

IN THE SUPREME COURT OF BELIZE, A.D. 2017

CLAIM NO. 131 OF 2016

BETWEEN:

SITTE RIVER WILDLIFE RESERVE ET'AL

CLAIMANTS

AND

THOMAS HERSKOWITZ ET'AL

DEFENDANTS

BEFORE: the Honourable Justice Courtney Abel

Mr. Rodwell Williams, SC }
Ms. Lissette Staine } for the Claimants
Mr. Yohannseh Cave }
Ms. Stacey Grinage } for the Defendants

21ST FEBRUARY, 2017

MORNING SESSION

(Court convened at 9:00 A.M.)

5 THE COURT: Appearances?

MR. WILLIAMS: May it please you My Lord, in appear in this matter along with Ms. Lissette Staine on behalf of the Claimants and my friends Mr.

5 **WITNESS SWORN**

EXAMINATION IN CHIEF OF ROD KAZAZI BY MR. WILLIAMS

Q. Your name is Rod Kazazi?

A. Kazazi, yes.

10 Q. And your address is 3333 Mitchelson Drive, Suite 500, Burbank,
California.

A. Yes.

Q. Mr. Kazazi, you made a witness statement to this court dated 30th of
May, 2016, do you recall?

A. Yes.

15 Q. And did you sign it?

A. Yes I did.

Q. So you will be able to recognize your signature on that statement, do
you see your signature and the one given to you?

A. Yes I do.

5 Q. And you have two (2) documents attached to the statement...three (3) documents?

A. Yes.

Q. Did you notice the documents?

A. Yes.

10 Q. Would you like to put your statement and the documents into evidence to the court?

A. Yes.

THE COURT: Any objections?

MR. CAVE: I do have an objection.

15 MR. WILLIAMS: The objection is to the content of or is it the document?

MR. CAVE: My Lord---

MR. WILLIAMS: My Lord, just before my friend makes the objection, I just wanted to indicate to the court that previous to my friend's involvement in the matter that Counsels
20 for the respective parties had agreed that the

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attachments to both sides witness statements would be admitted without objection in terms of the attachments that were to the witness statement that were exchange and filed, that was the agreement. But my friend had indicated to me that his position now differ but I wish the Court to understand that that was the understanding between the Counsels who had carriage of the matter.

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THE COURT: Let me hear the objection.

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MR. CAVE: My Lord, my objection is specifically in relation to paragraph 7 of the witness statement from Mr. Kazazi; sorry 7 and 9 and the exhibits attached thereto.

THE COURT: What's your objection?

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MR. CAVE: My objection is the premise upon Rule 29. The objection is made pursuant to Part 29.5 of the Civil Procedure Rules.

THE COURT: 29.5 what?

5 MR. CAVE: (2) My Lord.

Which provides “The court may order that any inadmissible, scandalous, irrelevant or otherwise oppressive matter be struck out of any witness statement.”

10 My Lord, we think that there are matters in the identified (13:38:06) of that witness statement that are inadmissible.

15 My Lord, firstly in relation to RK2 and RK3 we feel the entire premise of that evidence or the exhibit which are attached thereto is inadmissible hearsay.

20 My Lord, at the very top of the Annex RK2 it reads the following – “The following data is source from the GPA share point database (there is something cut out there at the top, I assume it meant persons) who booked tours and canceled citing IOSB as the reason for cancelation.”

So the very basis of that evidence My Lord, and the compilation on the chart is the assertion by Mr.

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Kazazi that these persons canceled tours based on things which were said to him by persons who...third parties who are not here, who are not witnesses in this matter.

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There is a particular prejudice here we say My Lord, based on the hearsay rule because separate and apart of this chart which he said was created on the basis of information from things which was said to him, he has provided no other supporting evidence My Lord.

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Nothing in support of what he says third party said to him and our respectful submission My Lord, is that to allow this evidence in is to allow hearsay evidence based on a imply assertion of statements or an imply statements made by third parties who are not present.

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In effect what he is saying by tendering this chart is that these third parties made statement to me based what he says are defamatory statements that they

5 saw. The entire basis of this chart My Lord, are representations made by those third parties, the similar argument applies My Lord.

THE COURT: Is this disputed, are you saying this is admissible?

MR. WILLIAMS: If I am saying this---

10 THE COURT: This is admissible?

MR. WILLIAMS: Yes as a document that he prepared.

THE COURT: Alright, go on then.

MR. WILLIAMS: Yes, he prepared the document.

15 MR. CAVE: The same argument applies My Lord, in relation to RK3, where he says that the following excerpt is from GPA Lending Pro Database, those backing out/rescinding their contract citing lack of trust due to what was read on the IOSB page. Again, the entire chart is premise upon third party representation
20 which he said was made to him. So the court is being asked on the basis of accepting this evidence to believe what he felt about what third parties relay to

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him regarding their reasons and there is indeed My Lord, separate and apart from what he says and what he prepare here, no supporting documentation in support of these statements which were made. My Lord, the prejudice is significant My Lord, especially since our Clients have no proper way of defending those assertions made by third parties are not here and he cannot question.

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My Lord, further we say My Lord, and if the assertion present in these charts and the court accepts that that is indeed inadmissible hearsay then certainly the entire premise of paragraph 7 is also inadmissible hearsay My Lord, because RK2 is simply a chart, is physical representation by way of the chart of what he is saying here, so the very information which he intends to supply to the court by way of paragraph 7 is also premise upon inadmissible hearsay because what he purports to before this court is what he says are cancelation which are specifically due to having read and seen supporting defamatory statements.

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He can provide no direct evidence to this court of that
My Lord, he can only say what was relay to him by
third parties and that is the very basis of our objection
My Lord.

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Because in similar vein My Lord, that we object to
paragraph 9 of the witness statement. Again,
information premise upon statement which are
supplied by third parties of which there is no direct
evidence and no opportunity for our Clients to
properly confront this information My Lord.

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My second basis of objection My Lord, specifically in
relation to paragraph 7 is that he proposes to provide
to this court an estimate of the loss, we say My Lord,
that what he proposes to do is to introduce opinion
evidence and he has not been called as an expert
nor application has been made in respect of him
being called as an expert and therefore on that basis
as well we say that his evidence inadmissible. Those
are my submissions My Lord.

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5 THE COURT: Can you say this is admissible Mr.

MR. WILLIAMS: Certainly so My Lord, for the simple reason of course there's the hearsay rule and of course there is the exception, and I think it takes us immediately into the exception as to whether the statement in the witness statement and the document which the witness prepared falls into the exception that they are made not as to the content---

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THE COURT: This is their content?

MR. WILLIAMS: But as to the fact that he did what he did and he wrote the content and he prepared that material and in that context it is not an issue as to truth but an issue as to the fact of its existence and that he did what he did and in the circumstances the only issue will be what weight a court would give.

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THE COURT: Look where it says I estimate the loss of sale?

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MR. WILLIAMS: Yes.

THE COURT: What value does that have?

5 MR. WILLIAMS: Well, it is...really in so far as in if the court is prepared to give any value to his view as to his estimate of what the loss is, and therefore---

THE COURT: Isn't that opinion evidence?

10 MR. WILLIAMS: It goes to...it is admissible evidence base on the exception to rule.

THE COURT: Is that opinion evidence?

MR. WILLIAMS: It is his, yes I say it is his opinion.

THE COURT: He is not an expert is he?

MR. WILLIAMS: He is not an expert.

15 THE COURT: So is it admissible?

MR. WILLIAMS: And it is not being admitted as expert evidence, it is some person who has a particular job did an analysis not purporting or advancing it as an expert view went through the material and formed his own opinion. It is his own opinion that he is not advancing it as if it were an expert evidence and this witness is not here as an expert, and my only comment in relation to the

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objection taken by my friend is that this is a classic case of the exception to the general rule with regard to hearsay and the court is not invited to make determination as to truth but merely as to the fact of existence of what was done and said and the court then give those things its weight...whatever weight the court decide if it will give it any weight or not. So this is a classic example.

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THE COURT: What issue does it go to?

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MR. WILLIAMS: Well the claim as made by the Claimants is that there were two (2) aspect of the defamation---

THE COURT: Is this proof of quantum of damage?

MR. WILLIAMS: It is---

THE COURT: Of loss and damage?

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MR. WILLIAMS: It is an attempt to indicate trade loss, business loss, profit loss as a result of statement made to damage a particular enterprise that is one aspect of the case. The other aspect of the case has to do with an aspect

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that no loss has to be proven, so in terms of defamation it is presume injury to reputation is presume if the statements are defamatory and one doesn't prove as it were a loss to the reputation, damages is at large.

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Equally in relation to the thought which is in the nature using defamation to impune and impeach a business which result in economy loss it is treated as economic falsehood that give raise to a loss in so far as the business activities concern that is what this aspect of it I think relate to but it is not expert opinion of the loss, it is merely an attempt by this person who works and is the witness for the third Claimant doing an analysis which he presents and therefore it could be taken for whatever weight or no weight that the court may wish to give to, and that's really the simple, it is not an attempt to get an expert in as it were there rules in relation to that.

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MR. CAVE: May I reply to it My Lord?

5 THE COURT: Not really.

I am going to rule that both statements are inadmissible for the purpose of proving the truth of their contents or its opinion evidence. They are inadmissible for those purposes.

10 I'll be address later on about the value that those statements have if they are not admitted to prove the truth of their contents or its hearsay statement, for the life of me I can't see what value they have. If they are not admitted as opinion evidence as hearsay statements to prove the truth of their contents.

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MR. CAVE: My Lord, and that's the point I wanted to address with respect to that what my learned senior said because it is very clear---

THE COURT: You could ask me that in closing, we don't need to spend more time on that.

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MR. CAVE: I just wanted to clarify my position because I am not sure if the evidence is in or if it's out because I want the rest---

5 THE COURT: It's inadmissible to prove the truth of their contents or
as opinion evidence, they are inadmissible. Right
now I can't see what value it has at all frankly. As an
exception to hearsay I don't...I can't think of any rule
10 would falls on there like the res gestae or certain
kinds of declaration, I can't...but presumably
sometime that will be explained to me but I can't see
any value in it at all. So you can assume they are
not...for the purpose of the truth of their contents and
as hearsay statement which is the basis of your
15 application they are inadmissible.

MR. CAVE: Most grateful please My Lord.

THE COURT: And those are the two (2) basis on which you made
your application?

MR. CAVE: Certainly My Lord.

20 THE COURT: So the court agrees with you on that.

MR. CAVE: I am most grateful My Lord.

5 MR. WILLIAMS: My Lord, in the circumstances we still intend to have the witness put in his witness statements subject to the ruling.

THE COURT: So that's the ruling that the witness statements...those are your only objections right?

10 MR. CAVE: Yes I---

THE COURT: The witness statement is admitted subject to the just made ruling.

MR. CAVE: There were two (2) paragraphs I objected to, paragraph 7, paragraph 9 and the exhibits.

15 THE COURT: Paragraphs 7 and paragraph 9 are inadmissible to prove the truth of the contents and as opinion evidence, so they are inadmissible as opinion evidence because the witness is not an expert.

MR. CAVE: Just to clarify My Lord, in addition to those two (2) 20 paragraphs, the exhibits RK2 and RK3.

THE COURT: Yeah.

MR. CAVE: May I have a moment My Lord?

5 THE COURT: Yeah.

MR. WILLIAMS: So My Lord, where we are the evidence, the witness statement except for paragraph 7---

THE COURT: 7 and 9.

MR. WILLIAMS: And RK2 and 3

10 THE COURT: Yeah.

MR. WILLIAMS: Oblige.

THE COURT: Any cross examination?

MR. CAVE: Yes please My Lord.

CROSS EXAMINATION OF ROD KAZAZI BY MR. CAVE

15 Q. Mr. Kazazi, you are currently the Chief Operation Officer of Global Property Alliance Incorporated, is that correct?

A. Not currently, previously at the time of this yes.

Q. At the time of the witness statement you were Chief Operating Officer of Global Property Alliance Incorporated?

20 A. Yes.

5 Q. That is a Company incorporated under the Laws of California, is that correct?

A. That's correct.

Q. By the way, what do you do currently now, do you still work for the Company?

10 A. Private Consultant.

Q. You're a Consultant, with the very same Company?

A. With multiple Companies.

Q. Including this one?

A. Including this one.

15 Q. Who is the current Chief Operating Officer of this Company?

A. I don't know if there's one, I don't believe there's one.

Q. Who is the Chief Financial Officer of this Company?

A. I don't know if there's one, I don't believe there's none.

Q. Who are the Directors of this Company?

20 A. I don't know.

5 Q. When last did you do consulting work for this Company?

A. I am here on behalf of the Company, so it goes to present.

Q. So you consider your presence today, consulting work done on behalf of the Company?

A. Yeah I believe so.

10 Q. Who is paying you for your consulting work here today on behalf of the Company?

A. The Company pays for my hours so, Global Property Alliance.

Q. When did you demit your position as Chief Operating Officer of Global Property Alliance?

15 A. I don't know the exact date but it was towards the end of last year sometime after the summer.

Q. You demitted your position as Chief Operating Officer of the Company sometime summer?

A. Yes

20 Q. After last summer 2016?

A. Correct.

5 Q. Who did you submit your resignation to?

A. To Peter Baker.

Q. As far as you are aware Peter Baker is still...what was his position at the time you submitted your resignation?

A. I don't know of his formal position.

10 Q. You don't know Peter Baker's formal position?

A. No.

Q. Why did you think you had to submit a resignation letter to him then?

A. Because he was the owner of that Company.

Q. He was the owner of that Company?

15 A. Yes.

Q. Do you whether he is the only person or whether there are other shareholders in that Company?

A. He is the only shareholder.

Q. When you...you expect to be paid by Mr. Peter Baker?

20 A. Yes, by the Company.

5 Q. By the Company owned by Mr. Peter Baker?

A. Yes.

Q. Do you know one Andris Pukke?

A. Yes.

10 Q. As far as you are aware Mr. Andris Pukke and Mr. Peter Baker are very good friends, isn't that correct?

A. Sure, yes.

Q. You are also aware that Mr. Peter Baker was in prison in the US in respect of contempt proceeding because he failed to disclose certain assets that he was hiding for Mr. Andris Pukke, isn't that correct?

15 A. I don't know anything about that.

Q. You are however aware...you are aware that Mr. Andris Pukke have spent time in prison in the US in relation to a conviction for fraud, isn't that correct?

20 A. I know that he had spent time in prison but I am not sure what the basis for that time in prison was for, what the charge was or whatever.

5 Q. You testified at the parole hearing in respect of a hearing to investigate whether he had violated the terms of his parole, isn't that correct?

A. Yes.

10 Q. In that very hearing you testified that Mr. Andris Pukke had done consulting work for GPA, the very Company that you now do consulting work for, isn't that correct?

A. No, I believe he did his consulting for Buy Belize which is a different entity.

Q. Who owns Buy Belize?

A. I don't know who owns Buy Belize.

15 Q. Isn't Buy Belize affiliated with GPA Mr. Kazazi as far as you aware?

A. Buy Belize is hired by GPA.

Q. Was what?

A. Was retained by GPA to do advertising.

20 Q. Now, you said that Mr. Peter Baker is the sole shareholder of Global Property Alliance, isn't that correct?

A. That's correct.

5 Q. How did you come by that information?

A. During my time at Global Property Alliance I was privy to the tax returns for the organization.

Q. You were privy to tax returns for the organization?

A. Yes.

10 Q. Did you have some responsibility for the preparation of those tax returns?

A. No I did not.

Q. Did you have responsibility to review those tax returns at some point?

A. No I did not.

15 Q. Whose responsibility was that?

A. The Accounting Firm that was retain to do that.

Q. In relation to the primary information that they used in preparing those returns you supplied that, isn't that correct?

A. Yeah.

20 Q. You weren't sure?

5 A. Someone on our team was responsibility for doing it, but yes.

Q. You are the Chief Financial Officer weren't you at some point?

A. Not ever in regards to filing tax returns or preparing this no.

Q. Mr. Kazazi, I asked you a simple question, were you not Chief Financial Officer at some point?

10 A. Yes.

Q. Infact you started...when did you start working at the company?

A. I believe it was early 2012.

Q. Early in 2012?

A. Yeah.

15 Q. And infact the role of Chief Financial Officer was the first role of the company prior to assuming the position of Chief Operating Officer, isn't that correct?

A. That's correct.

Q. Do you know who were the original subscribers to Global Property
20 Alliance?

5 A. What do you mean by subscribers?

Q. Those persons who were responsible for incorporation in forming the company?

A. No I don't.

10 Q. As far as you are aware, Peter Baker is still the owner of Global Property Alliance?

A. As far as I am aware.

Q. Are you also aware that that very same Peter Baker is now Chairman of Sittee River Wildlife Reserve?

A. Yes.

15 Q. Are you also aware, that that same Peter Baker was one of the founders of the Sanctuary Belize Home Owners Association?

A. I am not a hundred percent sure on that, but I don't know.

20 Q. I don't want you to answer if you're not sure, that is your answer that you're not sure whether he is or he is not one of the founders of Sanctuary Belize Home Owners Association?

A. That's correct.

5 Q. Now you are aware aren't you of the existence of a marketing agreement between Eco Futures Belize Limited the second Claimant and Global Property Alliance Incorporated the Company for which you do consulting work?

A. Yes.

10 Q. Where you at the Company at the time this agreement was entered into between Global Property Alliance---

A. No I was not.

15 Q. In so far as that agreement is concern you are aware that...by virtue of that agreement that is the sale and marketing agreement between Global Property Alliance and Eco Futures Belize Limited that Global Property Alliance was vested with certain marketing rights in relation to the marketing of the development of Sanctuary Belize, isn't that correct?

A. Yes.

20 Q. And those rights were exclusive, isn't that correct?

A. Yes.

Q. You familiar with the terms of that agreement?

5 A. Yes, more or less.

Q. Do you know who signed the agreement?

A. I don't.

Q. Is the name Brandi Greenfield familiar to you?

A. Yes.

10 Q. Who is Brandi Greenfield as far as you are aware?

A. She is one of the Sales Representatives at Global Property Alliance.

15 Q. Now pursuant to the agreement you are aware that Global Property Alliance received all payments for land sales in respect of lots sold between the developments, the Sanctuary Belize development, you are aware of that?

A. Yes.

Q. During the period that you were at Global Property Alliance in your capacity of Chief Financial Officer and Chief Operating Officer how many of those lots were sold as far as you are aware?

20 A. Oh my goodness, I don't...it's very hard to estimate but there were several hundred lots sold.

5 Q. Several hundred lots sold?

A. Yes.

Q. Well could you give us an idea as to the sums raised based on the sale of those lots?

A. It would be difficult to just do this from the start but I can---

10 Q. I ask you to give...Mr. Kazazi, you agree that you as the Chief Operating Officer would have been intimately aware of all the operations of the Company, isn't that correct?

A. Yes.

15 Q. The only business this company was involved in was marketing and selling lots in the development, isn't that correct?

A. Yes.

Q. You weren't distracted from any other thing apart from that sole business that the company was involved in, isn't that correct?

A. Right.

5 Q. You would have therefore intimate knowledge as to how much money was made as a result of the sale of lots in the development, isn't that correct?

A. Yes and no. You're asking me to remember 3 years of information and recite it off the top of my head which is not an easy task so---

10 Q. Let me make that easy for you---

A. Sure.

Q. Is it in excess of 50 million US dollars?

A. Please clarify.

Q. Please clarify what?

15 A. The question, are you asking me what the gross sales were or what the cash receipt were, those are the 2 different questions.

Q. Let's start with gross sales Mr. Kazazi, the gross sales have exceed 50 million US dollars?

A. Yes.

20 Q. It would be correct to say that those sales would have exceeded 100 million US dollars?

5 A. I am not a hundred percent sure but---

Q. You're not a hundred percent sure whether those sales exceed a hundred million US dollars?

A. No, over the entire period of my employment which I was reviewing the information I don't know.

10 Q. Let me ask you something, if Global Property Alliance owe any obligations to any other entity in respect of the sales which were conducted? Did you have to remit any funds to anybody, net proceeds, something of the sort?

A. For employees.

15 Q. Are you saying that save and except your expenses for employees GPA retained all of the amounts of money generated as a result of the sale of lots within the Sanctuary Belize Development, is that what you're saying?

A. No, GPA would remit the excess to the Developer.

20 Q. Remit the excess to the Developer, but that was what I was asking you?

A. Right.

5 Q. Who was the Developer?

A. Eco Futures Belize Limited.

Q. How were you able to properly ascertain what amounts were to be remitted to the Developer?

A. It was just purely based on the operating agreement.

10 Q. It was purely based on the operating agreement?

A. Of the two (2) parties, correct.

Q. That was the basis from which you had to remit those funds, is that correct?

A. Yes.

15 Q. But how were they to be assured that you were remitting what you were supposed to be remitting under the operating agreement, could you explain that please?

A. How was the developer to be sure?

20 Q. Yes, to be assured, Mr. Kazazi, did you have some accounting system in place to determining the amounts which you collected and that the amounts which were to be remitted, isn't that correct?

5 A. Yes.

Q. You would be able to require to keep and maintain precise financial and accounting records, isn't that correct?

A. Yes.

10 Q. Records which you reviewed in your capacity both as Chief Financial Officer and Chief Operating Officer, isn't that correct?

A. Yes.

Q. And you are not able to say Mr. Kazazi, it is your evidence that you are not able to say whether the amounts are achieved in respect of gross sales exceed a hundred million US dollars?

15 A. Without reviewing the information I cannot give you a certain answer.

Q. Mr. Kazazi, could you tell us or give us an estimate as to the amount of money remitted to the developer Eco Futures Belize Limited?

A. I don't recall these numbers off the top of my head sorry.

Q. I am asking you to give us an estimate?

20 A. Over what time period?

Q. The time you were there?

5 A. It is a very difficult number to estimate, I don't know the number off the top of my head.

Q. You are not able it is your testimony to estimate an approximate the amount of money remitted to the developer Eco Futures Belize Limited at the time you were sitting there intimately involved with the finances
10 of the Company?

A. That's correct.

Q. You're familiar with the Sanctuary Belize Home Owners Association, isn't that correct?

A. Yes.

15 Q. Could you say who founded that Company or who were the subscribers?

A. I don't know.

Q. You don't know who was the subscribers to Sanctuary Belize Home Owners Association?

20 A. No.

5 MR. CAVE: My Lord, I'll ask for the witness to be shown a document, it appears at Tab 25 of the Claimants list.

10 MR. WILLIAMS: My Lord, perhaps I could cut matters to chase for a moment by simply indicating that I don't think my friend could...can't have it both ways, we went through the whole hearsay matter just a while ago but my friend is asking now as I understand it is to put a document which is not in exhibit as least not yet to a witness.

THE COURT: Why can't he do that?

15 MR. WILLIAMS: Because the document is not in evidence.

THE COURT: Can't cross examine on it?

MR. WILLIAMS: You can't show a document to a witness unless the document is in evidence.

THE COURT: I am not sure I know about that rule Mr---

20 MR. WILLIAMS: You can show papers to someone to identify if you want a doc...but in terms of putting a document which is not in evidence, it's not in evidence at least

5 not yet to seek to ask a witness about a document
that is not yet in evidence.

THE COURT: I am not sure I am familiar with the rule Mr---

MR. WILLIAMS: The document would have to be in evidence for one
to be able to cross or examine the witness in relation
10 to the document.

THE COURT: I am not familiar with that rule.

MR. WILLIAMS: My Lord, it is with respect---

THE COURT: If you were saying that it hadn't been disclosed I
mean...that might---

MR. WILLIAMS: No I am not saying it has not been disclosed, none at
15 all, it has been disclosed but disclosure doesn't get it
into the evidence.

THE COURT: This is cross examination you know.

MR. WILLIAMS: So...my point is though it's not to say whether he
20 can't ask a question about a document that's not the
point.

5 THE COURT: But I don't know what he is doing yet, he hasn't ask anything yet.

MR. WILLIAMS: He is seeking to put a document to the witness that's what I understand he is drawing the witness attention to a document which has not been in evidence. A
10 document which has indeed been disclosed and so I am in anticipation indicating he would not be able to really---

THE COURT: You'll have to point me out to that rule Mr. Rodwell Williams I have never...I am not familiar with that.

15 MR. WILLIAMS: Very well My Lord, but that is my position on that.

THE COURT: Unless you show me the rule I might be in a better position to agree with you.

MR. WILLIAMS: My Lord, it's long rule in relation to a very ancient rule in the relation and practice in these courts with regard
20 to matters which are in evidence as distinct from matters which are not in evidence that you can put to a witness.

5 THE COURT: ...has such vintage Mr. Williams, you can just point it out to me.

MR. WILLIAMS: Well certainly My Lord, it's certainly is a rule that receded the CPR, the CPR doesn't specifically deals with the matter, I am not aware of a rule in the CPR which is 2005 but certainly I am aware of the practice has always been not that you can't ask the question and I am not focusing on the asking of the question--

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THE COURT: I don't know what he is going to do with the document as yet.

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MR. WILLIAMS: I don't know myself but I am simply sounding the warning that I don't know what he's going to do about the document---

THE COURT: But let's wait and see what he's going to do---

MR. WILLIAMS: I am simply sounding the warning about seeking to put it to the witness and for the obvious reason if it's not in evidence.

20

5 THE COURT: Let's see what he's going to do. I don't have the document though, I don't seem to have the---

MR. WILLIAMS: It's in the disclosure.

THE COURT: Where is it in the disclosure?

MR. CAVE: At Tab 25 My Lord.

10 MR. WILLIAMS: That's not the disclosure list My Lord, perhaps I could be of better assistance, that's the trial bundle, but it is exhibited to one witness statement in the trial bundle.

15 I am not trying to...the document is disclosed but I am just simply dealing with process and the procedure and it's not in evidence.

THE COURT: As yet. Do you have a copy in the document there?

MR. CAVE: Yes I do My Lord, and I am sure my learned friend---

THE COURT: Where could it be found in the trial bundle?

5 MR. CAVE: It doesn't My Lord, I don't see it in the bundle itself
My Lord, but I think we're completing two (2) copies.
It is the Memorandum of Association.

THE COURT: Of?

MR. CAVE: Of Sanctuary Belize Home Owners Association.

10 THE COURT: If I don't have a copy of it just proceed. Just show it
to Counsel first make sure he...

MR. WILLIAMS: My Lord, let me take you the trial bundle it there just
that...look at Tab 19 it's under Mr. John Usher's. It's
the document just immediately before Tab 20.

15 THE COURT: Amended Articles of Association?

MR. CAVE: Yes My Lord.

MR. WILLIAMS: I think that's what my friend---

THE COURT: In my bundle it's the amended Articles of Association.

MR. WILLIAMS: Yes that's it---

20 THE COURT: That's the amended one.

MR. WILLIAMS: That's what my friend is talking about.

5 MR. CAVE: No.

MR. WILLIAMS: No.

MR. CAVE: My Lord, I just seek permission to show it to the witness, a document---

THE COURT: Yeah.

10 MR. CAVE: In particular the names and addresses and description of subscribers.

(DOCUMENT PASSED TO THE WITNESS)

Q. Now you told us---

15 THE COURT: What's that you got in your hand there? What's that you're looking at? What's that document?

WITNESS: It's Memorandum of Association of Sanctuary Belize Home Owners Association.

Q. The Memorandum and Articles of Association of Sanctuary Belize Home Owners Association, do you see the names, addresses and
20 description of subscribers listed there?

A. Yes.

5 Q. To the end of the document?

A. Yes.

Q. Do you see your name appearing there, Rod Kazazi of Newport Beach, California, USA?

A. Yes.

10 Q. That is you, isn't it?

A. Yes.

Q. And that is your signature?

A. Yes.

15 Q. So you were indeed one of the subscribers of the Sanctuary Belize Home Owners Association, is that correct?

A. Yes.

Q. Do you see Brandi Greenfield listed there?

A. Yes.

Q. That is another person who worked at GPA, isn't that correct?

20 A. Yes.

5 Q. Who is Kathleen Whitlow if you know?

A. Another employee of GPA.

Q. Brent Botes, you familiar with that person?

A. Yes.

Q. Is he also another GPA employee?

10 A. He is a consultant, but yes.

Q. Bill Bannon, you familiar with that person?

A. Yes.

Q. Does that person also employed by GPA?

A. Yes.

15 Q. Luke Chadwick, the address is the same is it?

A. Yes.

Q. Is the address Newport Beach, California, USA meant signifies the address of the Company?

A. Yes.

5 Q. Would you accept that all of the subscribers of Sanctuary Belize Home Owners Association were in fact either work for or were associated with Global Property Alliance Incorporated, every single one?

A. No.

10 Q. No, you're saying that every single one, how many of them were not affiliate or associated or employed with---

A. One was not employed at the time that I was there.

Q. Who is this person?

A. Marc Romeo.

Q. He just recently became employed?

15 A. No.

Q. He was previously employed?

A. I believe so, but I am not a hundred percent sure, it was before I was there.

20 Q. Are you familiar with the existence of a Company called Eco Futures Development Incorporated?

A. Yes.

5 Q. Is that a California Company as well?

A. Not a hundred percent sure.

Q. You're not a hundred percent sure?

A. No.

Q. Do you know who owns that Company?

10 A. No I do not.

Q. Do you know where that Company is registered or incorporated?

A. I am not sure.

Q. You're not sure?

A. No.

15 Q. Are you familiar with the fictitious business name Eco Futures Belize that was registered in California?

A. Yes.

Q. Were you responsible for registering that business name Eco Futures Belize?

20 A. No I don't think so.

5 Q. You don't think so?

A. I don't remember...not sure.

Q. Are you familiar with the fictitious business name Sittee River Wildlife Reserve which was registered in California?

A. Yes.

10 Q. Infact you are the person responsible for registering that name, is that correct?

A. Yes.

15 Q. I asked you earlier about Eco Futures Development Incorporated of California, am I correct and you said you didn't know who owned that company?

A. Yes that's correct.

Q. Are you familiar with Eco Futures Development Incorporated a Company registered in Panama?

A. Yes.

20 Q. You understand that this Company of Eco Futures Development Incorporated which is registered in California and the Company Eco

5 Futures Development Incorporated which is registered in Panama are two separate and distinct entity, isn't that correct?

A. Yes.

Q. Do you know who owns that company?

A. No.

10 Q. You don't know?

A. No I don't.

Q. How did you become familiar with Eco Futures Development Incorporated of California?

15 A. It was one of the entities that pre-dated my arrival but I wondered about it once I started working for the Organization.

Q. It pre-dated your arrival but you learned about it when you started working for the organization?

A. Yes.

20 Q. Well, could you explain the circumstances under which you became aware of it?

A. Gosh I don't recall how I became aware of it at this point.

5 Q. Was there any association or affiliation between the Global Property Alliance Incorporated and Eco Futures Development Incorporated of California?

A. No.

10 Q. Was there any Association or Affiliation between Eco Futures Development Incorporated of California and the Global Property Alliance Incorporated, you don't know of any?

A. No.

Q. You are not familiar with all the Companies in California are you?

A. No.

15 Q. Is there any reason you became familiar with this particular one?

A. It was one that like I said around prior to my arrival so once I got there I learnt about its existence.

Q. Around where, the state of California?

A. No, within the group of organizations that---

20 Q. Within the group of organizations?

A. Yes.

5 Q. What group of organizations are you referring to?

A. Related to Sanctuary Belize.

Q. The Organizations related to Sanctuary Belize?

A. Yes.

Q. You mean the Project Sanctuary Belize?

10 A. Yes.

Q. Could you say in what way Eco Futures Development Incorporated of California was related to Sanctuary Belize Project?

A. I don't know.

Q. You don't know?

15 A. Like I said its existence pre-dated so I don't know what its purpose was when it was being used.

Q. Mr. Kazazi, did you not say a moment ago that you became familiar with the Company Eco Futures Development Incorporated of California because it was one the Company's related to the Sanctuary Belize Project, isn't that what you said?

20

A. Yes.

5 Q. So does that not indicate that you are aware of some relationship between Eco Futures Development Incorporated of California and the Sanctuary Belize Project, isn't that correct?

A. Yes.

Q. Well I am asking you what was the nature of that relationship?

10 A. I don't know, it was not in operation when I began working for the organization.

Q. Do you know what role it played with respect to the Sanctuary Belize Project?

A. I do not.

15 Q. Is there any explanation for why you said it is related to Sanctuary Belize Project? Can you give us an explanation for why you said that it was related to the Sanctuary Belize Project?

A. Because I was told of its existence and the Developer and Sanctuary is Eco Futures Belize and so I assume it's a related party in the US.

20 Q. This Company in Panama and I want you to be very clear that I am asking about the Company with the same name but I am referring now to the Panamanian Company Eco Futures Development Incorporated,

5 do you know what role if any that Company played in the Sanctuary Belize Project?

A. No, I don't.

Q. How did you become aware of its existence?

A. The same as the Eco Futures California Company, I was notified of its
10 existence but I don't know.

Q. By whom?

A. By Peter and---

Q. By Peter Baker?

A. Yes.

15 Q. As far as you are aware Eco Futures Development Incorporated of Panama is a Company with which Peter Baker is affiliated?

A. I don't that.

Q. You don't know that?

A. No.

5 Q. Let me ask you this another way. Does Peter Baker engaged in the habit of mentioning random Companies to you on a random basis?

A. No.

Q. You agree that there must have been some circumstance under which he happen to have mention the name Eco Futures Development Incorporated to you, yes?
10

A. Yes.

Q. And whatever information you were presented were sufficient to allow you to distinguish between Eco Futures Development Incorporated of California and Eco Futures Development Incorporated of Panama, isn't that correct? Didn't you just tell us that these were two separate entities?
15

A. As I was never provide any sought of proof that they are separate entities.

Q. Mr. Kazazi, I ask you a simple question, I am going to repeat it on the understanding that you didn't understand what I was asking, so I am going to ask you again. I am saying that whoever told you about Eco Futures Development Incorporated of Panama gave you sufficient
20

5 information to allow you to understand that Eco Futures Development Incorporated of Panama was a different and separate entity from Eco Futures Development Incorporated of California, is that correct?

A. Yes.

Q. The person who gave you that information was?

10 A. Peter.

Q. Did he also inform you about the California Company by the same name?

A. I don't recall but I believe so yes.

15 Q. But you don't know if there is any affiliation between him and the two Companies he mentioned by the same name?

A. I don't know for certain.

Q. As far as you are aware, was there ever an audit performed in relation to the funds which were remitted from Global Property Alliance to Eco Futures Belize Limited, the Belize Company the Developer?

20 A. You're asking if there was an audit of the Belizean Company?

5 Q. No, no, I didn't ask you that. I am asking you whether as far as you are aware the funds which you said was supposed to be remitted, the net proceeds that were to be remitted to the Belizean Company, the Developer Eco Futures Belize Limited, do you know whether any audit was ever performed in relation to those funds? Let me very clear, the
10 funds which were supposed to be remitted to Eco Futures Belize Limited under the Sales and Marketing Agreement.

A. Sure, can I ask a question?

Q. Yes.

A. Are you asking if which entity was audited for that information?

15 Q. Let me ask you this another way, was GPS ever audited in the time you were there?

A. No.

Q. I take you can't speak to the Eco Futures Belize Limited?

A. No.

20 Q. You are aware there was an audit of accounts and funds spent or supposed home owners due sent to Sanctuary Belize Home Owners Association a Company that you subscribe yourself. Was there a

5 similar audit performed in relation to funds which were sent from Global Property Alliance Incorporated, the Company that you are affiliated and the Development Eco Futures Belize Limited, was there a similar audit performed?

10 A. Are you again asking me if GPA was audited for these funds or are you asking if Eco Futures Belize was audited for these funds?

Q. Well, I am asking whether the accounts were audited. I am asking just as you have indicated earlier, are you aware that specific funds which were remitted to Sanctuary Belize Home Owners Association those specific funds were audited, you are aware of that?

15 A. Right.

Q. But I am asking you if the specific funds which were remitted from Global Property Alliance to the Developer, whether those funds were ever audited?

20 A. That's a difficult question to answer because you audit company right, so I am asking what Company are you asking was audited.

5 Q. You audit companies only, so in relation to the funds which were flowing into the Sanctuary Belize Home Owners Association those were audited, you agree?

A. Yes.

10 Q. Let me ask you something, you can't say how much money was sent by GPA to the Developer, is that your evidence?

A. I said I cannot give an exact number yes.

Q. Well you didn't give us any number. Is there an estimate that you would like to give?

A. No.

15 THE COURT: No, I think he did give, didn't he say over 50 million.

MR. CAVE: 50 million.

THE COURT: That's the number.

MR. CAVE: Forgive me, I think you remember my last question which was in excess of a hundred million, forgive me
20 please.

5 Q. You sign the audit, didn't you for Sanctuary Belize Home Owners Association?

A. I believe so.

Q. You believe so?

A. Yeah.

10 Q. Would you prefer to be shown it to determine whether you are a shareholder.

A. Sure.

THE COURT: Is that a fair question?

15 MR. CAVE: I assume if he sees the signature he may be able to give us a more definitive answer My Lord. I ask him if he sign, he said he wasn't sure.

WITNESS: I said I believe so.

MR. CAVE: Approving the audit on behalf of the Director.

THE COURT: That's slightly different.

20 MR. CAVE: His name appears at the bottom of the report.

5 THE COURT: No, that's the financial statement, the audit statement is a completely different thing.

MR. CAVE: Yes, yes My Lord, the Financial Statement.

Q. You sign the Financial Statement in relation to those dues which were sent to the Auditors to be audited, isn't that correct?

10 A. I believe so.

Q. Who prepared the Financial Statement?

A. I believe it was, I don't remember the PK in Belize.

Q. PKF prepared the Financial Statement?

A. I believe so yes.

15 Q. Are you sure, you mean the same Financial Statement which they later audited?

A. I believe so yes.

MR. CAVE: Those are my questions.

THE COURT: Any re-examination?

20 MR. WILLIAMS: No re-examination.