

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Pac Rim Cayman LLC)	
)	
Claimant,)	
)	
v.)	ICSID Case No. ARB/09/12
)	
The Republic of El Salvador)	
)	
Respondent.)	

WITNESS STATEMENT OF LUIS ALBERTO PARADA

March 14, 2011

1. My name is Luis Alberto Parada. I am an attorney with the law firm of Dewey & LeBoeuf, working on the representation of the Republic of El Salvador in the international arbitration initiated by Pac Rim Cayman against the Republic, ICSID Case Number ARB/09/12.

2. The Claimant has asserted in this arbitration that its change of nationality from the Cayman Islands to the United States of December 13, 2007 had nothing to do with an intention to gain CAFTA and ICSID jurisdiction over an existing dispute. Claimant has also asserted that no one in Pacific Rim Mining Corp. knew or could have known that there was a dispute until after they read a March 11, 2008 newspaper article reporting on a statement by President Saca. For example, Mr. Thomas Shrake, President of Pacific Rim Mining Corp., asserts in his December 31, 2010 witness statement that "[i]t was only after President Saca's announcement of a *de facto* mining ban in March 2008 that we began to believe that a dispute with the Government was a real possibility."¹

3. I am providing this witness statement because I have personal knowledge about this subject, based on the information I received during two meetings with counsel for Claimant in November and December 2007, before Pac Rim Cayman's change of nationality.

4. On October 30, 2007, I received a telephone call from a legal recruiter that had been asked by the law firm of Crowell & Moring to find a senior attorney for its international arbitration practice. That telephone call was followed the next day by an email with information about Crowell & Moring's international arbitration practice and its attorneys.² Although I informed the legal recruiter that I was not contemplating changing employment, I agreed to speak to attorneys in Crowell & Moring's International Arbitration Group.³

5. As a result of this contact initiated by a legal recruiter on behalf of Crowell & Moring, I had a round of interviews at the Washington, D.C. offices of Crowell & Moring, on

¹ Shrake Witness Statement, para. 11.

² See e-mail dated October 30, 2007 (attached as Annex A).

³ See e-mail dated November 1, 2007 (attached as Annex B).

or about November 27, 2007, meeting with, among others, Mr. Arif Ali and Mr. Alexandre de Gramont, counsel for Claimant in this arbitration.

6. During our first meeting, Mr. Ali and Mr. de Gramont explained that they were trying to resolve a mining dispute in El Salvador, and that if El Salvador did not grant the concession, they would start ICSID arbitration against El Salvador. I was aware of the issue through the Salvadoran press, but learned from Mr. Ali and Mr. de Gramont of the intention to seek ICSID arbitration.

7. A few days later, Mr. de Gramont called and invited me to a follow-up breakfast meeting with Mr. Ali. I accepted the invitation and met with Mr. Ali and Mr. de Gramont for breakfast at the Les Halles restaurant in Washington, D.C. on December 7, 2007. Mr. Ali again referred to the mining dispute with El Salvador. Mr. Ali again said that they would initiate ICSID arbitration if El Salvador did not grant the concession, and he mentioned that the arbitration would be under CAFTA. Mr. Ali also mentioned that he had been present at a meeting with President Saca during President Saca's official visit to Washington, D.C. one week earlier.

8. In the two meetings I had with Crowell & Moring, Mr. Ali invited me to join their international arbitration team. Mr. de Gramont called me again in mid-January to invite me to join their team. I informed Mr. de Gramont in person, during an international arbitration conference in New York on February 1, 2008, that I was not the person they needed for their team.

9. Taking into account that I did not have any duty of confidentiality regarding the information that Mr. Ali and Mr. de Gramont chose to share with me about the potential arbitration against El Salvador, and considering my close ties to El Salvador, of which both Mr. Ali and Mr. de Gramont were fully aware, I sent an e-mail to a diplomat at the Embassy of El Salvador on March 7, 2008, requesting the contact information for the Attorney General of El Salvador, in order to inform the Attorney General about the potential ICSID arbitration and offer

the professional services of my law firm to represent El Salvador. I received the contact information for the Attorney General that same day.⁴

10. Also on that same day, March 7, 2008, I sent an email to the administrative assistant to the Attorney General, requesting a meeting with the Attorney General during a planned trip to El Salvador the following week. In that e-mail, I mentioned that I wanted to discuss with the Attorney General a potential ICSID arbitration against El Salvador.⁵ The Attorney General responded that unfortunately he would be on a trip out of the country during the dates I contemplated being in El Salvador, and so we were unable to meet.⁶ I wrote to the Attorney General again on April 8, 2008, reaffirming my interest to meet with him to discuss the potential ICSID arbitration against El Salvador under CAFTA.⁷ These initial contacts eventually resulted in El Salvador's decision to hire Dewey & LeBoeuf as counsel in this arbitration.

11. These communications and admissions by Claimant's counsel illustrate the state of affairs with respect to the dispute at issue before Pac Rim Cayman's nationality was changed to the United States on December 13, 2007. My first meeting with Mr. Ali and Mr. de Gramont took place on November 27, 2007, one week before the board of Directors of Pacific Rim Mining Corp. voted to change the nationality of Pac Rim Cayman. My second meeting with Mr. Ali and Mr. de Gramont took place on December 7, 2007, six days before Pac Rim Cayman became a United States company and could have access to ICSID arbitration and be protected under CAFTA. Finally, my first e-mail communication to the Attorney General of El Salvador, requesting a meeting to inform him about the potential ICSID arbitration against El Salvador, was sent on March 7, 2008, four days before the publication of the newspaper article of March 11, 2008, which Claimant argues was the first indication that it might have a dispute with El Salvador.

⁴ See e-mails dated March 7, 2008 (attached as Annex C).

⁵ See e-mail dated March 7, 2008 (attached as Annex D).

⁶ See e-mail dated March 7, 2008 (attached as Annex E).

⁷ See e-mail dated April 8, 2008 (attached as Annex F).

I solemnly declare upon my honor and conscience that this statement is true.

Dated: March 14, 2011



Luis Alberto Parada