



ALSO PRESENT:

On behalf of ICSID:

MS. CATHERINE KETTLEWELL  
Secretary of the Tribunal

Realtime Stenographers:

MS. DAWN K. LARSON  
Registered Diplomate Reporter (RDR)  
Certified Realtime Reporter (CRR)  
B&B Reporters  
529 14th Street, S.E.  
Washington, D.C. 20003  
United States of America  
info@wwreporting.com

MS. ELIZABETH CICORIA  
MR. DIONISIO RINALDI  
D.R. Esteno  
Colombres 566  
Buenos Aires 1218ABE  
Argentina  
(5411) 4957-0083

Interpreters:

MS. SILVIA COLLA

MR. DANIEL GIGLIO

MR. CHARLES ROBERTS

APPEARANCES:

On behalf of the Claimants:

MS. MELISSA GORSLINE  
MR. CHARLES KOTUBY  
MR. THOMAS CULLEN, JR.  
MR. LEE COFFEY  
MR. FAHAD HABIB  
MR. PAUL HINES  
MR. MICHAEL DALY  
MS. MARIA PRADILLA PICAS  
MS. CARLA GHARIBIAN  
MS. PALOMA CIPOLLA MOGUILLEVSKY  
Jones Day  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001-2113  
United States of America

MR. CARLOS CONCEPCIÓN  
MR. RICARDO AMPUDIA  
Shook Hardy & Bacon  
Citigroup Center  
201 S. Biscayne Boulevard  
Suite 3200  
Miami, Florida 33131

Party representative:

MR. OSCAR RIVERA

APPEARANCES: (Continued)

On behalf of the Respondent:

MR. HENRY WEISBURG  
MR. RICARDO ALARCON  
Shearman & Sterling LLP  
599 Lexington Avenue  
New York, New York 10022-6069  
United States of America

MR. CHRISTOPHER RYAN  
MS. ANNA STOCKAMORE  
MR. CARLTON MOSLEY  
Shearman & Sterling LLP  
401 9th Street, NW  
Suite 800  
Washington, D.C. 20004-2128  
United States of America

Party representatives:

MS. LAURA CASTRO  
MR. FRANCISCO OLIVARDIA  
Republic of Panamá

APPEARANCES: (Continued)

For the United States of America:

MS. NICOLE THORNTON  
MR. JOHN BLANCK  
Attorney-Advisers  
Office of International Claims and  
Investment Disputes  
Office of the Legal Adviser  
U.S. Department of State  
Suite 203, South Building  
2430 E Street, N.W.  
Washington, D.C. 20037-2800  
United States of America

C O N T E N T S

	PAGE
WITNESSES:	
JORGE ENRIQUE VILLALBA	
Direct examination by Mr. Weisburg.....	526
Cross-examination by Ms. Gorsline.....	528
Questions from the Tribunal.....	683
NESSIM BARSALLO ABREGO	
Direct examination by Mr. Ryan.....	688
Cross-examination by Mr. Daly.....	690
Questions from the Tribunal.....	733

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

P R O C E E D I N G S

JORGE ENRIQUE VILLALBA, RESPONDENT'S WITNESS, CALLED  
PRESIDENT SHORE: Good morning, everyone.  
Third day of the first week of the Final Hearing in  
Case 16/42.

Before we begin with the Witness,  
Ms. Gorsline, any procedural points that Claimants  
would like to raise?

MS. GORSLINE: None for Claimants,  
Mr. President.

PRESIDENT SHORE: Thank you.  
Mr. Weisburg?

MR. WEISBURG: No, thank you. We're good.

PRESIDENT SHORE: Thank you very much.

JORGE ENRIQUE VILLALBA, RESPONDENT'S WITNESS, CALLED

PRESIDENT SHORE: Mr. Villalba, good morning.

THE WITNESS: Good morning.

PRESIDENT SHORE: I believe you have right in  
front of you a declaration from the ICSID Arbitration  
Rules on speaking the truth. Can you please read out  
that declaration?

THE WITNESS: I declare, upon my honor and

1 conscience, that I shall speak the truth, the whole  
2 truth, and nothing but the truth.

3 PRESIDENT SHORE: Thank you.

4 I believe that we have two Witness Statements  
5 from you in this proceeding, sir: one dated 7  
6 January 2019, and the other 14 November 2019; is that  
7 correct?

8 THE WITNESS: Correct.

9 PRESIDENT SHORE: So, there will first be some  
10 questions for you from Mr. Weisburg and then there will  
11 be cross-examination from Ms. Gorsline. I think it is  
12 probably best, since you're one of the principal  
13 speakers this morning, if you leave your microphone on.

14 THE WITNESS: Okay.

15 PRESIDENT SHORE: Mr. Weisburg.

16 MR. WEISBURG: Thank you.

17 DIRECT EXAMINATION

18 BY MR. WEISBURG:

19 Q. Mr. Villalba, can you tell us where you are  
20 currently employed, please?

21 A. I am Deputy Director, or number two, in the  
22 unit--in the Financial Analysis Unit, UAF, in Panamá.

1 Q. Can you just tell us very briefly what the  
2 Financial Analysis Unit is and does?

3 A. It is a version or something similar to FINCEN  
4 in the United States. It is the unit that compiles and  
5 analyzes all of the financial intelligence information  
6 related to crimes of money laundering, terrorism  
7 financing, and financing of the proliferation of  
8 weapons of mass destruction.

9 Q. Okay. If you could turn in your First Witness  
10 Statement to Paragraph 11, please. First Witness  
11 Statement, Paragraph 11.

12 At the time of this Witness Statement, which  
13 is January of 2019, you say that you currently work as  
14 an independent forensic auditor, which I take to be a  
15 job in the private sector.

16 At what point did you go to become Deputy  
17 Director of the Financial Analysis Unit?

18 A. In late October 2019.

19 Q. Okay. Thank you.

20 And if I could also direct your attention to,  
21 on that same page, to Paragraph 13.

22 A. Yes. I'm there.

1 Q. Sorry. It opens with a reference to  
2 July 2014.

3 Do you have a correction to make there?

4 A. Yes. The correct date is 7 October 2014.

5 Q. Okay.

6 MR. WEISBURG: And if I could just mention to  
7 the Tribunal, that same error, which was a  
8 transliteration of the American dating style and the  
9 South American dating style, also appears in  
10 Footnotes 3, 4, and 45. In each case, it says "July"  
11 when "October" is the correct date.

12 And with that, we have no further questions.

13 PRESIDENT SHORE: Thank you, Mr. Weisburg.

14 Ms. Gorsline.

15 MS. GORSLINE: Thank you very much  
16 Mr. President.

17 CROSS-EXAMINATION

18 BY MS. GORSLINE:

19 Q. Good morning, Mr. Villalba.

20 A. Good morning.

21 Q. Am I pronouncing your name correctly?

22 A. Yes. Yes.

1 Q. Okay. All right. If I get it wrong, just let  
2 me know. My name is Melissa Gorsline. I'm one of the  
3 lawyers for the Claimants, and I will be asking you  
4 some questions today.

5 Can you respond for the record. You have to  
6 speak orally because they can't record nodding on the  
7 Transcript.

8 A. Yes. Yes.

9 Q. Okay. Thank you. And--sorry. I'm speaking  
10 over the translation.

11 There is a lawyer sitting behind you, and she  
12 is also going to be handing you some documents during  
13 your examination. Okay?

14 A. Yes. Fine.

15 Q. Okay. Now, you testify in your First Witness  
16 Statement that starting in 2010 you were the Chief of  
17 the Financial Analysis Section in the Prosecutor's  
18 Office specialized in organized crime; is that correct?

19 A. Chief of Analysis, yes.

20 Q. And in that position, you worked as an  
21 auditor, an analyst in financial investigations; is  
22 that right?

1 A. Correct.

2 Q. Now, you left that role in 2016; correct?

3 A. Yes. February of 2016.

4 Q. And then I understand that you were in the  
5 private sector until late October of 2019; correct?

6 A. Correct.

7 Q. Okay. Now, you state--and, actually, let's  
8 look at Paragraph 2 of your First Witness Statement. I  
9 think it will be easier.

10 Now, if we look at the very bottom of  
11 Paragraph 2, you explain that you provided your witness  
12 testimony in this arbitration to "explain the nature of  
13 the National Assembly's investigation, its findings, as  
14 well as the work subsequently performed by the Public  
15 Prosecutor's Office"; is that correct?

16 A. Correct.

17 Q. So, the basis for your testimony in your  
18 Witness Statements is the investigations that you were  
19 personally involved in; correct?

20 A. Correct.

21 Q. Okay. And that includes both the National  
22 Assembly investigation; right?

1 A. Correct.

2 Q. And the Public Prosecutor's investigation?

3 A. Correct.

4 Q. And with respect to the Public Prosecutor's  
5 Office, the Prosecutor for Organized Crime was  
6 investigating; correct?

7 A. The Prosecutor, yes.

8 Q. Yes. And there was also an anticorruption  
9 prosecutor who was investigating; correct?

10 A. I worked in the Office of the Public  
11 Prosecutor for Organized Crime. That was the  
12 Prosecutor's Office in charge. Now, if the  
13 Anticorruption Prosecutor helped out with other  
14 aspects, well, I did not work in that office. Just to  
15 clarify that point.

16 Q. Okay. So, your testimony is based on the  
17 Organized Crime Prosecutor's investigation; correct?

18 A. Correct.

19 Q. Okay. But do I understand correctly that you  
20 did not directly participate in the Anticorruption  
21 Prosecutor's activities; is that correct?

22 A. No.

1 Q. No, it's not correct, or, no, you did not  
2 participate in the anticorruption?

3 A. No, I did not participate in the  
4 investigations carried out by the Anticorruption  
5 Prosecutor.

6 Q. Okay. Thank you, Mr. Villalba.

7 If we could just try really hard not to speak  
8 over each other. The Court Reporter has a difficult  
9 job, and when we're both talking at the same time, it  
10 makes that job even harder. Okay.

11 So, I will try not to interrupt you, and if  
12 you could try not to interpret me, I would appreciate  
13 it. Okay?

14 A. Okay.

15 Q. Thank you.

16 Now, you are presently employed by the  
17 Government of Panamá; correct?

18 A. Correct.

19 Q. Okay. And you've held that position since  
20 October of 2019; correct?

21 A. Late October 2019.

22 Q. Late October. All right.

1 A. Yes.

2 Q. So, at the time you submitted your First  
3 Witness Statement, you were not employed by the  
4 Government of Panamá; correct?

5 A. Correct.

6 Q. At the time you submitted your Second Witness  
7 Statement, you were employed by the Government again.  
8 Do I have that right?

9 A. Correct.

10 Q. Okay. Now, this is just a standard question.  
11 Are you being compensated for your testimony in this  
12 case in any way?

13 A. I asked that I have my hours remunerated when  
14 I was working on independent basis.

15 Q. Thank you, sir.

16 Now, Mr. Villalba, you have stated that from  
17 October of 2014 to March 2015, you were seconded to the  
18 National Assembly for purposes of the investigation  
19 into Justice Moncada Luna; right?

20 A. Correct.

21 Q. And Congressman González was the Designated  
22 Prosecutor for that investigation; right?

1 A. Correct.

2 Q. And he asked you to help lead the  
3 investigation into Justice Moncada Luna.

4 Do I understand that correctly?

5 A. Yes. That is right, on the technical aspects.

6 Q. Okay. What do you mean by "on the technical  
7 aspects"?

8 A. The Prosecutor is in charge of the  
9 investigation. We were divided up in the legal part  
10 and the technical part: the technical part was my main  
11 work, with a small team to be able to carry out the  
12 investigative steps on the financial side, which is the  
13 same thing that I did when I previously worked in the  
14 Office of the Prosecutor for Organized Crime.

15 Q. Okay. So, as I understand it, your job was to  
16 collect the facts on the financial side; is that right?

17 A. Yes, practically speaking. All of the  
18 investigative steps that needed to be carried out:  
19 Inspections that had to be carried out in relation to  
20 the banking institutions.

21 Q. Solely into the banking institutions, or did  
22 your role extend beyond that?

1           A.     In addition, information was requested from  
2 the Judiciary; the Ministry of Economy and Finance  
3 regarding the contract documents that existed; the  
4 checks paid by the State; financial information in  
5 relation to banks, as I already indicated; and any  
6 steps that the Prosecutor might order in order to  
7 collect that information, process it, and subsequently  
8 analyze it and present it to the Prosecutor.

9           Q.     So, it was your job to collect the  
10 information, and it was the Designated Prosecutor's job  
11 to decide if legally a crime had been committed.

12                   Is that a fair statement?

13           A.     Yes. The decisions were in the hands of the  
14 Prosecutor.

15           Q.     Okay. Now, if we could turn to Paragraph 17  
16 of your First Witness Statement, please, Mr. Villalba.

17                   Are you there, sir?

18           A.     Yes.

19           Q.     All right. So, in your direct testimony, you  
20 corrected the date of a report from the National Bar  
21 Association, which essentially started the Moncada Luna  
22 investigation; is that correct?

1 A. Yes.

2 Q. Okay. Based on that Report, you say in  
3 Paragraph 17 that: "Congressman González identified  
4 four criminal claims that could possibly be brought  
5 against Justice Moncada Luna"; correct?

6 A. Correct.

7 Q. And those four claims were making false  
8 statements; correct?

9 A. Correct.

10 Q. Unjust enrichment; right?

11 A. Correct.

12 Q. Corruption?

13 A. Correct.

14 Q. And money laundering; right?

15 A. Correct.

16 Q. And you also state here that you "reviewed the  
17 elements of these crimes under the Penal Code and  
18 identified the type of evidence you would need to  
19 support a conviction under each"; right?

20 A. Correct.

21 Q. In reviewing the elements for corruption, you  
22 would have seen that it requires a showing of intent;

1 correct, sir?

2 A. Correct.

3 Q. And in reviewing the elements of money  
4 laundering, you would have seen that it requires an  
5 underlying predicate criminal offense, doesn't it?

6 A. Correct.

7 Q. And corruption can be such a predicate  
8 offense; right?

9 A. Correct.

10 Q. Now, at the time you were reviewing the  
11 elements of these crimes under the Penal Code, the only  
12 information you had were the materials submitted by the  
13 Bar Association; is that right?

14 A. Correct.

15 Q. At that time, you hadn't yet begun  
16 investigating; correct?

17 A. No, not yet. You're right.

18 Q. Okay. So, you hadn't collected any evidence  
19 yet; right?

20 A. All that existed was what had been presented  
21 by the bar association.

22 Q. Okay. And you would agree with me, wouldn't

1 you, that you can't start an investigation with the  
2 assumption that a crime has been committed and then fit  
3 the facts to that assumption, can you?

4 A. Could you repeat the question to make sure I  
5 got it?

6 Q. Sure. Of course.

7 So, when you begin an investigation, you can't  
8 start that investigation with the assumption that a  
9 crime has been committed, can you?

10 A. There may be--well, we're in a stage where  
11 we're talking about probabilities.

12 Q. Can you explain what you mean by that, sir?

13 A. Okay. I have to explain to you the genesis.  
14 Let's take it by parts.

15 Initially, the only thing that existed at that  
16 time in the National Assembly, or on the part of the  
17 Prosecutor in the case, Pedro Miguel González, were  
18 just the elements set forth in the complaint by the Bar  
19 Association and others, I believe Alianza as well, who  
20 were also involved in filing this complaint.

21 Now, once having these elements in hand, the  
22 principal elements, the Prosecutor determines, in order

1 to begin a possible investigation -we are just  
2 beginning an investigation on possible crimes that  
3 could--we're talking about indicia--that could have  
4 been or may have been committed.

5 Now, due to those four possible crimes, we met  
6 both the technical part and the legal part to examine  
7 the conduct set forth in the Criminal Code so as to be  
8 able to determine what type of investigative measures  
9 we should pursue in order to collect those elements of  
10 evidence that were required in order to be able to  
11 determine certain conduct. So, there we started  
12 initially with some investigative steps.

13 So, that is why I say probable indicia. At  
14 that precise moment to be able to begin the  
15 investigation, one would have to begin with various  
16 different steps for collecting evidence, and that's  
17 what was done, and that went forward as the various  
18 investigative steps were carried out in relation to the  
19 institutions that might be able to provide us with that  
20 information.

21 Q. Yes, sir. I understand.

22 I think the question I was asking was a little

1 simpler, which is: You could not just assume that the  
2 information in the bar complaint was accurate, could  
3 you?

4 A. Yes. One had to validate everything that they  
5 had submitted, and that's what was done.

6 Q. Okay. Now, I'd like to look back at  
7 Paragraph 17 of your First Witness Statement, sir. And  
8 if we look there about four lines down, you explain  
9 that you were reviewing the elements of the Penal Code  
10 to determine what you would need to support a  
11 conviction.

12 Do you see that?

13 A. Yes. And that's what I just explained a  
14 moment ago.

15 Q. Yes. I heard your explanation, but shouldn't  
16 you have been focused on determining whether a crime  
17 occurred as opposed to supporting a conviction?

18 A. We were at a preliminary stage of the  
19 investigation. At that time, no one was being  
20 convicted. There was a presumption of innocence in  
21 relation to the justice at that time.

22 Q. Okay. So, we agree that there is a

1 presumption of innocence until proven otherwise;  
2 correct?

3 A. Yes, exactly.

4 Q. Now, focusing on that same paragraph of your  
5 Witness Statement, sir, you describe that, to collect  
6 evidence, the National Assembly subpoenaed various  
7 financial documents from entities and persons linked to  
8 your investigation; correct?

9 A. Correct.

10 Q. And those subpoenaed documents included bank  
11 records; right?

12 A. Correct.

13 Q. Checks?

14 A. Checks.

15 Q. Yes. And invoices?

16 A. Invoices. They were necessary, yes.

17 Q. Yes. And you don't list any other types of  
18 documents here, do you?

19 A. Bank records, checks, invoices, and interviews  
20 that were conducted. So, an array of steps that could  
21 be taken in the investigation at that point.

22 Q. Okay. Based on your Witness Statements and,

1 in fact, the Report that you authored--which we'll talk  
2 about in a little bit--you didn't subpoena any phone  
3 logs, did you?

4 A. No, I did not do any investigating into phone  
5 records.

6 Q. Okay. So, that would mean that you also  
7 didn't subpoena any text message records; correct?

8 A. No.

9 Q. Okay.

10 A. I did not.

11 Q. Okay. No emails; right?

12 A. Okay.

13 Q. I'm sorry. Does "okay" mean you did or you  
14 did not subpoena emails?

15 A. That we investigated emails as part of our  
16 investigation? Is that what you're asking?

17 Q. Yes.

18 A. During the assembly investigation? Not that I  
19 recall. We did not.

20 Q. Okay.

21 A. In my work, the part of my work, we did not do  
22 any investigation into emails.

1 Q. Okay. And I think I know the answer already,  
2 but you didn't subpoena any calendar entries, anything  
3 to suggest when the people you were investigating might  
4 have been meeting other people; correct?

5 Nothing like that?

6 A. For my part, no, not that I recall.

7 Q. Well, are you suggesting that others  
8 investigated those types of documents in the National  
9 Assembly?

10 I should be clear what I'm talking about.

11 In the National Assembly investigation, did  
12 anyone subpoena those kinds of documents?

13 A. As far as I recall, I would say--well, since I  
14 was focused just on my part--we had a division of  
15 labor--I can talk to you about what I did, or the  
16 taking of evidence and the elements that were collected  
17 or that were analyzed by us.

18 Q. Okay. I understand that, sir.

19 But you understand--right?--that you were the  
20 only person who was involved in the Panamanian  
21 Government's investigations that has been put forward  
22 as a witness?

1           Did you know that?

2           A.    Okay.

3           Q.    So, unfortunately, I may be asking you things  
4 that seem to you a little outside your scope, because I  
5 don't have anyone else to ask.

6           Also, I just want to go back. Now, you  
7 testified that you were helping to lead the  
8 investigation in the National Assembly; correct?

9           Do you remember saying that in your Witness  
10 Statement, Mr. Villalba?

11          A.    Yes. Yes, I was part of the team that was  
12 heading up the investigation.

13          Q.    So, in that leadership role, wouldn't you have  
14 had some idea of what other members of the team were  
15 doing?

16          A.    There were certain times when we would be  
17 working around the table together and looking at the  
18 information, but the one who directed the investigation  
19 was the Prosecutor.

20          Q.    Okay. But as far as you're aware, other than  
21 the categories of documents that you have listed in  
22 your Witness Statement, which were bank records,

1 checks, and invoices, no other documents were  
2 subpoenaed or collected during the National Assembly  
3 investigation.

4 Is that a fair statement?

5 A. The Prosecutor may have taken other kinds of  
6 evidence with the legal team also.

7 Q. Okay. But you never saw any of that evidence;  
8 is that a fair statement?

9 A. Not necessarily. The Prosecutor was the one  
10 who pulled things together, met separately with some  
11 groups, would bring us all together for working  
12 meetings from time to time, so that he would have a  
13 general overview of everything that was going on.

14 Q. I understand that, sir.

15 I think my question is: At those meetings  
16 that you attended, you never heard anyone discussing  
17 having collected emails, text messages, phone logs, or  
18 evidence of other meetings or communications between  
19 the Parties; is that correct?

20 A. I would prefer, since--I don't really know for  
21 sure whether the answer to that would be yes or no. I  
22 didn't necessarily have to have access to that.

1 Q. No. I understand, sir. I'm not asking you  
2 about what people did outside your presence.

3 I'm simply asking if you ever saw--you,  
4 Mr. Villalba--ever saw any evidence like the type I've  
5 just been discussing being collected in the National  
6 Assembly investigation?

7 A. I don't recall that.

8 Q. Okay. So, as far as you know, evidence that  
9 might have shown the intent of the Parties being  
10 investigated during the investigation in the National  
11 Assembly was not collected; correct?

12 Again, I understand you don't know what other  
13 people did outside your presence. I'm just asking,  
14 based on what you know, you never saw that type of  
15 evidence of intent being collected; right?

16 A. I can only talk about what I've testified in  
17 my Report and of the evidence that I took.

18 Q. So, is that a no, sir? No, you never saw that  
19 type of evidence being collected?

20 A. Well, if it happened, I can only testify in  
21 connection with the taking of evidence of financial  
22 issues, which is the kind of evidence that we took in

1 our team.

2 Q. Okay. And to recap, that was--those financial  
3 records that you collected were bank statements,  
4 invoices, and checks; correct?

5 A. Umm-mmm.

6 Q. Sir, can you say "yes" or "no"?

7 A. Yes.

8 Q. Thank you. Now, in January 2015, Congressman  
9 González engaged Mr. Julio Aguirre to review the  
10 evidence collected in the National Assembly  
11 investigation and provide an opinion as to whether it  
12 indicated any form of financial crime; is that right?

13 A. He was hired, yes.

14 Q. And you describe Mr. Aguirre as a money  
15 laundering Expert. Do you remember saying that in your  
16 Witness Statements?

17 A. Yes.

18 Q. Okay. Now, on February 23, 2015, Justice  
19 Moncada Luna entered into an agreement with the  
20 National Assembly in which he pled guilty to certain  
21 offenses; correct?

22 A. Correct.

1 Q. And those offenses that he pled guilty to were  
2 unjust enrichment and making false statements; right?

3 A. Correct.

4 Q. Okay. He didn't plead guilty to any other  
5 charges, did he?

6 A. That had to do with the Agreement that was  
7 reached. This was born of the Agreement.

8 Q. Yes. But my question was more simple than  
9 that: He didn't plead guilty to any other charges  
10 other than unjust enrichment and making false  
11 statements; right?

12 A. Correct.

13 Q. So, he never pled guilty to corruption, did  
14 he?

15 A. Correct.

16 Q. Or money laundering; right? He didn't plead  
17 guilty to that, either?

18 A. Correct.

19 Q. Okay. Then, after Justice Moncada Luna pled  
20 guilty to unjust enrichment and making false  
21 statements, Mr. Aguirre then filed the Report he had  
22 prepared on money laundering; correct?

1 A. Correct.

2 Q. Yes. And so, that Report was filed on  
3 March 2, 2015.

4 Does that sound right to you?

5 It's in Paragraph 26 of your First Statement,  
6 if you'd like to look, sir.

7 A. Umm-hmm.

8 Q. I'm sorry, sir. We need you to say "yes" or  
9 "no."

10 A. Correct.

11 Q. Now, Mr. Aguirre's Report was based on the  
12 evidence that you and your team had collected during  
13 the National Assembly investigation; correct?

14 A. Yes. He used the same elements.

15 Q. Well, not just the same elements. The same  
16 evidence; correct?

17 A. Correct.

18 Q. Okay. Now, as far as you know, he didn't have  
19 any evidence other than the evidence you collected; is  
20 that right?

21 A. Correct.

22 Q. Okay. You read Mr. Aguirre's report at the

1 time, didn't you?

2 A. Yes, I had access to it.

3 Q. Okay. And you read it; right? I believe I  
4 read that in your witness evidence, that you read his  
5 Report and you agreed with it?

6 A. Yes. That's correct.

7 Q. Okay. Then, just three days after Mr. Aguirre  
8 filed his Report on March 5, the National Assembly  
9 terminated its investigation, didn't it?

10 And again, this is Paragraph 27 of your  
11 Witness Statement, if you'd like to look, sir.

12 A. Yes.

13 Q. After that time, you returned to the Public  
14 Prosecutor's Office and your original position there;  
15 right? You were no longer seconded?

16 A. Correct.

17 Q. I believe you said that was in the latter half  
18 of March--correct?--that you returned to the Public  
19 Prosecutor's Office?

20 A. Yes. Around that period of time.

21 Q. Okay. Let's turn to Paragraph 28 of your  
22 First Witness Statement, please, sir. And you say

1 there that: "Because the National Assembly's  
2 jurisdiction was limited to the investigation of  
3 Justice Moncada Luna, Congressman González referred the  
4 evidence and information as to others involved,  
5 including Omega Engineering and its principal, to the  
6 Public Prosecutor's Office for further action."

7 Did I read that correctly?

8 A. Correct.

9 Q. And you also say that you were put in charge  
10 of that investigation; correct?

11 A. Correct. I was the head of that unit;  
12 therefore, I was in charge of it.

13 Q. Okay. When you say "that unit," you mean the  
14 unit within the Organized Crime Prosecutor's Office;  
15 correct?

16 A. Okay.

17 Q. Okay. And then if we look at Paragraph 29 of  
18 your Witness Statement, your First Witness Statement,  
19 we see that you say: "Investigations"--plural--"into  
20 Mr. Rivera and Omega Engineering were started by both  
21 the Organized Crime and the Anticorruption Divisions  
22 within the Public Prosecutor's Office."

1           Did I read that correctly?

2           A.    Correct.

3           Q.    So, these were two separate offices within the  
4 Public Prosecutor's Office; right?

5           A.    These are two different Prosecutors' Offices.  
6 These are two separate specialized Prosecutors'  
7 Offices.

8           Q.    Okay. Thank you, sir. That's helpful. It  
9 helps me to understand.

10           So, these were two separate investigations;  
11 correct?

12           A.    Yes.

13           Q.    Okay. And as I understand it from your  
14 earlier testimony, you only were participating in the  
15 Organized Crime Prosecutor's investigation; is that  
16 right?

17           A.    Okay. Correct.

18           Q.    Okay. Did you have any interaction with the  
19 investigators for the Anticorruption Prosecutor's  
20 Office?

21           A.    I was only seconded to the Organized Crime  
22 Prosecutor's Office.

1 Q. Okay. So, you wouldn't have any knowledge  
2 about what the Anticorruption Prosecutor's Office was  
3 doing? Is that your testimony?

4 A. That is correct.

5 Q. Okay. Now, if we look back at Paragraph 28,  
6 sir, of your Witness Statement, you say that your first  
7 task when you returned to the Organized Crime  
8 Prosecutor's Office was to prepare a report detailing  
9 what was done in the National Assembly investigation;  
10 right?

11 A. Correct.

12 Q. And that Report was submitted by you on  
13 June 5, 2015 to the Organized Crime Prosecutor; right?

14 A. That is correct.

15 Q. Can we now turn to R-62, if the Witness could  
16 be provided with that document? And we're just going  
17 to be looking at the first page for right now.

18 A. I got it.

19 Q. Thank you, sir. Okay. Thank you.

20 This document is labeled "Preliminary  
21 Financial Analysis Report, Case Number 049-15."

22 This is your June 2015 Report; right?

1           A.     That is correct.

2           Q.     So, this was the starting point for your  
3 investigation at the Public Prosecutor's Office; is  
4 that fair to say?

5           A.     It wasn't really the starting point. The  
6 Organized Crime Prosecutor had already received part of  
7 the information from the Assembly. And he asked the  
8 unit that I was in charge of to conduct a factual  
9 analysis, an analysis of the facts and of all the  
10 investigative steps that were being taken, by the  
11 Prosecutor's Office at the time.

12          Q.     Okay. Now, you mentioned that the  
13 Prosecutor's Office had already received part of the  
14 information from the Assembly.

15                 That was because the Prosecutor's Office had  
16 requested the information; correct?

17          A.     Yes. The Report says this very clearly. I  
18 can make reference to the Report. This document has  
19 the purpose of submitting the factual notices related  
20 to the criminal case 049-15 that was examined in  
21 connection with the financial information provided by  
22 the banking institutions, related documents to the

1 contracts and collections with the Judiciary, and  
2 information provided by the National Assembly, which  
3 was the Prosecutor's Office that was assigned the case.

4 Q. Yes. I see that. That's from Page 1, for  
5 those following along.

6 And if we look to the top of Page 2 of your  
7 Report, it says: "At the request of this"--the English  
8 says "audit agency," but I understand that means the  
9 Prosecutor's Office; right?

10 A. That is correct.

11 Q. Thank you. "At the request of this  
12 Prosecutor's Office, pursuant to a note dated  
13 5 March 2015, we have been sent a duly certified copy  
14 of the documentation collected by the designated  
15 oversight entity."

16 And that's referring to the National Assembly;  
17 correct?

18 A. Are you asking me that?

19 Q. Yes. I'm asking you to confirm that the  
20 designated oversight entity was the National Assembly;  
21 correct? That's what this means here in your Report?

22 A. No. This Report was prepared on the basis of

1 the information that was provided by the designated  
2 Prosecutor's Office.

3 Q. Yes, sir. I think we're saying the same  
4 thing. I'm just saying--sorry.

5 You had mentioned--I asked you if the  
6 Prosecutor's Office had requested the information. You  
7 said yes. And that's what is being recorded here in  
8 this first sentence on Page 2?

9 A. Yes, correct.

10 Q. Okay. Thank you.

11 All right. If we could look at--

12 PRESIDENT SHORE: So, I think the Transcript,  
13 Professor Naón, reads "R-26," but it should be R-62.  
14 Thank you.

15 Sorry, Ms. Gorsline.

16 MS. GORSLINE: Thank you very much. That's an  
17 important catch.

18 BY MS. GORSLINE:

19 Q. All right. If we turn to Page 25 in the  
20 English--and I'm told it is Page 99 in the Spanish--of  
21 R-62--

22 MR. WEISBURG: If I can interject: You seem

1 to be using different page numbers. There's a codified  
2 page number in the middle and a page number on the  
3 right. If you could be consistent, that would be  
4 helpful.

5 MS. GORSLINE: That's a fair point,  
6 Mr. Weisburg.

7 BY MS. GORSLINE:

8 Q. Let's use the page numbers on the bottom right  
9 corner, because I believe those are identical in  
10 English and Spanish. And so, if we turn to Page 24.

11 A. Correct.

12 Q. So, on this page you have created a diagram;  
13 correct?

14 A. Correct.

15 Q. And you conclude here that "Omega made two  
16 payments"--well, excuse me--"one payment of \$250,000 to  
17 another of Mr. Rivera's companies called PR Solutions";  
18 correct?

19 A. Correct.

20 Q. Okay. And can we now turn to Page 39, using  
21 the numbers in the bottom right corner. Using those  
22 numbers, it is the same in Spanish and English.

1           And here we see another  
2 diagram--correct?--that you've created?

3           A.    Correct.

4           Q.    And, again, here we see 250,000 going from  
5 Omega Engineering to Mr. Rivera's other company,  
6 PR Solutions; correct?

7           A.    Correct.

8           Q.    Okay. Now, you concluded--if we use those  
9 same two diagrams--right?--on Page 24 and Page 39, you  
10 concluded that PR Solutions, in turn, made two \$250,000  
11 payments to Reyna & Associates; correct?

12          A.    Correct.

13          Q.    Thank you, sir.

14                And then if we look at Page 24, you conclude  
15 that Reyna transferred some of that money to a company  
16 called Sarelan, which was controlled by Justice Moncada  
17 Luna; correct?

18                And we see that, again, on Pages 24 and  
19 39--correct?--in your diagrams?

20          A.    Correct.

21          Q.    Now, during the course of your investigations,  
22 you were informed that the payments from PR Solutions

1 to Reyna & Associates were part of a Land Purchase  
2 Agreement Mr. Rivera had entered into as part of a  
3 potential property development project through a  
4 company called Punela; correct?

5 A. Yes. That information had been provided to  
6 us.

7 Q. Okay. Ms. Maria Gabriela Reyna is a lawyer  
8 from Reyna & Associates, isn't she?

9 A. Yes.

10 Q. Okay. Now, Ms. Reyna testified in both the  
11 National Assembly investigation and the Public  
12 Prosecutor's Office investigations; correct?

13 A. Correct.

14 Q. Okay. And by July of 2015, Ms. Reyna had  
15 repeatedly testified that the payments from  
16 PR Solutions to Reyna & Associates were part of that  
17 land purchase, hadn't she?

18 A. Correct.

19 Q. And that testimony started in January of 2015;  
20 right? That was the first time she testified before  
21 the National Assembly?

22 A. Yes. If memory serves, yes.

1 Q. Okay. And she testified that--in that first  
2 testimony, she said that she had brokered the sale of  
3 property to Mr. Rivera through a company of his called  
4 Punela but that the property sale had not closed due to  
5 issues with a mortgage and the provision of  
6 electricity.

7 And if it would help you to look at the  
8 document, we can do that, sir. Would you like to look  
9 at the document recording her testimony?

10 Let me withdraw the first question. I'll just  
11 ask the second question right now.

12 The second question is, would you like to look  
13 at Ms. Reyna's testimony?

14 A. It's not necessary, no. It's not necessary.

15 Q. Okay. All right. So, then I'll ask the first  
16 question again.

17 In January 2015, Ms. Reyna testified to the  
18 National Assembly that she had brokered a sale of  
19 property, of land, to Mr. Rivera through a company  
20 called Punela Development; correct?

21 A. Correct.

22 Q. And she also testified that the property sale

1 had never closed because there were issues with  
2 clearing mortgage and with providing electricity to the  
3 property; correct?

4 A. I don't recall that part of her Statement, but  
5 if it's in her Statement...

6 Q. Okay. Thank you, sir.

7 Can we please show the Witness R-139? And I'd  
8 like to look at Page 6 of the English, which I am told  
9 is Page 27 of the Spanish.

10 And about midway down the page, do you  
11 see--the questioner says "2014."

12 Do you see that, sir?

13 A. I do.

14 Q. Thank you, sir.

15 And then Ms. Reyna says: "Yes, because we had  
16 a delay because I committed to materialize when power  
17 reached the property and that happened at the end of  
18 this year. At that time, I released the mortgage, and  
19 I think the day came in early November"--or, excuse  
20 me--"early December."

21 Do you see that?

22 A. I do. I do. I just read that. Yes.

1 Q. Okay. So, as early as January 2015, the  
2 National Assembly investigators had been told that the  
3 500,000 coming from Mr. Rivera's companies to  
4 Reyna & Associates was for the purchase of real  
5 property; correct?

6 A. We had received the financial information. Is  
7 that what you're referring to, the information given to  
8 us from the banks?

9 Q. I understand that you had received information  
10 from the banks, but you had also received testimony  
11 from Ms. Reyna that that money was part of a land  
12 purchase; correct?

13 A. That is what she submitted to support her  
14 statements.

15 PRESIDENT SHORE: Sorry. Can I interrupt,  
16 Ms. Gorsline?

17 MS. GORSLINE: Of course.

18 PRESIDENT SHORE: Mr. Villalba, were you in  
19 this interview with Ms. Reyna, this one on January 27,  
20 2015, that counsel is asking you about?

21 THE WITNESS: I was not.

22 PRESIDENT SHORE: Why not?

1           THE WITNESS: The interviews were conducted  
2 directly by the Prosecutor. The secretary of the  
3 Prosecutor was there and also a team of lawyers were  
4 there. After the interviews, if there were any issues,  
5 we received feedback regarding the outcome of the  
6 interviews.

7           PRESIDENT SHORE: Thank you.

8           MS. GORSLINE: Thank you, Mr. President.

9           BY MS. GORSLINE:

10          Q. So, at the time that she first told you about  
11 the land transaction in January 2015--and I  
12 apologize--at the time she testified, because I now  
13 understand that she didn't tell you.

14                 At the time she testified about the land  
15 transaction, she also made clear that the transaction  
16 had not closed; correct?

17          A. In accordance with this testimony, yes.

18          Q. Now, Ms. Reyna testified again during the  
19 Public Prosecutor's investigation; correct?

20          A. Correct.

21          Q. And I believe the first instance of her  
22 testimony in that investigation was on June 23, 2015;

1 correct?

2 A. That's correct.

3 Q. Can we look at Exhibit C-894.

4 Now, I'd like to start on Page 1 of this  
5 document, which, in the Spanish, would be Page 22.

6 And if we look at the top of the page, we see  
7 that she is appearing before the Special Prosecutor's  
8 Office Against Organized Crime; is that correct,  
9 Mr. Villalba?

10 A. That's correct.

11 Q. All right. Were you present for this  
12 interview with Ms. Reyna?

13 A. I was not. The interviews at the Assembly,  
14 this just to be clear, and the sworn statements, those  
15 are conducted by the Prosecutor with his assistant.

16 Q. Okay.

17 A. No, physically present at the examination, I  
18 was not.

19 Q. Okay. Do you know the name of the person?  
20 Who was the Organized Prosecutor, the Organized Crime  
21 Prosecutor who would have been present for this  
22 interview?

1       A.     The signature must be here.  Mr. Nahaniel  
2 Murgas Moreno.

3       Q.     Okay.

4       A.     And also the secretary that was in charge of  
5 the examination.  If you look at Page 41, I think it  
6 is, it looks like it's 41.

7       Q.     Okay.  Now, Mr. Murgas Moreno, was he the  
8 Organized Crime Prosecutor?  Was he the boss?

9       A.     That is exactly right.

10      Q.     All right.  Now, even though you weren't in  
11 the interview, you would have seen this transcript of  
12 the interview shortly thereafter; right?

13      A.     Yes.  Yes.  I had access to this.  I gained  
14 knowledge of the interview later on.

15      Q.     Okay.  So, if we could look on Page 3 of the  
16 English.  I'm told it is Page 24 of the Spanish, about  
17 midway down the page.

18             We see it says:  "Omega Engineering and  
19 PR Solutions are part of a holding, along with another  
20 company called Punela Development Corp.  The latter  
21 currently has a contract for a promise to enter into a  
22 Purchase Agreement with a client of mine concerning

1 Property 35659 which is located in the Province of  
2 Los Santos, Tonosí District, Cañas Township."

3 Did I read that correctly, sir?

4 A. Correct. Yes.

5 Q. Okay. So, again, she's, once again, saying  
6 this money was for a land transaction; right?

7 A. Correct.

8 Q. All right. And then if we could turn to  
9 Page 7, which I'm told is Page 28 in the Spanish.

10 Again, about midway down the page, Ms. Reyna  
11 is discussing some tax issues, and she says: "This  
12 year I had to declare and the declaration has been  
13 postponed pending the definition of the destination of  
14 the promissory purchase as we currently have a  
15 conflict, since Omega is demanding that the money be  
16 returned and I, as a lawyer, I have demanded that they  
17 pay the remainder or terminate the contract."

18 Do you see that, sir?

19 A. Correct.

20 Q. So, again, she's also saying that there has  
21 been a conflict that arose and that the sale has not  
22 closed; right?

1 A. Correct.

2 Q. Okay. Now, as I understand it, Ms. Reyna  
3 provided testimony one more time in the Organized Crime  
4 Prosecutor's investigation in July of 2015; correct?

5 A. I think it was an enhancement, an expansion of  
6 the previous one.

7 Q. Okay. Let's turn to C-0089, please. And if  
8 we look at Page 1 of this document--if we look at  
9 Page 1, the Spanish is on Page 18, Page 1 of the  
10 Spanish.

11 A. Okay.

12 Q. And we see this is what you were just  
13 mentioning. It says, in the English, "extension to the  
14 suspect statement," but that's what you were  
15 referencing; correct? I think you said an "expansion  
16 of her testimony"?

17 A. Yeah, something like that.

18 Q. Okay. All right.

19 So, if we look at Page 8, in the middle of the  
20 page--I'm told that is Page 25 in the Spanish--and we  
21 see there Ms. Reyna is saying: "I just want to clarify  
22 that the real estate operations carried out with Punela

1 Investment, Omega, and with Alpha Business Corp. are  
2 perfectly legal and legitimate acquisitions. I don't  
3 believe that there are any links of any other kind of  
4 relationship between Omega and the people related to  
5 Mr. Ricardo Calvo and other people."

6 And then she goes on to say: "And I have only  
7 explained what happened and how I involuntarily ended  
8 up preparing some support documentation."

9 So, did I read that correctly, sir?

10 A. I'm looking, trying to find it.

11 Q. I'm sorry, sir.

12 A. Yes.

13 Q. Did I read that correctly, sir?

14 A. Yes, you did read it correctly, what it reads  
15 here.

16 Q. Okay. So, again, we see her testifying that  
17 this was a legitimate real estate transaction; correct?

18 A. Yes, that's what she states.

19 Q. Yes. And here we even see that she is now  
20 admitting her own guilt--correct?--although she is  
21 making excuses for it, but she's still saying that the  
22 Omega transaction was a legitimate and legal piece of

1 business; right?

2 A. Yes, that's what she states.

3 Q. Okay. In fact, Ms. Reyna's testimony on this  
4 point was consistent throughout her various interviews  
5 and throughout the various investigations; correct?

6 A. Consistent? Could you be a little bit  
7 clearer? What do you mean when you say "consistent"?

8 Q. Sure. That with respect to the land deal  
9 between Punela and JR Bocas, she never changed her  
10 testimony, did she?

11 A. Yes. She was--yes, she was saying the same.  
12 She maintained her statement.

13 Q. Okay. Now, Mr. Frankie López also testified  
14 in the National Assembly investigation; correct?

15 A. Yes.

16 Q. Could we please turn to C-888. The Spanish in  
17 this document begins on Page 19, sir.

18 A. Correct.

19 Q. Yes. And if we--if you look at that page--and  
20 those of us following along in English will be looking  
21 at Page 1--we see that this is testimony in the  
22 National Assembly investigation by Mr. Frankie López in

1 January of 2015; correct?

2 A. Correct.

3 Q. Okay. And I take it you were not present for  
4 this interview, Mr. Villalba?

5 A. No, I wasn't there.

6 Q. Okay. But you did have access to the document  
7 after; correct?

8 A. Yes. There was--I didn't receive any feedback  
9 on the interview.

10 Q. I'm sorry. I don't understand what that  
11 means.

12 You "didn't receive any feedback on the  
13 interview"? Does that mean you never saw this  
14 document?

15 A. Rather, that we were not present but, based on  
16 some comments that were within our competence or  
17 jurisdiction, we were communicated the elements that  
18 were addressed in the interview.

19 THE INTERPRETER: The interpreter  
20 misunderstood. He said no, but he added a final "s"  
21 that says "nos," so it was the interpreter's mistake.

22 BY MS. GORSLINE:

1 Q. Okay. Thank you, sir. I appreciate that.

2 Now, you're aware, aren't you, sir, that

3 Mr. Lopez testified that the money paid from

4 PR Solutions to Reyna & Associates was to purchase the

5 land for development pursuant to the Agreement between

6 Punela and JR Bocas; correct?

7 A. Yes, that is what he stated.

8 Q. Okay. And if we look at Page 2, the bottom of

9 Page 2 in the English, and I'm told it is on Page 21 in

10 the Spanish.

11 And we see there Mr. López testifying: "Well,

12 it was done. It was formalized. A contract of sale

13 was perfected by establishing an amount with some

14 items. Not all"--

15 PRESIDENT SHORE: "Terms."

16 BY MS. GORSLINE:

17 Q. Oh, I'm sorry, "terms."

18 "Not all conditions were met. Some initial

19 payments were made according to the commitment, but, in

20 turn, there was an understanding that the work part had

21 not met. At one point, they mutually agreed to extend

22 deadlines, which were conditioned to the development or

1 connection of the electrical system. At the same time,  
2 we had made the caveat that the property had a lien, a  
3 mortgage, that really was part of the transfer to be  
4 able to finalize the buying and selling process."

5 Did I read that correctly, Mr. Villalba?

6 A. Correct.

7 Q. And then if we look a little further down on  
8 that same page, there's a question from the examiner  
9 that are says: "And now, after that procedure, have  
10 you given up?"

11 Do you see that, sir?

12 A. Yes. Now, after that, they have given up.  
13 Yes.

14 Q. Yes. And if we look midway through the  
15 Response to that question, Mr. López says: "And,  
16 obviously, Mr. Rivera was quite upset with the  
17 situation, talking about taking some kind of legal  
18 action against this person."

19 Do you see that, sir?

20 A. The complete text?

21 Q. Just the part I read, sir.

22 A. What paragraph is this in?

1 Q. So, we--you saw the question: "And now, after  
2 that procedure, have you given up?"

3 Do you see the question, sir?

4 (Interruption.)

5 PRESIDENT SHORE: Do you have the right  
6 paragraph, Mr. Villalba?

7 THE WITNESS: I am trying to identify the  
8 paragraph, the line. "And now, after that procedure..."

9 PRESIDENT SHORE: "And now, after that  
10 procedure, have you given up," and then counsel is  
11 asking you about a couple of sentences in to the  
12 paragraph under that question: "Mr. Rivera was quite  
13 upset with the situation." Can you find that line?

14 THE WITNESS: ... what line, what  
15 paragraph is it? "Obviously," here? Correct,  
16 yes.

17 BY MS. GORSLINE:

18 Q. Thank you, sir.

19 So, Mr. López had testified to the same things  
20 that Ms. Reyna had testified to; correct?

21 A. Correct.

22 Q. Both had said that that money was transferred

1 pursuant to a land deal; correct?

2 A. Correct.

3 Q. And both had testified that there were issues  
4 with the deal and that the sale had never closed;  
5 right?

6 A. Based on the statement, yes.

7 Q. Okay. And I don't want to necessarily walk  
8 through all the documents, but you also heard from a  
9 witness named Mr. Francisco Feliú in the National  
10 Assembly? Do you remember--do you recall that, sir?

11 A. Yes. Yes. He appeared, yes.

12 Q. Yes. And do you recall that he also testified  
13 that the money was transferred for a land transaction?

14 A. I think I need to refresh my recollection.

15 Q. Okay. Let's look at C-899.

16 A. Okay.

17 Q. All right. And if we look at Page 6 of the  
18 English, which I believe is Page 13 in the Spanish. On  
19 the Spanish, I think it is most of the way down the  
20 page. In the English it is about halfway down the  
21 page. And Mr. Feliú says: "Yes, I don't sign a check  
22 if they don't explain to me that was an investment in a

1 land, a purchase of a land."

2 Do you see that, sir?

3 A. Yes.

4 Q. Okay. And then do you recall that a man named  
5 Salvador del Toro also testified in the National  
6 Assembly? Excuse me. I said that wrong. I withdraw  
7 that question.

8 He also testified in the Special Prosecutor's  
9 investigation.

10 Do you recall that?

11 A. Yes. Salvador. Yes.

12 Q. Yes. And he also said that, while he didn't  
13 have many details, he understood that the money was  
14 transferred for a land purchase; correct?

15 A. Yes, but I would like to look, if you have it,  
16 at the document. I think that's the way it was, I  
17 think.

18 Q. Okay. Let's look at C-887. All right. If we  
19 look at--in the English, it is Page 4. In the Spanish,  
20 I believe it's on Page 9. In the Spanish and in the  
21 English, it is close to the top of the page.

22 And Mr. Salvador del Toro says: "It was a

1 purchase and sale Contract, but I did not know about it  
2 when I entered the record. That record was entered  
3 through the Timberline system. This promise of  
4 purchase and sale document was provided to me by  
5 Mr. Frankie López, and they gave me the document as  
6 support or justification for the transaction."

7 Do you see that, sir?

8 (Interruption.)

9 MR. WEISBURG: He answered, "yes," I thought.

10 PRESIDENT SHORE: Let's hang on. Mr. Villalba  
11 is still reading. I'm sorry. Go ahead and answer now.

12 THE WITNESS: Correct.

13 BY MS. GORSLINE:

14 Q. Now, I would just like to go back and look at  
15 Paragraph 31 of your First Witness Statement, sir. And  
16 you say there that: "In July 2015, as part of the  
17 Public Prosecutor's investigation, Omega Engineering  
18 submitted materials to show that the two suspect  
19 payments identified by the National Assembly's  
20 investigation were not made to Justice Moncada Luna,  
21 but were part of a personal project by Mr. Rivera to  
22 develop a residential complex he referred to as the

1 'Verdanza Residences.'"

2 Did I read that correctly, sir?

3 A. Correct.

4 Q. So, would you agree with me, sir, that, by  
5 July 2015, and starting as early as January 2015, you  
6 had repeatedly received evidence which showed that  
7 those transactions you had identified in the financial  
8 documents were part of a legitimate land transaction;  
9 correct?

10 A. Yes, I am stating that there.

11 Q. Yeah. And isn't it true that, regardless of  
12 any illegal activity that you may have uncovered on the  
13 part of Mr. Moncada Luna or others, no one ever  
14 testified in your investigations that the land  
15 purchased by Mr. Rivera's Company was anything other  
16 than legitimate; correct?

17 A. Well, the statements by the appearing Parties  
18 indicated that it was a legitimate purchase. Based on  
19 what we just reviewed in their Statements and  
20 interviews.

21 Q. Yes. Thank you, sir.

22 Now, I just want to back up a little bit. You

1 began investigating Justice Moncada Luna for the  
2 National Assembly in October 2014; is that right?

3 A. Sorry, yes, 2014.

4 Q. Yeah. And then that initial investigation  
5 ended in early March 2015; correct?

6 A. Correct.

7 Q. And then you returned to the Public  
8 Prosecutor's Office and began a new investigation in  
9 late March 2015; correct?

10 A. Correct.

11 Q. Okay. Now, you didn't obtain any documents  
12 from Omega's offices until November 2015; correct?

13 A. You are referring to the ones that they  
14 provided to support the various movements? Is that  
15 what you're referring to?

16 Q. No, sir. Thank you for asking for the  
17 clarification because I wasn't clear.

18 I'm talking about when a search order was  
19 issued for Omega's offices. That happened in  
20 November 2015; correct?

21 A. I don't recall accurately.

22 Q. Okay. Let's look at C-893. And I believe,

1 sir, that the Spanish language begins on Page 9 but the  
2 text actually begins on Page 10.

3 A. Correct.

4 Q. All right. So, if we look at Page 1 of the  
5 document, which is Page 10 in the Spanish--excuse me,  
6 Page 2 in the English, 10 in the Spanish, we see that  
7 this search and inspection Order was issued by the  
8 Office of the Special Organized Crime Prosecutor;  
9 correct?

10 A. Yes. Based on the description here, yes.

11 Q. Okay. And that was your office; correct?

12 A. Yes. I worked there.

13 Q. Okay. You personally did not participate in  
14 this search and inspection, did you?

15 A. Hiroko Tinoco, Attorney Esperanza Montenegro  
16 as the Judicial Secretary are the ones who participated  
17 directly.

18 Q. Yes, sir. And we see that on the signature  
19 page; correct?

20 A. Yes.

21 Q. Were you aware of this search and inspection  
22 at the time it occurred?

1 A. Yes, I was aware of that.

2 Q. Okay. Now, this is more than a year after  
3 when the investigations first  
4 started--correct?--November 2015.

5 A. It could be that it's basically that, yes.  
6 October for the Assembly and then up to November 2015,  
7 and this is the Office of the Prosecutor. Yes, it's  
8 basically a year.

9 Q. Okay. Thank you, sir.

10 Now, if we could turn to Page 4 of this  
11 document, which is C-893. I'm told it is Page 12 in  
12 the Spanish. Do you see a heading labeled "3," sir?

13 A. Umm-hmm.

14 Q. And this is a--

15 A. Yes. Fine.

16 Q. Thank you, sir.

17 This paragraph is a description of the  
18 information that the Prosecutor's Office intended to  
19 obtain; correct?

20 A. Correct.

21 Q. Okay. And if we look at this paragraph we see  
22 that the Special Prosecutor's Office--excuse me.

1           The Public Prosecutor's Office wanted to  
2 determine what accounting systems Omega used; right?

3           A.    Correct.

4           Q.    They wanted to search Omega's ledgers for  
5 records of the two transfers to PR Solutions; right?

6           A.    Correct.

7           Q.    They wanted to verify when those records were  
8 entered and if there had been any changes or  
9 modifications to those records; correct?

10          A.    Correct.

11          Q.    They wanted to see what justifications were  
12 provided and what descriptions were entered for those  
13 transactions; right?

14          A.    Correct.

15          Q.    And then to collect any other evidence or  
16 documentation related to the investigation.

17                Do you see that?

18          A.    Yes.

19          Q.    Now, we don't specifically see anything  
20 referenced here about emails, do we?

21          A.    Well, here in particular, no. The description  
22 is whatever it says there, yes. The purpose of the

1 inspection, of the search, rather. Yeah.

2 Q. Okay. Is it fair to say that the focus of the  
3 inspection was on financial records, sir?

4 A. Yes, that was practically the intention.  
5 Accounting, financial information, justifications.

6 Q. So, the same types of information you had  
7 collected in the National Assembly investigation;  
8 correct?

9 A. Yes. But at the National Assembly, there was  
10 no access to records or accounting books.

11 Q. That was not collected during the National  
12 Assembly investigation; correct?

13 A. No. No. That was done here as part of the  
14 work done by the Special Prosecutor's Office and also  
15 the search for the accounting records of the Company.

16 Q. Now, this does not suggest that you were  
17 looking for any evidence with respect to the land  
18 transaction, is that fair to say?

19 A. Yes. As it says, what was sought was what  
20 justification was there for the accounting records that  
21 had been described in the accounting information, what  
22 kinds of systems they had, what justifications and the

1 descriptions, or any evidence or indicia, as it says.  
2 Exactly.

3 Q. Okay. And this search Order also didn't seek  
4 communications between Omega and Reyna & Associates,  
5 did it?

6 That wasn't the focus, was it, sir?

7 A. Well, this search was just done at Omega, I  
8 think it says clearly. And the justifications that  
9 existed between Omega and PR Solutions. For it had  
10 transferred funds from Omega to PR Solutions as is  
11 described in the documents.

12 Q. Okay. Thank you, sir.

13 Could we now turn to Exhibit C-904. And this  
14 is a very short document, so the Spanish begins on  
15 Page 5, I believe. Oh, no, I'm sorry. 7, with text  
16 beginning on Page 9.

17 Now, this is the search and inspection Order  
18 issued by the Office of the Special Organized Crime  
19 Prosecutor with respect to PR Solutions; correct,  
20 Mr. Villalba?

21 A. Yes. That is correct.

22 Q. Okay. And this is also done in November 2015;

1 correct?

2 A. Yes. The date indicates 17 November 2015.

3 Q. Okay. Now, if we look on Page 4 of the  
4 English, and Page 11 of the Spanish, we again see a  
5 heading that says "3."

6 Do you see that?

7 A. Yes, correct.

8 Q. And there it says: "The purpose of these  
9 proceedings is to conduct a search and inspection of  
10 the Company in order and obtain"--I suspect that is an  
11 error in translation--"the accounting records of the PR  
12 Solution Company."

13 Do you see that, sir?

14 A. Yes.

15 Q. So, this search is also focused on accounting  
16 records; correct?

17 A. Correct.

18 Q. It wasn't focused on any evidence with respect  
19 to the land deal and its legitimacy, was it?

20 A. Well, the objective of the search is crystal  
21 clear, spelled out in no uncertain terms.

22 Q. Yes, sir. And that objective also did not

1 include any communications between PR Associates and  
2 Reyna & Associates--I'm sorry, I said that wrong. I  
3 withdraw.

4           The objective of the search did not include  
5 any communications between PR Solutions and  
6 Reyna & Associates, did it?

7           A.    In this search, no.

8           Q.    Are you aware of any other searches, sir?

9           A.    Well, we're talking about this one; right?

10          Q.    We have been talking about this one, but I'm  
11 asking you if there are others you are aware of,  
12 because I'm not aware of them.

13          A.    Well, this investigative step, which is the  
14 search of Omega, I think these were the only ones that  
15 were done, if my memory serves me well.

16          Q.    Okay. Thank you, sir.

17          A.    Okay.

18          Q.    Can we now turn to Exhibit C-210.

19                And the Spanish of this document is on Page 4,  
20 sir.

21                Are you there, sir?

22          A.    Yes. Yes.

1 Q. Mr. Villalba, have you ever seen this document  
2 before?

3 A. Yes. On the part of the Prosecutor.

4 Q. So, the Prosecutor's Office had this document?

5 A. Yes. It was the communication indicating that  
6 he would not be able to attend, the Statement.

7 PRESIDENT SHORE: I think you might be looking  
8 at a different document.

9 BY MS. GORSLINE:

10 Q. Sir, yes, I believe you're not at the right  
11 document. C-210. Sir, it should be an email from  
12 someone with an email address that says Gabby,  
13 minigap@gmail.com to Mr. Frankie López at Omega.

14 Do you see that, sir?

15 PRESIDENT SHORE: Mr. Villalba, focus on the  
16 email. There's a subject stating "Declaration at the  
17 Prosecutor's Office," but counsel is asking you about  
18 the email.

19 THE WITNESS: Yes.

20 BY MS. GORSLINE:

21 Q. Okay. Now, have you ever seen this document  
22 before, sir?

1 A. Yes.

2 Q. And where did you see this document?

3 A. It was just shown in due course.

4 Q. Shown by whom, sir?

5 A. By the Office of the Prosecutor.

6 Q. So, you remember seeing this

7 contemporaneously?

8 A. Contemporaneously?

9 Q. And so, you understand that this is not the  
10 email from Mr. Rivera that you were referencing just a  
11 moment ago.

12 Do you understand that, sir?

13 A. Which document are you referring to that you  
14 say I made reference to?

15 Q. Earlier when I asked you if you had seen this  
16 document, you said it was the--it was an email from  
17 Mr. Rivera explaining that he was not available to  
18 appear in the National Assembly.

19 Do you remember that, sir?

20 A. Yes, in my statement.

21 Q. Okay. This email--well, maybe we should talk  
22 about the email first, and then I can ask you follow-up

1 questions.

2           And I'm not talking about the email at the  
3 very top. I'm talking about the second one down. From  
4 Gabby, minigap@gmail.com.

5           Do you see that, sir?

6           A. Yes, I do.

7           Q. Okay. And this is to  
8 FLLópez@omegacorp.net; correct?

9           A. Correct.

10          Q. And it's dated January 28, 2015; correct?

11          A. Correct.

12          Q. Now, FLLópez@omegacorp.net, that's Frankie  
13 López, isn't it?

14          A. Yes.

15          Q. Okay. Well, if we look at the very top of the  
16 page, we see that email address in the very first line,  
17 associated with Frankie López; right?

18          A. Correct. Yes.

19          Q. All right. And if we turn the page--actually,  
20 in the Spanish, it's on the same page. In the Spanish  
21 it's at the very bottom of Page 4. In the English it  
22 is at the very top of Page 2. We see that the email is

1 signed "M.G. Reyna."

2 Do you see that?

3 A. Yes, I do.

4 Q. So, this is an email from Maria Gabriela Reyna  
5 to Mr. Frankie López; correct?

6 A. That does appear to be so.

7 Q. Okay. And then, if we look at the very first  
8 sentence of her email after it says "Dear Mr. López."

9 She says: "Yesterday, I was called to declare  
10 at the Special Prosecutor's Office in the framework of  
11 the case of the removed Magistrate Alejandro Moncada  
12 Luna. I know this situation must be strange and  
13 awkward for you, and I am sorry about that. Yesterday,  
14 I explained to them that we got to know each other  
15 because we were office neighbors, but that you are not  
16 my clients, simply people who were looking for  
17 properties in the Pedasí, Azuero area, and that I  
18 offered you a real estate property in the middle of  
19 2012. And that, after carrying out your investigations  
20 and other diligences, we finalized the obligation in  
21 April 2013, when I was back from my maternity leave."

22 Did I read that correctly, sir?

1           A.    Yes.  I would like to say something.  This  
2 email is not the communication where I testified that  
3 is related to the inability to be able to appear to  
4 make a Statement?

5           Q.    Yes, sir.  Okay.  And I want to look at one  
6 more part of this email, and then we'll--I'll ask you a  
7 few more questions about it, okay, sir?

8                    So, at the very bottom of the email, Ms. Reyna  
9 says: "I am so sorry about this situation, and I hope  
10 it won't affect the closing of the sale.  I have been a  
11 victim of some unnecessary prosecution, and this has  
12 affected you.  My most sincere apologies.  M.G. Reyna."

13                   Do you see that, sir?

14           A.    Yes.

15           Q.    Okay.  So, my first question, now, is have you  
16 seen this email before today, sir?

17           A.    What I would not like is for there to be any  
18 confusion between the communication or email--well,  
19 it's not a summons because the drafting of it does not  
20 seem familiar to me.  It does not seem to me to be the  
21 non--the letter related to the nonappearance of  
22 Franklin or of Mr. Rivera.  I wouldn't want to be

1 confused about that email communication.

2 Q. Yes, sir, I agree, we don't want you to be  
3 confused. And I agree with you, this is not that email  
4 that you're referring to. I agree with you.

5 A. Okay.

6 Q. So, my only question is, have you seen this  
7 email before today?

8 A. Okay. I don't remember.

9 Q. Okay. And that's likely because in the  
10 investigations in the National Assembly and in the  
11 investigation you participated in in the Special  
12 Prosecutor's Office, emails between Omega and Ms. Reyna  
13 were not collected; is that true?

14 A. Well, I did not participate in any  
15 investigative steps relating to emails.

16 Q. Okay. Thank you, sir.

17 Would you agree with me, though, sir, that,  
18 based on what we just read, Ms. Reyna was still trying  
19 to close the land transaction with Mr. Rivera in  
20 January 2015?

21 A. According to what one reads here, yes. That  
22 is what is communicated.

1 Q. Okay. And she's apologizing for getting Omega  
2 caught up in the National Assembly investigation;  
3 correct?

4 A. Correct. That is how it is drafted.

5 Q. Thank you, sir.

6 MS. GORSLINE: Mr. President, I have just  
7 finished and moving on to something slightly different,  
8 so if now would be a good time for a break.

9 PRESIDENT SHORE: It was the question I was  
10 just about to ask you, Ms. Gorsline. Yes.

11 Let's take a 15-minute break.

12 Mr. Villalba, sir--

13 THE WITNESS: Yes, please, tell me.

14 PRESIDENT SHORE: During the break, because  
15 you are still giving testimony, please don't speak to  
16 anyone about the case.

17 THE WITNESS: Okay.

18 PRESIDENT SHORE: Thank you very much.

19 We are back in 15 minutes.

20 (Brief recess.)

21 PRESIDENT SHORE: Back on the record.

22 Ms. Gorsline.

1 MS. GORSLINE: Thank you, Mr. President.

2 BY MS. GORSLINE:

3 Q. Now, Mr. Villalba, could I ask you to look at  
4 Paragraph 31 of your Witness Statement, your First  
5 Statement.

6 A. Right.

7 Q. Okay. And there we already noted that you are  
8 talking about Omega Engineering submitting materials to  
9 show the legitimate purpose of the payments that went  
10 from Omega to PR Solutions to Reyna & Associates;  
11 correct?

12 A. Correct.

13 Q. Okay. And are you aware, sir, that the  
14 Organized Crime Prosecutor opposed the admission of  
15 that evidence into the investigation?

16 A. I did not know that.

17 Q. Okay. Could we look at Document C-217.

18 A. Okay.

19 Q. I moved away from my microphone. So, if we  
20 look at--and I'm going to ask that you be given some  
21 help finding this in the Spanish. The Spanish language  
22 begins on Page 7, and I believe the portion that I want

1 to look at first begins at the top of Page 8 for you.  
2 It's the top of Page 2 in English. And it says--I'm  
3 sorry, sir. Let me know when you're there.

4 A. Yes. Okay.

5 Q. It says: "Applicant presented evidence  
6 related to the preliminary sale of Property 35659  
7 located in Cañas, Tonosí, province of Los Santos, as  
8 well its existence in the Public Registry; that the  
9 property effectively corresponded to JR Bocas  
10 Investment Inc., a client of Reyna y Asociados;  
11 financial records of the payments to such company for  
12 the acquisition of such land and also the documents for  
13 the Project named Verdanza Residences proposed to be  
14 carried out, once this property was acquired, which  
15 consisted of a luxury residential development."

16 Do you see that, sir?

17 A. Correct.

18 Q. And then below that you see a heading that  
19 says "Second"; right?

20 A. Yes.

21 Q. Okay. And toward the middle of that very long  
22 paragraph, where it says "Second," we see--for me, it

1 begins at the bottom of Page 2 with "the Office of the  
2 Special Prosecutor for Organized Crime."

3 Do you see that?

4 A. Umm-hmm.

5 Q. And it says that the Special Prosecutor for  
6 Organized Crime alleges that: "This underscores the  
7 fact that the purpose of this investigation does not  
8 correspond determining if the contracts tendered by the  
9 Judicial Authority and awarded to several companies,  
10 inter alia, Omega Engineering Inc., were executed in  
11 strict compliance with regulations established to that  
12 end, whether or not they are valid and whether or not  
13 the works tendered have been completed or not."

14 Do you see that?

15 A. I do.

16 Q. And then it goes on to record that "the  
17 Office"--I'm sorry. I'm looking at the very last  
18 paragraph of that section: "Therefore, the Office of  
19 the Special Prosecutor."

20 Do you see that, sir?

21 A. Yes.

22 Q. "Therefore, the Office of the Special

1 Prosecutor for Organized Crime considers that the  
2 evidence presented by the defense is irrelevant because  
3 it does not correspond to the subject of discussion in  
4 this investigation before us."

5 Do you see that, sir?

6 A. I do.

7 THE INTERPRETER: Counsel, this is the  
8 interpreter, if you would be so kind as to tell me  
9 exactly where you're reading, like what sentence, that  
10 would help a lot. It's a little difficult to find the  
11 exact verbiage in the document.

12 MS. GORSLINE: Yes, I'll do my best. My  
13 apology.

14 THE INTERPRETER: Thank you very much, ma'am.

15 BY MS. GORSLINE:

16 Q. Okay. And then if you look at the very bottom  
17 on Page 5, in the English, which I believe will be the  
18 very bottom of Page 11 in the Spanish, we see that "the  
19 Court deems the motion of objection by Mr. Giovanni  
20 Olmos unproven." In other words, Mr. Giovanni Olmos is  
21 the lawyer for Mr. Rivera and Omega, and the Court here  
22 is denying the motion to admit the evidence.

1 Do you see that, sir?

2 A. In paragraph 31 of the statement?

3 Q. Repeat, please, what you just said.

4 A. I'm reading it right here, yes.

5 Q. Okay.

6 A. Okay.

7 Q. So, then turning back again to Paragraph 31 of  
8 your Witness Statement.

9 (Comments off microphone.)

10 Q. I'm sorry, sir, can you please repeat your  
11 last answer for the record?

12 A. Yes. I just read what you indicated me to  
13 read.

14 Q. Okay. On my screen, it is showing that the  
15 original answer was "I'm reading it right here, yes,"  
16 to the extent that makes a difference.

17 A. Yes.

18 Q. All right. Sir, could we turn to Paragraph 31  
19 of your First Witness Statement.

20 A. Okay.

21 Q. So, again, talking about the evidence  
22 submitted by Omega Engineering with respect to the land

1 transaction, you say at the bottom of Paragraph 31 of  
2 your Statement: "The Prosecutor's Office reviewed the  
3 materials submitted by Omega and conducted its own  
4 investigation"; correct?

5 A. Correct.

6 Q. Okay. I'd like to talk a little bit about  
7 that investigation. Let's turn to Paragraph 32 of your  
8 Statement, so the very next paragraph.

9 And you state there that: "On November 20, a  
10 special agent from the Prosecutor's Office visited the  
11 Office of Public Works and Construction for the Los  
12 Santos Province, where Tonosí is located."

13 Correct?

14 A. Correct.

15 Q. And that is November 20, 2015; right?

16 A. Correct.

17 Q. Okay. Now, let's--

18 A. November 2015; right? We would have to look  
19 at the document.

20 Q. All right. Well, we will look at the  
21 document, sir.

22 A. Okay.

1 Q. Let's turn to R-88.

2 A. Right.

3 Q. All right. So, we see here that this was done  
4 on November 20, 2015; correct?

5 A. Correct.

6 Q. And this is the Visual Inspection Report  
7 prepared by the investigators with respect to the  
8 search for a construction permit, which you're  
9 discussing in your Witness Statement; right?

10 A. Yes.

11 Q. Okay. Now, by this time, November 2015, you  
12 had already heard repeated testimony from multiple  
13 Witnesses that the land transaction had never closed  
14 because a dispute had arisen between the Parties over  
15 certain unfulfilled terms; correct?

16 A. Yes.

17 Q. Now, given that the transaction had not closed  
18 and that the Parties were in dispute, there was no  
19 reason to suspect at that time that any sort of permit  
20 applications for construction would have been filed,  
21 was there?

22 A. I don't know what the processing is. I don't

1 know the steps that need to be taken for these  
2 activities, which are residential in nature. I  
3 wouldn't be able to tell you what the procedure was in  
4 this regard because this is not my specialty.

5 Q. Okay. I understand, sir.

6 You didn't participate in this inspection, did  
7 you, sir?

8 A. No, I did not. I had knowledge of the outcome  
9 of the inspection, yes.

10 Q. Okay. So, you would have read this Report at  
11 some later time.

12 A. Yes. I describe it at 32.

13 Q. Yes. I see that, sir.

14 Now, this inspection, if we look at the top  
15 line of the document, it began at 9:20 in the morning.

16 Do you see that, sir?

17 A. Correct.

18 Q. And it was conducted by Secretary Alexis  
19 Rodriguez G.; correct?

20 A. Correct.

21 Q. And this Report tells us that after  
22 undertaking a review of the database in the civil works

1 and construction department for Los Santos Province,  
2 Secretary Rodriguez concluded that no process was  
3 carried out for the approval of a project titled  
4 "Verdanza Residences"; correct?

5 A. Correct. That is the outcome of this Report.

6 Q. Okay. And that outcome is unsurprising, given  
7 that the land transaction had never closed and the  
8 Parties were in dispute; correct?

9 A. You're asking me?

10 Q. Yes, sir, I'm asking you.

11 A. If I knew the procedure for the works here and  
12 what had to be commenced in connection with the  
13 construction permit, in connection with that, before  
14 the Agreements and everything else, and in accordance  
15 with the statement of Ms. Reyna, I don't think that  
16 would be consistent for me to say that because I don't  
17 know what the process is for these types of steps.  
18 Perhaps, that is why this inspection was taking place,  
19 to determine that.

20 Q. Okay. But you did testify about this  
21 inspection in your Witness Statement; right, sir?

22 A. I did. The outcome of the inspection.

1 Q. Okay. And I understand that you're not a  
2 construction expert, sir, but it stands to reason that  
3 one would not seek a construction permit before one  
4 even owned the land on which to construct; correct?

5 A. I don't know the procedure.

6 Q. Okay. Understood, sir.

7 Now, can you look back at Paragraph 33 of your  
8 First Witness Statement.

9 A. Right.

10 Q. Okay. And here, you're describing the  
11 investigator's inspection of the actual site where the  
12 Verdanza Residences would have been constructed had the  
13 sale closed; is that right?

14 A. I didn't say anything about if the sale was  
15 closed.

16 Q. Okay. Let's look at exactly what you do say  
17 because I don't want to misrepresent your testimony,  
18 sir. Okay. You say: "On the same day, the  
19 investigators went to the area where the Verdanza  
20 Residences were supposedly being developed."

21 Do you see that?

22 A. Correct.

1 Q. Okay. All right. Let's look at R-89.

2 A. Right.

3 Q. Okay. And this is the Visual Inspection  
4 Report for that site inspection that you discuss in  
5 your Witness Statement, isn't it, Mr. Villalba?

6 A. Yes.

7 Q. And if we look at the very top of the Report,  
8 we see that the inspection began at 10:30 in the  
9 morning; correct?

10 A. Correct.

11 Q. On Friday, November 20, 2015; right?

12 A. Correct.

13 Q. So, that's the same day as the permit  
14 inspection we just looked at; right?

15 A. Correct.

16 Q. And then if we look at the second and third  
17 line, we see that this inspection was conducted by  
18 Secretary Alexis Rodriguez G.

19 Do you see that, sir?

20 A. Yes.

21 Q. And that's the same secretary, Alexis  
22 Rodriguez G, who conducted the inspection permit;

1 correct?

2 A. Yes.

3 Q. And we know that that other inspection by the  
4 same person on the same day began at 9:20 a.m.

5 Do you remember that, sir?

6 A. Yes.

7 Q. Okay. So, if we account for traffic or at  
8 least the time it takes to get from one location to the  
9 other, at most, Secretary Alexis Rodriguez G spent  
10 maybe an hour looking for the permit. Is that fair?

11 A. I wouldn't be able to say that. We would have  
12 to look at the timelines and the location of each one  
13 of these sites. An hour roughly; from 9:20, that was  
14 the first one, and to 10:30, this was the one that came  
15 later.

16 Q. Okay. Thank you, sir.

17 Now, if we can look at Visual Inspection  
18 Report, which is R-89. If you look down--let's  
19 count--16. If you look in the 16th line of text, sir,  
20 we see that: "The investigators state that they were  
21 directed as to how to arrive at where Verdanza  
22 Residences was supposedly constructed."

1 Do you see that, sir?

2 A. Right.

3 Q. But no one had ever claimed that the Verdanza  
4 Residences were already constructed, had they?

5 A. There was a project.

6 Q. You were told--

7 A. There were steps taken to do the projects.

8 Q. Well, sir, I think we already established,  
9 haven't we, that you knew that the sale of the land had  
10 never closed; correct?

11 A. According to the testimony and the documents  
12 that you showed me before.

13 Q. Yes. And those were all documents that were  
14 in your investigation; correct?

15 A. Yes. Those were the testimonies and  
16 interviews with individuals.

17 Q. And you knew that the Parties were in dispute  
18 about the sale too, didn't you?

19 A. That's what they stated.

20 Q. Okay. But nobody had ever suggested that the  
21 Verdanza Residences had actually been built, had they?

22 A. On the basis of their testimonies and on the

1 basis of what they communicated.

2 Q. Well, sir, you didn't have any evidence that  
3 this potential development had been built, did you?

4 A. That is why the inspections took place.

5 Q. But you were inspecting for property that had  
6 already had development on it; correct?

7 A. No. The inspection is clear. The  
8 investigators went to the site to determine if  
9 allegedly there was development there or not. I think  
10 that this Report is clear. It says here for the  
11 purpose of conducting visual inspections, and this is  
12 required within the investigations as by this office,  
13 according to the document before--stated before. Once  
14 there, we were greeted for those purposes, and we let  
15 them know about why we were there, the purpose of  
16 there, and the purpose was to provide evidence of  
17 whether the construction was conducted or not.

18 Q. Sir, I agree with you, that it is clear that  
19 the investigators were looking for the location where  
20 "Verdanza Residences was supposedly constructed."

21 That's what it says; right?

22 A. Right. Correct.

1 Q. But every statement that every witness had  
2 given you made clear to you that no construction had  
3 ever begun because the sale hadn't even closed;  
4 correct?

5 A. According to their testimonies.

6 Q. So, any search of a constructed development  
7 was doomed from the start, wasn't it?

8 A. Possibly, but the purpose of this Report was  
9 to identify the location of the potential project that  
10 was going to be developed. And this is what I say at  
11 33. I talk about the outcome of this Report.

12 Q. Yes, you do, sir. Let's talk about that.

13 You say at Paragraph 33 of your Witness  
14 Statement that: "Despite multiple passes through the  
15 area, the investigators were not able to identify the  
16 specific location on which the Verdanza Residences were  
17 to be built."

18 Do you see that?

19 A. Correct.

20 Q. All right. Now, let's look at R-89, again,  
21 which should be the document that is already in front  
22 of you, sir.

1 A. Okay.

2 Q. And if we look at the very last sentence of  
3 that main paragraph of the document, it says: "It is  
4 important to note that overviews, (sic) photographs,  
5 were taken of the site and of our tour, and, therefore,  
6 the Report was considered closed by all the  
7 participating parties."

8 Did I read that correctly, sir?

9 A. Yes.

10 Q. So, the investigators took pictures of the  
11 site, according to this; right?

12 A. Yes. That is what's written there.

13 Q. So, clearly they were able to find it if they  
14 took pictures of it; correct?

15 A. Yes. This is what the drafting says.

16 Q. Okay.

17 A. Yes.

18 Q. And this is the official document of this  
19 visual inspection; correct, sir?

20 A. Yes, correct.

21 Q. All right. Now can you turn back to  
22 Paragraph 34 of your First Witness Statement, please?

1 A. Yes.

2 Q. Now, there, you note that a search was done to  
3 determine if Ms. Reyna was a registered real estate  
4 broker or land developer; correct?

5 A. Correct.

6 Q. Now can we turn to R-90, sir?

7 Do you have it, sir?

8 A. I do.

9 Q. All right. And there, if we look at  
10 Page 2--which I'm told is Page 4 of the Spanish; do you  
11 have it, sir?--we see in the English it is one, two,  
12 three lines down on Page 2. I believe it is the same  
13 in the Spanish.

14 We see it says: "After a review of its Excel  
15 database, Ms. Maria Gabriela Reyna Lopez, [REDACTED]  
16 [REDACTED], does not appear  
17 registered as real estate registrar."

18 Do you see that?

19 A. Yes, correct.

20 Q. Okay. But Ms. Reyna had never asserted that  
21 she was a real estate broker, had she?

22 A. I do not recall.

1 Q. Okay. Well, you knew she was a lawyer; right?

2 A. Yes.

3 Q. Okay. And she had never testified that she  
4 was a land developer, either, had she?

5 A. I know that she was following the steps. As I  
6 recall from the Statement, she was in charge of the  
7 various processes, but I don't recall whether at some  
8 point she said that she was a broker or a real estate  
9 registrar.

10 Q. Well, you knew she was a lawyer; correct?

11 A. Yes. She was an attorney. She was a lawyer,  
12 because I think she stated that at some point.

13 Q. Yeah. And she had also been clear that she  
14 was the registered agent for JR Bocas, which was the  
15 property owner; right?

16 A. If she said it in her statement. I just  
17 follow what she said in her statement.

18 Q. Okay. Now, I didn't see anywhere in your  
19 Witness Statements that the investigation attempted to  
20 verify whether or not JR Bocas owned the finca in  
21 question.

22 Did you do anything to try to verify that

1 JR Bocas owned the property in question?

2 A. Well, not me directly.

3 Q. Understood, sir. Are you aware of anybody  
4 else in the Prosecutor's Office doing that?

5 A. I don't think I have seen any inspection to  
6 that end. If there is any, you should show it to me.

7 Q. I haven't seen it, either, sir.

8 Are you--I also didn't see any mention in your  
9 Witness Statement that the Prosecutor's Office  
10 attempted to verify whether or not there was a mortgage  
11 on the property that needed to be cleared.

12 Are you aware if that was done?

13 A. I don't recall. And if there was, I would  
14 like to see the document.

15 Q. I don't have a document to show you, sir.

16 So, is it fair to say, based on your Witness  
17 Statements and what you've told us today, that the  
18 three things the Prosecutor's Office did to verify the  
19 legitimacy of the land transaction was to search for a  
20 construction permit; correct?

21 A. Correct.

22 Q. To conduct an inspection of the Property site

1 to see if there was any construction yet; correct?

2 A. Correct.

3 Q. And to do a search of an Excel file to see if  
4 Ms. Maria Gabriela Reyna was a real estate broker; is  
5 that correct?

6 A. Correct.

7 Q. Okay. And so, on that basis alone, the  
8 Prosecutor's Office determined that the land  
9 transaction was illegitimate?

10 A. At that stage in the investigation, the  
11 Prosecutor had not decided whether it was illegitimate  
12 or not. We were still working on it to determine that.  
13 There could have been others later on.

14 Q. Okay. Is your testimony today, Mr. Villalba,  
15 that you have no reason to conclude that the land  
16 transaction was illegitimate?

17 A. I am not the Prosecutor. I am not the one  
18 that had the power to decide, and if that was taken to  
19 a hearing, to be able to prove that, to evidence that,  
20 once the evidence is presented.

21 Q. Okay. Well, let me ask the question a  
22 different way.

1           When you left--strike that.

2           You left the Special Prosecutor's Office for  
3 Organized Crime in February 2016; correct?

4           A.     Correct.

5           Q.     And based on what you've just told us, at that  
6 time you had no reason to conclude that the land  
7 transaction between Punela and JR Bocas was  
8 illegitimate; correct?

9           A.     Illegitimate or not, I am not the person that  
10 had the power to determine that. Not at the time when  
11 we took the first steps. And we should recall--and  
12 here I should add that the unit, the unit I belonged to  
13 back then, was not only intended to provide support for  
14 this investigation, but also, at that point in time,  
15 that was not the only process underway. There were  
16 other processes that had to do with other accounts and  
17 also other practices that were underway. But at that  
18 point in time, that's the process that was underway up  
19 to the date and time when I was with the Prosecutor's  
20 Office.

21          Q.     Sir, can I ask you to turn to Page 3 of your  
22 Second Witness Statement?

1           A.     Okay.

2           Q.     All right.  And turning to--do you see the  
3 word "first" in the first line of that paragraph, sir?

4           A.     Yes.

5           Q.     Okay.  So, there, you--I'm jumping the gun  
6 again.  My apologies.

7                     There you say, sir:  "First, the evidence  
8 uncovered in the investigation of Justice Moncada Luna  
9 by the National Assembly and in the subsequent  
10 investigation of the Claimants conclusively proved that  
11 a portion of the money given to Claimants by the  
12 Judicial Authority was transferred by Omega Engineering  
13 through an intermediary into an account controlled or  
14 used for the benefit of Justice Moncada Luna, and that  
15 such money was then transferred through a series of  
16 intermediaries and was ultimately used by Justice  
17 Moncada Luna to pay, in part, for two luxury  
18 condominiums."

19                     Did I read that correctly?

20           A.     Correct.

21           Q.     How could the evidence have conclusively  
22 proved this, when you've just told us today that there

1 was no evidentiary basis as of February 2016 to  
2 conclude, as far as you're aware, that the real estate  
3 transaction between Punela and JR Bocas was  
4 illegitimate? How can this be, sir?

5 A. Based on the transactions that I describe  
6 here--and here I am referring to the flows and--the  
7 flow of cash at that point in time during the  
8 investigation--this is what the various transactions  
9 showed in connection with those funds, and also based  
10 on those cash flows, I include those descriptions.

11 Q. Yes, sir, but you agreed with me earlier that,  
12 upon your review of the elements for corruption, you  
13 became aware that that crime requires a showing of  
14 intent; correct?

15 A. I am referring to the transactions, financial  
16 operations; correct? So, in due course, the Prosecutor  
17 would have to require the relevant elements to prove  
18 corruption. Here, I am not talking about corruption, in  
19 particular, in a direct fashion. And this is not what  
20 we see in my description.

21 What I say is I am addressing first that the  
22 evidence uncovered in the investigations of Justice

1 Moncada Luna by the National Assembly and in the  
2 subsequent investigation of the Claimants conclusively  
3 proved that a portion of the money given to Claimants  
4 by the Judicial Authority was transferred by Omega  
5 Engineering through an intermediary into an account  
6 controlled or used for the benefit of Justice Moncada  
7 Luna.

8           So, my text is clear; I am not adding any  
9 additional element to what you just mentioned.

10          Q.    Okay.  Sir, I want to make sure I understand  
11 your testimony.  Your testimony is that your Report  
12 does not establish that there was any intent on the  
13 part of Omega to send money to Justice Moncada Luna; is  
14 that correct?

15          A.    My Reports and my Statement do not use those  
16 terms.  I never said in my Fact Report or in my  
17 Statements--I never said that there was no intent.

18          Q.    Well, sir, if the land transaction was  
19 legitimate, then that would show that there was no  
20 intent, wouldn't it?

21          A.    That had to be proven if all of the elements  
22 of evidence provided by Omega in the case of the

1 Projects, and also the diligence carried out at the  
2 beginning, because we also need to remember that the  
3 process, as far as I know, was suspended after I left.  
4 So, at that point in time, there could have been as  
5 part of the hearings other evidence that supported the  
6 theory presented or put forward by the Prosecutor.

7           So, I would not be in a position to determine  
8 on a preliminary basis, and I am not the person that  
9 has the power to do so. I am not an attorney. It is  
10 the judge, the one that validates the evidence  
11 presented at the inception of an investigation. As an  
12 analyst, I am not ready to determine whether the  
13 evidence is legitimate or not. That is determined at a  
14 subsequent hearing process.

15           Q.    Okay. And the reason for that is that in  
16 Panamá, as everywhere else, an accused is presumed  
17 innocent until proven guilty; correct?

18           A.    I think that that is a rule that you are more  
19 familiar with than I am with.

20           Q.    Okay. Why don't we look at a slightly  
21 different topic now, Mr. Villalba?

22           A.    Yes.

1 Q. Let's look at Paragraph 28 of your First  
2 Report. Now, we talked about this a little bit  
3 earlier.

4 Actually, I'm sorry. I referred you to the  
5 wrong paragraph. I want to look at 29. I'm sorry,  
6 sir.

7 A. Yes. Fine.

8 Q. And here is where you state  
9 that: "Investigations were started both by the  
10 Organized Crime and the Anticorruption Prosecutors";  
11 correct?

12 A. Yes.

13 Q. Okay. Now, it would appear that the  
14 Anticorruption Division was investigating because there  
15 was a suspicion that Omega had to have been involved in  
16 corruption when it acquired its contract with the  
17 Judicial Authority; is that correct?

18 A. Yes. It was not only corruption; I think that  
19 there were other potential--when they were called to be  
20 interviewed, I don't know if they mentioned other  
21 crimes, but I think we can look into that later.

22 Q. Okay. Now, your Report proceeds from the

1 basis that Omega took money from its Contract with the  
2 Judicial Authority and paid it to Justice Moncada Luna;  
3 correct?

4 A. Yes.

5 Q. And that is also the premise in your Witness  
6 Statements; right?

7 A. Yes.

8 Q. And the allegation is that that was some sort  
9 of corruption; right?

10 A. Moncada Luna was being accused of three  
11 offenses, so this was also--part also of the illicit  
12 enrichment. That was another additional crime that is  
13 also a precedent or a predicate of money laundering.

14 Q. Okay. But as I understand it, the Organized  
15 Crime Prosecutor was investigating money laundering;  
16 correct? That was your job?

17 A. Correct.

18 Q. Okay. Now, as part of the Prosecutor's  
19 Office's investigation, did you ever review the bid  
20 documents with respect to the La Chorrera Contract?

21 A. Yes. We were given part of all of the  
22 Contracts. All of the Contracts, we did do that. And

1 the information was provided through the Judiciary, I  
2 think; the Ministry of Economy and Finance, that also  
3 had information on this topic; and I think it was also  
4 provided by the Office of the Comptroller General.

5 Q. Okay. So, you received the Contracts.

6 Did you receive the documents pertaining to  
7 the bidding process?

8 A. Yes, I did see part of the documents. They  
9 were not so much related to the bidding as to the  
10 Order to Proceed, the main documents, the resolutions.  
11 But, as such, in the bidding process and its documents,  
12 that is not something that I had access to, to be able  
13 to review all that. But the main part ones, the  
14 Contract was awarded, and also payments related to the  
15 Contract, yes, that was analyzed by the unit.

16 Q. Okay. You didn't think it was important to  
17 determine if the Contract had been won through a  
18 transparent and legitimate bidding process?

19 A. We were given the document once it was  
20 awarded, and also the Order to Proceed that was offered  
21 by the Comptroller. So, we were given that document,  
22 too.

1 Q. Yes. But I'm not asking about the Contract.  
2 I'm asking about the documents related to the bidding  
3 process and whether or not Omega won its contract with  
4 the Judiciary fairly and transparently.

5 Did you ever investigate that?

6 A. It was not part of my analysis to verify the  
7 contracting process, whether it took place as you  
8 mentioned. I assume that once the process was  
9 determined, and also the Order to Proceed, that must  
10 have met an administrative process, including the law,  
11 the Regulations that also developed all of the steps to  
12 be followed.

13 Q. So, is it your assumption, then, Mr. Villalba,  
14 that the Contract was won fairly and transparently by  
15 the Omega Consortium?

16 A. If the Comptroller's Office grants the Order  
17 to Proceed, everything must have been reviewed, all of  
18 the earlier processes. So, this is the power of the  
19 Comptroller's Office, to review all of the processes  
20 and observance of the processes.

21 Q. Okay. So, in your view, if the Comptroller  
22 General endorsed the Contract, that means it was

1 legitimately acquired; is that fair?

2 A. I could say that there was--due process was  
3 followed so far.

4 Q. Okay. Now, are you aware, sir, that there  
5 were four bidders for the La Chorrera Project?

6 A. I think I saw a document that indicated that  
7 there were other bidders. I think I did see a  
8 document.

9 Q. Okay. I can show it to you, if you want, but  
10 that's your recollection: There were four bidders  
11 total?

12 A. I didn't say four. I would say others. I  
13 said that there were others.

14 Q. Okay. Well, why don't we look at it? Because  
15 I don't want to--

16 PRESIDENT SHORE: Yes, look at it, and give me  
17 90 seconds for a comfort break while you look at it.

18 (Comments off microphone.)

19 PRESIDENT SHORE: Back on the record.

20 Ms. Gorsline?

21 MS. GORSLINE: Thank you, Mr. President.

22 BY MS. GORSLINE:

1 Q. So, Mr. Villalba, turning to Exhibit C-83,  
2 this document is the Report of the Evaluating  
3 Commission for the La Chorrera Contract for the  
4 Judiciary.

5 And if you look at the first page, which in  
6 the Spanish is Page 4 of this document, you can see  
7 that there were four bidders for this Contract;  
8 correct?

9 A. Correct.

10 Q. And that the Omega Consortium's bid was the  
11 lowest by almost \$1 million; right?

12 A. Yes. According to the figures that are shown  
13 here, yes.

14 Q. Okay. Then, if we look at the bottom of page,  
15 we see that there was a verifying commission of three  
16 different Judicial body employees?

17 Do you see that? Their names are listed at  
18 the bottom.

19 A. Three persons?

20 Q. Yes.

21 A. Okay.

22 Q. Do you see that, sir?

1       A.    Yes, I do, where it indicates the three  
2 persons.

3       Q.    Yes.  And it says that their job was--to  
4 evaluate the technical and financial proposals of the  
5 proposing companies, a Verifying Commission was  
6 appointed which was made of the following clerks of the  
7 Judiciary body; right?  That's what it says there?

8       A.    Yes, that's Point B, to evaluate the technical  
9 and economic bids.

10      Q.    Yes.  Now, it's fair to say, isn't it, that if  
11 Mr. Moncada Luna was to rig the bid for the La Chorrera  
12 Contract, he would need the involvement of the Bidding  
13 Commission, wouldn't he?

14      A.    Could you repeat the question, please?

15      Q.    Let me ask it another way, Mr. Villalba.

16            It was the job of the Vetting Commission to  
17 evaluate the proposals and to make a recommendation as  
18 to the winner; correct?

19      A.    Yes, that was the job of the Vetting  
20 Commission.

21      Q.    Yes.  And let's turn to the very last page of  
22 this document, which is Page 7 in the Spanish.  And we

1 can see there that the Vetting Commission chose the  
2 Omega Consortium as the winner of the bid, not just  
3 based on the lowest price, but also because the Omega  
4 Consortium had the maximum possible amount of points to  
5 be awarded.

6 Do you see that, sir?

7 A. Yes, I do see that.

8 Q. Alright. And I will represent to you that the  
9 evidence also shows that Justice Moncada Luna awarded  
10 the bid to Claimants upon the evaluation of the Vetting  
11 Commission.

12 So, my question, sir, is this: Isn't it true  
13 that, in order for Justice Moncada Luna to rig the bid,  
14 he would have needed the involvement of the Vetting  
15 Commission?

16 MR. WEISBURG: Objection. I don't accept that  
17 representation.

18 PRESIDENT SHORE: Do you want to explain  
19 before?

20 MR. WEISBURG: What the question says: "I  
21 will represent to you that the evidence also shows that  
22 Justice Moncada Luna awarded the bid to Claimants upon

1 the evaluation of the Vetting Commission."

2 That looks into Mr. Moncada Luna's head, and  
3 we don't have evidence of what's inside his head, other  
4 than his conviction and his guilty plea, et cetera.

5 So, I don't think--this assumes a huge fact  
6 which is in dispute.

7 MS. GORSLINE: Mr. President, if I may. That  
8 huge fact that you state is in dispute is actually in  
9 the testimony of your own Witness, Ms. Vielsa Ríos. We  
10 included it in our Opening Presentation.

11 MR. WEISBURG: Fine. Then present it to us,  
12 but I don't think we can have summary in question of  
13 some huge matter in dispute here.

14 PRESIDENT SHORE: So, why not put the question  
15 as to taking it from the Ríos testimony rather than  
16 you, Ms. Gorsline, asserting it as a given, accepted  
17 fact, and then put it to the Witness in that way.

18 MS. GORSLINE: Yes, sir.

19 BY MS. GORSLINE:

20 Q. Could we have the Witness Statements of  
21 Ms. Ríos put in front of the Witness, please.

22 All right. Can we please turn to the First

1 Witness Statement of Ms. Vielsa Ríos.

2 Paragraph 12, sir. All right. Do you see  
3 Paragraph 12, Mr. Villalba?

4 A. Yes, I'm taking a look at it.

5 Q. It says: "On October 17, 2012, Justice  
6 Moncada Luna, taking into consideration the Report from  
7 the Evaluation Commission designated to evaluate the  
8 companies that participated in the public act, selected  
9 Omega as the Contractor for the La Chorrera Project  
10 and, at Justice Moncada Luna's direction in accordance  
11 with the law of public contracts, the Judicial  
12 Authority executed the La Chorrera Contract with Omega  
13 on November 22, 2012."

14 Do you see that, sir?

15 A. Yes, I do see it.

16 Q. And it's clear from the Report of the  
17 evaluating commission that we just looked at that Omega  
18 had both the lowest bid and the highest score; correct?

19 A. Yes.

20 Q. So, my question, sir, is if Justice Moncada  
21 Luna attempted to rig the bid in favor of Omega, he  
22 would have needed the involvement of the bidding

1 commission; correct?

2 A. Giving an answer that he could or could not  
3 would be very subjective. How can I determine that the  
4 bid went through an administrative process and now  
5 determining that it was or was not rigged.

6 Q. Sir, you just testified--

7 PRESIDENT SHORE: You're allowed to give a  
8 subjective response. It is your testimony,  
9 Mr. Villalba. You can answer that question--hang on,  
10 hang on, hang on, sorry. You can answer the question  
11 that counsel posed to you.

12 THE WITNESS: From what is observed, yes, the  
13 statement itself and the documents that have been shown  
14 complied with the proceeding--procedure, rather.

15 BY MS. GORSLINE:

16 Q. Thank you, sir.

17 Now, as part of the National Assembly  
18 investigation into these matters, did you ever  
19 interview all three members of the Bidding Commission?  
20 And when I say "you," I mean the investigators.

21 A. Well, while I was there, as far as I recall  
22 any interviews being done of the members, I don't

1 remember that being done. Unless there is some  
2 statement by them, but as far as I recall, no.

3 Q. And just to be clear, the members of the  
4 Vetting Commission for the La Chorrera Contract were  
5 never investigated, were they?

6 A. As long as I was there and based on what I  
7 recall.

8 Is there some document that states otherwise?

9 Q. No, sir. I have no such document.

10 A. They were not part of that inquiry at some  
11 point in time. Or at any point in time.

12 Q. Thank you, sir.

13 A. Okay.

14 Q. I'd like to turn now to your Report, but  
15 first, do you recall your agreement earlier that money  
16 laundering requires a predicate offense; correct?

17 A. Yes. A related crime.

18 Q. Yes. Well, it has to--you have to prove that  
19 the money being laundered was illegitimate; correct?

20 A. Yes.

21 Q. Yes. And that would require some type of  
22 intent on the part of Mr. Rivera or Omega to pay money

1 to Justice Moncada Luna, wouldn't it?

2 A. Possibly. It depends on the conduct.

3 Q. Are you saying that Mr. Rivera or Omega could  
4 be guilty under Panamanian law simply by transferring  
5 legitimate money from one bank account to another?

6 A. At that time, we are looking at the  
7 possibility that that might be the case. One would  
8 have to go forward with the investigations to be able  
9 to determine more elements, if necessary.

10 Q. Well, one of those elements would be intent,  
11 wouldn't it?

12 A. Yes. And I have heard that said quite a bit.

13 Q. Okay.

14 A. I've heard you say that quite a bit.

15 Q. Well, sir, I've been asking you questions.  
16 You agreed with me, didn't you?

17 A. With your questions? Have been in agreement  
18 with your questions?

19 Q. I think we'll just move on, Mr. Villalba.

20 Now, as we discussed, you have no evidence of  
21 any irregularities in the bidding process for  
22 La Chorrera; right?

1           We just discussed that.

2           A.     What came to us, I repeat, were the documents  
3 of all that had been done, the payments received by the  
4 contracting Parties. There were several of them at  
5 that exact moment. I'm saying this in the general  
6 context of the overall investigation, and that is what  
7 came to us at that moment. And that was also in the  
8 Office of the Prosecutor on Organized Crime.

9           And what was sought to be done once we had  
10 that information--and I think I included this in one of  
11 my Statements--is where were those funds deposited,  
12 into which accounts, and there we continued the trail,  
13 tracking the funds, both for acquisition of the  
14 accounts.

15           PRESIDENT SHORE: That wasn't the question  
16 posed to you. The question posed to you--please focus  
17 on.

18           Was there any evidence of irregularities in  
19 the bidding process? Counsel just asked you to confirm  
20 that you're not aware of any evidence of irregularities  
21 in the bidding process.

22           THE WITNESS: They just gave us the documents

1 of everything that had been done in the proceeding and  
2 that was approved by the agencies that were part of the  
3 process.

4 BY MS. GORSLINE:

5 Q. Yes. And I believe you told us a little while  
6 ago that your presumption is that if the Comptroller  
7 General signed off on a contract and endorsed it that  
8 that meant that everything was legitimate; correct?

9 A. Up until that time, the whole procedure,  
10 complying with--if one complies with due process and  
11 there is not, I assume, any complaint by any other  
12 contractor and the first payments were then made, then  
13 I think that phase of the contracting process had  
14 culminated with that order to proceed in a satisfactory  
15 manner.

16 Q. All right. Mr. Villalba, can you please turn  
17 to R-62, which is your Report in the Organized Crime  
18 Prosecutor's investigation.

19 A. Yes, I have it right here.

20 Q. All right. So, if you can try to keep that  
21 open in front of you but also turn back to your Second  
22 Witness Statement in this case at Paragraph 6.

1           Are you there, sir?

2           A.    Yes, I am.

3           Q.    Okay.  And you say:  "Evidence collected by  
4 the National Assembly and the Public Prosecutor's  
5 Office clearly shows that Justice Moncada Luna was the  
6 beneficiary of at least \$275,000 in payments from Omega  
7 Engineering."

8           Did I read that correctly?

9           A.    Yes.

10          Q.    Okay.  Now, I would like to turn to Page 21 of  
11 your--excuse me, Paragraph 21 your First Witness  
12 Statement.

13          A.    Correct.

14          Q.    So, in Paragraph 21, you describe in April and  
15 May of 2013 a series of transactions with [REDACTED]  
16 going from Reyna & Associates to Sarelan Corporation;  
17 correct?

18          A.    Correct.

19          Q.    Okay.  And then if we look at Paragraph 23 of  
20 your First Witness Statement, you describe a series of  
21 transactions in July 2013 which you say resulted in  
22 \$150,000 going from Omega to Reyna & Associates to

1 Sarelan Corporation; right?

2 A. Correct.

3 Q. And specifically in the first bullet in that  
4 paragraph at the top of Page 9, you say: "On July 10,  
5 2013, the Judicial Authority made a payment of USD  
6 [REDACTED] to Omega Engineering for work on the  
7 La Chorrera Project"; correct?

8 A. Correct.

9 Q. And then in the next bullet you talk about  
10 [REDACTED] going from Omega to PR Solutions--correct?--on  
11 July 12?

12 A. Correct.

13 Q. Then you record 250,000 going from  
14 PR Solutions to Reyna & Associates; right?

15 A. Correct.

16 Q. And then you say that on July 17 and 18, Reyna  
17 & Associates issued two cashier's checks in the amount  
18 of \$75,000 each payable to Sarelan; right?

19 A. Correct.

20 Q. And ultimately you conclude that 130,000 of  
21 that money was used to pay Desarrollo Coco del Mar for  
22 an apartment owned by Justice Moncada Luna's wife;

1 right?

2 A. Correct.

3 Q. So, your testimony in this Arbitration is  
4 that, with respect to the July transactions, \$150,000  
5 of PR Solutions' money went to Sarelan and was used to  
6 pay \$130,000 toward the purchase of an apartment on  
7 behalf of Justice Moncada Luna; correct?

8 A. Correct.

9 Q. All right. Now, let's please look back at  
10 R-62, which is your 2015 Report.

11 Are you there, sir?

12 A. Sure.

13 Q. Now, this Report contains your conclusions  
14 from June 2015, based on the evidence that was gathered  
15 in the National Assembly investigation; correct?

16 A. Yes.

17 Q. And that is the same evidence that  
18 Mr. Aguirre's March 2015 Report relied on, isn't it?

19 A. Yes.

20 Q. Okay. Sir, can you please turn to Page 32 of  
21 your Report, which I'm told is Page 106 in the Spanish.

22 Well, again, I should be clear, 32 is the

1 number at the bottom right. That should be the same in  
2 Spanish, but if you're looking at the record number, it  
3 is 106.

4 A. Correct.

5 Q. Actually, sir, first, let's look one page  
6 early, at Table A1.

7 Do you see that?

8 A. Yes.

9 Q. And there this chart, Table A1, is showing  
10 \$130,000 going from Sarelan through Summer Venture to  
11 Desarrollo Coco del Mar for the apartment; correct?

12 A. Correct.

13 Q. And that is the same transaction that you  
14 describe in your Witness Statement; right?

15 A. Yes.

16 Q. Now, I'd like to turn to Table A2, which is on  
17 the next page.

18 A. Yes.

19 Q. And this table is telling us what the sources  
20 of that \$130,000 payment are; correct?

21 A. Correct.

22 Q. Okay. And we see here that you attribute it

1 to two sources; right? The first one--

2 A. Correct.

3 Q. I'm sorry, sir. I'll try really hard not to  
4 interrupt you.

5 The first source is a \$125,000 transfer from  
6 Reyna & Associates on June 12, 2013.

7 Do you see that?

8 A. Yes.

9 Q. And the second source is \$75,000 transferred  
10 from Reyna & Associates on July 18, 2013; correct?

11 A. Correct.

12 Q. Now, if we look a little further down the page  
13 to Table A3, we see where Reyna & Associates received  
14 that money, don't we?

15 A. Correct.

16 Q. And we see at the bottom that the \$75,000 in  
17 July, according to you, came from the \$250,000 from  
18 PR Solutions that was also transferred in July.

19 Do you see that?

20 A. Correct, yes.

21 Q. But the \$125,000 transfer from June, you  
22 attribute to Alexandre Tchervonnyi and it transferred

1 to Reyna & Associates of \$200,000; correct?

2 A. Yes.

3 Q. Now, in your current testimony, you don't  
4 mention Mr. Tchervonnyi at all, do you?

5 Sir, we can look back?

6 A. At Point 23.

7 Q. Yes, sir.

8 A. Yes.

9 Q. Yes, meaning you do not mention  
10 Mr. Tchervonnyi at all?

11 A. No, I don't mention him.

12 Q. In fact, in Paragraph 23 of your Report, you  
13 say that the entire \$130,000 mortgage payment  
14 originated from Omega, don't you?

15 A. The point indicates that.

16 Q. So, your financial analysis in June--

17 A. I'd like to clarify this point.

18 Q. Of course.

19 A. Because you say that I say the total was from  
20 Omega. The point indicates on the 17th and 18th of  
21 July 2013, Reyna y Asociados issued two checks,  
22 cashier's checks, in the amount of \$75,000 each payable

1 to Sarelan Corporation. These cashier's checks were  
2 deposited into the Sarelan Corporation account.

3 The next point indicates on 18 July, Sarelan  
4 Corporation--here we're in the account of Sarelan  
5 Corporation, which is reflected in Table A2,  
6 transferred USD 130,000 to an account at Universal Bank  
7 of Summer Ventures. There, there is no description. I  
8 am not saying that all of the 130,000 come from Omega.

9 Q. Sir, can you please turn back to the beginning  
10 of Paragraph 23 of your First Witness Statement.

11 There you say: "On July 10, 2013, Omega  
12 Engineering received a [REDACTED] advance payment from  
13 the Judiciary for work on the La Chorrera Project. We  
14 were able to trace [REDACTED] of that money to an account  
15 that was used to make payments on the PH Santorini  
16 apartment."

17 So, with respect, sir, you do say that the  
18 full 130,000 is attributed to Omega in your Witness  
19 Statement?

20 A. I say we were able to track \$130,000 of that  
21 money in an account that was used to make the payment  
22 for the PH Santorini apartment. We were able to trace

1 \$130,000. At no time is there a description that this  
2 is a reference to the entirety. It was possible to  
3 track 130,000 that were directed to payment of PH. And  
4 so, there is a description as to the form.

5 Q. Sir, is it your testimony as you sit here  
6 today that not all of the \$130,000 can be attributed to  
7 Omega?

8 A. According to the Report, one can clearly  
9 observe at this point of the transaction that two  
10 deposits were made on the 17th and 18th, as I describe  
11 correctly, and in Table 3, well, it clearly  
12 reflects--Table 3 clearly reflects that once the funds  
13 were received at the Reyna y Asociados account, then  
14 she made a deposit on 17 July 2013 for \$75,000 once,  
15 having received from Omega, the sum of 250,000.

16 After that, there's a description in the  
17 table--well, once Sarelan receives the 75,000 from  
18 Reyna y Asociados, they are dispersed through  
19 transfers. 130,000 is disbursed that goes to Summer to  
20 then buy the cashier's checks.

21 Q. Yes, sir. I understand all that. I also  
22 understand that your Table A3 clearly shows that you

1 are attributing \$125,000 coming out of Reyna's account  
2 and into the Sarelan account as being from someone  
3 named Alexandre Tchervonnyi, aren't you?

4 A. There are other additional deposits that Reyna  
5 makes into the account of Sarelan for 125,000, exactly,  
6 just a few days earlier. These are the \$120,000 that  
7 you've described.

8 Q. Sir, it's also true that your Table A3 shows  
9 only 75,000 of Omega's money going to Sarelan, not  
10 150,000, as you say in your Expert Report; correct?

11 A. 150,000? Where does it say 150,000?

12 Q. Sir, let's look at Paragraph 23 of your First  
13 Witness Statement. And I apologize; you are not an  
14 Expert Report, I should have not...

15 You are not an expert in this proceeding. I  
16 should not have called it your Expert Report.

17 A. Where does it say 150,000?

18 Q. Are you at Paragraph 23, sir?

19 A. I am.

20 Q. All right. If we look at the fourth bullet in  
21 that paragraph, so it's on Page 9 of the English, you  
22 say--

1 A. Yes.

2 Q. "On 17 June 2013, and July 18, 2013,  
3 Reyna y Asociados issued two cashier's checks each in  
4 the amount of \$75,000 payable to Sarelan Corporation."  
5 Two \$75,000 checks would be \$150,000; correct?

6 A. That's correct. That's what happened.

7 Q. Well, sir, if we look at Table A3 in your 2015  
8 Report, that is not what you are describing as having  
9 happened? Is it, sir?

10 A. Under the two deposits, again, Omega--the two  
11 deposits. The preliminary Report describes in  
12 practical terms the flows of money that were used  
13 directly for the acquisition of the two PHs. That's  
14 what it describes. The deposits made by Omega to Reyna  
15 and then, later on, after Reyna received those  
16 deposits, and in this specific case on the 17th and  
17 18th of July, well, those were for \$75,000. \$75,000  
18 went directly to Sarelan.

19 That was the account that, according to the  
20 theory of the case by the Prosecutors, was directly  
21 related to Justice Moncada Luna. Both deposits were  
22 received directly by Sarelan. Let me explain. I'm

1 coming there, because you're looking at a different  
2 part of the Report.

3 At Page 21 of the Report, a description is  
4 made of those \$75,000 that you are making reference to.  
5 Once that deposit was received, Reyna & Associates--and  
6 I'm talking about the one of the 18th of July--the  
7 first 75,000 was 17th of July were used for the  
8 purchase and the transfer of the \$130,000.

9 The other 75,000, that were part of deposits  
10 made to Reyna's account, once the \$250,000 were  
11 received by Omega, well, those funds were used for a  
12 different purpose. And I describe this in my Report.  
13 This, once the deposit was received by Sarelan, and  
14 that was made by the judge.

15 Let me look at this page.

16 Q. Sir, I believe you're referring to page--

17 (Overlapping speakers and interpretation.)

18 A. If you look at Page 53 of the Report, you'll  
19 see there the destination of those \$75,000 that were  
20 deposited into the Reyna y Asociados account on  
21 18 July. The one done on the 17th went directly to the  
22 account used for the purchase. This by the judge and

1 Sarelan Corporation, and the other \$75,000 that Sarelan  
2 Corporation had at its disposal, this was done on 18  
3 July. This is what the table at Page 53 shows. It  
4 shows how those funds were used after the deposit was  
5 made by Omega to Reyna & Associates. That's it.

6 Q. Yes, sir. And I would appreciate it if you  
7 just try really hard to answer my question, because  
8 I've let you explain many times now, and my time is  
9 getting short. Okay?

10 MR. WEISBURG: Objection. The Witness is  
11 entitled, as the Tribunal has said repeatedly, to  
12 complete his answer.

13 PRESIDENT SHORE: We'll monitor it from here  
14 on in. We've given this particular Witness some  
15 particular latitude, which is ending now.

16 BY MS. GORSLINE:

17 Q. Now, Mr. Villalba, if we look at the table  
18 which is marked Table A on Page 53. Are you there,  
19 sir? It is where you just referred us.

20 A. Okay.

21 Q. We see there that you attribute the \$75,000  
22 going to Sarelan as coming from Reyna & Associates;

1 correct?

2 A. Yes, correct. That's the date when the  
3 deposit was made.

4 Q. Sir, you don't in any way attribute that money  
5 as having come from PR Solutions on Page 53 or 54 of  
6 your Report, do you? You're making that argument  
7 today, but you never said that in 2015 in your Report,  
8 did you?

9 A. The deposits were made. We have annexes and  
10 we find there that those deposits were received by...

11 Q. Sir, please show me in your Report from 2015  
12 where it records the second \$75,000 that you attribute  
13 to PR Solutions. Where is that, sir?

14 A. Well, the movement later on to Sarelan is not  
15 described in precise terms. The flow of monies was  
16 related to a fixed-term deposit, a term deposit under  
17 the name of Corporación Luxol.

18 Here, we see deposits made to a number of  
19 accounts, amongst them Reyna & Asociados in 2013, 17  
20 July 2013, and perhaps we could look at the statements  
21 of account of the day prior to the 18 July 2013  
22 deposit. That is why in my First Report, in my

1 first--well, first, when the property was acquired, we  
2 only see the way in which the \$130,000 were used to  
3 purchase the property.

4 Q. Sir. We will look at those bank statements in  
5 a moment, but, right now, I would like you to just  
6 answer my question.

7 A. Okay.

8 Q. Okay. Nowhere in your 2015 Report do you  
9 attribute a second \$75,000 transfer to Sarelan as  
10 originating from PR Solutions, do you?

11 A. I only show the one that was used for the  
12 purchase of the property, for the payment of the  
13 property. That portion of the money that was used for  
14 that purpose.

15 Q. Sir, if we look at Page 52 of your 2015  
16 Report, which is R-62, for the record.

17 Actually, beginning on Page 51, we see that  
18 you were talking about money in the amount of  
19 \$1 million, which was put into a fixed-term deposit;  
20 correct?

21 A. Yes, correct.

22 Q. You are not talking here about money that was

1 used to purchase apartments; correct?

2 A. Yes. In the first part where we describe  
3 that, the \$75,000. Here, I was only talking about the  
4 funds that were used for the fixed-term deposit.

5 Q. Exactly.

6 A. That's all I wanted to say.

7 Q. Yes. Exactly.

8 You're not talking about the apartments in  
9 this portion of your award--or your Report. Excuse me,  
10 your 2015 Report; correct?

11 A. Exactly. That's correct.

12 Q. Okay. And when you attribute the \$75,000  
13 that's used for the million-dollar fixed-term deposit,  
14 you attribute it, on Page 53, as coming from  
15 Reyna & Associates; correct?

16 A. 19 July 2013? Is that what you're referring  
17 to?

18 Q. Yes. Yes. You attribute it to  
19 Reyna & Associates.

20 (Overlapping speakers and interpretation.)

21 A. They come from Reyna & Associates.

22 Q. Yes. Now, can we please turn to your First

1 Witness Statement at Paragraph 23?

2 A. Paragraph 23, you said?

3 Q. Paragraph 23, yes. And if we look at bullet  
4 point 4, 5, and 6, there you describe \$150,000, two  
5 \$75,000 payments--not one--going to Sarelan, and  
6 Sarelan then taking \$130,000 of that money and  
7 transferring it to Summer Venture, which then  
8 transferred it on to Coco del Mar for the apartments;  
9 correct? Actually, we need to look at the final  
10 bullet, which is bullet 7.

11 You don't mention a fixed-term deposit of  
12 \$1 million anywhere in your Witness Statement, do you?

13 A. No, because here we're only talking about the  
14 monies related to the payment and acquisition of the  
15 apartment.

16 Q. Yes. So, let's turn back to paragraph--excuse  
17 me, to R-62, which is your Report, and let's look at  
18 Page 32, Table A3.

19 And there you are saying--again, if we look at  
20 Table A2 at the top, we see the 130,000 for the  
21 apartment, and if we look at the bottom of the page at  
22 Table A3, you're saying that that \$130,000 was made up

1 of \$75,000 only, from PR Solutions, and \$125,000 from a  
2 Mr. Alexandre Tchervonnyi; correct?

3 A. Correct.

4 Q. And just to be clear, you never investigated  
5 Mr. Alexandre Tchervonnyi, did you?

6 A. We were never able to identify the individual.  
7 Likewise, when Reyna was asked about it, she was unable  
8 to provide an answer that was satisfactory as to who  
9 this individual was, as far as I can remember.

10 Q. So, in 2015, you determined that  
11 Mr. Tchervonnyi had been a part of the movement of  
12 money to Mr. Moncada Luna that you were investigating,  
13 and now, because you can make no proof with respect to  
14 Mr. Tchervonnyi, you're simply attributing all of that  
15 to Omega; isn't that true?

16 A. Tchervonnyi? Who is he?

17 Q. Mr. Villalba, we just talked about  
18 Mr. Tchervonnyi. He's listed in Table A3 of your  
19 Report at Page 32.

20 A. Alexander, yes. What was the question, again,  
21 about him?

22 Q. The question is: You've admitted, that in

1 2015, you say you were unable to investigate him;  
2 correct?

3 A. We were unable to determine who this  
4 individual was.

5 Q. Okay. So, now to avoid that problematic  
6 issue, you're simply saying that Omega contributed all  
7 of the money; is that correct?

8 A. The part of those monies, according to what  
9 the table says.

10 Q. Yes, but we've already established that this  
11 table in your 2015 Report is different from  
12 Paragraph 23 in your current Witness Statement, haven't  
13 we?

14 A. We are talking about the \$75,000, and, again,  
15 I will hold my statement to the \$75,000 amount. There  
16 were two deposits made, but one of those was later on  
17 destined to the payment of the purchase of one of the  
18 PHs.

19 Q. So, Paragraph 23 of your First Witness  
20 Statement is wrong?

21 A. Not at all. In total, Omega, disbursed to  
22 Reyna \$250,000 -- well, after Reyna received the

1 \$250,000, she made two disbursements for 75,000. This  
2 is described here. According to the Report prepared,  
3 the Report highlights that, out of that amount, once it  
4 was deposited, well, it indicates the amount used to do  
5 the transfer to the other account and to purchase the  
6 cashier's check that was the amount of \$75,000. The  
7 other one was registered under Sarelan Corporation  
8 later on.

9           So, in total, after the deposits were made to  
10 the Reyna account by Omega--so, we had 75--two checks  
11 for \$75,000. Before one of those payments, a transfer  
12 was made for \$130,000.

13       Q.    Mr. Villalba, I think the Tribunal is able to  
14 decide for itself if your Witness Statement is or is  
15 not consistent with your Report, and I think we should  
16 move on.

17       A.    Right.

18       Q.    All right, sir. Now, you testified earlier  
19 that you had read Mr. Aguirre's Report; correct?

20       A.    Correct.

21       Q.    And Mr. Aguirre's Report was issued three  
22 months before yours; correct?

1 A. I think it was way before, yeah.

2 Q. Yeah. Well, Mr. Aguirre's Report was  
3 March 2015, and yours was June 2015; correct?

4 A. Correct.

5 Q. Okay. And you've already testified that  
6 Mr. Aguirre's Report was based on the same evidence as  
7 your Report; correct?

8 A. Correct.

9 Q. Okay. So, then, you are aware, aren't you,  
10 that Mr. Aguirre's Report makes no mention of  
11 Mr. Alexander Tchervonnyi and his payments to  
12 Reyna & Associates and, instead, focuses exclusively on  
13 Omega.

14 Are you aware of that, sir?

15 A. Correct.

16 Q. Okay. Now, you had seen Mr. Aguirre's Report  
17 when you created your June 2015 Report; correct?

18 A. Exactly.

19 Q. Yeah. And, yet Mr. Aguirre's financial  
20 transaction analysis and your financial transaction  
21 analysis are different, aren't they, sir?

22 A. They have different focuses. Mine was more

1 general in nature, the one that I submitted to the  
2 Prosecutor, it was more general. It included all of  
3 the operations. I think Aguirre's Report focused on  
4 the traces that were directly related to Omega.

5 Q. Okay. So, your testimony is that your 2015  
6 Report was broader and contained additional information  
7 than Mr. Aguirre's Report; correct?

8 A. Yes. As the Report says itself, this was a  
9 factual Report. It had to do with things in general.  
10 It didn't really have anything specific.

11 Q. I'm sorry. Which Report didn't really have  
12 anything specific? Are you saying Mr. Aguirre's Report  
13 didn't have anything specific?

14 A. No. Aguirre's Report was more specific in  
15 connection with some suppliers, not only in the case of  
16 Omega. You will find there are other suppliers. He  
17 took specific suppliers. My Report provides a  
18 compendium of things, not only in connection with how  
19 the payments were made for the acquisition of the PH  
20 and other things, but it also shows other events that  
21 have nothing to do with Omega, but events that were  
22 related to the investigation.

1           In the case of Aguirre, well, he was more  
2 specific in connection with certain points.

3           Q.    Okay.  So, your Report is more informed and  
4 more reliable than his Report?  Is that fair to say?

5           A.    I would not be able to state that.  He had  
6 certain instructions under contract, and I think he, in  
7 his Report, set forth the purpose of his Report.

8           PRESIDENT SHORE:  Ms. Gorsline, in a couple  
9 minutes, if you can get to a good closing spot.

10          MS. GORSLINE:  In order to break for lunch,  
11 sir?  Or--

12          PRESIDENT SHORE:  Yes.  Break for lunch.

13          MS. GORSLINE:  Okay.

14          BY MS. GORSLINE:

15          Q.    All right.  Is it fair to say, Mr. Villalba,  
16 that you intentionally changed your financial  
17 transaction analysis from what you saw in Mr. Aguirre's  
18 Report because you felt there were additional details  
19 that needed to be included; is that fair?

20          A.    Modify as such, change as such, no.  Recall  
21 that my Report not only talks about--well, does not  
22 only talk about one supplier.  It also talks about the

1 purchase of other property like cars and vehicles that  
2 were acquired. You've seen that. You've seen other  
3 additional elements in it.

4 Q. I have, sir.

5 My only question, I guess, is this: Why,  
6 having created a more in-depth analysis in 2015 that  
7 took into account transactions involving Alexandre  
8 Tchervonnyi, did you in this case revert to an analysis  
9 that is identical to Mr. Aguirre's analysis in R-0063,  
10 where you mention nothing at all about Alexandre  
11 Tchervonnyi and attribute all of that money as coming  
12 from Omega? Why did you do that, sir?

13 A. If we're talking about my testimony, we're  
14 talking about Omega right now.

15 Q. Okay. Sir. Just to be clear, regardless of  
16 which analysis we look at, either the one in your  
17 Witness Statements or the one in your 2015 Report, it  
18 is clear that of the \$500,000 that Omega transferred to  
19 Reyna & Associates, at most 275,000 of that went on to  
20 Sarelan.

21 Is that fair?

22 A. That is--yes, that is very clear.

1 Q. Okay. And you have no idea what happened to  
2 the remainder of that \$500,000; correct? You have no  
3 idea where at least \$225,000 of that money went; right?

4 A. At that initial stage, I don't have the  
5 certainty to say what happened to the remainder, what  
6 use it was put to.

7 MS. GORSLINE: Okay. I think now would be a  
8 good time for a break, Mr. President.

9 PRESIDENT SHORE: Thank you, Ms. Gorsline.

10 So, we will take an hour break for lunch.

11 Do you have just, without committing, do you  
12 have like an estimate that you could give us,  
13 Ms. Gorsline, about how much more with this particular  
14 Witness?

15 MS. GORSLINE: I'm going to try to cut it down  
16 a little bit over the break, but I would say, if we can  
17 stick to answering the questions, probably about half  
18 an hour.

19 PRESIDENT SHORE: So, thank you.

20 Mr. Barsallo Abrego is--will be available at  
21 that point; is that right, Mr. Ryan?

22 MR. RYAN: Yes, that's correct, sir.

1           PRESIDENT SHORE: Okay. And just so counsel  
2 know, I need a hard stop today at 5:30 because I have a  
3 much less interesting matter than this case to deal  
4 with after that for a procedural hearing. So, if you  
5 can gear to be done today by 5:30, that would be good  
6 for me.

7           MS. GORSLINE: Yes, sir. We will.

8           MR. RYAN: Yes, sir.

9           PRESIDENT SHORE: Thank you very much. Thank  
10 you.

11           So, Mr. Villalba, it's a lunch break for one  
12 hour, and it's the same instruction. Please don't  
13 speak to anyone about the case, however the  
14 Respondent's counsel will be able to show you where you  
15 can get a lunch.

16           THE WITNESS: Okay.

17           PRESIDENT SHORE: Thank you very much.

18           (Whereupon, at 1:00 p.m., the Hearing was  
19 adjourned until 2:00 p.m., the same day.)



1 Q. So, that indicates that there are supposed to  
2 be 59 pages in this particular bank statement;  
3 correct?

4 A. Correct.

5 Q. All right. Now let's turn to Page 10 of the  
6 English and Page--I'm told 65 of the Spanish. Do you  
7 see there, sir, at the top right corner there's a  
8 stamp?

9 A. Yes.

10 Q. Now, am I correct that that stamp was put  
11 there by Banistmo to indicate that this was the  
12 official copy that was produced?

13 A. Yes.

14 Q. Okay. And if we look at the top right corner  
15 of that stamp, we see a number, and it says 2536;  
16 correct?

17 A. Correct.

18 Q. If we look at the very next page, the stamp  
19 on that page says 2537; correct?

20 A. Yes.

21 Q. If we turn the page again, in that same top  
22 right corner, we see 2538; right?

1 A. Correct.

2 Q. And then the next page says 2539; right?

3 A. Yes, that is correct.

4 Q. So, we know, don't we, that this is the order  
5 in which these pages were produced by the bank; right?  
6 Because the numbers on these stamps are going in  
7 consecutive order; correct?

8 A. Yes.

9 Q. Okay. Now, if I could ask you to turn back to  
10 the page which that has the number 2538 at the top,  
11 which would be one page before the last one we looked  
12 at.

13 Do you see that at the bottom of that page?  
14 The last entry is dated 14 July 2011.

15 A. Where?

16 Q. Do you see the page, sir, where the stamp at  
17 the top right corner says 2538? It's Page 12 of the  
18 English.

19 A. Got it now.

20 Q. Okay. Do you see on that page, the last  
21 entry on the bottom of the page is dated 14 July 2011?

22 A. Yes.

1 Q. Okay. [REDACTED]

2 [REDACTED]

3 A. Yes.

4 Q. Okay. And then if we look at the very next  
5 page, which we know is the next page that was produced  
6 by the bank because it is Number 2539, you see that at  
7 the top of the page, the very first entry is from  
8 August 29, 2011; correct?

9 A. Yes.

10 Q. [REDACTED], it  
11 looks like?

12 A. Yes, correct.

13 Q. Okay. So, it's pretty obvious, from the fact  
14 that we jumped from July 14 to August 29 and from the  
15 fact that we jumped from [REDACTED],  
16 that there are pages and transactions missing; right,  
17 Mr. Villalba?

18 A. Yes, we can see that.

19 Q. Okay. And then if we look at Page 31 of the  
20 English, which is Page 86 of the Spanish, do you see  
21 at the bottom right corner, you see Page 59 of 59?

22 Do you see that?

1 A. Yes.

2 Q. So, that's the end of this particular bank  
3 statement; correct, sir?

4 A. Yes.

5 Q. But if we look at the page number, we see it  
6 is only Page 31 or, in your case, 86. But it is  
7 roughly 30 pages in from the start of the document;  
8 correct?

9 A. Correct.

10 Q. So, that tells us that half the pages of this  
11 document are missing, doesn't it?

12 A. Yes.

13 Q. Okay. And this is the Reyna & Associates  
14 bank statements that you used for purposes of your  
15 investigation; isn't that right, Mr. Villalba?

16 A. Correct.

17 Q. So, this is a key document on which you based  
18 your financial transaction analysis; correct?

19 A. Correct.

20 Q. All right. Sir, can we please turn back to  
21 R-62, which is your 2015 Report? And I'd like to turn  
22 to Page 39.

1           Looking at the number in the bottom right  
2 corner, Page 39, which is the same in both documents,  
3 I'm told it's Page 114 if you look at the official  
4 record page number for the Spanish.

5           A.     I am at Page 39.

6           Q.     Okay. And this is the diagram that we looked  
7 at earlier--right?--of your financial transaction  
8 analysis for the payment that went from Omega  
9 Engineering to PR Solutions to Reyna & Associates in  
10 July 2013; correct?

11          A.     Correct.

12          Q.     Okay. Now, you state in your Report, and we  
13 see here in this diagram, that the source of the  
14 USD 250,000 was a payment from the Judiciary to Omega  
15 for the La Chorrera Contract in the amount of about  
16 [REDACTED]; correct?

17          A.     Approximately.

18          Q.     Yes. And that's the same as what you say in  
19 your Witness Statements--right?--that this \$250,000  
20 that left Omega came from the Judiciary; right?

21          A.     Correct.

22          Q.     Alright. Could I now ask you to turn to

1 R-114?

2 A. Okay.

3 Q. Now, Mr. Villalba, this document is described  
4 by you in your Witness Statement as a compilation of  
5 bank account statements and documentation of transfers  
6 from Oscar Rivera to Justice Moncada Luna; correct?

7 A. Moncada Luna, yes, correct.

8 Q. Okay. If you could turn to Page 146 of this  
9 document, please, which is marked in the top right  
10 corner as 114.14.

11 A. Correct.

12 Q. And here we see a series of transactions,  
13 almost all of which are for July 11, 2013; correct?

14 A. Yes.

15 Q. And the third entry from the top shows a  
16 credit of [REDACTED]; correct?

17 A. Correct.

18 Q. And the balance after that transfer is  
19 [REDACTED]; correct?

20 A. The balance in--which account are you talking  
21 about? Are you talking about Omega?

22 Q. Yes. Thank you, sir. I should have made

1 that clear.

2 So, this page that we're looking at, at  
3 Page 114.14, this is part of the bank statement from  
4 Omega Engineering Inc., which is Omega Panamá; right?

5 A. Correct.

6 Q. And so, then, with that background, three  
7 transactions down, we see a credit of [REDACTED];  
8 correct?

9 A. After what? After the one on July 11?

10 Q. I'm just asking you to look at the third line  
11 down of the transactions, sir, and we see that on  
12 July 11, [REDACTED] is deposited into that account;  
13 correct?

14 A. Yes.

15 Q. Okay. And then four lines below that, we see  
16 [REDACTED] deposited into this  
17 account; correct?

18 A. Correct.

19 Q. And that [REDACTED] is money that you say came  
20 from the Judiciary; correct?

21 A. Correct.

22 Q. And so, when the [REDACTED] is deposited, it's

1 combined with the more than [REDACTED] that is  
2 already in Omega Panamá's account; correct?

3 A. Correct.

4 Q. And we can agree, can't we, that money is  
5 fungible?

6 A. There is a mixture.

7 Q. Okay. But of the, you know, [REDACTED]  
8 that's in the account when the [REDACTED] is deposited,  
9 there is no way to identify specifically which of  
10 those [REDACTED] is the money that came from the  
11 Judiciary.

12 Would you agree with me on that?

13 A. It is part of the [REDACTED] in the balance.  
14 You have [REDACTED]. So, that's how you get to  
15 [REDACTED] as a balance.

16 Q. Okay. Thank you, sir.

17 Now, these entries that we've talked about,  
18 as well as several others, are all for July 11, 2013;  
19 correct?

20 A. Correct.

21 Q. And these entries are presumably appearing in  
22 the order that they were processed by the bank; right?

1           A.     Correct.

2           Q.     And I'm sure you know, as I do from my own  
3 bank account, that the order in which a bank processes  
4 a transaction is not necessarily the same order in  
5 which the account holder made payments and deposits;  
6 right?

7           A.     When you're referring to the order, you're  
8 talking about disbursements?

9           Q.     I'm just talking about the order in which  
10 transactions appear on a bank statement. They are in  
11 the order in which the bank processes the  
12 transactions, not the order in which the owner of the  
13 account makes the transactions; correct?

14          A.     It could vary, yes, depending on the period,  
15 if that's what you're referring to.

16          Q.     Okay. Well, maybe it will help if I use an  
17 example.

18                 Let's say I use my bank card to pay for gas  
19 today, and then tomorrow I go to the supermarket and I  
20 use my bank card, and the day after that maybe I go to  
21 the post office. But that doesn't mean that, when my  
22 bank statement appears, those transactions are going

1 to appear in exactly that same order; right?

2 A. It could be, yes. It could be.

3 Q. Okay. So, just from looking at a bank  
4 statement, we don't necessarily know the order that  
5 the account holder made payments or received credits;  
6 correct?

7 A. The case could be, depending on the time and  
8 the hours for each of the transactions, so it depends  
9 on the format followed by the bank, the software, the  
10 tools, as to how they record. It should be accurate.  
11 There shouldn't be such a variability.

12 Q. Okay. Well, did you investigate with respect  
13 to the various banks whether their software worked the  
14 way you are suggesting?

15 A. No. That is quite relative. That is quite  
16 relative, or it could be quite relative, but, to us,  
17 the bank, whether the transactions are recorded  
18 immediately, no, we did not ask the bank.

19 Q. Okay. So, now let's turn to the next page,  
20 which is 114.15. And there we see the [REDACTED]  
21 transfer from Omega--well, out of Omega Panamá's  
22 account.

1 Do you see that?

2 A. Correct.

3 Q. And that's July 12, 2013; right?

4 A. Yes, July 12.

5 Q. Yes. And at the time that transfer goes out,  
6 there are still way more than \$8 million in that  
7 account; correct?

8 A. In the balance, there were, yes. In the  
9 balance.

10 Q. Okay. So, you would agree with me that Omega  
11 had more than enough funds to make the \$250,000  
12 transfer without using any money from the Judiciary;  
13 correct?

14 A. As a balance, they did have the funds. From  
15 the balance, yes, they did have the funds to be able  
16 to transfer the money to another account. They did  
17 have the balance.

18 Q. Okay. And you have no testimony from anyone  
19 at Omega indicating that the \$250,000 land payment was  
20 intended to come from the money from the Judicial  
21 Authority, do you?

22 A. You are asking me about someone from Omega

1 saying that the money was coming from the payment of  
2 587? Is that the question? Is that what you're  
3 referring to?

4 Q. Yes, but we can maybe make this a little  
5 simpler. You don't have any testimony from anyone at  
6 all that Omega intended to use the money from the  
7 Judicial Authority to pay for the land transaction, do  
8 you?

9 A. From them, no. From someone in Omega, no.

10 Q. Well, not from anyone at all; correct?

11 A. Yeah, that's what I'm saying. Based on the  
12 statements made and also the interviews and the  
13 statements, none of them said that.

14 Q. Okay. And you don't have any documents that  
15 would indicate such an intent, do you?

16 A. Are you talking about the payments for the  
17 PH?

18 Q. I'm talking about the money that went from  
19 Omega Panamá to PR Solutions.

20 A. Well, I think that there were some recent  
21 statements, some declared that the payments were for  
22 some residential purchases. That's what we read

1 before.

2 Q. That the 250,000 was for the purchase of  
3 land?

4 A. Yes. That's what it was said by the people.

5 Q. Okay. Now, Mr. Villalba, I'd like to turn  
6 back to R-62, which is your Report. Now, we looked at  
7 these earlier, but you have diagrams of both of the  
8 transactions of \$250,000 on Pages--in the English, it  
9 is 24--well, in both documents, in both languages, if  
10 you look at number at the bottom right corner, it is  
11 Pages 24 and 39.

12 Do you remember looking at those,  
13 Mr. Villalba?

14 A. Yes.

15 Q. Okay. And if you look at these two diagrams  
16 on Page 24 and 39, you conclude that \$200,000 of  
17 Omega's money was paid on to Justice Moncada Luna  
18 through payments to Sarelan for the purchase of his  
19 two apartments; correct?

20 A. For the acquisition, yes, of the apartments.  
21 Those were the funds used directly for the acquisition  
22 of the apartments.

1 Q. Okay. And if we look at these diagrams, you  
2 have the money going from Omega Engineering, which is  
3 Omega Panamá, to PR Solutions; correct?

4 A. Correct.

5 Q. And then from PR Solutions to Reyna  
6 & Associates; right?

7 A. Correct.

8 Q. Okay. And then Reyna takes some portion of  
9 that money that she receives and she sends it on to  
10 Sarelan; correct? That's what your diagrams say?

11 A. Correct.

12 Q. Okay.

13 A. Some funds were later on transferred to  
14 Sarelan.

15 Q. Yes. So, as we discussed earlier, Ms. Reyna  
16 testified multiple times during your investigations;  
17 correct?

18 A. Yes.

19 Q. And she testified that she uses this account  
20 for Reyna & Associates for many things; correct?

21 A. Yes. I think that that's--she said something  
22 to that end.

1 Q. Okay. Let's look at R-139. And we looked at  
2 this document earlier. This is Ms. Reyna's testimony  
3 in the National Assembly investigation on January 27,  
4 2015; correct?

5 A. Correct.

6 Q. Now, if we look to Page 6 of the English,  
7 which is Page 27 of the Spanish, at the bottom of the  
8 page in the English--let me just verify where it is  
9 for you in the Spanish, sir. Yes. It's at the bottom  
10 of the page, I believe, for you. Yes.

11 So, in the Spanish it begins: "Nosotros  
12 somos."

13 Do you see that?

14 And in the English it reads: "We are  
15 depository agents of everything JR does. JR's  
16 accounts disappeared a long time ago, in addition to  
17 us, for tax purposes, we propose to do so"--or, excuse  
18 me--"we prefer to do so, so that she does not have to  
19 be making extraordinary statements there in the United  
20 States because she is the beneficiary."

21 Do you see that?

22 A. Yes, I'm reading it.

1 Q. So, what she's saying there is that she is  
2 the depository agent for all business of JR Bocas;  
3 correct?

4 A. Correct.

5 Q. All right. Now, sir, can you turn to C-894.  
6 All right. Sir, and if you could--well,  
7 first, I should state that this is Ms. Reyna's  
8 testimony in June 2015 in the Organized Crime  
9 Prosecutor's investigation; correct?

10 A. Correct.

11 Q. And if we look at Page 8 in the English,  
12 which I'm told is 29 in the Spanish, we see there  
13 towards the bottom of the page, there's a question  
14 that reads: "The account of Reyna y Asociados of  
15 Banistmo is regularly used to receive payments from  
16 the commercial activities of the company JR Bocas  
17 Investment, Inc."

18 Do you see that, sir?

19 A. Yes.

20 Q. And her answer is: "Yes, and from third  
21 parties too. For many years I have been receiving  
22 money from third parties for real estate transactions

1 or for loans, always presenting the necessary bank  
2 justifications to the banks, since 1999".

3 Do you see that, sir?

4 A. Yes.

5 Q. And now, if we could turn to Page 12 in the  
6 English of this same document, which is 33 to 34 in  
7 the Spanish.

8 If we look at the bottom of the page, the  
9 question is: "Did the account of Reyna y Asociados in  
10 Banistmo receive their own money from their activities  
11 as a law firm, which was not related with the exercise  
12 of the Power of Attorney that Mrs. Jo Reynolds had  
13 conferred on you to manage her assets?"

14 Do you see that question, sir?

15 A. Yes, I do.

16 Q. And the answer was: "Of course, of all the  
17 other clients, as can be seen in the account  
18 movement."

19 Did I read that correctly, Mr. Villalba?

20 A. Yes, that's right.

21 Q. So, Ms. Reyna told investigators that she  
22 used this account that we looked at earlier at

1 Banistmo, not just for her law firm business, but also  
2 for all business of JR Bocas Investments and also for  
3 business related to third parties as well; correct?

4 A. Yes, that is what she stated.

5 Q. Okay. Now, I would like to turn back to  
6 Page 8 of the English, which is Page 29 of the  
7 Spanish. And at the bottom of the page, we see the  
8 question from the investigator, which is: "You can  
9 explain to the Office the origin of the funds that  
10 were deposited at the account [REDACTED] of Reyna y  
11 Asociados in Banistmo, for the date of June 6, 2013,  
12 for an amount of \$200,000?"

13 Do you see that?

14 A. Yes.

15 Q. And then her answer is: "It is a real estate  
16 transaction. The purpose was to buy an apartment for  
17 Mr. Alexandre"--it says "T Chevron," but if you read  
18 down, they later refer to him as Mr. Tchervonnyi. I  
19 think that's a reference to Alexandre Tchervonnyi who  
20 we discussed earlier; correct?

21 A. Correct.

22 Q. All right. And I don't want to take time to

1 read all this, but if you start with "I was an  
2 intermediary between."

3 Do you see that?

4 It's just a few lines down from what we just  
5 read.

6 Do you see that?

7 A. Correct.

8 Q. She's describing there that she was an  
9 intermediary between the real estate and the  
10 person"--the person meaning Mr. Tchervonnyi, and that  
11 his money "took a while to arrive and I got some funds  
12 to guarantee the purchase sale and those funds were  
13 finally reimbursed when the transaction arrived."

14 Do you see that?

15 A. Yes.

16 Q. And then later the question is: "With whom  
17 did you get the money that Mr. Tchervonnyi owed?"

18 Do you see that? That's a few more lines  
19 down.

20 A. Yes.

21 Q. And her answer is: "One part came from  
22 Mr. Rafael Leonard, a person who for many years has

1 managed loans occasionally for my clients."

2 Do you see that, sir?

3 A. Yes.

4 Q. So, what Ms. Reyna is describing there is  
5 how, because it took a while for Mr. Tchervonnyi's  
6 funds to arrive, she used other funds that were in her  
7 account from a Mr. Rafael Leonard to make payments  
8 which she then reimbursed when the money from  
9 Mr. Tchervonnyi arrived; correct?

10 A. Correct.

11 Q. So, essentially, Ms. Reyna has testified that  
12 she was taking money from one transaction in order to  
13 pay obligations under another; right? That's what  
14 that means, what we just read?

15 A. Yes, according to her statement.

16 Q. And this testimony was part of the  
17 investigation record from the--or, excuse me, this one  
18 is from the Organized Crime Prosecutor's  
19 investigation; correct?

20 A. Correct.

21 Q. And, based on that evidence and the other  
22 evidence we've looked at today, it's entirely possible

1 that Reyna & Associates received money from Omega for  
2 a land transaction and then used that to pay off a  
3 debt with respect to Sarelan; correct?

4 A. Possibly. It could be, based on the  
5 mechanics that she describes here, in the case of  
6 Mr. Alexandre.

7 Q. Yes. Now, are you aware, Mr. Villalba, that  
8 Panamá sought to have Mr. Rivera extradited from the  
9 United States on charges of money laundering in  
10 December 2015?

11 A. No, I was not aware of that. Extradition,  
12 you say?

13 Q. Yes, sir.

14 A. No, I did not know.

15 Q. Okay. Let me ask you to look at document  
16 C-900. In the Spanish, sir, I believe of the first  
17 document begins on Page 3. And there is an English  
18 portion behind it and, unfortunately, we do not appear  
19 to have a translation of that document.

20 So, if I can ask you to look at Page 3, which  
21 is the Spanish? This is a letter--

22 A. Yes, I have it right here in front of me.

1 Q. Okay. So, this is a letter from  
2 February 2016 from the Ministry of Foreign Relations  
3 of the Republic of Panamá; right?

4 A. Yes.

5 Q. And it's going to the Deputy General  
6 Director--oh, I'm sorry.

7 It's going to the Office of the  
8 Attorney-General; right?

9 A. Correct.

10 Q. Okay. And we see here that the Ministry of  
11 Foreign Relations is reporting to the Attorney  
12 General's Office that the request for extradition was  
13 made; correct? That's Paragraph 1?

14 A. Yes. I would like to note a caveat seeing  
15 the date, 29 February 2016. That's why I'm not  
16 familiar with the document. I was no longer working  
17 in the Office of the Public Prosecutor. I left on  
18 22 February, 2016, but, of course, I can read the  
19 document.

20 Q. Yes. Well, I do understand when you left,  
21 sir, but if you look at the first paragraph, it says  
22 that the request for extradition was dated

1 17 December 2015?

2 Do you see that?

3 That's in the first line.

4 A. Yes.

5 Q. And that was while you were still employed by  
6 the Organized Crime Prosecutor; correct?

7 A. Yes, but I did not have access to this  
8 document.

9 Q. Okay. So, as we see in this second  
10 paragraph, "the Ministry of Foreign Relations is  
11 advising that the United States has said that the  
12 provisional arrest of Mr. Oscar Ivan Rivera Rivera  
13 cannot proceed, considering that the documentation  
14 which was provided lacks sufficient facts connecting  
15 the aforementioned person with the charges of money  
16 laundering and which provided some suggestions, to  
17 once again, to reiterate such request which we are  
18 sending to you in the attached note."

19 Do you see that, sir?

20 A. Yes, I do.

21 Q. All right. And then I apologize for the fact  
22 that we have no translation into Spanish, but I will

1 read the English and the interpreters can translate  
2 for you in Spanish. So, if we look at this next few  
3 pages, starting on Page 4, this is the actual note, it  
4 appears, that has come from the United States.

5           And it explains, if we look at the bottom of  
6 Page 4, that Panamá, if it wished to move forward with  
7 extradition, would need to provide evidence such as  
8 "an explanation of bank records which showed the  
9 movement of money by Mr. Rivera and reflect that he  
10 knew the money was obtained through illegal means, a  
11 summary of testimony given by a coconspirator, or any  
12 other evidence which clearly indicates that Mr. Rivera  
13 knowingly participated in the money-laundering  
14 operation described in the provisional arrest  
15 request."

16           Now, sir, it's your testimony that you didn't  
17 know about this? You didn't know that the United  
18 States had denied extradition of Mr. Rivera?

19           A. No. As of the time of the response when this  
20 was answered, I didn't have access to this  
21 information.

22           Q. Okay.

1 MS. GORSLINE: All right. Mr. President, we  
2 have no further questions.

3 PRESIDENT SHORE: Thank you, Ms. Gorsline.

4 Mr. Weisburg, same offer to you, if you want  
5 to hear Tribunal's questions before redirect.

6 MR. WEISBURG: I absolutely do.

7 PRESIDENT SHORE: All right.

8 QUESTIONS FROM THE TRIBUNAL

9 ARBITRATOR DOUGLAS: Good afternoon. I just  
10 have a question for you about the process which  
11 appears to be ongoing in relation to this matter.  
12 Why, in your view, has it taken--well, let me phrase  
13 it differently.

14 The guilty plea from Justice Moncada Luna was  
15 in 2015, and if I understand correctly, we're now  
16 five years later in 2020, and it doesn't look like  
17 this matter is anywhere near being resolved.

18 So, in your view, what are the reasons for  
19 the delays in relation to this matter? And are those  
20 delays typical in Panamá?

21 THE WITNESS: You are referring to the appeal  
22 that is still ongoing and in respect of which there

1 has not yet been a response? Well, I don't know the  
2 reasons why the Court has yet to issue a ruling. The  
3 terms, if I could explain what the relevant legal  
4 provision says, well, I don't--I'm not familiar with  
5 them, I don't know if there is a prudential term or  
6 time frame for giving a response. What I can say is  
7 that I do know that there's not been a firm response  
8 since the latest appeal.

9           ARBITRATOR DOUGLAS: And depending on what  
10 happens in that appeal, wouldn't it be the case that  
11 the investigators are going to basically have to start  
12 from scratch? I mean, there is some work that's being  
13 done, but it doesn't look like that this matter is  
14 anywhere near being resolved, because they haven't  
15 been working on this case over--in the interim period,  
16 since the original Court Decision.

17           So, would the investigation even be continued  
18 if the Court decides to overrule the original  
19 Decision?

20           THE WITNESS: Yes, it would continue, I  
21 assume. I believe that it is in cassation. I don't  
22 recall exactly, but, yes, the process could be

1 reactivated.

2           ARBITRATOR DOUGLAS: But from your  
3 perspective as an investigator, isn't that a problem  
4 to begin an investigation again some five years after  
5 the original investigation was opened, when everything  
6 has gone cold in the meantime?

7           THE WITNESS: Well, one would have to then  
8 see whether the Court rules on what investigative  
9 measures to carry out. I assume that the Office of  
10 the Public Prosecutor would take it up once again,  
11 and, here, assuming that the Office of the Public  
12 Prosecutor would take it up, once again, and the facts  
13 are there. They would have to take it up once again.

14           I don't know if they would provide for some  
15 prudential period, once again, to collect new  
16 evidence, or carry out other measures. As far as I  
17 understand it, the Office of the Public Prosecutor has  
18 suspended and then remedies were pursued, appeals, and  
19 then the Office of the Public Prosecutor was not able  
20 to continue the investigations and it was left there,  
21 even much after I left--long after I left.

22           I assume that, if the Court rules on this

1 matter, it would have to, once again, activate to pick  
2 up where it was suspended and then go forward. All of  
3 the elements brought together would be part of it, but  
4 then new investigative steps would have to be taken  
5 and then go to trial.

6 ARBITRATOR DOUGLAS: Thank you.

7 PRESIDENT SHORE: Mr. Weisburg, over to you.

8 MR. WEISBURG: After the long deliberation,  
9 we have no further questions.

10 PRESIDENT SHORE: Thank you very much,  
11 Mr. Weisburg.

12 Ms. Gorsline, anything coming out of  
13 Professor Douglas's question you'd like to pursue.

14 MS. GORSLINE: No, Mr. President. Thank you.

15 PRESIDENT SHORE: Mr. Villalba, thank you  
16 very much for your appearance and your testimony  
17 today. We appreciate your appearance, and your  
18 testimony has now concluded.

19 THE WITNESS: Thank you. I'd like to thank  
20 everyone.

21 MS. GORSLINE: Thank you, sir.

22 (Witness steps down.)

1           PRESIDENT SHORE: So, I believe we have  
2 Mr. Barsallo Abrego is ready to appear. While we're  
3 making the shift, why not take a five-minute break?  
4 Is that okay for everyone?

5           MR. WEISBURG: I think we need more like 10.

6           PRESIDENT SHORE: So, we'll take a 10-minute  
7 break on Application of Mr. Weisburg. Hearing no  
8 objection.

9           MS. GORSLINE: No objection.

10           (Brief recess.)

11           PRESIDENT SHORE: Back on the record.

12           NESSIM BARSALLO ABREGO, RESPONDENT'S WITNESS, CALLED

13           PRESIDENT SHORE: Good afternoon and welcome,  
14 Mr. Barsallo.

15           THE WITNESS: Good afternoon. Good  
16 afternoon, President.

17           PRESIDENT SHORE: I believe you have in front  
18 of you a declaration, a witness declaration, on a page  
19 right in front of you, and if you could read that out  
20 loud, please.

21           THE WITNESS: Yes, Mr. President.

22           I solemnly declare, upon my honor and

1 conscience, that I shall speak the truth, the whole  
2 truth, and nothing but the truth.

3 PRESIDENT SHORE: Thank you, Mr. Barsallo.

4 I believe we have two Witness Statements,  
5 which should be on the desk with you there: one is  
6 dated 7 January 2019, and a Second Statement dated  
7 18 November 2019; is that correct?

8 THE WITNESS: Yes, that is correct,  
9 President.

10 PRESIDENT SHORE: So, I'm sure the process  
11 has been explained to you, but, first, there may be  
12 some questions from Mr. Ryan, and after Mr. Ryan  
13 concludes, there will be some questions from Mr. Daly.

14 So, as you have already appreciated, there's  
15 a slight delay because of the Interpreter, and so  
16 please do be patient. Let the questioner finish the  
17 question, and then you'll be permitted to give a  
18 complete answer.

19 THE WITNESS: Okay. Thank you very much.

20 PRESIDENT SHORE: Mr. Ryan.

21 MR. RYAN: Thank you, Mr. President.

22 DIRECT EXAMINATION

1 BY MR. RYAN:

2 Q. Mr. Barsallo, welcome to these proceedings.

3 Just one question: Do you have any  
4 corrections that you would like to make with respect  
5 to your Witness Statements?

6 A. Yes. Good afternoon. That's right, I would  
7 like to make a correction in my First Witness  
8 Statement of 7 January, specifically at Paragraph 27,  
9 which I will read, and it corresponds to Heading  
10 Number 5, which is "Execution of Omega's MINSA CAPSI  
11 Projects During the Martinelli Administration."

12 The correction I'd like to make at  
13 Paragraph 27 is in the third sentence, which states  
14 that: "During those periods, Omega formally  
15 communicated to the Ministry of Health, first, that it  
16 would reduce personnel and thereafter would suspend  
17 the work by the end of the year, given the lack of a  
18 current contract."

19 The correction that I'd like to make is that,  
20 based on my knowledge and the documents reviewed,  
21 Omega, during the time of President Martinelli, did  
22 not formally submit any suspensions or any personnel

1 reductions.

2 Thank you very much.

3 Q. Thank you, Mr. Barsallo.

4 MR. RYAN: No further questions.

5 PRESIDENT SHORE: Mr. Daly.

6 CROSS-EXAMINATION

7 BY MR. DALY:

8 Q. Good afternoon, Mr. Barsallo.

9 A. Good afternoon.

10 Q. My name is Michael Daly, Counsel for the  
11 Claimants, and I'm going to be asking you a few  
12 questions today about MINSA. If you don't understand  
13 any question that I ask you, please let me know and  
14 I'll do my best to clarify. Okay?

15 A. Okay. Correct.

16 Q. As President Shore just said, we're  
17 communicating through an interpreter, so in the event  
18 that you don't understand the translation or have a  
19 question about the translation, please just let us  
20 know. Okay?

21 A. I shall proceed in that manner, sir.

22 Q. Okay. So, I'd like to start with your

1 background at MINSA. Now, you worked for MINSA from  
2 May 2010 until August 2019; is that correct?

3 A. That is correct, sir.

4 Q. And most of that time, between 2012 and 2019,  
5 your title was as the Subdirector of the  
6 Administration of Special Projects at the Ministry;  
7 correct?

8 A. That is correct, sir.

9 Q. And you were involved with each of Omega's  
10 MINSA CAPSI projects, there were three projects: the  
11 Rio Sereno Project, Kuna Yala, and Puerto Caimito;  
12 correct?

13 A. That is correct.

14 Q. You oversaw the administration of Omega's  
15 MINSA projects; isn't that correct?

16 A. Correct, sir, together with my immediate  
17 superior, my boss.

18 Q. And who was that?

19 A. During the first part of the Martinelli  
20 Administration, it was Mr. Napoleón de Bernard. The  
21 second period of the Martinelli Administration, it was  
22 Mr. Alex González, those two. And at the end of the

1 Martinelli Administration, Ms. Karina Mirones.

2 Three--these were my three immediate superiors in the  
3 direction where I worked. During President Varela's  
4 Administration, Mr. Gabriel Cedeño was also there.

5 Q. Thank you.

6 And these are standard questions. Have you  
7 or will you receive any form of personal benefit of  
8 for your Witness Statements?

9 A. No, sir.

10 Q. And have you or will you receive any personal  
11 benefit for testifying at the Hearing?

12 A. No, sir. I am just being compensated for my  
13 time, my fees.

14 Q. Can you clarify what you mean by that?

15 A. Fine. I am a lawyer. I exercise the  
16 profession freely, and my time, well, I charge for my  
17 time, and I am involved in this hearing providing my  
18 time, and my fees are precisely based on the time that  
19 I'm using up here, for being here, and not because I  
20 provide testimony. I'm charging for the time  
21 basically.

22 Q. Okay. Just to clarify, though, you're not

1 acting as counsel in this arbitration; correct?

2 A. I am not.

3 Q. Now, you're no longer employed by MINSA or by  
4 the Panamanian Government; correct?

5 A. That is correct, sir. No longer.

6 Q. In your Second Witness Statement, you state  
7 that you left MINSA as of August 2019; right?

8 A. That is correct, sir.

9 Q. Your Second Witness Statement doesn't say why  
10 it is that you left MINSA, does it?

11 A. Well, I left because of the change in the  
12 administration, a new administration took office, and  
13 the position that I had, well, this is a position  
14 where people are freely removed, and the new  
15 administration decided to terminate my position.

16 Q. So, just to be clear, you were fired.

17 A. I was sent on vacation, and I was never  
18 called back.

19 Q. Now, you filed your Second Witness Statements  
20 in this Arbitration after that point; right? Your  
21 First Witness Statement is dated January 2019;  
22 correct?

1           A.    My First Statement is dated January 2019,  
2 correct.

3           Q.    And your Second Witness Statement is dated  
4 November 2019; correct?

5           A.    That is correct.

6           Q.    And in between your First and Second Witness  
7 Statements, Mr. López files a witness statement in  
8 this arbitration, didn't he?

9           A.    With my Second Statement is that I found out  
10 about that.

11          Q.    You found out about it before you filed your  
12 Second Witness Statement; right? You filed your First  
13 Witness Statement in January 2019, and Mr. López,  
14 Frankie López, filed his Witness Statement, his First  
15 Witness Statement in May 2019. You left the  
16 Government in August 2019 and filed your Second  
17 Witness Statement in November of 2019; is that  
18 correct?

19          A.    What is correct is that I submitted my Second  
20 Statement in November 2019. I had no precise  
21 knowledge that Mr. López had submitted his Statement  
22 in May 2019.

1 Q. Okay. Mr. Barsallo, are you aware that you  
2 cite Mr. López's Witness Statement in your Witness  
3 Statement extensively?

4 A. That's correct. My Second Statement I  
5 provided and I was relying amongst the documentation  
6 that I looked at on the First Statement by Mr. López.

7 Q. Okay. When you filed your Second Witness  
8 Statement, you addressed assertions that Mr. López has  
9 made in his First Witness Statement; correct?

10 A. That is correct, sir.

11 Q. And Mr. López attached to his First Witness  
12 Statement text messages between you and him; correct?

13 A. That is correct.

14 Q. And you reviewed those text messages and  
15 commented on them in your Second Witness Statement?

16 A. Correct, sir.

17 Q. And you were terminated from your job within  
18 a few weeks of Mr. López disclosing those text  
19 messages; is that correct?

20 A. I don't recall exactly if it was within those  
21 dates that I was terminated. The messages were made  
22 known to me. But to clarify, I don't know if I

1 haven't been clear or if there is something that is  
2 not being understood. When Mr. López gave his  
3 statement, I'm being told that May 2019, and May 2019  
4 exactly I had no knowledge of that statement.

5 When I produced my Second Statement, and  
6 because of the statements made by Mr. López, I  
7 provided a Second Statement with the knowledge that I  
8 had gained after May 2019 of the fact that one  
9 statement had been provided that included a series of  
10 WhatsApp messages.

11 Q. Let's discuss your role at MINSA and how it  
12 evolved.

13 Now, during the first few years of Omega's  
14 projects, of Omega MINSA projects, you were the key  
15 point of contact for Omega; is that correct?

16 A. Could you please repeat your question,  
17 please?

18 Q. Yes.

19 During the first few years of Omega's MINSA  
20 projects, you were the key point of contact for Omega,  
21 were you not?

22 A. That is correct. One of the key point of

1 contacts.

2 Q. You were regularly on correspondence during  
3 those first few years; correct?

4 A. That is correct. I was cc'd on the  
5 correspondence.

6 Q. You also authored some correspondence, didn't  
7 you?

8 A. Well, we are talking about something that  
9 happened eight years ago. I can't really pinpoint  
10 exactly, but in connection with the functions that I  
11 discharged in my position, definitely.

12 Q. Understood.

13 If I told you that there are at least  
14 11 pieces of correspondence in the record, MINSA  
15 correspondence, up until May 2014 that you either  
16 wrote or received, would that seem about right to you?

17 A. That are included in the file and that I have  
18 reviewed documents? Yes, that's correct.

19 Q. Could you please turn to C-0365.

20 PRESIDENT SHORE: It's going to be given to  
21 you in a moment.

22 THE WITNESS: Thank you very much,

1 Mr. President. Got it.

2 BY MR. DALY:

3 Q. Okay. And if you'll just follow along with  
4 me, this is an email from December 6, 2012, from Omega  
5 to MINSA; correct?

6 A. That is correct, sir.

7 Q. And you're the first person listed on the  
8 "to" line of the email.

9 Do you see that?

10 A. That is correct, sir.

11 Q. And the email begins, "Good afternoon,  
12 Nessim," which is you, and then goes on to discuss  
13 various Certificates of Nonobjection; correct?

14 A. That's correct.

15 Q. And at the end, it says: "Thanks for your  
16 usual help"; right?

17 A. That is correct.

18 Q. Now, after May of 2014, you shifted to more  
19 of a background role on the--Omega's MINSA Projects,  
20 didn't you?

21 A. Initially, yes. And during the full period,  
22 yes, more secondary in nature, yes. Not as much as

1 during the Martinelli Administration.

2 Q. Can you clarify what you mean by "initially"  
3 and afterwards?

4 A. When I indicated "initially," well, when  
5 there's a change in the Administration generally--and  
6 that's been my experience, at least, and I was working  
7 with two different Administrations--well, the new  
8 Administration comes in and it brings in their  
9 personnel of trust. And I was part of that group.

10 Generally, trust positions are replaced.  
11 They are replaced with people from the new Government.  
12 At that point in time, although it is true that I  
13 wasn't really fired, I was kept "at bay,"  
14 quote/unquote, when the new team came in and looked at  
15 all the documentation. Then, slowly but surely,  
16 thanks to my work and the knowledge I had, I gained  
17 the trust of the Minister and the Minister's team, and  
18 then I was allowed--again, because of the trust I had  
19 gained--to be the person looking at the turnkey  
20 contracts of the MINSA CAPSI hospital Projects,  
21 although I was not 100% in charge.

22 Q. You mentioned there that this is a process

1 that happens with a change in administration; correct?

2 A. During my stay--and I had been there only for  
3 two changes in the administration--that has been the  
4 case, sir.

5 Q. Don't you say in your Second Witness  
6 Statement that you've been through at least three  
7 changes in administrations?

8 A. No. Four changes of Ministers.

9 Q. Okay. Thank you for that clarification.

10 So, would it surprise you if I told you that  
11 after May 4, 2014, there's only one official MINSA  
12 communication in the record from Omega sent to you?

13 A. I would be surprised, yes.

14 Q. Would it surprise you if I told you that, in  
15 the record of this Arbitration, there is only one  
16 MINSA communication that you sent to Omega after  
17 May 4, 2014?

18 A. Now, within this file, this case file, or  
19 this Arbitration, you say, I would be surprised as  
20 well.

21 Q. Would it surprise you if I told you that none  
22 of the exhibits that you cite to in either of your

1 Witness Statements that postdate May 4, 2014 have your  
2 name on them?

3 A. I would not be surprised, no.

4 Q. You were still working at MINSA and involved  
5 after May 4, 2014. No doubt about that; correct?

6 A. Yes, but I didn't really understand what you  
7 mean, "involved." What kind of involvement do you  
8 mean?

9 Q. You were still working on Omega's three MINSA  
10 Projects?

11 A. Only using reference data for the new  
12 authorities. They were getting knowledge of all the  
13 information that was in existence, and they came to me  
14 when it came to statistical data, progress data,  
15 percentages.

16 Q. Okay. But you have knowledge of Omega's  
17 MINSA Projects after May 4, 2014; correct? You're the  
18 Government's Witness on behalf of MINSA to testify as  
19 to all matters that relate to MINSA; right?

20 A. Correct, sir.

21 Q. Would you please turn to, and could someone  
22 pass to him, the Second Witness Statement of

1 Mr. López? And turn to Paragraph 11.

2 A. Excuse me. I'm looking for the Spanish  
3 version of this document.

4 Q. Take your time.

5 A. Got it.

6 Q. I'm going to read a portion of this here at  
7 Paragraph 11. Mr. López says: "With regard to  
8 communications with MINSA, before the change of  
9 administration, I had open and ongoing communications  
10 with MINSA through Nessim Barsallo, who was  
11 responsible for the MINSA CAPSI Projects with the  
12 Omega Consortium as the Sub-Director of Special  
13 Projects Management. When the Administration changed,  
14 Mr. Barsallo was no longer in charge, and engineer  
15 Gabriel Cedeño and Dr. Temístocles Díaz took on that  
16 role. It was at that time that I realized that  
17 communications with MINSA had changed. I remained in  
18 contact with Mr. Barsallo (more than anything because,  
19 in my view, we were friends), but all matters related  
20 to official communications with MINSA to resolve  
21 problems and ensure the progress of our MINSA CAPSI  
22 Projects had completely changed."

1           Do you agree with that statement?

2           A.    Not 100 percent, no.

3           Q.    How not?

4           A.    Shall I explain?

5           Q.    What is that you disagree with about that  
6 statement?

7           A.    Where Mr. Frankie López says about myself and  
8 the fact that I was no longer a decision-maker. During  
9 the Martinelli administration, I had no  
10 decision-making powers. My boss had decision-making  
11 powers with the approval of the Minister. My  
12 involvement had to do with providing advice,  
13 management activities, and also I gave this  
14 information to my boss and then to the Minister. I  
15 never had decision-making power.

16                    Second, the official communications,  
17 according to the Contract, were to be conducted with  
18 the Minister. We were the support team for the  
19 Minister, and we communicated by email, like you've  
20 said, via notes that I drafted, but when it came to  
21 formal communications--for example, a request for an  
22 addenda or the signature of a contract--that had to do

1 with the Minister. When he said that official  
2 communications were only with me, I disagree. There  
3 were other means where official communications could  
4 take place with the Minister.

5 Q. Okay. So, it's correct to say that you did  
6 not have decision--final decision-making power, either  
7 before President Varela was elected or after President  
8 Varela was elected?

9 A. I did not even have final decision-making  
10 power or initial decision-making powers. I made  
11 recommendations to my immediate superior, I provided  
12 the work, and I provided recommendations to whether  
13 things were good or bad. If anyone asked me, well, a  
14 legal opinion or a technical opinion, fine; I provided  
15 those opinions. But I did not have final  
16 decision-making power or initial decision-making  
17 power, sir.

18 Q. Thank you. I want to bring you back to  
19 something that you said, though, a few minutes ago  
20 before this. You said--and I think you used the words  
21 "kept at bay." You said that after the change in  
22 Administration, you were kept at bay, and you also

1 said that the new Administration preferred to have  
2 personnel of trust, and you didn't have--you were not  
3 one of those personnel of trust after President Varela  
4 was first elected; isn't that correct?

5 A. Let me correct something, sir. When the  
6 Administration changed, my position as the  
7 Sub-Director, well, it is a part of the position of  
8 trust that the Government has--Director and  
9 Sub-Director, those two positions.

10 In my experience in the two chambers of  
11 Government, well, the new administration comes in with  
12 new Directors and new Sub-Directors. In connection  
13 with my position, although it's true that in the  
14 Varela Government I wasn't removed from my position, I  
15 was not a person of trust because I didn't belong to  
16 the political party of Varela's team. And  
17 consequently, the decisions and the reviews that they  
18 conducted of the documentation, well, those were  
19 conducted by their team. I was a member of the prior  
20 administration.

21 I don't know if you remember this, because I  
22 said it before: They resorted to me initially to come

1 and look for statistical data and other data for the  
2 turnkey contracts.

3 Q. You mentioned you were part of the prior  
4 administration. You began working for MINSA in 2012;  
5 is that right?

6 A. No, 3 May 2010 exactly.

7 Q. You began working for the Government  
8 generally in 2003; correct?

9 A. Let me explain.

10 Q. I think we can break this down.

11 A. Yes. Yes.

12 Q. You obtained your law degree in 2002;  
13 correct?

14 A. 2004. I got my diploma in 2004--my degree,  
15 rather, in 2004.

16 Q. Will you please turn to Paragraph 6 of your  
17 First Witness Statement?

18 A. I've got it, sir.

19 Q. The first sentence says here: "I received my  
20 law degree from the Universidad de Panamá in 2002";  
21 correct?

22 A. That's correct.

1           PRESIDENT SHORE: Maybe ask him when he  
2 qualified as a member of the bar.

3           THE INTERPRETER: This is the interpreter.  
4 In Spanish--it says 2004 in the Spanish version.

5           MR. DALY: For the record, we have a  
6 discrepancy between the English and Spanish version of  
7 your First Witness Statement.

8           PRESIDENT SHORE: Well, there's no longer a  
9 discrepancy, because I'm sure that we're going to hear  
10 that it's 2004, because that's how the Witness would  
11 have done it in Spanish.

12           Can you confirm that it is 2004 you that  
13 received your law degree?

14           THE WITNESS: That is correct, Mr. President.  
15 I got my law degree in 2004.

16           PRESIDENT SHORE: So, there is no longer a  
17 discrepancy?

18           Continue, Mr. Daly.

19           BY MR. DALY:

20           Q. Thank you, Mr. Barsallo.

21           From the time that you obtained your degree  
22 in 2004 until August of 2019, you held several

1 positions, all within the Government of Panamá; is  
2 that correct?

3 A. That is correct. The correct way to say it  
4 in Spanish is "within the State of Panamá."

5 Q. You worked for the Judiciary, and you also  
6 worked for MINSA, and you did some work for--in  
7 competition law and other areas; correct?

8 A. That is correct. In connection with consumer  
9 matters and competition law, yeah, those also have to  
10 do with the Judiciary.

11 Q. I want to go to the text messages that you  
12 had with Mr. López.

13 Could you please turn to Exhibit 0681?

14 MR. RYAN: Is that C or R?

15 MR. DALY: Yes, C. Excuse me. That's  
16 C-0681.

17 BY MR. DALY:

18 Q. Now, you reviewed this before you filed your  
19 Second Witness Statement, as we discussed; correct?

20 A. That is correct.

21 Q. And you wrote the text messages that are  
22 reflected here in this exhibit yourself; correct?

1           A.     That is correct.

2           Q.     I'd like to focus on this message here that  
3 is on March 3, 2016 that you discussed in your Second  
4 Witness Statement. It is on Page 6 of the Spanish  
5 version.

6                     Okay. I'm going to refer to this, just for  
7 clarity, by the time stamps, so we know that we're  
8 discussing which message we're actually discussing.

9                     At 7:43:47, you said: "What's happening at  
10 the Comptroller General's Office?" And then at  
11 7:43:54, you say: "Is it a conspiracy?"

12                     Do you see that?

13           A.     I see it.

14           Q.     So, you thought that there was a conspiracy;  
15 is that correct?

16           A.     I didn't think that. I'm asking Mr. Frankie  
17 López whether he had that information or not. If you  
18 look at it, it has a question mark. Is this a  
19 conspiracy--is it or not? It is just a question; not  
20 an assertion of something I was thinking.

21           Q.     Who was it that used the word "conspiracy"?  
22 It was you, not Mr. López; correct?

1       A.     That's correct.  I used the word  
2 "conspiracy."

3       Q.     So, you were suggesting to Mr. López that  
4 there was a conspiracy, even if you were asking it in  
5 the form of a question.  That was your word; correct?

6       A.     I do not agree.  I was asking a question.  I  
7 was not suggesting anything.

8       Q.     But you chose the word "conspiracy."  That  
9 was your word, not his; correct?

10      A.     That is correct.

11      Q.     And then Mr. López confirmed it.  He said at  
12 7:58:16:  "It looks like it"; right?

13      A.     Yes.  He said, "It looks like it."

14      Q.     And you were asking if there was a conspiracy  
15 because you thought that there was something out of  
16 the ordinary in the way that Omega's contracts were  
17 being treated, didn't you?

18      A.     I indicated a conspiracy as part of a  
19 conversation I had with a friend, we had a friendship  
20 relationship, not because I thought that there was  
21 something unusual.  We can see that this is the result  
22 of a sentence that I indicate when I think that

1 everything is resolving, everything is complicated,  
2 and I am saying, what is it? "Is it a conspiracy?"  
3 And he says, "It looks like it."

4 I wasn't sure whether it was or it was not.

5 Q. You said, "I indicated a conspiracy, not  
6 because I thought that there was something unusual."

7 Would it be usual for you to have known about  
8 a conspiracy related to a MINSA--related to one of the  
9 Government contractors for MINSA?

10 A. Would you please repeat the question because  
11 I don't think--there was a silence. I don't think I  
12 got the full translation.

13 Q. You said, "I indicated a conspiracy as part  
14 of a conversation I had with a friend, we had a  
15 friendship relationship, not because I thought that  
16 there was something unusual."

17 My question to you is, are conspiracies usual  
18 at MINSA or with the Comptroller General?

19 A. I don't know whether conspiracies are usual  
20 or not within the Comptroller General or the Ministry  
21 of Health.

22 Q. A conspiracy is some sort of a secretive plan

1 to do something unlawful; right?

2 A. Yes, I agree with your description.

3 Q. It is also often a crime; correct?

4 A. Under the Panamanian legislation, it is a  
5 crime.

6 Q. Now, let's keep going on the text message  
7 here.

8 At 7:58:35, you say: "I conclude they have  
9 orders."

10 Do you see that?

11 A. That is correct. I see that.

12 Q. Now, a minute ago you said "I was asking my  
13 friend questions."

14 This is no longer a question; correct?

15 A. No, it is not a question. It is a  
16 conversation we are having.

17 Q. It's actually a conclusion, isn't it?

18 A. Based on the meaning, the accurate meaning of  
19 the words, yes, it is a conclusion. "I conclude."  
20 That's what I have written in the message. There are  
21 no doubts of what's written. "I conclude."

22 Q. So, there were no doubts that you concluded

1 that there were orders coming from the Presidency?

2 A. No. When I said that there are no doubts  
3 about what you see here, about what is written here,  
4 is whatever you see. When you're asking me whether I  
5 have no doubts that there was a conspiracy, I have no  
6 knowledge beyond the information or the comments that  
7 I received from Omega staff to--for me to confirm, for  
8 me to say, for me to show that there was some sort of  
9 illegal manipulation.

10 Q. You just raised the idea of legal  
11 manipulation--or excuse me, illegal manipulation,  
12 which brings me to the next line in the text message,  
13 if you'll please follow along with me.

14 At 7:58:50, Mr. López says: "They say they  
15 are verifying in legal blah, blah, blah, because of  
16 the case."

17 Do you see that?

18 A. That is correct. I do see that.

19 Q. And when Mr. López says "because of the  
20 case," is he referring to this arbitration?

21 A. No, sir.

22 Q. What is he referring to?

1           A.     Mr. López, before all of these messages, that  
2 are messages that are four years old, when we talked a  
3 lot, he was one of the persons who informed me of what  
4 was going on from his own point of view with an  
5 investigation of Omega that was being carried out by  
6 the Ministry, by the Public Ministry, plus his  
7 opinion. But he was sharing with me his opinion as  
8 part of the Omega staff. He was sharing his  
9 frustration.

10                 My job is not to investigate whether there is  
11 any investigation with the Public Ministry. It is not  
12 my area, and I have nothing to do with that.

13                 His frustration was based on the fact that he  
14 and Omega thought that the administration of  
15 President Varela was moving forward with some  
16 investigations on a personal basis and specifically  
17 targeting Mr. Rivera.

18                 So, all of my friendship with Frankie is  
19 based on the facts as I mentioned in my previous  
20 response. Beyond these conversations, I have no  
21 documentation, I have no knowledge to assert that what  
22 they were saying and that was their version was a

1 reality.

2 Q. So, just to clarify, your understanding of  
3 the words "the case," was the Moncada Luna  
4 investigation; is that correct?

5 A. Yes, that was the origin for everything, as  
6 they mentioned to me at the outset.

7 Q. The next line down, at 7:59:03, Mr. López  
8 says: "It sucks, bro."

9 Do you see that?

10 A. Where does it say that?

11 Q. This may be a translation issue, but at  
12 7:59:03, the English translation says: "It sucks,  
13 bro."

14 A. Okay.

15 Q. Do you see that?

16 A. Yes.

17 Q. Okay.

18 A. Yes, I see it.

19 Q. Okay. And in response to that, at 7:59:07,  
20 you say: "Bluff."

21 A. That is correct.

22 Q. What did you mean by that?

1       A.     With "bluff" you mean?

2       Q.     Yes.

3       A.     Mr. Frankie López is giving me some  
4 information.  If you look at this, at 7:58:50, he says  
5 that they are verifying with the legal, that means the  
6 legal department, blah, blah, blah.  I should  
7 understand or I should have understood that  
8 verifying--verifying because of the case.

9             The case, as I just mentioned in my previous  
10 answer, it was the case of an investigation between  
11 the Public Ministry and what they indicated to me.

12            My "bluff" refers to the fact that if he's  
13 giving me that information, I have no way to ratify  
14 that information, and I worked with the Ministry of  
15 Health, so I didn't have any knowledge that that's the  
16 way it was.  That cannot happen because the  
17 Comptroller's Office has no powers to review an  
18 investigation that is in a different area with the  
19 Public Ministry in connection with some document or  
20 any document that is to be endorsed by the  
21 Comptroller's Office.

22            So, he's telling me that this is information

1 that he is sharing with me. This is not something  
2 that I was--and this is something that I was able to  
3 ratify. So, "bluff" means that is impossible. It is  
4 not possible.

5 MR. RYAN: Michael, before you step in.  
6 Just, Mr. President, in aid of the translator, when we  
7 can tell they are having a little bit of trouble,  
8 could you speak a little bit more slowly,  
9 Mr. Barsallo?

10 THE INTERPRETER: Sir, this is the  
11 interpreter. I'm not having a problem with the speed.  
12 The problem we are having is finding the documents and  
13 when the time slot is given, I mean, probably when you  
14 are indicating what time the conversation was,  
15 probably a little bit slower. But as to the rest,  
16 there is no problem with the pace. It is just finding  
17 the document, the right document. That's all.

18 PRESIDENT SHORE: So, Mr. Daly, you appear to  
19 be the culprit. So, if you could slow down when you  
20 do the time.

21 MR. DALY: Thank you very much,  
22 Mr. President. I'm sorry. I'm happy to fall on the

1 sword and read the time stamps more slowly.

2 PRESIDENT SHORE: You don't really have a  
3 choice.

4 BY MR. DALY:

5 Q. I want to get back to this word "bluff,"  
6 though.

7 Isn't a bluff an attempt to deceive someone  
8 into believing something that is not true?

9 A. That is your idea. It is not mine, and I  
10 respect it, sir.

11 Q. But it was your word, Mr. Barsallo. You're  
12 the one who wrote it in a text message; correct?

13 A. That is correct, and I use it quite often.

14 Q. Do you play poker?

15 A. No, sir.

16 Q. Do you know what the word "bluff" means in  
17 poker?

18 A. No, sir. I would like to know.

19 PRESIDENT SHORE: Maybe we'll wait for  
20 another time for you to find out.

21 (Laughter.)

22 BY MR. DALY:

1 Q. When Mr. López says, at 7:59:03: "It sucks,  
2 bro," why would it suck if there was a valid legal  
3 process that was underway?

4 A. Let me explain.

5 THE WITNESS: Question, is it necessary to  
6 come this close to the mike? Can you hear me?

7 SECRETARY KETTLEWELL: It's better if you  
8 come closer.

9 THE WITNESS: Now, this is, "It sucks, bro,"  
10 in Spanish, "ta cabrón, bro" is something regional of  
11 Puerto Rico. It is something that is used frequently  
12 in Puerto Rico, and it is used for several reasons  
13 to--for greetings to a friend, in a friendly manner,  
14 but also in--with a negative meaning.

15 When you asked me--when he asked me "it  
16 sucks, bro," in Spanish, "ta cabrón, bro" it is  
17 because of the previous sentence. He is giving me an  
18 example, he's indicating or he is communicating to me  
19 or he is letting me know--I don't know whether it is  
20 based on his information, whatever he was told, that  
21 the legal Office of the Comptroller General's Office,  
22 they are investigating a lot of this blah, blah, blah,

1 because of the case, Mr. Moncada's case, and that this  
2 situation is--"sucks" is strong, is difficult, with  
3 due respect. That is his assertion.

4 BY MR. DALY:

5 Q. But in response to his assertion, you  
6 didn't--you did not tell him that there was a valid  
7 legal process that was underway, did you?

8 A. Would you please repeat the question, please?

9 Q. In response to his text message, you did not  
10 say that there was a valid legal process that was  
11 underway, did you?

12 A. Definitely. This is a conversation with a  
13 friend. There are not many technical terms or  
14 technical words, if you look at this.

15 Q. If we move down at 8:01:22, Mr. López  
16 says: "Do you know anything" and then, at 8:01:27, he  
17 clarifies the word "know."

18 Do you see that?

19 A. Correct. I see it, sir.

20 Q. He's relying on your knowledge of how the  
21 Panamanian Government works at this point in time,  
22 isn't he?

1           A.     That is your statement, sir. I don't know if  
2 it is--if he's relying on my knowledge because in the  
3 context and at the time of these messages, my  
4 relationship with the Government and also with the  
5 Administration was not the best. It was the last  
6 person he had to resort to, to know what was going on.  
7 And, as I mentioned before, the knowledge I have of  
8 the version as to the investigation, but not the one  
9 in the newspaper, is based on what they told me. It  
10 is not based on what I know or what I do not know  
11 because I am not an investigator of this sort.

12           Q.     But Mr. López--you had more knowledge than  
13 Mr. López about how the Panamanian Government worked;  
14 correct? At this point in time, this was in 2016, and  
15 you had spent your entire career working for the  
16 Panamanian Government; correct?

17           A.     Would you please repeat to tell me what is it  
18 that I have specific knowledge of?

19           Q.     Mr. López is inquiring about your knowledge  
20 of MINSA and of the Comptroller General's Office;  
21 correct?

22           A.     That is correct, sir.

1 Q. And you had more knowledge than he did about  
2 those two subjects; right?

3 A. In connection with the working, yes.  
4 Clearly.

5 Q. And in response to his question you said, at  
6 8:01:34: "That comes from the Presidency"; right?

7 A. That's what the message says.

8 Q. And by "that," you're referring to the orders  
9 that you had referred to above at 7:58:35; right?  
10 You're saying: "I conclude they have orders and they  
11 come from the Presidency"; correct?

12 A. That's what the message says.

13 Q. Let's move to the text message that you had  
14 with Mr. López on March 10, 2016.

15 I'm sorry, sir. On--

16 Before we move to that, at 8:01:40, you  
17 said: "I'll cut off my balls."

18 Do you see that?

19 A. I do see that.

20 Q. And by saying that, you meant to emphasize  
21 that you really meant what you had just said, didn't  
22 you?

1 A. That is a Panamanian expression, sir.

2 Q. And it means that you meant to emphasize what  
3 it is that you had just said; isn't that right?

4 A. Yes. As part of the conversation, yes,  
5 clearly.

6 Q. And you had just said that there were orders  
7 that came from the Presidency; right?

8 A. In connection with the information that  
9 Mr. Frankie relayed to me.

10 Q. Okay. Let's move to the next text message  
11 chain, which is on March 10. It is in the same  
12 exhibit, so I'm still within C-0681, and there's a  
13 text message chain that starts at 8:07:28 in the  
14 evening. It's on Page 7 of the Spanish version.

15 A. I have it, sir.

16 Q. Okay. And at 8:07:38, you say: "The  
17 anticorruption Prosecutor jumped on me." And then the  
18 next line, 8:07:55, you say: "They are investigating  
19 the Tender for the CAPSIs."

20 Do you see that?

21 A. I see that.

22 Q. So, you're telling Mr. López here that the

1 Tender, that Omega's tender for two of its MINSA CAPSI  
2 Projects were being investigated; is that right?

3 A. Correct, three Contracts. Three Contracts  
4 were being investigated, three Contracts of two  
5 different Tenders, not just one, for MINSA CAPSI.

6 Q. Three Contracts were being investigated, two  
7 of which were Omega's; right?

8 A. That is correct, sir.

9 Q. And this was one week after you raised the  
10 idea of a conspiracy with Mr. López, isn't it?

11 A. Well, based on the dates, the calendar dates,  
12 yeah, there are no doubts. That's the way it is.

13 Q. And so, you were telling him that a  
14 prosecutor wanted information from you about Omega's  
15 MINSA Projects, and the words that you used--again,  
16 this may be a translation issue--but you said that  
17 they had "jumped on" you; right?

18 I think you said "me callo" in Spanish?

19 A. I understand. Let me explain. This  
20 conversation, even though--

21 PRESIDENT SHORE: So, you're trying to ask a  
22 witness, Mr. Daly, about a series of text messages

1 which encapsulate many different ideas when people  
2 communicate, and in that case, he is going to be a  
3 given a full opportunity to explain what might be in  
4 these messages, because these types of communications  
5 are not ones that are contractual communications which  
6 we can read the same way. So, you can go down this  
7 line, but if you do, we're going to hear him in full  
8 about what the context is.

9 MR. DALY: Understood, Mr. President.

10 BY MR. DALY:

11 Q. My question--and you're welcome to  
12 explain--is what did you mean by "jumped on you?"

13 A. First, it says--I'm sorry. The  
14 anticorruption office made it to my office, arrived to  
15 my office. They came.

16 Q. Okay. They came to your office, and you're  
17 writing this on March 10 at 8:00 in the evening.  
18 March 10 is a Thursday. If you look at the text  
19 message that is sent at 8:15:01 and the one following  
20 it at 8:15:05, you say: "Since Tuesday," and then the  
21 next says "until today."

22 Do you see that?

1           A.    I see that.

2           Q.    So, the Prosecutors were searching for  
3 information for three days, weren't they?

4           A.    That is correct, sir. Based on what I see  
5 here, I have said that this was as of Tuesday and up  
6 to today, on the 10th, I don't know what day of the  
7 week that was in 2016.

8           Q.    And you say that the--this--the Prosecutors  
9 were prompted to do so by a news article; is that  
10 right?

11          A.    Are you asking me whether I said this here or  
12 whether I know that?

13          Q.    No. I should clarify my question.

14                In your Second Witness Statement, when you  
15 address this text message, you say that the Prosecutor  
16 wanted information based on a news article; right?

17          A.    That is correct, sir.

18          Q.    But you didn't say anything about the news  
19 article in your text message to Mr. López?

20          A.    That is correct. I did not say anything.

21          Q.    And you don't have a copy, a full copy of  
22 that news article; right?

1           A.     This was on the internet, and this was part  
2 of the documents that are included in my first  
3 Statement, and it was later on deleted. It is a page  
4 by an official newspaper of Panamá that indicated an  
5 investigation or the investigation of three CAPSIs  
6 because of addenda at high prices, but this was part  
7 of the investigation.

8           It was circulated both in print and on the  
9 internet at the time I gave my Second Statement, and I  
10 tried to access the link of that news item, and in the  
11 search it appears, but it no longer appears in the  
12 newspaper. Why, I don't know.

13          Q.     The exhibit that you attached to your Second  
14 Witness Statement is a copy of the caption for the  
15 article but doesn't have the content of the article  
16 itself; right?

17          A.     That is right, 100 percent right.

18          Q.     So, the investigators spent three days  
19 searching through MINSA's files based on something  
20 that they read in a newspaper article?

21          A.     I asked the prosecutorial staff that question  
22 when they were in my office investigating, and that's

1 what they answered. They said the investigation had  
2 begun because of the publication in an article, in a  
3 print newspaper, that made reference to three MINSA  
4 CAPSIs.

5 Q. Okay. You were involved in the Tender of  
6 Omega's MINSA's--MINSA Projects, weren't you?

7 A. That is right, two groups.

8 Q. There was no corruption in the Tender of  
9 Omega's MINSA CAPSI Projects; right?

10 A. No, everything happened in keeping with the  
11 transparent process.

12 Q. And nothing came of the investigation that  
13 you were describing to Mr. López on March 10, 2016;  
14 right?

15 A. Could you please repeat the question? I'm  
16 not sure exactly how the translation concluded.

17 PRESIDENT SHORE: Could you give something  
18 more specific than "nothing came of." That might be  
19 helpful.

20 BY MR. DALY:

21 Q. As far as you know, the investigators--there  
22 were no formal charges that are made against Omega

1 based on the three days of investigations that you  
2 described to Mr. López on March 10, 2016; right?

3 A. I don't know how that ended up. I don't know  
4 whether it continues or does not continue.

5 Q. Okay. Let's move to another, to further down  
6 in the same exhibit to a text message chain that you  
7 had on December 15, 2016. This is going to be at the  
8 end of the exhibit. On the last page in the Spanish  
9 version, it's on Page 14.

10 A. Okay. I'm there.

11 (Interpretation interruption.)

12 Q. Okay. At 9:58:34 on this day, Mr. López  
13 says: "They manufactured a case against OR and PF."

14 Do you see that?

15 A. I do see it.

16 Q. "OR" is Oscar Rivera and "PF" is Pancho  
17 Feliú; right?

18 A. That is correct, sir.

19 Q. And then at 9:58:49, you respond "that is  
20 true."

21 Do you see that?

22 A. Yes, I do see it.

1 Q. So, you are confirming that the Government  
2 had manufactured charges against Omega; right?

3 A. Can I explain my answer? As I explained,  
4 sir, my knowledge of the case--well, the first time I  
5 came to learn of it was when personnel from Omega told  
6 me about it, Pancho Feliú first and Mr. Frankie López  
7 thereafter.

8 They indicated to me on the basis of that  
9 process, their version, as a friend, they told me what  
10 was happening, their frustration and what they were  
11 feeling. The other way I found out about that case,  
12 is due to what was indicated in the newspapers, they  
13 said it was a case against Mr. Moncada Luna, and among  
14 the persons who were called to testify was Mr. Oscar  
15 Rivera. Oscar Rivera and Pancho Feliú.

16 All of the information about the Omega  
17 personnel in this case, given my message  
18 in--with--exchange with Frankie López about what they  
19 thought about the case was from what they told me.

20 I repeat, outside of that, I have no way, and  
21 no documentation, nor have I witnessed, nor have I  
22 been anywhere such that I could say that that is the

1 way things are. My answer is within a conversation  
2 with someone who is a friend of mine, where we both  
3 had many frustrations with the Ministry of Health,  
4 personal ones, myself, and then with matters with the  
5 contracts.

6           Given my answer, based on what they said  
7 initially, they are fabricating a process, they are  
8 fabricating a process against me, they are fabricating  
9 a proceeding against me. They can say it 1,000 times.  
10 I have no way to confirm it nor to say it's true. I  
11 went to such and such place. I saw a document. I  
12 have no way to verify it other than the information  
13 that they gave me, my conversation as a friend at that  
14 time was based on that.

15           Q. But you did confirm it in this text message  
16 response to him; right?

17           A. That is correct, confirmed based on the  
18 information they gave me. It's not confirmed based on  
19 my convictions or my investigation.

20           Q. I understand. At 9:58:57, you also said "and  
21 that was worth nothing;" correct?

22           A. That is correct, sir.

1 Q. You did not comment on this aspect of the  
2 text messages in your Second Witness Statement, did  
3 you?

4 A. Regarding the comment that said "and that is  
5 worth nothing." Is that what you're referring to?

6 Q. Regarding this text message, regarding this  
7 text message chain on December 15, 2016. You did not  
8 address it in your Second Witness Statement; correct?

9 A. If you allow me to review it just to  
10 corroborate, and not say something about which I'm not  
11 100 percent sure. Can I take a look at my Second  
12 Witness Statement?

13 PRESIDENT SHORE: We can check whether he  
14 said it in his Second Witness Statement or not.

15 Move on, Mr. Daly.

16 MR. DALY: Okay. Members of the Tribunal,  
17 this might be a good time to take a quick break,  
18 actually.

19 (Interruption.)

20 PRESIDENT SHORE: Sure. Since it is 4:09,  
21 and we had a slight break earlier, why don't we take  
22 10 minutes instead of 15, and reconvene at 4:19.

1           No conversation with anyone about the case  
2 during the break.

3           THE WITNESS: Fine. Understood.

4  
5           (Brief recess.)

6           PRESIDENT SHORE: Back on the record.

7           Mr. Daly.

8           MR. DALY: Thank you, Mr. President.

9           The Claimants have no further questions for  
10 Mr. Barsallo.

11          PRESIDENT SHORE: Thank you, Mr. Daly.

12          Mr. Ryan.

13          MR. RYAN: We would be delighted to hear from  
14 you first, the Tribunal, if you are offering.

15          PRESIDENT SHORE: Ah, I almost forgot.

16          Professor Naón. Professor Douglas.

17          I thought that I had been pronouncing your  
18 name correctly, Mr. Barsallo, but maybe I haven't. I  
19 apologize.

20          I just have a couple of questions.

21                        QUESTIONS FROM THE TRIBUNAL

22          PRESIDENT SHORE: When you were in the

1 Government, did you consider yourself to be a highly  
2 placed individual?

3 THE WITNESS: No, I did not consider that.

4 PRESIDENT SHORE: What did you consider the  
5 level of your knowledge of the workings of the Varela  
6 Administration to be after President Varela took  
7 office?

8 THE WITNESS: Given my position and the  
9 knowledge of the information that I handled, I was a  
10 person of trust, in terms of, well, what's here in my  
11 mind and in terms of the way I dealt with projects.  
12 From the Martinelli Administration, as the years went  
13 by, I was the only person left managing these  
14 Projects, the only person until the end of that  
15 Administration and until the new Administration came  
16 in to office and sent me on vacation.

17 PRESIDENT SHORE: Mr. Daly, any  
18 questions--sorry, Mr. Ryan, over to you.

19 MR. RYAN: Mr. President, we have no  
20 questions.

21 PRESIDENT SHORE: Mr. Daly, anything further?

22 MR. DALY: No, Mr. President.

1           PRESIDENT SHORE: Mr. Barsallo, your  
2 testimony has concluded. We thank you very much for  
3 your appearance today, and you are dismissed from the  
4 proceedings.

5           THE WITNESS: Thank you very much,  
6 Mr. President, the other arbitrators, and all those  
7 present.

8           (Witness steps down.)

9           PRESIDENT SHORE: So, if I'm right by memory,  
10 it is Ms. Buendia who would be up next; is that right?

11          MR. RYAN: That's correct, sir.

12          PRESIDENT SHORE: And the question is, since  
13 we appear to be on schedule--and she's the only  
14 witness for tomorrow; is that correct?

15          MR. RYAN: That is correct, sir.

16          MS. GORSLINE: Yes.

17          PRESIDENT SHORE: And we're at 4:22 today.  
18 Is she around?

19          MR. WEISBURG: No.

20          PRESIDENT SHORE: Well, that might solve the  
21 question that I wanted to ask, whether we should try  
22 to get some of her testimony today, but it doesn't

1 appear that we should.

2 Do you think that we'll be on track--this is  
3 really a question on your side, Ms. Gorsline--to  
4 conclude with Ms. Buendia in the course of tomorrow?

5 MS. GORSLINE: Yes, certainly, Mr. President.

6 PRESIDENT SHORE: And I don't think--I'm  
7 going to look to Professor Naón and Professor Douglas.  
8 I don't think we see a real advantage in trying to  
9 move up the Expert testimony to Thursday afternoon,  
10 given the--I won't say "guarantee" that counsel have  
11 given us about a Friday conclusion at a proper time  
12 but the strong indication that we've had from you.

13 So, on that basis, the only question would be  
14 resolved when we see how we go tomorrow morning about  
15 when we conclude, whether, for example, there's a need  
16 to hold Ms. Buendia and all of us over lunch or  
17 whether you can conclude by 12:30, 12:45, whether we  
18 adjourn and it gives you a chance to prepare further  
19 for the Expert testimony.

20 Ms. Gorsline, does that sound like a  
21 reasonable plan to you?

22 MS. GORSLINE: Yes, Mr. President.

1 PRESIDENT SHORE: Mr. Weisburg? Mr. Ryan?

2 MR. RYAN: Yes, sir.

3 MR. WEISBURG: Yes, that's fine.

4 PRESIDENT SHORE: It's a good thing he didn't  
5 disagree with you, Mr. Ryan.

6 MR. RYAN: It wouldn't be the first time,  
7 sir.

8 PRESIDENT SHORE: In that event, I want to  
9 thank everyone for a very efficient day of  
10 examinations and, of course, thank the Witnesses, even  
11 though they are no longer here.

12 Let's reconvene then with  
13 Ms. Buendia-- probably mispronouncing that as well, so  
14 be it--ready to go at 9:00.

15 Any procedural issue, Ms. Gorsline, to raise  
16 at this time?

17 MS. GORSLINE: No, sir, none for Claimants.

18 MR. WEISBURG: No, sir, and we'll be ready  
19 promptly at 9:00.

20 PRESIDENT SHORE: All right. Very well.  
21 Thank you very much.

22 MS. GORSLINE: Thank you, sir.

1 MR. RYAN: Thank you, sir.

2 (Whereupon, at 4:24 p.m., the Hearing was  
3 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