

INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT  
DISPUTES

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 In the matter of Arbitration :  
 between: :  
 :  
 OMEGA ENGINEERING LLC AND :  
 MR. OSCAR RIVERA, :  
 :  
 Claimants, :  
 : ICSID Case No.  
 and : ARB/16/42  
 :  
 REPUBLIC OF PANAMÁ, :  
 :  
 Respondent. : Volume 2  
 -----x

HEARING ON JURISDICTION, MERITS AND QUANTUM

Tuesday, February 25, 2020

The World Bank Group  
1225 Connecticut Avenue, N.W.  
C Building  
Conference Room C1-450  
Washington, D.C.

The hearing in the above-entitled matter  
came on at 9:00 a.m. before:

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PROF. ZACHARY DOUGLAS, Co-Arbitrator

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Secretary of the Tribunal

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P R O C E E D I N G S

PRESIDENT SHORE: Good morning, everyone.  
Second Hearing day of the first Hearing week in  
Case 16/42.

Ms. Gorsline, any issues that you needed to  
raise on a procedural basis this morning?

MS. GORSLINE: Nothing for Claimants,  
Mr. President.

PRESIDENT SHORE: Thank you.

Mr. Weisburg?

MR. WEISBURG: No, we're good. Thank you.

PRESIDENT SHORE: Thank you.

FRANKIE LÓPEZ, CLAIMANTS' WITNESS, CALLED (resumed)

PRESIDENT SHORE: Mr. López, welcome back.

THE WITNESS: Good morning to the Panel.

PRESIDENT SHORE: Mr. Ryan,  
cross-examination continues. Thank you.

MR. RYAN: Thank you, Mr. President.

CROSS-EXAMINATION (continued)

BY MR. RYAN:

Q. Mr. López, welcome back. Hopefully we won't  
keep you here too long today, but I appreciate your

1 continued presence here.

2 I'd like to start this morning by talking to  
3 you about the Municipality of Panamá Projects, and  
4 this was a contract where you had one contract that  
5 covered two Projects; correct?

6 A. Yes, good morning.

7 Yes, that is right.

8 Q. They were referred to as the Juan Díaz  
9 Project and the Pacora Project; is that right?

10 A. Yes. A single contract with two locales.

11 Q. And the Contract was awarded in May 2013,  
12 and work began in September of 2013; is that correct?

13 A. I understand that the times you mentioned  
14 are pretty much reasonable, correct.

15 Q. Were you involved in the bidding for that  
16 Project?

17 A. Yes, that's right.

18 Q. You would have reviewed the request for a  
19 bid that was tendered by the Municipality of Panamá  
20 in 2013?

21 A. Yes, that's right. As part of the work  
22 team, I supervised the bid.

1 Q. And did you visit the sites of these markets  
2 before putting in a bid?

3 A. No, I personally did not, but somebody from  
4 our team did.

5 Q. Under the contract for these two markets,  
6 Omega was responsible for obtaining all permits and  
7 licenses necessary to construct the markets; correct?

8 A. Yes. That's part of what the Request for  
9 Proposal says.

10 Q. And the Request for Proposal was  
11 incorporated into the Contract; correct?

12 A. Yes, that is correct.

13 Q. So, as a contractual matter, the Contract  
14 shifted the risk of obtaining all licenses and  
15 permits necessary to carry out the construction work  
16 to the Omega Consortium; correct?

17 A. Yes. We did the work, made the presentation  
18 to each entity or agency, and it was up to each  
19 Government agency to provide the corresponding  
20 approvals.

21 Q. Okay. You complain--the Claimants complain  
22 that the Municipality did not cooperate in helping

1 Omega obtain permits and licenses; correct?

2 A. Yes, unfortunately it is.

3 Q. Could you turn to R-102 in the bundle that's  
4 in front of you, please?

5 Are you there, sir?

6 A. Yes, I am.

7 Q. Have you seen this document before?

8 A. I'm reading it. I don't recall having seen  
9 it before.

10 Q. Well, sir, one of the permits that was  
11 required with respect to the Pacora Market was the  
12 acquisition of a soil-use certificate; correct?

13 A. Yes, and something similar happened in the  
14 Juan Díaz Project, and, in effect, we made the  
15 Application, and we were able to obtain it through  
16 the Municipality.

17 Q. So, you filed the application with the  
18 Ministry of Housing for the use of--for the  
19 acquisition of the soil-use certificate, and, as you  
20 would have just read, this is a letter from the  
21 Municipality to the Ministry of Housing offering  
22 assistance in trying to obtain the soil-use

1 certificate; isn't that correct?

2 A. Yes. That would appear to be the case. I'd  
3 never seen this document before.

4 Q. I'm sorry, sir. I'm sorry. I had my  
5 headphones off. Would you mind repeating your  
6 answer, please?

7 A. That I was not aware of this document. I  
8 may have seen it in the context of the case.

9 Q. Could you turn to Exhibit R-103, please?

10 A. Yes, I'm there.

11 Q. Have you seen this?

12 A. I may have seen it in the context of this  
13 case.

14 Q. You, in fact, cite these documents in your  
15 Second Witness Statement; isn't that correct? R-102,  
16 the document that we just saw?

17 A. Yes, that is right.

18 Q. So, you did see them in the context of  
19 preparing your Witness Statement; correct?

20 A. Yes. That's when I came to learn that this  
21 was a step that the Municipality would have taken  
22 four months after we had repeatedly sought its

1 involvement.

2 Q. Okay. And in R-103, we see, actually, that  
3 Mayor Blandón sent a letter to the Ministry of  
4 Housing on behalf of Omega to try and obtain the  
5 necessary certificate for the Project; correct?

6 A. Not on behalf of Omega. Recall that the  
7 bidder was--or the one making the proposal was the  
8 Municipality. We submitted all the information  
9 relevant to the Project to the Municipality. The  
10 Municipality, in turn, submitted it as the one  
11 issuing the Request for Proposal. They were the ones  
12 who then forwarded it to the Ministry of Housing and  
13 Land Use, or territorial planning.

14 Q. Correct. They submitted it on behalf of  
15 Omega. You understand, as we just discussed at the  
16 outset, however, that the Contract put the  
17 contractual responsibility for obtaining these  
18 permits on Omega?

19 A. I repeat: We submitted the documentation in  
20 a timely fashion, but we do not have authority to  
21 approve. The one who had the power to secure some  
22 involvement of the Ministry of Housing in a more

1 timely fashion was the Municipality.

2 Q. Sir, can you turn to--before we do that,  
3 this letter is dated October 13, 2014; correct?

4 A. Correct. Three months, four months after  
5 they came into office and we had raised the matter.

6 Q. So, this is after President Varela took  
7 office and after Mayor Blandón, who in your Witness  
8 Statement you indicated was associated with President  
9 Varela, took office; correct?

10 A. Yes, that is correct, and after a great deal  
11 of effort. Correct.

12 Q. Just so we're clear about this, the  
13 responsibility of Omega to obtain the licenses, can  
14 you turn to R-99, please?

15 There are a couple pages of translations in  
16 the front, but if you go to the first page of the  
17 Spanish document, you'll see that this is the RFP for  
18 the Municipality of Panamá Projects; correct?

19 A. Yes, that's right.

20 Q. If you turn to Page 38 of that document,  
21 Section 3.8, there's an English translation of that  
22 at the beginning.

1 Do you see that, sir?

2 A. I'm at Page 38. I don't know where  
3 specifically you'd like me to look.

4 Q. Paragraph 3.8, titled "Permits, Rules, and  
5 Costs."

6 A. Yes, that's right. That's what it says, but  
7 as I've tried to convey, Omega submitted all of the  
8 documentation for this purpose in timely fashion.  
9 There was no possibility because, if we could have  
10 approved it ourselves, we would have done so.

11 Q. Now, Mr. López, with respect to the Payment  
12 Applications on this Project, you complain--Omega  
13 complains that none of the Payment Applications were  
14 approved; correct?

15 A. Yes, that is correct.

16 Q. And a condition of approving the Payment  
17 Applications would have been the approval of accepted  
18 designs and blueprints; correct?

19 A. That would seem to be what was correct, but  
20 on the other hand, the Juan Díaz Project was entirely  
21 subjected with all of the documentation. It had the  
22 same result, of not being approved.

1 Q. Understood, but as a rule with--under this  
2 Contract, whether it was Juan Díaz or Pacora, a  
3 condition of having the Payment Applications accepted  
4 was that there would have to be approved designs and  
5 blueprints; correct?

6 A. Yes, that is correct, documents that had  
7 already been submitted and that had been presented to  
8 all the agencies.

9 Q. And the designs and blueprints could not be  
10 approved without the requisite certificates and  
11 permits?

12 A. That was the position of the office of the  
13 Comptroller General, and, even so, everything was  
14 submitted for the Juan Díaz Project, and it was held  
15 up on that same point.

16 Q. Sir, just to make clear, Paragraph 142 of  
17 your First Witness Statement, you acknowledge "the  
18 lack of the certificate"--and this is the soil-use  
19 certificate we're talking about--"prevented ANAM from  
20 endorsing the plans for the Pacora Market, which, in  
21 turn, blocked endorsement of payments by the  
22 Comptroller General's Office"; correct?

1 A. For the Pacora Project, it is right.

2 Q. Sir, could you turn to Exhibit C-695?  
3 Are you there, sir?

4 A. Yes. I'm trying to take a look and get  
5 familiar with the document.

6 Q. Have you seen this document before?

7 A. I believe I have.

8 Q. Can you turn to Page 4, please?

9 A. I'm there.

10 Q. Are you familiar with the table that is on  
11 this page?

12 A. [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 Q. [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 A. [REDACTED]

20 Q. [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 A. [REDACTED]

2 [REDACTED]

3 Q. [REDACTED]

4 [REDACTED]

5 A. [REDACTED]

6 Q. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A. [REDACTED]

10 Q. [REDACTED]

11 [REDACTED]

12 A. [REDACTED]

13 Q. And at no point in time were the blueprints  
14 and designs approved by the Comptroller General that  
15 would have allowed for payment of these; correct?

16 A. No, that is not correct. The Office of the  
17 Comptroller General does not approve blueprints.  
18 That is the Inspector of the Municipality.

19 Q. I think you misunderstood my question, sir.  
20 My question was that the blueprints and designs for  
21 these projects had not been approved at any point  
22 between September 2013 and September 2014; correct?

1           A.     We had submitted them to the Municipality,  
2 to the fire department, to the health agency; all the  
3 Government agencies. There was no such indication of  
4 any breach or to be able to make the allegation with  
5 respect to--well, to be able to not provide the  
6 soil-use certificate with respect to Juan Díaz, and  
7 also in relation to the Pacora Project.

8           Q.     Mr. López, my question was much simpler than  
9 that. It was really a question of whether, at any  
10 point between September 2013 and September 2014, the  
11 designs and blueprints had been approved.

12                   Yes or no?

13           A.     All of those documents had been submitted to  
14 the relevant agencies.

15           Q.     And the relevant agencies had not approved  
16 them; correct?

17           A.     They had limited the approval to obtaining a  
18 soil-use certificate that had been submitted in  
19 timely fashion repeatedly, with follow-up to the  
20 Municipality, and without getting any response.

21           Q.     Okay. So, just to be clear, if we turn to  
22 Page 3, Items Number 10 and 11, the Pacora blueprints

1 are pending approval; the Juan Díaz blueprints are  
2 pending approval.

3 So, as of the date of this Report, which  
4 postdates, obviously, the filing of these Payment  
5 Applications, the blueprints for both the Juan Díaz  
6 and Pacora Markets were pending approval?

7 A. Nowhere does it say that item number 10 is  
8 not the blueprints, rather it's the soil use  
9 certification, for which all the information had been  
10 submitted. And then item number 11 says the easement  
11 was okay. All of this is submitted on behalf of the  
12 Omega Consortium.

13 Q. Correct. It does.

14 So, sir, from September of 2013 through July  
15 of 2014, the Comptroller General who was not  
16 approving your Payment Applications was the  
17 Comptroller General under the Martinelli  
18 Administration; correct?

19 A. No, that is not correct.

20 Q. Sorry. You're stating it is not correct  
21 that from September of 2013 until June of 2014, the  
22 Comptroller General of Panamá was part of the

1 Martinelli Administration?

2 A. No, I'm not saying that. What I am saying  
3 is that they were not approved, even though we had  
4 repeatedly submitted all of the documentation that  
5 had been requested of us.

6 Q. Understood. It was clear.

7 PRESIDENT SHORE: I think we've got the  
8 point. Thank you, Mr. Ryan.

9 MR. RYAN: Understood.

10 BY MR. RYAN:

11 Q. Mr. López, I'd like to talk now about the  
12 INAC Project. This was for the construction of the  
13 Ciudad de las Artes facility; correct?

14 A. Yes, that is correct.

15 Q. And INAC hired a company called Sosa  
16 Architects to be the Project Inspector on this  
17 project; correct?

18 A. Yes, that is right.

19 Q. And as the Project Inspector, what did you  
20 understand Sosa's responsibilities to include?

21 A. Sosa represented the owner in the day-to-day  
22 activity to see to sound implementation of the

1 Contract, including financing, design, construction,  
2 and equipment for the Ciudad de las Artes Project.

3 Q. Can you turn to Exhibit R-41, please?

4 If you turn to Page 2 of this document,  
5 which is the Contract between the Municipality and  
6 Sosa, it sets out the scope of Sosa's work in the  
7 bullet points that are listed on Page 206: Supervise  
8 the proposed general work, supervise execution of the  
9 civil works, supervise quality control.

10 A. Excuse me? What page are you drawing my  
11 attention to specifically?

12 Q. Page 206.

13 A. Thank you.

14 Q. This document provides the scope of services  
15 that Sosa was to provide on this Project, and  
16 supervise the proposed general work plan, supervise  
17 execution of the work, supervise quality control,  
18 supervise technical assistance services, contract  
19 administration, scope management, time management,  
20 resource management, cost management, quality  
21 assurance, quality control.

22 Is this consistent with your understanding

1 of Sosa's responsibilities?

2 A. Yes. In general terms, yes.

3 Q. And on a day-to-day basis if Sosa observed  
4 something that was out of compliance with  
5 specification or unsafe or otherwise was not in  
6 compliance with the Contract plan, they had the right  
7 to ask Omega to correct it; isn't that true?

8 A. Yes, clearly.

9 Q. Sir, can you turn to R-44, please? This is  
10 a September 2, 2014, letter from Sosa Architects from  
11 Ms. Buendia to Luis Pacheco.

12 Mr. Pacheco was the Project Manager on this  
13 Project; is that correct?

14 A. Yes, that is right.

15 Q. And I note that you are not copied on this  
16 document, but have you seen this before?

17 A. I might not have been officially copied, but  
18 Buendia could have sent it to me directly or Pacheco  
19 as well.

20 Q. So, have you seen this before?

21 A. Yes, that's right, I have.

22 Q. So, in this letter, Ms. Sosa, or Ms. Buendia

1 is saying that: "We are hereby contacting to you  
2 request, once again, that you formally advise us as  
3 to the date when the construction work will resume  
4 its pace, since today we counted only 38 workers,  
5 which is not an optimal number for execution of the  
6 construction works."

7 Sosa is raising a concern about your  
8 staffing on this Project; isn't that correct?

9 A. Yes, that is what the letter says.

10 Q. And so, Ms. Buendia's concerns dated back to  
11 July 31 of 2014; correct?

12 A. Yes. As of that date in 2014, we had put  
13 forth a number of positions and made a number of  
14 requests, and the final response have to do with  
15 approval of the blueprints so that we could then  
16 carry it out in timely fashion. In this letter, she  
17 raises the concerns about staffing but leaves out  
18 what, for us--well, she alleges there's a certain  
19 optimal number, but we have to have a relevant  
20 response for the work that we're doing at that time.

21 Q. Okay. Can you turn to R-45, sir? This is a  
22 September 5, 2014, letter from Omega to Ms. Buendia.

1           Have you seen this letter before?

2           A.    Yes, correct.

3           Q.    And this is Omega's response to the letter  
4 that we just saw. It states in the first sentence  
5 that--or second sentence: "In response to your  
6 letter dated September 2, 2014, expressing your  
7 concern over the number of employees, we wish to  
8 remind you of and, once again, clarify the  
9 following."

10          A.    I'm aware of this, yes.

11          Q.    So, in the first bullet point, you say: "As  
12 we have told you on several occasions, this is a  
13 direct consequence"--"this" being a reduction in the  
14 number of employees--"is a direct consequence of the  
15 administrative measures that we have been forced to  
16 take due to the lack of answers and delay with  
17 respect to progress payment accounts submitted to  
18 date"; correct?

19          A.    That's correct. This is part of why I  
20 indicated to you before.

21          Q.    Sir, there are no provisions in the INAC  
22 contract with Omega that would allow Omega to reduce

1 the workforce due to delays in payments; correct?

2 A. My best recollection is that there is a  
3 provision that establishes the procedure to address  
4 this matter, and it establishes a certain period of  
5 time for them to either approve or not approve. I  
6 understand that the Ciudad de las Artes Contract is  
7 part of this file of this case.

8 Q. That's correct, but you were overseeing  
9 Panamá. You have said in your Witness Statements  
10 that you were responsible for all activities in  
11 Panamá and all projects, and you stated that you were  
12 part of the bidding process so, therefore, familiar  
13 with the contracts.

14 My question, sir, is not about whether there  
15 is a procedure in the Contract by which Omega - by  
16 which INAC is supposed to approve payments. My  
17 question is specifically whether there is a provision  
18 in the Contract that gives Omega the right to reduce  
19 its workforce in the event of delayed payments?

20 A. Again, the reason why Omega had to reduce  
21 the number of employees is that--

22 MR. RYAN: Mr. President, I'm going to ask

1 him to.

2 PRESIDENT SHORE: So, remember the deal we  
3 had yesterday, Mr. López. If you answer, then you  
4 explain, it will be much more efficient. So, I would  
5 definitely make sure you have a chance to explain,  
6 but, first, please focus on the precise question that  
7 Mr. Ryan has asked you.

8 THE WITNESS: Understood. My apologies.

9 BY MR. RYAN:

10 Q. Do you need me to repeat the question, sir?

11 A. Please and my apologies.

12 Q. Is there a provision in the Contract between  
13 INAC and the Omega Consortium regarding the Ciudad de  
14 las Artes Project that allows Omega to reduce its  
15 workforce as a result of delayed payments?

16 A. No, there is none. Having established that,  
17 there are obligations from both Parties in the  
18 Contract that require that the Parties develop things  
19 in an opportune manner for us to be able to perform  
20 under the Contract.

21 Q. Okay. Sir, if you look at the fifth bullet,  
22 "based on our attorneys' recommendation, the

1 personnel are hired in a timely manner based on  
2 project phase."

3           Were your attorneys recommending that you  
4 reduce staffing at this point?

5           MS. GORSLINE: Mr. President, if I may just  
6 lay down the marker that I don't--I just want to make  
7 sure we are not going into any attorney-client  
8 privilege here, that's all.

9           MR. RYAN: The letter specifically states  
10 "based on attorneys' recommendation," so he's put  
11 that concept into question. He's thrown the  
12 attorneys' recommendations into issue.

13           MS. GORSLINE: He's saying they sought  
14 counsel. But you're asking him specifically what  
15 counsel told him, and that's a different matter.

16           PRESIDENT SHORE: Thank you both. I'm not  
17 sure a lot hangs on it. Why don't you move on to  
18 another question?

19           MR. RYAN: Understood.

20           BY MR. RYAN:

21           Q. So, if we could move to the next bullet:  
22 "The change in work execution strategy and opting to

1 rescind a subcontract has never resulted in a breach  
2 of Clause 45.7. For this purpose, we have submitted  
3 a recovery plan."

4 Do you see that, sir?

5 A. Yes, correct.

6 Q. "Rescind a subcontract." You terminated a  
7 subcontractor; is that correct?

8 A. Yes, that's correct.

9 Q. Which subcontractor was that?

10 A. Arco.

11 Q. And why did you terminate Arco?

12 A. Arco very early after the result of the  
13 elections had told us that it did not wish to proceed  
14 with the Contract any longer because, in its  
15 understanding, it had information that the Project  
16 was going to be persecuted by the new administration.

17 Q. There's no documentary evidence in the  
18 record of this case substantiating Arco's position;  
19 correct?

20 A. No. That was one of the set of discussions  
21 that we had with the owner of the company, Anastasio  
22 Ruiz.

1 Q. So, when Arco came to you and effectively  
2 said they were going to abandon the Project and you  
3 fired them, did you take any legal action against  
4 Arco?

5 A. They didn't say that they were going to  
6 abandon the Project. We simply came to a mutual  
7 understanding that indicated that they no longer  
8 wished to be part of the project, and we tried to  
9 persuade them. We made efforts in that regard. And  
10 Mr. Rivera and I understood that, well, if someone  
11 didn't want to work hand in hand with us, then we  
12 opted to terminate the Contract.

13 Q. How many employees did Arco have working on  
14 the Project?

15 A. It all depends on the stage of the Project,  
16 of the phase the Project was in. Perhaps it could go  
17 from 50 to 100 to 150.

18 Q. And when Arco left, that obviously created a  
19 significant gap in the personnel that were able to  
20 work on the Project; right?

21 A. No, because we had practically set up a  
22 transition plan. And labor law in Panamá, when it

1 comes to staffing, indicates that employees have to  
2 acquire a number of benefits. That is why some phase  
3 contracts were drafted for the employees and when  
4 they were finalizing the phase already established  
5 with us, they were liquidating personnel, and we were  
6 injecting, recruiting personnel from our company  
7 directly, new labor or engineers in an opportune  
8 manner according to the approvals we had at the time.

9 Q. And, sir, I think you said in your Second  
10 Witness Statement that you, in fact, injected 64  
11 people into the Project in the beginning of  
12 September 2014; is that correct?

13 It's Paragraph 36 of your Second Witness  
14 Statement.

15 A. Yes, that's correct.

16 Q. So, Omega is part of--and you note this in  
17 that bullet point where you talk about the rescission  
18 of the subcontract. You say that you submitted a  
19 recovery plan. Can you turn to the page with Summary  
20 of Work, Annex B, in R-45? It is three pages beyond  
21 the page that we were just looking at.

22 A. Correct.

1 Q. And is this the staffing proposal that you  
2 made as part of the recovery plan?

3 A. Yes, correct. As you indicated in  
4 connection with the letter, well, Sosa started to  
5 write insistently with a number of concerns in  
6 connection with the Project. We communicated to it  
7 that we needed a timely response by INAC or on their  
8 behalf, in connection with the different approvals,  
9 apart from the advance payments. There were other  
10 issues such as--

11 Q. Again, we're going to allow you to explain,  
12 but the answer you were just giving is completely  
13 unrelated to my question as to whether this was the  
14 staffing proposal for the recovery plan that you  
15 submitted.

16 A. Correct. What I wanted to explain to you, I  
17 was trying to explain to you, the context in which  
18 this document was prepared. My apologies.

19 Q. Under this staff proposal, there was an  
20 increase in the number of employees over the course  
21 of time between September and the end of October;  
22 correct? From 70 to 115?

1           A.     When we did that, that was based on a  
2 projection in connection with work on the basis of  
3 the fact that we were going to get an approval on  
4 side B, we had to build a metal structure. For us to  
5 build a metal structure, we needed to get an  
6 approval. Although we submitted the proposal, the  
7 approval was never signed off on.

8           Q.     Sir, if we could take a look at  
9 Exhibit C-797.

10          A.     I'm there.

11          Q.     Are you familiar with this document, sir?

12          A.     My understanding is that this is a  
13 spreadsheet of the Project.

14          Q.     Right. My understanding is this is a  
15 biweekly payroll spreadsheet for the Ciudad de las  
16 Artes Project for the period October 27 to  
17 November 9, 2014?

18          A.     That's correct.

19          Q.     And each of these individuals that is listed  
20 in this table is an employee who is being paid for  
21 work that was done on Ciudad de las Artes Project.  
22 If we look at Page 3 of this table, [REDACTED]

1

2

3

4

5 A. That was the projection that we had. In  
6 order to meet that projection, we needed some  
7 approvals. This is different from reality.

8 Q. Okay. If we go back to R-45, sir, if you  
9 look at Page 2 of the letter and if we go to the  
10 second to last paragraph, there's a sentence that  
11 says: "As the progress payment accounts are settled,  
12 we will be in a position to proportionally inject the  
13 necessary funds and personnel according to the work  
14 plan to make up the lost time."

15 Do you see that?

16 A. It is not on the second page, at least in  
17 the version that I'm looking at. I haven't found it.

18 Q. R-45. Page 2. The paragraph that I'm  
19 referring to starts with "we reiterate our  
20 commitment." It's about halfway down the page.

21 A. I found it, yes. Correct.

22 Q. You see the sentence that says: "As the

1 progress payment accounts are settled, we will be in  
2 a position to proportionally inject the necessary  
3 funds and personnel according to the work plan to  
4 make up lost time."

5 Do you see that?

6 A. I do, correct.

7 Q. So, Mr. López, I just have one last  
8 question. In each of your Witness Statements at the  
9 end, right above your signature, you make a statement  
10 about a declaration of truth, that the facts and  
11 matters declared in your Statement come from your  
12 knowledge or belief and that the facts declared in  
13 the Statement are true and correct.

14 Do you see that?

15 A. Yes, that is correct.

16 Q. And your affirmation of the truth and  
17 correctness of your Witness Statements applies to  
18 both the text and the exhibits that you cite in  
19 support of your text; correct?

20 A. Yes, correct. That's my interpretation of  
21 the documents, that I'm not the one who prepared  
22 them, correct.

1 Q. Mr. López, thank you.

2 MR. RYAN: Mr. President, I don't have any  
3 other questions.

4 PRESIDENT SHORE: Thank you, Mr. Ryan.

5 As discussed, Ms. Gorsline, if it's still  
6 okay with you, the Tribunal will ask some questions.

7 MS. GORSLINE: Yes, Mr. President.

8 PRESIDENT SHORE: Thank you very much.

9 QUESTIONS FROM THE TRIBUNAL

10 ARBITRATOR DOUGLAS: Good morning,  
11 Mr. López.

12 It may be more efficient if counsel from one  
13 of the legal teams assists Mr. López with documents  
14 because I don't know where they are in his bundles.

15 (Comments off microphone.)

16 ARBITRATOR DOUGLAS: The first document I  
17 just wanted to go to is C-557.

18 MR. RYAN: Mr. López, I don't believe it's  
19 in those bundles. It will be handed to you.

20 ARBITRATOR DOUGLAS: So, this is an email  
21 chain between you and your lawyer in relation to the  
22 Purchase Agreement for the land. And I'll start at

1 the bottom of the email chain. I'll look at English,  
2 and I suspect you'll look at the Spanish.

3 And you say in the first email, which is on  
4 the 22nd of April 2013, and you're writing to Ansa,  
5 the lawyer, and you say: "[REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]."

9 Do you see that?

10 THE WITNESS: Yes, correct.

11 ARBITRATOR DOUGLAS: Is it fair to infer  
12 from that, that the first version of the agreement  
13 came from you or from Ms. Reyna?

14 THE WITNESS: Yes, correct. Ms. Reyna  
15 delivered to me the draft document that she was  
16 proposing.

17 ARBITRATOR DOUGLAS: Okay. And then we go  
18 up the chain and it says--she responds to you saying:

19 "[REDACTED]

20 [REDACTED]

21 [REDACTED]

22 And then your response to that, again, on

1 April the 24th is: "[REDACTED]

2 [REDACTED]

3 [REDACTED]."

4 And I should have said in the very first  
5 email you said: "[REDACTED]."

6 Do you recall why you are in such a hurry at  
7 that point to get this finalized?

8 THE WITNESS: Yes. We had held discussions  
9 for about two months, and I had received a question,  
10 an update from Mr. Rivera, where he was asking me  
11 about a follow-up on the land matter, and he said  
12 that he was not happy with the timeline that we had  
13 used to deal with this matter, that it needed to move  
14 along.

15 ARBITRATOR DOUGLAS: Okay. So, then we go  
16 to the final email on this chain, and it is dated the  
17 25th of April. We're in the afternoon. And this is  
18 an email from you to Mr. Rivera, and it says: "I'm  
19 attaching the Contract with the law firm's comments.  
20 Let me know if I should sign it or if we should send  
21 a draft to the other party."

22 I just wanted to ask you, when do you recall

1 that the Contract was actually signed? I mean,  
2 presumably it was sometime after this.

3 THE WITNESS: Yes, correct.

4 ARBITRATOR DOUGLAS: Do you remember exactly  
5 when it was signed?

6 THE WITNESS: My understanding is that that  
7 happened at the end of April.

8 ARBITRATOR DOUGLAS: Do you remember the  
9 exact date?

10 THE WITNESS: I don't know if that is in  
11 this document. Off the top of my head, I don't know.

12 ARBITRATOR DOUGLAS: But according to your  
13 best recollection, it was a few days after this  
14 email, the end of April?

15 THE WITNESS: Yes, correct.

16 ARBITRATOR DOUGLAS: And how was it signed?  
17 Were you at the--were you physically at the place  
18 where it was signed?

19 THE WITNESS: No. Oscar asked me to make a  
20 few comments. I sent those to Ana Graciela, and she  
21 was going to do everything necessary to arrange the  
22 signature issue and then to send everything to Reyna.

1           ARBITRATOR DOUGLAS: Okay. Are you aware of  
2 when the payment was made in relation to this  
3 transaction, the first payment?

4           THE WITNESS: My understanding is that it  
5 was almost simultaneously, practically speaking.

6           ARBITRATOR DOUGLAS: Well, you said just  
7 before that you thought this Contract was signed at  
8 the end of April. In fact, that the payment that was  
9 made under the Contract was on this day, the 25th of  
10 April?

11          THE WITNESS: I don't remember the month.

12          ARBITRATOR DOUGLAS: So, was the payment  
13 made before the Contract was signed?

14          THE WITNESS: My understanding is that this  
15 was practically a simultaneous matter.

16          ARBITRATOR DOUGLAS: Are you aware that,  
17 under the Contracts, that the first payment had to be  
18 made within 10 days?

19          THE WITNESS: That's my understanding, yes.

20          ARBITRATOR DOUGLAS: So, you really were in  
21 a rush because we see that you are still negotiating  
22 or drafting the Contract on the 25th of April, and

1 payment is made on that very day, even though it is  
2 only required to be made within 10 days of signing  
3 the Contract.

4 THE WITNESS: I don't know the exact date  
5 where the payment was made, but if you say that it  
6 was made on that date, that's fine by me.

7 ARBITRATOR DOUGLAS: Okay. Do you recall  
8 that there was an addendum made to the Contract?

9 THE WITNESS: Yes, correct.

10 ARBITRATOR DOUGLAS: And if you want to  
11 refresh your memory, you deal with it at Paragraph 91  
12 of your First Statement, if you want to look at it.  
13 You don't have to if you don't want to, but I just  
14 wanted you to make sure that you had the right spot.

15 Were you involved in drafting the addendum?

16 THE WITNESS: No. Basically, this was a  
17 series of discussions that I held with Ms. Reyna.  
18 She was insistent that the extension be formalized  
19 because she was unable to fulfill part of the  
20 agreement to be able to free up the lien that the  
21 mortgage had. She indicated that, according to her,  
22 this was outside of her control and there were delays

1 in the work, and that's what she had indicated to us.

2 ARBITRATOR DOUGLAS: Well, let's take a look  
3 at the addendum. It is at C-374, if we could get  
4 that.

5 Now, if you look at the addendum in the  
6 first recital, it talks about the previous contract  
7 that was signed, and it says it was signed or it's  
8 dated the 2nd of April 2013.

9 THE WITNESS: Correct.

10 ARBITRATOR DOUGLAS: But we just--when we  
11 were just looking at your email chain with your  
12 lawyer, you seemed to think that the Contract must  
13 have been signed in late April.

14 THE WITNESS: That is correct.

15 ARBITRATOR DOUGLAS: Is it possible that  
16 this date is wrong?

17 THE WITNESS: My best recollection is that  
18 since the document was not signed with both Parties,  
19 she signed it, she sent the signed copy, and it was  
20 executed with the other Party, so they were not  
21 together in the same place. And I don't know if  
22 there was a mistake at the time of drafting. This

1 document was drafted and prepared by Ms. Reyna.

2 ARBITRATOR DOUGLAS: Do you recall when you  
3 were interviewed by the investigator in relation to  
4 the Justice Moncada Luna situation? The investigator  
5 showed you the Agreement, the original Purchase  
6 Agreement, and he also said that it was dated the  
7 2nd of April 2013.

8 Do you recall that?

9 THE WITNESS: Are you referring to my  
10 interview before the National Assembly?

11 ARBITRATOR DOUGLAS: I think before the  
12 investigator afterwards. We'll have a look at it.  
13 It is at C-888. Page 6. It's on Page 5 as well.  
14 You'll see from the questions that you're being asked  
15 that a date is given, the 2nd of April 2013.

16 So, the person interviewing you seems to  
17 have a version of the Agreement in front of him where  
18 it's dated the 2nd of April 2013.

19 THE WITNESS: I apologize. Are we at  
20 Page 26?

21 ARBITRATOR DOUGLAS: No, Page 5 and Page 6.  
22 And that's the pages at the bottom of the document.

1 (Comments off the microphone.)

2 ARBITRATOR DOUGLAS: It's 22 in the Spanish  
3 version, I'm being told.

4 THE WITNESS: Yes. Go ahead.

5 ARBITRATOR DOUGLAS: Did you see the  
6 document that was being talked about by the  
7 investigator with the date of the 2nd of April 2013?

8 THE WITNESS: Yes, I do see the document.  
9 Unfortunately, I did not have access to this  
10 document. It was not until this proceeding when I  
11 had the opportunity to interview with the  
12 investigator. I was never shown the document for me  
13 to make a comment. And after that, when I read it, a  
14 couple of things seemed confusing or I do not recall  
15 them the way they are drafted.

16 ARBITRATOR DOUGLAS: But you're aware that  
17 the version of the Contract that we have is not  
18 dated. It just has April 2013.

19 THE WITNESS: Yes, that is correct.

20 ARBITRATOR DOUGLAS: Is it possible that  
21 when the Contract was signed, it was backdated to the  
22 2nd of April 2013?

1           THE WITNESS: I don't have any reasons to  
2 get to that conclusion. I don't know if that was at  
3 the time of writing the date, but as of the 22nd, I  
4 was not authorized by Mr. Rivera.

5           ARBITRATOR DOUGLAS: You weren't authorized  
6 to sign it?

7           THE WITNESS: Yes, indeed. I think it was  
8 the 22nd or the 25th, as we previously discussed, but  
9 definitely I would not have signed without the  
10 consent of Mr. Rivera.

11          ARBITRATOR DOUGLAS: But you didn't sign the  
12 document?

13          THE WITNESS: No. I gave instructions or  
14 coordinated the signing of the document, but it was  
15 when I was authorized by Mr. Rivera, or whenever he  
16 made any comments or observations he had to make.

17          ARBITRATOR DOUGLAS: And that was some time  
18 after the 25th of April?

19          THE WITNESS: As I mentioned before, I think  
20 it was towards late April.

21          ARBITRATOR DOUGLAS: Okay. If we go back to  
22 your Witness Statement at Paragraph 91 when you talk

1 about the addendum, and there's a footnote, and you  
2 refer to the reason for the addendum. This is  
3 Footnote 67.

4 Do you see that?

5 THE WITNESS: Correct.

6 ARBITRATOR DOUGLAS: You see that the email  
7 that is referred to there is dated 7 July 2015, so  
8 it's a number of years after the addendum.

9 THE WITNESS: Would it be possible to have  
10 access to the document?

11 ARBITRATOR DOUGLAS: Of course. It is  
12 C-203. So, it looks like this is some sort of a  
13 title search which is being done, but it's being done  
14 in July 2015.

15 Do you see that?

16 THE WITNESS: That is correct.

17 ARBITRATOR DOUGLAS: So, was a similar title  
18 search done in 2013 when the addendum was signed?

19 THE WITNESS: I understand that Ms. Reyna,  
20 after having several conversations with me and in an  
21 attempt to try to maintain the agreement alive, opted  
22 to give me that version of the document, left it at

1 the office, so that I could coordinate the signing,  
2 with the authorization of Mr. Rivera. That did not  
3 take place because back then Mr. Rivera did not agree  
4 with the way things were.

5 Later on he told me that he was going to have  
6 some verifications. I don't know if that was--

7 ARBITRATOR DOUGLAS: I mean, we can see  
8 that, in July 2015, there's a mortgage that is still  
9 registered on the land. So, we know that as of 2015,  
10 but did you check whether that was the case in 2013,  
11 in September, when the addendum was prepared?

12 THE WITNESS: Correct. Back then I  
13 understand that I had not done that yet.

14 ARBITRATOR DOUGLAS: So, you signed the--or  
15 someone signed the addendum in 2013, and then you  
16 only checked in 2015?

17 THE WITNESS: In 2013, we received the  
18 addenda, but it was not executed by the other Party.

19 ARBITRATOR DOUGLAS: That I understand, but  
20 the problem, if I understand where the transaction  
21 is, that the mortgage or the lien was still on the  
22 property.

1           So, how did you check in 2013 whether or not  
2 the lien was still registered on the property?

3           THE WITNESS: I understand that that  
4 verification must have been done timely. Back then I  
5 didn't do it personally. I may have discussed it  
6 with Mr. Rivera or with Ms. Graciela.

7           ARBITRATOR DOUGLAS: When you eventually  
8 negotiated the transaction in 2013 in April, did you  
9 check for any encumbrances on the property at that  
10 point in time? Did you do a title search?

11          THE WITNESS: Yes. INAC had already given a  
12 copy of the document stating that there was an  
13 encumbrance.

14          ARBITRATOR DOUGLAS: Were you a bit  
15 surprised by the encumbrance? Because Ms. Reyna says  
16 that she offered you the property in mid-2012. And  
17 we see, from this document at least, that there was a  
18 mortgage registered on the 15th of February 2013.

19          THE WITNESS: I don't recall that that was  
20 in 2012.

21          ARBITRATOR DOUGLAS: Well, do you want to  
22 look at the email that she sent you after she gave

1 testimony? It's at C-210. And you see there in the  
2 first paragraph, it says--and this is a letter to  
3 you--"I offered you the real estate property, a real  
4 estate property in the middle of 2012."

5 THE WITNESS: That is correct. That's what  
6 the email says, but the email was not prepared by me,  
7 and I do not recall that.

8 ARBITRATOR DOUGLAS: When you looked at  
9 title search in April 2013, did you see the value of  
10 the original purchase of the land?

11 THE WITNESS: I understand I did.

12 ARBITRATOR DOUGLAS: And it didn't concern  
13 you that it was for a much, much smaller amount than  
14 what you were negotiating with Ms. Reyna?

15 THE WITNESS: Unfortunately, that's the way  
16 the real estate market works.

17 ARBITRATOR DOUGLAS: Do you remember what  
18 the original transaction price was?

19 THE WITNESS: No, I do not. But I know that  
20 one of the reasons why Oscar was insisting so much  
21 was because the valuation of the area was increasing.

22 ARBITRATOR DOUGLAS: Did you at that time

1 check whether Ms. Reyna had the authority to sell the  
2 land?

3 THE WITNESS: Yes. You would understand  
4 that part of the file also requires a Power of  
5 Attorney from JR Investment, I think.

6 ARBITRATOR DOUGLAS: And you were given a  
7 copy of that Power of Attorney?

8 THE WITNESS: It was with the record that we  
9 had with us at the office.

10 ARBITRATOR DOUGLAS: But it's not attached  
11 to the Contract?

12 THE WITNESS: There might not be a copy  
13 because of the way things were done in Panamá, but  
14 back then we checked and it existed. It was correct.

15 ARBITRATOR DOUGLAS: And was it a general  
16 Power of Attorney, or was it a Power of Attorney  
17 specific to this transaction?

18 THE WITNESS: It was a general Project that  
19 included the plot.

20 ARBITRATOR DOUGLAS: So, the general Power  
21 of Attorney or a Power of Attorney that was specific  
22 to this particular transaction?

1           THE WITNESS: I understand that it was  
2 general and it referred to the property. But it was  
3 signed by the American lady. I don't recall her  
4 name.

5           ARBITRATOR DOUGLAS: And on the--on your  
6 side, who was the person that signed on behalf of  
7 Mr. Rivera?

8           THE WITNESS: I understand that it was an  
9 employee with IGRA, the corporate law firm for the  
10 Consortium.

11          ARBITRATOR DOUGLAS: And who was  
12 representing Punela?

13          THE WITNESS: Yes, that is correct.

14          ARBITRATOR DOUGLAS: And when did Mr. Rivera  
15 have control over Punela? Is that something that you  
16 knew at the time? Were you aware that it was his  
17 Company, or did you take any steps to familiarize  
18 yourself with that?

19          THE WITNESS: Well, Punela was created in a  
20 way similar to the creation of companies by  
21 Mr. Rivera in other jurisdictions such as in Puerto  
22 Rico. The corporation is created and then it acts as

1 custodian or owner of the Property.

2 ARBITRATOR DOUGLAS: But when did he come to  
3 own Punela?

4 THE WITNESS: From the moment it was  
5 created. It was created as its own Company. It was  
6 its own Company. This is his own Company.

7 ARBITRATOR DOUGLAS: But the document we  
8 have says that it's the same Luis Montaña who owns  
9 Punela, at least in January or February 2013. So, it  
10 seems that the Company was created by that  
11 individual, and I'm just wondering whether at some  
12 point Mr. Rivera obtained the Company from Mr. Luis  
13 Montaña?

14 THE WITNESS: Mr. Luis Montaña was never the  
15 owner. Yes, a legal representative, but at all times  
16 the Company is or was--I don't know if it's still  
17 registered, but Mr. Rivera has been the only owner of  
18 that corporation.

19 ARBITRATOR DOUGLAS: Maybe I misunderstood  
20 the document, but could we have a look at C-77?

21 When you look at the Shares--

22 (Comments off microphone.)

1           ARBITRATOR DOUGLAS: Sorry, 77. Yeah. It's  
2 only in Spanish, but if you look at--

3           SECRETARY KETTLEWELL: Correction to the  
4 interpreter, it is 77. 377.

5           ARBITRATOR DOUGLAS: No, no. 77. Just 77.

6           SECRETARY KETTLEWELL: C-77.

7           ARBITRATOR DOUGLAS: Yeah.

8           THE WITNESS: Yes.

9           ARBITRATOR DOUGLAS: And you see that there  
10 are two shareholders, and one of them is Luis  
11 Montaña, who is the person who signed the Purchase  
12 Agreement, and Ita Rodriguez. So, I just wanted to  
13 know whether, to your knowledge, after this date,  
14 which is in January 2013, Mr. Rivera acquired this  
15 Company.

16           THE WITNESS: I understand that the  
17 documents or the Shares--I don't know if they are to  
18 bearer, but I understand that they were under the  
19 custody of Mr. Rivera.

20           He has never been an official of the corporation  
21 or doesn't show to be an official of the corporation,  
22 but that is the situation.

1           ARBITRATOR DOUGLAS: Well, could we have a  
2 look at C-559? This may or may not refresh your  
3 memory. And this is an invoice from Omega to your  
4 lawyers, and it says "Punela Development Corporation,  
5 Re: instructions from May 6, 2013, Company is  
6 acquired."

7           I was wondering if around that time,  
8 perhaps, the Company was acquired by Omega or  
9 Mr. Rivera.

10          THE WITNESS: Based on my knowledge, I don't  
11 think the date, the accurate--the date on the invoice  
12 is as accurate as the date we see in the email chain,  
13 but I don't know that there was any later document.  
14 Mr. Rivera is the bearer of those Punela Shares, even  
15 though it is not in the record.

16          ARBITRATOR DOUGLAS: So, do you recall what  
17 this instruction from May 6, 2013, is about?

18          THE WITNESS: I would think that this was a  
19 typo here in the invoice, because as of April 22,  
20 based on the email we just saw, Ms. Medina was  
21 instructed to acquire the corporation.

22          ARBITRATOR DOUGLAS: Do you recall when we

1 just looked at Ms. Reyna's email to you, she said  
2 that she offered you the property in mid-2012.

3 Do you remember that?

4 THE WITNESS: Yes, I do recall I read that.

5 ARBITRATOR DOUGLAS: Do you know--are you  
6 aware that Ms. Reyna testified to the investigators  
7 that it was Mr. Corcione, Nicolas Corcione, who set  
8 up the meeting between Ms. Reyna and yourself in  
9 mid-2012 concerning this property?

10 THE WITNESS: Yes, I do have knowledge of  
11 the statement by Ms. Reyna, but I do not know why she  
12 says that.

13 ARBITRATOR DOUGLAS: Well, perhaps we can  
14 have a look at it. It is C-89. And just to be  
15 clear, Nicolas Corcione was another bidder on the  
16 Contract; is that correct?

17 THE WITNESS: Yes, that is correct.

18 ARBITRATOR DOUGLAS: The La Chorrera  
19 Contract--sorry, I completely forgot its name--which  
20 was awarded to you in November 2012.

21 THE WITNESS: Yes. That's right, with  
22 respect to La Chorrera, correct.

1           ARBITRATOR DOUGLAS: So, Ms. Reyna is  
2 saying--this is the bottom of Page 14--I hope it's  
3 the same in the Spanish. There are some interesting  
4 things she says about the Trump Tower Beach Resort,  
5 which we can probably skim over, but then at the  
6 bottom, the questioner is referring to a previous  
7 statement that Ms. Reyna gave, and it says: "You said  
8 in this statement that Mr. Corcione was the person  
9 who in mid-2012 referred you to a Buyer for the  
10 property in Cañas, so that you could pay J.R. Bocas  
11 Investment's debt to Ricardo Calvo.

12           So, J.R. Bocas Investment is the Company  
13 selling the land, isn't it?

14           THE WITNESS: Yes, that is right.

15           ARBITRATOR DOUGLAS: And were you aware that  
16 it had a debt to Ricardo Calvo?

17           THE WITNESS: No, that was not indicated to  
18 me. My understanding is that Ms. Reyna was confused  
19 about the dates, because once I met her in 2012 it  
20 was long before she offered the property. It was at  
21 the beginning of 2013 that I approached Ms. Reyna  
22 based on information that we had.

1           ARBITRATOR DOUGLAS: In relation to Ricardo  
2 Calvo, he was someone who was implicated in the  
3 situation with Justice Moncada Luna.

4           That's correct, isn't it?

5           THE WITNESS: Yes, according to the record,  
6 that's correct.

7           ARBITRATOR DOUGLAS: So, the Statement goes  
8 on: "And he referred you to some people who had  
9 offices next to the building where your office was  
10 located, that these people were from a multinational,  
11 Omega, and you handed over the sales purchase  
12 Agreement to Mr. Corcione for his signature and that  
13 he himself took charge of managing the payments that  
14 were deposited into your account."

15           However, in your First Statement you said  
16 that you met Mr. Frankie Lopez in a restaurant in the  
17 Esplendor Building and that they were the ones who  
18 asked you if you had any property for sale, and that  
19 is how you came to offer them the property in Cañas.

20           And you ask, "can you explain why your  
21 Statements are different in this regard." And the  
22 Response from Ms. Reyna is "Mr. Corcione did not go

1 to the meeting. He referred me. I want to clarify  
2 that the meeting I had with Mr. Frankie Lopez in the  
3 Esplendor in mid-2012 was set up by Mr. Nicolas  
4 Corcione, but he didn't attend it."

5 Can I just ask you to respond to that? Did  
6 Mr. Nicolas Corcione set up the meeting between you  
7 and Ms. Reyna?

8 THE WITNESS: No, that is not correct. I  
9 don't know why Ms. Reyna says that, but my--the first  
10 time I met Ms. Reyna was entirely by chance at the  
11 restaurant or the bar of the Esplendor, but I've  
12 never discussed that transaction with Mr. Nicolas  
13 Corcione or anything related to that Project.

14 ARBITRATOR DOUGLAS: Do you know  
15 Mr. Corcione well?

16 THE WITNESS: I had just been introduced to  
17 him and we ended up coinciding at a number of  
18 meetings, but I have no sort of relationship or  
19 commercial conversation with Mr. Corcione.

20 ARBITRATOR DOUGLAS: Thank you very much for  
21 your answers. That's very helpful.

22 PRESIDENT SHORE: Mr. López, just a question

1 about one of the exhibits that Mr. Ryan showed you.  
2 I just wanted to ask you about R-45. And you've  
3 already answered some questions about this exhibit.

4 THE WITNESS: Please go ahead,  
5 Mr. President.

6 PRESIDENT SHORE: Thank you.

7 So, that first bullet point on Page 1  
8 references delays in progress payment accounts  
9 submitted to date. And I think you already talked  
10 about this; is that right?

11 THE WITNESS: Yes, that is right.

12 PRESIDENT SHORE: And in the second bullet  
13 point, you say at this--at the moment--and the date  
14 of the letter is September 5, 2014. "At the moment  
15 we're owed [REDACTED] and so on. See the account  
16 summary attached as Annex A, all paperwork has been  
17 prepared in strict compliance with price in terms of  
18 payment."

19 Are you with me?

20 THE WITNESS: Yes, I do.

21 PRESIDENT SHORE: I just want to ask you to  
22 help me with Annex A, which is at Page 3, and with

1 the amounts and dates.

2           So, it's better if you explain it, rather  
3 than I do, so for each month there is an invoice  
4 associated with that month and then there's the date  
5 of the invoice.

6           Do I have that right?

7           THE WITNESS: Yes, that's right.

8           PRESIDENT SHORE: And so, there are amounts  
9 for [REDACTED]  
10 with invoice numbers, and then if you move over to  
11 the side, the totals, there's a total invoice, and  
12 there is relatively small amounts for [REDACTED]  
13 [REDACTED], but then there are large amounts;  
14 right? [REDACTED] Am I reading that  
15 correctly?

16           THE WITNESS: Yes, that's right.

17           PRESIDENT SHORE: And all of those amounts  
18 are unpaid; right? Because they are part of the  
19 [REDACTED]. There's a withholding, but they are part  
20 of the sum that you're referring to in progress  
21 payments unpaid; correct?

22           THE WITNESS: Yes, that is right.



1 with all the activities that were signed and all the  
2 components from inspection, to the INAC, to the  
3 Office of the Comptroller General, it would be signed  
4 and approved. Once it was approved and signed, then  
5 the invoice would be generated. You'll note that all  
6 of these invoices with numbers are signed by all the  
7 Parties, including by Sosa and representatives of the  
8 Office of the Comptroller General.

9           Once that invoice was submitted, it  
10 generated--or one would write the CPP. That is the  
11 method that we had the Concession Contract with  
12 Credit Suisse, and it had been sold. All of these  
13 documents were under the signature or the approval of  
14 the Director or manager, and for some reason it was  
15 denied without giving us any legitimate explanation.  
16 It was said that the legality of the CPPs was being  
17 verified.

18           You'll then see that for [REDACTED]  
19 [REDACTED], even though we submitted the invoice, the  
20 employees of the INAC didn't sign it. They must have  
21 had other instructions, but since it wasn't approved  
22 by all the Parties, we never generated the invoice

1 that would lead to the drawing up of the CPPs.

2 I don't know if you need me to explain  
3 anything more.

4 PRESIDENT SHORE: No, that's very helpful.  
5 Thank you, Mr. López.

6 So, maybe this would be a good time to take  
7 a break, and then over to you, Ms. Gorsline, for  
8 redirect.

9 MS. GORSLINE: Actually, Mr. President, we  
10 will have no redirect, so if you would prefer to  
11 dismiss the Witness now, he might be grateful.

12 PRESIDENT SHORE: No redirect. Okay. All  
13 right.

14 Any questions arising for Respondent out of  
15 the questions from the two Tribunal Members?

16 MR. RYAN: No, Mr. President.

17 PRESIDENT SHORE: All right. Very well.

18 Mr. López, thank you very much for your  
19 appearance yesterday and this morning. And no one  
20 has further questions for you, and your testimony is  
21 concluded. Thank you very much.

22 (Witness steps down.)

1           PRESIDENT SHORE: And I believe we should  
2 take a 15-minute break, and then we will have  
3 Mr. Rivera.

4           Thank you.

5           (Brief recess.)

6           OSCAR I. RIVERA RIVERA, CLAIMANTS' WITNESS, CALLED

7           PRESIDENT SHORE: Back on the record.

8           Mr. Rivera, good morning.

9           THE WITNESS: Good morning, Mr. Chairman,  
10 Members of the Tribunal.

11           (Comments off microphone.)

12           PRESIDENT SHORE: We're back.

13           Mr. Rivera, I don't need to welcome you to  
14 the proceedings because you've been here, but welcome  
15 to the table that you are now at.

16           I think you have Arbitration Rule 35(2),  
17 which is the declaration, in front of you. Please,  
18 will you read that out?

19           THE WITNESS: I solemnly declare, upon my  
20 honor and conscience, that I shall speak the truth,  
21 the whole truth, and nothing but the truth.

22           PRESIDENT SHORE: Thank you. And you appear

1 to be a low talker, Mr. Rivera, so can you make sure  
2 you're close to the microphone?

3 Thank you. I believe we have three Witness  
4 Statements from you: the first, 25 June 2018; and  
5 then 27 May 2019; and the third, 17 January 2020; is  
6 that right?

7 THE WITNESS: It is.

8 PRESIDENT SHORE: Very well. I believe that  
9 there may be some questions for you first from  
10 Ms. Gorsline; is that right?

11 MS. GORSLINE: We will have no direct  
12 examination, Mr. President.

13 PRESIDENT SHORE: Thank you, Ms. Gorsline.

14 So, then there will be questions from  
15 Mr. Weisburg, who is the gentleman waving his glasses  
16 over there. Thank you.

17 Over to you, Mr. Weisburg.

18 MR. WEISBURG: Thank you.

19 CROSS-EXAMINATION

20 BY MR. WEISBURG:

21 Q. Good morning. Mr. Rivera, you're very  
22 familiar, as I understand it, with real estate

1 development and real estate investment; is that  
2 correct?

3 A. Good morning, Mr. Weisburg. Yes, that is  
4 correct.

5 Q. Okay. And among your other tasks and  
6 responsibilities, you either are or have been a  
7 partner or shareholder in several mortgage lenders?

8 A. That is correct as well.

9 Q. And you frequently invested in the  
10 ownership, operation, and development of real estate  
11 projects?

12 A. Yes.

13 Q. And totaling those things up as they appear  
14 in your Witness Statements, it appears that you own  
15 more than a dozen different companies that do such  
16 things?

17 A. That is correct.

18 Q. Okay. And, for example, Punela, in Panamá,  
19 was one such company.

20 A. Yes.

21 Q. And you also say you were a key--and I'm  
22 quoting from your Witness Statement, your First

1 Witness Statement, at Paragraph 12, you say you were  
2 "a key member of owner/developer teams" for  
3 residential projects in Puerto Rico?

4 A. That is correct as well.

5 Q. And these projects, you, through an entity  
6 that you own, would acquire land; is that correct?

7 A. Yes.

8 Q. And raw land?

9 A. Yes.

10 Q. And then not only would you acquire it, but  
11 would you have Omega U.S. develop buildings and other  
12 structures on that land?

13 A. I have to clarify. The entities that  
14 acquire the land would usually be the developer,  
15 while Omega will be the actual contractor, the ones  
16 that do the physical work at the job site.

17 Q. Okay. Okay. That's fine.

18 And you also have testified that you owned a  
19 well-diversified personal investment portfolio of  
20 land, hotels, shopping malls, and other real-estate  
21 related assets?

22 A. Yes.

1 Q. And so, summing this all up, you consider  
2 yourself to be an expert in real estate development?

3 A. I've done it for a while. I wouldn't  
4 compare myself to what you would call "Experts," but  
5 I know my way around.

6 Q. Well, you say in your Witness Statement that  
7 you're well-versed.

8 A. Yeah, that is correct.

9 Q. Okay. Now, prior to 2008 and your decision  
10 to move to Panamá, Omega overwhelmingly confined its  
11 activities to Puerto Rico; isn't that correct?

12 A. Yes.

13 Q. But in your opinion, the Puerto Rican market  
14 was relatively small.

15 A. Yes.

16 Q. And how would you compare the size of the  
17 Puerto Rican market to the size of the Panamanian  
18 market?

19 A. In terms of construction, particularly after  
20 the 2008 and 2009 crisis, it was a tiny, tiny,  
21 fraction of the construction market in Panamá.

22 Q. But it--looked at it another way, the

1 population of the two countries relatively--of the  
2 two locations, Puerto Rico and Panamá, is relatively  
3 the same; isn't that correct?

4 A. Yes, but I think you were referring to  
5 market.

6 Q. I was. And now I've changed to population.

7 A. Oh, population, it is similar.

8 Q. Okay. Now, you personally own Omega--the  
9 shares of Omega--or the interests of Omega  
10 Engineering LLC?

11 A. I do.

12 Q. Okay. And as I understand it, you began  
13 traveling to Panamá to develop work there, as you  
14 said, frequently in about 2008?

15 A. That's correct.

16 Q. And you and your team formed Omega  
17 Engineering Inc.--what we've called Omega Panamá--in  
18 October of 2009; correct?

19 A. That sounds about right. Mr. Weisburg, I  
20 will take your word for the date. It sounds about  
21 right.

22 Q. Well, the date is important, and I think

1 it's in your Witness Statement. So, if you could  
2 look at your First Witness Statement at--hold on a  
3 second. I'm just looking for the date.

4 A. If that is what I testified, that is what it  
5 is, Mr. Weisburg.

6 Q. Yeah. Okay. You testified it was  
7 October 2009. Give me a second here. Yeah. It is  
8 actually in a footnote.

9 But let me ask you, you've signed a  
10 Statement of Truth--

11 A. Yes.

12 Q. --with respect to all three of your Witness  
13 Statements. Does that include the content of the  
14 footnotes?

15 A. Yeah. There was certainly only a mistake on  
16 the number of the--or reference on the footnote. I  
17 think it was brought up during Mr. López's  
18 cross-examination.

19 Q. But you take responsibility, not only for  
20 the content of the body of your Witness Statements,  
21 but also the footnotes; correct?

22 A. Yes. And that was a mistake, Mr. Weisburg.

1 Q. Fine.

2 Now, so, we've established that you've put  
3 together Omega Engineering in October of 2009. Could  
4 you go--and it's almost everything--not everything  
5 unfortunately--that I'm going to be referring to,  
6 including, I believe, your Witness Statements, are in  
7 the volume that you were given.

8 A. Okay.

9 Q. And if you could go to C-17.

10 Just to establish, these are the  
11 incorporation documents dated 26 October for Omega  
12 Panamá; correct?

13 A. Correct.

14 Q. Okay. And you were both an officer and  
15 director of Omega Panamá?

16 A. Yes.

17 Q. And you personally owned Omega Panamá, just  
18 like Omega U.S.? It was directly held by you?

19 A. Yes.

20 Q. So, you don't create a parent and sub? They  
21 are both direct--they are both parents that you own?

22 A. In this particular instance, that is the

1 case.

2 Q. Okay. And the reason that you do that is  
3 to--in your view, that limits your liability; is that  
4 correct?

5 A. Yes.

6 Q. Okay. And you say in your Witness  
7 Statement, your First Statement at Paragraph 21: "I  
8 preferred, for liability purposes, to keep my  
9 different business endeavors financially and legally  
10 independent."

11 That's your testimony today? It's  
12 the--right smack in the middle of Paragraph 21 of  
13 your First Statement.

14 A. Yes.

15 Q. Okay. Now, moving back to Omega U.S.,  
16 you've testified in your Witness Statement that you  
17 registered Omega U.S. in Panamá; is that correct?

18 A. Yes.

19 Q. Okay. And when did you do that?

20 A. I don't recall from memory, but I'm sure we  
21 have documents to show for it.

22 Q. Well, you don't recall the date.

1 A. Exactly. I don't recall the date.

2 Q. Okay. Could you look at Paragraph 47 and  
3 tell us if that refreshes your recollection as to  
4 when Omega U.S. was registered in Panamá.

5 Yeah, it's the First Witness Statement,  
6 Paragraph 47, bottom of Page 13; First Witness  
7 Statement, Page 13, Footnote 47.

8 A. Oh, footnote. I'm sorry, I was looking at  
9 paragraph.

10 Q. Yes. We love footnotes. We are lawyers.

11 A. Yes.

12 Q. So, my question: When did you register  
13 Omega U.S. in Panamá?

14 A. May 27, 2010.

15 Q. Okay. Now, if you could look at C-111.  
16 It's just a one-page document, and there's a version,  
17 the original in Spanish, and there's the translation  
18 on the front.

19 Can you tell us what that is?

20 A. Yes. This is a certificate that--it's  
21 basically a certificate that a corporation exists.

22 Q. Okay. And when was this filed in Panamá?

1           A.     This particular document, the 20th of  
2 November 2014.

3           Q.     Okay.  So, would you agree with me that your  
4 Footnote 47 is incorrect?

5           A.     No.

6           Q.     Well, Footnote 47--you just testified that  
7 you're responsible for these footnotes--says that  
8 this foreign registration was done in 2010, and the  
9 document you cite, C-111, in that footnote, says it  
10 happened in 2014.

11          A.     I think it will clarify--well, first of all,  
12 Mr. Weisburg, I did tell you that this wasn't the  
13 registration of the Company.  This was a certificate  
14 that evidenced the existence of a company.  So, if  
15 you go to the first paragraph and you go to the last  
16 line, it says "incorporation date" and then it says  
17 "May 27, 2010."

18          Q.     Isn't that the incorporation date in Puerto  
19 Rico?

20          A.     No.

21          Q.     Are you sure about that?

22          A.     Yes.

1 Q. Now, after you formed Omega Panamá in  
2 October of 2009, you testified that in June of 2010  
3 you created PR Solutions; isn't that correct?

4 A. Yes.

5 Q. And you say in your First Witness Statement  
6 at Paragraph 22, in the first sentence: "In  
7 parallel"--referring to the formation of Omega  
8 Panamá--"we also created an anonymized local  
9 affiliate, which we named PR Solutions. It was  
10 registered with the Panamanian Companies Registry in  
11 June 2010 and was also wholly owned and controlled by  
12 me."

13 That's your testimony?

14 A. It is, that we created this company called  
15 PR Solutions.

16 Q. Okay. And--but you also say inconsistently  
17 that Mr. Tito Chevalier created PR Solutions; isn't  
18 that correct?

19 A. Yes. But it's consistent--and that's why I  
20 made a clarification that "we."

21 Q. Well, let's look at what you are really  
22 saying here. In Rivera 1, at Paragraph 22, which

1 I've just been through, you say "we" created, and the  
2 way I read this, "we" in the immediately preceding  
3 paragraph refers to "my team and I" did a bunch of  
4 things, and then you say "In parallel, we also  
5 created..."

6           So, aren't we to read "we" as "my team and  
7 I"?

8           A. Mr. Weisburg, I'm testifying that when I  
9 meant "we," I included Mr. Chevalier, which I thought  
10 to be part of my team.

11          Q. Okay. And was he employed by you?

12          A. No.

13          Q. And did he have a space in your office?

14          A. No.

15          Q. And was he a director of your companies?

16          A. No.

17          Q. Okay. Was he an officer of any of your  
18 companies?

19          A. No.

20          Q. Okay. And I might note that in your  
21 Memorials, you say--and I'm reading from Claimants'  
22 First Memorial at Paragraph 30: "In June 2010,

1 Mr. Rivera registered PR Solutions, an Omega U.S.  
2 affiliate, fully owned and controlled by Mr. Rivera,  
3 with the Panamanian Companies Registry."

4 That's incorrect, isn't it?

5 A. We created that, and that includes  
6 Mr. Chevalier, and that's part of my Witness  
7 Statement, Mr. Weisburg.

8 Q. No, that's not what it says. It says  
9 "Mr. Rivera registered PR Solutions."

10 A. If, by that, do you mean that I registered  
11 alone, yeah, it is incorrect.

12 Q. Okay. So, where you testify first about  
13 Mr. Chevalier's role is in your Third Witness  
14 Statement at Paragraph 27. Can you turn to that?

15 And you say: "Mr. Chevalier became a close  
16 ally and a personal confidante. I discussed with him  
17 my interest in using a separate vehicle to make  
18 initial bids in Panamá and thus protect the Omega  
19 brand name and its impeccable 30-year track record.  
20 Mr. Chevalier understood my concerns and offered to  
21 hand over PR Solutions, a company he had originally  
22 registered, but for which he no longer had a use.

1 Thus, I became the sole shareholder of PR Solutions."

2           Isn't it a fact that Mr. Chevalier created  
3 PR Solutions, on his own, independently from you,  
4 without communication from you, and then  
5 subsequently, after it had been formed, turned it  
6 over to you?

7           A.    Yes.

8           Q.    So, "you"--referring to you personally and  
9 the employees of PR Solutions--had no role--the  
10 employees of Omega Panamá and Omega U.S. had no role  
11 in the formation of PR Solutions; isn't that correct?

12          A.    On the registration, yes.

13          Q.    Now, you refer to Mr. Chevalier in glowing  
14 terms many times and suggest that you and he are  
15 close, et cetera, et cetera.

16                Did you or any of your lawyers or other  
17 people working with you invite Mr. Chevalier to be a  
18 witness in this case?

19          A.    No. And I'll tell you why, Mr. Weisburg.  
20 Unfortunately, Mr. Chevalier passed away.

21          Q.    And when was that?

22          A.    I believe it was late 2014.

1 Q. Now, you also testified that you used  
2 PR Solutions to bid on your first Panamanian project,  
3 the Tocumen Airport Project; is that correct?

4 A. That's correct.

5 Q. Now, if you could go to your First Witness  
6 Statement at Footnote 40, which is on Page 12.

7 A. Yes. Umm-hmm.

8 Q. And, actually, go to the text. It  
9 says: "In line with this conservative  
10 approach"--which we'll get to in a minute--"in 2010,  
11 we used PR Solutions as the initial local Panamanian  
12 corporate vehicle to bid through PanamaCompra for  
13 what would become Omega U.S.'s first project, the  
14 Tocumen Airport Fuel Infrastructure Project"; right?

15 A. Yes.

16 Q. And then you have Footnote 40, which cites  
17 to C-127; correct?

18 A. Yes.

19 Q. Can we look at C-127?

20 A. That is the mistake we talked about earlier,  
21 Mr. Weisburg.

22 Q. No, I think we were talking about

1 Footnote 47 earlier.

2 (Comments off microphone.)

3 MR. WEISBURG: No, 127. First line.

4 BY MR. WEISBURG:

5 Q. So, could you look at C-127?

6 A. Yes.

7 Q. What is that? Let me ask--pose it as a  
8 different question.

9 Looking at C-127, this appears to be a bid  
10 by Omega Panamá, not PR Solutions, dated March 15,  
11 2010; isn't that correct?

12 A. Can you repeat the question, Mr. Weisburg?

13 Q. Sure. Sure. Let me go back.

14 You testified that you used PR Solutions to  
15 bid on this first project, the Tocumen Airport  
16 Project?

17 A. Yeah.

18 Q. And you cite--you send us to look for proof  
19 of that to C-127.

20 C-127 is, it appears to me--and I'm asking  
21 for your confirmation--to be a bid for an airport  
22 project, not by PR Solutions, but by Omega Panamá?

1           A.    Not for the airport--for the Tocumen  
2 Airport.

3           Q.    Well, what's this?

4           A.    A different airport.

5           Q.    So, is this the wrong citation?

6           A.    Yes.

7           Q.    So, we can ignore--C-127 is unrelated to the  
8 subject matter where this footnote appears; is that  
9 correct?

10          A.    That's correct.

11          Q.    Okay. Now, do you know whether the bid that  
12 you refer to by PR Solutions for the Tocumen Airport  
13 Project is a document in the record of this case?

14          A.    I think there's another one cited under the  
15 same footnote. Let me just check the--

16          Q.    No, that's not the bid.

17          A.    But it's a document related to--

18          Q.    Correct. That's the Award of the bid. I'm  
19 asking about the bid.

20                    You said you used PR Solutions to make these  
21 early bids, and I'm looking for the document that  
22 proves that, because I can't find it.

1           A.     But I'm saying this might prove that we bid  
2 as PR Solutions.

3           Q.     No.  It proves that the Award went to PR  
4 Solutions.  It doesn't say anything about who bid for  
5 it.  There may have been all kinds of amendments or  
6 adjustments between the initial bid and the award.

7           A.     To be precise, Mr. Weisburg, I don't know if  
8 the bid is part of the record or not.

9           Q.     Okay.  That's fine.

10           PRESIDENT SHORE:  Please help me out,  
11 Mr. Rivera.  I left my hearing aid in Milan.  Please  
12 do speak up.

13           THE WITNESS:  I'm so sorry.  If you want me  
14 to repeat any question, by all means.

15           PRESIDENT SHORE:  No, no need to repeat.  I  
16 know you are looking over to Mr. Weisburg, which is  
17 good in answering questions, but just keep the  
18 microphone in front of you when you turn your head.

19           THE WITNESS:  Okay.

20           BY MR. WEISBURG:

21           Q.     Sticking on C-127, so C-127 is a bid by  
22 Omega Panamá and others on a different airport

1 project; correct?

2 A. Correct.

3 Q. And it's dated March 15, 2010?

4 A. Yes.

5 Q. Now, do you know the date on which  
6 PR Solutions was actually incorporated or created?

7 And it's not a memory test. You can look at  
8 C-21, if you'd like. C-21.

9 A. I'm sorry. I don't see it in here. If they  
10 are in order, it jumps from--

11 Q. You're sure you're in the C section and not  
12 the R section?

13 A. It jumps from C-111 to C-127.

14 Q. No, C-2-1, 21.

15 A. Oh, C-21?

16 Q. Right.

17 A. I'm sorry, sir.

18 Q. That's okay.

19 A. Yes. The registration for PR Solutions,  
20 according to this document, it's June 11, 2010.

21 Q. Okay. So, going back to the C-127 bid in  
22 the name of Omega Panamá, that predated the creation

1 of PR Solutions; correct?

2 A. That is correct.

3 Q. And so, at least this initial bid reflected  
4 in C-127 was not made by PR Solutions?

5 A. That is correct.

6 Q. And going to--and I think you should have it  
7 there; I'm sure you saw it yesterday--this thing, the  
8 big sheet, QE Demonstrative 1--well, I'm sorry. I  
9 thought one was there. We'll get you one.

10 A. Thank you.

11 Q. So, in Column 2 has bid dates. And isn't  
12 it, in fact, the case that at least the first three  
13 bids were made before the formation of PR Solutions?

14 A. That is correct.

15 I'm sorry, Mr. Weisburg. You wanted me to  
16 keep this?

17 Q. Yeah, you should keep that. You can take it  
18 away with you.

19 A. All right.

20 Q. So, it's not correct, as I, at least,  
21 understand you to be saying in your Witness  
22 Statement, that initial bids in Panamá were made

1 through PR Solutions?

2 A. The initial bids that my companies bid alone  
3 or as a principal.

4 Q. Were made by Omega Panamá; correct?

5 A. Correct.

6 Q. Going back to the Tocumen Airport bid which  
7 was made by PR Solutions, do you know when that bid  
8 was awarded?

9 A. I think that was a footnote that we didn't  
10 get to read.

11 Q. Do you know when the Tocumen bid was  
12 awarded? For guidance, you can look at Footnote 40.

13 A. October 1, 2010.

14 Q. And isn't it a fact that you didn't even own  
15 PR Solutions at the date that that bid was issued or  
16 accepted?

17 A. No. I did.

18 Q. Well, if you could look at your Witness  
19 Statement Number 3, and particularly Paragraph 27,  
20 which I read part of before.

21 A. Umm-hmm.

22 Q. I'm not sure I read this exact part, but

1 this is where you talk about Mr. Chevalier: "Thus, I  
2 became a sole Shareholder for PR Solutions." You  
3 don't give a date, but you say at the bottom of  
4 Page 14: "Notwithstanding, shortly after taking  
5 control on 25 November 2010, at my request, PR  
6 Solutions issued a resolution in a public deed that  
7 changed the Company's Board of Directors to my  
8 colleagues and myself."

9           And so, this says: "Shortly after taking  
10 control on November 25." When, in fact, did you take  
11 control of PR Solutions from Mr. Chevalier?

12           A.     Definitely before we bid the Tocumen Airport  
13 Project. I'm sorry, Mr. Weisburg. I cannot give you  
14 a precise date. Maybe with documents I could, but  
15 not from the top of my head.

16           Q.     Did you pay Mr. Chevalier for PR Solutions?

17           A.     I think I reimbursed him the cost of  
18 registering.

19           Q.     How much was that?

20           A.     I don't recall.

21           Q.     And when was that?

22           A.     Around the same time.

1 Q. What's the date?

2 A. You know, sometime between its registration  
3 and when the bid of Tocumen went in.

4 Q. You don't know the date?

5 A. No.

6 Q. Okay. Now, when you moved from Puerto Rico  
7 to Panamá, wouldn't you agree with me that you didn't  
8 add Panamá to Omega's market, but you substituted  
9 Panamá for Puerto Rico?

10 A. No, I wouldn't agree with that statement.

11 Q. Okay. Well, if you could look at your First  
12 Witness Statement at Paragraph 25, and at the bottom  
13 it says: "Most, if not all, of Omega U.S.'s assets  
14 in the United States were put to use in Panamá, as  
15 Omega's projects in Panamá eventually came to  
16 represent the vast majority of Omega U.S.'s  
17 operations globally."

18 A. I'm sorry, Mr. Weisburg, I'm not sure--is it  
19 a footnote again?

20 Q. No. It's the last three lines of  
21 Paragraph 25 on Page 13 of your First Witness  
22 Statement.

1 A. Okay.

2 Q. First Witness Statement, Page 13,  
3 Paragraph 25, last three lines.

4 A. Yes.

5 Q. Okay. So, you would agree that most, if not  
6 all, of Omega U.S.'s assets were put to use in  
7 Panamá?

8 A. Yeah, the intangible assets.

9 Q. And isn't it a fact that, as of early 2013,

10

11

12 A. Yes.

13 Q. And that accounts for 100 percent of Omega's  
14 backlog; you didn't have any work in any other  
15 jurisdiction?

16 A. That is correct.

17 Q. By the way, referring back to the text in  
18 Footnote 25, I think you said "tangible assets."  
19 You said "intangible assets"?

20 A. Yes.

21 Q. It doesn't say that here in Paragraph 25,  
22 does it? It just says "assets."

1 A. That is correct.

2 Q. So, it's correct for the Tribunal to  
3 understand that most, if not all, of Omega's tangible  
4 and intangible assets were put to use in Panamá?

5 A. Mr. Weisburg, I'm here to clarify those type  
6 of questions, and I'm clarifying that it's most of  
7 the intangible assets.

8 Q. Yeah, but what about tangible assets? That  
9 qualification is not in this paragraph, is it?

10 A. No, it's not in that paragraph.

11 Q. And I think--I got a little distracted  
12 here--you had no backlog in any other jurisdiction;  
13 correct?

14 All-- [REDACTED]  
15 [REDACTED] ?

16 A. Yes, that is correct.

17 Q. Now, you agree that Omega Panamá was a newly  
18 registered company without its own track record,  
19 referring to 2010?

20 A. In 2010? Yes.

21 Q. And you agree that, thanks to Omega U.S.'s  
22 bonding capacity, solid financials, track record,

1 project portfolio, and other specifications used by  
2 project owners to evaluate bid proposals, this  
3 arrangement--the arrangement being Omega Panamá and  
4 Omega U.S.--allowed Mr. Rivera to bid for larger  
5 Panamanian projects?

6 A. I agree with that.

7 Q. Okay. Now, Compass Lexecon--you know who  
8 that is, of course; right?

9 A. Yes.

10 Q. Compass Lexecon says: "Omega Panamá showed  
11 competitive advantages due to its financial capacity,  
12 bonding capacity, and experience in construction  
13 work."

14 Isn't Compass Lexecon confusing Omega Panamá  
15 with Omega U.S.?

16 A. Mr. Weisburg, Omega Panamá was getting all  
17 these projects in a consortium with Omega U.S.  
18 because of all these assets that we're talking about.

19 Q. Okay. That doesn't answer my question.

20 A. Can you please repeat it?

21 Q. Compass Lexecon says that Omega Panamá  
22 showed competitive advantages due to its,

1 Omega Panamá's, financial capacity, bonding capacity,  
2 and experience in construction works.

3           Wouldn't you agree that Compass Lexecon was  
4 confusing Omega U.S. and Omega Panamá? Yes or no.

5           A. No, I wouldn't agree with that.

6           Q. Okay. But you do agree that it was  
7 Omega U.S., and not Omega Panamá, that provided the  
8 experience, financial strength, and bonding capacity  
9 on the Panamanian projects of the Consortium?

10          A. I do agree with that.

11          Q. Now, the very first Contract that was  
12 actually executed by Omega Panamá in conjunction with  
13 others was for the construction of the MINSA CAPSI  
14 health facilities; isn't that correct?

15          A. Yes.

16          Q. And you bid on--if you want to look at this  
17 sheet again, you can. The Consortium bid--or Omega  
18 Panamá or the Consortium bid on more Ministry of  
19 Health contracts than any other by a large margin;  
20 isn't that correct?

21          A. I don't understand the question.

22          Q. Well, isn't it a fact that 20 of the 42

1 bids--so, nearly half--that were made by Omega Panamá  
2 or the Omega Consortium were for MINSA CAPSI  
3 Projects?

4 A. Yes, but what I'm getting confused is that  
5 ten of those were Omega Panamá on its own without  
6 Omega U.S.--yeah, with that premise, the answer is  
7 yes.

8 Q. So, what you're saying is, on the first  
9 ten--and I think those are the only ones that fall  
10 into this category--on the first ten MINSA CAPSI  
11 bids, which are Number 4 through Number 13 here, the  
12 only bidder was Omega Panamá; correct?

13 A. Yes.

14 Q. And there were no other bids out of the 42  
15 that had that characteristic?

16 A. I would have to look into it one by one,  
17 Mr. Weisburg, to give you, but I will offer this:  
18 That generally the case, I think, on some of the  
19 private work that we bid for we bid as Omega Panamá  
20 alone.

21 Q. Okay. We'll get to that private work in a  
22 bit.

1           So, the first ten MINSA CAPSI Projects were  
2 lost, and then, of the second ten where Omega Panamá  
3 in every case had other partners, including  
4 Omega U.S., you lost seven and won three; correct?

5           A.     That is correct.

6           Q.     And the Award Resolution, the document by  
7 which the Ministry announced the winners and losers  
8 on the second ten MINSA CAPSI Projects, was signed by  
9 the Minister of Health; correct?

10          A.     I'll have to look at the document,  
11 Mr. Weisburg.

12          Q.     Okay. Yeah, that is C-27. At the last page  
13 of C-27, which is the Spanish original--the last page  
14 of the Spanish original--that's the signature, or  
15 purports to be the signature, of the Minister of  
16 Health?

17          A.     That is what the document says, yes.

18          Q.     Okay. And nobody from any agency other than  
19 the Ministry of Health was involved in soliciting  
20 bids and passing on the bids and awarding the  
21 successful bids, other than the Ministry of Health;  
22 isn't that correct?

1 A. I don't understand the question.

2 Q. That was a very wordy question. I  
3 apologize.

4 The Ministry of Health was responsible for  
5 soliciting the bids and awarding the bids with  
6 respect to these ten MINSA CAPSI Projects; correct?

7 A. That is correct.

8 Q. And all three of the MINSA CAPSI Projects  
9 that Omega won, the Omega Consortium won, were each  
10 signed manually by the Minister of Health; isn't that  
11 correct?

12 A. Again, I'd have to see the document.

13 Q. If you can look at, just by the way of  
14 example, C-28, at Page 6--again, I don't know if it's  
15 the last page. Page 6, in the little number at the  
16 very bottom in the middle, 69.

17 A. Again, your question? I'm sorry.

18 Q. Signed by the Minister of Health; correct?

19 A. And the Comptroller General and myself.

20 Q. Okay. Included but--fine.

21 Now, the initial Contract that was signed  
22 provided for a 10 percent advance payment to be made

1 by the Ministry of Health to--

2 A. Can I just make a quick clarification,  
3 Mr. Weisburg? It is with regards to the other  
4 question.

5 I just realized that underneath the  
6 signatures that you were asking for, there are  
7 another three signatures which I don't know exactly  
8 who they are, but there are. And I just wanted to  
9 clarify there are six signatures.

10 Q. You're talking about the signatures inside  
11 the stamps.

12 A. Exactly.

13 Q. Okay. Thank you.

14 I think those are a form of notarization,  
15 but that's okay.

16 Now--

17 A. I don't think so, Mr. Weisburg.

18 Q. Okay. It doesn't matter. Thank you.

19 Noted.

20 Now, the initial contracts that you executed  
21 with the Ministry of Health provided for a 10 percent  
22 advance payment; isn't that correct?

1 A. Yes.

2 Q. And I want you to look at--unfortunately, I  
3 think we didn't put this in the book, so if you could  
4 show Mr. Rivera C-30. And we're also going to want  
5 to look at C-143, which is also not in the book.  
6 We'll put it in front of you.

7 If you go to C-30, and you should take a  
8 look and make sure you know what that is and then go  
9 to Page 18, which is the English translation. You  
10 can also go to Page 61.

11 A. Yes, I see it.

12 Q. And that provides for a--"the Contractor  
13 shall receive an advance payment of 10 percent";  
14 correct?

15 A. Yes.

16 Q. Okay. Now, you had a personal negotiation  
17 with the Health Minister and got that changed, didn't  
18 you?

19 A. I wouldn't characterize it as a "personal  
20 negotiation with the Minister," Mr. Weisburg, but  
21 Omega--or the Omega Consortium had a negotiation with  
22 the Ministry of Health or, rather, it was the

1 Minister of Health that reached out to Omega and told  
2 us that they wanted us to cover 100 percent of the  
3 financing, where originally on the Request for  
4 Proposal, they had only required 90 percent.

5 Q. Okay. Isn't it a fact that you personally  
6 met with the Health Minister to discuss, among other  
7 things, increasing the 10 percent advance payment?  
8 Yes or no?

9 A. I don't recall that.

10 Q. Okay. But, in fact, by amendment, this  
11 Contract was amended to substitute 20 percent for  
12 what had been a 10 percent advance payment; isn't  
13 that correct?

14 A. There's an amendment that changes, yes, from  
15 10 to 20, and--

16 May I see the amendment, Mr. Weisburg?

17 Q. Sure. Carlton will show you Exhibit C-143.  
18 If you could look at Page 3 in the English  
19 translation, and I think it's 9 in the Spanish.

20 A. Yes.

21 Q. So, it went from 10 to 20; correct?

22 A. And from 90 to 100, the financing.

1 Q. Yeah. You might want to keep it there, at  
2 least the original Contract, because I just want to  
3 clarify a date.

4 These three MINSA CAPSI Project Contracts  
5 were signed in September 2011; correct?

6 A. Yes.

7 Q. And I think you said--you may have answered  
8 this already, but these were the first contracts that  
9 the Omega--that Omega Panamá and its--and Omega U.S.  
10 executed in Panamá; correct?

11 A. The Omega Consortium and Panamá, yes.

12 Q. So, these are the earliest. Okay.

13 Now, the very last--and Carlton can take  
14 those away, thank you.

15 The very last Contract signed by Omega  
16 Panamá--I'm just trying to bracket the time period  
17 that we're talking about here.

18 A. Okay.

19 Q. The very last Contract signed by Omega  
20 Panamá was with the Municipality of Panamá for the  
21 two public markets; correct?

22 A. I believe that is the case.

1 Q. And do you know the date that those  
2 contracts were signed?

3 A. Not off the top of my head.

4 Q. Okay. I think the fast way to look--to do  
5 this is to look at your Witness Statement. First  
6 Witness Statement, Paragraph 47.

7 So, again, the question is when was the last  
8 Contract signed by the Omega--let's call it the Omega  
9 Consortium?

10 A. September 12, 2013.

11 Q. Okay. And that Contract, September 2013,  
12 was a full year before Mr. Varela took office; isn't  
13 that correct?

14 A. Yes.

15 Q. So, the only contracts Omega Panamá ever  
16 executed--received and executed in Panamá, or  
17 anywhere else, fell into the period between  
18 September 2011 and September 2013; correct?

19 A. I don't understand the "anywhere else"  
20 caveat.

21 Q. Okay. Strike that.

22 You didn't have contracts anywhere else;

1 right? Just in Panamá?

2 A. No, I had contracts in Puerto Rico.

3 Q. Through Omega Panamá?

4 A. No.

5 Q. Okay. So, let me rephrase my question. It  
6 was sloppy. I apologize.

7 The only contracts signed by the Omega  
8 Consortium in Panamá were executed between  
9 September 2011 and September 2013; correct?

10 A. Yes.

11 Q. Now, you're making claims here with respect  
12 to contracts with six different--let's call them  
13 agencies or bodies; correct?

14 The Health Ministry, INAC, et cetera. Six  
15 of them; right?

16 A. If you want a precise answer, let me do my  
17 recall.

18 Q. Sure.

19 A. We have three with the MINSAs, the one with  
20 the Courthouse, the Colón--the two in Colón. That  
21 would be--yes, six sounds about right.

22 Q. Okay. Now, of these different--let's call

1 them--this may not be technically the right term, but  
2 let's call who each of the people you had contracts  
3 with an agency, just for convenience; right?

4 A. Okay.

5 Q. Some were Ministries, et cetera, but let's  
6 call them agencies.

7 A. Okay.

8 Q. Each agency with whom you had a contract had  
9 its own contracting staff; correct?

10 A. They did.

11 Q. And some agencies provided for owner  
12 financing; right? The owner provided the money.

13 A. Yes.

14 Q. And those owner-financed contracts had a  
15 variety of different terms?

16 A. Each Contract was different, but they were  
17 all based on the same law.

18 Q. But they had different payment schedules,  
19 different percentages? They didn't look--it wasn't a  
20 cookie-cutter contract?

21 A. I agree, Mr. Weisburg.

22 Q. Now, some agencies used third-party

1 financing, bank financing systems; correct?

2 A. I don't know about the specifics of how each  
3 entity financed their own projects. I know about the  
4 ones that they required the Contractor to finance.

5 Q. So, in INAC you would, essentially, discount  
6 your notes, let's call them, or your submissions,  
7 your bills, through Credit Suisse; correct?

8 A. Yes, but there's a distinction between the  
9 notes and the actual bills. Omega was in charge of  
10 preparing the bill. The notes, the CPPs, as we  
11 called them in the Briefs, those were prepared  
12 exclusively by the agency.

13 Q. Okay. My focus isn't on the mechanism. My  
14 focus is on the periodically you would be paid, not  
15 by the agency, but by Credit Suisse during the course  
16 of the Contract?

17 A. Yes.

18 Q. Okay. And every Contract that is the  
19 subject of our dispute here had its own contractual  
20 dispute-resolution provisions; correct?

21 A. No, I'm not sure if all of them had, but I  
22 know that some of the Contracts had dispute

1 resolution for the contract disputes.

2 Q. And they were different? Some had one kind  
3 of arbitration, some had a different kind of  
4 arbitration, some had Panamanian courts. A variety  
5 of different mechanisms?

6 A. I would have to see the documents but, in  
7 general terms, I would agree, Mr. Weisburg.

8 Q. Okay. And in terms of the conduct of the  
9 actual construction under these Contracts, each  
10 agency had its own distinct personnel who supervised  
11 and observed the construction; correct?

12 A. Yes, but they always had the Comptroller  
13 General on top of them.

14 Q. But the Comptroller General wouldn't go out  
15 to the job site.

16 A. They would.

17 Q. They would. But the day-to-day person who  
18 was looking over--overseeing the MINSA CAPSI project  
19 was a different person and worked for a different  
20 agency than the person who was overseeing the  
21 Courthouse project?

22 A. There were different people, but the

1 Comptroller General actually had people embedded in  
2 their agency. So, part of the staff that would  
3 supervise the Project, from an agency standpoint,  
4 part of that staff was staff that worked directly for  
5 the Comptroller General.

6 Q. Okay. Now, the--Panamá has got a federal  
7 system--right?--with the Federal Government and then  
8 it's distinct from the municipality government.  
9 Correct?

10 A. I'm not an expert on that subject,  
11 Mr. Weisburg.

12 Q. Well, the Ministry of Health projects, the  
13 INAC, the Judiciary, and the Ministry, the Presidency  
14 Projects were, you understood, all with different  
15 units of the Federal Government?

16 A. Again, without--I understand they were  
17 different agencies, as you described it, initially.  
18 The "federal" term is what I'm struggling with,  
19 Mr. Weisburg, to be completely honest.

20 Q. Okay. Well, let's look at it the other way.  
21 The Contract for the Colón City Hall was a contract  
22 with the Municipality of Colón; correct?

1           A.    Yes.

2           Q.    And the Government of the Municipality of  
3 Colón is different than, you know, Mr. Varela's  
4 Government?

5           A.    It is a subdivision of the Panamanian State.

6           Q.    You accept that there are different levels  
7 of government in Panamá: A central government of  
8 which the President is the number one authority and  
9 municipal governments of which the mayor of the  
10 relevant municipality is the number one authority?

11          A.    I do agree with that.

12          Q.    Okay. And there was a mayor of Colón and  
13 there was a mayor of, let's call it Panama City?

14          A.    Yes.

15          Q.    And the Colón City Hall Contract was a  
16 project for the Municipality of Colón signed by the  
17 Mayor?

18          A.    And funded by the Ministry of Finance.

19          Q.    But the Contract, the relevant Contract for  
20 the Colón City Hall Project, was signed by the Mayor;  
21 correct?

22          A.    Yes, that is correct, Mr. Weisburg.

1 Q. And no body, other than the Municipality of  
2 Colón, was involved in the solicitation of bids and  
3 the review of bids for that project?

4 A. The Comptroller General will have to review  
5 the process for the Contract to get endorsed.

6 Q. Okay. But the Comptroller General always  
7 comes in the end and has to sign everything; right?

8 A. Yes.

9 Q. But the Comptroller General is not involved  
10 in the solicitation of bids is he? Or she?

11 A. I do believe that in order for them to  
12 execute a contract, they do, it is part of their  
13 diligence that they will check on some of that.

14 Q. But they are not involved in the  
15 solicitation of bids.

16 A. No. I don't submit bids to the Comptroller  
17 General, if that is your question, Mr. Weisburg.

18 Q. Okay. And the Panama City Markets Project  
19 was just like the Colón City Hall Project, was a  
20 project for the Municipality of Panamá City?

21 A. Yes.

22 Q. And that--the Contract for that Project was

1 signed by the Mayor.

2 A. I would think so, but I will have to see the  
3 document.

4 Q. Let's look at C-56.

5 A. Mr. Weisburg, yes, it is signed by--

6 Q. Roxana Méndez is the mayor of Panama City;  
7 correct?

8 A. Yeah. Among other people that are signing,  
9 yes, she is signing the document.

10 Q. Lots of signatures but the principal  
11 signatures are Oscar Rivera--that's you--and  
12 Ms. Méndez who is the mayor of Panama City?

13 A. And the controller.

14 Q. Okay. And the controller signs too.

15 Now, it's your testimony that your personal  
16 role in Omega Panamá's operation--I guess let's call  
17 it the Omega Consortium's operation--was mostly  
18 administrative and financial; isn't that correct?

19 A. Yes.

20 Q. And several years before your departure from  
21 Panamá, you had already assumed more of a strategic  
22 role and you weren't involved in the day-to-day

1 operations; correct?

2 A. I wasn't involved in the day-to-day  
3 operations, but I was informed on a daily basis. And  
4 that is what I have testified to.

5 Q. Okay. Well, let's see what you say in your  
6 Witness Statement. If you could look at Paragraph 82  
7 of your First Statement, and it's at the very bottom  
8 of Page 41.

9 And you say: "I had, however, by this  
10 stage, transferred authority for running the business  
11 day-to-day"--businesses, plural--"day-to-day  
12 operations in Puerto Rico to Mr. Victor López and in  
13 Panamá to Mr. Frankie Lopez, as part of a gradual  
14 process of my assuming more of a strategic role that  
15 had started several years before my departure from  
16 Panamá"; is that correct?

17 A. Yes, that is correct.

18 Q. Now, you say--I'm a little unclear on some  
19 of the dates. You say you moved to Panamá in 2010,  
20 but you don't give a month.

21 When did you move to Panamá?

22 A. I believe it was the early month--months

1 of--first quarter of 2010.

2 Q. Okay. That's good enough.

3 Now, you never--while you moved there, you  
4 never intended to stay there permanently?

5 A. That is correct.

6 Q. And by 2013, you were spending more and more  
7 time in Florida.

8 A. Yes, that is correct as well.

9 Q. And I don't want to get into your personal  
10 affairs, but you had a boat that you moved to  
11 Florida, so you had a--essentially had a residence in  
12 Florida in 2013?

13 A. Yes. That is correct.

14 Q. And now you--today you live in Florida.

15 A. I do.

16 Q. And then--and you also testified, if I'm  
17 correct, that you moved to Florida full-time in  
18 June--right?--when school ended of 2014?

19 A. That is correct as well.

20 Q. Okay. And that move was planned long in  
21 advance.

22 A. Yes.

1 Q. And, so, just to clarify, so you lived in  
2 Panamá from Q1 2010 to June 2014?

3 A. Basically, yes.

4 Q. Now, the Claim you're making before this  
5 Tribunal is divided into losses on those existing  
6 eight Contracts and also on future contracts that you  
7 argue you would have been likely to receive; correct?

8 A. That is the way that the Experts have, I  
9 guess, broken down the Claim.

10 Q. Do you have a different way?

11 A. No.

12 Q. Well, are you accepting the presentation  
13 made to this Tribunal by your Experts?

14 A. Of course.

15 Q. And am I correct that the total amount of  
16 your claim with respect to existing Contracts, as  
17 articulated by Compass Lexecon, is \$8.7 million as of  
18 12/31/2014?

19 A. Yes.

20 Q. And the losses on future contracts, which is  
21 a much bigger number, are confined to losses related  
22 to Omega Panamá's capacity to generate new contracts,

1 based on historical performance of the Company; is  
2 that correct?

3 A. Yes.

4 Q. Now, getting to a topic that you referred to  
5 earlier, Mr. López has told us that "at the  
6 beginning, Omega Panamá" started out by bidding on  
7 private-sector projects?

8 A. Yes.

9 Q. Okay. Now, you don't refer to that anywhere  
10 in your submissions, do you?

11 A. I don't recall if I mention it.

12 Q. Okay. Now, according to Compass Lexecon,  
13 Omega made eight private-sector bids.

14 A. Well, they were not formal bids, and I don't  
15 know the exact number. I remember a few of those. I  
16 remember one condominium for a Spanish developer,  
17 which the condominium never got built.

18 Q. Sorry, what's the name of that Project?

19 A. I forgot the name. It was a condominium in  
20 Avenida Balboa.

21 Q. Are you done?

22 A. You want me to give you other examples of--

1 Q. No. Let me--give me one second here.

2 Do you know, before we get into the details  
3 of these, do you know what the time period was where  
4 these bids--these private-sector bids were made?

5 A. Well, that condominium that I was talking  
6 about, it was in 2014. And there was one for the  
7 Smithsonian as well, which--

8 Q. For who?

9 A. Smithsonian. The Smithsonian Institution.  
10 They have a facility in Panamá, and they invited us  
11 to present a bid for some work that they had planned  
12 for their facilities. That was also, I believe, in  
13 or around 2014 as well.

14 Q. Okay. So, to the extent that I understood  
15 Mr. López's testimony to be, that these were bids  
16 that you made at the very beginning, he's incorrect?

17 A. There were some bids that we made at the  
18 beginning, but there were other--and the ones that I  
19 remember most clearly, probably because of, simply  
20 because of the time, they were in between 2013  
21 and 2014.

22 Q. Okay. Because Mr. López says at

1 Paragraph 19: "At the beginning, Omega Panamá bid as  
2 a subcontractor in the private industry for projects  
3 such as creating a paint warehouse for LANCO  
4 enterprise, developing the electro-mechanic systems  
5 of the Agora Office Tower, and building a dialysis  
6 clinic for CETRESA, all of which of I prepared--for  
7 all of which I prepared the economic proposals."

8 A. I do remember those. And those were in the  
9 early stages, yes.

10 Q. Okay. Now, all the--Omega Consortium never  
11 succeeded in getting any commercial, nongovernmental  
12 project; isn't that correct?

13 A. A lot of those were not built.

14 Q. So, now answer my question, please.

15 A. Can you repeat the question, Mr. Weisburg?

16 Q. The Omega Consortium never succeeded in  
17 getting any commercial nongovernment project; isn't  
18 that correct?

19 A. That is correct.

20 PRESIDENT SHORE: Sorry to interrupt. Can I  
21 just ask about--so, Smithsonian in Panamá is a  
22 Tropical Research Institute.

1           Is that what you're talking about?

2           THE WITNESS: Yes.

3           PRESIDENT SHORE: And so, they invited you  
4 to bid on facilities in the Tropical Research  
5 Institute, invited Omega Consortium to bid?

6           THE WITNESS: Yes.

7           PRESIDENT SHORE: And who invited you to  
8 bid, when you say it was Smithsonian Tropical  
9 Research Institute? How did that come about?

10           THE WITNESS: They published an ad and asked  
11 for prequalifications, and out of those  
12 prequalifications, they picked a number of  
13 contractors and invited those contractors to bid.

14           PRESIDENT SHORE: All right. Thank you.

15           BY MR. WEISBURG:

16           Q. Now, Mr. Rivera, your lawyers say--and I'm  
17 referring to Paragraph 27 of the Claimants' Memorial.  
18 So, it was the first Memorial: "Mr. Rivera decided to  
19 limit his activity in Panamá to public projects  
20 because, first, that was where Omega U.S.'s  
21 experience lay, and, second, Mr. Rivera felt the  
22 Government would be more likely to comply with its

1 contractual undertakings and honor its debts than an  
2 unfamiliar private owner."

3 So, you disagree with that; is that correct?

4 A. No, I don't.

5 Q. Well, this clearly says or implies that,  
6 sort of right off the bat, you decided to only bid on  
7 public projects, but you've just told us you were  
8 bidding on private projects--which we're just  
9 learning about today--as late as 2014?

10 A. Well, Mr. Weisburg, what I heard was that,  
11 you know, we were concerned of unknown owners; right?

12 Q. No. That's not what it says. It says  
13 here: "Mr. Rivera decided to limit his activity in  
14 Panamá to public projects because,  
15 first,"--underscoped--"that was where Omega U.S.'s  
16 experience lay, and second, Mr. Rivera felt that the  
17 Government would be more likely to comply with its  
18 contractual undertakings and honor its debts than an  
19 unfamiliar private owner."

20 A. Okay. "Unfamiliar private owner." LANCO is  
21 not an unfamiliar private owner. As a matter of  
22 fact, it would have been a repeated customer of

1 Omega. LANCO is a Puerto Rican company. And I  
2 believe the two other bids that Frankie mentioned, we  
3 also had relationships with those owners from before.

4 And, as to the fact that we were limited to  
5 public bids, I think the record speaks for itself,  
6 you know. Most of our bids were for public work.

7 Q. So, you disagree with this statement by your  
8 counsel.

9 A. No, I agree with it.

10 Q. Okay. So, but is--isn't this statement  
11 inconsistent with having made private bids across all  
12 the period that you were in Panamá?

13 (Comments off microphone.)

14 A. I'm sorry--you're--

15 Q. We can move on.

16 A. Okay.

17 MR. WEISBURG: What is the--can you tell me  
18 what the schedule is going to be?

19 (Interruption.)

20 PRESIDENT SHORE: The schedule that the  
21 Parties had discussed shows lunch today at 12:45, but  
22 I was going to suggest around 12:30, that that might

1 be a useful time. But around 12:30, 12:35, when you  
2 come, Mr. Weisburg, to a good closing point for a  
3 topic.

4 MR. WEISBURG: Okay.

5 BY MR. WEISBURG:

6 Q. So, can we return to this?

7 A. Umm-hmm.

8 Q. So, which is "QE Demonstrative 1?"

9 A. Yep.

10 Q. So, I may have asked this question, in which  
11 case, please forgive me. Omega Panamá never won a  
12 contract on its own; correct?

13 A. Yes, you did ask that question, and I  
14 asked--I responded in the affirmative.

15 Q. Okay. And Omega Panamá never won a contract  
16 without Omega U.S. as its partner?

17 A. That is also correct.

18 Q. Now, you say Omega Panamá reached its  
19 peak--and I'm quoting you from, among other places,  
20 your First Witness Statement at Paragraph 35--in  
21 2013; is that correct?

22 A. Yes.

1 Q. And, in fact, Omega Panamá was not awarded  
2 even one contract after 2013; correct?

3 A. That is correct.

4 Q. And in 2013 Omega Panamá only won one  
5 Project; correct?

6 A. Yes.

7 Q. And that--and we've already had this debate  
8 about the different levels of Government in Panamá,  
9 but that was, in 2013, the one Contract that you did  
10 win was with a municipality; correct?

11 A. That is correct.

12 Q. Now, we've seen--we've heard a lot of  
13 reference to this, the total number of bids by Omega  
14 Panamá, and we now understand that excludes, I think,  
15 an indeterminate number of nongovernmental bids.

16 So, we'll set those aside, but the total  
17 bids that the attention has been directed to in the  
18 briefing is 42; correct?

19 A. I believe so, at least from the document you  
20 provided.

21 Q. Yes. This document is based on--I can tell  
22 you, this document is based on materials received

1 from your counsel.

2 A. I'll accept your premise, Mr. Weisburg.

3 Q. Okay. Now, the most number of bids--so, the  
4 period during which you were busiest in making bids  
5 was 2011; correct?

6 A. Yes.

7 Q. And between 2011 and 2010, you made 35 of  
8 the total of 42 bids.

9 A. Yes.

10 Q. And you only made three bids in 2012;  
11 correct?

12 A. Yes.

13 Q. And four bids in 2013?

14 A. Yes.

15 Q. Now, overall, 2013 was a very bad year,  
16 financially, for Omega U.S.; correct?

17 A. Not really. No, not really.

18 Q. Well, Omega U.S. had a [REDACTED]  
19 [REDACTED]; isn't that correct?

20 A. Yeah, but there's an explanation to it.

21 Q. I'm sure there is, but you hadn't--from your  
22 [REDACTED]

1 [REDACTED]; correct? Yes or no.

2 A. I'm sorry, Mr. Weisburg, the answer is--if  
3 you want a simple answer, it is "no." To understand,  
4 you'll need my response, and I'll--

5 Q. Yeah, but your--you can give any response  
6 you want, but isn't it a fact that your audited

7 [REDACTED]  
8 in Omega U.S. in 2013? Yes or no?

9 A. Not in 2013, Mr. Weisburg, is what I'm  
10 trying to tell you. That financial statement, the  
11 fiscal year closes in the last day of March 2013, so  
12 it really pertains to 2012.

13 Q. Okay. So, the financial statements--and you  
14 might want to look at QE-104. Okay?

15 A. Yep.

16 Q. And if you look at Page 7.

17 A. Yes.

18 Q. Which is the statement of operations and  
19 members' equity.

20 A. Yes.

21 Q. And it says here that your 2013 year ends  
22 in--on February 28, and your 2012 year ends on

1 February 29; correct?

2 A. Yes.

3 Q. Okay. And your 2013 year, you had a [REDACTED]

4 [REDACTED] ?

5 A. Yes.

6 Q. [REDACTED]

7 [REDACTED] ;

8 [REDACTED] ?

9 A. Yes. The 10 month and the two months of the  
10 year.

11 MR. WEISBURG: Mr. Shore, this would be a  
12 good time for a break. And I think it's 12:30.

13 PRESIDENT SHORE: Thank you. It is close.

14 So, Mr. Rivera, same instruction: Please  
15 don't speak to anyone about the case during lunch,  
16 and let's reconvene at 1:30. 1:30.

17 THE WITNESS: Okay. Do I have a specific  
18 place?

19 PRESIDENT SHORE: You can speak about lunch;  
20 just don't speak about the case.

21 THE WITNESS: Okay. Thank you,  
22 Mr. Chairman.

1                   (Whereupon, at 12:27 p.m., the Hearing was  
2 adjourned until 1:30 p.m., the same day.)

AFTERNOON SESSION

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PRESIDENT SHORE: Back on the record.

Over to you, Mr. Weisburg.

MR. WEISBURG: Thank you very much.

BY MR. WEISBURG:

Q. Mr. Rivera, we were talking about Puerto Rico, and you said that--you have said that Omega had uninterrupted success in Puerto Rico and an impeccable 30-year track record; is that right?

A. Yes.

Q. And you also say that--there's a company profile in the record in which you say that Omega was founded--in 1980, Omega had enjoyed a trajectory of flawless execution in its 33 years in the construction industry; correct?

A. Yes.

Q. And, in fact, Omega was in serious trouble in Puerto Rico prior to July 2014; isn't that correct?

A. No, it's not correct.

Q. You led, on behalf of Omega, the Coliseo de Puerto Rico Project; correct?

1 I'm sure I mispronounced it.

2 A. I did, yes.

3 Q. Okay. And that Coliseum Project was one of  
4 Omega U.S.'s principal projects in Puerto Rico;  
5 correct?

6 A. You can say that.

7 Q. And when did your company begin and finish  
8 construction on that Project?

9 A. I don't recall the precise years, but I  
10 think it was finished in or around 2004.

11 Q. Okay. So, a few years before you started  
12 going to Panamá; correct?

13 A. That is correct.

14 Q. Okay. And this was a large-scale project?

15 A. It was.

16 Q. Now, the Comptroller General--or the Office  
17 of the Comptroller of Puerto Rico had the opportunity  
18 to take a look at that project; isn't that correct?

19 A. I believe that there is a report that says  
20 so.

21 Q. Yeah. So, the Comptroller General hired  
22 Structural Engineering Experts in 2009 to evaluate

1 the Project, and they issued a report?

2 A. They did.

3 Q. Okay. And the Engineering Experts hired by  
4 the Comptroller General of Puerto Rico to examine or  
5 audit that project found many deficiencies in  
6 construction, including cracks, steel rods exposed in  
7 beams, columns in the roof, incorrect concrete  
8 protections, holes in detachments of concrete with  
9 steel reinforcement exposed, and other issues;  
10 correct?

11 A. I believe that's what the Report says.

12 Q. And that report also found that the problems  
13 required "quick attention."

14 A. I'll take your word for it.

15 Q. Well, okay. In this instance, I'll let you  
16 do that.

17 And isn't it also a fact that--no, never  
18 mind. I'll move on.

19 These problems with the coliseum were widely  
20 reported in the Puerto Rican press; correct?

21 A. For a very, very short time, they were  
22 published. The owner of the coliseum at the time

1 that we built it was an agency called AFI, A-F-I.  
2 That agency then turned over at some point the  
3 coliseum many years later. Nonetheless, that is an  
4 agency in Puerto Rico that, even after that report  
5 that you're citing, still expressed that we were an  
6 excellent contractor.

7           Moreover, that report never mentions Omega,  
8 and it isn't clear by reading it whether they are  
9 talking about design deficiencies or whom was  
10 responsible for the deficiencies, and, more  
11 importantly, I was never--or Omega was never given  
12 the report or asked to respond to the report. There  
13 was never a claim filed pursuant to that report, and  
14 the news article for one week, I believe, or two, and  
15 then it died.

16       Q.    Omega was the GC on that Project, though;  
17 right?

18       A.    Yes.

19       Q.    You say it was brief, but this reporting in  
20 the press was in early 2010; correct?

21       A.    I believe so, yes. And as a matter of fact,  
22 I believe in 2011 we have letters from AFI addressing

1 our performance for the agency.

2 Q. Okay. Well, those aren't in the record.

3 A. I believe they are.

4 Q. Okay. Well, we will try and find them. We  
5 haven't seen them.

6 Now, if you could look at--well, before we  
7 do that, isn't it a fact that in 2012 Omega's lines  
8 of credit in Puerto Rico were canceled by its banks?

9 A. The--

10 Q. Please answer "yes" or "no."

11 A. No.

12 Q. Okay. So, [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 A. [REDACTED]

16 Q. [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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A.

[REDACTED]

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[REDACTED]

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Q.

[REDACTED]

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[REDACTED]

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A.

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[REDACTED]

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[REDACTED]

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Q.

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[REDACTED]

[REDACTED]

Q. Okay.

A. I just want to make sure that everybody understands what they are looking at.

Q. Okay. Now--well, the date of this is September 2013. Didn't, in fact, one of your lead banks in Puerto Rico file a lawsuit against Omega U.S. in April 2013?

A. It did.

Q. In that lawsuit, the Court issued an attachment order. The bank was Oriental Bank. And the Court issued attachment order in favor of Oriental Bank?

A. It did. [REDACTED]

[REDACTED]

Q. [REDACTED]

[REDACTED]

A. [REDACTED]

[REDACTED]

[REDACTED]

Q. Okay. Now, in addition to the litigation

1 with Oriental Bank, Omega U.S. was involved in many,  
2 many litigations in Puerto Rico prior to July 2014;  
3 correct?

4 A. Well, it all depends--

5 PRESIDENT SHORE: Maybe we could have a  
6 ballpark number rather than many, many--

7 MR. WEISBURG: Sure, well, let's do this a  
8 different way.

9 BY MR. WEISBURG:

10 Q. Do you know how many cases were filed  
11 against Omega U.S. in Puerto Rico between  
12 October 2006 and the same time in July--in 2014?

13 A. 2006 and July '14?

14 Q. Yeah. The information we have doesn't quite  
15 go year to year.

16 A. No, Mr. Weisburg, I don't know by memory.

17 Q. Okay. Well, would it surprise you to report  
18 that you had been sued 24 times in that period?

19 A. No, it wouldn't surprise me.

20 Q. Okay.

21 A. The fact is that, quite unfortunately,  
22 construction is a very contentious line of work.

1 Most of those were subcontractors, and most of those  
2 got settled or thrown out.

3 Q. Okay. Well, just for reference, the  
4 citation to where I got that number of cases is  
5 QE-53. I'm not going to take the Witness to it.

6 Yes. I'm sure many of those were customary  
7 disputes with subcontractors and that kind of thing,  
8 for which we understand and accept, but included  
9 among the people that sued you in that period was the  
10 Government of Puerto Rico; correct?

11 A. I believe that they did. There's a  
12 provision in Puerto Rico law that a subcontractor  
13 can--it's sort of like a lien. It works differently  
14 than the typical mechanical lien that we are used to  
15 here in the U.S. But a sub that has a dispute with  
16 the general contractor can go through the owner and  
17 file a claim against the owner, and what the  
18 Government typically does is, it goes to the Court  
19 and--consign is the right term?--it deposits the  
20 monies that are in dispute in the Court, and, yes, we  
21 had some of those.

22 Q. With the Government?

1 A. Yes.

2 Q. Okay. And I think there was some reference  
3 to this--

4 A. Which were all settled by the way and quite  
5 properly actually.

6 Q. Mr. López made a reference or in the course  
7 of his cross-examination he made reference to the  
8 U.S. Salvation Army's Kroc Center Project.

9 That was a project of yours also; correct?

10 A. Yes.

11 Q. And also a principal project, along with the  
12 coliseum, one of your more important projects?

13 A. I wouldn't call it--it was a beautiful  
14 project, one that won many, many awards and for which  
15 we were recognized in various occasions, but in terms  
16 of size, it wasn't as big or in the larger-size  
17 projects of Omega, but it was still an important  
18 project.

19 Q. Okay. And this Project was completed around  
20 2012 or 2013?

21 A. I believe so.

22 Q. Okay. And the client or the owner, the

1 Salvation Army, sued Omega in Puerto Rico with  
2 respect to that project; correct?

3 A. In 2015.

4 Q. Now, just very quickly--

5 A. Do you want to know what happened to it?

6 Q. No.

7 A. Okay.

8 Q. Your counsel can inquire.

9 A. Okay.

10 Q. Now, just taking a very brief look at Omega  
11 Panamá's financials--and you might want to look at  
12 C-137. So, C-137, which is the--I believe they are

13 [REDACTED]  
14 [REDACTED],  
15 [REDACTED]  
16 [REDACTED]

17 A. Okay.

18 Q. And according to this Report, [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 A. Could you point out exactly if you could  
22 help me?

1 Q. Sure. It is Page 2 of the document, but it  
2 is Page 4 if the little number in the middle says  
3 Page 4.

4 A. Oh, I see it. Okay.

5 Q. So, 2011, equipment net. Those are tangible  
6 assets; right? That's what usually on many  
7 accounting statements would be called tangible  
8 assets?

9 A. I'm not an accountant, Mr. Weisburg.

10 Q. Okay. [REDACTED]  
11 [REDACTED] correct?

12 A. That is what it says here, yes.

13 Q. Okay. And the [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 A. Correct.

17 Q. Okay. And now to go to--just so we have it  
18 in the same place, [REDACTED]

19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]? And I'm looking at page--again,  
22 always looking at the page number in the

1 middle--Page 4.

2 A. Again, Mr. Weisburg, I'm not an accountant.  
3 I can tell you what the documents say, not--with the  
4 description that you've given.

5 (Overlapping speakers.)

6 Q. So, what does the document say?

7 A. What line item?

8 Q. The [REDACTED]  
9 [REDACTED] ?

10 A. That is correct.

11 Q. Okay. [REDACTED]  
12 [REDACTED]  
13 [REDACTED] ?

14 A. Correct.

15 Q. Okay. [REDACTED]  
16 [REDACTED]  
17 [REDACTED] ?

18 A. Yes.

19 Q. [REDACTED]  
20 [REDACTED] ?

21 A. Correct.

22 Q. [REDACTED]

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[REDACTED]

[REDACTED] ?

A. [REDACTED].

Q. [REDACTED]

A. [REDACTED]

[REDACTED]

Q. [REDACTED]

[REDACTED]

A. [REDACTED]

Q. I'm going to move on to another topic, but just quickly, you have a large team of lawyers here.

Are you paying the costs of this arbitration yourself?

A. What?

Q. Are you paying for this, or do you have a funding from some outside source?

MS. GORSLINE: Mr. President, may I interrupt? I'm not sure that this is either relevant or material to the issues in dispute in this case.

MR. WEISBURG: In ICSID Cases, it is customary for us--for counsel to learn, or the parties, and the arbitrators to learn whether there

1 is litigation funding.

2 MS. GORSLINE: If I may, that is true if  
3 there is a pending Application for Security for  
4 Costs, which there is not in this case.

5 (Tribunal conferring.)

6 MS. GORSLINE: Mr. President, may I make one  
7 more point before you rule?

8 The nature of our arrangement with our  
9 client is also privileged. I would just like to put  
10 that on the record.

11 PRESIDENT SHORE: Sorry, one second, I'm  
12 going to ask you to repeat that. I seem to be coming  
13 totally deaf.

14 MS. GORSLINE: I just wanted to put on the  
15 record that it's our position that any arrangements  
16 that might exist between Jones Day and its client  
17 would also be privileged.

18 MR. WEISBURG: Yeah, I'm not sure which  
19 privilege law is being invoked but that is certainly  
20 not the rule in most U.S. jurisdictions. We're not  
21 asking anything about the legal advice that is being  
22 provided.

1           PRESIDENT SHORE: The Tribunal's concern is  
2 that there is an issue that has been put in play by  
3 the Claimants about what's happened to Mr. Rivera as  
4 a Claimant and the financial distress that he has  
5 allegedly undergone. I say "allegedly," Mr. Rivera,  
6 not because I disbelieve anyone at this time, but  
7 that's the word I have to use.

8           And on that basis, a general answer, to the  
9 extent that that is arguably relevant to that  
10 issue--the Tribunal can't think of another one--but  
11 that is arguably relevant based on the way that moral  
12 damages are being pleaded by the Claimants in this  
13 case because of what's happened to Mr. Rivera.

14           So, if the question is limited in that way,  
15 that he's in a position to pay lawyers, then we  
16 permit a general answer, "yes" or "no," that he's in  
17 a position to pay for a legal team in this  
18 Arbitration because that is arguably relevant based  
19 on what the Claimants have pleaded.

20           So, Mr. Rivera, if you can--a very general  
21 answer will suffice if you take into account that  
22 we're not interested in any particulars, but we are

1 interested based on the way that your damages claim  
2 has come in, whether you're in a position to say that  
3 you are capable of paying for a legal team to  
4 represent you in this Arbitration.

5 THE WITNESS: The response is not. My  
6 response is not.

7 PRESIDENT SHORE: "Is not." Okay.

8 BY MR. WEISBURG:

9 Q. So, just to be crystal clear--I just want to  
10 clarify this question--I asked, "Are you paying for  
11 this or do you have funding from an outside source?"  
12 And the answer to that question--I understand your  
13 answer to be is that you're paying for this; is that  
14 correct?

15 A. No. I was answering the Chairman's  
16 question, whether I was--I had the sources to pay for  
17 this litigation, and my answer is, no, I don't have  
18 the--

19 PRESIDENT SHORE: Do not personally have the  
20 ability to pay for this proceeding?

21 THE WITNESS: That is correct, Mr. Chairman.

22 BY MR. WEISBURG:

1 Q. Again, I'm not going to ask for the details  
2 or names or whatever, but Jones Day is being funded  
3 from some other source other than you?

4 A. There's no third-party funder, Mr. Weisburg.

5 MS. GORSLINE: Mr. Chairman, I believe that  
6 question went beyond what you had allowed.

7 PRESIDENT SHORE: Yes.

8 (Comments off microphone.)

9 MR. WEISBURG: Okay. Got it.

10 BY MR. WEISBURG:

11 Q. So, one of the contracts obtained by the  
12 Omega Consortium was for the construction of a  
13 regional courthouse in La Chorrera by the Judicial  
14 Authority. The Award of that Contract was the result  
15 of competitive--a competitive bidding process; is  
16 that correct?

17 A. Yes.

18 Q. And on October 1, 2012, the Judicial  
19 Authority issued an invitation to bid; is that  
20 correct?

21 A. The time sounds about right.

22 Q. Well, let's go to C-24.

1 A. C-24?

2 Q. C-24. C-24.

3 A. There's just one page?

4 Q. No. We've got something wrong here. Can  
5 you check? This is what I have as C-24. Does it look  
6 like that?

7 A. Yeah. I just have one page.

8 MR. WEISBURG: It looks like he has an  
9 imperfect copy. Could you get him C-24? It should  
10 be eight pages.

11 (Comments off microphone.)

12 BY MR. WEISBURG:

13 Q. Is that the invitation to bid?

14 A. Yes.

15 Q. And it appears to have been signed by  
16 Justice Moncada Luna. That one doesn't say that it's  
17 signed, but it says there's a signed copy signed by  
18 Justice Moncada Luna on record.

19 MS. GORSLINE: I'm sorry to interrupt again,  
20 but we don't have a copy of what he's looking at at  
21 counsel's table.

22 Mr. Chairman, would it be possible to--

1 MR. WEISBURG: That's my copy. If you can  
2 go look at it, it is C-24, C-24. It's in his book.

3 Oh, maybe the book is imperfect. Okay.

4 MS. GORSLINE: It's not in my--

5 MR. WEISBURG: All the books are defective.  
6 I got it.

7 MS. GORSLINE: It says "Resubmitted." Are  
8 we looking at the right one? I wonder if that's the  
9 issue.

10 (Comments off microphone.)

11 MR. WEISBURG: I'm sorry. I may have  
12 confused it. Am I interrupting?

13 PRESIDENT SHORE: Yes.

14 MR. WEISBURG: I may have confused  
15 everything. That's my own copy, which only has  
16 selected pages. The original document is  
17 400-and-something pages.

18 MS. GORSLINE: Mr. President, with your  
19 permission, can we take Mr. Rivera a copy of full  
20 document, and then Mr. Weisburg can have his copy  
21 back?

22 PRESIDENT SHORE: Thank you. Yes.

1 MR. WEISBURG: Sorry.

2 (Comments off microphone.)

3 BY MR. WEISBURG:

4 Q. I have, like, one question, and I'm really  
5 only interested in the Witness identifying the  
6 document and confirming that the covering material  
7 was executed by Justice Moncada Luna. So, I'm really  
8 only interested in the cover and Page 8.

9 A. The cover is the RFP--the cover for the RFP  
10 of La Chorrera, and then Page 8, you said,  
11 Mr. Weisburg?

12 Q. Yes.

13 A. In the version that I have, it says "Justice  
14 Alejandro Moncada Luna," but it doesn't have a  
15 signature.

16 Q. Yeah. It says--but it also says "original  
17 signature"; correct? Underneath his name.

18 A. Yes.

19 Q. Okay, thank you. That's all I want.

20 A. Okay. Should I return this to someone?

21 Q. They are happy for you to keep it.

22 And I think you--maybe you didn't say

1 this--Omega was one of four bidders on this Project;  
2 correct?

3 A. Correct.

4 Q. And Omega's bid was \$16,495,000--or  
5 bolivars?

6 A. Again, the number sounds about right, but  
7 I'll have to see the document.

8 Q. We'll show you.

9 And on October 17, 2012, Justice Moncada  
10 Luna chose Omega as the successful bidder; correct?

11 A. No.

12 Q. Well, let's look at--if you could go--and I  
13 hope we have more success with this--to R-6.

14 This is an Administrative Resolution  
15 awarding this Contract; correct?

16 A. Yes, by the Supreme Court.

17 Q. Well, it says--it is signed by Justice  
18 Moncada Luna; correct?

19 A. But it is the Supreme Court, yes.

20 Q. Is it signed by Justice Moncada Luna? Yes  
21 or no.

22 A. Yes.

1 Q. Okay. And it says at the top--I'm reading,  
2 of course, the English--"The Chief Justice of the  
3 Supreme Court of Justice, in use of his powers  
4 conferred under law; and whereas"--and then he  
5 recites the history of the bid, and then he says,  
6 "hereby resolves"--second page of the  
7 translation--"to award the Contract for construction  
8 of a building for the Regional Judicial Unit as  
9 follows." And then it says "Omega"; correct?

10 A. Correct.

11 Q. And just to get back to a prior point, it  
12 shows the total amount of your bid in bolivars as  
13 16,495,000?

14 A. That's correct.

15 Q. Sorry, balboas. Wrong hero.

16 A. It is just for everybody--it is fair 1:1 for  
17 dollars, so we can confuse them. It will be all  
18 right.

19 Q. But balboas and bolivars aren't the same.

20 A. No, you're right.

21 Q. Now, following the selection of Omega as  
22 reflected in R-6, you ultimately entered into a

1 contract with the Judicial Authority for the  
2 construction of the La Chorrera Courthouse; correct?

3 A. The Consortium, the Omega Consortium, did.

4 Q. Fair enough. And that's C-48; correct?  
5 C-48.

6 A. Yes.

7 Q. And this, too, was signed by, among others,  
8 Justice Moncada Luna; correct?

9 I'm looking at Page 11.

10 A. Correct.

11 Q. And this Contract, as we've heard previous  
12 testimony from you, Mr. López, was not--I'll use the  
13 word "effective"--until it was also counter-signed by  
14 the Comptroller General; correct?

15 A. I'm sorry. I didn't understand the term you  
16 used.

17 Q. Sure. Sure. This Contract, to be  
18 effective, required the signature of the Comptroller  
19 General?

20 A. Yes, that's correct.

21 Q. And Moncada Luna?

22 A. Yes, that's correct.

1 Q. Now, the next step in this process was an  
2 order to proceed; correct?

3 A. That typically is the case, Mr. Weisburg.

4 Q. Yes. And if you could look at C-151, that's  
5 the order to proceed; correct? Along with your  
6 acknowledgment of receipt of the order to proceed.

7 A. Correct.

8 Q. Now, this Contract--and you might want to go  
9 back to C-48--provided that Omega was to receive an  
10 advance payment of 15 percent of the Contract value  
11 following issuance of the Notice to Proceed; correct?

12 A. I believe that is the case.

13 Q. Yes. In fact, that payment of 15 percent  
14 was made to Omega Panamá on April 3, 2013; correct?

15 A. I'll have to look at the document,  
16 Mr. Weisburg.

17 Q. Sure. So, if you can go to an exhibit that  
18 we'll spend some time with, R-114.2, which is the  
19 second page of R-114.

20 A. Okay.

21 Q. And this is the payment of that initial  
22 15 percent, isn't it?

1           A.     Mr. Weisburg, may I ask--I'm not sure if I  
2 know this document.

3           Q.     Well, this is a shock.  Isn't it the case  
4 that for the--what I've been calling the Federal  
5 Government, the Presidential Government of Panamá,  
6 the checks come from the Ministry of Economy and  
7 Finance; correct?

8           A.     I'm sorry.  My question is--you referred me  
9 to--

10          Q.     I'm sorry.  I'll ask a much simpler  
11 question.  I'm referring to R-114.2.  The numbers are  
12 on the upper right.

13          A.     Oh, okay.  Thank you.

14          Q.     There is a check dated April 3, 2013?

15          A.     Yes, that is correct.

16          Q.     And this is the payment--the 15 percent  
17 initial payment by--on behalf of the Judiciary for  
18 the La Chorrera Contract?

19          A.     Yes.

20          Q.     Now, Omega deposited this check into its  
21 account at Banco BAC de Panamá; correct?

22          A.     Correct.

1 Q. And if you look at 114.3, this is your bank  
2 statement that shows the deposit of this check;  
3 correct?

4 A. Correct.

5 Q. So, that's on April 4, 2013, and then later  
6 that month, on April 25, there was a debit to this  
7 account of \$250,000; correct? That's 114.4.

8 A. Correct.

9 Q. And that transfer was to the account of PR  
10 Solutions; correct?

11 A. Yes.

12 Q. I may have asked this before, but just  
13 organizationally, you personally hold the shares now,  
14 or at this time, for PR Solutions; correct?

15 A. Yes. Then and now, still.

16 Q. And this transfer from Omega Engineering to  
17 PR Solutions was authorized by you?

18 A. It was.

19 Q. Okay. And at the time just prior to the  
20 receipt of these funds in the PR Solutions account,  
21 the PR Solutions account had standing to its credit  
22 just a nominal amount of money; is that correct?

1 I'm looking at 114.5.

2 A. Yes.

3 Q. Now, PR Solutions had no role in the  
4 La Chorrera Project; right?

5 A. I'm not entirely certain. PR Solutions  
6 was--on occasion used, when we had to--brought in  
7 specialists to do something, our labor  
8 restrictions--Omega Panamá or the Omega Consortium  
9 had belonged to a labor union, so on occasion we had  
10 to do work that we would subcontract to PR Solutions,  
11 and PR Solutions would hire, and then we didn't have  
12 to go through the labor union.

13 Q. Okay. That's very interesting, but did that  
14 happen in this circumstance?

15 A. I'm not sure if it did.

16 Q. And do you know of any record, any document  
17 in the entire record of this case, that makes  
18 reference to PR Solutions performing that function?

19 A. No.

20 Q. Now, you did testify about what you did with  
21 PR Solutions, and you said that you used it for your  
22 non-Omega personal investments; isn't that right?

1 A. What section are you referring to?

2 Q. So, if you look at your First Statement at  
3 Paragraph--my notes say 97. Let's find it, though.

4 Go to Paragraph--First Statement,  
5 Paragraph 97. So, you can look at the last two  
6 sentences, and it says: "It had always been our  
7 practice to keep Omega isolated from any potential  
8 liability not related to its core business; hence, my  
9 decision to use PR Solutions to fund the transaction  
10 on behalf of Punela"--which we'll get to in a  
11 minute--"instead of Omega Panamá."

12 Do you see that?

13 A. Yes.

14 Q. So, this suggests that PR Solutions was used  
15 to separate your activities from the Omega  
16 construction business?

17 A. Yeah, the group's activities that were not  
18 related directly to Omega.

19 Q. So, getting back to what you testified  
20 before, a moment ago, it would be inconsistent with  
21 that design, that corporate design, to use  
22 PR Solutions to pay for anything related to one of

1 your construction projects. Isn't that the case?

2 A. No, I don't see it as inconsistent.

3 Q. Well, you used PR Solutions to keep a  
4 barrier with the core business of Omega.

5 Isn't that what you're saying in this last  
6 sentence here?

7 A. Yeah, and to avoid potential liability,  
8 which was what I was trying to explain with regards  
9 to the labor union.

10 Q. Now, we had alleged--we had said in one of  
11 our submissions that you commingled funds between  
12 Omega Panamá and PR Solutions, but you responded very  
13 specifically that--"I reject this" you said,  
14 quote/unquote, and you said that you kept strict  
15 records of your companies' accounts, "audited by  
16 third parties."

17 Do you remember saying that?

18 A. Yes.

19 Q. You in fact, this 250,000 that we've just  
20 seen go from Omega to PR Solutions, you did carry  
21 that on the books and records of PR Solutions as an  
22 intercompany payable to Omega Engineering; isn't that

1 the case?

2 A. Again, Mr. Weisburg, I'm not an accountant.

3 Q. Well, this isn't really very high-level  
4 accounting.

5 If you could go to C-904 at Page 15, which  
6 is a document of poor quality, but I think we'll be  
7 able to get through it.

8 A. I'm sorry. Can you give me the number  
9 again?

10 Q. So, C-904, 9-0-4, at Page 15. It's a  
11 document that comprises a lot of different things.  
12 We're only interested in this one page.

13 A. Okay.

14 Q. Okay. And so, the label or the title to  
15 this document--and I'll ask you to agree with me, but  
16 I struggled through it, and I think I have it--it  
17 says in the first line at the upper left "PR  
18 Solutions," and the second line says "intercompany  
19 payable to Omega Engineering Inc.," and the third  
20 line says "year ended"--oh, you don't have it. I'm  
21 sorry.

22 A. Yeah, what page?

1 Q. Okay. It is C-904, Page 15.

2 A. I'm here.

3 Q. You got it. Are you sure you've got it?

4 A. Yes.

5 Q. Okay. Now let's see if we can agree with what  
6 it says. Okay?

7 So, in the upper left, the first line says  
8 "PR Solutions"; right?

9 A. Yes.

10 Q. And the second line says "intercompany  
11 payable to Omega Engineering Inc."?

12 A. Yes.

13 Q. And the third line says "year ended  
14 December 31, 2013"?

15 A. Yes.

16 Q. Okay. And, just to refresh your  
17 recollection, we're referring in R-114 to a transfer  
18 from Omega Panamá to PR Solutions on April 25, and  
19 this says there's a \$250,000 payment or account  
20 payable, intercompany payable, 4/25/2013; correct?

21 A. I see the transfer of funds. I'm  
22 translating, but transfer of funds, Punela

1 Development, Los Santos, dated April 25, 2013, for  
2 \$250,000.

3 Q. Okay. So, that looks like the payment - the  
4 transfer we've just been talking about; correct?

5 A. Yes.

6 Q. Okay. So, that's on the PR Solutions side.

7 A. Okay.

8 Q. So, let's look on the Omega Engineering  
9 side. And we have a--so, this is for year-end  
10 December 31, 2013. So, if you could look at C-136,  
11 which is the Omega Engineering side [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A. [REDACTED]

15 Q. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 A. I may not be looking at the right page,

1 Mr. Weisburg.

2 Q. Okay. It's the one that has the 4 in the  
3 middle. So, C-136?

4 A. I'm sorry. I was looking at C-135.

5 Q. Again, I'm looking to see if the \$250,000  
6 showing as a payable on the PR Solutions side is a  
7 receivable on the Omega Engineering side.

8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]

11 A. If you can point me to the right--

12 Q. Sure.

13 MR. WEISBURG: Can I go visit the Witness  
14 for a second?

15 (Comments off microphone.)

16 MS. GORSLINE: I think I can trust  
17 Mr. Weisburg for just a few moments.

18 (Comments off microphone.)

19 BY MR. WEISBURG:

20 Q. I'm looking right there.

21 A. Okay. I got it. Thank you.

22 Q. So, the \$250,000 does not appear to be

1 recorded there, does it?

2 A. [REDACTED]

3 Q. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A. Yes.

9 Q. [REDACTED]

10 [REDACTED]

11 A. [REDACTED]

12 Q. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 A. I can't say, Mr. Weisburg.

16 Q. You can't say?

17 A. No. I'm sorry, I can't say.

18 Q. Okay. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A. No.

22 Q. [REDACTED],

1  
2  
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22

[REDACTED]

A. It could.

Q. [REDACTED],

[REDACTED]

What subcontracts did you have with PR Solutions in 2013?

A. Again, Mr. Weisburg, I don't have that information, but you're asking me to make an assertion that I'm simply stating that I'm not capable of doing.

Q. Okay. And just to check out one more category, there's a category, which I would suggest it would be much more appropriate as a place to carry this, [REDACTED]

[REDACTED]

A. Yes.

Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A. Yes, it is listed right there.

(Interruption.)

1 A. Yes, it is listed right there.

2 Q. And it goes on to say: [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A. Incorrect.

9 Q. [REDACTED]

10 A. In what item, Mr. Weisburg?

11 Q. [REDACTED]

12 [REDACTED]

13 A. [REDACTED]

14 Q. [REDACTED]

15 A. Yes.

16 Q. But you would agree, having looked at the

17 [REDACTED]

18 [REDACTED]

19 A. [REDACTED]

20 [REDACTED]

21 Q. Okay. Now, returning to the R-114, so we  
22 saw that there was a transfer from Omega to

1 PR Solutions on April 25. Immediately before that  
2 transfer, PR Solutions also had a very--had a very  
3 low balance; correct? That's R-114.5.

4 A. Yes.

5 Q. And now immediately, as in the same day,  
6 that that \$250,000 was credited to the PR Solutions  
7 account, it was also debited to that account;  
8 correct?

9 A. Yes. That transfer was specifically for the  
10 Tonosí Promise Purchase Agreement.

11 Q. So, why did you run that money through the  
12 PR Solutions account for a moment?

13 A. Because I wanted to keep it separate from  
14 Omega.

15 Q. So, it was Omega money that went to  
16 PR Solutions; right?

17 A. Well, the buyer was Punela; right? So, in  
18 other instances what had happened is that, if within  
19 a certain time, the entity that is buying the land or  
20 making the investment cannot pay back, then what we  
21 do is that we merge the companies. And so, since in  
22 that event, I didn't want to merge any real estate to

1 Omega. That's the same thing that I do in all my  
2 transactions.

3 Q. What do you mean by "merge the companies"?

4 A. Well, these are investments that are  
5 expected to receive a return and to bring back the  
6 money. So, if some time elapsed and at some point we  
7 might decide that the change that account receivable  
8 from an investment or an--you know, the ownership--in  
9 this instance, PR Solutions would have become the  
10 owner of Punela, if Punela was not able to pay them  
11 back at some point.

12 Q. Did you own Punela directly?

13 A. I did.

14 (Interruption.)

15 MR. WEISBURG: I'm sorry. It's my fault.  
16 Forgive me.

17 BY MR. WEISBURG:

18 Q. So, did you get that? Let me repeat that  
19 question.

20 Did you own Punela personally?

21 A. I did.

22 Q. Okay. So, you directly held the shares.

1 A. Yes.

2 Q. But Punela, the putative buyer, was never  
3 put in funds itself, was it?

4 A. I'm sorry?

5 Q. Punela never had the funds to make this  
6 acquisition.

7 A. No, no. It was merely created--in the same  
8 way that when we created Omega Panamá, we put money  
9 into Omega Panamá. We did the same thing with  
10 Punela.

11 Q. No, but you didn't put the money into  
12 Punela.

13 A. We did. In the form of an asset.

14 Q. But you didn't--but when the--but the check  
15 that was paid to Ms. Reyna, as we'll see in a moment,  
16 came directly from PR Solutions and not Punela; is  
17 that correct? Even though Punela was listed as the  
18 buyer in the underlying real estate contract.

19 A. Mr. Weisburg, there were a few things there  
20 that I don't agree with. First, we didn't pay  
21 Ms. Maria Reyna. We give the money to her law firm,  
22 which was supposed to be deposited in an escrow

1 account. That's the first.

2 And also, the monies that were supposed to  
3 be held in escrow by Reyna y Asociados were for the  
4 benefit of Punela, not for the benefit of  
5 PR Solutions.

6 Q. We'll get back to that.

7 So, we were looking at 114.5, which shows  
8 the \$250,000 coming into PR Solutions, and then if  
9 you could look at R-114.6, please.

10 And what's this?

11 A. That is the check that PR Solutions made to  
12 Reyna y Asociados on behalf of Punela.

13 Q. Well, it doesn't say "Punela" anywhere on  
14 here, does it?

15 A. On this document, no, it doesn't.

16 Q. Okay. And this is--so, this is a  
17 PR Solutions' check. Who is the signer of this  
18 check?

19 A. I believe that's the signature of Francisco  
20 Feliú.

21 Q. And we've heard his name before, but I don't  
22 know if it's clear who he is.

1           Who is he?

2           A.    Francisco Feliú was an employer--an  
3 employee, I'm sorry, of--first, of PR Solutions and  
4 then Omega.  He remained a Director of PR Solutions,  
5 nonetheless.

6           Q.    So, he was a Director of PR Solutions and  
7 employee of Omega?

8           A.    At the beginning, he was an Officer and a  
9 Director at PR Solutions, then he assumed some roles  
10 in Omega and then so he was transferred to Omega, but  
11 he remained as a Director of PR Solutions.

12          Q.    Okay.  Did he have any role with Omega U.S.?

13          A.    Before he went to Panamá.

14          Q.    Before he went to Panamá.  Okay.

15                So, he was with you in Puerto Rico before  
16 you moved down?

17          A.    That is correct.

18          Q.    Okay.  And then, of course, we can see in  
19 114.7 the \$250,000 debited from the PR Solutions  
20 account.

21                Now, and then if you could look at 114.8,  
22 this shows the credit to Reyna & Associates account

1 of the \$250,000 on April 26; isn't that correct?

2 A. That's what this document shows, yes.

3 Q. Okay. Did you or any of your  
4 representatives invite Ms. Reyna to appear at this  
5 proceeding?

6 A. No.

7 Q. Now, you worked regularly in Panamá with a  
8 gentleman named Nicolas Corcione; correct?

9 A. No.

10 Q. Well, you bid for properties with him,  
11 didn't you?

12 A. We bid on a project, on a tower for Morgan &  
13 Morgan, the law firm in Panamá. They were building a  
14 new tower. It was made of steel and so the Corcione  
15 Group reached out to us because of our experience in  
16 steel structures and invited us to participate in a  
17 joint venture to bid for the project, which we didn't  
18 get.

19 Q. Okay. It says--and I'm looking at your  
20 Third Witness Statement at Page 13, Paragraph 25. In  
21 the fifth line, and it says: "Nicolas Corcione is  
22 the one of the largest developers in Panamá, and I

1 met him soon after arriving in Panamá. We bid as a  
2 joint venture on certain projects (which we did not  
3 win) and we remain friendly as many in the  
4 construction industry do."

5 Now, it says--and I don't want to quibble  
6 with you, but it says: "We bid as a joint venture on  
7 certain projects," plural.

8 Was there more than one?

9 A. We looked into another project. I believe  
10 it was the Convention Center, but at the end, we  
11 decided not to bid for that job.

12 Q. So, you considered bidding with Mr. Corcione  
13 on more than one project?

14 A. On those two, yes.

15 Q. Now, you were introduced to Ms. Reyna by  
16 Mr. Corcione; isn't that right?

17 A. No.

18 Q. Well, are you aware that Ms. Reyna has  
19 testified that that's what happened?

20 A. No.

21 Q. Okay. So, you were--so, how--what's your  
22 recollection as to how you were introduced to

1 Ms. Reyna?

2 A. Mr. Weisburg, I have testified and so has  
3 Ms. Reyna and everybody--I think it's well  
4 established--I don't know Ms. Reyna.

5 Q. Well, you were in--essentially in business  
6 with her, isn't that a fact?

7 A. Was I--can you repeat the question, again,  
8 Mr. Weisburg?

9 Q. Let me amend that. You had an important  
10 transaction with Ms. Reyna?

11 A. I had a transaction with JR Bocas, and it  
12 wasn't me. It was Punela, one of my companies.

13 Q. I'm sorry, which company? Punela. Sorry.

14 Now, Mr. Corcione was also a bidder on  
15 courthouse projects during the Moncada Luna  
16 Administration; isn't that correct?

17 A. You mean the La Chorrera Project?

18 Q. That or--weren't there a number of  
19 courthouse projects more or less simultaneously  
20 during the Moncada Luna Administration?

21 A. I'm not aware of it. I am aware that he was  
22 one of the competitors at La Chorrera.

1 Q. Okay. And there was also some kind of  
2 maritime court project at the same time? Are you  
3 aware of that?

4 A. I read--well, some of it came into the  
5 documents, but I'm not aware of any details with  
6 regards to that.

7 Q. But it was your understanding that  
8 Mr. Corcione was very well connected with Justice  
9 Moncada Luna. Isn't that a fact?

10 A. No.

11 Q. So--I'm sorry my question was ambiguous.  
12 So, are you saying that affirmatively he was  
13 not known or did not know Justice Moncada Luna, or  
14 you don't know whether he knew Justice Moncada Luna?

15 A. I simply don't know who Mr. Corcione knew or  
16 didn't know.

17 Q. Okay. Now, getting back to a point that we  
18 were just talking about, you say in your First  
19 Statement at Paragraph 85 that: "I never had any  
20 personal contact or relationship with Ms. Reyna."

21 Now, your wholly owned company paid her a  
22 check of at least \$250,000; isn't that correct?

1       A.    No, it isn't, Mr. Weisburg.  Once again, it  
2 was Punela to JR Bocas, and the monies were deposited  
3 at the law firm, Reyna & Associates, escrow account.

4       Q.    Well, first of all, it wasn't Punela.  It  
5 was PR Solutions that paid the money; isn't that  
6 correct?

7       A.    On behalf of Punela.

8       Q.    Okay.  Although the check and all the  
9 documents we have seen don't say that, do they?

10      A.    The Contract, the Promise Contract does.

11      Q.    Okay.  Now, looking at the Reyna y Asociados  
12 account at R-114.8, it was also the case that before  
13 this \$250,000 got there, she had, you know, very  
14 close to a zero balance; isn't that correct?  Or  
15 inconsequential balance?

16      A.    That's what this document shows.

17      Q.    Okay.  And you understand that Ms. Reyna  
18 very quickly after receiving this \$250,000 remitted  
19 125,000 of it to Sarelan; isn't that correct?

20      A.    No, it isn't.

21      Q.    Well, if you could look at 114.9, which is  
22 admittedly a poor copy, although there's a note at

1 the bottom which clarifies it.

2           This appears to be a check from Reyna y  
3 Asociados payable to Sarelan Corporation in the  
4 amount of \$125,000 on April--May 3, I'm sorry, May 3,  
5 2013.

6           A.    Mr. Weisburg, I have no relationship nor  
7 access to the bank accounts of Ms. Reyna. I've heard  
8 about Sarelan in the context of the investigation on  
9 the National Assembly for the first time. So, while  
10 I can see this, this is new in the context of the  
11 events that we're discussing in this case, not prior  
12 to that.

13           Q.    But going back to R-114--sorry, R-114.8, the  
14 Reyna & Associates bank statement, it is clear that  
15 it is your money, the \$250,000 received from  
16 PR Solutions, that goes out to Sarelan via this  
17 \$125,000 debit; isn't that correct?

18           A.    I'm not certain about that, Mr. Weisburg.

19           Q.    Now, you received--you--Omega received a  
20 second payment under the contract with the Judicial  
21 Authority in July of 2013; isn't that correct?

22           A.    I believe so, yes.

1 Q. And the amount of that payment was \$587,844;  
2 isn't that correct?

3 A. Again, Mr. Weisburg, if you say so.

4 Q. No, I'm not testifying.

5 A. Well, then please tell me where to look.

6 Q. Okay. There are a couple places, but  
7 let's--114.13.

8 A. And, Mr. Weisburg, to be clear, I'm not  
9 being evasive, I can't remember off the top of my  
10 head.

11 Q. That's fine. I'm not suggesting you were,  
12 but I can't answer the questions.

13 A. Okay. Which page?

14 Q. 114.13.

15 A. 114.1--

16 PRESIDENT SHORE: Same document, just flip  
17 over a couple pages.

18 BY MR. WEISBURG:

19 Q. Yeah, 114.13.

20 A. Okay. Thank you.

21 Q. Ministry of Economy and Finance check.

22 A. Yes. 587,844.93.

1 Q. And that's the second payment to Omega  
2 Engineering, Inc., out of the La Chorrera Contract;  
3 correct?

4 A. Yes.

5 Q. And this was deposited into the Omega  
6 Engineering account on July 11; correct?

7 A. Yes.

8 Q. And as we'll see, this transaction is quite  
9 speedy. On the next day, on July 12, you debited the  
10 Omega Engineering account by \$250,000 and move that  
11 to the PR Solutions account. And that's reflected in  
12 114.15 and .16.

13 A. You mean "speedy" with regards to this check  
14 or the other--

15 Q. You'll see the transfers happen quickly.  
16 So, the money comes in on the 11th and on the 12th,  
17 it goes out to--it's debited the Omega Engineering  
18 account and credited to PR Solutions?

19 A. I see. It is on the other page.

20 Q. Yep. And then on the 12th, there's another  
21 check drawn on the account of PR Solutions payable to  
22 Reyna y Asociados; correct? That's 114.17.

1 A. Correct.

2 Q. And this is also signed by Mr. Feliú?

3 A. Yes.

4 Q. And this transfer to PR Solutions is also  
5 carried on the records of PR Solutions as an  
6 intercompany payable; isn't that correct?

7 And if you want to look at C-904 that we  
8 looked at before.

9 A. You showed me that, Mr. Weisburg. I would  
10 agree.

11 Q. So, you agree that this \$250,000 paid from  
12 Omega Panamá to PR Solutions is carried as an  
13 intercompany payable?

14 A. Yeah. That's what you showed me.

15 Q. Okay. And you would also agree that is not  
16 reflected in the books of Omega Panamá as an  
17 intercompany receivable?

18 A. On the particular financial statements that  
19 you showed me.

20 (Interruption.)

21 PRESIDENT SHORE: Are there other financial  
22 statements that you know of that would cast further

1 light? Your answer was "on the particular financial  
2 statements that you showed me."

3 Are there others?

4 THE WITNESS: Yes. As I was trying to  
5 explain earlier, the--you know what? I was confusing  
6 with Omega U.S., which has a closing on 2013. So.

7 PRESIDENT SHORE: Thank you. All right.

8 BY MR. WEISBURG:

9 Q. Both of these, the Omega Panamá financial  
10 statements and the one-page PR Solutions financial  
11 statements both reflect a year end--a 12/13/2013  
12 closing point of time?

13 A. You're correct, Mr. Weisburg. I'm sorry, I  
14 was...

15 Q. No problem.

16 Now, this--we were looking at 114.17, which  
17 is the second check on the PR Solutions account. And  
18 that check was then debited to the PR Solutions  
19 account. And that's 114.18; isn't that correct?

20 A. Yes.

21 Q. And it was credited to the Reyna y Asociados  
22 account on--I can't tell the exact day because of a

1 hole punch, but later in July--sometime in July, and  
2 that's reflected in 114.19; correct?

3 A. Yes.

4 Q. And then Reyna just then transferred that  
5 through two \$75,000 payments to Sarelan; isn't that  
6 correct?

7 A. This is what these documents show and what  
8 I've learned through this process.

9 Q. So, between April and July of 2013, you,  
10 acting through wholly owned Companies, paid  
11 Reyna and Asociados half a million dollars; correct?

12 A. No.

13 Q. Well, there are two transfers from  
14 PR Solutions to Reyna and Asociados of 500,000--that  
15 comprise \$500,000; isn't that correct?

16 A. But those were not payments. They were  
17 supposed to be deposited on an escrow account.

18 Q. Is there escrow Agreement that you're aware  
19 of?

20 A. The Contract calls for Ms. Reyna or  
21 Reyna and Asociados to hold those monies in account,  
22 in escrow.

1 Q. Have you ever seen a document that is in  
2 form or substance an escrow executed by Reyna?

3 A. Other than the "promesa y"--the  
4 "complementa." That's the document I've seen,  
5 Mr. Weisburg.

6 Q. And that you're referring to the--you're  
7 referring to the promise of purchase and sale  
8 Agreement.

9 A. Yes.

10 Q. Now, I asked you this about Reyna, but did  
11 you or your counsel invite Justice Moncada Luna to  
12 testify at this proceeding?

13 A. No.

14 Q. And would you agree that it would be  
15 rational and appropriate for a prosecutor to want to  
16 interview a creditor of the Judiciary who was  
17 remitting large sums received from the Judiciary to  
18 an account controlled by the Judiciary's Chief  
19 Officer?

20 A. Well, there's a couple of premises that I  
21 don't agree with, Mr. Weisburg. First of all,  
22 Mr. Moncada Luna did not control the accounts of the

1 judicial system. There's a whole--and it's been  
2 discussed through the whole day how--there's a  
3 different layers of approvals and the--and I believe  
4 Mr. Ryan spent a lot of time yesterday talking about  
5 the controls of the Comptroller General, so I  
6 wouldn't characterize as Mr. Moncada Luna having  
7 control over the judicial system accounts.

8           And the other thing is that--investigate a  
9 Company simply because it holds a Contract with a  
10 Government agency, I don't think it's sufficient, but  
11 then, again, I'm not an Expert.

12       Q.    Okay. I think you may have misunderstood my  
13 question, because the control of the account I'm  
14 referring to would be an account controlled  
15 personally by the Judiciary's Chief Officer, an  
16 account like Sarelan. So, let me read you the  
17 question again.

18       A.    Okay.

19       Q.    Would you agree that it would be rational  
20 and appropriate for a prosecutor to want to interview  
21 a creditor of the Judiciary who was remitting large  
22 sums received from the Judiciary to an account

1 controlled by the Judiciary's Chief Officer?

2 A. Yes, but this is not this instance. We were  
3 not remitting any monies to an account controlled by  
4 Justice Moncada Luna.

5 Q. Okay.

6 MR. WEISBURG: Now, what's the break plan?  
7 Because I'm changing topics.

8 (Comments off the record.)

9 BY MR. WEISBURG:

10 Q. Now, I'd like to look at the famous Promise  
11 of Purchase and Sale Agreement. Your counsel has  
12 filed three different translations, but we're happy  
13 to use the last one, which is C-78--it's got a funny  
14 title--"C-78, Resubmitted 2."

15 Got it?

16 A. Yes.

17 Q. Okay. And, obviously, there's a Spanish  
18 original and the much-labored-over English  
19 translation.

20 Now, who negotiated this Contract? You or  
21 Mr. López?

22 A. Mr. López.

1 Q. Okay. He's testified that he tried to  
2 negotiate an adjustment of the price, but that the  
3 retort he got was the price had already been agreed  
4 by you; is that correct?

5 A. I had given him instructions that I would be  
6 willing to pay a million dollars for it.

7 Q. Okay. Did you ever have any negotiation  
8 with anybody to arrive at that million-dollar figure?

9 A. No, but I had conversations with plenty of  
10 people.

11 Q. Well, who did you have conversations with  
12 about that particular topic?

13 A. Mr. Chevalier and some of his associates.

14 Q. And did you have any conversation with the  
15 Seller?

16 A. No.

17 Q. So, you didn't talk to the Seller's  
18 representative, Ms. Reyna? You didn't talk to the  
19 representatives of this woman in California who is  
20 behind JR Bocas?

21 A. No.

22 Q. You didn't speak with anybody else who

1 represented JR Bocas?

2 A. No.

3 Q. Okay.

4 A. My attorneys and Mr. López did.

5 Q. Okay. Prior to the point in time--can you  
6 identify a date in time when you announced that the  
7 price you were willing to pay was a million dollars?

8 A. Early 2013.

9 Q. Okay. And just to be more precise, through  
10 that moment in time when you announced the  
11 million-dollar price, had anybody else who works for  
12 you had any conversation about this transaction with  
13 any third Party, either Reyna or anybody else?

14 A. Aside from Frankie and I don't know  
15 if--well, not within my organization, no. Aside from  
16 Frankie, I don't know about anybody else.

17 Q. Okay. And who did--so, Frankie is  
18 Mr. López; correct?

19 A. I'm sorry, yes.

20 Q. It's okay. We can call him Frankie. We  
21 just need to be clear.

22 Prior to this moment in time when you

1 announced the million-dollar price, who had Frankie  
2 spoken to about this prospect?

3 A. I'm not certain about that.

4 Q. Okay. And I just want a complete list of  
5 everybody you spoke to about this property with  
6 respect to the price before that moment in time when  
7 you instructed Frankie that it was a million dollars.

8 So, who had you spoken with?

9 A. Mr. Weisburg, this was seven years ago,  
10 and--

11 Q. Do the best you can.

12 A. All right. I know I spoke to Mr. Chevalier.  
13 He had a partner, big guy--don't remember his name.  
14 I can certainly look for his name somewhere in the  
15 documents, but I spoke to him, and I spoke to  
16 Frankie, and--I don't know. Probably, I spoke to a  
17 lady I was dating at the time who was an attorney and  
18 a--but, again, it is very hard to recall who I was  
19 talking to at the time, Mr. Weisburg.

20 Q. Okay. To your knowledge, had--did any of  
21 those people with whom you had spoken speak to the  
22 Seller or the Seller or any representative of the

1 Seller?

2 A. Other than Frankie, no.

3 Q. But you just told us Frankie did not have  
4 such conversations before you announced to him the  
5 million-dollar price?

6 A. I'm sorry. I understood you were asking if  
7 any of those that--

8 Q. No. I'm trying to see what conversations  
9 there were about price prior to the point in time  
10 when you told Frankie: "It's a million dollars."

11 A. The ones I just told you about.

12 Q. Okay. Now, you were here for the Openings;  
13 correct?

14 A. I was.

15 Q. Yeah. Okay. So, you heard what I had to  
16 say about this document. Now, one of the things that  
17 we've identified is there's no notarization or  
18 authentication with respect to the signature of  
19 Ms. Reyna; correct?

20 A. That is correct.

21 Q. Okay. And it's your testimony repeated  
22 today that you didn't know Ms. Reyna.

1           A.     That is correct.

2           Q.     And did you do anything like you might do in  
3 the United States with a Seller of real estate is a  
4 DNB or some kind of inquiry about somebody's credit  
5 rating? Did you do anything like that on Ms. Reyna?

6           A.     But, Mr. Weisburg, the problem is that I  
7 gave instructions to my attorneys and to Frankie to  
8 carry out a transaction, and in Panamá, which, of  
9 course, we relied on local counsel for all this, and  
10 you're asking me questions that I cannot answer. I  
11 wasn't there asking those questions. I wasn't--

12          Q.     I don't want any answer that is not yours.  
13 If you don't know about it, say you don't know about  
14 it. I'm just asking about what you know. Okay?

15                   And I want to know if you took any steps to  
16 determine the credibility and the authority of  
17 Ms. Reyna to sign this document?

18          A.     I didn't. My attorneys were supposed to do  
19 that.

20          Q.     Okay. Did you have any conversations,  
21 yourself, with your attorneys, with respect to this  
22 transaction?

1 A. I believe I did.

2 Q. Okay. When were they and what was  
3 discussed?

4 MS. GORSLINE: Mr. President, "when were  
5 they" is fine. But what was discussed is privileged.

6 PRESIDENT SHORE: Why don't we go with "when  
7 and who?"

8 MR. WEISBURG: We'll go step by step.

9 THE WITNESS: The "who" would be Ana  
10 Graciela Medina, and the "when" would be at some  
11 point in April 2013.

12 BY MR. WEISBURG:

13 Q. So, I take it that you don't personally  
14 recognize Ms. Reyna's signature; is that correct?

15 A. Can you repeat the question? I'm sorry.

16 Q. You don't personally recognize Ms. Reyna's  
17 signature.

18 A. No, I don't.

19 Q. And this is also signed by Luis Montaña.  
20 Montaña. Do you know who he is?

21 A. He's an employee at IGRA.

22 Q. Have you ever met him?

1 A. I'm not entirely sure. I might have.

2 Q. Now, have you personally ever seen any  
3 document confirming the authority of Ms. Reyna to  
4 sign this document on behalf of J.R. Bocas  
5 Investments Inc.?

6 A. Yes, I have.

7 Q. And what have you seen?

8 A. I've seen the Public Registry on  
9 the--Panamá's Public Registry website. It says who  
10 is the legal representative of the corporation.

11 Q. And does that constitute--does that  
12 registration form constitute authority to sign a  
13 million-dollar real estate transaction?

14 A. Mr. Weisburg, I'm not an attorney.

15 Q. You never purchased property in Panamá  
16 before this; isn't that correct?

17 A. Yes, that is correct. I've never purchased  
18 property before in Panamá, real estate property.

19 Q. And you know that this Contract was never  
20 registered in the Public Registry; isn't that  
21 correct?

22 A. And I wasn't expecting it to be registered.

1 Q. Okay. So, it wasn't registered, was it?

2 A. No, it wasn't. It wasn't--it wasn't a deed  
3 of purchase. It was a promise of purchase.

4 Q. But you do understand that promises of  
5 purchase, if they are in the right form, can be  
6 registered in the Public Registry under Panamanian  
7 practice.

8 A. If you tell me so, I'll take your word.

9 Q. No, I don't--I'm not testifying. I'm not  
10 testifying. You can say "you don't know," but you  
11 can't rely on me.

12 A. Well, the fact is that I don't know, but I  
13 didn't expect a private Contract, which is predicated  
14 on a transaction that is going to occur later to have  
15 to be on a public bid and registered.

16 Q. Now, you testified in your Third Statement  
17 that: "Since I had no reason to doubt the  
18 transaction would take place, my understanding was  
19 that there was no reason to take those additional  
20 steps as a preventive measure," and "those additional  
21 steps" being notarization and confirmation of the  
22 authority of the signers.

1           So, you were wrong in that assumption,  
2 weren't you?

3           A.    On what specific assumption?

4           Q.    No reason to doubt the transaction would  
5 take place.

6           A.    Evidently, today I have to agree with you,  
7 that the transaction never--has never been finalized,  
8 so I have to agree with you on that, Mr. Weisburg.

9           Q.    Now, under this Contract, Punela was  
10 required to pay the seller \$500,000 within 70 days of  
11 execution without regard to delivery of title; isn't  
12 that correct?

13          A.    Can you articulate the question again?  
14 I'm--

15          Q.    Sure. Under this Agreement, Punela, the  
16 Buyer, was required to pay the Seller half a million  
17 dollars within 70 days of execution of this document,  
18 without regard to delivery of title?

19          A.    I think there's a reference to "title" in  
20 here. The answer to your question, Mr. Weisburg, is  
21 that according to this Contract, Punela was to  
22 deposit the monies into escrow, not paid the Seller.

1 Q. My question went to timing.

2 Isn't it a fact that you paid that  
3 \$500,000--you, in fact, did pay that \$500,000 without  
4 ever seeing the title?

5 A. Again, I didn't pay it. I deposited it with  
6 Reyna and Associates.

7 Q. Okay. You made the payment without--you  
8 made the transfer--I'll use the word  
9 "transfer"--without seeing title; isn't that correct?

10 A. That is correct, Mr. Weisburg.

11 Q. Now, you're aware that 50 percent, being  
12 500,000 of a million, is an extraordinarily high  
13 preclosing advance in Panamá?

14 A. No, I'm not aware that that is the case.

15 Q. Did you make inquiry when you agreed to this  
16 transaction as to what the usual advance payment was  
17 in real estate transactions like this?

18 A. Mr. Weisburg, this transaction was going to  
19 be--

20 Q. If you can just answer the question yes or  
21 no.

22 My question was, did you make inquiry? It

1 could be answered yes or no.

2 Did you make inquiry as to what the usual  
3 deposit was for Contracts like this? And then you  
4 can say whatever you want.

5 A. No. But I wasn't making a deposit to this  
6 other--I was putting the money in escrow.

7 Q. Okay. Well, you're aware that in the United  
8 States, typical--I'll use your word--"escrows" are  
9 10 percent?

10 A. No.

11 Q. And you're aware that Mr. Arjona, Judge  
12 Arjona, has given the Opinion that it's usually--in  
13 Panamá 10 to 15 percent?

14 A. That is his Opinion.

15 Q. And your Experts, ARC, have given the  
16 Opinion that it can be as high 20 to 30 percent, but  
17 not 50 percent?

18 A. Yes.

19 PRESIDENT SHORE: Mr. Weisburg, is this an  
20 acceptable time to take a break, 15 minutes?

21 MR. WEISBURG: It is. It is.

22 PRESIDENT SHORE: So, same instruction,

1 Mr. Rivera. And let's reconvene at 3:30. Thank you.

2 (Brief recess.)

3 PRESIDENT SHORE: Back on the record.

4 Mr. Weisburg.

5 MR. WEISBURG: Thank you.

6 BY MR. WEISBURG:

7 Q. So, do you still have "C-78 Resubmitted 2"  
8 in front of you?

9 A. I do, Mr. Weisburg.

10 Q. Okay. There's been some conversation about  
11 this, but do you know what your Seller paid for this  
12 piece of land when it was acquired by the Seller in  
13 2008?

14 A. I do now.

15 Q. And when did you--

16 (Interruption.)

17 Q. Now. Now?

18 A. Yes. I do now.

19 Q. Okay. And when did you learn that?

20 A. During the course of these proceedings.

21 Q. And that is something that is researchable  
22 in the land records of Panamá?

1 A. I believe so.

2 Q. Now, am I correct that you didn't get an  
3 appraisal?

4 A. Yes, you are correct.

5 Q. And you didn't get a topological study.

6 A. No, but I did walk the site.

7 Q. You walked the site personally?

8 A. Yes.

9 Q. Okay. Now, you would agree that this  
10 Contract has sort of a shocking typo in it, wouldn't  
11 you?

12 A. I'm assuming you're talking about the  
13 difference between the numbers--

14 Q. Correct. I'm talking about 2C, the  
15 difference between 500,000 and 750,000.

16 A. Yes. It is an unfortunate, but very often  
17 mistakes in contracts and documents in Panamá, so  
18 often so that we have on the record one contract that  
19 has the same typo, and it was signed by the agency,  
20 by Omega, it went to the Comptroller and went through  
21 everything, and nobody picked up on it until very  
22 late.

1 Q. And we'll get back to this, but the IGRA  
2 firm did not pick up on this, did they?

3 A. No.

4 Q. And did you personally review this Contract  
5 before it was signed?

6 A. I did.

7 Q. Now, you say in your Third Witness Statement  
8 at Paragraph 12: "To make sure this deal was done  
9 properly, I secured Panamanian counsel, specifically  
10 the law firm of IGRA, which at the time was  
11 considered one of the most reputable law firms in  
12 Panamá. IGRA advised not only on the preparation of  
13 the Promise Agreement but also on how the transaction  
14 would work."

15 Now, IGRA was engaged to work on this on  
16 April 22--isn't that correct?--April 22, 2013?

17 A. I believe that's when Mr. López sent IGRA  
18 the draft agreement.

19 Q. And is that the moment at which they were  
20 engaged, in your understanding?

21 A. I believe I had conversations with Ana  
22 Graciela before that time.

1 Q. And how long before?

2 A. Not long before.

3 Q. How long were those conversations in terms  
4 of--

5 A. Brief: "I'm buying this land, and, you  
6 know, can you help us with that?" And obviously she  
7 said yes.

8 Q. Okay. By telephone?

9 A. Yes.

10 Q. And it's your understanding, isn't it, that  
11 they concluded their work on--at least in reviewing  
12 the Contract, on April 25, 2013?

13 A. That's what the--that's what the documents  
14 show, yes.

15 Q. Okay. And you might want to get that. It  
16 is C-557. It's the two-page email.

17 A. C--

18 Q. 557.

19 A. You want me to look at a specific page?

20 Q. Yeah. I'm going to ask you about the very  
21 top email, the last email, which is the first email.

22 A. Okay.

1 Q. So, Ana Graciela sends it to Frankie, in the  
2 late morning on the 25th, and then midafternoon on  
3 the 25th, Frankie sends it to you saying, "Attached,  
4 let me know if I should sign it or if we should send  
5 a draft to the other Party."

6 Did you respond to that inquiry from  
7 Mr. López?

8 A. I called them.

9 Q. And what did you say?

10 A. To go ahead and proceed with the  
11 transactions.

12 Q. Okay. Do you know what day you called them?

13 A. Immediately after I received the document.

14 Q. So, presumably on the 25th?

15 A. Presumably, yes.

16 Q. Okay. Now, it's true, isn't it, that the  
17 IGRA law firm actually did very little work on this  
18 Contract, isn't it?

19 A. I wouldn't know that, Mr. Weisburg.

20 Q. Okay. Well, if you could look at--maybe you  
21 saw it yesterday--C-558.

22 A. Yes.

1 Q. And this is a bill from IGRA for preparation  
2 of Purchase and Sale Commitment Contract for Farm  
3 Number 35659, and for \$850.

4 Do you know what the billing rate, the  
5 average billing rate is for IGRA?

6 A. I believe it was like \$100.

7 Q. Are you sure about that? I've seen bills  
8 from Panamá. They are not New York rates, but they  
9 are more than that.

10 A. Well, they were--I remember that they were  
11 very, very low.

12 Q. Okay.

13 A. But also, IGRA--we received dozens of  
14 invoices per month from IGRA, and I don't discount  
15 the chance that there might be some other bill  
16 somewhere which includes more time for this. I  
17 simply don't know that, but it is a possibility.

18 Q. But you don't know that to have happened, do  
19 you?

20 A. No, I don't.

21 Q. And you never discussed that with them? You  
22 never discussed whether this bill was complete or

1 not, with them?

2 A. No.

3 Q. Now, this Contract provides for the  
4 provision of a Letter of Credit. That wasn't  
5 provided, was it?

6 A. Yes, it wasn't provided.

7 Q. Yes--

8 A. It wasn't provided.

9 Q. Thank you.

10 Now, it is true, as I said yesterday, that  
11 this Contract is not dated; isn't that correct?

12 A. That is correct.

13 Q. And you agree that many of the obligations  
14 in this Contract are keyed to the specific date of  
15 the Contract?

16 A. Yes.

17 Q. Now, you have never sought to recover  
18 through today the \$500,000, have you?

19 A. No, I haven't.

20 Q. And am I correct in reading your Third  
21 Witness Statement to say you are going to forego  
22 recovery, seeking recovery of that 500,000?

1 A. No, that isn't accurate.

2 Q. Well, let's see what you said. You say in  
3 Paragraph 17 of your Third Statement: "In order to  
4 preserve scarce resources for my family and to focus  
5 on defending myself and my companies against Panamá's  
6 attacks, I have been forced to forego or delay many  
7 transactions, business opportunities, and potential  
8 disputes including this one." And you are referring  
9 to this, the 500,000. And then you go on to say you  
10 don't really trust the Panamanian courts.

11 So, it was not your intention to communicate  
12 through that paragraph that you're not going to be  
13 seeking recovery of the \$500,000?

14 A. That is a more accurate assessment.

15 Q. Okay. And you never made a written demand  
16 for the return of that \$500,000, have you?

17 A. No.

18 Q. You know you don't need to be physically  
19 present in Panamá to start a lawsuit in Panamá, don't  
20 you?

21 A. I'm not certain about that, Mr. Weisburg. I  
22 would assume that but...

1 Q. I'm sorry. Is that the end of the sentence?

2 "I would assume that"? I'm sorry, are you done?

3 A. Yes.

4 Q. Okay. Fine. I thought you were

5 mid-sentence. Okay.

6 Now, you've also testified certainly in your  
7 First Statement and, perhaps, elsewhere about your  
8 meeting at La Trona with Mr. Varela. Am I correct  
9 that you don't have any notes or mementos or any  
10 other hard-copy evidence with respect to that  
11 meeting?

12 A. If you mean papers--

13 Q. Papers, pictures, anything physical.

14 A. No.

15 Q. And what was the date of that meeting?

16 A. I don't recall exactly. I know I looked  
17 through my documents. It might be in my Witness  
18 Statement, but I don't recall from the top of my  
19 head.

20 Q. Your Witness Statement does not give a date.

21 A. Okay.

22 Q. So, am I correct in assuming that you don't

1 know the date?

2 A. I think I was able to narrow down the  
3 period, but I don't have a specific date.

4 Q. Okay. And in any event, it was at least  
5 18 months before Mr. Varela took office in July of  
6 2014?

7 A. I think it could have been less than that.

8 Q. Well, so, July 2014 is--let's say that's the  
9 sixth month of 2014.

10 A. I'm sorry, Mr. Weisburg. It is my fault. I  
11 was thinking about the elections, which are--

12 Q. Take as much time as you want.

13 A. I'm sorry. You're right. It's about  
14 18 months, yes.

15 Q. Okay. And I'm not trying to intrude, but  
16 Mr. López testified that you were accompanied at  
17 La Trona by and he says your girlfriend at the time.

18 What was her name?

19 A. I'm sorry, but--

20 Q. You can just give us her first name. We're  
21 not going to call her up.

22 A. No, it is just funny. I'm sorry,

1 Mr. Weisburg. I'm sorry, to the Members. Her name  
2 was Tiese. Tiese.

3 Q. Tiese.

4 Okay. Did you ask Tiese to testify in this  
5 case?

6 A. No.

7 Q. You also say you were there with Ana  
8 Graciela; correct?

9 A. I did.

10 Q. You said this several times in your Witness  
11 Statements, that by this time of the La Trona event  
12 you had "developed a close friendship" and had  
13 "become close friends" with Ms. Medina. And I may  
14 have asked you this, but you didn't ask her to  
15 testify?

16 A. As a matter of fact, I did approach her, but  
17 she was incredibly intimidated by Mr. Varela, and she  
18 had actually told me that--I don't know if it was  
19 you, but she told me that somebody defending Panamá  
20 had visited her and that she wasn't comfortable and  
21 she didn't want to--

22 Q. It couldn't have been me.

1           A.     Okay. Well, that's good to know,  
2 Mr. Weisburg.

3           Q.     So, she refused to come--is that  
4 correct?--refused to agree to testify?

5           A.     Yes.

6           Q.     Okay. Now, do you think that it was at all  
7 relevant in her reaching that conclusion that when  
8 you left Panamá, you left your bills to her firm  
9 unpaid?

10          A.     I heard the last part of question, but not  
11 the first. Sorry, can you repeat?

12          Q.     I said, do you think it played any role in  
13 her decision not to agree to cooperate in your  
14 prosecution of this case that you had not paid her  
15 legal fees?

16          A.     I don't think it played any role at all. As  
17 a matter of fact, I kept in contact with her for some  
18 time, and she actually even visited me in Miami.

19          Q.     Now, again, still sticking on La Trona, you  
20 never told Mr. López of the amount that Mr. Varela  
21 supposedly asked you to contribute to his campaign,  
22 did you?

1 A. I don't recall if I did.

2 Q. Okay. Now, just a few questions on the  
3 various investigations.

4 Just to start, turning to the criminal  
5 prosecution of Justice Moncada Luna, that was  
6 conducted under the auspices of the National  
7 Assembly.

8 You understand that; right?

9 A. I do.

10 Q. Okay. And you testified in your Witness  
11 Statements that you first learned of the National  
12 Assembly inquiry on 22 January 2015.

13 Do you remember that, or should I send you  
14 to your Statement?

15 A. Learned about--

16 Q. Learned about the National Assembly's  
17 inquiry and the questions they had for your  
18 companies?

19 A. Yes.

20 Q. You learned that 22 January 2015?

21 A. That is correct.

22 Q. Okay. Who is Salvador del Toro Santiago?

1 A. He is a former employee of Omega Panamá.

2 Q. And he was in Panamá in this time period,  
3 2014-2015?

4 A. Yes, he was.

5 Q. Okay. And he worked for Omega and  
6 PR Solutions from 2012 to at least November of 2015;  
7 correct?

8 A. I believe until a little bit later, but your  
9 statement, it's right.

10 Q. Okay. Now, you're aware that he was  
11 summoned to appear before the National Assembly's  
12 prosecutors to answer questions in October of 2014,  
13 so--

14 A. In October?

15 Q. Yes. October 2014.

16 A. No, I'm not aware of that.

17 Q. Do you think it's possible he would have  
18 gone to such a session with National Assembly  
19 prosecutors without having told you?

20 A. No. I think he would have told me.

21 Can I see the document you're making  
22 reference to?

1 Q. Sure. C-887. And I'm not 100 percent sure  
2 it's in your book, but if it isn't, we'll get it for  
3 you. C-887.

4 A. C-887. Yes. Okay.

5 Q. I take it back. I got my dates fouled up.  
6 Put that aside. Never mind.

7 A. Okay.

8 Q. Now, in connection with this Congressional  
9 investigation, you hired counsel; isn't that correct?

10 A. Yes.

11 Q. And that's the Cedeño, Morales & Associates  
12 firm, right?

13 A. Yes.

14 Q. And you met - did you meet with them  
15 personally?

16 A. I did.

17 Q. Did they--and I'm not asking for the  
18 substance, but did they advise you as to what was  
19 going on?

20 A. They did.

21 Q. And they filed papers on your behalf with  
22 the Legislative, the National Assembly investigators,

1 didn't they?

2 A. Yes, they did.

3 Q. Okay. If you could look at C-195.

4 Now, have you seen this before?

5 A. Yes.

6 Q. Okay. Then you know that in this submission  
7 by your counsel to the National Assembly, that they  
8 state as an inarguable proposition that, speaking  
9 specifically of PR Solutions, that they were not  
10 being investigated and were outside of the scope of  
11 the investigation by the Congressional--the Assembly  
12 prosecutors?

13 A. I would appreciate if you can point me to  
14 that specific part.

15 Q. Sure. Okay. I'm looking at the English on  
16 Page 2. There is an indented paragraph that says  
17 "Article 106," and then below that paragraph where it  
18 says--I'll read it: "As a consequence, given that  
19 PR Solutions has not been investigated as either  
20 having committed or participated in any criminal act,  
21 but was nevertheless being subject to an attachment."

22 Do you see that?

1 A. Yes.

2 Q. And on the next page, in the middle, there's  
3 a sentence that: "Given that this obligation has  
4 been established," et cetera, it says at the end of  
5 the sentence: "Even though the Company is not part  
6 of the proceedings."

7 Do you see that?

8 So, under the indented paragraph that begins  
9 "Article 258," do you see: "Given that this  
10 obligation has been established"? Page 3.

11 A. Yes.

12 Q. Okay. So, having discussed this with Cedeño  
13 Morales, and having seen this letter, isn't it a fact  
14 that you understood that you and your companies were  
15 not within the jurisdiction of the prosecutors of--in  
16 the National Assembly?

17 A. Well, what I read here, Mr. Weisburg, is  
18 that we're not investigated as having committed or  
19 being--it reads very differently in Spanish. That's  
20 kind of my concern here.

21 Q. Okay. Well, I'm happy to ask you the  
22 broader question.

1           This letter is dated, I believe, January 24,  
2 2015. Isn't it a fact that you understood at this  
3 time that you and your companies were not subject to  
4 the prosecutorial jurisdiction of the National  
5 Assembly?

6           A. We understood that, but this letter was sent  
7 to the prosecutor because, in fact, we were being  
8 subjected to the investigation, and it was our  
9 attorney asking us and pointing that out to the  
10 prosecutor.

11          Q. This letter was sent to dispute an  
12 attachment of your bank accounts. I'm talking about  
13 criminal prosecution.

14          A. Mr. Weisburg, I believe he's asking us to be  
15 declared--let me see. What's the term he uses in  
16 English? It was like "affected third party."

17          Q. Okay.

18          A. Which I--

19          Q. But you understood at this time that you and  
20 your companies were not subject to criminal  
21 prosecution in the national legislature?

22          A. No. I understood that we were being

1 investigated by the National Assembly.

2 Q. Now, my question is, were you--did you  
3 understand at this time that you were not subject to  
4 prosecution and criminal conviction in the National  
5 Assembly?

6 A. I understood that, as I was explaining, that  
7 the National Assembly did not have jurisdictions, and  
8 therefore, they needed to be informed, because they  
9 are acting against their jurisdictional limits.

10 Q. So, you said on more than one occasion that  
11 "the Designated Prosecutor in the National Assembly  
12 understandably decided to dismiss criminal  
13 allegations against Omega Panamá and me."

14 Isn't it a fact that you understood that you  
15 and your companies were not subject to criminal  
16 allegations before the National Assembly?

17 A. We understood that, but we were still being  
18 investigated by the National Assembly. As a matter  
19 of fact, the Prosecutor was going to the media and  
20 telling that, specifically, he was investigating us.

21 Q. Okay. Just give me one second, please.

22 (Pause.)

1 Q. If you could look at Exhibit C-207. Just  
2 tell me if you've seen that.

3 A. Yes.

4 Q. You've seen this before?

5 A. Yes.

6 Q. And when did you see it?

7 Let me ask that another way.

8 Did you see it more around about March 23,  
9 2015?

10 A. Closer to that date than today.

11 Q. Well, I'm not interested if you saw it in  
12 your preparation to testify here.

13 A. I understand your question, Mr. Weisburg.

14 No, it wasn't in the context of this case.  
15 It was in the context of the cases that followed in  
16 Panamá.

17 Q. Okay. So, you saw on Page 4 in the  
18 first--the second paragraph, where it says--and this  
19 is something that was issued by deputies of the  
20 National Assembly--"The scope of action of the  
21 subcommittee"--and that's the prosecutorial  
22 subcommittee--"may not include persons outside the

1 prosecuted Party, as that would involve invading the  
2 jurisdiction of the ordinary courts."

3           So, you understood at the time you read this  
4 around about--which I think you just said was around  
5 about the time it can came out, that the prosecution  
6 of you and your companies was not within the  
7 competence of the National Assembly, and was rather a  
8 matter for ordinary courts?

9           A.    Yes.  That was the difference between the  
10 Prosecutor and the three judges that were judging the  
11 case of Moncada Luna, and this is in the context  
12 because they didn't agree with them, and this was  
13 their Opinion.  The Prosecutor had a different  
14 opinion.

15          Q.    Okay.  Now, the--is it your understanding  
16 that the National Assembly's prosecution concluded  
17 with the acceptance of the guilty plea of Justice  
18 Moncada Luna and the entry of his sentence to  
19 incarceration?

20          A.    Yes.  It concluded at that point.

21          Q.    And am I correct in understanding, based on  
22 what you've just said, that you understood that,

1 since the National Assembly did not have  
2 jurisdiction, an investigation into the possible  
3 crimes by other people related to the Moncada Luna  
4 event would be conducted by the Public Prosecutor's  
5 Office?

6 A. No. I thought that, given the evidence and  
7 the information that we had provided to the  
8 Prosecutor on the Assembly, and his conclusions, that  
9 that was the end of it.

10 Q. Okay. Without telling me what was said, is  
11 that a subject that you discussed with Cedeño  
12 Morales?

13 A. Yes.

14 Q. Now, you understood that, in the  
15 Prosecutor's office, there are different sections or  
16 different divisions within the Prosecutor's office  
17 that investigate different crimes; correct?

18 A. I've learned that much through this process.

19 Q. And you understood, or you understand now,  
20 there's an Anticorruption Division which is different  
21 than the Organized Crime Division?

22 A. I do.

1 Q. And the Organized Crime Division  
2 investigates money laundering; correct?

3 A. Yes.

4 Q. And is it your understanding that the  
5 Organized Crime Division pursued and asked a lot of  
6 questions about the very same chain of transactions  
7 that we went through, leading from the Judiciary to  
8 Omega Panamá through PR Solutions and Reyna down to  
9 Sarelan?

10 A. No, they didn't really ask questions. They  
11 just took the information collected on the National  
12 Assembly by instructions of the Attorney General.

13 Q. And so, it's your understanding that they  
14 did no further investigation?

15 A. Yes, Mr. Weisburg. I don't know the extent  
16 of the investigation, but as it pertains to me  
17 personally and to my companies, we filed several  
18 petitions for them to carry out diligence in  
19 investigations which they refused to do.

20 Q. Okay. Now, during the course of this  
21 investigation--or, I guess, actually before it--you  
22 had permanently left--we had already established you

1 left Panamá for Florida in June 2014; correct?

2 A. That is correct.

3 Q. Okay. And you were invited to return to  
4 Panamá to answer the questions of prosecutors in the  
5 ordinary--let's call it the ordinary prosecutor's  
6 office, and you refused to come; isn't that correct?

7 A. No, it isn't correct.

8 Q. Well, you were invited to meet with them and  
9 you wrote back to them and said, "I can't see you  
10 because I'm in Florida"?

11 A. I sent two letters: The first one  
12 officially responding to the subpoena, and then  
13 another citation was issued without a subpoena, as I  
14 understand it, and we sent the second letter and told  
15 them that I would be available after a certain time.  
16 And we never heard back from them. We just got a  
17 detention order and an internet--I'm sorry--INTERPOL  
18 red alert.

19 Q. Well, what you say in your Witness  
20 Statement--and I'm referring specifically to  
21 Paragraph 88 of the First Statement.

22 So, you were invited for an interview, and

1 then you say: "I responded by confirming that I was  
2 happy to assist the investigation in any way and  
3 apologizing for not being able to visit the  
4 Prosecutor's office in person, as I was by then  
5 living in Miami."

6 That's your testimony; right?

7 A. Yes. And it is also true that I sent two  
8 letters, the second one making myself available after  
9 a certain date.

10 Q. And you never met with them, though?

11 A. They never answered, Mr. Weisburg.

12 MR. WEISBURG: No further questions.

13 PRESIDENT SHORE: Thank you, Mr. Weisburg.

14 Same offer, Ms. Gorsline, if you would want  
15 to have the Tribunal questions before your redirect.

16 MS. GORSLINE: Yes, Mr. President. I think  
17 that would be fine.

18 PRESIDENT SHORE: Thank you. First,  
19 Professor Naón.

20 QUESTIONS FROM THE TRIBUNAL

21 ARBITRATOR GRIGERA NAÓN: Sir, my  
22 understanding is that, at present, your assets, your

1 belongings in Panamá, are subject to attachments?

2 THE WITNESS: That is correct.

3 ARBITRATOR GRIGERA NAÓN: Could you describe  
4 what kind of measures are those? These are  
5 restraining orders concerning the full patrimony, or  
6 specific orders covering specific assets?

7 THE WITNESS: Professor Grigera Naón, that's  
8 a very good question, and unfortunately, I've asked  
9 about that and nobody has ever been able to answer  
10 that specifically.

11 The Orders to seize the accounts just say  
12 that--the funds at the disposition of the Ministry of  
13 Economy. So, does that mean that the bank still  
14 holds the account or that the money is in the hands  
15 of the State? Quite frankly, I don't know,  
16 Mr.--sorry, Professor Grigera.

17 ARBITRATOR GRIGERA NAÓN: But the Orders  
18 must identify who has to comply with the Orders. It  
19 is you personally, or your companies which are aimed  
20 at the Orders and describe the Orders as the person  
21 who has to satisfy or comply with the Orders?

22 THE WITNESS: The Orders were issued to

1 banks.

2 ARBITRATOR GRIGERA NAÓN: So, to any bank  
3 account under your name?

4 THE WITNESS: Yes--no. Under Omega Panamá  
5 and under PR Solutions.

6 ARBITRATOR GRIGERA NAÓN: For instance, this  
7 other company, Punela, is mentioned?

8 THE WITNESS: No.

9 ARBITRATOR GRIGERA NAÓN: Is it Punela? I'm  
10 sorry. I don't know if I said it correctly.

11 THE WITNESS: Yes, you did, Professor.

12 ARBITRATOR GRIGERA NAÓN: So, Punela is not  
13 subject to this Order?

14 THE WITNESS: No. Just Omega Panamá and PR  
15 Solutions.

16 ARBITRATOR GRIGERA NAÓN: And you are not  
17 mentioned by name in the Orders, the attachment  
18 Orders?

19 THE WITNESS: I don't recall from the top of  
20 my head, but I know they are against Omega Panamá and  
21 PR Solutions.

22 ARBITRATOR GRIGERA NAÓN: Thank you.

1           PRESIDENT SHORE: Professor Douglas?

2           ARBITRATOR DOUGLAS: Good afternoon.

3           Do you recall testifying earlier that you  
4 had never talked to Ms. Reyna before?

5           THE WITNESS: Good afternoon, Professor  
6 Douglas.

7           Yes, I do.

8           ARBITRATOR DOUGLAS: Okay. Perhaps, just to  
9 refresh your memory about what you say about how you  
10 came to know her, not personally, your First Witness  
11 Statement at Paragraph 95. I'm not sure if someone  
12 could help you.

13           You say this: "Around that time"--you're  
14 talking about your search for property--"Ms. Maria  
15 Gabriela Reyna, a Panamanian lawyer who I had never  
16 come across before, sent my office a number of  
17 pictures and drawings of a farm that was for sale in  
18 Tonosí."

19           You say you "don't know how Ms. Reyna came  
20 to know of my interest in purchasing land," and then  
21 a bit further down, you say: "After receiving the  
22 information from Ms. Reyna, I drove there, visited

1 the land in person and decided to move forward with  
2 the purchase."

3 And I just want to ask you--I mean, surely  
4 you must have contacted her before you made the  
5 visit.

6 THE WITNESS: No, I didn't.

7 ARBITRATOR DOUGLAS: So, you went there on  
8 your own initiative and walked the land without ever  
9 having got permission to do so?

10 THE WITNESS: I did. I mean, I did not ask  
11 for permission. That's what I'm saying.

12 ARBITRATOR DOUGLAS: So, you went there,  
13 looked at the land, and then did you contact her and  
14 say, "Look, I'm interested," or how did it work?

15 THE WITNESS: I'm sorry, I didn't hear the  
16 question.

17 ARBITRATOR DOUGLAS: Well, after you visited  
18 the land, did you contact Ms. Reyna then to say,  
19 "Look, I'm interested"--

20 THE WITNESS: No.

21 ARBITRATOR DOUGLAS: So, how did the  
22 transaction go forward then?

1           THE WITNESS: Let me give you a little bit  
2 more context. At the time, I was receiving a lot  
3 of--actually on my desk, I had a stash of different  
4 offerings of land in Panamá. And I picked that  
5 one--one of the reasons was because it was one of the  
6 less expensive of the ones that I was looking at. I  
7 went there with--I drove down there with my friend  
8 Tito Chevalier. We walked the land. It was open,  
9 there was, you know, no gates. We walked the site  
10 and then we came back and shortly thereafter I told  
11 Frankie that I wanted to move ahead with the  
12 purchase.

13           ARBITRATOR DOUGLAS: Okay. Could someone  
14 help me with documents again? I need C-894.

15           And just before we go there, did you or  
16 Mr. López, thereafter, or anyone at Omega have close  
17 contact with Ms. Reyna?

18           THE WITNESS: I've never had contact with  
19 Ms. Reyna. I believe Mr. López had contact, but at  
20 some point when the whole criminal thing with Moncada  
21 Luna, we spoke about it and decided not to have  
22 contact at all with her.

1           ARBITRATOR DOUGLAS: Okay. Well, if you  
2 look at this, this is Ms. Reyna's testimony or some  
3 of the testimony she gave. And at Page 7--I'm  
4 obviously looking at the English.

5           THE WITNESS: That's fine. We can go  
6 through the English version.

7           ARBITRATOR DOUGLAS: You're okay with that.

8           So, at Page 7 she says this. It is  
9 about--it's in the first sort of block. It  
10 says: "Omega had shown me in their offices, through  
11 their online banking, that they had enough resources  
12 to buy the property. If I remember correctly, they  
13 showed me a statement of one of their accounts where  
14 there were \$8 million. At no time did they notify me  
15 which account they would pay the origin of those  
16 funds."

17           Were you there when she visited Omega's  
18 offices?

19           THE WITNESS: I don't think that statement  
20 is true, Mr. Douglas, Professor Douglas. I believe  
21 she invented that because on the same record, you'll  
22 see that there is a section that includes one of our

1 accounts showing \$8 million, so I--after reading  
2 through all that she says, I believe that that's  
3 where she got that information from.

4 ARBITRATOR DOUGLAS: I see. So, you don't  
5 think she ever went to your offices?

6 THE WITNESS: [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED], so I

10 don't think that that statement is accurate or even  
11 true at all.

12 ARBITRATOR DOUGLAS: Which part of it,  
13 though? I mean, do you think she went to your  
14 offices, had a meeting there with someone?

15 THE WITNESS: I think she went to the office  
16 and had a meeting with Mr. López, but this whole  
17 thing about the bank account, it is my personal  
18 opinion that I don't believe that statement.

19 ARBITRATOR DOUGLAS: The 8-million figure?

20 THE WITNESS: The whole account--you know,  
21 everything that she's saying there, it doesn't add up  
22 to me.

1           ARBITRATOR DOUGLAS: Okay. Could someone  
2 help me with RP-10? You've got a lot of bundles.  
3 I'm sorry.

4           So, this is the testimony of Ana Beatriz  
5 Bouche--am I pronouncing that correct?

6           THE WITNESS: Don't worry, Professor. I  
7 know.

8           ARBITRATOR DOUGLAS: You know who I mean?

9           THE WITNESS: Yes.

10          ARBITRATOR DOUGLAS: The assistant to--

11          THE WITNESS: The one that opened up the  
12 accounts for Moncada Luna.

13          ARBITRATOR DOUGLAS: Yeah.

14          And if you go to Page 11.

15          THE WITNESS: Page 11?

16          ARBITRATOR DOUGLAS: Yeah. About 10-odd  
17 lines down, you'll see she says this: "With regard  
18 to Nicolas Corcione, I know him because he has a  
19 friendship with Moncada Luna, since about the year  
20 2008, and despite their age difference with Corcione  
21 being younger than Moncada, Moncada would refer to  
22 him as "uncle" and Corcione would call him "nephew."

1 "As for the apartment that Moncada Luna  
2 acquired through Corporación Celestial, he bought it  
3 from Hebe Corporation, a business owned by Nicolas  
4 Corcione.

5 "Later, with Moncada Luna being Chief  
6 Justice of the Supreme Court, he awarded to Grupo  
7 Corcione a construction project for two parking lots  
8 at the Supreme Court, which could not be carried out  
9 given the corporate and area resident opposition.

10 "On many occasions, while Moncada held the  
11 position of Chief Justice of the Court, this led to  
12 Nicolas Corcione visiting the Supreme Court to seek a  
13 solution for the situation, because when he was  
14 awarded the Contract, the Court gave him an advance  
15 of over \$1 million, and he was asking for a solution  
16 so that he would not have to return the advance."

17 Were you aware when you were bidding for  
18 your project in relation to the Supreme Court that  
19 Mr. Corcione had had this previous project?

20 THE WITNESS: No.

21 ARBITRATOR DOUGLAS: And just a little bit  
22 further down, it says: "In fact, on some of those

1 visits he brought along Engineer Roberto Samaniego, a  
2 collaborator of Grupo Corcione, and someone who  
3 appointed--who Nicolas Corcione appointed as  
4 technical liaison on that project, which, as stated  
5 previously, could not be carried out.

6 "Later the public act for remodeling the  
7 Maritime Court building arose, and as stated  
8 previously, it was awarded to Concepto y Espacios  
9 Corporation. And as it turned out, when the Project  
10 was initiated and being carried out, Engineer Roberto  
11 Samaniego appeared again. He was the one who  
12 coordinated with General Services and Court  
13 Administration on technical and administrative  
14 progress for the construction."

15 Have you heard of this company, Concepto y  
16 Espacios?

17 THE WITNESS: Yes, I have heard of it.

18 ARBITRATOR DOUGLAS: And that's another  
19 company that had contracts with the judiciary?

20 THE WITNESS: I learned that through the  
21 investigations.

22 ARBITRATOR DOUGLAS: And you've obviously

1 studied the testimony quite carefully. Are you aware  
2 that Ms. Reyna held money that came from deposits  
3 from the judiciary, both in relation to the Corcione  
4 Project and in relation to the Concepto y Espacios  
5 Project?

6 THE WITNESS: I believe that was a later  
7 time.

8 ARBITRATOR DOUGLAS: The two Projects were  
9 different times, but Ms. Reyna held--when the  
10 deposits were paid to those companies in relation to  
11 these Projects, the money--some of the money was  
12 transferred to Ms. Reyna for both of those.

13 THE WITNESS: I've become aware of it  
14 through the investigations.

15 ARBITRATOR DOUGLAS: Okay. Just going a bit  
16 further, though, down that document it says, next  
17 sentence says: "This situation mirrors the Chorrera  
18 construction that was being conducted by Omega  
19 Engineering Corporation. The General Services  
20 Director commented to us that Engineer Roberto  
21 Samaniego was functioning as technical-administrative  
22 liaison on both Projects, which created confusion

1 because she was aware that he also worked for the  
2 Corcione group. This was communicated to Alejandro  
3 Moncada Luna, and he communicated back that it was  
4 true that progress or issues related to those  
5 projects had to go through Engineer Samaniego."

6           Were you aware of that at the time when your  
7 Project was being managed that this engineer at the  
8 Corcione group was somehow involved in administering  
9 it?

10           THE WITNESS: I'm aware that he was not  
11 involved with our Projects at all.

12           ARBITRATOR DOUGLAS: So, this is not  
13 correct?

14           THE WITNESS: Well, as far as the  
15 La Chorrera Project and the Omega Consortium goes, it  
16 is absolutely false.

17           ARBITRATOR DOUGLAS: So, is she telling a  
18 lie? I mean, why would she make that up?

19           THE WITNESS: Professor Douglas, I don't  
20 know why she would lie.

21           But as you mentioned earlier, I have studied  
22 this declarations extensively, and it is odd to me

1 that she was never named a coconspirator when she was  
2 the one who admits opening up the bank accounts and  
3 actually making the first deposits for Moncada Luna.

4 I don't know if that will--

5 ARBITRATOR DOUGLAS: No, that's helpful.

6 Could someone help me with C-89?

7 And this, again, is testimony--different  
8 testimony from Ms. Reyna. And at the bottom of  
9 Page 3, she says this. It's the last block of--it's  
10 not very helpful saying the last block I know. It's  
11 the last sort of 10 sentences. Then she  
12 says: "Mr. Corcione told me that he was going to  
13 refer a buyer for the property in Cañas so I could  
14 pay JR Bocas Investment's debt to Ricardo Calvo. He  
15 referred me to some people who had offices next to my  
16 building. At that time, I had offices in PH Central,  
17 on Avenida Samuel Lewis, and these people were in the  
18 next building. But I delayed. I was pregnant and I  
19 went on a trip in September 2012, as at that time my  
20 husband was having surgery to his spine in Bogotá and  
21 then in December I had my baby.

22 "The people to whom Mr. Corcione had

1 referred me were from a multinational, which I later  
2 came to know was Omega. And while on maternity  
3 leave, I sent to Mr. Corcione the real estate sales  
4 and purchase agreement, which was subsequently signed  
5 in April 2013. He took charge himself of managing  
6 the payments, which were deposited into my account."

7           Again, do you have any comment to make on  
8 that?

9           THE WITNESS: I am not aware that  
10 Mr. Corcione even knew about the transaction, and I  
11 have no knowledge of why she is saying that or--and  
12 as a matter of fact, I've not spoken to  
13 Mr. Corcione--or spoke to Mr. Corcione about this  
14 land acquisition at any moment. So, I don't  
15 understand why she's saying that.

16           ARBITRATOR DOUGLAS: Did you have any  
17 contact with Mr. Corcione during that period between  
18 summer 2012 and April 2013?

19           THE WITNESS: I might have ran into him at a  
20 restaurant or an event, but I don't recall any  
21 meetings or the Projects that we had pursue predates  
22 that time. So.

1           ARBITRATOR DOUGLAS: Are you aware that she  
2 also says--and this is at Page 15--that she was--that  
3 Mr. Corcione was the one who set up the meeting  
4 between Mr. López and her in mid-2012 about the real  
5 estate?

6           THE WITNESS: Yes, I saw that too, and I  
7 don't know why she says that.

8           ARBITRATOR DOUGLAS: Okay. Now, I was just  
9 a little bit unsure exactly what your testimony is  
10 now on PR Solutions in the relation to the Tender  
11 that it won. I understand that the documents--there  
12 may be incorrect references to documents, but which  
13 project was that in the end?

14          THE WITNESS: I'm sorry. It was the fuel  
15 and electrical infrastructure for the Tocumen  
16 Airport.

17          ARBITRATOR DOUGLAS: If you also have your  
18 Second Statement in front of you, just very quickly.  
19 At Paragraph 20--I won't read it to you, but you can  
20 have a quick look, but you say, which seems very  
21 sensible to me, that in order to successfully bid for  
22 Government contracts, you need to have a long track

1 record and experience and all the rest of it. And  
2 that's the same in many other countries.

3           How did PR Solutions, which obviously didn't  
4 have a track record and was a company that didn't  
5 have a construction presence, how was it able to win  
6 a Government contract?

7           THE WITNESS: This was a very small project.  
8 It didn't have the requirements of your typical  
9 larger projects.

10           ARBITRATOR DOUGLAS: So, despite the fact  
11 that you couldn't show this company had any track  
12 record, it was still successful?

13           THE WITNESS: As a matter of fact, we  
14 presented the proposal--the proposal was presented  
15 with another company from Puerto Rico that I own  
16 named GDD. It's a company that has done projects in  
17 Puerto Rico in a joint venture with PR Solutions.  
18 For reasons unbeknownst to me, the Contract was  
19 signed just on behalf of PR Solutions, but the  
20 proposal was presented with a company that had very  
21 substantial financial statements and had a  
22 construction track record.

1           ARBITRATOR DOUGLAS: I see.

2           THE WITNESS: But still--and let me stress  
3 this point--this particular bid did not have your  
4 typical requirements of having to submit letters, and  
5 as you will see on some of the other RFPs, that we  
6 needed to go to the owner of the--or somebody that  
7 was directly involved in the construction of a  
8 project so we can justify it as experience.

9           We have to go to them, get a Letter of  
10 Recommendation, then get that--a postal, and it was a  
11 very cumbersome process to get those in. And that  
12 was the--one of the reasons why we needed Omega U.S.  
13 because we couldn't get those letters for Omega  
14 Panamá.

15           In this particular instance, there was very  
16 insignificant requirements, but they didn't ask for  
17 that. They weren't as stringent as requiring those  
18 letters. And so, but our experience from then on,  
19 obviously, we started targeting larger Projects, so  
20 to--the Request for Proposals were a lot more  
21 stringent.

22           ARBITRATOR DOUGLAS: Thank you very much.

1 That was very, very helpful. Thank you.

2 MR. WEISBURG: Mr. President, if I could  
3 just make one note for the record. With respect to  
4 the testimony about Reyna's visit to Omega and the  
5 \$8 million that she said she saw, I would just want  
6 to note in the record a reference to the Second  
7 Expert Report of Quadrant Economics and, in  
8 particular, Page 75, Footnote 242, which actually  
9 addresses that exact subject and that \$8 million.

10 PRESIDENT SHORE: Thank you, Mr. Weisburg.  
11 Mr. Rivera, I have just two questions.

12 THE WITNESS: Sure.

13 PRESIDENT SHORE: I know you've been  
14 testifying a long time, but it's not over because  
15 after me there is Ms. Gorsline. So, hang tight.

16 So, the first question I have is about an  
17 exhibit you looked at with Mr. Weisburg, which is  
18 C-557, and you also heard Professor Douglas have an  
19 exchange this morning with Mr. López about this  
20 exhibit. I think it's in the cross bundle, if that's  
21 easier. And it's just a question about the email at  
22 the bottom of the first page.

1 THE WITNESS: Okay.

2 PRESIDENT SHORE: From Mr. López to  
3 Ms. Graciela Medina, and I don't think we need to put  
4 this in context because you know it well and you've  
5 discussed it with Mr. Weisburg and Professor Douglas  
6 discussed it with Mr. López. Mr. López says: [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Did you give that instruction to Mr. López?

10 THE WITNESS: No.

11 PRESIDENT SHORE: So, do you think anyone  
12 else gave it to Mr. López?

13 THE WITNESS: No, but that's something that  
14 I typically say, [REDACTED]." I don't  
15 think I told him that in the context of this  
16 Contract, but I could assume that he would imagine  
17 that I would want it done.

18 PRESIDENT SHORE: And what about--so, it  
19 would have been a general understanding that he would  
20 have after working with you for so long?

21 THE WITNESS: That's a fair assumption.

22 PRESIDENT SHORE: And what about [REDACTED]

1



2

Is that something that Mr. López would just decide on his own, which--to give an instruction to a lawyer?

3

THE WITNESS: I think it relates to the fact that he wanted this expeditiously.

4

PRESIDENT SHORE: Well, you wanted it expeditiously; right?

5

THE WITNESS: I had said to Mr. López that I was inquiring as of the status. I didn't tell him it has to be signed by a certain date. And he wanted--I believe his testimony was that he wanted to finish quick because he knew I was inquiring on the status of it.

6

PRESIDENT SHORE: And an inquiry from you on "status" meant "get it done;" is that right?

7

THE WITNESS: Exactly. Not a specific date or, you know, you have to do it immediately. It is just, has it been done?

8

PRESIDENT SHORE: Okay. Thank you. And then the second question I have is just related to a discussion we had earlier about payment of legal

9

1 fees, and all I want to do is just point you to a  
2 sentence that you have in your Third Statement at  
3 Paragraph 17, and just make sure that you are  
4 comfortable with what you said earlier based on what  
5 you say here.

6 And as long as you are, fine. If you think  
7 there is no amendment needed to what you said  
8 earlier, fine, but I just don't want there to be any  
9 confusion in the record because before you answered  
10 the question, and the question changed form a couple  
11 of times, there was a lot of discussion between the  
12 lawyers.

13 THE WITNESS: I understand. I appreciate  
14 it, Mr. Chairman. Can you point me to the paragraph.

15 PRESIDENT SHORE: Yes. It is Paragraph 17  
16 in your Third Statement and you say there, it's  
17 second: "Although it is true that I am fortunate to  
18 be represented by numerous lawyers, this has come at  
19 great expense to my businesses, my family, and me."

20 THE WITNESS: Yes.

21 PRESIDENT SHORE: And that is accurate, that  
22 statement?

1 THE WITNESS: Yes. It is.

2 PRESIDENT SHORE: And the statement you gave  
3 earlier is accurate, too?

4 THE WITNESS: They are not inconsistent.

5 PRESIDENT SHORE: Okay. Very well.

6 Yes, Professor Naón.

7 ARBITRATOR GRIGERA NAÓN: Sorry, again, to  
8 be putting questions to you. When I was looking,  
9 again, at this Document C-89 that was--that referred  
10 to the Declaration of Maria Gabriela Reyna López, and  
11 what I see is that she was answering these questions.  
12 On the basis of a criminal inquiry, a criminal  
13 inquiry, which meant that no charges had been made  
14 against her. There was no prosecutor, the way I  
15 understand it. And this dates back to 2015.

16 You are with me?

17 THE WITNESS: Can you--excuse me, Professor.

18 ARBITRATOR GRIGERA NAÓN: Okay.

19 THE WITNESS: We're looking at C-89;  
20 correct?

21 ARBITRATOR GRIGERA NAÓN: Yes. I was  
22 looking at the Spanish text.

1 THE WITNESS: Okay. Let me go to the  
2 Spanish text.

3 ARBITRATOR GRIGERA NAÓN: It is an addition  
4 to her previous Declaration.

5 THE WITNESS: Yes.

6 ARBITRATOR GRIGERA NAÓN: And the date  
7 is--it's the 14th of July of 2015 and this is a  
8 criminal inquiry. She was not testifying as somebody  
9 against whom who was being prosecuted. This is just  
10 the way I understand it. She had no obligation to  
11 answer or not.

12 Now, do you know if, today, she's in jail?  
13 Was she prosecuted at all? Because this I understand  
14 is the money-laundering charges on the basis of which  
15 your bank accounts were attached? Is she in jail?  
16 Do you know?

17 THE WITNESS: Let me--I think there is--I  
18 understood there to be more than one question,  
19 Professor.

20 She was in jail when this Declaration was  
21 taken.

22 ARBITRATOR GRIGERA NAÓN: She was in jail?

1           THE WITNESS: Yes. And whether she's in  
2 jail or not right now, I'm not entirely certain. I  
3 believe I read somewhere that she had been released  
4 in bond--on bond, I'm sorry. But I can't give you  
5 any more information.

6           ARBITRATOR GRIGERA NAÓN: You don't know the  
7 present stage of that investigation for money  
8 laundering, which includes you?

9           THE WITNESS: Well, I know the status of  
10 the--so, in September of 2016, an appellate tribunal  
11 in Panamá annulled all the actions taken during the  
12 investigation and ordered the release of the people  
13 that were incarcerated.

14           ARBITRATOR GRIGERA NAÓN: You meant  
15 annulled?

16           THE WITNESS: I'm sorry?

17           ARBITRATOR GRIGERA NAÓN: You say  
18 that--because the Transcript doesn't reflect exactly  
19 what you said. Could you repeat it? You said that  
20 the Court of Appeal what?

21           THE WITNESS: In September of 2016, a Court  
22 of Appeals in Panamá ruled that this investigation

1 had been conducted illegally.

2 ARBITRATOR GRIGERA NAÓN: Okay.

3 THE WITNESS: And ruled--and ordered the  
4 release of all the seized assets, and they  
5 released--of all the people that were incarcerated in  
6 connection to this investigation. They--later, the  
7 Prosecutor appealed to the Supreme Court, and it's  
8 been sitting at the Supreme Court for the last almost  
9 four years.

10 ARBITRATOR GRIGERA NAÓN: Which means that  
11 this woman, this lady, is free today?

12 THE WITNESS: I don't think so.

13 ARBITRATOR GRIGERA NAÓN: You don't think  
14 so?

15 THE WITNESS: I mean, I think she's out on  
16 bail. That's what I think, but, again, Mr.--I'm  
17 sorry--Professor, I want to stress the point that  
18 this is something I read. I'm not 100 percent sure.

19 ARBITRATOR GRIGERA NAÓN: Thank you.

20 PRESIDENT SHORE: Sorry. I had a third  
21 question.

22 And then I really am going to make sure that

1 you get to ask some questions, Ms. Gorsline, unless  
2 Professor Douglas has anything further.

3 Mr. Rivera, have you ever met Ricardo  
4 Martinelli?

5 THE WITNESS: No. Once I was at an event,  
6 and he shook my hand, but we didn't even  
7 exchange--simply, he shook my hand and walked away.

8 PRESIDENT SHORE: All right. Thank you.  
9 Ms. Gorsline.

10 MS. GORSLINE: Thank you, Mr. President.

11 If I may make one comment. Mr. Weisburg  
12 mentioned that they believe the second Quadrant  
13 Economics Report at Footnote 242 is dealing with  
14 Professor Douglas's questioning, it is our position  
15 that it is not dealing with anything related to bank  
16 accounts. It deals with advance payments, which is  
17 something different.

18 After stating that, I wonder if I might have  
19 just a moment to confer with my colleagues before we  
20 begin our redirect.

21 PRESIDENT SHORE: Yes. Ms. Gorsline, do you  
22 want two minutes? A couple minutes? Or shall we

1 take a very quick comfort break? Will that be  
2 assistance?

3 MS. GORSLINE: A comfort break will be  
4 lovely.

5 PRESIDENT SHORE: Let's--five minutes, and  
6 then we're back on the record. Same instruction,  
7 Mr. Rivera.

8 (Brief recess.)

9 PRESIDENT SHORE: Ms. Gorsline. Back on the  
10 record.

11 MS. GORSLINE: Thank you, Mr. President.

12 I'm sure Mr. Rivera will be happy to hear  
13 that we have no redirect.

14 PRESIDENT SHORE: Okay. Thank you very  
15 So, the Tribunal, during the break,  
16 anticipating some redirect, released Mr. Villalba.

17 MR. WEISBURG: And he fled.

18 PRESIDENT SHORE: And he fled.

19 So, I think, though, it's okay, given timing  
20 because we still have that backup on Thursday  
21 afternoon. But let's start with, of course,  
22 Mr. Villalba first thing tomorrow morning. And then,

1 according to the Parties' schedule, then we have  
2 Mr. Barsallo after Mr. Villalba, and the plan was to  
3 conclude with Mr. Barsallo tomorrow afternoon. Let's  
4 see how we go, but, in any event, there does seem to  
5 be sufficient time.

6           So, with that, Mr. Rivera, thank you very  
7 much for your testimony today, and you're excused  
8 from the witness table.

9           THE WITNESS: Thank you, Mr. Chairman.

10           Before I go, I just want to say thank you to  
11 the Members of the Tribunal and to Mr. Weisburg, and  
12 I really wanted to be allowed to speak, and I was.  
13 So, thank you very much.

14           PRESIDENT SHORE: Thank you, sir.

15           (Witness steps down.)

16           PRESIDENT SHORE: Ms. Gorsline, any issues  
17 to raise before we adjourn for the day?

18           MS. GORSLINE: The only issue I would raise,  
19 sir, is that I suspect we will not finish with  
20 Mr. Barsallo tomorrow, but I agree that I think there  
21 is plenty of time, given the vacancy on Thursday  
22 afternoon, in the current schedule.

1           PRESIDENT SHORE: Okay. Very well.

2           Mr. Weisburg, any points to raise at this  
3 stage?

4           MR. WEISBURG: No, sir.

5           PRESIDENT SHORE: All right.

6           MR. RYAN: Actually--

7           PRESIDENT SHORE: Mr. Ryan.

8           MR. RYAN: I guess, in light of  
9 Ms. Gorsline's statement--and there was an open issue  
10 as to whether we were going to advance with the  
11 Quantum Experts to Thursday afternoon.

12           PRESIDENT SHORE: It seems unlikely that we  
13 would advance the Quantum Expert to Thursday  
14 afternoon, given that we will probably need more time  
15 on Thursday, and I think that was always a  
16 provisional point as long as we had sufficient time  
17 on Friday. That was a concern of the Tribunal, that  
18 we have sufficient time on Friday and we don't get  
19 caught up as so often--not so often but occasionally  
20 happens; we're on the final day of a hearing week,  
21 you're going on to 7:00, 8:00, and that's not what we  
22 want to do. Because we don't think the testimony is

1 very useful when people are going on so late.

2           But I don't think we probably will have a  
3 need to anticipate one of the Quantum Experts--is it  
4 Zadicoff who would have potentially been anticipated?  
5 I don't see it right now, but let's take a view  
6 tomorrow around midday.

7           Is there any point you wanted to raise as to  
8 that, though?

9           MR. RYAN: No. It was just a question as to  
10 whether there was any clarity or how we were planning  
11 to handle it.

12           PRESIDENT SHORE: I think it is unlikely  
13 that we would move off the schedule with the Quantum  
14 Experts on Friday.

15           MR. RYAN: Understood. Thank you.

16           PRESIDENT SHORE: But with the proviso that  
17 we would like you, on each side, to be done within  
18 the normal hours on Friday.

19           MS. GORSLINE: And I should clarify, I think  
20 we're only about 45 minutes behind schedule right  
21 now. So, while I don't think we will finish  
22 Mr. Barsallo tomorrow for that reason, we are

1 endeavoring to stick to the allotted times.

2           PRESIDENT SHORE: All right. Very well.

3           Thank you, everyone. Tomorrow morning,  
4 9:00.

5           (Whereupon, at 4:54 p.m., the Hearing was  
6 adjourned until 9:00 a.m. the following day.)

## CERTIFICATE OF REPORTER

I, Dawn K. Larson, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

  
Dawn K. Larson