

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 you said yes, in a strict sense. Kindly explain what
you mean when you say in a strict sense.

A. What letter are we referring to? I am sorry I a
little lost.

Q. The letter from Mr. Herskowitz to the institute
10 of chartered accountant with respect to the audit.

A. Unfortunately I don't remember the context of why
I said that. This PKF is difficult for me because I
was not that involved.

MR. WILLIAMS: I don't know if we can go
15 there. He said he doesn't remember why he said it.

MS. GRINAGE: I have no further questions,
My Lord.

THE COURT: You can step down then.

A. Thank you Your Lordship.

MR. CAVE: My Lord, if I may, we wish at this
20 stage with your leave, My Lord, to call Mr. Thomas
Herskowitz. His evidence appears at tab 35 of the trial
Bundle.

Witness sworn.

25 **EXAMINATION-IN-CHIEF OF MR. THOMAS HERSKOWTIZ**

Q. Sir, could you state your full name for the
record, please?

A. Thomas K Herskowitz.

Q. Could you say whether you gave a witness

5 statement in this matter?

A. Yes, I did.

Q. If you see the witness statement which you said you gave, would you be able to identify it?

A. Yes, would.

10 Q. Could you say by what means?

A. By the signature.

Q. Could you have a look at the document which was handed to you and say whether or not that is the witness statement which you gave in this matter?

15 A. I am looking at the document, it says witness statement of Thomas Herskowitz and I see that it is my signature at the end, item 36 Thomas K Herskowitz, yes.

Q. You wish that witness statement and the exhibits
20 attached to it to form part of your evidence in this matter?

A. Yes, please.

THE COURT: Any objection?

MR. WILLIAMS: Yes, My Lord, I have
25 indicated earlier to my friend and we are objecting on the same grounds in relation to paragraph 16 and the page 1 which is the transcript or purported transcript. So we are objecting to the inclusion or require the deletion of paragraph 16 and TH 1. Paragraph 16 of the

5 witness statement and the purported piece of transcript
at TH1 which is attached to it on the same basis.

MR. CAVE: My Lord, I anticipate that the
Court consistent in relation to the ruling in relation
to the transcript would do the same thing. We do,
10 however, say that the paragraph itself, paragraph 16
ought to be admitted. I believe the objection is in
relation to both the paragraph itself which introduces
the exhibit and the exhibit itself.

THE COURT: The transcript.

15 MR. CAVE: The Court has ruled in relation to
that we understand.

THE COURT: But the other part is he saying
he was present, he saw this? He was present when this
was done?

20 MR. CAVE: My understanding is that he was
but I am just looking to see whether indeed this was
expressly said in the witness statement. I don't see
it expressly said, My Lord, but this can be clarified
by way of amplification. I could be more expansive
25 with respect to what I say to the Court if he steps out
for the moment, My Lord.

THE COURT: As at this time.

MR. CAVE: I concede that it is not
specifically in the statement itself. There is no

5 indication in the statement itself, paragraph 16, that
is.

THE COURT: Is there any basis on which it
can be admitted?

MR. CAVE: My Lord, I would not stand on that
10 basis at this stage, My Lord.

THE COURT: Well at this stage paragraph 16
would be deleted and subject to that the rest of the
witness statement would be admitted as
examination-in-chief.

15 MR. CAVE: Yes, please, My Lord. Is there
any further objection.

THE COURT: I take it that is the only
objection.

MR. CAVE: My Lord, with your leave, My Lord,
20 we wish to amplify with respect to certain aspects of
the witness statement.

Q. You were present during the testimony of Mr. John
Usher?

A. Yes, I was.

25 Q. During the course of that testimony, Mr. Usher
testified that he heard that Mr. Andris Pukke may have
used the Alias Mark Romeo. You recall that testimony?

A. Yes, I do.

Q. Could you say what is your comment or response to

5 his testimony that he may have heard?

MR. WILLIAMS: My Lord, certainly there is no amplification basis from what is left of this witness statement to even go there.

10 THE COURT: Well it is testimony of a previous witness, right.

MR. WILLIAMS: 16 is out. That comment that that witness made he may have heard it here in Court but that comment in so far as that he may have been at a meeting, there is nothing in this witness' statement
15 for amplification purposes. I don't see the --

MR. CAVE: My Lord, I asked this question without any reference whatsoever, independent of any reference to paragraph 16 which I think my learned senior is referring to.

20 THE COURT: Go on.

MR. CAVE: It was simply in relation to his general reaction to what was said.

THE COURT: Just ask the question.

A. Can you repeat the question, please.

25 Q. During the testimony of Mr. John Usher you said that you heard him say that he heard that Mr. Andris Pukke may have used the name Mark Romeo, yes? Could you say what is your comment or response to that testimony, that aspect of the testimony in which he

5 said he may have heard that Andris Pukke had use the
alias Mark Romeo?

A. Yes, actually Mr. John Usher had introduced
Andris Pukke to me as Mark Romeo when I was on the site
back in 2010.

10 THE COURT: What?

A. Mr. John Usher in 2010 I was in Sanctuary Belize
in December he introduced me to Andris Pukke as
Mr. Mark Romeo, his partner.

Q. In the witness statement of Mr. John Usher
15 Mr. Usher indicated that you were fired as an employee
of Sanctuary Belize. You recall that bit of evidence?

A. Yes.

Q. Could you say what is your response to what was
said that you were fired as an employee of Sanctuary
20 Belize?

A. I have never been an employee of Sanctuary Belize
so I could not have been fired by them.

Q. You are also aware that Mr. Usher has given
evidence that you were paid two thousand dollars in
25 respect to your employment at Sanctuary Belize. Could
you say what is your response or your comment on that?

A. My response is that I have never been an employee
of Sittee River Wildlife and I have not received any
money from Sittee River Wildlife.

5 THE COURT: Is that the question you asked?

MR. CAVE: Well I had --

THE COURT: About Sanctuary Belize.

MR. CAVE: Yes, please, My Lord he didn't ask about.

10 MR. CAVE: I think in fairness to the witness, it was really my fault.

THE COURT: No, no, no, you asked a question.

MR. CAVE: Well, what I am saying, My Lord, I am throwing myself on the sword like a good Roman
15 soldier, My Lord, in saying that my question was imprecise. I will ask it again, My Lord.

Q. My specific question to you, Mr. Herskowitz, is in relation to your employment with Sittee River Wildlife Reserve. You heard Mr. Usher testified with
20 respect to your employment in relation to the Sanctuary Belize project by Sittee River Wildlife Reserve. Could you say what is your response to that evidence as it relates to your employment with Sittee River Wildlife Reserve?

25 A. I have never been an employee of Sittee River Wildlife Reserve and I did not receive any money from Sittee River Wildlife Reserve.

Q. Now you have heard testimony in relation to his supposed e-mail which was sent by one Ms. Cathy Ellis?

5 A. Yes.

Q. Did you hear Mr. John Usher's evidence that as it relates to Cathy Ellis that she "does not take a side"?

A. Yes.

Q. Could you say what is your comment or response to
10 that particular aspect of his evidence?

A. Ms. Cathy Ellis is very much a supporter of Mr. Usher and the project at Sanctuary Belize and is at times been vehemently antagonistic towards me.

Q. You say that she has been vehemently antagonistic
15 towards you?

A. Yes, sir.

Q. Could you clarify what you mean by that?

A. The week before the e-mail that I supposedly sent out was sent out I passed her at the beach club in the
20 evening I said good evening and she proceeded to curse me out.

Q. Mr. Usher said that the e-mail which he exhibited to his e-mail is an e-mail which came from you and was sent from you to her. Could you say what is your
25 response to that?

A. That is absolutely incorrect. I never sent her that e-mail.

Q. Could you say what if anything was your response when you became aware of that e-mail?

5 A. When I became aware of it, it was on a Saturday morning, I got a phone call from a friend that said that I needed to go on Facebook and see what was happening because there was an e-mail that was in my name that was being passed around saying that I had
10 sent it. I looked at it and I immediately responded after I had seen the e-mail. I immediately responded saying that that was not an e-mail that I had sent at all.

Q. Now Mr. Usher during the course of his testimony
15 it was suggested to him that the Sanctuary Belize project was delayed or was behind schedule. Do you recall that his response was absolutely not? Could you say what is your response to that aspect of his testimony?

20 A. My response is that the project is very much behind the schedule, yes.

Q. Can you say why you say so?

A. Because prior to 2016 most of the lots did not have water or electricity and even today a large
25 section called north ridge with between 250 and 300 lots --

Q. Could you repeat what you said a moment ago?

A. There is still a large section called north ridge that does not have electricity and most of the lots

5 still do not have water. Also none of the amenities
that had been promised to the owners have not been
completed to date.

Q. One final question, My Lord. Now during the
testimony of Mr. Usher you recall that I asked
10 Mr. Usher specifically about complaints by lot owners
in relation to the project and his testimony was that
only a few persons had complained? Could you say what
is your response to his testimony regarding the
magnitude of complaints from lot owners in respect of
15 the project?

A. There are many lot owners that have complained
about the development, with the speed of development
and the promises made. Those complaints have been
reflected on numerous Facebook pages including the
20 Belize expat page which has no bias one way or the
other in the dispute between homeowners and the current
management.

Q. You said including the Belize Expat page. This
is what kind of page is this an internet page?

25 A. This is a Facebook page on the internet that is
opened to basically expats here in Belize. It has
about 7600 current members on that Facebook page.

Q. Apart from that page which you just referenced,
can you say where if anyplace else complaints or

5 criticisms of the project may have been reflected or published?

A. Yes, there would be a number of other Facebook pages. The Facebook page that I administer called Sanctuary Belize HOA. There is another Facebook page
10 called Sanctuary Belize Homeowners that is administered by Jerry Brown. There have been numerous complaints on that Facebook page. There is also another Facebook page called The Gathering which a number of owners have also expressed concerns about the project itself as
15 well.

MR. CAVE: Thank you please, My Lord. The witness is available for cross-examination.

MR. WILLIAMS: Thank you.

CROSS-EXAMINATION OF MR. HERSKOWITZ BY MR. WILLIAMS

20 Q. Mr. Herskowitz, you were being paid two thousand US dollars per month to attend tours in marketing exercise to potential buyers on this project. That was a job given you?

A. That is not correct, sir.

25 Q. I am suggesting to you that during the period April 2013 to April 2014 you were paid by the Claimants. I am suggesting to you that you were paid by the Claimants by way of sale promotion to prospective purchasers to attend the tours on the

5 property to assist in promoting the sale of lots.

A. By which Claimants all 3 of them are you saying?

Q. By the Claimants, I am saying. All right, let me
phrase it another way since you are splitting hairs.
You were engaged to do that job of going along with
10 tours to assist in answering questions and promoting
the sale in relation to the tours that the Claimants
brought to the property and you were paid two thousand
dollars per month for that service?

MR. CAVE: That is two questions.

15 Q. What do you have to say?

A. Mr. Luke Chadwick did ask me to attend the tours
to be able to answer questions of owners. He asked
both myself and my wife to attend these tours which we
did on a weekly basis, yes, sir.

20 Q. And you received two thousand dollars every month
for that assistance?

A. I would like to be accurate. I received one
thousand dollars and my wife received one thousand
dollars.

25 Q. So you were in effect working for the Claimants
who were conducting the tours, isn't that so?

A. No, I was not working for them.

Q. All right if you choose to say you were not
working for them. Let's move on. You said you never

5 sent her an e-mail, you never sent Cathy Ellis an e-mail or you have never e-mailed her. Is that what you said?

A. No, that was not my testimony, sir. My testimony was I did not send her the e-mail.

10 Q. That particular e-mail?

A. This particular e-mail, yes, sir.

Q. Okay but you had sent her e-mails before?

A. Two years before, possibly.

15 Q. You have sent her e-mails prior to that particular instance?

A. I don't remember specifically sending her any e-mails, no, sir.

Q. You don't remember specifically?

A. That is correct.

20 Q. You do have her e-mail address and you have used it before?

A. That is correct, yes.

25 Q. Now, you were in Court and a document was identified by Mr. Stoesser, the previous witness which I wish to show to you posted on your Thomas Herskowitz Sanctuary Belize Homeowners page. It is identified as

B. Can you have a look at it.

A. Yes, I have it.

Q. And, it was a posting on your site? On your

5 Facebook page?

A. By my Facebook page you mean Sanctuary Belize?

Q. Is that a posting by you?

A. It looks like a posting by me, yes, sir.

Q. It looks like, it is a posting by you?

10 A. It has my name and it says Sanctuary Belize HOA
yes, sir.

Q. My question is, is it a posting by you?

A. It looks like it, yes, sir.

Q. You do not accept it is a posting by you?

15 A. I accept it's a posting by me, sir.

Q. It is difficult to get you to accept things,
right, Mr. Herskowitz?

A. Not at all, sir.

Q. In this posting you said: "In December just
20 before we left the country to spend Christmas with our
daughter the Court issued a permanent injunction saying
that we had access and use of all the amenities at
Sanctuary Belize. That is not a true statement and you
know it?

25 A. I am sorry, what is not true about it?

Q. You did not have a permanent injunction and you
know that very well.

A. I am sorry but as we left for vacation - -

Q. I am saying to you, you know very well you did

5 not have a permanent injunction.

A. I disagree with you, sir.

Q. Now, the lawsuit in which you are referring to, the lawsuit you are referring to is Claim No. 699 of 2006 and it is part of the public record here. It is
10 part of the public record here. I am letting you know that it is part of the public record and I can bring it to put it before you if you insist. Don't smile at me sir, I am not taking this as a joke.

A. I am not taking it as a joke either,
15 Mr. Williams.

Q. Let me give you another opportunity. I suggest to you that you are unworthy of credit upon oath in your dealings with the Court and with SRWR. You are unworthy of credit. I feel oblige to suggest that to
20 you. What do you have to say about that?

A. I don't understand what you mean that I am unworthy of credit.

Q. You are not to be believed because you deceive the Court and you deceive others in your dealings. I
25 am suggesting that to you.

A. That is absolutely not correct.

Q. Mr. Herskowitz, I do have a portion of the public record in the Claim 696 of 2006 brought by Thomas Herskowitz, Patricia Herskowitz against Sittee River

5 Wildlife Reserve and Eco Futures and you sought an
interim injunction, you got an interim injunction, you
did not get a permanent injunction and you know indeed
that you didn't ask for a permanent and what was
ordered by the Court is an interim injunction to hold
10 the train for you to pay your obligations and for SRWR
to allow you access to water, and access to amenities,
isn't that the truth of the matter, sir? Distinct from
you publicizing that you had a permanent injunction for
these things.

15 A. My understanding was that we had a temporary
injunction issued by the Court his Honour Justice Abel
and we had a hearing.

Q. You had a temporary injunction?

A. That was issued prior to this hearing and we had
20 a hearing in December in which you were there as well
and my attorney was there and we were moving.

Q. Let me interrupt you. I will interrupt him. I
am putting this suggestion to you. Isn't it true that
what you posted that you were issued a permanent
25 injunction an untruth and you knew it?

A. No, sir.

Q. My Lord, the usual procedure is for me to get a
certified copy and we do have the LS of it and I would
like with my Lordship's permission to produce it but I

5 am not able to do so until after lunch so I will expect
to be allowed to return to it. My next question, you
know the different between a permanent and a temporary
injunction?

A. I believe so as from the US legal system.

10 Q. You know the difference between a permanent and a
temporary injunction, sir?

A. In the US I do.

Q. Your knowledge doesn't escape you when you are
outside the US and you are in Belize, does it?

15 A. No, sir.

Q. I wish to refer to the same case that is Claim
699 which I referred to earlier brought by you against
Sittee River, you and your wife I dare say. And again
I wish to suggest to you that when you sought your
20 injunction that you deliberately misrepresented the
purchase agreement between vendor and purchaser to the
Court. That you put forward an agreement that was not
signed by the fellow, that was signed by you and your
spouse. Is that true?

25 A. No, sir.

Q. That is an agreement to purchase a lot and to be
admitted to membership of SRWR?

A. Yes, sir.

Q. That agreement that you put forward was not

5 signed by SRWR?

A. It was signed by Brandi Greenfield who was representing the developer, yes, sir.

Q. I am suggesting to you it was not signed by SRWR?

A. It was signed by an agent of SRWR, yes, sir.

10 Q. SRWR didn't sign it what you have to say about that?

A. I have to say that the person who signed it was an agent. My understanding was an agent of Sittee River Wildlife. It was signed by Brandi Greenfield so
15 there was a document presented that had been signed by the --

Q. You say Brandi Greenfield signed?

A. Yes.

Q. And Brandi Greenfield signed as agent of SRWR?

20 A. That is my understanding, yes, sir.

Q. The document said that?

A. The document said that it was signed by Eco Futures Development Inc.

Q. You are also aware that in that same lawsuit SRWR
25 disclosed to the Court the two agreements you signed with SRWR for the sale and purchase of your land and it's fundamentally different from the agreement you put forward. Isn't that true?

A. Could you restate the question, please.

5 Q. Let me restate the question for your benefit. In
the lawsuit 699 of 2006, Mr. Alfonso Bailey of SRWR
actually tendered to the Court and put into evidence an
agreement, I think it is dated 26 March, 2010 which you
and your wife signed and SRWR signed as the vendors for
10 the sale of your lot and your admission to membership
of SRWR. You recall seeing that?

A. Yes, that was one of two agreements that were
signed that were submitted, yes.

Q. You rushed to tell me it was one of two?

15 A. No, sir.

Q. In so far as those two different documents are
concerned, you agree with me that they are two
different documents?

A. They were two different documents, yes, sir.

20 Q. And that the content of those documents in many
significant respects are entirely different?

A. No, I would not agree with that, no, sir.

Q. But you were always aware of the two documents?

A. No, sir, that is not correct.

25 Q. Your signature appears on both documents?

A. No, sir.

Q. You signed both documents?

A. Yes, sir, I did.

Q. I suggest to you that you are personally aware of

5 the document?

A. That was 6 years ago and your question was whether I was aware that at the time that this case started.

10 Q. No, I tell you the question you don't tell me what is my question.

A. Yes, sir.

Q. I am suggesting to you that you were aware of both documents?

A. At what time?

15 Q. You don't ask me questions, sir?

A. I don't understand the question.

Q. Well say you don't understand?

A. I don't understand the question.

20 Q. You at all times was aware of these two documents. At all times?

A. No, sir.

Q. When you made your application to the Court in that case, you were aware of both documents?

A. That is not correct.

25 Q. And you choose to put forward one document and suppress the other and you did that knowingly I am suggesting to you?

A. That is not correct.

MR. CAVE: My Lord, it is almost on the

5 stroke of lunch but I think what I wish to say may
carry us to the appropriate point but I think it is
appropriate to say at this stage that and this is in
relation to the line of questioning and the line of
enquiry because I think it has implications in so far
10 as the proceedings go, My Lord, which are quite
fundamental. I don't wish him to be here when I state
it, My Lord.

THE COURT: You have any problem with the
witness being here?

15 MR. WILLIAMS: No, I have no problem with
him being here.

MR. CAVE: Well, My Lord, this is what I wish
to bring to this Court's attention because what I see
my learned senior doing is threading down what I would
20 humbly submit is a very dangerous path in that he is
seeking to illicit matters relevant to another
proceeding in which this Court was sitting and seeking
to in relation to that proceeding impugn the credit of
this witness in respect to certain matters which arose
25 in that proceeding. Now I don't know if my learned
senior is relying on any conclusion that this Court may
have made in those proceedings and I assume that those
proceedings are still before the Court but it would be
highly improper in my view, My Lord, for this Court to

5 be put in a position in these current proceedings to
make decisions with respect to the credit of a witness
in other proceedings in which the Court is still
involved and in which the Court has not yet rendered
judgment. I think the Court is being placed in a very
10 peculiar position and it is for that reason, My Lord,
that I say that the line of enquiry is improper that in
so far as those matters are concerned, I frankly and I
say this with the greatest of respect consider it a
fishing expedition in a wide expanse of emotion because
15 yes, this witness can be cross-examined on issues
related to his credit but what this witness is being
asked about in my humble view, My Lord, goes far beyond
the limits of what is submitted. This witness is being
asked about representations which he made in respect of
20 another matter in respect of which there has been no
decision rendered. But let's assume that a decision
has been rendered, My Lord, on those very matters with
respect to which my learned senior raises then it
places this Court in a peculiar position of having to
25 decide the matter again having already rendered
judgment in relation to it. So, on either ground, My
Lord, it seems that the Court is being placed in a very
difficult position, My Lord. That is what I wish to
say and place on the record.

5 THE COURT: Mr. Cave, being placed in a difficult position is not unusual to this or any other similar Court. I am not a jury.

MR. CAVE: I was led to believe that in civil proceedings you do occupy that space, My Lord.

10 THE COURT: But I do occupy it in a very different way to a Jury as effected by evidence that a Jury would be. I think you should give the Court a little more credit.

MR. CAVE: I always give the Court my utmost
15 credit, My Lord, and if what I said is an indication that I am not, then I certainly apologize for that. That is not my intent.

THE COURT: This Court is certainly capable of disregarding evidence which might be prejudicial or
20 being able to discern prejudicial effects of evidence and able to put it outside of the Court's mind distinct from a non-professional Jury.

MR. CAVE: I appreciate that the Court is saying that, My Lord, but I think my point was slightly
25 different, My Lord, it was not with respect to any prejudice. My point was not in respect to any prejudice because I am quite conscious--

THE COURT: I think you are trying to curtail the cross-examination in relation to this witness as it

5 relates to his credit.

MR. CAVE: No, My Lord, and perhaps I wasn't very clear and if the Court would allow me I would attempt to clarify what is my position in relation to it. It would seem because I am not and I wasn't a party to those proceedings it would seem in relation to a particular proceedings that there was an injunction application from what I gather that there are certain issues related to what the other side alleged were material non-disclosures and --

15 THE COURT: Mr. Cave, this Court is quite capable of compartmentalizing evidence in relation to one case or another. Give the Court a little bit of credit, please.

MR. CAVE: I will leave it to the Court, My Lord.

MR. WILLIAMS: My Lord I don't know if this is --

THE COURT: Did you have much longer to go on this particular aspect of your case.

25 MR. WILLIAMS: No, My Lord, I am just asking the Court to allow me to reserve putting public documents to him in relation to the question and the line of question.

THE COURT: So this is a convenient moment

5 for you.

MR. WILLIAMS: This is a convenient moment because I need to have access to the documents in order to show it to him.

THE COURT: Are we going to be able to finish
10 today?

MR. WILLIAMS: We resume at 1:30.

THE COURT: Is that alright with you Mr.
Herskowitz.

A. Yes, Your Lordship, whatever you say is okay with
15 me, sir.

THE COURT: Is this the only other witness?
He is the last witness?

MR. WILLIAMS: 1:30 My Lord.

THE COURT: So we resume at 1:30.

20 **Court adjourn at 12:03 p.m.**

Court resume at 1:33 p.m.

Witness sworn.

CROSS-EXAMINATION OF Mr. HERSKOWITZ CONTINUES BY MR.

WILLIAMS

25 Q. Mr. Herskowitz, you said this morning that
Mr. John Usher introduced Andris Pukke to you as Mark
Romeo?

A. Yes, sir.

Q. I want to suggest to you that Mr. Usher at no

5 time introduced Andris Pukke to you as Mark Romeo.

A. No, that is not correct. Mr. Usher did introduce Mark Romeo who I found out later was Andris Pukke.

Q. Let me ask you, you said this morning that you had an arrangement with the person whose name you gave
10 us for you to accompany tours, for you and your wife to accompany tours and you said each of you were paid a thousand dollars per month for that?

A. Yes, sir.

Q. Which person you had an arrangement with?

15 A. It was Mr. Luke Chadwick.

Q. Of which company?

A. I believe he was with GPA - Global Property Alliance.

Q. That is the first named Claimant in this group?

20 A. I am sorry I don't know I thought it was Sittee River Wildlife but whoever it is I am not sure.

Q. Okay that is the third Claimant then?

A. Yes, I thought it was the third Claimant.

Q. I am sorry forgive me, the third Claimant you had
25 that arrangement with?

A. Yes, sir.

Q. And that arrangement went on for about a year?

A. Approximately, yes.

Q. And the relationship turned sour and you were

5 terminated?

A. I was asked not to come to the tours any more,
sir.

Q. Would you say that you were fired?

A. No, I would say that I was asked not to come to
10 the tours anymore because I was never hired.

Q. I am suggesting to you that after that event
where you parted ways where I call it fired and you
said you were asked not to continue in April, 2014 your
attacks against SRWR and this project began to
15 intensify. Would you agree with me?

A. Yes.

Q. And this include your attacks on IOSB website and
on your Facebook page?

A. No.

20 Q. There was no attack in those forums?

A. No.

Q. Now this morning I had brought to your attention
that in the lawsuit 697 of 2016 brought by you and your
wife against Sittee River Eco Futures that you claimed
25 a temporary injunction, an interim injunction by the
application you filed which are on public record and
that you got an initial interim which was extended for
another interim period and you said that is correct or
is that correct?

5 A. My understanding was we went to the preliminary injunction to the permanent injunction. That was my understanding.

Q. That was your understanding?

A. Yes, sir.

10 Q. So then if I were to show you the public record and it were to say that you have an interim or a limited injunction would you agree with me that for you to represent it as a permanent one would be quite misleading?

15 A. No, sir that wasn't my understanding.

Q. I have this suggestion for you. If I were to show you the actual order in this public record, which is clear that you do not have a permanent injunction, that record clearly said what kind of injunction you
20 have. Would you agree with my suggestion that it would be misleading for you to post as you did that you have a permanent injunction, sir?

A. No, sir, I do not agree with you.

Q. You do not agree with me?

25 A. No, I do not.

MR. WILLIAMS: My Lord, I have only a portion of the public record that is filed in the Court here and I would ask your permission if I can show the witness in the first instance. I will show it to my

5 friend. This is the order on the record.

A. Thank you.

Q. Can you have a look at it. Just so that we can
move this briskly along let me show you the application
which is on the public record that you made. Can you
10 look at that too. You see the heading on the
application that you made? Look at the heading.

A. Notice of application for interim injunction
ex-parte.

Q. Okay, thank you. And in the order you notice
15 that it says that your injunction expire on a
particular date subject to it being extended?

A. The order you show me, yes, the one dated 15
December.

THE COURT: That is the one you have there.

20 A. The one I have here, Your Lordship, is the
ex-parte order for a temporary injunction.

Q. That is the order and the other document is the
application you made for a temporary injunction?

A. Yes, sir.

25 Q. And you were successful in getting a temporary
injunction?

A. Yes, sir.

MR. WILLIAMS: My Lord, those are Court
documents, public records, I do not intend to put them

5 in merely to have him identify.

Q. In that same matter you swore an affidavit, this is the application that you made for the interim injunction and you produced to the Court by way of your affidavit a purchase agreement dated 24 March 2010. It is signed by you and your spouse Patricia and you yourself Thomas Herskowitz as the purchasers?

THE COURT: I am not getting any response from the witness.

Q. Yes, My Lord, let me give you the Bundle. You see the Bundle there with the LS stamp of the Court on it?

A. Yes, I see Claim 697.

Q. Okay I have flagged the page where the affidavit appears for your convenience. You see where I put the tab?

A. I am looking for the affidavit.

Q. I am telling you for your convenience I flagged it right there.

A. That is an exhibit. I am looking for my affidavit.

Q. Very well. Do you see your affidavit?

A. Yes.

Q. Could you go to the exhibit to your affidavit now. You see the exhibit?

5 A. Yes.

Q. That is the agreement I have been bringing to your attention?

A. Yes.

10 Q. That is the agreement you advanced to the Court as the agreement between you and the parties joined?

A. The heading says Sittee River Wildlife as the vendor, Eco Futures Development Inc. as the developer and it goes through several pages.

Q. How many pages?

15 A. Four pages. And there is the signature page dated Wednesday March 21 2010 signed by the duly authorized representative of the developer signed by Ms. Brandi Greenfield and signed by the purchaser by Thomas Herskowitz and Patricia Herskowitz.

20 Q. So nobody signed for SRWR right? There is no SRWR signature block or anything on it?

A. The header - - the contract was written.

25 Q. My question to you, sir, my suggestion to you sir, is that there is no SRWR signing block and nobody signed that document for SRWR. That is my simple question.

A. The document is what it is. It is signed by Brandi Greenfield on behalf of the developer, yes, sir that is what the document says.

5 Q. Sir, very well. I am suggesting to you and I do not intend to leave the point, I am suggesting to you that there is no SRWR signature on that agreement?

A. The document says Brandi Greenfield is the signature for the developer, yes, I think it depends on whether or not the developer represents Sittee River
10 Wildlife.

Q. Sir, I will stay right on it. On that document, you are unable to point out to this Court any signature regarding a signature block by SRWR on that document.
15 It does not appear on that document, does it?

A. Only the header, that is correct.

Q. So there is no SRWR signature block or signature on the document?

A. There is no SRWR signature block or signature on
20 the document itself only the header says Sittee River.

Q. I am just trying to get you to admit the obvious but you are being so furid.

A. I don't mean to be. I mean to be accurate as to what the document says.

25 Q. Answer my question.

A. Yes, sir.

Q. And we move along otherwise I will keep putting it to you. Now, sir, that document you produced to the Court has your agreement between yourself and the

5 parties to the agreement, correct?

A. That is correct, yes, sir.

Q. Now, I would put to you another document which is
part of the public record which comprise the
application by Sittee River Wildlife Reserve and
10 affidavit and a different agreement between the parties
in relation to the same transaction. This is the
affidavit and then this is the document. You see that
document?

A. Yes, sir.

15 Q. So the document I am showing you, sir, could I
have your attention?

A. You have my attention, sir.

Q. Thank you.

A. Go ahead.

20 Q. Thank you sir. The document under your
spectacles there on your left hand there, that document
is before the Court in that action, an affidavit put
forward by SRWR and they produce that document. Have a
look at the document, please.

25 THE COURT: What is that document in your
hand there?

A. This is on Sittee River Wildlife stationary.

MR. WILLIAMS: My Lord, perhaps I need to
let him say what is the entire Bundle, the application

5 and the affidavit. Could you open the page. Could you close the document so you could see what the entire document is.

A. It says urgent Notice of Application to discharge and/or vary ex-parte interim injunction CPR 17.4.

10 Q. Just the broad heading I am looking for. And the claim number?

A. The claim number is 697 of 2016.

Q. And the parties?

A. The parties are Thomas Herskowitz and Patricia
15 Herskowitz Claimants and Sittee River Wildlife Reserve First Defendant, Eco Futures second defendant.

Q. Can I ask you to turn the pages to the affidavit of Alfonso Bailey. Just turn the pages. It is tabbed. Actually if you follow the tab not the first tab I
20 think it is about the middle.

A. First affidavit of Alfonso Bailey.

Q. You see that tab?

A. Yes, sir.

Q. And then he exhibits this other agreement the one
25 I brought to your attention earlier if you can go to that tab. The tab where the agreement is. The last one, I believe. The last tab. The penultimate tab, not the last.

A. Okay.

5 Q. What that says?

A. This is on Sittee River Wildlife letterhead. It is a memorandum of sale. It is Sittee River Wildlife not for profit.

10 Q. It is a memorandum of sale between Sittee River Wildlife?

A. Yes.

Q. Your name appears there and your wife's name as purchasers. Just stay on the page. Your name appear there as purchasers?

15 A. It says --

Q. Just if your name appears as purchaser, if not we just move on quickly. Just tell me.

A. Thomas Herskowitz and Patricia Herskowitz purchasers.

20 Q. Okay thank you. Could you go to the last page please, the signature block.

A. Yes.

Q. And could you tell me the date of this agreement?

25 A. The last page says agreed to this 26th day of March, 2010 by purchaser Thomas K Herskowitz and Patricia Herskowitz Sittee River Wildlife Reserve signed by John Usher as Chairman.

Q. So, this second agreement was not produced by you to the Court even though you signed it, right?

5 A. That is correct, yes.

Q. It was produced to the Court by Sittee River?

A. Yes, sir.

Q. Now, do you agree with me, could you tell me how
much page? The last one you said had how many pages,
10 four or five pages?

A. I am sorry the one I just identified.

Q. How many pages this one you just identified has?

A. Six pages.

Q. And 19 paragraphs you would say and six pages?

15 A. The last paragraph is numbered 19 - governing
law.

Q. Okay the other agreement, the first one you put
in, the first one we looked at you say has how many
pages, four pages?

20 A. Four pages, yes.

Q. And how many paragraphs?

A. 14.

Q. Keep both agreements in front of you, please, for
the moment.

25 MR. WILLIAMS: My Lord, just for the
convenience and the handling of those papers perhaps I
could be permitted to simply put the copies that we
have in relation to each agreement so that they are not
mixed up there with the papers since one of them the

5 bundle is loose. I am asking if the Court would permit
me to simply let him have here the two documents that
have been identified so that we can keep those which
belong to the Court together as they have lost their
tether at the corner and I don't know if my learned has
10 any bit what I want to do is to just give the same
document, that one and this one, the same two
documents. See they are the same in terms of the Court
exhibit. Could you close that for a moment and let us
give it back to Ms. Lewis and that bundle could you put
15 that back that Bundle together put the rubber band
around it, please. Thank you. Now, I am giving you
these two documents which I have shown to the Counsel
and they are the two different agreement we are
referring to here. Just make sure you are satisfied
20 that it is the two different agreements. You see the
exhibit stamp on it?

A. Yes, sir. Yes, they appear to be the same?

Q. The same documents, right?

A. Yes, sir.

25 Q. Now, I want to draw your attention to the one
that you gave to the Court.

A. Yes, sir.

Q. And under paragraph 4 it says that you are
purchasing a lot which it identifies and 4B admission

5 to membership of SRWR and then in paragraph 5 it puts purchase price, correct?

A. Yes, sir.

Q. Now I want you to look to the other one that you did not give to the Court.

10 A. Yes, sir.

Q. You notice that that one says that you are buying something else. It has property purchase A, B and then it has C certain Gold slip?

A. Yes, sir.

15 Q. And then I want you to look now to paragraph 6 in the one that you put before the Court.

A. Yes, sir.

Q. And it tells you what is or how you were supposed to pay the purchase price, right?

20 A. Yes.

Q. And I want you now to look at Clause 3 at the other one that you did not give to the Court you look at that?

A. Yes, sir.

25 Q. Would you agree with me that the payment arrangement is totally different between the two agreements?

A. Yes, sir.

Q. Could you also look at the agreement, the one

5 that you did not give to the Court at Clause 7?

A. Yes.

Q. That clause is dealing with title insurance, correct?

A. No, sir.

10 Q. Can you tell me what it is dealing with?

A. Rents and taxes.

Q. No, the one you did not give to the Court I am drawing your attention to?

A. Yes, title insurance.

15 Q. There is no such clause in the agreement that you gave to the Court, correct, having to do with that, absolutely nothing?

A. That is correct.

Q. Look at the agreement at 9 - homeowners association in the document that you did not give to the Court.

A. Homeowners association purchasers shall be members of Sittee River Wildlife. Homeowners Association shall have rights and obligations.

25 Q. Just look at it and recognize what I am saying, thank you. The document you gave to the Court nothing about that?

A. That is correct.

Q. Look at paragraph 10 in relation to the document

5 you did not give to the Court.

A. Yes.

Q. And could you apply your mind and say exactly what that paragraph deals with quickly for me in paragraph 10 in the document that you did not give to
10 the Court?

A. It deals with possession and home development schedule.

Q. And those were development schedule by you, the purchaser?

15 A. It was agreed to between myself and the seller, yes, sir.

Q. But the schedules were for you to develop your home?

A. Yes, sir.

20 Q. Now look at the one you gave to the Court and you agree with me that there is no such provision in the one that you gave to the Court?

A. The one that I gave to the Court possession was the purchaser may enter into possession on the date
25 hereof and that is all it says.

Q. I am suggesting to you that it doesn't deal with anything concerning you building your house over a schedule period, correct?

A. That's correct.

5 Q. Okay let's move on. Then you go to the next clause 11 initial building concept in the document which you did not give to the Court. You see that?

A. Yes, sir.

Q. You see that fairly long provision there?

10 A. Yes.

Q. There is no such provision in the document you gave to the Court, right?

A. That is correct.

15 Q. And perhaps almost there, sir, just bear with me, please, if you go to paragraph 13 in the one that you did not give to the Court?

A. Yes, sir.

Q. And there is a provision there easements?

A. Yes.

20 Q. There is no such provision in the agreement that you gave to the Court, correct?

A. That is correct.

Q. And you go to paragraph 17 of the document that you didn't give to the Court?

25 A. Yes, sir.

Q. Paragraph 17 deals with dispute resolution, right?

A. Yes, sir.

Q. And it provides for arbitration?

5 A. Yes.

Q. Of disputes between the parties? In the document you gave to the Court there is no provision for that?

A. That is correct.

Q. And then finally you look at paragraph 18 you see
10 paragraph 18 in the document that you did not give to
the Court you see paragraph 18?

A. Yes.

Q. The sellers representation and warranties, you see it?

15 A. Yes, I do.

Q. That document you didn't give to the Court, do you see any such representation and warranties of seller in the document you give to the Court?

A. No, I do not.

20 MR. WILLIAMS: My Lord, could the document simply be identified? I don't think I need to.

THE COURT: As a Bundle?

MR. WILLIAMS: Yes, the two different agreements.

25 THE COURT: Documents identified. Any objection?

MR. CAVE: I don't have any objection to it being identified, My Lord.

THE COURT: As C.

5 MR. WILLIAMS: Obligated.

Q. Now, those two agreements there, I took you through the provisions that are alien one to the other. They are substantially different, correct?

A. Yes, sir.

10 Q. And you consciously gave the Court one without saying anything about the other one, correct?

A. I consciously gave them the first one that is dated the 24th yes, sir.

15 Q. And you didn't tell them anything about the one dated the 26?

A. I didn't remember it at that time.

Q. But in fact since you did not remember you could not tell them anything about it if you did not remember?

20 A. That is correct.

Q. I want to suggest to you that you did remember but you didn't want the Court to know about it?

A. I disagree.

25 Q. And I suggest to you, Mr. Herskowitz, in the same vein as I did this morning, that you are not worthy of credit in these things because of that kind of deceptive conduct?

A. There was no deceptive conduct in there.

Q. You just didn't remember?

5 A. I did not remember. It was not part of my file
at the time, yes.

Q. Now, do you think you need to sit down?

A. I am fine, thank you.

10 Q. Sir, so that is the totally you would say of the
agreement that you have to buy your lot from SRWR and
to be admitted to membership of SRWR? That is the
totality of what you signed in terms of agreement for
that purpose?

A. Yes, sir.

15 Q. Do you agree with me that none of those two
agreements you agree to buy any amenities or any rights
in amenities or to own any in none of those two
agreements?

A. I disagree with you.

20 Q. The agreements had provisions in there saying
that you agree to buy amenities?

A. Yes, sir.

Q. It has it in there?

A. Yes, sir.

25 Q. Okay I will have to give it back to you so that
you could point it out to me.

Q. Could you give him the two Cs.

A. Yes, sir.

Q. Let's take your first C the one on the 24?

5 A. Yes, I have that.

Q. Could you point out where you were buying some amenities?

A. Yes, sir.

Q. Tell us?

10 A. Number 4. Property sold part D admission to membership of Sittee River Wildlife Reserve a not for profit company only by guarantee, etc, etc.

Q. What is the amenities you are buying there?

A. The amenities that came along with the membership
15 of Sittee River Wildlife Reserve.

Q. What are these amenities?

A. They included the beach club, they included the island, they included a Marina village with a church and a meeting house, they included a Marina.

20 Q. A gas station?

A. That was part of the Marina village, yes.

Q. A gas station?

A. It wasn't specifically a gas station. There was a Marina village which would have included a gas
25 station, yes, an equestrian center, a spa, yes, sir.

Q. And you can point to these things in here?

A. No, I can point to the things that were represented to me when I bought the property as part of Sittee River Wildlife.

5 Q. I understand you are saying that but I am suggesting to you that you can't point to any of those things that you mentioned in the actual agreement.

A. Only as they were represented for Sittee River Wildlife, yes, sir.

10 Q. I am suggesting to you that you are unable to point to any of those things you mentioned in the four corners of that agreement, sir.

A. That is correct, yes, sir.

15 Q. That is correct, let's move on man, it is not there.

Q. Take the other agreement. Remember there are two, keep them. You are not able to point to any of those things in that other agreement dated March 26 either.

20 A. I would have the same statement that the -- -

Q. Listen to me now, listen to my suggestion now. I don't want to delay you too long up there. You are unable to identify any of those things that you mentioned that you didn't find in the first agreement you can't find them in this one either.

A. That's correct it only states that I am a member of Sittee River Wildlife. They both stated that I am a member of Sittee River Wildlife.

Q. We are not disputing that. We accept that. I am

5 saying you can't find your representations in those agreements that you are buying, right?

A. Yes, sir.

Q. Thank you. Now, I am suggesting to you that your intention was to deliberately mislead the Court in
10 relation to the arrangements you had why you put in only one agreement.

A. That is incorrect.

Q. Now, you have heard earlier in the proceedings and you are aware of the alleged statements that are
15 found on the website that are produced in this lawsuit the various places which relates to the Sanctuary IOSB site, you recall?

A. Yes, we have talked about the IOSB website.

Q. And that we the Claimants are saying that was
20 posted on the website?

A. Yes, sir.

Q. That they are complaining about?

A. I have seen the complaints, yes, sir.

Q. And you are also familiar with the one they said
25 is posted on your Facebook page also?

A. I would like to see which once you are talking about, please, I am not sure which once you are talking about.

Q. Okay they are separated in the complaints, so I

5 thought. Alright I will bring it to your attention
separately in time but I wish to move on quickly. For
the moment I want to bring to your attention - -you
have another claim against SRWR Action No. 3 of 2016.
That is a claim petitioning for a winding up of SRWR?

10 A. Yes, sir, I am one of the Plaintiffs in that,
yes.

Q. And you said in your publicly filed papers that
the intention is to wind it up so that your
organization can take over the assets and really
15 accomplish this project. That is the objective, is it
not?

A. The objective is to have Sittee River Wildlife
dissolved as a non-profit company with the expectation
that IOSB would be able to step in and fulfil the
20 obligations of it, yes, sir.

Q. So the objective of that lawsuit that you have
brought along with others, if I may use these words, I
want to know if you agree with me is to take over the
Sanctuary Belize project from its owner and seek to
25 accomplish it yourselves?

A. I don't agree with your characterization of it, I
am sorry.

Q. You do not agree with my characterization, you
don't want to take it over?

5 A. We want to change the management, yes, sir.

Q. You want to change the management?

A. Yes, sir.

Q. That is all?

A. Yes, sir.

10 Q. And you believe you have to seek to wind up the
company to change management?

A. That was the advice we had from our Counsel, yes,
sir.

15 Q. I am asking about your belief, not your advice,
whether you are of the view it is your belief that if
you change the management you have to wind up the
company?

A. Yes, sir.

20 Q. I see. Okay. You are aware that Mr. Usher who
was the chair has resigned sometime last October
thereabout?

A. I have been told that. I have not seen any
official documents.

Q. You are aware?

25 A. No, sir, I am not.

Q. I am not asking what you have seen or what is
official. You are aware that he quit? You are aware
of that?

A. I have been told that, yes, sir. I have heard it

5 here on the testimony. Mr. Usher testified to it, yes, sir.

Q. We could move along briskly, you know but you are obfuscating, man.

Q. No, I am just trying to answer your questions
10 accurately, sir?

Q. Okay keep trying and I will keep asking them. You are aware that he quit last October?

A. Yes, sir.

Q. Would you attribute that as part of your efforts
15 to change the management?

A. I have no understanding as to why he quit. I have no knowledge of that at all.

Q. So that does not resolve your quest to change the management?

20 A. No, sir.

Q. I am suggesting to you that again you are trying to deceive us. Your quest is not just to change the management, it is to take it over.

A. It is to change the Management with the IOSB,
25 yes, sir. It is to change the management with the IOSB, yes, sir.

Q. If that is how you characterize it. Let me take you to the newsletter that was published on the ISOB website, okay?

5 A. Yes, sir.

MR. WILLIAMS: And My Lord that is the newsletter dated 19 May, 2016 and it may be found in the trial bundle at tab 25. And could you pass him up the witness statement for Mr. John Usher. And in there it
10 can be found at tab O.

Q. And I want to draw your attention to a few paragraphs and I will ask you to quickly read them for yourself because they are already in evidence but I just need to put them to you. You see that newsletter?

15 A. Yes, sir, I do.

Q. That was taken from the website. You are aware that it is on the website of the IOSB?

A. You are talking about the one dated 19 May, 2016.

Q. Yes, sir.

20 A. Yes, sir.

Q. You care to tell us who is the author?

A. No, sir, I cannot.

Q. Aren't you the author of it?

A. No, sir, I am not.

25 Q. You know who is the author?

A. No, sir.

Q. You approved this going to the website, though?

A. As part of the IOSB it was approved, yes.

Q. So this is a publication of the IOSB?

5 A. Yes, sir.

Q. Now if you look at it, it is in columns, right?

A. Yes.

Q. I will ask you quickly if you can look at the first column, the left-hand side.

10 A. Yes.

Q. Where it begins: "And in fact... this is about two-thirds down. "And in fact there are several developers who have taken on very complex development. Go on. You see them?

15 A. Yes, this is what you had read before.

Q. Could you read from there onwards, please?

A. The highlighted part?

Q. Yes, "some of these developers... you see where it begins there?

20 A. "Some of these developers are already expressing interest in finishing Sanctuary Belize. The prospective developers were bid for and paid for the right to develop each community. This approach leverages the developer's capital and gets the
25 development completed to standard in the shortest amount of time. The end result is that Sanctuary Belize is developed, SRWR has the required reserve funds to operate and maintain the community in SRWR "Reserve" and there is still no debt."

5 Q. The next paragraph below if you can for me.

A. The section says: "Developing the Sanctuary Belize vision. It cannot be overstated that the tasks of developing, maintaining, operating and governing the Sittee River Wildlife Reserve (SRWR) are enormously
10 complex undertakings. Once developed SRWR will include the infrastructure to support the Sanctuary Belize community for hundreds of residence, a marina, an airport, a resort, markets, restaurants and numerous amenities for recreation and leisure."

15 Q. If you pause there for a moment, none of those things are mentioned in your purchase agreement, correct?

A. That is correct.

20 Q. Continue to read: "The focus of this newsletter..."

A. "The focus of this newsletter is on the independent owners of Sanctuary Belize IOSB plans for development of the Sanctuary Belize vision. It is not intended to point out why the Sanctuary Belize vision
25 has not already been delivered but to discuss how the IOSB plans on delivering the vision."

Q. So then, the Sanctuary Belize plans and Sanctuary Belize development is not and was never the concept or a project of your ISOB, correct?

5 A. I am sorry, can you rephrase the question. I did not understand what you mean.

Q. The Sanctuary Belize project is not owned by your IOSB?

A. No, it is not owned by the --

10 Q. Who owns what, I am sorry.

Q. Independent Owners of Sanctuary Belize (IOSB) are not the owners of the project?

A. No, it is not the owners of the project.

Q. It has no rights or interests in this project?

15 A. The IOSB?

Q. Yes.

A. That is correct, it does not.

Q. If I were to label this newsletter as a manifesto by the IOSB to take over a project which they had no interest in or right to, would you agree with me that that would be an accurate description, a manifesto to take it over?

A. No, sir I would not agree with your characterization, no.

25 Q. Could you read the last paragraph on page 1, the right column?

A. "The Board of Directors has dedicated hundreds of hours of their time towards uncovering facts including for SB owners and planning to quickly and efficiently

5 produce the Sanctuary Belize vision."

Q. How were you proposing to achieve the vision? I suggest to you that by taking it over as your own project.

A. No, this was the--

10 Q. I am suggesting to you that the method that you all were proposing to achieve this vision was to take over a project that didn't belong to you?

A. No, I disagree.

15 Q. Very well, let's move on. Let's go to the next page.

A. Yes. "The IOSB Board does not seek or receive any form of compensation..."

Q. Read the next paragraph.

20 A. "Until we are able to gain a more complete accounting of SRWR assets and liabilities we cannot be sure of our starting point; however, it is reasonable to believe that SRWR should stay being total to our demands that have not been sold as individual lots and made significant income from payments being made on
25 lots that should have been told. I have been told that the notes held by SRWR could be as much as 120 million dollars with monthly cash flow from the notes of a million dollars."

Q. So, what you were expressing there, if I may

5 suggest to you, is the idea that SRWR may have from what somebody has told somebody a tremendous, as much as 120 million in receivables based on commitments to buy and paying for the lands over time by hundreds of people, correct?

10 A. Yes, sir

Q. So the expectation there is that there is great underlying value to SRWR, correct?

A. Yes, sir.

Q. And the underlying value to take control of it
15 would be particularly unique for the association because SRWR was a not for profit, right?

A. As is IOSB.

Q. SRWR is a not for profit?

A. That is correct, yes, sir.

20 Q. I am suggesting to you, so it was particularly attractive, if that was the view of the IOSB, that there was 120 million dollars in receivables to motivate a takeover of this not for profit. You understand my suggestion?

25 A. I would disagree. I am not sure I understand your suggestion.

Q. Let me try to put it to you. Since the statement you expressed there is that this SRWR which is a not for profit, the projection was that there may be as

5 much as, SRWR could be as much as 120 million, that is
in relation to outstanding notes to it receivables,
okay?

A. Yes, sir.

Q. With a monthly cash flow worth of one million.
10 That is what the statement is saying.

A. Yes, sir.

Q. My suggestion to you, that was a very attractive
and motivating state of affairs why you and your
association wants to take it over. Do you agree with
15 me or you don't agree with me?

A. I don't agree with you.

Q. Let's move on because you can't ask me questions
you are up there and I am down here, okay? Now the
next paragraph reads as follows: "The IOSB...

20 A. The next section is called overview. "IOSB plan
is to use the SRWR assets to complete the Sanctuary
Belize vision and establish a self-sustaining community
free of debt with all Sanctuary Belize lot owners as
equal and undivided co-owners."

25 Q. Pause for me please.

A. Yes, sir.

Q. Go to the following column across the page the
first sentence only, please.

A. "The IOSB will publish the development

5 requirements and a request for proposal (RFP) to solicit proposals from interested developers."

Q. Pause. So this is the aspiration of the IOSB again, I suggest to you, to take over this project and get its own developers, isn't that true?

10 A. What you mean its own developers.

Q. To take over the project from those who have control of the development for the project at this stage and to hire IOSB developers to develop the project instead. Isn't that the intention expressed
15 here, sir?

A. No, sir.

Q. It's not?

A. No.

Q. The next paragraph reads?

20 A. "The IOSB will conduct due diligence on each potential developer by analysing their past experience, financial status, management team, ability to maintain schedule, local knowledge, experience and similar developments which they have completed."

25 Q. Pause for me please and just go to that last paragraph on that page, the first line.

A. "IOSB will manage the overall development, evaluate progress of the developers and coordinate activities between developers, maintenance and

5 operations."

Q. And then you go to the following page, and the first column, the middle of the column there where it says: "We may find interested and capable development...

10 A. "We may find interested and capable developers with the knowledge, experience and capability to complete the entire Sanctuary Belize vision but we may also find that it would be most advantageous to ask the owners of the community to engage individual developers
15 to one or more of the unique areas."

Q. Isn't that a statement effectively expressing the intention to take over this project and get your own developers in? Do you agree with me?

A. You say your own. I don't know what you mean
20 when you say your own developers. That is my confusion.

Q. Let me tell you what I mean then. Isn't it a statement by the ISOB to take over the Sanctuary Belize project, kick out the owners and developers and in its
25 own claimed right pursue this development as it sees fit?

A. Am sorry, repeat the question please.

Q. It is not a question it is a suggestion to you. I want to know if you agree with my suggestion that these

5 statements that I have you reading here taken from the
newsletter that was published on the website it is a
manifesto to take over Sanctuary Belize project for
ISOB to take it over, kick out those in control or in
charge of it and for them to bring in their own
10 developers, their own management to do the development.
I am making a suggestion to you.

A. I disagree.

Q. Now I want to show you the e-mail, Cathy Ellis.
Go to tab B. It is in John Usher's. Thank you sir, I
15 appreciate your help. Okay you have that e-mail?

A. Yes, sir, I do.

Q. First of all you deny that you sent this e-mail,
correct? You have denied you sent the e-mail to
Ms. Cathy?

20 A. Yes, sir.

Q. I would like you to read the e-mail and then I
will ask you read it to yourself?

MR. CAVE: If he is going to read it into the
record then I will have an objection.

25 Q. Just read that e-mail to yourself.

A. Yes, sir.

Q. I want to ask you some questions, you see. I
want to take you to the second paragraph. I won't go
there because I see my name. Let's go to the third

5 paragraph, sir. In that e-mail it is said that:

"Regardless of the legal team SRWR hired, the Ushers aren't anywhere nearly qualified enough to see this project in completion."

MR. CAVE: My Lord, I don't think my objection
10 was understood. I did indicate that in relation
because we are delving it seems into the content of
this e-mail and as far as I understood what Your
Lordship said before that in relation to the
admissibility that that is an issue which maybe decided
15 at some point later on. It wasn't at least in so far
as I am aware decided. So in relation thereto having
regard to what Your Lordship said, I am not sure why is
it that we are delving into the content of a document
that is not in evidence at least not at this stage.

20 THE COURT: Is it your intention to have this
admitted into evidence?

MR. WILLIAMS: My Lord, I don't see how I
can submit it. He has rejected it as being his
authorship of the e-mail. So it was not my intention
25 to put it into evidence. It was my intention and that
has been the position to have it identified having
looked at it having read it and put questions in
relation to the e-mails to him. And one question I
have to put to him is a suggestion, a primary

5 suggestion put to him and the suggestion is this, if I
may My Lord.

THE COURT: I am not sure I understand the
objection.

MR. CAVE: I will clarify my position, My
10 Lord. As far as I understand it and the Court could
correct me of course, is that this matter was simply
identified. This document that we are referring to was
simply identified. It was never admitted into
evidence. Your Lordship will recall that at the time
15 when an attempt was made to tender this document that
we made certain legal submissions in respect of it.

THE COURT: Are you saying that he can't
cross-examine on it without it being admitted into
evidence.

20 MR. CAVE: We say that he can't elicit the
contents of that document because it is not in
evidence. That is what we say, My Lord. He can
cross-examine --

THE COURT: Aren't they two separate things,
25 the document and the contents of the documents?

MR. CAVE: Well, My Lord, if indeed the
document- - and let me say for example, My Lord, let's
look at a similar situation that this Court has dealt
with. To say to us that we can't admit the transcript,

5 would the Court then have permitted us to then put to
the witness specific aspects of that transcript and ask
the witness to address it or to read it or to elicit
evidence in relation to the transcript?

THE COURT: I did admit the contents in so
10 far as the person was able to verify that in their
witness statements that certain things were said on an
occasion that supposedly gave rise to the transcript.

MR. CAVE: No, My Lord, and I respectfully
say that that is not an admission of the transcript.
15 That is an admission of the witness' statement with
respect to his direct knowledge as to what transpired.
He is not referring to the transcript. He is referring
to what transpired that he saw, not the transcript
itself.

20 THE COURT: Exactly.

MR. CAVE: Now this is a different situation
entire. This is a witness who has said I never wrote
that e-mail, I never produced it, this has nothing to
do with me, I never sent it, no witness has testified
25 in this Court that he has sent it to them. What we
have is a witness who testified in relation to another
person forwarding this e-mail to them.

THE COURT: So you are saying that the
document can't be used for purposes of

5 cross-examination?

MR. CAVE: I am saying that the specific aspects or contents of that document that is not in evidence cannot or ought not to be used or cross-examined upon.

10 THE COURT: What is your authority for that?

MR. CAVE: My Lord, it is simply if the document is not in evidence and as far as I am aware that our objection has been that the document itself and the contents of that document is inadmissible. To
15 say, My Lord, that the e-mail is inadmissible is not to say that the piece of paper is inadmissible. It is a specific reference to the contents of what is contained in the document. That is the gist of the objection, My Lord. And we say --

20 THE COURT: With the greatest respect, I think you are-- how can I say this politely? I think you are confusing a number of things there. You can use a document without admitting it into evidence for the purposes of cross-examination. For instance it is
25 frequently done that you can ask a witness have a read of that document. Having read that document, are you still saying such and such and such and such without putting the document in.

MR. CAVE: That is what we are saying, My

5 Lord.

THE COURT: You can't do that?

MR. CAVE: I am saying that to the extent
that the contents of the document is inadmissible that
the contents of the document is inadmissible and for
10 Counsel to go through the back door and to put to this
witness the content --

THE COURT: What is your authority for that?

MR. CAVE: My Lord, the extent of my
submission I have made, My Lord.

15 THE COURT: I am asking you for your
authority for that submission.

MR. CAVE: Well, My Lord, the submission I
made was premised upon the inadmissibility of a
document based on the submissions I made in relation to
20 the Electronic Evidence Act. We say having regard to
the fact that the document is not in evidence that the
natural consequence of that would mean that Counsel
ought not to elicit specific portions of that document
through this witness. That is simply what we are
25 saying, My Lord.

THE COURT: Well unless you give me some
authority I am not --

MR. CAVE: The Court is entirely entitled to
disagree with me, My Lord, but those are my

5 submissions.

THE COURT: I beg your pardon?

THE COURT: The Court disagreeing with you?
I think you have got it the wrong way.

MR. CAVE: My Lord, what I mean to say is
10 that the Court may reject my submission, My Lord, and
disagree with the content of those submissions. I
fully understand that.

MR. WILLIAMS: I am happy that my friend
quickly appreciate the level at which we sit.

15 THE COURT: I think you got this back to
front a little there. It is not for this Court to
agree or to disagree with you.

MR. CAVE: I simply meant to say that the
Court may accept or reject whatever submissions I take.

20 THE COURT: That is a less contentious way of
putting it.

MR. CAVE: I frankly, My Lord, to be frank, I
didn't appreciate the difference between the two but I
understand. My intention was not to offend. But in
25 any event those are our submissions.

THE COURT: Well look, I am not going to stop
Mr. - - look, this is a defamation case and there has
got to be quite a serious latitude in cross-examination
both ways. I mean I would not curtail your

5 cross-examination of anybody and I would not be
significantly curtailing Mr. Williams unless you can
produce some authority in support of your submissions.
But on basic principles as I understand them you can
certainly cross-examine on a document that is not
10 admitted into evidence and it is done not only
frequently, I mean it is commonplace. Alright
Mr. Williams.

MR. CAVE: Much obliged, My Lord.

MR. WILLIAMS: Much obliged, My Lord. I
15 will just divert your attention and I will return to
that matter but the agreement dated 26 March 2010, the
purchase sale agreement that you did not give to the
Court that we talked about earlier, I am suggesting to
you that you principally prepared that document.

20 A. I don't remember.

Q. You personally prepared it, the agreement dated
26 March, 2010?

A. I could have, yes.

Q. The one that you did not give the Court.

25 A. I may have, yes. I don't remember, yes.

Q. I am suggesting to you, you prepared that
document.

A. I reject that.

Q. Which is it, you reject, you don't remember, you

5 may have?

A. I don't remember. You said I did. I said I don't remember.

Q. So your final position about that is that you don't remember preparing that document?

10 A. I am the author of the document, that is correct, yes, sir.

Q. Isn't it true that you drafted that document so as to put those same provisions that does not appear in the agreement that you gave to the Court, to provide
15 for you to do certain things like the time over which you will develop your lot and so on and you put in those provisions, you put in arbitration provision and all that, isn't that so?

A. Into that document?

20 Q. Yes.

A. I don't remember, sir.

Q. You don't remember absolutely?

A. In putting it into the document, no I remember discussing it but I don't remember that I wrote the
25 document, yes, sir.

Q. You remember discussing the document with whom, with John Usher?

A. That I don't remember.

Q. You don't remember?

5 A. No, sir.

Q. I am suggesting to you that you are deliberately being unhelpful?

A. I deny that. I am not trying to be unhelpful at all. I am trying to recall if I talked to this John
10 Usher about that or Luke Chadwick or Bill Bannon or somebody else, I don't remember.

Q. I am not talking about talking. I am talking about my suggestion that you prepared that agreement yourself?

15 A. And I am saying I don't remember, yes, sir.

Q. You don't remember?

A. Yes, sir.

Q. If I can return back to the Cathy Ellis e-mail. I have asked you to read it for yourself. Having read
20 that e-mail, an invitation is expressed in it to take over Sanctuary Belize with a view to have all the members of the IOSB come together, take it over and share in the assets of the Sanctuary Belize project. Isn't that e-mail consistent with what you have in the
25 newsletter.

A. Absolutely not. It is nowhere close.

Q. You read the e-mail?

A. Yes.

Q. I asked you to read it, you know?

5 A. Yes.

Q. And you are sure you read it?

A. Yes.

Q. And I am suggesting to you that if you - - I want you to be as truthful and as accurate as you can.

10 Having read that e-mail doesn't it contain the same strategy we see, the manifesto to take over Sanctuary Belize and run it and share the proceeds among the members of this IOSB?

A. That is not correct.

15 Q. That is not correct?

A. That is absolutely not correct.

Q. That is not what the purport of that e-mail is proposing?

A. I thought you asked if that coordinated with what
20 the goals of IOSB was what. What is in here is absolutely not clear.

Q. What you understand to be in here?

A. There is a section that says once the project--

Q. Read it to yourself and explain to the Court what
25 you understand to be in there. You have read the whole thing?

A. I have read the section.

Q. Are you sure you have read the whole e-mail?

A. You want me to read the whole e-mail again?

5 Q. To yourself. I have been asking you to do that and you perfunctory ignore me. Please read the whole e-mail.

Q. Now having read the e-mail in full, I take it?

A. Yes, sir.

10 Q. My suggestion to you is that it involves the same strategy in the newsletter proposing the take over of the Sanctuary Belize project which is believed to have over a million dollars in receivables and for the IOSB to put itself in control of those assets and those
15 receivables and carry out the project for itself and to share among its members the gains of that exercise. I am suggesting to you it is the same thing what is in the different words but to the same effect.

A. No, it is not to the same effect, even.

20 Q. Not to the same effect?

A. Absolutely not.

Q. The e-mail do address the same issues in the newsletter expressing the vast receivables over a hundred million that SRWR is believed to have?

25 A. The e-mail does mention that, yes.

Q. And it does mention the IOSB taking control of the project?

A. Yes.

Q. Which is the same thing mentioned in the

5 newsletter?

A. Yes.

Q. And that if there was a success in taking over the project that there would still be a minimum of 80 million dollars in receivables to come to the IOSB.

10 Isn't that the same thing mentioned in your --

A. That is not what this e-mail says.

Q. Yes, that e-mail says that?

A. No, it does not.

Q. And I am pointing it out to you. I thought you
15 said you read the e-mail?

A. I read the e-mail, yes.

Q. And that is what the e-mail says?

A. No, it does not say that. You said that the 80 million dollars -- I am sorry, what did you say again?

20 Q. Let's leave it alone sir. It is right there.
The e-mail does say that.

A. It does not say what you said, no, sir.

Q. The e-mail said there will be a minimum of 80 million dollars remaining based on my calculations
25 after the takeover. The e-mail said that?

A. The e-mail said that, yes.

Q. And your manifesto the newsletter also address the same point and makes the same point I am suggesting to you?

5 A. What the e-mail says is that the 80 million dollars will go to the IOSB board and be distributed among the board including Cathy Ellis and that has never been said except in this e-mail.

Q. I didn't say that to you, sir.

10 A. You asked if it was the same as what you call a manifesto and I call a blueprint and it is not the same.

Q. I am saying that the same agenda in the manifesto, what you call the blueprint, to take over, 15 kick out the owners and the developers and the operators and the IOSB take over the whole project to do it themselves, that is the same agenda expressed in this e-mail, I am suggesting to you.

A. The suggestion is that the IOSB if it wins the 20 lawsuit, if the Plaintiffs win the lawsuit we would take over the management, that is correct.

Q. That is the same agenda expressed in this e-mail?

A. Taking over the management of Sittee River, yes, sir.

25 Q. Thank you. Can I take you, sir, very quickly to the amended articles of SRWR which may be found - - you have Mr. - - it is at tab 1 somewhere near in A. Tab 1 of that witness statement. Tab 1, the first Tab, somewhere in that Bundle there. In the trial Bundle it

5 is right here. It is Tab 14, My Lord, but it is the
second document. Tab 14 in the trial Bundle and it is
the second document. It comprises a memorandum and an
article so it is the amended articles, Tab 14. It is
somewhere after the memorandum of association and then
10 the articles. So it's about eight pages back.

THE COURT: What is the document?

MR. WILLIAMS: The document is called the
amended articles of association of Sittee River
Wildlife Reserve and it is at Tab 14. The certificate
15 comes then the Memorandum and then after the Memorandum
is the Amended Articles. So it is about maybe 10
pages, My Lord. If you go to tab 15 and then come
forward a few pages that is the Articles. It is at Tab
14 but if you go to tab 15 and then go forward from Tab
20 15 it is the last document under 14. The first before
you get to tab 15.

Q. These amended articles of association by now you
are quite familiar with them right?

A. I am sorry, I am lost. I was on a different tab.

25 Q. So we go to Tab A. It is the document just
before Tab B. Go to tab B and then go forward and it
is the document immediately before Tab B, that portion
of it. Go to tab B.

A. I am looking at it.

5 Q. And then you move forward and then I will come to
it. Do you see it?

A. Amended by special resolution on 31 December,
2007 and confirmed on 25 January. Is that the document
you are talking about? It says amended articles of
10 association Sittee River Wildlife.

Q. Thank you. Now, you are generally familiar with
these articles. You are generally familiar with them?

A. Yes, sir.

Q. So I will take you straight to my point on page 4
15 Article 25.

A. Yes, sir.

Q. 25, 26, 27, 28, 29, 30 those sets of articles?

A. Yes, sir.

Q. 25 tells you that there are 12 Directors, 10
20 appointed by full members and two by provisional
members, that is correct?

A. Nominated and appointed in a general meeting,
yes, sir.

Q. 26 tells you that a Director need not be a member
25 of the corporation?

A. Yes, sir.

Q. 27 tells you that the quorum for transaction of
business of Directors maybe fixed by the Directors and
unless so fixed it shall be five comprising not less

5 than four Directors nominated and appointed by full
members and one nominated and appointed by provisional
members, correct?

A. Yes, sir.

10 Q. And 30 the full members and provisional members
may appoint a person who is willing to act to be a
Director either to fill a casual vacancy arising among
their members or to be nominated and appointed by each
of them. To fill a vacancy, you see that?

A. Yes, sir, number 30, yes.

15 Q. Now you have indicated to this Court that at one
point I think you said that the Directors of the
company of SRWR was not quorried, that they had less
than the number of Directors that they should have. In
other words the quorum here is five, you agree, that
20 the quorum is 5 and that is article 27?

A. Yes, sir.

Q. And my suggestion to you is that there was never
an instance when there were less than five Directors of
SRWR. My suggestion to you is that there was never an
25 instance where there was less than 5 SRWR Directors.

MR. CAVE: Can we clarify whether this was
Directors generally or Directors at a board meeting? I
am not sure which is it.

Q. I am suggesting to you that there was never an

5 instance with SRWR having less than five Directors.

Can you respond to my suggestion?

A. Yes.

Q. You agree with my suggestion?

A. That there were never fewer than five Directors?

10 Q. Yes, sir.

A. Yes, sir.

Q. Thank you. Now you have also -- let me take you
to a document that is the deed of encumbrance and the
restrictive covenant, easement and condition, and that
15 is to be found in that witness statement of Mr. --

MR. WILLIAMS: My Lord, it is at tab 20 in the
trial Bundle and it is John Usher's witness statement
which you have. It is at --

A. You are talking about Tab F the restrictive
20 covenants, conditions and easements...

Q. Tab F correct?

A. Yes.

Q. Which document is between Sittee River Wildlife
Reserve, Eco Futures Belize Limited and Sanctuary
25 Belize Property Owners Association, correct.

A. You are looking at page 4?

Q. Yes, sir. I am just trying to move you quickly.
You have identified the document?

A. Yes, sir.

5 Q. It is between those parties?

A. Yes, sir.

Q. It is dated 3 March, 2016?

A. Yes, sir.

Q. You are familiar with it, sir?

10 A. Yes, sir.

Q. You are familiar with it, sir?

A. Yes, sir.

Q. And you are aware that this document is registered against the title of Sittee River Wildlife Reserve?

A. I have been told that, yes, sir.

Q. You are aware?

A. I am aware. I have not seen the recording but I have been told that it has been.

20 Q. It is registered.

A. Thank you, sir.

Q. I want you to have a look at page 24 of this document.

A. Yes, sir.

25 Q. You agree with me that this document purports to describe the restrictive covenant conditions and easement over the entire 14 thousand acres that comprise Sanctuary Belize. Do you agree with me?

A. No, I do not.

5 Q. Turn to page 24 marked annex.

A. Yes.

Q. And I want you to take a look at the descriptions of the property which is provided there.

A. Yes.

10 Q. And I want you to look at the various plans that follow immediately after the description. Look at the plan, the diagrams, you see a registered survey plan, correct?

A. Yes, sir.

15 Q. You understand those plans to be registered survey plans?

A. They appear to be.

Q. The last one being an island, correct?

A. The last plan before the sign page it is an
20 islands.

A. North Long Coco Caye, yes.

Q. That is an island that you understand to be part of the Sanctuary Belize overall project?

A. I understand it to be what was called Sanctuary
25 Belize Caye, yes.

Q. You understand it by a different name?

A. Yes.

Q. Now go back to the description. And if you look at the bottom of the description that is the reference

5 to the island?

A. Yes.

Q. Is that agreed?

A. Yes.

Q. And then if you look at the other three portions
10 of the description they are in separate parts, the
first part refers to 7,327, the second part does not
give specific acreage, the third part does give and
with reference to a plan. I am suggesting to you that
these four descriptions comprise the entire 14 thousand
15 acres which is the refuted acreage in the entire
Sanctuary Belize. I am suggesting that to you. Do you
agree with my suggestion that there is nothing missing
from this description that the covenants are registered
against. Do you understand my suggestion?

20 A. No, I don't, I am sorry.

Q. Let's begin again. The first suggestion is that
this description and the supporting plan covers the
entire approximate 14 thousand acres of Sanctuary
Belize inclusive of the offshore island.

25 A. Yes.

Q. You understand that suggestion?

A. That is what this description totals about 14
thousand acres, yes, sir

Q. You accept that suggestion?

5 A. It is a description of the 14 thousand acres that is correct. That was what you had asked, yes.

Q. And also my next suggestion to you is that the covenants here in this Deed called a Declaration of Restrictive Covenants, Conditions and Easements, this
10 Deed relates to that entire land described in the schedule. It is not dealing with part of it, it is dealing with the entire land. This Deed here is addressing the entire land as described, it doesn't take out anything out of it.

15 A. I disagree.

Q. You disagree?

A. Yes, sir.

Q. I thought you said you read the Deed. I won't burden you. I won't ask you to read it now.

20 A. I am familiar with the RCC and E.

Q. I am suggesting to you that this Deed, I call it a Deed and forgive me. Well don't forgive me, I call it a Deed. This document the R, C, C and Es as you say, is addressing the entire approximately 14 thousand
25 acres.

A. I disagree.

Q. You disagree?

A. Yes, sir.

Q. Does it leave out any piece that you could

5 identify?

A. Yes. My property is not covered by these R,C, C and Es.

Q. Well we could deal with that right now. Unfortunately I said your property is not covered.

10 A. Yes, sir.

Q. Now you see, I keep - -well I don't think I persist enough but earlier on I am suggesting that you are not worthy of credit because you deliberately try to deceive. I suggested that to you quite gently so
15 that --

A. I very strongly disagree with you.

Q. You understand what I am saying now that you are not worthy of credit because you try to deceive when you are asked a question or the suggestion is put to
20 you when you know better?

A. No, sir, I totally disagree with you.

Q. Let me then deal with this issue that you raised. You raised it. You are telling me that your lot which you bought from SRWR is not within this description
25 that I pointed to you? It is not within there? Sir, let me, to be fair to you, this describes the entire 14 thousand acres of the Sanctuary Belize project. You purchased one lot out of it, correct?

A. Yes.

5 Q. You purchased a lot out of this 14 thousand
acres?

A. Yes, sir.

Q. Logically it is subsumed within that 14 thousand
acres in terms of your land that you physically have on
10 the ground it is within this four corners?

A. It appears to be, yes.

Q. It appears to be in there?

A. Yes, sir.

Q. But we can't see it, right?

15 A. Yes, sir.

Q. So you agree with me that these covenants, this
whole series of pages here relates to the entire 14
thousand acres and your lot and everybody else's lot is
part of the description of the land that appears in
20 here?

A. My understanding of real estate is --

Q. Let me suggest to you man, I am not asking you
about your understanding of real estate. I am making a
suggestion to you that every person who purchased land
25 from SRWR whether they got a title, whether they get an
agreement, the land that they purchased even if they
are not titled to the land but the land that they
purchased physically is part of this 14 thousand acres
of the development called Sanctuary Belize. It is a

5 little piece of the dream that you are trying to
reclaim. It is in there.

A. I disagree.

Q. You disagree with me?

A. Yes, sir.

10 Q. Very well.

Q. You do agree with me that the description in the
Deed of Covenants is the title description for the
entire 14,000 acres, though?

A. It appears to be, yes.

15 Q. You would also agree with me that your lot is
part of the 14,000 acres that constitute Sanctuary
Belize? Your lot is a part of the land. You do agree
with me?

A. My lot belongs to me.

20 Q. Sir, I am not concerned about the ownership of
your land. And I am putting it to you that it is not
in your name. Your lot is not in your name.

A. Yes, it is in the company that I own name.

Q. Sorry, I keep pointing to you your deception.

25 You see how elementary it is? I asked you a simple
question and you dance around. Let me and this is not
a joking matter, sir, I am just trying to get the job
done and be fair to you. I am not trying to deceive
you when I ask you a question. I make simple

5 suggestions. Let me try once more so that we can move quickly along.

A. Yes.

Q. You would agree with me that if you accept that the description here constitutes the entire Sanctuary
10 Belize land that is including the island, that the land you claim to own is somewhere within that 14,000 acres?

A. The land I claim to own is within Sanctuary Belize, yes, sir.

Q. That is all I have been trying to elicit from
15 you, sir.

Q. Now, sir, you see these R, C, C and Es in this deed?

A. Yes, sir.

Q. Do you agree with me that they claim to be
20 dealing with the entire 14,000 acres that comprise Sanctuary Belize why the entire description is in there, that is what the Deed is claiming?

A. That the Deed is claiming?

Q. Yes.

25 A. Yes.

Q. One final question on the Deed. The R, C C and Es, o you recall having a personal substantial input into the development of these R, C C and Es in that Deed? You recall?

5 A. No, I did not have any personal involvement in the drafting of these R, C, C and Es.

Q. Are you sure?

A. Yes. I never saw them until after they were recorded.

10 Q. I am asking you if you recall at some point in time you personally being involved in the drafting of these R, C, C and Es. Look at them. Look at the first page. Look at our mission statement. Sounds familiar to you? Isn't that something you put there?

15 A. I did not put it in this document, sir.

Q. In your earlier museum, you had to do a great deal with drafting this document. You are reluctant to admit that? Did you or did you not?

A. I did not.

20 Q. Are you unable to recognize your contributions in here to this document?

A. No, I was not involved in drafting this document.

Q. Alright then, were you involved in any stage along the way? If you were not involved in this document, were you involved in drafting and developing restrictive covenants for Sanctuary Belize at an earlier time?

A. Yes, sir.

Q. That is what I am trying to get you.

5 A. I am sorry you kept asking about this document.
I have not seen this document until when it was
recorded.

Q. You see, another instance of your deception, man.
But I will go back to it. So you were involved in
10 developing R, C, C and Es for Sanctuary Belize?

A. I was not involved in developing these C, C and
Rs.

Q. Yes, you have told us that and we understand
that. But you have also told us that you were involved
15 in developing C, C and Rs for Sanctuary Belize?

A. I was involved previously in trying to draft some
C, C and Rs, yes, sir.

Q. And you did a substantial amount of work.

A. Yes, I did a lot of work on that.

20 Q. So you did a substantial amount of work in
relation to developing C, C and Rs?

A. In developing some proposed C C and Rs for
Sanctuary Belize, yes, sir.

Q. In fact you worked with me in doing that?

25 A. Yes, sir.

Q. I was your junior in that exercise.

A. I doubt that.

Q. Now, I am suggesting to you that your efforts are
reflected in this document which you disagree with.

5 A. Yes, sir, I disagree with it, yes.

Q. I am saying your efforts when I was your junior and you were drafting -- you didn't accept that I was your junior? I beg pardon. You are higher up than I am in this but on a serious note, if I may so that we
10 can move quickly, some of the works you did, those preliminary work in developing C, C and R, I am suggesting to you is contained in this document.

A. It may be.

Q. My Lord, with respect for my senior. I also
15 suggest to you -- you said you complained because 5600 acres was alienated to Eco Futures Belize and the island was alienated?

A. Yes, sir.

Q. You remember the complaint?

20 A. Yes, sir.

Q. I am suggesting to you that in spite of what you said was alienation that the reality and the fact is and my suggestion is that that 5600 acres and the island are contained in the schedule to the R, C, C and
25 E in the schedule in annex A. You see annex A?

A. Yes.

Q. You see that land and the island within the description?

A. Yes, I do.

5 Q. And I am suggesting to you that this scheme, this Deed, this Covenant governs all the land even the alienated portion that you complained about. You agree with that?

A. No, I don't agree with that.

10 Q. It seems that there were differences between the senior and the junior.

A. Substantial differences, yes, sir

Q. Now, let me leave that and I want to just draw your attention to and see if you agree with me to
15 paragraph Mr. John Usher's witness statement which is tab in the witness statement go to paragraph 27. It is Tab 13 in the Bundle there, My Lord, trial Bundle tab 13 and it is paragraph 27. Could you look, sir, in the witness statement. Not a tab, witness statement
20 paragraph 27. Just go to paragraph 27.

A. Yes, sir.

Q. I draw your attention to it. In paragraph 27 Mr. Usher is describing some notable accomplishments in relation to the development that is taking place. And
25 I would like you to read it to yourself and I wish to ask you some questions. Now, do you agree with those representations made in that paragraph 27 that those are some accomplishments in relation to the project?

A. I don't know the quantities but I would agree

5 with you that these are accomplishments but I don't
know if the quantities are accurate.

Q. Oh because you never measured them but the
quantities as represented there seems fairly reasonable
in terms of what you know about this development?

10 A. Yes, sir.

Q. You have understanding of how taxes are assessed
on large tracks of lands?

A. No, sir, I do not.

Q. You do not?

15 A. No, sir.

Q. So you wouldn't have any idea in terms of large
tracks of land since you say you are not aware how
property tax go in relation to large tracks. You would
not have any idea of what would be then the size of a
20 tax bill let's say for the 5600 acres. You wouldn't
have a clue as to what would be the property taxes I am
talking about?

A. I only see my personal taxes. I don't know any
others.

25 Q. Can I ask you like for your lot what is your
annual tax?

A. You have to ask my wife. She is better at
numbers. I think it is about 300 or 400 dollars
Belize.

5 Q. A derisory sum compared to the value you have,
right?

A. Yes, sir.

Q. A small sum compared to the value?

A. Reasonable sum, yes, sir.

10 Q. And what size is your property?

A. Approximately two and a half acres.

Q. So if we would relate it to 5600 acres you would
agree with me it could work out to be a humongous
figure, would you agree?

15 A. No, sir, I have no idea how they translate
residential house to large tracks.

Q. I know but I am trying to put you in context and
get your reaction. If you have a two and a half acres
and you are paying maybe let's say \$300.00, right, and
20 SRWR has 5600 acres. If you multiply that by 300.00 it
would be a huge sum, right?

A. Are you taking about 5600 acres of residential
property?

Q. No, man, just follow me for a moment. I am just
25 using as an illustration that you paid \$300.00 for two
and a half acres per annum. I want to know if you
would agree with me if you were to take \$300.00 and
multiply it by 5600 acres if the result would be a very
huge figure if that were the case if we multiply

5 \$300.00 by the 5600 acres?

A. Can I borrow somebody's calculator?

Q. Without even coming to a figure it would be a huge amount, right?

A. I don't think it's a huge amount.

10 Q. You wouldn't say it's huge?

A. So it is \$300 so in 10 acres you have got again I am not sure.

Q. Anyway my suggestion is that it's a huge figure in terms of property taxes but you are not familiar
15 with those things?

A. I am not familiar at all.

Q. So let's move on. Now, let me go to another, matter here. In relation to - - you have here an exchange control - - let me take the exchange control.
20 In your witness statement you showed a lesser - - you have your witness statement there?

A. No, sir.

Q. Let him have it, please. Do you see the Central Bank letter attached to your witness statement?

25 A. Yes, sir.

Q. The witness statement is at Tab 37. It is a single page. Now, you accuse well the Claimants and SRWR of violating exchange control regulations. You accuse them of that.

5 A. Yes, sir.

Q. And you had that published on your website. That is your accusation that they are breaking the exchange control regulation?

A. I do not dispute that. I am not that familiar
10 with the website but I don't dispute that it is on the website, Yes.

Q. It is on the website and we complain about it and we will get to it. Now you are aware that they have never been charged with breaching any exchange control
15 regulations, right?

A. I am not aware of them being charged, no, sir.

Q. But you choose to represent and you convict them by saying they are breaching it. You make that finding your own, right?

20 A. Yes, I make that statement, yes.

Q. Now the document you exhibit there is a letter from the Central Bank responding to you. You have the letter before you?

A. Yes, sir.

25 Q. And am I correct that it is a letter responding to an application by Thomas, Susan Jones, Eric Rivera, Tom Rivera?

A. Yes.

Q. Who were seeking to buy land from SRWR?

5 A. I understand them to be not seeking to buy but actually had purchased.

Q. So they wanted to get their titles, right?

A. Yes, sir.

10 Q. And so this letter then are applications by the buyers for exchange control permission because they are not residence of Belize, correct?

A. Yes.

Q. So it's the buyers who are applying now for permission to acquire land from SRWR, correct?

15 A. Yes, sir.

Q. And the buyers were refused permission in the first instance, is that correct? Is that your understanding?

A. That is my understanding, yes, sir.

20 Q. And they were refused permission because their agreement says that they are paying the purchase price outside of Belize. Is that your understanding?

A. That they were making payments outside of Belize, yes, sir.

25 Q. That was your understand also?

A. Yes, sir.

Q. It is also your understanding that you can make payments outside of Belize if you get permission from the Central Bank, correct?

5 A. It is my understanding that that can be done,
yes.

Q. But you have to apply, get the permission to do
so, correct?

A. It is my understanding, yes.

10 Q. And it is also your understanding that these
people, they eventually got their approval, all of them
who were applying for exchange control permission in
order to get title to their land. They all got
approvals eventually. That is your understanding,
15 correct?

A. That is not my understanding. I don't know if
they did or not.

Q. You did not bother to find out. You just decided
that you would hold it and use it to say that SRWR is
20 violating the regulation?

A. The letter speaks for itself, yes, sir.

Q. Alright, let's go to the letter. Look at the
last paragraph of the letter. It says these
applications can be re-sent once payment obligations
25 are brought into conformity with the exchange control
regulations. That is, that payments are to be made to
SRWR in Belize through an authorized dealer.

A. Yes, sir.

Q. So, these people were being allowed to resubmit

5 their application for exchange control permission to
get their title in terms of their purchase of land,
correct?

A. Subject to the satisfaction of the currency
regulations, yes.

10 Q. I am suggesting to you that they did get
exchange control approval whether or not you know or
not, I am suggesting to you that they got exchange
control approval. You were not aware?

A. No, I am not aware of that.

15 Q. But you were not interested in that any at all
though, right?

A. No, I am always interested in that, yes, sir.

Q. I see. But you did not follow it up?

A. I do not know if they got titles, no, sir.

20 Q. You did not follow it up?

A. No, sir.

Q. Well I am telling you that they got exchange
control approval.

A. I don't know that, sir.

25 Q. Now, sir, you also allege that Sittee River
Wildlife Reserve was acting contrary to US law and
Belize law when they foreclosed on people who stopped
paying under the agreements for lots they purchased.
You recall doing that?

5 A. No, I don't.

Q. Well then I will have to - - alright let me put it this way. A statement made on the website which we have pointed out in the papers and I can take you there if you wish to see it, allege that SRWR was acting
10 contrary to Belize law and US law and it's referred to as illegal foreclosures when they foreclosed against people who have an agreement to buy land, paying on time and for one reason or another they stopped paying and so they lose their agreement. You said that that
15 was contrary to US law and Belize law and accuse the Claimants of acting contrary to law. Isn't that so?

A. No, sir.

Q. Alright, let me quickly show it to you. The IOSB has that statement on the website and it is one of the
20 statements we complain about so I will quickly get it to you, please.

MR. WILLIAMS: If you have the Claim Form it is one in the trial Bundle, My Lord.

Q. Page 8. Go to page 8.

25 A. Yes, sir.

Q. And if you look at the caption there about the middle of the page - illegal foreclosures. You see that sir?

A. Yes, sir.

5 Q. Where it says: "It has come to our attention recently that Sanctuary Belize is illegally foreclosing on some Sanctuary Belize owners Sanctuary Belize are owe sells it at the full market value and pockets a hundred percent of its own proceeds. This is not
10 ethical. This is illegal in Belize and in the US. Should not have their entire investment wiped out and effectively stolen from them through an illegal foreclosure procedure." You remember seeing this statement on the ISOB website?

15 A. No, I don't. I don't dispute it but I don't remember seeing it, yes, sir.

Q. You don't dispute the statement is on the website?

A. I do not dispute it unless Mr. Stoesser --

20 Q. We are talking about you. You do not dispute this statement is on the website? I am putting it to you that it is there. You do not dispute that? He said it is there.

A. Thank you, sir, yes, I do not dispute that.

25 Q. Don't waste my time. Alright let's go. I am not getting annoyed but - - or I hate to show that I am getting annoyed. My Lord, I pray for his forgiveness. I really do but that is what confession is all about. Allow me to ask you. You also had published on the

5 website and if you go to page 9 B at the bottom it
says: "Investigation of public records show that SRWR
is not a registered non-profit company with the Belize
FIU. Belize requires that all not for profit companies
register with FIU. The FIU is an organization set up
10 by the Belize government to crack down on money
laundering. Compliance with this law allows Belize to
avoid banking sanctions from US and other countries for
not stopping money laundering in Belize." Now the
website says investigation of public records. Do you
15 know who did the investigation?

A. I did.

Q. You did?

A. Yes, sir.

Q. You investigated public records to see SRWR and
20 you found that it is not registered?

A. Yes, sir.

Q. I see. But, you discovered that you were quite
wrong because it was registered.

A. It was not registered when I checked the records.

25 Q. Oh when you checked the records.

A. Yes, sir.

Q. Now you have since seen its certificate of
registration, right?

A. Yes, sir.

5 Q. And you saw the certificate of registration way back when the lawsuit was brought and the witness statement was served. You saw it in there? You see the registration in Mr. John Usher's Bundle?

A. Yes.

10 Q. Let's go to that point in Mr. Usher's Bundle.

MR. WILLIAMS: It can be found at Tab M and Tab 23, My Lord, in the trial Bundle.

Q. Mr. Herskowitz you find it, it is at Tab M. So it has a registration which was issued on the 11 day of 15 April, 2015?

A. No, sir, it looks to me like it's November 4 2015.

Q. It looks to you like November. It has 11/4/15.

A. Yes, sir.

20 Q. And it looks to me and I am suggesting to you it is 11 April, 2015. I am suggesting to you?

A. I disagree.

Q. Because you are customary to put the date first, right, you are accustomed to putting the month first, I 25 am sorry.

A. I am accustomed to, yes, sir.

Q. And I am suggesting to you that in this jurisdiction we are accustomed to putting the day before the month.

5 A. But in this case that did not happen.

Q. I am suggesting to you that it did happen.

A. I am disagreeing.

Q. But this is the certificate for them in any
event. So you discovered that there was this
10 certificate in existence but you said you searched
public records. Now I want you to tell me what public
record you searched.

A. The FIU has a web page that you are able to go
onto and list names of companies and see if that
15 company is listed on the FIU certificate.

Q. FIU has a web page that tells you who have a
certificate?

A. Yes, sir.

Q. And you went to that web page?

20 A. Yes, sir.

Q. And you didn't find them listed as having a
certificate?

A. That is correct, sir.

Q. Do you know when you did that? Do you recall?
25 You did that prior to April, 2015 or after?

A. I don't remember.

Q. But in any event, sir, having learnt after your
fruitless research/investigation - - so given the word
there on the site, upon investigation, you are

5 responsible for that phrase there in that statement?

Upon investigation. You said you did the investigation so I am asking you.

A. You asked me if I did the investigation.

10 Q. And I notice the language says after investigation. And you say you were the investigating person, right, you did the investigation?

A. I did the investigation, yes.

Q. That is why it is said there in the website statement that upon investigation?

15 A. On the website statement, yes, sir.

Q. Now, I want to suggest to you, sir, that the regulations to register came into force on the 7th day of February, 2014. I am suggesting that to you. You were aware of that?

20 A. No, sir.

Q. By S.I. No. 9 of 2014. And when you say you visited the website?

A. I said I didn't remember.

Q. You don't remember when you visited the website?

25 A. No, sir.

Q. Now, this allegation that you are making, and this posting on the IOSB website has been up there even to this moment, correct?

A. Yes.

5 Q. Was first made when, you recall?

A. Repeat the question.

Q. When was that put on the website that these people are not registered with the FIU that SRWR are not registered with the FIU?

10 A. I do not know when it was put on the website.

Q. You do not know?

A. No, sir.

Q. I want to suggest to you that it was put on the website in 2015.

15 A. I would think that that would be, yes, sir sometime in 2015, yes, sir.

Q. That you put that on the website and I am suggesting to you that the regulations requiring registration came into force on 7 February, 2014?

20 A. Yes, sir.

Q. And I am also suggesting to you that there was a period given in the regulations for persons to apply within 90 days of the regulations coming into force but you were not aware of that either, correct?

25 A. That is correct. I am not aware of that.

Q. And when you apply within the period or whenever you apply and if you are granted registration your certificate will carry the date from the time of your approval of your registration annually, from one date

5 to the next. Issue date, expiration date. You agree with that?

A. Yes, sir.

Q. So that since the regulation came into force on the date I mentioned to you, 7 February, 2014 and you
10 were given a period to apply, after that date to make your application, I am suggesting to you that you would receive a registration after you are processed and registered for a period upon the conclusion of your application. Wouldn't you agree logically so?

15 A. I don't know. You get the registration it has a date on it, yes, sir.

Q. You became aware of their registration in any event while you were carrying the statement on the website. While the statement was being carried on the
20 website you became aware that in fact SRWR was registered?

A. I saw the registration when the witness statement or whatever it is came out, yes, sir.

Q. Right. And the witness statement was - - well
25 this one was given to you on the 30 May, 2016?

A. Yes, sir.

Q. Right?

A. Yes, sir.

Q. So you saw their registration certificate for the

5 previous calendar year, correct?

A. I saw the registration statement for --

Q. 15, 16?

A. November 15th to November 16, yes, sir

Q. You say it is November, I am suggesting to you
10 that it is, well it is whatever it is but it is written
US way, it is written Belize way. But it carries a
date of issue and an expiration date, right?

A. Yes, November 3.

Q. And you say it is November?

15 A. It has the date of November 4 and expires --

Q. That is date of issue and the date of expiration
and you are saying the month comes first so it means
November?

A. Otherwise it wouldn't be a year, yes, sir.

20 THE COURT: Is there any dispute about the
date.

MR. WILLIAMS: No, no, I am not disputing
the date.

MR. CAVE: There appears to be, My Lord, and
25 I assume that this was clarified for the witness.

MR. WILLIAMS: I am not disputing the date.

THE COURT: This is not the American way of
writing it?

MR. CAVE: Well the suggestion was that it is

5 April instead of November.

THE COURT: Is that disputed?

MR. CAVE: Well we say something I assume
that based on the cross-examination that it is
disputed. But the witness for the Claimant has already
10 accepted that position that it is November. Something
different is being put to this witness.

MR. WILLIAMS: I am not concerned about the
date, my friend but let me try and quickly roll this
up.

15 Q. Even though you learnt of the existence of the
registration, you saw it fit in terms of your crusade
to continue to maintain the position that it had not
been registered on your website?

A. The website was not changed, that is correct.

20 Q. And I am asking you why you didn't see it fit to
change it. You are making an allegation which clearly
was not correct, was untrue.

A. I don't know if the Board saw that or why the
Board did not make a decision to change that.

25 Q. And imagine you personally did the investigation?

A. Yes, sir.

Q. And you can't remember when you did the
investigation but I am suggesting to you that the law
only came into force in February 2014. I am suggesting

5 to you. I asked you did you do your investigation
before that date you don't remember?

A. I said it was 2015. You asked me and I said I
thought it was probably in 2015.

Q. You did your investigation in 2015?

10 A. I believe so, yes, sir.

Q. And you are saying that as far as you understand
it, this registration is November 2015. Is that what
you are saying?

A. Yes, sir.

15 Q. I am suggesting to you that you had an
opportunity to correct that error which you flatly
ignored.

A. You mean me personally or IOSB?

Q. You and IOSB. You are the one that gave them
20 that information. You did the investigation, you see?

A. Yes, sir.

Q. And you got the witness statement and IOSB got
the witness statement and you had the registration
there. Why didn't you? Two of you. Why no change?

25 A. Why didn't I because I didn't have control of it.

Q. But it was under the control of the organization
which you chaired.

A. Yes, sir.

Q. My simple suggestion is that you didn't care less

5 because it was part of your agenda to attack these
Claimants as aggressively and as recklessly as you did.

A. I disagree.

Q. Now let's move on. We go to Mr. Bautista's the
letter you wrote complaining with regard to Mr.
10 Bautista's conduct?

THE COURT: Before do you have any idea how
long you are likely to be?

MR. WILLIAMS: Not much longer, My Lord. I
don't think more than 15 minutes if that long.

15 Obligated.

Q. Now you have the pleadings there in your hands
right, the Claim Form?

A. Is that this one?

Q. Yes, sir.

20 A. Yes.

Q. Okay I want you to go to the Claim Form and we
could do it quickly or the long way but go to page 4
paragraph 16.

A. Yes, sir.

25 Q. And you see under paragraph 16?

A. Yes.

Q. I will not take you through them individually I
will just ask you to note them.

A. Yes, sir.

5 Q. Three paragraphs there alleging that those statements are on your IOSB website?

A. Yes, sir.

Q. And they go all the way down to the following page 5. Do you agree with me that they are on the
10 website?

A. Yes, sir.

Q. And then you go to paragraph 17 and at the bottom of paragraph 17 page 5 you see IOSB and going on over to the next page 6 IOSB. You agree those statements
15 are on the website?

A. I don't know.

Q. You don't agree those statements are on the website?

A. I don't know.

20 Q. I am suggesting to you that they are on the website and they are taken from the website. You agree with my suggestion?

A. I would have to talk to the web master and see if that was in fact - - I don't sit there and look at the
25 web page.

Q. Okay let's move on. You go to page 7. You see the diagram and the content of the statements in the diagram?

A. Yes, sir.

5 Q. You see the reference to IOSB titled global property alliance is a black hole and IOSB and all we know and many millions, you see that?

A. Yes, sir.

10 Q. That entire graphic thing there is on the website?

A. Yes, I recognize the graphic, it is on the website, yes, sir.

15 Q. And IOSB you go to the next page and I am suggesting to you that everything there is taken from and is on the website. Do you see page 8 which is under paragraph 17 and continuing?

A. Yes.

Q. Do you agree with my suggestion that they are all on the website?

20 A. I would have to defer to the testimony of our web master. I have not specifically looked at it.

Q. I am suggesting to you that they are on the website. Do you agree or disagree with me?

A. I don't know.

25 Q. Go to the next page, page 9. You see all those quotes reported to be taken and reproduced from the website?

A. I see them, yes, sir.

Q. I suggest to you that that is where they are from

5 and that is where they are and they are still are
there. Do you agree with my suggestion?

A. I don't know. I did not review these with the
web page. We relied on our web master to do that.

10 Q. I am asking you if you have ever seen these
things on the website.

A. I don't know.

Q. You don't know if you have seen them?

A. I do not.

15 Q. Let's go to the next Page, 10. And my earlier
suggestion to you is that all those things right up to
the top of Page 10 are taken from the website but you
don't know?

A. That is correct, sir.

20 Q. So you are not in a position to deny my
suggestion, right?

A. I am not denying it sir, no, sir.

Q. You are not in a position to deny that its on
your website?

A. That's correct.

25 Q. Let's take paragraph 18. You see five statements
quoted from your Facebook page, HOA? I am suggesting
to you that these are from your Facebook page postings
HOA. Do you agree or disagree with my suggestion?

A. I don't know because this doesn't tell me where

5 these come from that you say is Facebook.

Q. You don't know?

A. I don't know, no, sir.

Q. I want you to read them and tell me if you are familiar with them from your Facebook page. Have a
10 quick look at them. I want to go quickly if you allow me.

A. You want me to read all of them or one at a time?

Q. Look, don't even read them. I put them to you and I am suggesting to you that they are on your
15 Facebook page. If you want to read them find. I am suggesting to you that it is not the first time you have seen any of these things. You have seen it before.

A. I don't know. This says Facebook. I don't know
20 where that came from.

Q. I am suggesting to you that the one that says IOSB you have seen before, the earlier one that I mentioned to you under paragraphs 16 and 17 you have seen all of them before.

25 A. On the Facebook or on the IOSB web page?

Q. IOSB website you have seen before.

A. And my testimony is I am not sure.

Q. That is right. And I am suggesting to you that you have seen them before contrary to what you are

5 telling me on the Facebook matter you have also seen it
on your own Facebook HOA page before.

A. I don't recognize it.

Q. I am suggesting that to you.

A. I don't recognize it.

10 Q. So it may be there but you don't recognize it?

A. That's correct.

Q. So you are not saying that it's not there. You
are simply saying that you don't recognize seeing it?

A. That's correct.

15 Q. So it may very well be there. You accept that?

A. I don't know.

Q. Now, you recall you got a letter that my firm
wrote to you?

A. Yes, sir.

20 Q. And that letter sets out these same things?

A. Yes, sir.

Q. So the first time you saw these things was not
when you saw the claim but you saw them before when you
got the letter, isn't that so?

25 A. Yes, sir.

Q. You saw them, the same thing that is in here that
I just pointed out to you is contained in the letter,
do you agree?

A. Yes, sir. That pre-trial letter that we got from

5 you listing all the things, yes, I am agreeing with
you.

Q. The same things alleging that they are off your
website and your Facebook page. Isn't that so?

A. It said that, yes, sir.

10 Q. So you got it in the letter?

A. Yes, sir.

Q. And you got it when you were served with this
claim?

A. With the accusation that it was on the website,
15 yes, sir.

Q. The same quotations alleging that this is from
IOSB and this is from Facebook page, yes?

A. Yes, sir.

Q. So on those two occasions. Now, in relation to
20 the letter first of all which you said contained the
same allegations and the same quote alleging the source
to be the website and the Facebook page, do you recall
if you in your personal capacity responded to the
letter?

25 A. Yes, I did respond to the letter, yes.

Q. Who did you send that response to?

A. My attorney.

Q. You respond to this letter to your attorney?

A. Yes, sir.

5 Q. Let me see if I could clear this up. Did you ask your attorney to respond to the letter?

A. No I gave him the letter when I got it because we were already in the litigation and so I gave it to Mr. Young because I had received it to get some
10 instructions as to what I should do with it.

Q. So you are not aware of any response to this letter?

A. You mean a written response to you on the letter, no I am not.

15 Q. As far as you are concerned there was no response to this letter that I wrote you?

A. Correct.

Q. Neither by you nor the association?

A. Or by my attorney as far as I know.

20 Q. So there was no response on your behalf or on behalf of the IOSB?

A. There was no written response, yes, sir.

Q. There was no written response alright. Now sir, let's go quickly to your letter to Mr. Bautista.

25 A. Yes, sir.

Q. In your letter to Mr. Bautista. I will find it for you. Just give me a second.

MR. WILLIAMS: It is at tab 5, My Lord in the big Bundle. I think it is at G in Mr. Herskowitz.

5 A. You are talking about Tab J in Mr. Usher's? It is the letter to Ronaldo Magana?

Q. It is your letter to Magana.

A. Yes, it is tab J in the witness statement of John Usher. Is that the letter you are talking about?

10 Q. Yes, sir, thank you. That letter, sir, is the letter in which you articulated the complaint to the institute?

A. Yes, sir.

15 Q. In that letter I draw your attention to the last paragraph of the letter where you made some allegations, page 3. You see where it says: "By not verifying the legal rights..." You see where that begins? Can you read from there, the last sentence?

A. Yes, sir, I see it.

20 Q. Go ahead.

A. "By not verifying the legal right to receive the membership fees or verifying the legal obligations of owners to pay such membership fees, I believe that PKF has committed professional malpractice and knowing that 25 these audited financial statements will be sent to the SRWR members in an attempt to confuse them and obfuscate the true financial condition of SRWR concerning the financial information that they are due for SRWR not SBHOA makes PKF complicit in possible

5 deception and fraud on the SRWR members. At the very
least it does not uphold the level of professionalism
expected of a licensed chartered accounting firm."

Q. I am suggesting to you that in those words that
you are alleging not only the complaint against Mr.
10 Bautista malpractice but that Mr. Bautista and the
companies, the Claimants, are involved in running some
fraudulent accounts against the members of the
homeowners association. Isn't that so?

A. No, sir.

15 Q. Look at the first allegation in the claim. I
want to put that to you. Look at 19 in the claim,
paragraph 19.

A. Yes, sir.

Q. The allegations in their totality I am suggesting
20 to you amounts to a claim that the Claimants were
guilty of numerous serious offences of a fraudulent and
criminal nature. What do you have to say? I am
suggesting that to you. What do you have to say?

A. You are suggesting that in the totality this is a
25 conclusion, I disagree.

Q. Let me suggest the other one to you, go to B. I
am suggesting to you that in the totality of the
allegations those statements there I am suggesting that
Jose Bautista and the Claimants conspired to cook the

5 books of Sanctuary Belize Homeowners Association and
Sittee River Wildlife Reserve?

A. I disagree with that.

Q. I put to you C that the Claimants with the help
of Bautista, your words are suggesting, are engaged in
10 a scheme to deceive and defraud creditors. To defraud
purchasers and members of homeowners association of
dues paid to Sittee River Sanctuary Bay Homeowners
Association and of their purchase money derived from
the sale of lots in Sanctuary Belize. Do you agree or
15 disagree with my suggestion?

A. I disagree.

Q. I take you to D. You are saying that the
Claimants and Jose Bautista fabricated the audited
financial statements. That they fabricated it for
20 Sanctuary Belize Homeowners Association and passed them
off as those of Sittee River Wildlife Reserve. Do you
agree or disagree with that suggestion?

A. I disagree.

Q. Then I take you to E. You say the Claimant are
25 guilty of unethical and illegal conduct regarding the
financing of Sanctuary Belize. Do you agree or
disagree?

A. I disagree.

Q. F. You say the Claimants stole US87,500 in GST

5 money from the Government of Belize. Agree or disagree?

A. Disagree.

Q. E. You said the Claimants collected GST on behalf of the Government from homeowners on false
10 pretence and then defrauded the Government of that GST as no such collection and payment was shown in the audit. You agree or disagree?

A. Disagree.

Q. H. You said that Sittee River Wildlife Reserve,
15 Eco Futures Ltd., and Global Property, the Claimants, are engaged in an elaborate scam to fraudulently deceive homeowners to pay money to them which is then misappropriated and siphoned off into other projects and their pockets. Agree or disagree?

20 A. Disagree.

Q. I. You say that the Claimants are in business with a notorious felon named Andris Pukke who pass off as one Mark Romeo by using a pattern of multiple
25 companies with similar names to confuse owners and who was handling their moneys in a similar manner as in his alleged scam at Amerijet. Agree or disagree?

A. I agree with the first part, disagree with the second part.

Q. And J. You said the Claimants, the Sittee River

5 Board is in breach of Belize law and its duty to members by allowing a known felon to participate on its Board and in other Sanctuary Belize activities. Do you agree or disagree with my suggestion?

A. I agree with that.

10 Q. Do you care to tell me which law you felt was in breach, Belize law?

A. It is my understanding that felons are not allowed to be on public boards so that is why I would agree with it.

15 Q. On what board?

A. Public boards.

Q. You understand that this is a private company, right?

A. Yes, sir. It is a public trust. It is
20 non-profit, yes, sir.

Q. This is a private company, sir. You know that. Sittee River Wildlife Reserve is a private company.

A. It is a non-profit company, yes, sir.

Q. Yes, it is non-profit but it is a private
25 company. It is not a public company. You know that?

A. Yes, sir.

Q. You know it is not a public company that it is a private company?

A. Yes, sir.

5 Q. And I am suggesting to you that you are not aware
of any law, the law is for the Judge now but you said
that you agree with this statement because you are
aware of a law that prohibits that the company is in
breach of Belize law and its duty to members by
10 allowing a known felon to participate on its board and
with other activities.

A. Yes so I would disagree with the first part and
agree with the second part.

15 Q. What is the first part that you are disagreeing
or agreeing with let me understand, please?

A. The Sittee River Wildlife Board is in breach of
law in its duty to members.

Q. But you are agreeing that it is in breach of law
and duty to members?

20 A. I am disagreeing with that.

Q. You don't agree with that. Is that what you are
telling me?

A. That is what you just told me, yes, sir.

Q. That you don't agree with that statement?

25 A. Yes, sir.

Q. Okay you are disagreeing with that statement?

A. Yes, sir.

Q. Thank you. Let's move on quickly to K. Your
statement that were made on the website the totality

5 and on Facebook that the Claimants, your allegation is that they misappropriated money, the Claimants misappropriated money and cannot account for about 6 million dollars to 7 million dollars per year from the project?

10 A. I disagree with that.

Q. You remember I pointed it out to you in the letter, the claim in the newsletter? You remember I pointed it out to you in the newsletter?

A. Yes, sir, you mentioned it.

15 Q. You saw that same thing in the newsletter, right? Let's move on, sir.

A. Yes, sir.

Q. You said the Claimants in L the Claimants are lying about the project and where their money is going.

20 Agree or disagree?

A. Disagree.

Q. M. The Claimants are guilty of embezzlement as at least a hundred million dollars is missing and cannot be traced to the project.

25 A. I disagree with that.

Q. You disagree with that?

A. Yes, sir.

Q. N. That the Claimants are swindling homeowners out of their funds. You agree or disagree with that?

5 A. I disagree with that.

Q. O. That the Claimants are acting unethically and illegally in foreclosing on some defaulted purchasers in contravention of US law and Belize law and then pocket the proceeds. Agree or disagree?

10 A. I disagree.

Q. P. Sittee River is acting in breach of trust. Agree or disagree?

A. I disagree.

15 Q. Q. Sittee River is not registered with FIU and is engaged in money laundering. Agree or disagree?

A. Disagree.

Q. R. Sittee River Reserve is violating exchange control regulations. Agree or disagree?

A. Agree.

20 Q. So could you keep that same thing in your hands and let me rap up with you quickly, please. I quickly wish to ask you to turn to page 7 in that claim form.

A. Yes, sir.

25 Q. And I draw your attention to the diagram in the bottom right corner. And you see the statement there about missing money? It talks about money unaccounted for, 7 million dollars unaccounted for per year. You see it?

A. Yes, sir, I see that.

5 Q. And at the bottom of the page going over to the other side?

A. Yes. On the same diagram.

Q. After the diagram continuing and you see three paragraphs there talking about missing money?

10 A. I am sorry, I am not sure where you are at.

Q. Go to page 8 very quickly please for me. And you see IOSB if there is only a hundred million dollars in notes what has happened to the other 140 million dollars, 10 to 20 million dollars max in development costs, okay double that, 20 to 40 million dollars in development costs although I do not see anywhere close to that in actual work done. So where has the at least a hundred million dollars gone? You see that?

A. Yes, sir.

20 Q. That is on your website also?

A. I don't know.

Q. You don't know?

A. Yes, sir.

Q. And let's go to the other one. There is a strong suspicion that a lot of money from Sanctuary Belize is going into marketing of - - instead of into Sanctuary Belize development as promised by Luke last year. That is also from your site?

A. I don't know.

5 Q. There is still the issue that looking at the numbers for owners note receivables we are told 140 million dollars there should be closer to nine hundred thousand to one million per month coming in for Sanctuary Belize. That is the number that Luke quoted
10 last year. So the issue is not two hundred thousand being skimmed off the top before it gets to Sanctuary Belize. In Belize it is closer to 6 hundred thousand per month being skimmed off the top. Do you see that?

A. I see that, yes, sir.

15 Q. That is also from your site?

A. I don't know.

Q. You don't know?

A. No, sir.

Q. And then I take you to the illegal foreclosures.
20 You see that statement there from your site?

A. Yes, sir.

Q. And then I go to the following page 9 quickly please.

A. Yes, sir.

25 Q. Look at D first for me at the top of page 9.

A. Investigation of public records?

Q. Yes.

A. Yes, sir.

Q. And the reference to when you don't have

5 registration and the money laundering and so on, you see that in that paragraph?

A. Yes, sir.

Q. That is taken from your site also, sir?

A. I don't know.

10 Q. You don't know?

A. No, sir.

Q. And you see the following Page 10 at the top, SRWR violated Belize law and its duty to its members by allowing a known felon to participate in Board and
15 other Sanctuary Belize activities. That is taken from your site too, sir?

A. I don't know.

Q. You said you wanted to defer to the other witness?

20 A. Our web master, yes, sir.

Q. That last one in particular I point out to him and he said is on the site.

A. Good. If that is his testimony, yes.

Q. So where his testimony said these are the site
25 and he saw them there, you accept?

A. Yes, sir.

Q. Okay, thank you.

A. Yes, sir.

Q. Also where his testimony said and you heard him

5 right, where he may have seen the statement on your
Facebook page that is reproduced here he may have seen
them on your site, you accept that too?

A. No, sir.

Q. You don't accept that?

10 A. No, sir.

Q. Even though he said he may have seen them there?

A. He is not the web master of my site.

Q. You don't have to be the web master to see it but
once you have access because he saw it. He has access?

15 A. That's fine.

Q. In fact he says he is the web administrator and
he has access.

A. Yes, sir.

Q. And he said he may have seen these statements
20 there.

MR. CAVE: My Lord, that is a
misrepresentation. He said he probably saw it. He
said he is not sure. That is not the same as the
witness saying that I saw it.

25 Q. Mr. Herskowitz, I suggest to you that you
intentionally published these statements along with the
IOSB on the website and your Facebook page in your
effort to harm the Claimants so as to bring them down.
Do you agree?

5 A. No, sir.

Q. I further suggest to you your motive is consistent with what is expressed in your newsletter that you want to take over this project and make it fulfil your dreams. Do you agree with my suggestion?

10 A. No, sir.

Q. I suggest to you that whatever dream you had it is not in your contract and neither you nor IOSB have any right to take over the development or control of Sanctuary Belize. I suggest that to you.

15 A. I disagree.

Q. I suggest to you that you intentionally published and promoted those materials on your Facebook page and on the website with intention to disparage, defame and impugn the Claimants' good name.

20 A. I strongly disagree with that.

Q. I suggest to you that you did so also in order to diminish the commercial viability of Sanctuary Belize project and to harm the projects financially?

A. I disagree with that.

25 Q. I suggest to you finally, Mr. Herskowitz, that you have conducted yourself showing a pattern of deceiving and misrepresenting facts and circumstances to suit the end that you have declared to be your objective here, that is to take over this project.

5 A. I strongly disagree with that also.

Q. Thank you sir.

MR. CAVE: One question I have for him.

RE-EXAMINATION OF MR. HERSKOWITZ BY MR. CAVE.

Q. Mr. Herskowitz, during the course of the
10 cross-examination by my learned senior you were asked
about a publication in which you suggested that you had
obtained a permanent injunction.

A. Yes, sir.

Q. You have any explanation for why you had
15 indicated in that publication that you had received a
permanent injunction from the Court?

A. Because my understanding was that the Court
issued a temporary injunction and from there they
issued a permanent injunction that stays in place until
20 the case is finished, yes, sir.

MR. CAVE: My Lord, that is all my questions
to him.

THE COURT: Now was I correct, did I give
directions about submissions and all that before?

25 MR. WILLIAMS: I think so, dates and
directions. We have them.

THE COURT: So many cases I can't remember
which one.

MR. WILLIAMS: You did ensure that we didn't

5 leave on the last occasion before getting dates.

THE COURT: I forgot the date when we are coming back and everything, right.

MR. WILLIAMS: Yes, we have the date for written submissions. We have the date for oral
10 submissions. We only await your pleasure.

THE COURT: You have already given me electronic copies of all the documents, right.

MR. WILLIAMS: As is the usual practice and we will continue to do that even with the submissions.
15 I don't know if there needs to be any revision of those dates. We are happy with them as they stand.

Thank you, My Lord.

THE COURT: What day is it 23rd March is it?

MR. WILLIAMS: Written submissions is the
20 17th March. We don't come to Court, we just submit. Oral submissions is on the 23 March, Thursday just like today.

THE COURT: Somebody got to do the order for those directions just so that - -

MR. CAVE: The Claimants always have
25 carriage, My Lord.

MR. WILLIAMS: We don't have any difficulty to do the orders. We do our job, you know.

THE COURT: Thank you very much. We did

5 manage to get through today. I think that covers
everything.

Court adjourn at 4:56 p.m.

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From Article at GetOutOfDebt.org

15