1 at this point or
20 Number 2.

21 We'll make it number one. And if I may approach, I can
22 hand copies to the Court.

23 (Pause.)

24 MR. DE BRETTEVILLE: Number 2, Your Honor.

25 BY MR. DE BRETTEVILLE:

JON BERNDSEN - CROSS-EXAMINATION

1 Q Okay. While we'll work in the Stone Age with the paper
2 documents, this is an e-mail chain, sir, I believe from November
3 of this year that begins with an attachment that lists certain
4 domain names that have been registered to Mr. Herskowitz and an
5 e-mail from Mr. Scrachen [ph] to Mr. Usher -- John Usher, Andrew
6 Usher, Nabil Bedewi and yourself; is that correct?

7 A Yes, I remember Mr. Scrachen sending out an e-mail to us.

8 Q So you recognize this e-mail chain attachment?

9 A Yes. Is it the one where Mr. Scrachen sent us --

10 Q Do you not have a copy, sir?

11 A No.

12 Q On top of the --

13 A Oh, there we go.

14 Q Why don't you take a moment to review that and see if you
15 recognize it?

16 A Yes, I do recall this e-mail where Tom Scrachen brought to
17 our attention this website that Mr. Herskowitz had put together.

18 Q And at the end of Mr. Scrachen's e-mail to the group. He
19 writes -- I'm talking about the domain names. Talks about how
20 Mr. Herskowitz has registered the Sanctuary Belize HOA domains.
21 And it says, this is more evidence of a broad campaign and Tom
22 is raising money to funds ISBO. What is ISBO?

23 A From what I remember Tom Scrachen saying, that is a
24 organization that Mr. Herskowitz has put together. I think it
25 has to do with his website, independent owners something.

JON BERNDSEN - CROSS-EXAMINATION

1 Q I want to go to your responsive e-mail. I won't belabor
2 every part of it, but at the end of the first paragraph, you,
3 write, "I don't appreciate being dragged into Tom's vendetta.
4 What have I got involved in?" When you refer to Tom's vendetta,
5 what do you refer to?

6 A Well, he's been very vocal on the Facebook pages for quite
7 some time about, you know, displeasure with how the development
8 is being run and accountability. He's been very vocal about our
9 HOA steering group that I'm part of because we're not disclosing
10 everything we're working on to everybody at this point, since
11 it's not ready to disclose.

12 So, you know, it's obvious that Mr. Herskowitz has, you
13 know, decided to go after GPA, the developer and, you know, try
14 to force them to proceed with the development as advertised.
15 And, you know, he feels that it's being dragged out, a lot of
16 promises broken.

17 Q In your opinion, Mr. Berndsen, is Mr. Herskowitz's campaign
18 or vendetta beneficial to or detrimental to the interest of the
19 lot owners in Sanctuary Belize?

20 A It's a mixed bag. You know, some the things that he has
21 brought to everyone's attention is information everybody should
22 know, so know what they're dealing with. A lot of the negative
23 remarks that are made, in my opinion, don't help the overall
24 atmosphere of the homeowners. So, you know, it's kind of
25 putting a divide between some of the homeowners.

JON BERNDSEN - CROSS-EXAMINATION

1 There's quite a few that support him completely and there
2 are quite a few that are totally turned off by the negativity.

3 Q You testified on direct that when you learned of
4 Mr. Pukke's involvement that that put some of your plans on
5 hold. Do you recall that?

6 A Correct.

7 Q Was that decision also motivated by the fact that utilities
8 have not yet been brought to your lot?

9 A Well, I have two lots. The main lot where I plan to build
10 the large house has had utilities on it for four years. And
11 that was the lot that I was planning to build the house on. The
12 other lot is on the water and that one just -- I think it was in
13 February or March finally had water and electricity brought to
14 it five years after I bought it.

15 Q Just one last question, Mr. Berndsen. As a lot owner in
16 Sanctuary Belize, do you believe that your interest would best
17 be protected if Mr. Pukke had his probation or supervised
18 release revoked?

19 MR. MITCHELL: Objection, Your Honor.

20 THE COURT: What?

21 BY MR. DE BRETTEVILLE:

22 Q Would the interest of the lot owners in Sanctuary Belize be
23 best served if Mr. Pukke's supervised release were revoked?

24 MR. MITCHELL: Objection, Your Honor.

25 THE COURT: Sustained, sustained. Ask another

JON BERNDSEN - CROSS-EXAMINATION

1 question.

2 MR. DE BRETTEVILLE: Your Honor, if I may, address the
3 Court briefly on that point. My understanding of revocation is
4 primarily to -- well, supervised release is to allow an
5 individual to be rehabilitated into the community properly and
6 that revocation conversely, the point it is really not
7 punishment.

8 THE COURT: I'm not sure it's this witness' position
9 to make that judgment, though. That's the point.

10 MR. DE BRETTEVILLE: I thought it might be beneficial
11 to the Court.

12 THE COURT: Are you asking if his absence from the
13 scene affect in any way -- I don't even know what Mr. Pukke is
14 doing today. Would be of interest for me to know first if he's
15 involved in any way with the Belize operation.

16 THE WITNESS: You're asking me?

17 THE COURT: I'm asking you.

18 THE WITNESS: As far as I know, he's very active with
19 GPA.

20 THE COURT: What's GPA?

21 THE WITNESS: Global Property Associates, I believe is
22 the name. They are the ones that do the marketing, sales, sale
23 the property. They take in the -- send out billings monthly for
24 people making lot payments.

25 THE COURT: Was he doing -- how recently was he doing

JON BERNDSEN - CROSS-EXAMINATION

1 that? Was he doing that before September of this year?

2 MR. DE BRETTEVILLE: He's been employed, Your Honor,
3 for the last three years doing exactly that.

4 THE COURT: Okay. Let the witness answer, okay.

5 Was he doing that within the last three years?

6 THE WITNESS: That is my understanding.

7 THE COURT: Did you have any contact with him during
8 that period?

9 THE WITNESS: The only time I had contact with him was
10 in 2014 when I stopped in their office in California and met
11 with him for about an hour.

12 THE COURT: Okay. And what was he doing then?

13 THE WITNESS: Well, when we had our meeting there, we
14 all were sitting around the conference table and they were
15 catching me up on the latest plans.

16 THE COURT: When you say they.

17 THE WITNESS: Well, this is Mr. Usher, Luke Chadwick
18 and Andrew Usher. So, basically --

19 THE COURT: And Mr. Pukke was there?

20 THE WITNESS: And Mr. Pukke was there, yes.

21 THE COURT: And what was he -- what capacity was he
22 there? Did he tell you?

23 THE WITNESS: He did not state an official capacity,
24 but he was part of the discussions and --

25 THE COURT: Who are the other people and who are they

JON BERNDSEN - CROSS-EXAMINATION

1 associated with? Were they associated with the sellers of the
2 property, of the --

3 THE WITNESS: Yes, Luke Chadwick was there and he was
4 very involved in the sales and marketing.

5 THE COURT: Okay.

6 THE WITNESS: He led many of the sales tours on site.

7 THE COURT: Do you know the name of the entity that
8 was selling the property in those days? Was it -- what did you
9 call it, GPA?

10 THE WITNESS: GPA.

11 THE COURT: Was it Sittee River Wild --

12 THE WITNESS: No, Sittee River Wildlife is the
13 organization in Belize that owns all the land and are the
14 managers of the wildlife reserve. And they are the ones that
15 have given the rights to Eco Futures Belize to develop a portion
16 of the property.

17 THE COURT: Okay. Did you know whether or not
18 Mr. Pukke in 2014 was identified with any of those entities?

19 THE WITNESS: Yes.

20 THE COURT: What did you know? What was he doing for
21 those entities?

22 THE WITNESS: Well, GPA is closely related with
23 everything going on down in Belize. All the money that comes in
24 monthly from lot sales and monthly payments goes to GPA's office
25 in California, and they then send a portion of that down to

JON BERNDSEN - CROSS-EXAMINATION

1 Belize, which is used for, actually, building out the
2 development.

3 THE COURT: Do you know an entity called Buy Belize?

4 THE WITNESS: Yes.

5 THE COURT: Who are they?

6 THE WITNESS: That's another sister organization run
7 out of the same office in California.

8 THE COURT: Sister office to GPA?

9 THE WITNESS: To GPA, yes.

10 THE COURT: Do you know whether Mr. Pukke is
11 identified with Buy Belize?

12 THE WITNESS: I'm don't know for sure the entity
13 behind that. I don't know, but it's two companies, sister
14 companies that operates out of the same office there.

15 THE COURT: Do you know how much he earns per hour for
16 doing work for Buy Belize?

17 THE WITNESS: I do not.

18 THE COURT: Okay. Go ahead Mr. De Bretteville.

19 MR. DE BRETTEVILLE: Your Honor, I'm actually done,
20 unless -- I could walk this witness through how the two
21 structures work.

22 THE COURT: You can call a witness and do it, but I'm
23 not going to have you do it.

24 MR. DE BRETTEVILLE: I'm asking him.

25 THE COURT: Okay.

JON BERNDSEN - CROSS-EXAMINATION

1 MR. DE BRETTEVILLE: Thank you, Your Honor.

2 BY MR. DE BRETTEVILLE:

3 Q So, Mr. Berndsen, so your understanding is that John Usher
4 is developing lots that are being sold, essentially, by Sittee
5 River Wildlife Refuge because that's the owner of the lots,
6 right?

7 A No, Sittee River is not selling lots.

8 Q But it owns the lots, it owns the land?

9 A It owns the land --

10 THE COURT: How do you know they're not selling the
11 lots? We have contracts which show they're vendor, so how do
12 you know they're not selling. Your own contract said, the
13 vendor was Sittee River.

14 MR. DE BRETTEVILLE: If I may, Your Honor.

15 THE COURT: No, let the witness answer.

16 THE WITNESS: Well, I'm not saying that Sittee River
17 is not selling it. They are not the party that is actively
18 marketing and doing --

19 THE COURT: No, but they are the vendor.

20 THE WITNESS: But they are the vendor.

21 THE COURT: All right. That's what you mean.

22 THE WITNESS: They are the legal entity --

23 THE COURT: And that's -- well, they're selling
24 because they are the owners. Somebody may be acting as an agent
25 for them.

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1 THE WITNESS: That's correct.

2 THE COURT: All right.

3 BY MR. DE BRETTEVILLE:

4 Q Make sure we're on the same vocabulary. I want to
5 distinguish between entities that own land and entities that are
6 developing, building, doing planning, construction and entities
7 doing marketing sales?

8 A Correct.

9 Q Does that make sense to you, sir?

10 A Correct.

11 Q Okay. In Belize, we have John Usher and Eco Futures Belize
12 and Sittee River Wildlife Refuge constructing, developing and
13 selling land that's owned by Sittee River Wildlife Refuge,
14 correct?

15 A Okay.

16 THE COURT: Stop right there.

17 Is Mr. Pukke identified with all of those entities as
18 far as you know or you don't know?

19 THE WITNESS: I don't know for sure.

20 MR. MITCHELL: Your Honor, I just want the record to
21 be clear. The witness said, okay, and kind of shrugged his
22 shoulders.

23 THE COURT: Do you know these or --

24 THE WITNESS: No, I don't know.

25 THE COURT: All right. That's a better answer.

JON BERNDSEN - CROSS-EXAMINATION

1 BY MR. DE BRETTEVILLE:

2 Q Sir, let's go with -- forgetting names for a moment. Your
3 understanding, not mine, your understanding of how this
4 development works is that lots are sold that then -- and the
5 selling of those lots creates cash flow because the owners of
6 those lots have to pay into the development; is that correct?

7 A That's correct.

8 Q Some entities -- we'll leave them unnamed for a moment --
9 in Belize are responsible for building utilities and roads,
10 others things associated with the land in Belize, correct?

11 A That's correct.

12 Q And other entities in United States are responsible for
13 marketing the properties to buyers in U.S. and Canada and
14 elsewhere, correct?

15 A Correct.

16 Q And as deals are closed, individuals purchase land and
17 monies are generated, the individuals then have to pay somebody
18 for those monthly payments, correct?

19 A That's correct.

20 Q And by and large, those payments are not sent directly to
21 Belize, but instead are sent to GPA who is supposed to then
22 accept those payments, send some portion down to Belize to help
23 fund the construction of utilities and whatnot in Belize. And
24 some other portion is retained -- stays in the U.S. for further
25 marketing of the lots, correct?

JON BERNDSEN - CROSS-EXAMINATION

1 A That's my understanding, yes.

2 THE COURT: How do you know all this? I had counsel
3 testify now for the last several minutes. How do you know this?

4 THE WITNESS: Just from things that I've read over the
5 last five years that are shared. There's, you know, quarterly
6 newsletters that are sent out --

7 THE COURT: All right. Fair enough.

8 THE WITNESS: -- to update the owners on what's going
9 on.

10 THE COURT: All right.

11 THE WITNESS: Just general knowledge of the lot
12 owners.

13 BY MR. DE BRETTEVILLE:

14 Q And, sir, one of the primary issues both for Mr. Herskowitz
15 and his folks, and for your HOA is -- revolves around how much
16 money is being spent constructing amenities and roads utilities
17 in Belize versus how much money is being spent marketing to
18 future owners, correct?

19 A Say that there's a discussion among the lot owners as far
20 as how much money is being spent on marketing versus
21 development? Restate the question.

22 Q To your understanding, sir, is one of the primary issues of
23 contention or discussion between the developer on one hand, at
24 large, all the people involved from the construction planning,
25 to the design in Belize to marketing in U.S., one of the

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1 principal bones of contention or discussion is how much money
2 should be spent on building more stuff in Belize and how much
3 money should be spent marketing to future lot owners?

4 A Yes, that is a large bone of contention among the lot
5 owners.

6 Q And that's the central issue for Mr. Herskowitz in
7 particular?

8 A Yes, he's made that very, very vocal.

9 Q And I want to be clear. I spoke a lot and I was asking
10 leading questions to try and make this easy, but when I was
11 testifying, I was asking you leading questions about the
12 structure of the development, did you agree with everything I
13 said?

14 MR. MITCHELL: Objection.

15 MR. DE BRETTEVILLE: Do you feel like I was putting
16 words in your mouth?

17 THE COURT: I think he said, based on what he read
18 over the years, he pretty much understands what you said.
19 Whether in fact it's bona fide remains to be argued. That's the
20 way it has been presented to him, truthful or not. I don't know
21 at this point. It's a lot of things going on here, as you
22 perhaps know.

23 A lot of companies with a lot of names, with a lot of
24 the same people and it's constantly shifting. So, what he
25 understands, he doesn't really know who is behind the scenes. I

JON BERNDSEN - REDIRECT EXAMINATION

1 assume you do not; is that correct?

2 THE WITNESS: That's correct.

3 THE COURT: All right. Let's move on.

4 MR. DE BRETTEVILLE: No further questions, Your Honor.

5 THE COURT: Anything further from you, Mr. Mitchell?

6 MR. MITCHELL: Very quickly.

7 REDIRECT EXAMINATION

8 BY MR. MITCHELL:

9 Q Do you work for any of the entities involved with Sanctuary
10 Belize in the United States?

11 A Do I work for them? No.

12 Q Do you work for any of the entities related to Sanctuary
13 Belize in Belize?

14 A No.

15 Q Are you familiar with the finances related to any of the
16 entities? When I say -- let me be more specific. Do you have
17 access to any of the bank accounts or insight into any of the
18 bank accounts for any of the entities in the United States or
19 Belize with regard to Sanctuary Belize?

20 A No, I do not.

21 Q Are you given any documents related to the financials and,
22 specifically, the flow of money between the U.S. entities and
23 the Belizean entities with regard to Sanctuary Belize?

24 A All the lot owners were given an accounting report, oh,
25 three or four months ago that showed the finances for 2013, I

JON BERNDSEN - REDIRECT EXAMINATION

1 think it was, for the homeowners association and that was done
2 by the organization down in Belize.

3 Q But this proforma report, was it from a bank?

4 A No, it was an accounting firm that did it, an audit on the
5 books of the HOA.

6 Q Were you involved in that audit?

7 A Was not, no.

8 Q With regard to Mr. Herskowitz, there was some discussion
9 about him and your interactions with him. You mentioned the HOA
10 earlier, correct?

11 A Correct.

12 Q The HOA that you're involved in currently?

13 A Have I had interactions with Mr. Herskowitz?

14 Q No, forget about Mr. Herskowitz for one second. You're
15 involved in a -- in efforts with regard to the HOA currently,
16 correct?

17 A That's correct.

18 Q And you had testified earlier on direct that you had
19 interactions with Mr. Herskowitz regarding the HOA, correct?

20 A Correct.

21 Q All right. Have you told Mr. Herskowitz that you would
22 like him to be a member of the HOA at some future date?

23 A I told him a while back that with his constant verbal
24 attacks on the Facebook sites, you know, I asked him to tone it
25 down to -- you know, to stop it, because --

JON BERNDSEN - REDIRECT EXAMINATION

1 THE COURT: I think we're really getting far afield
2 from what I'm supposed to decide here. I mean, now we got
3 Mr. Berndsen talking about Mr. Herskowitz and I'm trying to
4 figure out what Mr. Pukke did or did not do.

5 MR. MITCHELL: Nothing further, Your Honor.

6 THE COURT: All right. One question. You were told
7 for a period of time and believed that this man was Marc Romeo.

8 THE WITNESS: That's correct.

9 THE COURT: So, what difference does it make to you
10 today that he was or wasn't Marc Romeo; that he was saying he
11 was Marc Romeo and he wasn't? What's the difference? What does
12 it matter?

13 THE WITNESS: Well, I may not have purchased property
14 in 2010 if I knew that Mr. Pukke was still involved in the
15 development.

16 THE COURT: You would not have?

17 THE WITNESS: Based on what I read previous to going
18 down there.

19 THE COURT: All right. But then you learned and you
20 were, sort of, into the transaction that he was not Marc Romeo,
21 it was Andris Pukke. Then what?

22 THE WITNESS: Once we found that out, my wife and I
23 both said, well, what else do we not know about what's going on
24 behind the scenes. You know, we felt betrayed, you know,
25 especially by John Usher and Robert Shaftnitz, the salesperson

JON BERNDSEN - REDIRECT EXAMINATION

1 who I was very close with and sending him friends of mine down
2 there to look at property and buy.

3 So, you know, everyone involved in the organization
4 had been playing the game that Mr. Pukke was Mr. Romeo.

5 THE COURT: So, where are we today?

6 THE WITNESS: My plans to build are still on hold.

7 THE COURT: Because?

8 THE WITNESS: There is still uncertainty about the
9 development. The actual build-out of the development is
10 incredibly slow.

11 THE COURT: Do you think that's somehow tied to his
12 use of somebody else's name?

13 THE WITNESS: I don't think the slow progress of the
14 development is related to his use of someone else's name. I
15 think it's due to a lack of funds being sent down to Belize to
16 actually do the development.

17 THE COURT: Okay. All right. Anything based on my
18 questions?

19 MR. DE BRETTEVILLE: Nothing further, Your Honor.

20 THE COURT: All right. We're going to break until
21 3:45 because I have to take this plea right way. So, let's
22 bring the defendant up if we can for this plea, and please just
23 put your things off to the side.

24 All right. We'll see you shortly.

25 MR. MITCHELL: Sorry, Your Honor. This witness

ROD KAZAZI - DIRECT EXAMINATION

1 accused, right?

2 THE COURT: Yes.

3 (Witness excused.)

4 (Brief recess.)

5 MR. DE BRETTEVILLE: Our next witness, Your Honor, is
6 Mr. Rod Kazazi.

7 THE COURT: Come up, if you would.

8 MR. DE BRETTEVILLE: Your Honor, I should pause for a
9 moment.

10 Our view is we don't believe the government has
11 established a violation. The burden, of course, is on the
12 government.

13 THE COURT: I'll reserve on that. Let's go forward.
14 Step up to the witness stand, if you would, sir.

15 THE DEPUTY CLERK: Please stand and raise your right
16 hand.

17 ROD KAZAZI, DEFENSE WITNESS, SWORN

18 THE DEPUTY CLERK: Please be seated, sir.

19 Sir, would you please speak directly into the
20 microphone and state your name for the record and spell your
21 last name please.

22 THE WITNESS: Yes, my name is Rod Kazazi, K-A-Z-A-Z-I.

23 THE DEPUTY CLERK: I'm sorry, your first name again?

24 THE WITNESS: Rod, R-O-D.

25 DIRECT EXAMINATION

ROD KAZAZI - DIRECT EXAMINATION

1 BY MR. DE BRETTEVILLE:

2 Q Mr. Kazazi, who is your current employer?

3 A Global Property Alliance.

4 Q And when did you began working at Global Property Alliance?

5 A Beginning of 2012.

6 Q And what's the position that you hold?

7 A Chief Operating Officer.

8 Q Can you briefly explain to the Court how you came to be an
9 employee of GPA?

10 A I was introduced to the position through an accounting
11 firm.

12 Q What accounting firm?

13 A Moss Adams, Moss Adams.

14 Q And before you obtained employment with GPA, where did you
15 work?

16 A I was at American Apparel.

17 Q What is American Apparel?

18 A A global clothing retailer.

19 Q Is that a public company?

20 A Correct, public company.

21 Q And what was your position at American Apparel.

22 A VP of finance.

23 Q Before you were recruited to work at GPA, had you ever met
24 Andris Pukke?

25 A No.

ROD KAZAZI - DIRECT EXAMINATION

1 Q Are you friends with any of his friends from before you
2 began working?

3 A No.

4 Q Do you have any previous connection whatsoever to
5 Andris Pukke before you took the job?

6 A No.

7 Q I want to direct your attention to some of the allegations
8 in the petition. The first allegation --

9 THE COURT: What's your start date, did you say? I'm
10 sorry.

11 THE WITNESS: It was early 2012.

12 BY MR. DE BRETTEVILLE:

13 Q Now, just generally, during your tenure since 2012, have
14 you ever heard Mr. Pukke or anyone else refer to Mr. Pukke as
15 Marc Romeo?

16 A No.

17 COURT REPORTER: Would you keep your voice up please?

18 THE WITNESS: Yes.

19 That wasn't the answer to my question, by the way.

20 BY MR. DE BRETTEVILLE:

21 Q Thank you for that clarification.

22 The first allegation, the first whereas in petition is
23 Andris Pukke using name Marc Romeo in his October 12, Probe 48
24 under Section K did fail to list that he was the Director of
25 Sittee River Wildlife Reserve.

ROD KAZAZI - DIRECT EXAMINATION

1 When did Mr. Romeo step down from being director of Sittee
2 River Wildlife Reserve?

3 THE COURT: How does he know this? I need a basis for
4 him knowing. There's a lot of entities out here, so maybe you
5 better start relating one to the other.

6 MR. DE BRETTEVILLE: Sure.

7 BY MR. DE BRETTEVILLE:

8 Q So again, for the court, your job is what, sir?

9 A Chief Operating Officer of Global Property Alliance.

10 Q And in your capacity as chief operating officer of Global
11 Alliance, do you review corporate records?

12 A Sometimes, yes.

13 Q For what entities?

14 A For the active ones that we're working with.

15 Q And during your tenure, has Sittee River Wildlife Reserve
16 in Belize, not for-profit, has that been an active entity?

17 A Yes.

18 Q And have you ever met Mr. Marc Romeo?

19 THE COURT: You say, Sittee River is part of your
20 activities? Is that what you said?

21 THE WITNESS: No, no, no. I was saying it's an active
22 entity during the time that I've been employed.

23 THE COURT: Well, how do you know about it, is what I
24 want to know. What was the basis for -- he's asked you some
25 questions about it. How do you know anything about it?

ROD KAZAZI - DIRECT EXAMINATION

1 THE WITNESS: I work with Sittee River Wildlife
2 Reserve.

3 THE COURT: You what?

4 THE WITNESS: I work with them on behalf of GPA. We
5 work together.

6 THE COURT: Okay.

7 BY MR. DE BRETTEVILLE:

8 Q Let me back even further. What does GPA do?

9 A GPA runs the sales, marketing and customer service for
10 Sanctuary Belize Development.

11 Q And what does Sittee River Wildlife Reserve, the Belize not
12 for profit do?

13 A That's the entity that holds the land.

14 Q The land in Belize?

15 A Yes.

16 Q Now, have you ever met an individual named Marc Romeo?

17 A Yes.

18 Q Is he sitting in this courtroom today?

19 A No.

20 Q When did you first meet Marc Romeo?

21 A Sometime in 2012, late 2012.

22 Q And can you tell the Court the circumstances of that
23 meeting?

24 A He came to our office because we had just some business
25 matters to wrap up after his termination being involved with the

ROD KAZAZI - DIRECT EXAMINATION

1 entities.

2 Q Okay. And when you met with Mr. Romeo in 2012, was he
3 still the director of Sittee River Wildlife Reserve at Belize --

4 A No.

5 Q -- not for-profit?

6 A No.

7 Q You have to wait until I finish so she can get my question
8 and your response.

9 A Okay.

10 Q So again, at any time during your tenure from 2/1/2012 to
11 the present, was Marc Romeo nominally a director of Sittee River
12 Wildlife Reserve, a Belize not for-profit company?

13 THE COURT: How do you know that? You say you worked
14 for these people. You know their internal structure as well?

15 THE WITNESS: I've seen corporate documents, so I know
16 who the directors are of those entities.

17 BY MR. DE BRETTEVILLE:

18 Q So, have you any documents listing Marc Romeo as a director
19 of that entity at any time during your tenure?

20 A I have not, no.

21 Q Have you seen other individuals instead being listed as
22 directors of Sittee Wildlife Reserve?

23 A I have, yes.

24 Q And on that basis, you concluded that he no longer
25 nominally holds the position, director?

ROD KAZAZI - DIRECT EXAMINATION

1 A That's correct.

2 Q The next allegation in the petition is that Mr. Romeo or
3 Mr. Pukke using Mr. Romeo's name did fail to list that he was
4 President of Eco Futures Development. And then it refers to
5 Attachment B. To assist you, I'll put up Attachment B and, at
6 least, the signature block from Attachment B from the petition.

7 (Pause.)

8 MR. DE BRETTEVILLE: This wrong attachment. There we
9 go.

10 Okay. So, I'll present to the Court that this is the
11 signature page of the Attachment B referenced in the petition.

12 BY MR. DE BRETTEVILLE:

13 Q Does seeing this signature block where it says Ego Futures
14 Development, Inc. and provides a Newport Beach address clarify
15 for you which Eco Futures Development entity is being referred
16 to in the petition?

17 A Yeah.

18 Q And just to back up for a second, are there multiple
19 iterations of Eco Futures entities?

20 A Yes.

21 Q And can you briefly recite to the Court what those are?

22 A There is an Eco Futures entity in Belize that's the
23 developer. There was formally an Eco Futures Development, Inc.
24 in the United States, and that was shut down prior to my arrival
25 at Global Property Alliance.

ROD KAZAZI - DIRECT EXAMINATION

1 Q And to the extent you have knowledge and we'll go back to
2 why, what was the purpose of the U.S. Eco Futures, Inc. or
3 Development, Inc. entity?

4 A The purpose is, basically, to assist in the customer
5 service element. Meaning collection, processing of payments and
6 also assisting with any issues related to contracts for the
7 clients.

8 Q So, was it the U.S. operating arm for the Belizean entity?

9 A We're contracted to do work for them, yes.

10 Q I should ask you to use your own words. I'll try not to
11 lead you on that.

12 So there was a Belizean Eco Futures entity and here we're
13 seeing the U.S. entity?

14 A Correct.

15 Q And I believe you mentioned that this entity was at some
16 point closed?

17 A Correct.

18 Q How do you know that?

19 A Because I was asked to secure statements and information
20 for tax returns that were for prior periods of when I started.
21 And in that process, I learned that the companies were ceased
22 operations and the bank accounts and everything were closed, and
23 everything had transitioned over.

24 THE COURT: Wait a minute. Why are you looking at it,
25 the prior tax returns? Is this a former incarnation of the

ROD KAZAZI - DIRECT EXAMINATION

1 company you're with today?

2 THE DEFENDANT: No, no. The accountant that was doing
3 tax returns for that period contacted me because I was the new
4 CFO of Global Property Alliance d/b/a Eco Futures. So they
5 contacted me.

6 THE COURT: Okay. So, Global Property Alliance is
7 doing business as Eco Futures?

8 THE WITNESS: Correct.

9 THE COURT: Until when?

10 THE WITNESS: Currently.

11 THE COURT: Even today it's Eco Futures?

12 THE WITNESS: Correct.

13 BY MR. DE BRETTEVILLE:

14 Q But to help Your Honor -- following up on the Court's
15 question, today in what manner, what capacity does GPA do
16 business as Eco Futures?

17 A Just processing payments for the Belizean entity.

18 Q In either operations?

19 A Be more specific. I mean, we do customer service for
20 Sanctuary Belize. We deal with their clients and things like
21 that, but that's not --

22 Q Is that done in the name of Global --

23 A That's in GPA.

24 Q It's under the name GPA, not Eco Futures?

25 A Correct.

ROD KAZAZI - DIRECT EXAMINATION

1 Q So, this particular inc., you said to the Court a moment
2 ago that it was shut down?

3 A Yes.

4 Q Okay. Why is it that you in your capacity at GPA have
5 access to information pertaining to Eco Futures Development,
6 Inc., the shut down entity?

7 A It was a prior entity that was involved with the Belizean
8 entity and I was responsible for providing tax return documents
9 to them.

10 Q And again, your testimony a moment ago was that in the
11 process of gathering those tax documents, you observed that all
12 the bank accounts were closed and that Future Eco Development,
13 Inc. referred to in Exhibit B is what shuttered, correct?

14 A Correct. It's no longer and operation, correct.

15 Q As of what time?

16 A I believe it was the end of 2011.

17 Q End of 2011.

18 Okay. So, if we go back to the petition that says that
19 Mr. Pukke did fail to list he was president of Eco Futures
20 Development based on Attachment B, we note this is referring to
21 the U.S. Eco Futures Development, Inc. referenced on the
22 signature block of Exhibit B. Do you follow me?

23 THE COURT: Try not to lead him.

24 BY MR. DE BRETTEVILLE:

25 Q So, again, it says, he was present at Eco Futures

ROD KAZAZI - DIRECT EXAMINATION

1 Development. We don't know which one we're talking about at
2 this point. But then it says, based on Attachment B. We've all
3 just reviewed Attachment B and seen that's referring to the U.S.
4 Eco Futures Development, Inc., correct?

5 A Correct.

6 Q Okay. So, knowing that, can you tell the Court based on
7 information you've summarized when did Mr. Romeo or Mr. Pukke
8 using Mr. Romeo's name no longer occupy the position of
9 president of this now shuttered entity, Eco Futures Development,
10 Inc., U.S.?

11 A End of 2011.

12 Q The end of 2011?

13 A Yes.

14 Q So to be perfectly clear, neither Mr. Romeo himself, nor
15 anyone else using his name could possibly have become the
16 position of president of Eco Futures Development, Inc. during --
17 in 2012 to the present?

18 A Correct.

19 THE COURT: Or held himself out as being the president
20 for some sort of affiliate, right?

21 THE WITNESS: Right, that's correct.

22 THE COURT: You know that to be so that Mr. Pukke, for
23 example, could not have been saying he was identifying with this
24 particular entity -- how would you know that he might be saying
25 that? How would you know that he might be telling people that

ROD KAZAZI - DIRECT EXAMINATION

1 anyway? You don't know really.

2 THE WITNESS: Right, I don't know what his private
3 conversations are.

4 THE COURT: All right.

5 BY MR. DE BRETTEVILLE:

6 Q Going to the next allegation, that Mr. Pukke was a
7 subscriber of the Sanctuary Belize Homeowners Association based
8 on Attachment E, again, in Mr. Romeo's name, does that entity
9 entitle or -- which way is the money going? If you're a
10 subscriber of that HOA, do you have to pay dues? Do you receive
11 financial interest? What does it mean to be a subscriber of
12 that?

13 A You're paying a monthly membership fee.

14 Q How much is that?

15 A \$112 or a hundred dollars plus \$12 of general sales tax.

16 Q Mr. Kazazi, are you familiar with the prices that are
17 charged by Sanctuary Belize at large for the properties in
18 Sanctuary Belize?

19 A Yes.

20 Q And have the prices for those lots gone up or down since
21 2013 when Mr. Pukke's involvement was more broadly -- more
22 widely broadcast?

23 A Prices have definitely gone down.

24 Q By how much?

25 A It's tough to say. It depends on the individual piece of

ROD KAZAZI - DIRECT EXAMINATION

1 property, how many of each type are left, where it's located,
2 water views, things like that. That will determine it, but it's
3 gone up significantly.

4 Q So let's talk a little bit about your actual job?

5 A Sure.

6 Q Do you work with Mr. Pukke?

7 A Yes.

8 Q And how often do you talk to him?

9 A Every so often. I mean, we see each other in the office
10 and we speak about different things related to the sales and
11 marketing.

12 Q So, are you -- on what topics do you interact with
13 Mr. Pukke?

14 A We plan our media budgets. We determine where we're
15 running advertising. We determine, you know, whether we're
16 doing one media or another. All these different things related
17 to the process of actually marketing the project and also
18 related to the process of selling. So, the tours and things
19 like that.

20 Q And for what entity does Mr. Pukke work?

21 A Buy Belize.

22 Q And what is Buy Belize?

23 A Buy Belize is a sales agent that Global Property Alliance
24 uses to help sell property in Belize.

25 Q And --

ROD KAZAZI - DIRECT EXAMINATION

1 THE COURT: It is a division of Global Property?

2 THE WITNESS: No, it is not. It's a separate entity.

3 THE COURT: A separate entity?

4 THE WITNESS: Correct.

5 THE COURT: And you know them to work for Buy Belize
6 why?

7 THE WITNESS: I beg your pardon?

8 THE COURT: Why do you know that he works for Buy
9 Belize?

10 THE WITNESS: Because we contract Buy Belize to do
11 sales process for us, the sales and some of the marketing
12 materials that go out, so.

13 THE COURT: Where are they located?

14 THE WITNESS: I beg your pardon?

15 THE COURT: Where are they located?

16 THE WITNESS: California.

17 THE COURT: Same place as --

18 THE WITNESS: Yes.

19 THE COURT: You've got to listen to my questions.
20 Are their offices in the same place a GPA and all
21 these other entities?

22 THE WITNESS: Yes.

23 THE COURT: Where is that?

24 THE WITNESS: In Irvine.

25 THE COURT: Irvine?

ROD KAZAZI - DIRECT EXAMINATION

1 THE WITNESS: Correct.

2 THE COURT: Same office, different floors, what?

3 THE WITNESS: Same floor, different offices.

4 BY MR. DE BRETTEVILLE:

5 Q Just to be clear, His Honor said, all these other entities.

6 Precisely what entities are housed in the Newport Beach office
7 in California?

8 A Global Property Alliance and Buy Belize.

9 Q Not Sittee River Wildlife Refuge?

10 A No.

11 Q Not Eco Futures Development, Inc.?

12 A No.

13 Q Not Belize Homeowners Association?

14 A No.

15 Q I want to -- in your capacity with GPA, do you ever
16 encounter issues that are outside the scope of the marketing
17 issues you just summarized that Mr. Pukke works with you on?
18 Development issues.

19 A Sometimes, not really. I mean, development issues occur
20 with clients all the time. We try to assist clients as much as
21 possible, so.

22 Q So, when an issue comes up that relates to the development
23 of a property, to whom do you speak, Mr. Pukke?

24 A No.

25 Q Well, to who then?

ROD KAZAZI - DIRECT EXAMINATION

1 A John Usher.

2 Q Invariably?

3 A Yes.

4 Q Have you ever observed Mr. Pukke exercising control over
5 financial aspects of the Sanctuary Belize Development?

6 A No.

7 Q Have you ever observed Mr. Pukke exercising responsibility
8 or authority over construction aspects of Sanctuary Belize?

9 A No.

10 Q Entitlement?

11 A No.

12 THE COURT: You're asking, the Sanctuary Belize?

13 MR. DE BRETTEVILLE: Yes.

14 THE COURT: You don't know whether he as Mr. Pukke or
15 Mr. Romeo had any authority at all? Is that your answer?

16 THE WITNESS: I'm not sure I understand what you're --

17 THE COURT: Do it again. You're saying -- I think the
18 question was asked differently. I think you're saying, I know
19 that Mr. Pukke, whether he's Mr. Pukke or Mr. Romeo, never
20 exercised any authority over Sanctuary Belize. Are you saying
21 that?

22 THE WITNESS: During my tenure?

23 THE COURT: Yeah.

24 THE WITNESS: Yeah, yes, absolutely.

25 BY MR. DE BRETTEVILLE:

ROD KAZAZI - DIRECT EXAMINATION

1 Q And I was asking if you ever had -- I'll rephrase it.

2 With respect to all these development functions I've asked
3 you about, have you ever observed Mr. Pukke in his own capacity
4 or using any other name exercising authority over the
5 development of Sanctuary Belize?

6 A No.

7 Q And the person with whom you do interact on those topics is
8 exclusively John Usher?

9 A Yes.

10 Q I don't want to belabor it, Mr. Kazazi. We talked about
11 this with Mr. Herskowitz, but Mr. Herskowitz has alleged that he
12 was on a call with John Usher about a fire. And then at some
13 point, Mr. Usher put down the cell phone that he was talking to
14 Mr. Herskowitz with. And then Mr. Herskowitz could hear over
15 two phone connections another voice on another line talking
16 about Sapodilla Ridge and \$400,000. Does that says description
17 sound familiar to you at all?

18 A Yes, it does.

19 Q You addressed this in your affidavit?

20 A Yes.

21 Q On what basis do you recognize that conversation?

22 A Because it's a conversation that I actually had.

23 Q So, when Mr. Herskowitz testifies that he thought the voice
24 two lines over talking about whether to approve \$400,000 for
25 Sapodilla Ridge was Mr. Pukke, he's getting that wrong?

ROD KAZAZI - DIRECT EXAMINATION

1 A Yes.

2 Q Again, how do you know that?

3 A Because I was the one on the other end of the line.

4 Q That topic of approving \$400,000 for Sapodilla Ridge, was
5 Mr. Pukke ever in his own name or any other name ever involved
6 in that discussion?

7 A No.

8 MR. DE BRETTEVILLE: One moment, Your Honor.

9 (Pause.)

10 MR. DE BRETTEVILLE: No further questions, Your Honor.

11 THE COURT: All right. Cross.

12 MR. MITCHELL: Very briefly, Your Honor.

13 THE COURT: Sure.

14 CROSS-EXAMINATION

15 BY MR. MITCHELL:

16 Q As the COO of GPA, do you have any responsibilities for
17 hiring?

18 A Some, yeah.

19 Q Okay. Can describe those responsibilities?

20 A You want just with response -- with regards to hiring?

21 Q Mm-hmm, yes.

22 A Depends what positions we need. But if we needed a
23 position, I would ask our HR director to put out an ad and look
24 for someone to hire.

25 Q For what types of positions?

ROD KAZAZI - CROSS-EXAMINATION

1 A Depends what we need.

2 Q So, you're saying you are responsible for hiring janitorial
3 staff?

4 A That's not the responsibility of our office.

5 Q So that's my question to you. What responsibilities do you
6 have with regard to hiring, what types of positions?

7 A Myself personally?

8 Q Yes, sir.

9 A More the administrative side.

10 Q What does that mean?

11 A So accountants, you know, the contract administrators,
12 accounts payable, accounts receivable, things like that, client
13 concierge.

14 Q Is that within GPA only?

15 A Correct.

16 Q So, are you responsible for any hiring decisions with
17 regard to Sittee River Wildlife Reserve?

18 A No.

19 Q Eco Futures Belize?

20 A No.

21 Q Eco Futures Development?

22 A No.

23 Q What about Buy Belize?

24 A No.

25 Q You have interactions with individuals who work with Buy

ROD KAZAZI - CROSS-EXAMINATION

1 Belize; is that correct?

2 A Yes.

3 Q You said that GPA contracts with Buy Belize for certain
4 services; is that correct?

5 A Correct.

6 Q You just got to wait a second, just a pause.

7 A Sorry, okay.

8 Q And the reason for that is so the court reporter can take
9 it down?

10 A Got it.

11 Q What services does Buy Belize -- well, how do you know that
12 GPA contracts with Buy Belize?

13 A I work with GPA and it's a relationship that's been around
14 since I've worked with them, so.

15 Q And do you interact with people who work for Buy Belize?

16 A Yes, I do.

17 Q Have you seen the contracts between GPA and Buy Belize?

18 A No.

19 Q What services do you believe that Buy Belize performs for
20 GPA?

21 A Sales and marketing.

22 Q And I believe you said that one of the individuals that you
23 interact with is Mr. Pukke?

24 A Correct.

25 Q And you understand Mr. Pukke to work for Buy Belize?

ROD KAZAZI - CROSS-EXAMINATION

1 A Yes.

2 Q Does GPA -- do you have any insight into how GPA pays Buy
3 Belize for these services?

4 A It's -- yeah.

5 Q How do you have that insight?

6 A Again, I work for GPA, so I have that information.

7 Q Do you have access to general ledger in GPA?

8 A Yes.

9 Q And have you examined checks going out between GPA and Buy
10 Belize?

11 A Yes. Well, I mean, it's not something I've looked for
12 every day, but yeah, that's something that I'd do.

13 Q As part of the ordinary course in your role as COO, one of
14 your responsibilities is to look at outflows of funds from GPA
15 to Buy Belize?

16 A Our accountants do that first, but, yeah, I have oversight
17 over our accountants, yes.

18 Q And do you have any insight on how Buy Belize pays its
19 employees?

20 A No.

21 Q Does GPA pay Mr. Pukke?

22 A No.

23 Q Or do you have access to payroll for GPA?

24 A Yes.

25 Q And do you review the payroll?

ROD KAZAZI - CROSS-EXAMINATION

1 A Yes.

2 Q And describe what types of forms you review for payroll at
3 GPA. In other words, does it list -- does it list in the macro
4 or in the micro numbers? Do you have individual employees?

5 A I get both reports, yes.

6 Q You get both reports. And do you review both reports?

7 A Yes.

8 Q And to your knowledge, Mr. Pukke is not on any of those
9 reports?

10 A Correct.

11 Q Are you familiar with Eco Building Technologies, Limited?

12 A Vaguely, yeah.

13 Q Okay. What is the basis of your knowledge of EBT?

14 A I know that they're a builder that was on-site at
15 Sanctuary.

16 Q What, if any, is the relationship between GPA and EBT?

17 A Nothing.

18 Q Have you interacted with Mr. Pukke outside of work?

19 A No.

20 Q Have you ever been to any functions outside of work with
21 Mr. Pukke?

22 A Yes.

23 Q Have you met Mr. Pukke's wife?

24 A Yes.

25 Q And what is her name?

ROD KAZAZI - CROSS-EXAMINATION

1 A Angela.

2 Q Do you know if her maiden name was Chittenden?

3 A Yes.

4 Q Are you aware of Ms. Chittenden being on any payroll or
5 receiving any payments from GPA?

6 A No.

7 MR. MITCHELL: Court's indulgence.

8 BY MR. MITCHELL:

9 Q You said, you are vaguely familiar with EBT, correct?

10 A Yes.

11 Q Do you -- during your tenure, which is my understanding is
12 from June 1 of 2012 through today, correct?

13 A Correct.

14 Q Do you have any knowledge of EBT using any of the office
15 space that GPA uses in California?

16 A No.

17 Q What is -- are you familiar with how funds move between GPA
18 and entities in Belize?

19 A Yes.

20 MR. MITCHELL: All right. Nothing further, Your
21 Honor.

22 MR. DE BRETTEVILLE: Nothing further, Your Honor.

23 We call --

24 THE COURT: I have some questions.

25 MR. DE BRETTEVILLE: Oh, I'm sorry. Go ahead.

ROD KAZAZI - CROSS-EXAMINATION

1 THE COURT: Have a seat.

2 Did you ever hear that Mr. Pukke held himself out as
3 Marc Romeo?

4 THE WITNESS: I'm sorry.

5 THE COURT: Did you ever hear that Mr. Pukke at some
6 point held himself out as being Marc Romeo?

7 THE WITNESS: I heard there was some confusion about
8 the topic, yes.

9 THE COURT: Confusion. Tell me what you heard and who
10 you heard it from.

11 THE WITNESS: Well, when I started in 2012, there
12 was -- there was really a great push to, to clarify his role
13 within the organization before I started.

14 THE COURT: Mr. Pukke's role?

15 THE WITNESS: Andris Pukke's role, yes. As a result
16 of all the events in 2012 and '13, in terms of Mr. Pukke's
17 involvement within the organization, I naturally found out that
18 there was this issue of the being known as Marc Romeo in prior
19 years.

20 THE COURT: No, let's be -- that he was holding
21 himself out as, not being known as. He, Mr. Pukke, was telling
22 people he was Marc Romeo and other people in the organization
23 were acting as if he was. Did you hear that ever?

24 THE WITNESS: No. I heard that there was confusion
25 over the name and that we were trying to fix it.

ROD KAZAZI - CROSS-EXAMINATION

1 THE COURT: What kind of confusion are you talking
2 about? Tell me the confusion. Some people mistakenly thought
3 that Mr. Pukke was Mr. Romeo?

4 THE WITNESS: I don't know -- I mean, I don't know why
5 other people would have thought that. I wasn't there at that
6 time.

7 THE COURT: You don't have any idea why they thought
8 Mr. Pukke might be Mr. Romeo? You don't know why?

9 THE WITNESS: I was not there at that time.

10 THE COURT: Well, nobody ever told you about it since
11 you been there, right?

12 THE WITNESS: No.

13 THE COURT: All right. Do you know David Hadlum?

14 THE WITNESS: Yes.

15 THE COURT: Did you have any contact with him? What
16 was your contact with David Hadlum?

17 THE WITNESS: David worked on our tours. My contact
18 with him was limited.

19 THE COURT: Was he with GPA? Who was he with?

20 THE WITNESS: He was a contractor for GPA.

21 THE COURT: He individually or did he have a company?

22 THE WITNESS: I don't remember, to be honest with you.
23 I'm not sure.

24 THE COURT: Did he come into your offices sometimes?

25 THE WITNESS: He had visited our office, yes.

ROD KAZAZI - CROSS-EXAMINATION

1 THE COURT: Since you were there.

2 Do you know Luke Chadwick?

3 THE WITNESS: Yes, I do.

4 THE COURT: Did he come into your office sometimes?

5 THE WITNESS: Yes.

6 THE COURT: What exactly is Sanctuary Belize? Is that
7 a generic term for everything that's going on in Belize?

8 THE WITNESS: I believe it's the name of the
9 community.

10 THE COURT: Well, who is actually selling -- signing
11 contracts to transfer property?

12 THE WITNESS: We have a team in Belize that actually
13 does that.

14 THE COURT: Mr. Pukke doesn't do that.

15 THE WITNESS: No.

16 THE COURT: Mr. Pukke authorized to sign contracts of
17 sale?

18 THE WITNESS: No.

19 THE COURT: Was Marc Romeo authorized to sign
20 contracts of sale?

21 THE WITNESS: I don't know what he was authorized.
22 That was before my time.

23 THE COURT: Do you know whether Mr. Pukke was
24 authorized to say that David Hadlum should be able to sign
25 contracts of sale?

ROD KAZAZI - CROSS-EXAMINATION

1 THE WITNESS: I'm not aware of that.

2 THE COURT: Okay. Do you know whether Mr. Pukke was
3 actually negotiating the prices?

4 THE WITNESS: For?

5 THE COURT: For the sale of properties in Sanctuary
6 Belize?

7 THE WITNESS: I -- not during while I was there, no,
8 not at all.

9 THE COURT: Would that be consistent with what, in
10 fact, you understood him to be doing in Newport Beach?

11 THE WITNESS: Beg your pardon?

12 THE COURT: Would that be consistent with what you
13 understood him to be doing for Buy Belize?

14 Let's take this scenario. He's negotiating a contract
15 with someone and saying, this price is not sufficient. Would he
16 be authorized to do that?

17 THE WITNESS: A contract for sale?

18 THE COURT: Yeah, of property?

19 THE WITNESS: No.

20 THE COURT: Okay. Who would in the Sanctuary Belize
21 project be able to authorize -- to agree on a price?

22 THE WITNESS: The sales team in Belize has authority
23 to determine prices. And if there's any sort of issue, I would
24 have authority and so would John Usher and the team in Belize to
25 determine what final price is.

ROD KAZAZI - CROSS-EXAMINATION

1 THE COURT: But Mr. Pukke would never have as far as
2 you know?

3 THE WITNESS: No.

4 THE COURT: Or Marc Romeo, as far as you know?

5 THE WITNESS: No.

6 THE COURT: Do you know whether Mr. Hadlum ever had
7 authority to sign contracts for sale?

8 THE WITNESS: I assume so, because he was on the tour
9 in Belize and that staff was.

10 THE COURT: Do you know who authorized him to do that?

11 THE WITNESS: I don't unfortunately.

12 THE COURT: And are you aware that at one point
13 Mr. Chadwick may have said that Marc Romeo is a clean skin, that
14 Andris pays to use his name so he doesn't have to disclose that
15 Andris is part of the project or words to that effect?

16 THE WITNESS: I -- no.

17 THE COURT: Never heard of that?

18 THE WITNESS: No.

19 THE COURT: Questions based on my questions?

20 MR. MITCHELL: No, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. DE BRETTEVILLE:

23 Q Mr. Kazazi, you're aware of Mr. Romeo or somebody using his
24 name signing contracts for sale of lots in Belize, correct?

25 A I don't know. I assume he did that when he was involved in

ROD KAZAZI - REDIRECT EXAMINATION

1 the project, but I don't know.

2 Q So, you've never seen Marc Romeo's name affixed to a sales
3 contract?

4 A No, not that I remember.

5 Q So, if they exist, they either happened before 2011 or they
6 happened without you knowing about it?

7 A Correct. I mean -- yeah.

8 Q Okay. How closely do you work with Luke Chadwick?

9 A Not very.

10 Q Do you ever interact with him very much?

11 A At this point, a little bit, but not too much.

12 Q What about in the past?

13 A In the past, it was much more often.

14 Q How often?

15 A Every day.

16 Q Based on that experience, do you feel you know Mr. Chadwick
17 pretty well?

18 A As well as you know someone in the workplace, yeah.

19 Q Do you feel like you have basis on which you could tell the
20 Court whether or not you find the allegation regarding what he
21 supposedly said to Mr. Hadlum about a clean skin, whether you
22 find that --

23 THE COURT: Was Mr. Chadwick hypothetically being
24 truthful or what is your question? Commenting on the veracity
25 of somebody who is not even here in court?

ROD KAZAZI - REDIRECT EXAMINATION

1 MR. DE BRETTEVILLE: Well, I'll defer to --

2 THE COURT: I'm asking what your question is. What
3 are you asking?

4 MR. DE BRETTEVILLE: My question is --

5 THE COURT: Maybe Mr. Hadlum was lying and
6 Mr. Chadwick never would have said anything like that, is that
7 your question?

8 MR. DE BRETTEVILLE: Pretty much. I mean, we have --
9 what we have now is Mr. Hadlum's testimony and we have
10 Mr. Chadwick's testimony, his affidavit. If the Court would --
11 thinks that character evidence would be important, we can ask
12 it. Otherwise, I'll move on.

13 THE COURT: So, are you asking him to weigh the
14 testimony of the two and decide which one is more credible?

15 MR. DE BRETTEVILLE: No, what I was trying to ask is
16 whether in his view, based on his knowledge of Mr. Chadwick, it
17 would be consistent with his assessment of Mr. Chadwick's
18 character that he would describe a fraudulent practice of
19 using -- paying someone for someone's skin.

20 MR. MITCHELL: Objection.

21 THE COURT: You think that's a proper question to
22 comment on the character of a witness --

23 MR. DE BRETTEVILLE: It only matters if Your Honor
24 thinks it matters.

25 THE COURT: You know, you can answer it. We're

ROD KAZAZI - REDIRECT EXAMINATION

1 spending more time talking.

2 MR. DE BRETTEVILLE: Okay.

3 BY MR. DE BRETTEVILLE:

4 Q Do you have --

5 THE COURT: Can he imagine --

6 MR. DE BRETTEVILLE: I'm sorry?

7 THE COURT: I'm asking, can he imagine Mr. Chadwick
8 ever saying anything like that?

9 BY MR. DE BRETTEVILLE:

10 Q Is that statement consistent with your assessment of
11 Mr. Chadwick's character.

12 A No.

13 Q Why not?

14 A It just doesn't sound like something he would say.

15 MR. DE BRETTEVILLE: I have no further questions, Your
16 Honor.

17 THE COURT: Mr. Mitchell.

18 MR. MITCHELL: No, Your Honor.

19 THE COURT: All right. Sir, you may step down.

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 MR. DE BRETTEVILLE: And our next witness, Your Honor,
23 and our last witness, unless Your Honor wants to talk to
24 Mr. Pukke himself, is Brandi Greenfield.

25 THE COURT: All right.

BRANDI GREENFIELD - DIRECT EXAMINATION

1 (Pause.)

2 THE COURT: All right. Take the witness stand, if you
3 would.

4 BRANDI GREENFIELD, DEFENSE WITNESS, SWORN

5 THE DEPUTY CLERK: Please be seated.

6 Ma'am, could you please speak directly into the
7 microphone and state your name for the record?

8 THE WITNESS: Hi, I'm Brandi Greenfield --

9 THE DEPUTY CLERK: Could you please spell your last
10 name?

11 THE WITNESS: G-R-E-E-N-F-I-E-L-D.

12 DIRECT EXAMINATION

13 BY MR. DE BRETTEVILLE:

14 Q Ms. Greenfield, it's late in the day, so I'm going to go
15 directly to the core question I want to ask you about.

16 The Court has your affidavit. The Court has reviewed it
17 and knows what your position is. But just briefly, for what
18 entity do you work?

19 A I work for GPA.

20 Q If you could you please speak up?

21 A I work for Global Property Alliance.

22 Q In what capacity?

23 A I am the director of sales, sales manager.

24 Q So, I want to focus your attention on a meeting --

25 A Yes.

BRANDI GREENFIELD - DIRECT EXAMINATION

1 Q -- in Newport Beach in 2012, when Mr. Herskowitz came to
2 Orange County and met with some folks in Newport Beach. Do you
3 recall that meeting?

4 A Yes, I do.

5 Q Are there any other meetings -- is there only one meeting
6 that happened like that or multiple ones?

7 A It's the only one that I recall that he came to the office.

8 Q Do you recall what the purpose of meeting was?

9 A He was having issues with his builder.

10 Q And did you pick him up at the airport? How did he get to
11 the offices?

12 A I picked him up at the airport and then we all went and met
13 at the office.

14 Q You say, we all went and met. Who precisely went and met?

15 A I was there, Tom was there, Andy was there, Luke was there
16 and I believe Bill was there, yes.

17 Q Now, were you there long enough -- were you there for the
18 entire meeting?

19 A I was there -- I did step out for a little while, but I was
20 there for most of the meeting.

21 Q Were you there when folks were saying, hello, and greeting
22 each other and making introductions?

23 A Yes.

24 Q During that phase of the meeting, did anyone refer to or
25 introduce Mr. Pukke under any name other than Mr. Pukke?

BRANDI GREENFIELD - DIRECT EXAMINATION

1 A No.

2 Q Is there any reason why -- why are you so confident sitting
3 here five years later that no one used that name?

4 A Because I know no one used that name. When I -- no one
5 used the name. When I was driving him to the airport, Tom told
6 me how he was very impressed by Andy despite his reputation. He
7 was very -- thought everything was -- very helpful meeting and
8 it all went great.

9 Q Why does Mr. Herskowitz's comments about Andy's reputation
10 cause you to have confidence that he knew Mr. Pukke as
11 Mr. Pukke, and not Mr. Romeo?

12 A Because if you Google Andy's name, he doesn't have the best
13 reputation. If you Google Marc Romeo's name, you don't find
14 anything.

15 Q Are you aware of Mr. Pukke holding himself out as Marc
16 Romeo at any time between 2012 and the present?

17 A No.

18 Q Are you aware of anyone else working in any capacity in any
19 way connected to the Sanctuary Belize development holding out
20 Mr. Pukke as Marc Romeo?

21 A No one has.

22 Q When did Marc Romeo stop being involved in any capacity
23 with Sanctuary Belize?

24 A I would say probably about four or five years ago.

25 Q And have you met Mr. Romeo?

BRANDI GREENFIELD - DIRECT EXAMINATION

1 A Yes, I have.

2 Q When did you first meet Mr. Romeo?

3 A I don't recall the exact first time I met him, but I was
4 there the whole -- when he became involved with the project.

5 Q And have you worked with Mr. Romeo?

6 A Yes, I have.

7 Q Can you briefly describe for the Court what sort of work
8 you did with him?

9 A Well, he opened up bank accounts to be able to process the
10 payments here, so I helped him with that. We went shopping for
11 office space together, purchased furniture together for the
12 office. He would come down when I would call him down. I would
13 act in between him and Johnny a lot of times. I would have him
14 come down and sign contracts when needed. He helped me with the
15 hiring of a couple people.

16 Q And during what period of time did Mr. Romeo himself, not
17 Mr. Pukke, but Mr. Romeo perform these sorts of functions with
18 you?

19 A It was probably about six months to a year after I started
20 working, so probably around '08.

21 Q Until when?

22 A For a couple of years. Probably about 2008, 2010, I would
23 say.

24 MR. DE BRETTEVILLE: No further questions, Your Honor.

25 CROSS-EXAMINATION

BRANDI GREENFIELD - CROSS-EXAMINATION

1 BY MR. MITCHELL:

2 Q Were you involved in the hiring of Mr. Romeo?

3 A No, I wasn't.

4 Q Do you know what position he held?

5 A I don't know his exact positions or titles, but he was
6 working when Johnny and he was probably owners of the company he
7 started here, because he started those companies.

8 Q What companies?

9 A It was Sittee River Wildlife. That was up here, reserve up
10 here. And then there is also Eco Futures, Inc.

11 Q How do you know that he started these companies?

12 A Because I was around before he actually came on and started
13 the company. So, Johnny introduced him, said Marc is going to
14 start working with you guys. And from then on, he opened up the
15 bank accounts.

16 One of them was even to this home address, the very first
17 one. And it got a little bit overwhelming, him processing all
18 the payments, so he eventually turned it down to the address
19 where I worked out of.

20 Q You were not involved in hiring Mr. Romeo?

21 A No, I was not involved in his hiring.

22 Q Did you know Mr. Romeo before he came on board?

23 A No, I did not know him before he came on board.

24 Q Do you know his background?

25 A I know he is a director and into directing and acting.

BRANDI GREENFIELD - CROSS-EXAMINATION

1 Q Did you learn through speaking to him or others how he came
2 to be involved in Sanctuary Belize?

3 A Yes, he came involved from a guy named Tom Sprague.

4 Q And do you know how that came about?

5 A Not exactly, no.

6 Q Do you know whether Marc Romeo had any background in
7 development?

8 A No, I don't know.

9 Q Do you know whether he had any background in marketing?

10 A In marketing?

11 Q Yes.

12 A No, I don't know if he did or not.

13 Q You worked out of the Newport Beach office; is that
14 correct?

15 A I did.

16 Q Yes.

17 A Yes.

18 Q GPA was out of that office?

19 A When we moved offices, GPA was started.

20 Q Okay. So, when you first started --

21 A Yes.

22 Q -- what entity were you working for?

23 A It was Sanctuary Bay back in the day that -- that we were
24 just working. We didn't really have the company SRWR even drawn
25 up. It was Bill Bannon and myself. There was no one else.

BRANDI GREENFIELD - CROSS-EXAMINATION

1 Q Okay. So, you and Bill Bannon were the first to, say,
2 start the company?

3 A I would say, we started the sales back here in the states.

4 Q Okay. So, there were entities existing in Belize at that
5 time already?

6 A Yes, Johnny was handling that.

7 Q Johnny Usher?

8 A Yes.

9 Q All right. Do you hold any position with any of Belizean
10 entities?

11 A No.

12 Q Have you ever held any positions with any of the Belizean
13 entities?

14 A No.

15 Q So, you were originally employed by Sanctuary Bay?

16 A Correct.

17 Q After that, who was your employer?

18 A Then SRWR, then Eco Futures and now GPA.

19 Q SRWR is Sittee --

20 A Sittee River Wildlife Reserve.

21 Q When was that approximately?

22 A I would say probably '08.

23 Q And then Eco Futures, when was that?

24 A Not long after that. Maybe a year after that.

25 Q And then, when did you began working for GPA?

BRANDI GREENFIELD - CROSS-EXAMINATION

1 A GPA was probably a year after that.

2 Q Okay. Are you still employed by GPA?

3 A Yes.

4 Q Do you hold any other positions with any other entities,
5 whether they be in Belize or in the United States related to the
6 Sanctuary Belize Development, Britt Lodge [ph] --

7 A No.

8 Q Are you familiar with Buy Belize?

9 A Yes.

10 Q What is Buy Belize?

11 A It is our marketing arm for GPA.

12 Q What's the relationship between GPA and Buy Belize?

13 A Buy Belize does all the campaigns and marketing, and
14 promotes Belize. It's the name that everyone knows from the
15 commercials and such.

16 Q Are you responsible for any of the finances in regard GPA?

17 A No.

18 Q Do you know the financial relationship between GPA and Buy
19 Belize?

20 A I don't know the details of it.

21 Q You know Mr. Pukke?

22 A Yes.

23 Q And he works for Buy Belize?

24 A Yes.

25 Q When did he start working for Buy Belize?

BRANDI GREENFIELD - CROSS-EXAMINATION

1 A 2012.

2 Q Did you know Mr. Pukke prior to 2012?

3 A Yes.

4 Q And how did you know him?

5 A I knew him from just association of some people I knew.

6 Q So, outside of work?

7 A Outside as well as Bill Bannon, so it's not really -- it's
8 not outside of work.

9 Q Prior to 2012, did you have any understanding of Mr. Pukke
10 being involved in Sanctuary Belize, again, Britt Lodge?

11 A What was the last --

12 Q Sanctuary Belize Development, under any of these different
13 names that we've been discussing?

14 A No, he wasn't.

15 Q You're not aware of Mr. Pukke being involved in Sanctuary
16 Belize prior to 2012?

17 A No.

18 THE COURT: You say, you were there, but you just
19 don't know about it or you know he wasn't?

20 THE WITNESS: I know he wasn't.

21 THE COURT: Because?

22 THE WITNESS: Because he wasn't involved in any of our
23 daily dealings. He wasn't around.

24 BY MR. MITCHELL:

25 Q You worked out of the California office, correct?

BRANDI GREENFIELD - CROSS-EXAMINATION

1 A Yes, I did.

2 Q Did you ever work down in Belize?

3 A Yes, I did.

4 Q For what period of time?

5 A Probably from -- a couple times we did individual tours in
6 the very beginning and then I started doing tours regularly.

7 I'd say, around 2010 to 2012, I went down every month for a
8 couple years.

9 Q You went down to Sanctuary Belize in Belize every month
10 from 2010 to 2012?

11 A Yes.

12 Q And what were you doing down there?

13 A I was helping with the tours.

14 Q What does that mean specifically?

15 A I was working the tours.

16 Q What does that mean?

17 A I don't know. Everything from making sure everyone is
18 there to helping with Johnny and Bill, and everyone and sit with
19 them while they negotiate deals to making sure the contracts are
20 drawn up, to making sure things got executed. I wore a lot of
21 hats on tours.

22 Q Did you ever sign sales contracts?

23 A Yes, I did.

24 Q When it came to signing sales contracts and negotiating
25 sales contracts, were you the final decision-maker as to the

BRANDI GREENFIELD - CROSS-EXAMINATION

1 dollars amount?

2 A Usually --

3 Q Let me be precise. On the ones that you signed?

4 A On the ones that I signed, would I decide the final --

5 Well, it was usually a group setting, so it would be Johnny
6 and myself, Luke up in the palapa, we would come to it all kind
7 of together. But if I did come to terms on myself and I signed
8 it, then I was allowed to come to -- I am allowed to decide
9 terms for people. I know which realms I can work in.

10 Q Okay. You had signatory authority and negotiating
11 authority?

12 A Yes, I did.

13 Q On any of those tours that you've just described from 2010
14 to 2012, did you meet David Hadlum?

15 A Yes, I did.

16 Q When did you meet him?

17 A I can't tell you the year I met him. I'm really kind of
18 foggy on that. I would say, my last year working the tours, he
19 was starting to come on the tours and get trained during the
20 tours.

21 Q What was his role?

22 THE COURT: What was the year? Was it 2013?

23 THE WITNESS: No, it was before 2013, because I was
24 pregnant in 2013. Although I did go on a tour when David was
25 there, I had already sorted tours for about six months.

BRANDI GREENFIELD - CROSS-EXAMINATION

1 THE COURT: But he was still on tour at 2013?

2 THE WITNESS: Yes, he was on tour, if I have it right
3 -- let me think of my pregnancy. Yes, in July of 2013 I went
4 down and David Hadlum was still working the tours.

5 THE COURT: Showing slides and so on, right? Showing
6 slides?

7 THE WITNESS: He would, yeah, show different videos
8 and slides.

9 THE COURT: Okay.

10 BY MR. MITCHELL:

11 Q And this was in 2013, you said?

12 A Yes, but I met him way before that on tour.

13 Q Okay. When did you meet him?

14 A I would probably -- if I had to guess, I would say at least
15 six, six to eight months prior to that on tour.

16 Q So, sometime in 2012?

17 A Yes, if not even a year before. He would come on a tour,
18 then take a little -- I didn't know what his true meaning was
19 there on tour when Luke had him there in the beginning. I
20 learned later, probably about six to eight months later that he
21 was going to be taking over the tours. So that was -- I would
22 say in the beginning of 2013 is kind of when -- I'm not exactly
23 sure, but whenever he started officially working the tours, I
24 met him about six to eight months at least, before -- prior.

25 THE COURT: Let's go by question and answer.

BRANDI GREENFIELD - CROSS-EXAMINATION

1 BY MR. MITCHELL:

2 Q Was that in Belize or was that in California?

3 A In Belize.

4 Q So, you said you did monthly tours from 2010 to 2012,
5 correct?

6 A Correct.

7 Q Now we're talking about meeting Mr. Hadlum in -- some time
8 2012 or 2013, correct?

9 A No, I met him in 2012. I only went back on one tour when I
10 was pregnant and I haven't been on tour for six months. David
11 Hadlum was already working the tours for quite some time. Me
12 and David butted heads. So I remember, I didn't even want to go
13 on that tour because I knew David was down there.

14 THE COURT: But the point is, you saw him into 2013?

15 THE WITNESS: I saw them in 2013, yes.

16 THE COURT: All right. Go on to something else
17 please.

18 BY MR. MITCHELL:

19 Q And in 2013, when you saw him in 2013, was Mr. Pukke down
20 in Belize with you?

21 A No.

22 Q Had you ever been to Belize, Sanctuary Belize specifically
23 when Mr. Pukke has been down there?

24 A Yes, I have.

25 Q When was that?

BRANDI GREENFIELD - CROSS-EXAMINATION

1 A It was -- I don't know the year. Probably, I would say
2 2010.

3 Q 2010, okay.

4 I asked you earlier whether Mr. Pukke had any involvement
5 in Sanctuary Belize and you said --

6 A Correct.

7 Q -- prior to 2012, he did not, but you saw him in 2012 in
8 Belize?

9 A Yes, but he was not working the tours. He was --

10 Q What was he doing in 2010 when you saw him in Sanctuary
11 Belize?

12 THE COURT: Who are you talking about now, Mr. Pukke
13 or Mr. Hadlum?

14 MR. MITCHELL: Mr. Pukke.

15 THE WITNESS: He was there with Angie and I know he
16 did join on the tours, but he was not part of our company and
17 not part of our plan tour.

18 BY MR. MITCHELL:

19 Q Who is Angie?

20 A Angie is his girlfriend.

21 Q What's Angie's last name?

22 A Chittenden.

23 Q C-H-I-T-T-E-N-D-E-N?

24 A Yes.

25 Q What's the relationship between Mr. Pukke and

BRANDI GREENFIELD - CROSS-EXAMINATION

1 Ms. Chittenden today?

2 A They're still together.

3 Q They're not married?

4 A No.

5 Q And in 2010, were they -- is it your understanding they
6 were in a relationship?

7 A Yes.

8 Q During your monthly tours between 2010 and 2012, Sanctuary
9 Belize?

10 A Mm-hmm.

11 Q How often would you see Mr. Pukke down there?

12 A I've only seen him once or maybe twice he was a second time
13 there very -- like, I don't really see him too much. I've only
14 seen him once there -- was even a fair amount of time I saw him
15 there.

16 Q So, you seen him once, maybe twice?

17 A Maybe twice.

18 Q And the once that you're certain of was 2010, correct?

19 A It was around -- it could have been 2010. It could have
20 been any time. Could have been '09, could have been '11. I'm
21 not sure of the year.

22 Q And he was with Ms. Chittenden at the time?

23 A Correct.

24 Q After 2012 and I might have asked this question already,
25 but after 2012, you ever see Mr. Pukke in Belize?

BRANDI GREENFIELD - CROSS-EXAMINATION

1 A No.

2 Q But you traveled to Belize after 2012?

3 A That's when I stopped traveling to Belize. I only did the
4 one trip in 2013, just one of them.

5 Q And during that one trip, you did not see --

6 A Actually, no, I worked January and February in 2012.

7 Stopped doing the tours then and I went back for the July tour
8 of 2013.

9 Q And the July tour of 2013, did you see Mr. Pukke there?

10 A No.

11 Q Did you see Mr. Hadlum there?

12 A Yes.

13 Q What was your understanding of Mr. Pukke's role with regard
14 to Sanctuary Belize in the middle of 2013?

15 A His role was -- he would do the marketing for Buy Belize.
16 He would help with the commercials and buy the media.

17 Q And when did he start doing that?

18 A He started that in 2012.

19 Q So in 2012 --

20 THE COURT: He wasn't selling any property at that
21 point, signing any contracts?

22 THE WITNESS: No.

23 THE COURT: Was he doing it as Marc Romeo?

24 THE WITNESS: No.

25 THE COURT: How do you know?

BRANDI GREENFIELD - CROSS-EXAMINATION

1 THE WITNESS: Because Marc Romeo wasn't working there
2 in 2012.

3 THE COURT: No, I'm not asking that. I'm asking
4 whether Mr. Romeo -- Mr. Pukke holding himself out as Mr. Romeo
5 signed some of those contracts.

6 THE WITNESS: No, I do not believe he did sign any --

7 THE COURT: How would you know is what I'm asking?

8 THE WITNESS: Well, I wouldn't know for sure, because
9 I wasn't always there.

10 THE COURT: All right. That's fair enough. That's
11 the key.

12 Go ahead.

13 THE WITNESS: Okay.

14 BY MR. MITCHELL:

15 Q Did you ever witness Mr. Romeo signing contracts?

16 A Yes.

17 Q When?

18 A I would have him come to the office and sign contracts for
19 me.

20 Q Where?

21 A In Newport Beach.

22 Q When?

23 A Probably '09 and '10.

24 Q Did you ever see Mr. Romeo sign contracts in Belize?

25 A No.

BRANDI GREENFIELD - CROSS-EXAMINATION

1 Q Did you ever see Mr. Romeo sign any contracts with regard
2 to property purchased by Jon Berndsen?

3 A I cannot recall for sure if he did or not. I know I signed
4 a contractor Berndsen.

5 Q Showing you what's been marked Government's Exhibit Number
6 7?

7 A Mm-hmm.

8 Q Do you see -- showing you the last page there. What's the
9 date there, ma'am?

10 A 8/30/10.

11 Q Do you recognize the signature on the right there?

12 A It looks like Marc's.

13 Q And do you know that because you're familiar with
14 Mr. Romeo's signature?

15 A Yes.

16 Q And here, of course, we're talking about the individual you
17 know to be Marc Romeo, the real Marc Romeo?

18 A The real Marc Romeo.

19 Q You testified a little earlier -- the Judge asked you about
20 Mr. Hadlum and presentations. Your understanding was that Mr.
21 Hadlum gave certain presentations with regard to Sanctuary
22 Belize, correct?

23 A He played more videos with, like, the Marina Village and
24 such, but I'm sure he did.

25 Q Government's Exhibit Number 10, are you familiar with a

BRANDI GREENFIELD - CROSS-EXAMINATION

1 PowerPoint presentation that looked something like this?

2 A I'm not.

3 Q Are you familiar with Marc Romeo's name appearing as the
4 Director of Operations, USA Sales and Marketing on any documents
5 related to Sanctuary Belize?

6 A No, I'm not.

7 Q What positions did Marc Romeo hold with regard to GPA?

8 A Marc Romeo never held positions with GPA.

9 Q Did Marc Romeo ever hold positions with Buy Belize?

10 A No.

11 Q Did Marc Romeo ever hold positions with Sittee River
12 Wildlife Reserve?

13 A Yes.

14 Q And what position did he hold?

15 A I don't know the exact position. I just know he started it
16 and was on the bank accounts.

17 Q What about Eco Futures?

18 A Same thing.

19 MR. MITCHELL: Court's indulgence.

20 (Pause.)

21 BY MR. MITCHELL:

22 Q One final line of questioning here. In March of 2012, you
23 testified that you attended a meeting in Newport Beach with
24 Mr. Herskowitz. Do you recall that?

25 A Yes. I'm not sure if that's the exact date, but --

BRANDI GREENFIELD - CROSS-EXAMINATION

1 Q Okay. You're right, it says 2012. It doesn't give the
2 month. So, 2012, you attended a meeting in Newport Beach with
3 Mr. Herskowitz, is that right?

4 A Correct.

5 Q And Mr. Pukke was there as well?

6 A Yes.

7 Q Where was that meeting?

8 A It was in our office.

9 Q Where was your office?

10 A It was 1401 Dove Street.

11 Q Were there multiple -- at that time, were there multiple
12 entities within that same office location?

13 A Yes.

14 Q What entities?

15 A There was GPA and then they had Buy Belize.

16 Q Was this meeting on the GPA side of the house or the Buy
17 Belize side of house?

18 A It was in the conference room, which was shared.

19 Q So, shared conference room between GPA and Buy Belize?

20 A Yes.

21 Q And Mr. Pukke was present and you were present, correct?

22 A Correct.

23 Q How long was that meeting?

24 A A hour, hour and a half, two hours. I don't know, because
25 probably two hours, I would say, good time.

BRANDI GREENFIELD - CROSS-EXAMINATION

1 Q Who else was at that meeting?

2 A Luke was there and Bill Bannon.

3 Q Okay. And what was the purpose of the meeting?

4 A He was having issues with Robert Kathman.

5 Q And is this related to EBT?

6 A Yes.

7 Q What do you know about EBT?

8 A I don't know too much about it. I mean, I don't know.

9 Q Why did you participate in the meeting?

10 A Johnny asked me to.

11 Q What was your role?

12 A To listen to what's going on and see what was said. I
13 would report back to Johnny a lot.

14 Q How -- you said earlier on direct examination that you
15 weren't present for the entire meeting; is that correct?

16 A Correct.

17 Q You said it lasted about two years, correct?

18 A You're really holding me to something that I'm not too sure
19 on how long the time was, but I would guess two hours.

20 Q Let's assume it was two hours long. How long were you in
21 the room?

22 A I would say I was in the room for probably an hour in
23 beginning. Maybe stepped out for a little while and then came
24 for the end of the meeting. Maybe 45 minutes in the beginning.

25 Q And during that meeting, the discussions revolved around

BRANDI GREENFIELD - CROSS-EXAMINATION

1 the building of Mr. Herskowitz' house and EBT, correct?

2 A Correct.

3 Q And were there also -- in your affidavit you say that there
4 were discussions regarding Eco Futures Belize?

5 A Correct.

6 Q Explain to me?

7 A I'm not sure why Eco Futures -- I would have to be
8 refreshed on what the discussions were.

9 Q Sure, so your affidavit --

10 A I'm sorry. I'm thinking of Eco Futures, Inc.

11 THE COURT: Well, what's the question?

12 BY MR. MITCHELL:

13 Q Handing you what's been -- well, previously filed as 45-3,
14 your affidavit. Do you recognize that document?

15 A Yep.

16 Q Draw your attention to paragraph nine?

17 A Okay.

18 Q And it says there, "During the 2012 meeting in Newport
19 Beach, Mr. Herskowitz discussed his efforts to switch
20 contractors for his house and to borrow approximately \$100,000
21 from Eco Futures Belize to fund the completion of his house?"

22 A Correct.

23 Q And you were at that meeting and you heard this discussion?

24 A Yes, I did.

25 Q And you specifically remember \$100,000 being discussed?

BRANDI GREENFIELD - CROSS-EXAMINATION

1 A Yes. I know that that's what was decided on with the phone
2 call with Johnny later.

3 Q Okay. And it was your understanding, it was a loan?

4 A Yes.

5 Q Okay. And how do you know it was a loan?

6 A Because we were going to do it to help him out to get him
7 to a new builder and help him with the processes, but I
8 understood it to be a loan.

9 Q Did you draw up loan documents?

10 A No, I didn't.

11 Q Did you ever see loan documents?

12 A No, Johnny handled all that.

13 Q But do you know whether Johnny drafted loan documents?

14 A No, I don't for sure, but at the end of --

15 Q Eco Futures Belize, why was Eco Futures Belize involved in
16 providing a hundred thousand dollars?

17 A I don't know why. Johnny is the one who wanted us to do
18 the meeting.

19 Q So you don't have any knowledge? Other than being present,
20 you don't have any knowledge as to the loan, how it was drawn
21 out or what entities were involved?

22 A No. We talked to Johnny, told him that --

23 Q So, it says here, next sentence --

24 MR. DE BRETTEVILLE: Could she finish the answer, Your
25 Honor.

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1 BY MR. MITCHELL:

2 Q Go ahead, ma'am.

3 A Johnny was the one who was going to handle all the work
4 with that.

5 Q Next sentence, "Although Mr. Herskowitz ultimately secured
6 the loan with Eco Futures Belize and completed construction of
7 his house, he has not paid back the loan to Eco Futures Belize?"

8 A Correct.

9 Q Were you responsible for receiving loan payments from
10 Mr. Herskowitz?

11 A No.

12 Q How do you know this?

13 A Johnny told me.

14 MR. MITCHELL: All right. Nothing further, Your
15 Honor?

16 MR. DE BRETTEVILLE: Nothing further, Your Honor.

17 THE COURT: All right. I have a few questions.

18 THE WITNESS: Okay.

19 THE COURT: Are you aware at any time while you were
20 working with any project related to the Belize development that
21 Mr. Pukke was holding himself out as Marc Romeo?

22 THE WITNESS: I know that there was -- I know that he
23 was called Marc Romeo.

24 THE COURT: By whom?

25 THE WITNESS: I believe it was Johnny Usher is the one

BRANDI GREENFIELD - CROSS-EXAMINATION

1 who probably did it.

2 THE COURT: Why?

3 THE WITNESS: Because Andy doesn't have the best name
4 and I think it's probably the first thing that came to his mind
5 on how to introduce him. I think he was nervous to use Andy's
6 real name.

7 THE COURT: Do you think -- you never heard that
8 Mr. Pukke himself was using the name Marc Romeo, referring to
9 himself as Marc Romeo?

10 THE WITNESS: No.

11 THE COURT: Or signing any documents as Marc Romeo?

12 THE WITNESS: No. The tour I was there, he never
13 called himself Marc Romeo.

14 THE COURT: Now, there's been testimony that Mr. Romeo
15 held himself out -- Mr. Pukke held himself out as Marc Romeo
16 when some documents were signed, a purchaser. You ever hear any
17 transactions like that?

18 THE DEFENDANT: I didn't see him do that.

19 THE COURT: You don't -- I'm asking you now, have you
20 ever heard about it since you've been with the company?

21 THE WITNESS: Oh, I have heard about it.

22 THE COURT: How long did it go on that he might have
23 been held out as Marc Romeo?

24 THE WITNESS: Probably when he was down in Belize,
25 that trip.

BRANDI GREENFIELD - CROSS-EXAMINATION

1 THE COURT: Well, what year are you talking?

2 THE WITNESS: It was 2010-ish.

3 THE COURT: And you didn't hear that he did it after,
4 for example?

5 THE WITNESS: No.

6 THE COURT: Did you have any -- do you know Mr. David
7 Hadlum, though, right?

8 THE WITNESS: I do.

9 THE COURT: Now, Mr. Hadlum has testified that he was
10 doing these PowerPoints and the PowerPoint shows Marc Romeo as
11 the person who was involved in another transaction.

12 Do you have the PowerPoint there, Mr. Mitchell? If
13 you'll put that up please.

14 MR. MITCHELL: Yes, Your Honor.

15 Government's Exhibit Number 10, Your Honor.

16 THE COURT: Do you have -- do you see that document?

17 THE WITNESS: Yes.

18 THE COURT: You said you had not seen it before,
19 though, right?

20 THE WITNESS: No. When I was on tour, David kept
21 playing the same video over and over, and I was actually
22 irritated with him that he didn't do a full presentation.

23 THE COURT: Okay. But I -- let's not challenge Mr.
24 Hadlum.

25 THE WITNESS: I understand. It's hard for me not to.

BRANDI GREENFIELD - CROSS-EXAMINATION

1 THE COURT: I want to know what you know.

2 His suggestion is that he used this in his PowerPoints
3 at a time when Mr. Romeo, the real Mr. Romeo was not with the
4 company. Do you know anything about that?

5 THE WITNESS: I don't.

6 THE COURT: Do you know whether or not Mr. Luke
7 Chadwick said words to the effect that, Marc Romeo is an alias
8 we use for Andris as we don't want people to know that Andris is
9 connected to Sanctuary Belize because of his past. Do you know
10 whether Luke Chadwick ever said that to anybody?

11 THE WITNESS: No, he didn't.

12 THE COURT: You never heard him say that?

13 THE WITNESS: Never.

14 THE COURT: Do you know whether Mr. Chadwick ever
15 introduced Mr. Pukke as Marc Romeo to anybody?

16 THE WITNESS: No, he didn't.

17 THE COURT: You were never present and heard that?

18 THE WITNESS: No.

19 THE COURT: You don't know whether, for example, or
20 with regard to further words that might have been said, let's
21 see, Luke said Marc Romeo in a clean skin that Andris pays to
22 use his name so that he doesn't have to disclose that Andris is
23 part of the project. You ever hear anything like that?

24 THE WITNESS: I don't believe that.

25 THE COURT: But you said, that's why Johnny Usher

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1 didn't want to use Andris' name, because of his past. Isn't
2 that right? Didn't you say that earlier?

3 THE WITNESS: Correct.

4 THE COURT: And don't you think, did Luke Chadwick not
5 have the same concern?

6 THE WITNESS: No, because Luke and I, we're not as
7 nervous as Johnny was about using Andris' name. That was more a
8 Johnny issue, Belize issue.

9 THE COURT: Do you know whether Andris Pukke was ever
10 authorized, whether he was Marc Romeo or Andris Pukke,
11 authorized to tell Mr. Hadlum that he could go ahead and sign
12 sales on behalf of the company?

13 THE WITNESS: No, I don't know if he ever said that,
14 but I don't think that would come from Luke.

15 THE COURT: That's what I'm asking. Let's go back to
16 that question.

17 Mr. Pukke was ever authorized to authorize anybody to
18 do it?

19 THE WITNESS: No.

20 THE COURT: Why not?

21 THE WITNESS: I don't know why he would authorize him
22 to do that. I was there when David got trained the whole time
23 on tours in the beginning. Andris was never around.

24 THE COURT: Okay.

25 All right. I have no further questions. Any based on

1 mine?

2 MR. DE BRETTEVILLE: Nothing further, Your Honor.

3 THE COURT: All right. Thank you, ma'am. You may
4 step down. You're excused.

5 (Witness excused.)

6 THE COURT: Well, do you want to call -- I don't know
7 what else you want to do.

8 You're not inclined to call Mr. Pukke?

9 MR. DE BRETTEVILLE: Your Honor -- Your Honor, I have
10 no factual questions for Mr. Pukke. I think that it should be
11 pretty clear at this point that no violation has been
12 established and if one has, it's not one that would warrant
13 revocation.

14 That said, this is very important to Mr. Pukke. And
15 if the Court has questions of Mr. Pukke, he's asked me to make
16 him available to you, Your Honor, to ask --

17 THE COURT: You sure you want to do it that way?

18 MR. DE BRETTEVILLE: Yes, Your Honor.

19 THE COURT: I would like to give Mr. Mitchell a chance
20 to poke him as well.

21 MR. DE BRETTEVILLE: I understand, Your Honor, and
22 Mr. Pukke is very aware of that he'll be on the record, that
23 Mr. Herskowitz can use that record against him in future and
24 that he can be prosecuted based on any information he provides.

25 THE COURT: Well, that's the problem. He can be

1 prosecuted for perjury if he makes a false statement.

2 MR. DE BRETTEVILLE: He understands that, Your Honor,
3 and --

4 THE COURT: That's a current offense, you know.
5 Doesn't relate to when he was on supervised release.

6 MR. DE BRETTEVILLE: I understand that, Your Honor,
7 and I can't divulge my -- I advised my client, I advised him
8 about the risk.

9 THE COURT: Well, all right. I don't want to be -- I
10 don't need to be extensive about a lot of things. I do have
11 some things I'd like to try and have him explain. And looks to
12 me like there are a number of Belize homeowners who are here
13 today who would probably like very much to hear the answers to
14 some of these questions, so.

15 MR. DE BRETTEVILLE: With that comment, Your Honor.

16 THE COURT: Well, they are here. I assume that's who
17 these folks are. They are all nodding every time a question is
18 asked that seemingly they're -- they're doing the wave when it
19 goes their way.

20 I want you to seriously consider this, because there
21 are issues, there are concerns that I have. And if he doesn't
22 answer, I've got my record to deal with. If he answers, then
23 you know, I even find against him, he may have some problems.

24 MR. MITCHELL: Your Honor, the government would ask
25 the Court to advise, specifically advise the defendant with

1 regard to 18 U.S.C. Section 1001 and the elements that are set
2 forth in 1001 so he is actually put on notice.

3 THE COURT: You want to just say, he's not going to
4 speak. I mean, that's --

5 MR. DE BRETTEVILLE: I'll make a couple of points,
6 Your Honor. First, there are 800 property owners in Belize.
7 This isn't even a percentile --

8 THE COURT: I understand that.

9 MR. DE BRETTEVILLE: -- or even half a percentile or a
10 quarter percentile. It's my responsibility -- it's ethical as
11 attorney to advise my client --

12 THE COURT: Well, we have to tell him now, first of
13 all, what the -- what the consequences are if he testifies
14 falsely.

15 MR. DE BRETTEVILLE: Sure. There is one comment the
16 Court has made that causes me some pause and I just want to ask
17 the Court about it.

18 Mr. Herskowitz has submitted over 240 pages to the
19 government. Included in those materials are efforts to refer
20 this matter to the FCC and the FBI. The gambit of this -- the
21 scope of this hearing, in my view, and the Court may disagree,
22 has to do with the petition. Hearing the Court's comments, I'm
23 concerned that the Court may be inclined to go much wider than
24 the allegations in the petition?

25 THE COURT: Well, that may be what you think. I mean,

1 there are things here that are more related than perhaps you're
2 prepared to concede. You've taken a fairly narrow technical
3 view of the allegations. I know that's your view and you shake
4 your head, but --

5 MR. DE BRETTEVILLE: Or even a broader view, Your
6 Honor. The broadest view, I think, and I ask this to see if the
7 Court agrees with me is that the petition alleges that Mr. Pukke
8 --

9 THE COURT: You're arguing your closing,
10 Mr. De Bretteville.

11 MR. DE BRETTEVILLE: I, I --

12 THE COURT: No, really, I want you to hear me on this.
13 I mean, the number one thing is, I have some questions I'd like
14 to ask relative to the petition. Now, if you're saying to me
15 now that it may tend to incriminate your client because of what
16 Mr. Herskowitz has said, you may want to tell him not to
17 testify. I can't make him testify.

18 MR. DE BRETTEVILLE: I'm not saying that, Your Honor.

19 THE COURT: All right. But then the issue is, he
20 needs to understand if he does testify, there are consequences
21 he testifies falsely. He has every right to stand on his Fifth
22 Amendment right and I'm not going to insist that he do that.
23 That's your call as an attorney with him. I don't make that
24 decision.

25 MR. DE BRETTEVILLE: With that, Your Honor, my

1 suggestion for how to proceed would be for the Court to advise
2 whatever advisements the Court and the government decides are
3 appropriate to confirm on the record that Mr. Pukke is aware of
4 those advisements, is waiving his rights in connection
5 therewith.

6 And I would simply say to the Court, if the questions,
7 in my view, go beyond facts that are relevant to the whereases
8 in the petition, read as broadly as possible, I will object,
9 Your Honor, and I may instruct him not to answer.

10 THE COURT: Well --

11 MR. DE BRETTEVILLE: Let's play it and see how it
12 goes.

13 THE COURT: Let me give you some of the tenor of the
14 types of questions I want to ask so you hear now.

15 MR. DE BRETTEVILLE: Sure.

16 THE COURT: I want him to admit, because it seems to
17 me the record is pointing this way, that he did use the name,
18 Marc Romeo, that he did it personally to individuals. How often
19 did he do it? Did he sign documents in that name? You know,
20 all those things. How long did that last? Why did he do it?
21 When did he stop doing it and all these things? These are all
22 relevant as to what he was doing.

23 MR. DE BRETTEVILLE: I agree.

24 THE COURT: And maybe that's something he wants to
25 answer, maybe he doesn't. I don't know how wide or deep answers

1 go. They may suggest other questions that I would want to ask
2 about this.

3 Is it troublesome that he did? Sure. Now, are you
4 going to argue that, technically, it doesn't demonstrate that he
5 was a member of the homeowners association? Well, maybe it
6 doesn't, but it does bear on truthfulness with the probation
7 officer in the period of his supervised release and that may
8 have some other bearing. You think that's not a relevant
9 inquiry. I do. So, those are all issues that bear here.

10 So, now that you know where I'm inclined to go with
11 it, you need to consider that.

12 MR. DE BRETTEVILLE: Your Honor, I'll talk to my
13 client.

14 THE COURT: Your idea is, Judge, you can ask as far as
15 I let you, but then I'm going to cut you off. You know, you
16 really can't cut me off. You're going to have to walk out of
17 the courtroom.

18 MR. DE BRETTEVILLE: No, I was instructing him to --
19 regards his constitutional right, Your Honor, which he can do.

20 THE COURT: Not when you get started. That's the
21 problem. You can't pick and choose what answers you're going to
22 give. That's the problem.

23 MR. DE BRETTEVILLE: That's not correct, Your Honor.

24 THE COURT: It's not correct?

25 MR. DE BRETTEVILLE: No, it's the scope. It's the

1 scope of the waiver, Your Honor, but that's beside the point,
2 Your Honor.

3 THE COURT: I told you where I'm inclined to go.

4 MR. DE BRETTEVILLE: And I agree and I'll give my
5 client's answer to Your Honor's. It was very helpful. I
6 appreciate it. I'll ask what he wants to do now and then we'll
7 proceed.

8 I'll just note -- I was just thinking, that last
9 comment of the Court that somehow he could be revoked today
10 based on a lack of honesty with his probation officer, that's
11 not an allegation --

12 THE COURT: I haven't heard your argument, nor the
13 government's yet. I'm just telling you, I want answers to these
14 questions and there may be more that relate to them. That's the
15 problem.

16 MR. DE BRETTEVILLE: Understood. Thank you. I have
17 my answer, Your Honor.

18 THE COURT: You want to be sworn?

19 MR. MITCHELL: Your Honor, before the witness takes --
20 is sworn in, the government would like to advise on the record
21 the defendant of 18 U.S.C. Section 2001, Sub-section A reads,
22 "Except as otherwise provided in this section, whoever in any
23 manner within the jurisdiction of the executive legislature of
24 the judicial branch --

25 COURT REPORTER: Mr. Mitchell, you're going to have to

1 slow down.

2 MR. MITCHELL: Sorry.

3 "Except as otherwise provided in this section, whoever
4 in any matter within the jurisdiction of the executive
5 legislative or judicial branch of the government of the United
6 States knowingly and willfully; one, falsifies, conceals or
7 covers up by any trick, scheme or device a material fact; or
8 two, makes any material false, fictitious or fraudulent
9 statement or representation; or three, makes or uses any false
10 writing or document knowing the same to contain any materially
11 false, fictitious or fraudulent statement or entry shall be
12 fined under this title, imprisoned not more than five years or
13 if the offense involves -- and the rest is not applicable.

14 THE COURT: Now, those are the consequences of not
15 telling the truth. Now, whether he wants to take the Fifth
16 Amendment is another issue.

17 You have a right not to say anything that might tend
18 to incriminate you, not testify and that's your position. So
19 you need to make that decision and it's going to be a bit of a
20 problem if you start to answer questions and say, Judge, you've
21 just gone a little too far. I don't think I'm going to answer
22 that next question. Well, you know, then I'm going to strike
23 all of your testimony, at a minimum.

24 So, you have to decide this. And I know you feel you
25 need to respond, but you got to weigh all those factors.

1 THE DEFENDANT: I understand.

2 MR. DE BRETTEVILLE: One moment, Your Honor.

3 THE COURT: Go ahead.

4 Folks, let's take about a seven or eight minutes break
5 and come back.

6 (Brief recess.)

7 THE COURT: All right. Mr. De Bretteville.

8 MR. DE BRETTEVILLE: Your Honor, Mr. Andris Pukke
9 would -- has elected to continue and allow the Court and
10 government to ask questions.

11 THE COURT: All right. Swear the defendant please.

12 ANDRIS PUKKE, DEFENDANT, SWORN

13 THE DEPUTY CLERK: Please be seated.

14 Sir, could you speak directly into the microphone and
15 state your name for the record?

16 THE DEFENDANT: Andris Pukke.

17 THE DEPUTY CLERK: Thank you, sir. Could you spell
18 your last name please?

19 THE DEFENDANT: P-U-K-K-E.

20 THE DEPUTY CLERK: Thank you.

21 THE COURT: All right. Mr. Pukke, you understand
22 you're going forward under penalties of perjury and waiving any
23 Fifth Amendment right that you have here?

24 THE DEPUTY CLERK: Yes.

25 THE COURT: All right. I'm not going to spend a lot

1 of time on your background. You do you recall that the Court
2 after sentencing you to 18 months in prison put you on a three
3 year supervised release term.

4 THE DEFENDANT: Yes.

5 THE COURT: And one of the terms had to do with
6 providing appropriate access to requested financial information.

7 THE DEFENDANT: Correct.

8 THE COURT: And the petition on supervised release
9 alleges that in connection with information that you were asked
10 to provide that is financial in nature, that there was certain
11 things that you did not list that you should have listed. Do
12 you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. Now, before we get to the
15 specifics of that, is it true that you held yourself out as
16 Marc Romeo at different times?

17 THE WITNESS: Yes, I did.

18 THE COURT: Okay. Why did you do that?

19 THE DEFENDANT: As Brandi testified, I was in Belize
20 in, I believe it was 2009, 2010 with my girlfriend at the time.
21 Driving around the development with Johnny Usher, we -- as I
22 believe Tom testified to somewhere, we came upon him while
23 touring the development and Johnny introduced me as Marc Romeo.

24 I didn't prod him to do that. I didn't ask him to do
25 that. I think also -- as Brandi testified earlier, the

1 Belizeans are fearful, scared of my name, my reputation, what
2 that could do to their banking relationships, their government
3 relationships.

4 As a matter of fact, Johnny said, you're always
5 welcome to come down here whenever you like, welcome you with
6 open arms, but please don't be throwing your name around.

7 THE COURT: Okay. But now you heard testimony that
8 people said you said you were --

9 THE DEFENDANT: Yes, what happened was --

10 THE COURT: Wait a minute, wait a minute.

11 You said you were Marc Romeo.

12 THE DEFENDANT: Correct.

13 THE COURT: Or people said it in your presence and you
14 never disavowed it until some later time.

15 THE WITNESS: Yeah, what happened, Your Honor, was
16 again, Johnny introduced me as Marc to Tom. That started the
17 ball rolling. And once that started, I certainly didn't stop
18 it. That -- that's -- that was the problem. I openly admit
19 that I was calling myself Marc. I was, you know, interacting
20 with buyers as Marc.

21 To be completely honest, I didn't think it was a big
22 deal at the time, because I wasn't working for the company. I
23 was down on vacation. And it sort of spiraled out of control
24 after I left. Next thing you know, I'm sitting in your
25 courtroom getting hauled off to jail.

1 And when I got back in 2012 and took the job with the
2 company, it had spiraled while I was away. Stuff started
3 getting posted on the Internet with my picture and Marc's name
4 next to it, and we actively, aggressively as we possibly could
5 tried to correct that. We went on Facebook, I mean, no less
6 than a hundred times, 200 times posting, I'm Andris Pukke. This
7 is Marc Romeo. There was confusion in the past.

8 THE COURT: When did you do that? All I heard,
9 witnesses today say you didn't disavow it to them.

10 THE WITNESS: That's a complete lie. Since 2012,
11 there is not one person that I came across ever that I ever
12 introduced myself as Marc Romeo to or ever continued that lie,
13 let's call it, not a single person.

14 I came out of jail and I did everything I possibly
15 could to be as straight as possible. And, I mean, if Tom says
16 that he thought my name was Marc Romeo when he came to the
17 meeting in Newport Beach, I'm not going to call him a liar, but
18 I certainly did not come out and say, hi, hey, it's Marc. Nice
19 to meet you again.

20 Similar to what Jon Berndsen said, I met him before.
21 He came to the office. We shook hands. We sat down. There
22 wasn't any introduction. I had assumed he already knew my name,
23 so I don't know why he --

24 THE COURT: He said he didn't discover it until two,
25 two and-a-half years after he signed the --

1 THE WITNESS: Honestly, I didn't know. I mean, just
2 like when Jon Berndsen came in, I assumed he knew. Shook his
3 hand and said, yeah, I knew about that.

4 THE COURT: Did you ever sign any documents that said
5 --

6 THE WITNESS: I honestly don't believe it. I don't
7 believe -- I don't recall doing it.

8 THE COURT: You saw the Berndsen document that looks
9 like Marc Romeo and looks like initials to all the price. He
10 also said that you negotiated all these prices with him.

11 THE DEFENDANT: I did.

12 THE COURT: You said, I will not take that amount.

13 THE WITNESS: I did.

14 THE COURT: Why were you doing that? Were you
15 authorized to do that?

16 THE WITNESS: I was down there on vacation. I was
17 helping -- actually the -- where we were staying was the same
18 hotel the tour was at, which I think one of these guys testified
19 to. It's a small hotel. The tour was there. I was helping out
20 the best of my ability just because I was staying there. And I
21 don't know, maybe because that was my job in the past, they
22 would run these ideas by me. And I think what I said was, I
23 wouldn't do that deal; meaning, me personally, if I was still
24 involved, I wouldn't do that. But I wasn't giving authority, I
25 wasn't approving or denying, any of those.

1 THE COURT: David Hadlum says that with regard to the
2 whole operation involving Sanctuary Belize project, you were the
3 boss. He couldn't do anything, he said --

4 THE DEFENDANT: David Hadlum doesn't know what the
5 heck he's talking about, okay. David Hadlum was a tour guide in
6 Belize only. He worked under me, yes. So as far as -- in his
7 world, yes, I was his world, okay. But as far as me having a
8 bigger role than that, absolute nonsense.

9 THE COURT: He says that Luke told him, you know,
10 Marc Romeo is a clean skin you pay to use his name.

11 THE DEFENDANT: Listen, what we're talking about here,
12 Your Honor, is a disgruntled ex-employee, okay. He was fired
13 for poor performance and he's doing anything -- and nevermind
14 the fact, this disgruntled ex-employee who had his lot
15 foreclosed on and he's pissed off.

16 THE COURT: Well, what about this PowerPoint that
17 shows Marc Romeo on here?

18 THE WITNESS: I had nothing to do with that, nothing.

19 THE COURT: The company then was out there, sort of,
20 playing the name, Marc Romeo?

21 THE DEFENDANT: I don't know. Your Honor, I think I
22 was in jail when that was made.

23 THE COURT: Well, according to the time, this went on
24 well into 2013.

25 THE DEFENDANT: Yeah, but I think you're mistaken

1 about that.

2 THE COURT: I'm mistaken or he's mistaken?

3 THE DEFENDANT: No, you're mistaken about what he
4 said. What happened was, David Hadlum was doing the tours.
5 That PowerPoint was not shown to any prospective lot owners.
6 That PowerPoint was shown at a special event at the Belize city
7 he went to for -- I believe it was more like investor-type
8 people.

9 So I think you're thinking he was showing that thing
10 over and over and over on the tours.

11 THE COURT: He said he was.

12 THE DEFENDANT: That didn't happen. No, he didn't.
13 He said he showed it twice.

14 THE COURT: Well, all right, that's the way I took it.

15 Anyway, look, you know, the problem here is that there
16 is a lot of collateral organizations that you seem to be
17 identified with in some way or another that sort of circle
18 around GPA or Buy Belize, and its confusing.

19 THE DEFENDANT: I agree.

20 THE COURT: It's confusing. Nobody knows what role
21 you're playing, whether you are you may be doing things for
22 these companies and not calling yourself a director, not calling
23 yourself an owner, but you certainly are affiliated with these
24 companies.

25 THE DEFENDANT: Your Honor, those companies --

1 THE COURT: Listen to me. That's the concern in this
2 case when you read the documents that everybody puts in, it's
3 hard to trace where you are in all this.

4 THE DEFENDANT: Okay. I understand that. The, the --
5 these guys love to make this picture of all these companies.
6 It's intentional confusion. It's not. It's actually pretty
7 simple.

8 There's two Belize entities, Eco Futures and Sittee
9 River Wildlife Reserve. They both at different times were
10 selling property. First was Sittee River, and then I believe it
11 was under Eco Futures. So, so in order to process the payments,
12 which is a convenience we're offering to lot owners so they can
13 send the payments to the U.S., rather than paying in Belize,
14 Marc Romeo had to form entities with the same names in the U.S.
15 That's the entities we're talking about here.

16 I wasn't even working for the company when it
17 happened. I was working for my wife's bathing suit company,
18 which I believe Brandi testified to.

19 So, I understand it's seems it's all these different
20 companies and entities. It's really not. There's three and two
21 of them have a U.S., call it affiliate and a Belize affiliate.
22 And the ones we're talking about here on the petition are the
23 U.S. ones that Marc Romeo started. Marc Romeo did the banking,
24 not me and they were closed before I got out of jail. Final tax
25 returns filed, bank accounts closed.

1 So to sit there and say, I should have known -- forget
2 the fact that I'm not Marc Romeo, even though I held myself out
3 to be him. I apologize to anybody I offended by doing that. I
4 apologize to Jon Berndsen, when I first met him in 2013, but I'm
5 not Marc Romeo. He held the positions that he held. He signed
6 the contracts and the documents that he signed. And even
7 though, I --

8 What's happened here is because I held out to be him
9 on one or maybe, maybe two tours, I don't -- may have been one,
10 I'm now all a sudden become his alter ego for Marc Romeo and
11 anything he signed, anything he did is now falling on me. It's
12 just not fair.

13 THE COURT: You'd have to admit, it's sort of hard to
14 sort it out.

15 THE DEFENDANT: That's why I want to talk to you.

16 THE COURT: All right.

17 THE DEFENDANT: Let me tell you something else.

18 THE COURT: You say you earned \$10 an hour. That's
19 what you get, somebody who is in your position?

20 THE DEFENDANT: Your Honor, can I clarify that please?

21 THE COURT: From Buy Brazil? That seems a little bit
22 bizarre.

23 THE DEFENDANT: Completely bizarre. I don't need the
24 money because my wife makes a lot of money. My fiancée, wife,
25 she does very well, so I don't need the money. I made this

1 very, very, very clear to probation.

2 I even asked, do I have to work at all? They said,
3 yes, you have to have a job. But I said, okay, I'd rather be a
4 stay-at-home mom because I don't need the money. Says, you have
5 to get a job.

6 My attorneys have advised me, listen, if you don't
7 need the money, just go get a \$10 an hour job. The less money
8 you make, the more they'll leave you alone. Just cruise through
9 this thing. You know, hit it for the next three years and when
10 you get out and when it's over, you can go make more money.

11 Listen, I can make ten times that.

12 THE COURT: I suppose you can make much more than ten
13 times.

14 THE DEFENDANT: I can and I was --

15 THE COURT: What about any equity ownership in any of
16 the Belize property?

17 THE WITNESS: Not a single thing -- not a single
18 thing.

19 After the receiver took the property, as you know, you
20 were involved in that whole production, they sold it back to
21 Johnny and I lost all my equity. I don't have equity or shares
22 in anything. I was working hard for the next -- you know, for
23 these last three years trying my damndest to get through this
24 thing without any problems.

25 And to say that I was dishonest with probation, it's

1 frankly an absolute insult to me. I got to be honest. I met
2 with my probation officers in California. I never met these
3 guys. They never called me once. Didn't even know their names.

4 Okay. I met with my probation officer in California
5 bright and early, was completely honest with him. You can call
6 any of them and ask them. I even discussed the \$10 an hour
7 situation with them. Why are you making \$10 an hour. You got a
8 pretty nice office here. I told them that exact story and they
9 said, makes sense to us. They said, probably a smart move.

10 THE COURT: You have any questions, Mr. Mitchell, you
11 want to ask?

12 MR. MITCHELL: I do, Your Honor.

13 THE COURT: Mr. De Bretteville.

14 MR. DE BRETTEVILLE: Briefly, but in whatever order
15 the Court sees --

16 MR. MITCHELL: I prefer defense counsel go first.

17 THE COURT: What's that?

18 MR. MITCHELL: I prefer defense counsel go first.

19 MR. DE BRETTEVILLE: No objection, Your Honor.

20 THE COURT: Be careful, I may object.

21 DIRECT EXAMINATION

22 BY MR. DE BRETTEVILLE:

23 Q Mr. Pukke, you referred to your probation officer. When
24 you first filled out Probation Form 48. Did any of your
25 probation officers give you any guidance as to how best to fill

ANDRIS PUKKE - DIRECT EXAMINATION

1 it out.

2 A Wouldn't call it guidance, but an answer, yes.

3 Q Well, did they say anything to you about?

4 A I called them when I could receive it, because I was
5 surprised they even had to fill it out.

6 As you know, Your Honor, I have no fines, no restitution.
7 I don't like to owe anybody money. So, when I got this
8 financial form, I was kind of surprised by it.

9 I called Kristin. I called Kristin and asked her, you
10 know, why am I filling this thing out? Do I have to? She
11 called Tyrone Brittingham, who is my probation officer at the
12 time. And he told her, tell him not to worry about it. It's
13 just a formality. It will go nowhere but his file. Just tell
14 him to do his best guess estimates, which is exactly what I did.
15 You know, I didn't even think twice about it.

16 Q Mr. Pukke, the numbers that appear for your cash flow are
17 all round numbers. Did you go and validate that, in fact, your
18 groceries were a thousand dollars a month?

19 A Of course not. He told me not to. He said, just give
20 estimates and send it in. I filled out the form in about three
21 minutes.

22 Q Did you disclose to your probation officer that you were
23 working for buybelize.com or Buy Belize?

24 A Every single time I talked to him.

25 Q Okay. I have a question for you.

ANDRIS PUKKE - DIRECT EXAMINATION

1 You were director of marketing for buybelize.com?

2 A Correct, still am.

3 Q So, you've been here for all these proceedings and you
4 heard the Court's and the government's, and my alternative
5 readings of Section K of Probation Form 48. Having heard all
6 that, you know, do you read that form as calling for you to
7 disclose or write down buybelize.com in Section K because you
8 were a director of marketing for buybelize.com?

9 A Of course not.

10 Q Did you put down buybelize.com?

11 A No.

12 Q Did your probation officer ever say to you, hey, Mr. Pukke,
13 you told me over and over again you work for buybelize.com, but
14 you're not listing that entity in Section K?

15 A Right, because I don't own anything there and I -- well,
16 yeah, because I don't own anything.

17 Q Again, did any probation officer or anyone else from the
18 government ever say to you, hey, you're supposed to list all
19 affiliation. And it says right here, board member, director --

20 A No.

21 Q -- so you should list buybelize.com on this form?

22 A No one ever said that to me.

23 MR. DE BRETTEVILLE: No further questions, Your Honor.

24 THE COURT: I wanted to ask you about Ms. Chittenden.
25 She's not your wife, she's your fiancée?

ANDRIS PUKKE - DIRECT EXAMINATION

1 THE WITNESS: Yeah, I have two children with her.

2 THE COURT: I understand that there's been testimony,
3 I think your case put it in, that she is the owner of -- listed
4 as the owner of one or more of these entities that are related
5 to the --

6 THE DEFENDANT: I can explain it to you.

7 THE COURT: Well, that's one point.

8 The other thing is my recollection is back from the
9 old days that you were providing support for her, and now she's
10 paying at list \$6,500 a month in rent.

11 THE DEFENDANT: It's come full circle.

12 THE COURT: What's that?

13 THE DEFENDANT: It's come full circle.

14 Back ten years ago, yes, I was supporting her. Back
15 ten years when she started the swimwear company that's now
16 highly successful, \$15 million a year in revenues.

17 THE COURT: That's her company or your company?

18 THE DEFENDANT: Hers, 100 percent hers.

19 THE COURT: Did you give it to her?

20 THE DEFENDANT: No, she -- I give her a swimwear
21 company? No. I gave her some of the capital, maybe a little
22 start-up money to start, which she paid back into the receiver.
23 So, no, it's her company. It's widely known and she makes a lot
24 of money at it.

25 THE COURT: How does she get to be the owner of some

ANDRIS PUKKE - DIRECT EXAMINATION

1 of these Belize properties? That was your project in the
2 beginning.

3 THE DEFENDANT: Yeah, what happened was she was
4 originally -- Robert Kathman asked her, because she's a
5 designer, asked her to do interior design for the company. And
6 he said, I'll give you shares if you do interior design. Johnny
7 and I didn't have any interest in taking shares in that company.
8 I don't want -- I have no interest in being a builder. I think
9 being a builder is more pain than profit.

10 But they needed a interior designer. They offered her
11 shares of it. And, literally, I think she was in that company
12 for maybe four months. Turned out she didn't need the work or
13 they didn't need her, and she resigned and turned the shares
14 over.

15 THE COURT: Now, all these entities that are related
16 to the Sanctuary Belize project, you're not getting any
17 compensation other than \$10 an hour?

18 THE DEFENDANT: Correct.

19 THE COURT: No other benefits?

20 THE DEFENDANT: None.

21 THE COURT: Travel expenses, do you get your expenses
22 paid?

23 THE DEFENDANT: If I travel, if I travel, for sure,
24 yes.

25 THE COURT: Well, who pays that?

ANDRIS PUKKE - DIRECT EXAMINATION

1 THE DEFENDANT: Buy Belize will pay it.

2 THE COURT: Okay. And what do they run? What do your
3 expenses run?

4 THE DEFENDANT: Well, considering the fact that I
5 haven't been permitted to travel in the past, I don't know, two
6 years, not very much.

7 THE COURT: You haven't been down there in two years?

8 THE DEFENDANT: More than two years, I think. I think
9 last time I was there was the meeting that Tom mentioned.

10 THE COURT: But you've been working out of California
11 then?

12 THE DEFENDANT: Correct.

13 THE COURT: And what are you doing in California?

14 THE DEFENDANT: I do all the sales marketing. Not the
15 sales, but the marketing. I help with the sales a little bit,
16 but I'm responsible for generating all the leads; web leads, TV
17 leads, e-mail blasts. We do all the Internet advertising,
18 infomercials. That's my job.

19 THE COURT: How is your relationship -- this is a
20 slightly different issue, but maybe -- may have some bearing on
21 the Court's decision. How are you getting along with the people
22 down in Belize?

23 THE DEFENDANT: Me?

24 THE COURT: You and your people that you're otherwise
25 associated with?

ANDRIS PUKKE - DIRECT EXAMINATION

1 THE DEFENDANT: You talking about owners or are you
2 talking about the employees that work down there?

3 THE COURT: Well, the whole project. How are you
4 getting along with it? You're involved directly or indirectly
5 as a salesperson, but we've heard some disgruntled people here.
6 You called them disgruntled employees. Let's talk a minute
7 about disgruntled homeowners.

8 THE DEFENDANT: Your Honor, you're getting a terrible,
9 terrible cross section of reality here, okay. We've got ten or
10 15 people -- I don't know, eight, who are the only basically
11 disgruntled homeowners, okay. We have 750 others. And if I
12 knew that there was going to be eight disgruntled people who
13 flew from God knows where to give you that impression, I would
14 have this whole damn courtroom packed with happy owners; 600 of
15 them. They know it.

16 THE COURT: So, your situation is except for this few,
17 everybody else is reasonably satisfied?

18 THE DEFENDANT: Your Honor, we'll do a survey. As a
19 matter of fact, I ordered it yesterday. We'll do a survey of
20 the owners. Be happy to submit it to you, okay. And if, if
21 less than 80 percent aren't fully satisfied, lock me up.

22 They've made a ton of money. Ask every one of them.
23 Tom Herskowitz, okay, he bought his lot for, I don't know, Tom,
24 250, 300 grand maybe?

25 THE COURT: Well, we're not --

ANDRIS PUKKE - CROSS-EXAMINATION

1 THE DEFENDANT: Okay, whatever. He bought his lot for
2 a couple hundred grand. He was he put seven, \$800,000 on his
3 house. My calculation is, he's into it for a million, million
4 two. He asked me to sell it for him. His asking price,
5 2.4 million. Okay. So, here's poor Tom saying, oh, it's a
6 disaster and I'm getting screwed here. Yet, he's asking to get
7 twice what he paid for his house.

8 THE COURT: All right.

9 THE DEFENDANT: Okay. And I can tell you -- I can get
10 appraisals on the lots. Jon Berndsen, for example, the lot he
11 brought, I think he paid, approximately, 250. I can get
12 appraisal on it tomorrow for 600.

13 THE COURT: All right. Anything else?

14 Mr. Mitchell, anything else?

15 MR. MITCHELL: I'll try to be brief, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. MITCHELL:

18 Q So, there was a period of time where you held yourself out
19 to be Marc Romeo, correct?

20 A Correct.

21 Q When was the last time you held yourself out to be
22 Marc Romeo?

23 A 2010.

24 Q When in 2010?

25 A No idea.

ANDRIS PUKKE - CROSS-EXAMINATION

1 THE COURT: You're not saying that other people in the
2 company, in the organization didn't call you Marc or refer to
3 you as Marc Romeo afterwards?

4 THE DEFENDANT: No, no. The only time I was ever
5 referred as Marc Romeo was in Belize on one or two tours.

6 BY MR. MITCHELL:

7 Q You said, in August, 2010?

8 MR. DE BRETTEVILLE: Misstates the testimony, Your
9 Honor.

10 THE DEFENDANT: Yeah, August, that's probably correct.

11 MR. MITCHELL: If I can just finish my question.

12 THE COURT: You said one occasion, just one occasion
13 you were held out as Marc Romeo?

14 THE WITNESS: One or two weekends. I'm not exactly
15 sure. I was there twice. I'm not sure if the Marc Romeo issue
16 popped up the second time, but certainly one time. That was
17 when Jon Berndsen was on -- I was only in Belize twice in 2010,
18 I believe, maybe three times.

19 Your Honor, you have to understand, once the receiver
20 took it and I had no more shares, I had no reason to go back
21 down there. I had no reason to work there. I wasn't working
22 there in 2009, 2010. If I was there at all, it was a bikini
23 shoot with Beach Bunny, or on vacation. I only took the job
24 even back to Belize is because I needed a job when I got out of
25 prison.

ANDRIS PUKKE - CROSS-EXAMINATION

1 THE COURT: There's some that in 2012 that there's a
2 meeting in March where you were introduced as Marc Romeo.

3 THE DEFENDANT: Incorrect.

4 Oh, in the office?

5 THE COURT: Yeah.

6 THE DEFENDANT: That didn't happen. That's what I was
7 talking about with what Tom mentioned.

8 I'm not going to call Tom a liar, okay. I'm not --
9 done doing that. Fact of the matter is, if he thought my name
10 was Marc at that time, I didn't know it. And like Brandi
11 testified, there was no introductions.

12 It was the same thing exact thing that happened when
13 Jon Berndsen walked in. If you meet somebody and they come, you
14 meet them again, you're not going go, hey, nice to meet you,
15 Marc. You shake his hand and you sit down.

16 If he said he thought my name was Marc then, I didn't
17 know it. Why would I care? I would have cleaned it up. I
18 cleaned it up with Jon Berndsen, and Tom and I were getting
19 along well back then.

20 BY MR. MITCHELL:

21 Q Since we're talking about the 2012 meeting in which you
22 have with Mr. Herskowitz in Newport Beach. Is it your
23 recollection that it was approximately March of 2012?

24 A Could be.

25 Q You attended that meeting in Newport Beach, correct?

ANDRIS PUKKE - CROSS-EXAMINATION

1 A Correct.

2 Q And that meeting was with regard to EBT and the
3 construction of Mr. Herskowitz' home in Sanctuary Belize,
4 correct?

5 A Predominantly, yes.

6 Q What else was it about?

7 A Well, he came to talk about that, but we ended up talking
8 about some other things too. I guess, just the development in
9 general and -- but, yes.

10 Q How long was that meeting?

11 A Like Brandi said, an hour and a half, two hours, I guess.

12 Q Were you present for the entire time?

13 A Yes.

14 Q Who else was there?

15 A Luke, Brandi, Bill Bannon, Tom and me.

16 Q And during that meeting, do you recall anyone calling you
17 Marc?

18 A Never.

19 Q Did you recall anyone calling you Andy?

20 A Don't recall. That's not something I remember. I would
21 remember someone calling me Marc. I don't remember them calling
22 me Andy.

23 Q Okay. December, 2010, do you recall being on a boat tour
24 with Mr. Herskowitz?

25 A Yes. Well, I don't recall Mr. Herskowitz specifically

ANDRIS PUKKE - CROSS-EXAMINATION

1 being there, but I remember being on the boat with the picture
2 he submitted.

3 Q Okay. You testified a little earlier when questioned by
4 the Judge that, I believe it was Mr. Usher -- correct me if I'm
5 wrong, but I believe it was Mr. Usher started calling you Marc
6 Romeo?

7 A Correct.

8 Q And the first time you recall that happening was with
9 Mr. Herskowitz; is that correct?

10 A Yes.

11 Q Prior to December, 2010 and that photograph on the boat, do
12 you recall meeting Mr. Herskowitz?

13 A No.

14 Q In August, 2010, do you remember being in Belize and
15 meeting with Mr. Berndsen?

16 A Yes.

17 Q Do you remember representing to Mr. Berndsen that your name
18 was Marc Romeo?

19 A Yes.

20 Q So it's not -- it's in fact false that the first time that
21 you referred to yourself as Marc Romeo was with Mr. Herskowitz
22 in December, 2010?

23 A Give me the dates again.

24 Q December, 2010, you testified you met with Mr. Herskowitz?

25 A September?

ANDRIS PUKKE - CROSS-EXAMINATION

1 Q December?

2 A December, 2010, okay. I didn't meet with him. His
3 testimony was that --

4 Q I'm not asking what his testimony was?

5 A Okay, but --

6 Q I'm asking what your recollection is, sir?

7 A My recollection, I don't know the dates, okay. All I can
8 confirm is I do recall some point in time coming up to Tom with
9 Johnny, drive around the development where Johnny introduced me
10 as Marc. I don't know if that was December, September, 2010,
11 2009. I don't know.

12 Q And that was the first time anyone referred to you as Marc?

13 A I believe so, yes.

14 Q And that's not your idea?

15 A No.

16 Q It just spontaneously happened?

17 A We didn't -- Johnny didn't discuss what was going to
18 happen. Johnny said, hey, again, before I even came down there,
19 he said, listen, if you're going to come down, no problem.
20 Welcome you with open arms. Do me a favor, don't be using your
21 name down here.

22 I'm worried about banks, I'm worried of the government.
23 They are pretty skittish, I'll be honest. There's only a few of
24 them and if they found out that I was in cahoots with Johnny or
25 working with him or anything, there's a possibility they could

ANDRIS PUKKE - CROSS-EXAMINATION

1 pull his account.

2 Q When did that conversation with Mr. Usher take place?

3 A I have no idea. Probably -- he talks about it all the
4 time. He still talks about it. So, the original time, sometime
5 in 2010. Probably 2009, actually, was the first time I went
6 down there.

7 Q So in 2009, Mr. Usher said, don't use your name because of
8 your reputation?

9 A Correct.

10 Q But the first time that you actually referred to yourself
11 as Marc Romeo was with Mr. Herskowitz?

12 A I believe so, yes.

13 Q Showing you what's marked as Government's Exhibit 6. Do
14 you recognize this photograph?

15 A Good-looking guy.

16 Q The guy on the left is who?

17 A John Usher.

18 Q The guy on the right?

19 A Me.

20 Q And what's the date on this photograph?

21 A December, 2010.

22 Q You obviously heard testimony by Mr. Herskowitz that he
23 took this photograph. Do you recall hearing that testimony?

24 A Yes.

25 Q Do you have any reason to believe that he did not take this

ANDRIS PUKKE - CROSS-EXAMINATION

1 photograph?

2 A No, I don't know who took it.

3 Q Do you have any reason to believe that the date on this,
4 12/28/2010 is incorrect?

5 A No.

6 Q So a year, at least a year, by your testimony, before this
7 photograph was taken, before you met with Mr. Herskowitz in
8 Sanctuary Belize, Mr. Usher told you that, you know, it would
9 probably be best if you don't use your own name.

10 A Say the dates again, you lose me.

11 Q You said that Mr. Usher approached you sometime in 2009?

12 A Probably. I'm not -- listen, we're talking about six years
13 ago. I don't really know the dates.

14 Q August, 2010, do you remember meeting with Mr. Berndsen?

15 A Yes.

16 Q And do you recall meeting Mr. Berndsen regarding the
17 purchase of the property?

18 A Yes, assisting with it, sure.

19 Q Where were you?

20 A The Placencia Hotel for the most part.

21 COURT REPORTER: Excuse me.

22 THE DEFENDANT: The Placencia, P-L-A-N-C-I-A --
23 P-L-A-C-E-N-C-I-A.

24 BY MR. MITCHELL:

25 Q And at that time, did you represent yourself to be

ANDRIS PUKKE - CROSS-EXAMINATION

1 Mr. Pukke or Mr. Romeo?

2 A Mr. Romeo.

3 Q Showing you what's been marked as Government's Exhibit
4 Number 7. This was shown to other witnesses today. I'm going
5 to show you the last page here.

6 What's the date on this document?

7 A August 30, 2010.

8 Q Do you see a signature on the right hand side?

9 A Yes, I do.

10 Q And who's signature is that?

11 A I don't know to be honest. Mr. Berndsen who I trust a lot,
12 I don't think he has any reason to lie whatsoever. He said he
13 saw me sign it. I don't recall signing it. It looks like Marc
14 Romeo's signature. I know the process in Belize was always
15 before contracts are signed, if an authorized signatory wasn't
16 there, they e-mailed up to California. They could sign it and
17 e-mail it back.

18 So, I have no idea if Marc signed that. I believe actually
19 Marc testified or his affidavit said that he signed it. Will I
20 sit here today and swear that I didn't? No, I don't remember.

21 Q Do you recall ever signing any documents with the name
22 Marc Romeo?

23 A No.

24 Q Showing you what's been marked as Government Exhibit Number
25 5. Again, shown earlier today. It's amendment to a purchase

ANDRIS PUKKE - CROSS-EXAMINATION

1 agreement. On the last page is the signature under seller. Do
2 you see that?

3 A Yes.

4 Q Says, Marc Romeo, where it says, buy? Do you see that?

5 A Mm-hmm.

6 Q The signature above it, do you see that?

7 A Yes.

8 Q Did you sign this document?

9 A No.

10 Q Showing you Government's Exhibit Number 8. Is this a
11 Memorandum and Articles of Association of the Sanctuary Belize
12 Homeowners Association shown earlier today. Showing you the
13 last page, top line. You see where it says, Marc Romeo?

14 A Yes.

15 Q Newport Beach, California?

16 A Mm-hmm.

17 Q Signature on the right?

18 A That's Marc's signature.

19 Q Did you sign that document?

20 A I never seen this document.

21 Q Did you sign that document?

22 A No. How can I sign if I didn't see it?

23 Q Okay. Show you what's been marked as Government's Exhibit
24 Number 9, Articles of Association of Sanctuary Belize Homeowners
25 Association. Turn to the last page, top line says, Marc Romeo.

ANDRIS PUKKE - CROSS-EXAMINATION

1 Do you see that?

2 A Yes.

3 Q Right hand side is a signature. Do you see that?

4 A Yes.

5 Q Is that your signature?

6 A No.

7 Q Did you sign this document?

8 A No.

9 Q Discussed Angela Chittenden a little earlier. What is your
10 relationship with Ms. Chittenden?

11 A She's mother of my kids; girlfriend, fiancée. We're not
12 married though.

13 Q And what's the name of the company that she currently runs?

14 A Beach Bunny Swimwear.

15 Q Are you involved in that company at all?

16 A I help, but I don't own any equity in it.

17 Q What do you do to help?

18 A Just help manage the business overall. I sit on managers'
19 meetings. As a matter of fact, lately, I've been probably
20 spending a third of my time there.

21 Q Okay. Do you hold any positions?

22 A No.

23 Q You spend a third of your time working for this company
24 though?

25 A Helping out, yeah.

ANDRIS PUKKE - CROSS-EXAMINATION

1 Q Have you ever registered any domain names for this company?

2 A Have I? I don't believe so.

3 Q Have you ever used the alias Andy Storm?

4 A Yes.

5 Q Have you ever used the alias -- when have you used the
6 alias, Andy Storm?

7 A When have I?

8 Q Yes.

9 A I have a e-mail Andy Storm@yahoo.com that I use
10 predominantly for newsletters or anything I do online, because I
11 don't want the junk going to my regular e-mail address.

12 Q What's your mother's maiden name?

13 A Storm.

14 Q Have you ever registered any websites using the alias, Andy
15 Storm?

16 A No, I don't believe so.

17 Q Well, you don't believe so or you --

18 A I don't recall. I don't think I have any website
19 registered, to be honest.

20 Q So, do you recall ever registering any websites under any
21 name?

22 A I'm sure I did, but I don't recall.

23 THE COURT: All right. Let's wind up please.

24 MR. MITCHELL: In the middle of 2013, you heard
25 testimony about Mr. Hadlum that you asked him to use the alias,

ANDRIS PUKKE - CROSS-EXAMINATION

1 Andy Storm. Do you recall that?

2 A Yeah.

3 Q Was that true?

4 A Don't recall doing it at all, but certainly possible.

5 Q Are you familiar with the real Marc Romeo?

6 A Yes.

7 Q And do you know when he stopped being involved in Sanctuary
8 Belize?

9 A I think 2011.

10 Q And do you know that, I think, in 2011 you were
11 incarcerated?

12 A Yes.

13 Q You don't have personal knowledge?

14 A He stopped being involved when I was away.

15 MR. MITCHELL: Okay. Court's indulgence.

16 (Pause.)

17 BY MR. MITCHELL:

18 Q You don't receive any commissions, do you, sir?

19 A Mm-hmm.

20 Q That's a -- I'm sorry?

21 A No.

22 MR. MITCHELL: Nothing further, Your Honor.

23 MR. DE BRETTEVILLE: Your Honor, I have nothing
24 further. I could ask Mr. Pukke more about the Beach Bunny
25 business. It's a very successful business. The swimsuits have

1 been featured in Sports Illustrated --

2 THE COURT: That's all right. No need to.

3 Thank you, Mr. Pukke.

4 THE DEFENDANT: Thank you.

5 THE COURT: All right, folks. It's after six. The
6 question is, where are we and where do we go with this. We have
7 a -- all the testimony is in. I'm sure you want to be heard at
8 the end here before the Court is to make some kind of decision,
9 but that's going to carry us a while and it's pretty late on a
10 Friday.

11 Let me float this as a possibility about reconvening
12 on another day, really, while I know it doesn't require the
13 witnesses to be here and may not be as accommodating for the
14 people who are observing, but realistically we need some clear
15 heads to, sort of, think where we are to make our arguments and
16 then the Court to decide. And, unfortunately, my assistant is
17 gone for the day.

18 Did you get some dates? Do you have any dates?

19 (Discussion held off the record.)

20 THE COURT: Well, we can get back to you next week
21 with some dates where we can have closing and the Court may
22 announce its opinion then as well. I don't have to write
23 anything. I'll give you an oral opinion on what I think we
24 should do.

25 The only reason I say that is because I think we're

1 locked in here for, at least, another hour before we get out and
2 it's awfully late. We've been sitting here a long time. I'd
3 like to have your response to that.

4 I'll let you start, Mr. De Bretteville.

5 MR. DE BRETTEVILLE: Your Honor, the Court makes a
6 very good point. This is a very weighty matter and I don't want
7 convenience to get in the way of what's right. That said, this
8 is very expensive for Mr. Pukke. He's based in California, I'm
9 was based in California. I know his preference would be to have
10 this resolved.

11 You know, my impression from the government in the
12 past is it's not been inclined to recommend revocation. I don't
13 know if that's still true.

14 THE COURT: Well, let me -- before you argue, because
15 I heard your arguments a lot.

16 Let me ask you, Mr. Mitchell, what are you going to
17 recommend, if anything? Are you going to just leave this open.
18 That might give us some glimmer of where we're going on this.

19 MR. MITCHELL: Recommend, Your Honor, as to whether he
20 should be revoked or whether there should be a sanction.

21 THE COURT: Well, first of all, should a violation be
22 found? And if a violation is found, that doesn't necessarily
23 trigger a revocation. And so, I would like to hear your
24 position on one or the other, if you don't mind doing it. I
25 mean, you can repeat the evidence. I've heard it all many times

1 now and maybe it makes better sense to try and wind this thing
2 up one way or another.

3 I mean, you can just give me your honest view on this.
4 I'm not going to push you to make a recommendation that you are
5 not inclined to make. If you were making a closing argument
6 now, tell me where you'd end up.

7 MR. MITCHELL: Your Honor, it's -- all right, I'll be
8 brief, Your Honor.

9 I think there is -- there is contradictory testimony
10 in this case, I think, as the government anticipated before. We
11 started today. We were going to hear two different stories.
12 And it's -- it's different, perhaps, less than I thought it
13 might be.

14 Mr. Pukke came forward today and he admitted that he
15 used the alias, Marc Romeo, on numerous occasions. He's denying
16 that he used that alias during the term of his supervised
17 release. There's contradictory testimony to that effect. Your
18 Honor, obviously, needs to determine who is truthful on that and
19 who has not been truthful.

20 The violations that are alleged, of course, are very
21 specific in the petition.

22 THE COURT: Well, I know what they are. I mean, you
23 tell me based on what you say. Don't go through all the
24 evidence again. I'm trying to avoid you doing that by just
25 getting an idea where you're coming out. I know you know the

1 evidence. I know the evidence. Defense counsel knows the
2 evidence.

3 I don't want to put words in your mouth. I hear you
4 saying, maybe you haven't -- that a violation has not been made
5 out as alleged, not to say there wasn't reason to go forward
6 with it, but --

7 MR. MITCHELL: Your Honor --

8 THE COURT: Is that what you're saying? I'm not going
9 to push you where you are.

10 MR. MITCHELL: I think there's evidence to suggest
11 that Mr. Pukke had affiliations with various entities involved
12 with Sanctuary Belize during his term of supervised release.
13 Some of those were disclosed to the probation office.

14 For example, Buy Belize, I think the Court and
15 probation office, and the government would agree, defense
16 counsel would certainly agree that everyone knew that he was
17 involved in Buy Belize. There's some suggestion that he was the
18 developer of Sanctuary Belize. There's some suggestion that
19 during the term of supervised release, Marc Romeo was listed as
20 being affiliated with Sanctuary Belize.

21 We know that Marc Romeo was -- the real Marc Romeo was
22 out of the game at that point. We know that the defendant used,
23 at some point, the alias, Marc Romeo. So, the government has
24 concerns about the Marc Romeo that was involved in early 2013,
25 who that was; whether that was Mr. Pukke. Sounds like it

1 wasn't -- everyone seems to agree that it wasn't the real
2 Marc Romeo.

3 THE COURT: And so what? What do you think the Court
4 should do?

5 MR. MITCHELL: Well, Your Honor, I mean, I think that
6 there is -- there are grounds. The government, obviously,
7 defers to the Court. I think there are grounds to find a
8 violation that's set forth in the petition. I think it's a
9 technical violation. I think that there is a guidelines
10 worksheet that was prepared in this case, if there were a
11 violation to be found, of three to nine months. I don't know
12 the government's recommendation, frankly, would be a term of
13 incarceration.

14 THE COURT: All right.

15 MR. MITCHELL: Typically --

16 THE COURT: What kind of sanction would it be if it
17 were not incarceration?

18 MR. MITCHELL: Terms of supervised release are
19 extended if warranted. In this case, Your Honor, the government
20 certainly has concerns. I think that extending the terms of
21 supervised release might be an option.

22 I -- I don't know. I -- I would be hard-pressed to
23 argue for incarceration, though, based on everything that's been
24 presented.

25 THE COURT: All right. Mr. de Bretteville, I know

1 your position is that no cause of action, violation has been
2 made at all. I don't really need to hear you on that again.
3 Apart from the argument that the Court doesn't have
4 jurisdiction, among all those other things. And maybe I can
5 shorten this some because, because I don't -- I don't think this
6 is an incarcerable offense either. I mean, I just don't think
7 it is.

8 And maybe, let me just sort of give you some of my
9 thoughts on this about where we are without finally deciding,
10 but to look at the sanction first. I don't think that's really
11 what's in the cards.

12 But here's as I see the evidence as it's been
13 developed. And a lot of this is credibility, mind you. It's
14 clear that Mr. Pukke used this -- traded him off as Marc Romeo.
15 He did it more than once. He did it for a period of time. And
16 candidly, whether it was he alone or the whole people in the
17 Sanctuary Belize operation that continued to trade on Marc
18 Romeo, who was no longer with the operation and as far as a lot
19 of people knew was eventually found out was Mr. Pukke, whether
20 he was calling himself that at a late point in time or not.

21 I found Mr. Hadlum reasonably credible that in 2013,
22 he really was doing deals with Mr. Pukke and that what
23 Mr. Chadwick said to him probably makes sense because the main
24 thing that concerned everybody in the operation was who this
25 fellow really was.

1 You know, Mr. Pukke himself said, my name scared
2 people in Belize and beyond, and they rightly should have. So
3 the idea that they try and cover him or smooth over him is
4 certainly out there.

5 And one of the things, the reason why this whole case
6 gives pause is because the old scam that got him in the trouble
7 in the first place was having a core operation that looked like
8 it was non-profit and there was a lot of things floating around
9 on the outside that he was really involved in for a profit.

10 And here the sense is, as one looks at this, he's
11 involved in one narrow area, but he also looks to be involved in
12 a lot of collateral areas too. Whether he's pulling down
13 dollars because of that, I don't know, but it's certainly
14 confusing for the one who looks at this from the outside.

15 That's the problem. I mean, in some ways we're here
16 today because of Mr. Pukke's own doing. And maybe the people
17 within the organization who let this alias be out there and
18 people got confused. I mean, that's just the reality. It's
19 troublesome.

20 Is it because we were going to try to unearth money
21 and that's what it's all about? Not necessarily. He paid his
22 restitution. He paid his -- which was a very substantial
23 number, in the millions. There's no question about it. But the
24 idea that -- when you're looking at information like this
25 sometimes, you looking to make sure that operations are on the

1 up and up, that there's nothing strange and problematic going
2 on. So, that's why you want candid information about who he's
3 involved with.

4 And one has the sense, candidly, that Mr. Pukke, and I
5 don't buy everything that he said on the stand now, was involved
6 with some of these affiliates. Didn't call himself director,
7 didn't call himself officer, but he was involved.

8 It was kind of a neat arms-length, sort of a somewhat
9 dissociation, but he was really there doing these things.
10 That's my view of what happened.

11 Now, here's the other side. The other side that -- is
12 that the complaints that people have, Mr. Herskowitz and others,
13 are really civil complaints. I mean, if they were out there to
14 be pursued because there was some sort of -- in the original
15 instance, that there was some sort of breach of contract, if you
16 will, that involved Mr. Pukke, then you sue for it. And as
17 Mr. Herskowitz finds out, you win.

18 I mean -- and the complaints here about slow
19 operations and so on, well, you sue if there's some basis for
20 that, but it isn't really the basis to come in for, essentially,
21 a revocation of supervised release and incarceration, but it's
22 troublesome.

23 And what's most troublesome here and I think what
24 these people want to hear -- and I can't really get into the
25 issue of making whether they're representative of the homeowners

1 or not, whether that whole operation should go faster than it's
2 going. I'm not really here to make those decisions.

3 What is problematic throughout this case and I suggest
4 it not so much as a, if you will, a kind of a sanction, but even
5 I can avoid getting to the point of finding a violation. I
6 think it would be very helpful for these homeowners to see once
7 and for all just who all these organizations are. Who they are
8 --

9 Don't need to hear from you now, Mr. Pukke.

10 See who all these organizations are, exactly what
11 time, if any, how many hours per week does Mr. Pukke spend in
12 association with these groups. Not whether he's an officer or
13 owner, but some sort of clarification as to who is in the
14 operation on that side, because it really is -- feels a little
15 bit like a shell game, it really does. I don't know whether the
16 homeowners feel that way or not, but I do.

17 Things are moving around too fast here. I mean,
18 there's so many Eco-something or others here, I don't know who
19 is what. It's the way developers do business sometimes, but
20 it's very misleading to the public. It's problematic for a
21 Court to try and understand that.

22 So, if there were some way that we could get a clear
23 explanation. And maybe it's not just verbal. Maybe it's
24 something in writing that sets out all these relationships, but
25 it then is made clear that -- what Mr. Pukke does, how many

1 hours a week he spends with these things, not what he calls
2 himself and so on. And clearly, that he has no financial
3 interest or ownership interest in these entities.

4 I think that would go a long way to putting this to
5 rest. Not going to satisfy all the homeowners or even the small
6 number that are here and have a problem with the pace of the
7 development and so on. But that's not really a criminal matter,
8 which is what this effectively becomes. So, that's my, kind of,
9 read on where we are in this case.

10 MR. DE BRETTEVILLE: And, Your Honor, I appreciate the
11 Court's comments. I agree with, I think, everything -- at
12 least, almost everything the Court said so far.

13 You know, just now during one of the recesses,
14 Mr. Pukke and Mr. Berndsen were talking, and Mr. Pukke and
15 really more Rod Kazazi invited Mr. Berndsen to come up to
16 Newport Beach any time he wants and examine the ledgers, and see
17 where the money is going and address any questions he has
18 directly with Mr. Kazazi and the documents.

19 Obviously, there's a lack of trust between Mr. Kazazi
20 and GPA, and Mr. Herskowitz in particular. And Mr. Herskowitz
21 has been working very hard to get a SEC case or FBI
22 investigation going.

23 THE COURT: That I'm not -- that's not part of what
24 I'm doing. It is in the sense that I don't necessarily need to
25 make findings that might prejudice the outcome of those cases,

1 those investigations.

2 MR. DE BRETTEVILLE: Your Honor, I mean, it is very
3 much in the financial interest of those entities to achieve the
4 clarity the Court has described as desirable with as many
5 homeowners as possible in order to further the development. So,
6 I understand --

7 And again, just now, Mr. Kazazi agreed with
8 Mr. Berndsen to have him come up and examine the books.

9 So -- and I want to point out just how extraordinary
10 it is, because there's nothing in the contracts regarding
11 Sanctuary Belize that entitles homeowners not -- to any income
12 stream dedicated to development whatsoever, much less access to
13 any financial information from any of these entities. So, Mr.
14 Kazazi's offer is completely gratuitous and non-contractual
15 offer of access.

16 THE COURT: Well, it might make sense for some
17 representatives and, particularly, the people who have the
18 sharpest edge in this to come in and see the books, and see what
19 you got there, because it may end up in litigation anyway.

20 MR. DE BRETTEVILLE: That's right.

21 THE COURT: And again -- and as I say, that seems to
22 be the core problem in this case.

23 I might say as well, in fairness to Mr. Pukke, once
24 they found out who he was, they kept dealing. I mean, there is
25 that. That's true of Mr. Herskowitz and it's true of

1 Mr. Berndsen.

2 Now, whether what happened with the people that
3 Mr. Hadlum was involved with, I don't know. Whether there's
4 anything else going on, I don't know. Statute of Limitations
5 hasn't run from 2013 yet from some of these other people who may
6 want to rescind or do whatever. That's another story which you
7 may have to answer in another forum.

8 But that's where I am, essentially, in this case. And
9 what I propose is without making a finding, although having
10 expressed the concerns I have, that we get something in writing
11 from Mr. Pukke that sets out, specifically, the relationship of
12 all these entities that are involved in any way with the
13 Sanctuary Belize operation.

14 What they are and what they do, and what his
15 relationship is to all of them. How much time he spends with
16 all of them. That's the kind of information that I think would
17 be helpful.

18 MR. DE BRETTEVILLE: So, Your Honor, to that end, I
19 haven't asked Mr. Pukke his feelings about that.

20 THE COURT: It's not as if -- like he'd like to do
21 that.

22 THE DEFENDANT: We've been offering that for years.
23 They just don't believe it and they don't want to listen to us.

24 THE COURT: Well, do it again.

25 MR. DE BRETTEVILLE: So, let's assume -- if I may,

1 Mr. Pukke.

2 Let's assume Mr. Pukke agrees, sound like he would
3 agree to doing that, does the Court have some particular vision
4 for how that's to be done?

5 THE COURT: I think maybe in the next something --
6 we're in November. I would say by mid-January, something in
7 writing ought to be prepared. Submit it to the government.

8 And, Mr. Mitchell, I think you know where I am on
9 this, as far as that, and let's see if it's essentially -- and
10 maybe it's information that's been disclosed before. I don't
11 know. I don't see it here. I've heard some verbal discussions,
12 not all of which I must tell you I follow. I still don't follow
13 the verbal descriptions of who is who, but if I can see it in
14 black and white, that might go a long way. And that might go a
15 long way to the people in the project who would like to know
16 what's going on.

17 But I need to say to them, say to you folks, a lot of
18 your arguments are really not criminal in nature. They are
19 issues that you have to take up on your own independently. I
20 don't get into that fight, as they say.

21 MR. DE BRETTEVILLE: Is the Court envisioning that
22 supervised release will be extended through that period?

23 THE COURT: No. Well, I mean, I'm not making my final
24 finding, if that's what you want to know. I'm not closing out
25 the case by saying, I don't make a finding. What I'm suggesting

1 to you is if something of this nature comes in, then my
2 likelihood is I would close it out without further action.

3 Right now, I'm still acting on the record that I have
4 through the active period of supervised release. So, I'm not
5 closing that out. I'm not putting him on supervised release
6 right now, extended, I'm not doing that, nor am I necessarily
7 proposing that. I would like to have, I think, as kind of a
8 closeout for the period that's before the Court now that kind of
9 statement.

10 Mr. Mitchell, I just opined on -- I don't know where
11 you are on all this and what you think.

12 MR. MITCHELL: Your Honor, I think the government said
13 its piece. The only -- the only, I guess, not so much concern,
14 but the Court should keep in mind is that if we keep this open
15 past today, which is just fine. I understand why the Court
16 would want to do that. Mr. Pukke is technically under
17 supervised release and continues to be under supervised release,
18 and he would have to abide -- continue to abide by those terms
19 and do reporting. That's the government's understanding.

20 So if Your Honor is inclined -- and I'm not suggesting
21 that's what --

22 THE COURT: Well, I need to hear you. Just tell me
23 what you're thinking.

24 MR. MITCHELL: If the Court -- well, no, I was going
25 to say, if -- the Court suggested a deadline of mid-January. I

1 don't know whether the Court intends to extend or continue
2 supervised release for that date, but that would require him to
3 continue doing whatever he is doing on supervised release
4 through at least January.

5 THE COURT: Where is he being supervised? He's being
6 supervised in California, isn't he?

7 MR. DE BRETTEVILLE: That's correct, Your Honor. Yes,
8 Your Honor, he's being supervised in California. And I
9 appreciate my colleague's comments, because that is a challenge
10 because Mr. Pukke has already served the entire three year term.

11 The law is not entirely clear. He's released on a
12 summons right now. There's no bonds, no bail terms. So my
13 view, he has no terms of supervised release right now and he has
14 no terms of bond, because there is no bond or bail.

15 I know that probation as a different view. The law is
16 not entirely clear to me. And so, I think it would be grossly
17 unfair to extend an individual who has already served his entire
18 three year term for another -- at that point, would be another
19 six months.

20 THE COURT: Well, the only thing I want to anticipate,
21 Mr. De Bretteville, is that you don't come back and say, you
22 know, Judge, we're not going to respond to what you suggested
23 because technically he wasn't on supervised release when you
24 told him to do it.

25 I'm not looking at his actions as of today and

1 forward. I'm looking at the actions that comprise the record in
2 this case through the end of the supervised release. The record
3 we made here today was based on that. And I haven't finally
4 made my decision about, A, did he violate; B, should he be
5 revoked; and, C, what the sanction should be if he is revoked.

6 I've given you, I guess, somewhat unusual fashion a
7 preview of where I'm likely to go on this, so -- because
8 everybody -- the idea of coming back and convening again is
9 problematic. We may be able to dispose of this on paper.

10 MR. DE BRETTEVILLE: I think the solution then, if the
11 government is willing, would be to stipulate that the government
12 and probation office will not bring any further petitions; that
13 Mr. Pukke is under no further restrictions or conditions of
14 release pending this hearing. And the Court otherwise retains
15 jurisdiction to adjudicate this petition.

16 THE COURT: I'm not sure what that does. I don't know
17 whether Mr. Pukke told the whole truth and just -- told the
18 whole truth when he testified, triggers perjury, I don't know
19 about that. I have nothing on that to say.

20 We were talking about supervised release.

21 MR. DE BRETTEVILLE: Well, the issue -- I think the
22 government's position is, and I don't want to speak out of turn,
23 is that -- and probation's view would be that this Court can
24 only have this future hearing or ruling if it's maintaining
25 supervised release as a pending enforceable --

1 THE COURT: Is that true?

2 MR. MITCHELL: Your Honor, I didn't look into this
3 issue.

4 THE COURT: We're having a hearing now outside of the
5 period of supervised release. I mean, this is just saying, I'm
6 going to impose my finding -- I'm going to give my finding by
7 January 15.

8 MR. DE BRETTEVILLE: I know this law pretty well, Your
9 Honor. There's a -- every circuit is different. Ninth Circuit
10 seems to think and other circuits seem to think that
11 jurisdiction only exist as to the petition itself and that
12 violation as alleged in that petition.

13 Other circuits, like the Fifth Circuit think that, no,
14 no. As long as there's a pending petition of any kind, then
15 supervision exist fully. It's just a hot mess, Your Honor, I'm
16 sorry, legally and it just depends on what position the
17 government takes here.

18 MR. MITCHELL: And sitting here today, unfortunately,
19 Your Honor, at 6:30 on Friday, it's not an issue I've looked
20 into. I can certainly look into it and make representations to
21 the Court and counsel.

22 My concern is, Your Honor, and I think we should get
23 clarity on this point, because what I don't want to happen is --

24 THE COURT: Well, I don't know that I need to decide
25 this now, because we're having a hearing outside the current

1 period of -- the period of supervised release for what occurred
2 then. I haven't found a violation and I haven't revoked, I
3 haven't extended. I haven't made a finding. I'm just giving
4 you a preview of what I'm thinking about.

5 MR. DE BRETTEVILLE: I understand, Your Honor. The
6 problem is probation's position on the record with my colleague
7 is that Mr. Pukke is still fully subject to all the terms and
8 conditions of supervised release. So, he can't travel. He has
9 to file monthly updates, et cetera, et cetera, et cetera.

10 And I think it would be unconscionable to -- this
11 Court is being very creative in trying to find a solution. To
12 have that solution result in Mr. Pukke serving in excess of the
13 statutory maximum term, even beyond the three months he's
14 already served beyond that term.

15 THE COURT: Well, the problem is, if he goes to Belize
16 and doesn't come back, then what do I do?

17 MR. DE BRETTEVILLE: Your Honor, he's not a flight
18 risk, Your Honor. He's got six kids in the United States. His
19 wife has a thriving business. He doesn't have to work. You
20 know, if he stays here, he'll have to work. He leaves --
21 there's just really no risk of that.

22 THE COURT: Well, we can always extradite him, can't
23 we?

24 MR. DE BRETTEVILLE: I don't know the laws in Belize,
25 frankly, Your Honor, but I would expect that and even the

1 government didn't oppose -- after receiving all that 240 pages
2 of stuff from Mr. Herskowitz and both letters, the government
3 didn't oppose Mr. Pukke traveling to Cabo San Lucas for work.
4 So, again --

5 THE COURT: Are you suggesting, Mr. Mitchell, that he
6 should be able to travel between now and January --

7 MR. MITCHELL: Your Honor, I don't know what the
8 government's position would be. It's an issue I would have to
9 research. And then, B, I can't just generalize as to whether
10 the government would oppose travel or not. I need to know --
11 it's an issue that I need to look into, Your Honor.

12 What I can tell the Court, what I can tell counsel is
13 that this is not something that, you know, I intend on looking
14 at two months from now. It's something that I can look at
15 relatively quickly. I can get an answer for the Court, as long
16 as, you know, Mr. Pukke -- and I would hope he doesn't do
17 this -- doesn't jump on a plane tomorrow to go abroad.
18 Hopefully, it can wait until early next week and we can --
19 government can give its position on this issue.

20 THE COURT: Well, that may be, but what about the
21 reporting to the, to probation in California?

22 MR. MITCHELL: Your Honor, I can provide an answer to
23 that, to the government's position on it early next week, Your
24 Honor.

25 THE COURT: All right. Mr. Pukke, you need to talk

1 your counsel.

2 MR. DE BRETTEVILLE: The issue Mr. Pukke wants to --
3 California seems to think he's not on probation anymore. His
4 probation officers don't call him, don't talk to him, don't give
5 him any guidance. He doesn't even have one. The ones that were
6 there are retired, are resigned from probation. So, the problem
7 he has is this asymmetry.

8 And what really troubles me is the Court is really
9 trying to be creative, have a solution. And all the government
10 has to do to enable the Court to do it is to stipulate that they
11 won't try to revoke him, and then we're done.

12 THE COURT: But you're making a proposal he hasn't
13 even looked at.

14 MR. MITCHELL: Your Honor, I just need until early
15 next week to get the Court its position.

16 Your Honor, the government has been very reasonable in
17 this case with defense counsel. The government very likely
18 agrees, but I just cannot make a representation standing here
19 today what my office's position is.

20 THE COURT: I've got to give him a chance to answer
21 that argument, so.

22 MR. DE BRETTEVILLE: Yes, Your Honor. I don't -- I
23 agree he's been very reasonable. I just want to make sure that
24 there are -- to minimize the expense, the gross inconvenience
25 this man has been living under --

1 THE COURT: I understand. We're trying to wrap this
2 up. I've given him a rather wide avenue to walk on at this
3 point.

4 Mr. Tavik, let me ask you. Is there some way that
5 Maryland could resume in the interim some sort of contact with
6 the defendant?

7 MR. TAVIK: I can take over the case, Your Honor.

8 THE COURT: That may be the way to do it until we get
9 this resolved.

10 I tell you, if it eventuates the way I see it, I would
11 be prepared to close it out without continuing probation --
12 supervised release, excuse me. And it's just between now and
13 then is what we're arguing about.

14 MR. DE BRETTEVILLE: Just to be very clear. I
15 appreciate that, Your Honor. That solution is a wonderful
16 solution. It becomes an intolerable solution if, A, Mr. Pukke
17 has to travel back and forth --

18 THE COURT: No, he doesn't have to travel back and
19 forth. He can do it by telephone. He can do it by telephone.
20 He's not going to be unreasonable about that. He may have to
21 check in. He may have to show, you know, talk about his
22 whereabouts, what he's doing and whatever they do typically.

23 MR. DE BRETTEVILLE: I guess the second question then
24 is, would he be allowed to travel for Thanksgiving or Christmas?
25 Will he have travel restrictions in that period?

1 THE COURT: Well, you know, that's an issue. Where
2 does he travel?

3 MR. DE BRETTEVILLE: Right now, he can't even leave
4 the county without permission.

5 THE COURT: Where does he travel?

6 MR. DE BRETTEVILLE: He can't even visit me in Santa
7 Barbara, Your Honor. He can't leave Orange County.

8 THE COURT: He can't leave Orange County? Is that
9 true?

10 MR. TAVIK: I don't know their restrictions, Your
11 Honor.

12 THE COURT: I don't think I put that kind of a
13 restriction on him.

14 MR. DE BRETTEVILLE: Yes, Your Honor.

15 THE COURT: I've only been asked about whether he can
16 travel to Belize.

17 MR. DE BRETTEVILLE: That was California's position.

18 THE COURT: Well, I don't know why there should be any
19 travel restriction within the United States. I'm not aware of
20 that.

21 MR. TAVIK: Nor am I, Your Honor.

22 THE COURT: You're what?

23 MR. TAVIK: I'm not aware of that.

24 THE COURT: I'm not aware of such a thing.

25 MR. DE BRETTEVILLE: At least, the district. And on

1 top of that, Your Honor, I want to be assured that probation is
2 not empowered to bring to Your Honor, because they do work for
3 you ultimately, Your Honor, to bring further petitions in that
4 period, because the jurisdiction should end today with this
5 Court's ruling.

6 THE COURT: Well, you know, don't know what to tell
7 you. Right now, I'm not going to give you a definitive answer
8 because I haven't given Mr. Mitchell a chance to even answer
9 your position.

10 So, the likelihood of what you say is, first of all,
11 even if I gave them permission to do that, the likelihood is
12 it's not going to happen, because I'm assuming your client is
13 now walking the straight and narrow. If he is and he creates
14 some -- if he goes in and knocks off a 7-Eleven, I'm sure that
15 we'll hear from him.

16 MR. DE BRETTEVILLE: I'm thinking more of them trying
17 to go back and redo, rehash old ground.

18 THE COURT: No. Look, right now I'm working on the
19 record that ended on September 21st, 2015. I haven't made a
20 final decision, so the hearing, if you will, is continued. It
21 may not have to be resumed if we get the kind of solution,
22 alternative that I suggested.

23 But in order to just keep tabs on Mr. Pukke, I've got
24 Mr. Tavik here and Maryland can assume it. You don't have to --
25 I'm not aware of any limitations on travel within the United

1 States. I really am not.

2 Well, that may be something they do in California, but
3 I'm not aware of it.

4 MR. DE BRETTEVILLE: Probation just denied Mr. Pukke
5 permission to fly to Florida.

6 THE COURT: Who did?

7 MR. DE BRETTEVILLE: Probation denied his --

8 THE COURT: Is that true?

9 MR. TAVIK: I don't know, Your Honor. I haven't
10 spoken to California.

11 THE COURT: California did?

12 MR. DE BRETTEVILLE: To see his children and his
13 former wife.

14 THE COURT: Well, it's back in Maryland and he does
15 have permission to go anywhere in the United States right now
16 until we work it out.

17 Look, I'm not going to work it out, because I've got
18 to hear from the government. I've given you an opportunity to
19 argue. He hasn't had a chance to look at it.

20 MR. DE BRETTEVILLE: Sure. Last thing, my intention
21 is to work with Mr. Pukke and the companies to file what the
22 Court has asked for as soon as possible.

23 THE COURT: Well, that would be great with a full
24 explanation of who is who and what his relationship is to it,
25 including the time that he spends. Not what he calls himself.

1 You know, you can work a 50 hours a week for a company and say,
2 I have no affiliation, but I'd like to know how much time he's
3 spending or I'm not a director. I want to know what he's doing
4 with the different companies.

5 MR. DE BRETTEVILLE: So, if we can file that, for
6 example, in the next 21 days, is the Court's thought that we can
7 then convene a hearing?

8 THE COURT: Well, maybe by that time you'll have an
9 answer from Mr. Mitchell on where the government is and I
10 probably should be able to act within that time. I should think
11 I would, so that's where we are.

12 MR. DE BRETTEVILLE: Thank you, Your Honor.

13 THE COURT: Again, I'm not aware of any travel
14 restriction in the United States and wouldn't have imposed one
15 under the circumstances. That feels like a California
16 restriction that I just did not impose and --

17 Are we understood then? January 15th is the end date,
18 but if you can get it in sooner, so much the better.

19 MR. DE BRETTEVILLE: Thank you, Your Honor.

20 THE COURT: All right. Mr. Mitchell, anything else?

21 MR. MITCHELL: No, Your Honor.

22 THE COURT: All right. Folks, have a good weekend.

23 (Recess at 6:41 p.m.)
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CERTIFICATE OF COURT REPORTER

I, Linda C. Marshall, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/

Linda C. Marshall, RPR
Official Court Reporter

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