

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE, WEST JUSTICE CENTER  
DEPARTMENT W7

TRAVEL AMERICA, INC., A DELAWARE )  
CORPORATION, ET AL., )  
 )  
PLAINTIFFS, )  
 )  
VS. ) CASE NO. 789743  
 )  
CAMP COAST TO COAST, INC., A DELAWARE )  
CORPORATION, ET AL., )  
 )  
DEFENDANTS. )  
\_\_\_\_\_ )

THE HONORABLE JOHN H. SMITH, JR., JUDGE PRESIDING

REPORTER'S TRANSCRIPT

JULY 20, 2000

APPEARANCES:

FOR THE PLAINTIFFS:

GERALD M. SHAW  
ATTORNEY AT LAW

TERRY M. MOSHENKO  
ATTORNEY AT LAW

FOR THE DEFENDANTS:

ALSCHULER, GROSSMAN, STEIN & KAHAN  
BY: MICHAEL A. SHERMAN, ESQ.

RUTAN & TUCKER  
BY: IRA G. RIVIN, ESQ.

HEIDI K. STEWART, CSR #6058  
OFFICIAL COURT REPORTER

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1 WESTMINSTER, CALIFORNIA - THURSDAY, JULY 20, 2000

2 MORNING SESSION

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN  
4 COURT IN THE PRESENCE OF THE JURY:)

5 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

6 PROCEED, COUNSEL. CALL YOUR NEXT WITNESS.

7 MR. SHERMAN: THE DEFENDANTS WOULD LIKE TO CALL AS  
8 THEIR NEXT WITNESS, MR. JAMES PATTON.

9 THE CLERK: STAND RIGHT THERE, SIR, AND RAISE YOUR  
10 RIGHT HAND.

11 JAMES HAROLD PATTON,

12 CALLED AS A WITNESS ON BEHALF OF THE DEFENDANTS, HAVING  
13 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS  
14 FOLLOWS:

15 THE CLERK: TAKE A SEAT IN THE WITNESS STAND,  
16 PLEASE.

17 PLEASE STATE YOUR FULL NAME FOR THE RECORD  
18 AND SPELL YOUR LAST NAME FOR THE REPORTER, PLEASE.

19 THE WITNESS: JAMES HAROLD PATTON, P-A-T-T-O-N.

20 DIRECT EXAMINATION

21 BY MR. SHERMAN: Q GOOD MORNING, MR. PATTON.

22 A GOOD MORNING.

23 Q MR. PATTON, I'M GOING TO GO OVER A FEW  
24 THINGS WITH YOU THIS MORNING, BUT I'D LIKE TO START WITH  
25 WHETHER YOU EVER ATTENDED A CHRISTMAS HOLIDAY PARTY WITH  
26 THE NOVELLIS.

1 A YES, I DID.

2 Q WHEN WAS THAT?

3 A DECEMBER, 1992.

4 Q AND AS OF DECEMBER 1992, YOU AND YOUR  
5 BROTHER AND MR. ED LEWIS SOLD A RESORT PARK TO THE NOVELLI  
6 ORGANIZATION SOME MONTHS EARLIER?

7 A YES. WE SOLD A CORPORATION TO FIRST  
8 NATIONWIDE RESORT MANAGEMENT AND MR. NOVELLI.

9 Q AND WHEN WAS THAT?

10 A THAT WAS IN JUNE OF 1992.

11 Q NOW, AT THIS CHRISTMAS PARTY, DID YOU SPEAK  
12 WITH THE NOVELLIS?

13 A OH, YES.

14 Q AND DID YOU SPEAK WITH MARLIES NOVELLI?

15 A YES, I DID.

16 Q AND WAS YOUR WIFE WITH YOU?

17 A YES, SHE WAS.

18 Q AND WHAT DID MARLIES NOVELLI SAY TO YOU AND  
19 YOUR WIFE AT THAT TIME?

20 MR. MOSHENKO: OBJECTION. RELEVANCE. HEARSAY.  
21 AND REMOTE. IMMATERIAL. 1992 CHRISTMAS PARTY SMALL-TALK.

22 MR. SHERMAN: MARLIES NOVELLI IS AN OFFICER OF THE  
23 CORPORATION THAT ARE PARTIES TO THIS CASE.

24 MR. MOSHENKO: 1992 CHRISTMAS PARTY, YOUR HONOR.

25 IT'S A 1997 --

26 THE COURT: IT'S FOUNDATIONAL. I'LL ALLOW IT.

1           THE WITNESS: MY WIFE AND I WERE HAVING JUST  
2 GENERAL CHITCHAT WITH MRS. NOVELLI. I DON'T RECALL THE  
3 SPECIFIC WORDS THAT WERE USED, AS FAR AS WHAT WE WERE  
4 GENERALLY DISCUSSING. BUT MARLIES MADE A STATEMENT TO MY  
5 WIFE AND I THAT ONE OF RAY'S AND HERS LITTLE PET SAYINGS  
6 WAS IS A GOOD GUY NEVER WINS.

7           BY MR. SHERMAN: Q HOW SOON AFTER THAT CHRISTMAS  
8 PARTY IN DECEMBER, 1992, DID THE PAYMENTS STOP?

9           A IMMEDIATELY. ACTUALLY, THE NOVEMBER AND  
10 DECEMBER CHECKS THAT I HAD RECEIVED BOTH BOUNCED. I WAS  
11 GIVEN THE STORY BY MR. FESSINMEYER, WHO WAS AN ACCOUNTANT  
12 AT THAT TIME, THAT THEY HAD CHANGED BANKS, AND EVERYTHING  
13 HAD GOT JUMBLED UP; AND THAT HE GAVE ME A CHECK TO REPLACE  
14 THE ONE IN-NOVEMBER. AND I SUBMITTED IT TO THE BANK OF  
15 AMERICA; THAT THEY HAD OPENED A NEW ACCOUNT FOR COLLECTION,  
16 AND I WAS NEVER COLLECTED ON.

17           Q LET'S SPEND A FEW MOMENTS ON YOUR  
18 BACKGROUND, SIR.

19                           WHERE DO YOU LIVE?

20           A I LIVE IN KLAMATH FALLS, OREGON.

21           Q ARE YOU MARRIED?

22           A YES, I AM.

23           Q AND WHAT'S YOUR WIFE'S NAME?

24           A MARGIE.

25           Q ARE YOU IN BUSINESS, SIR?

26           A YES, I AM. I'M A DEVELOPER. OF COURSE, I'M

1 NOT BUSY DEVELOPING ALL THE TIME. BUT I'M, YOU KNOW, IN  
2 BUSINESS.

3 Q AND WHAT KIND OF DEVELOPMENTS ARE YOU NOW  
4 WORKING ON?

5 A WORKING ON A COMMERCIAL DEVELOPMENT IN WEED,  
6 CALIFORNIA, WHICH IS RIGHT AT THE BASE OF MT. SHASTA, AND  
7 ALSO A CHRISTIAN RETREAT RESORT IN THE BAHAMAS.

8 Q AND THIS DEVELOPMENT IN MT. SHASTA, WHAT  
9 KIND OF DEVELOPMENT IS THAT?

10 A IT'S A COMMERCIAL-INDUSTRIAL TYPE  
11 DEVELOPMENT.

12 Q AND THE RETREAT, THE CHRISTIAN RETREAT IN  
13 THE BAHAMAS, WHAT'S THAT ALL ABOUT?

14 A THAT'S A VERY SMALL ISLAND THAT IS A  
15 CHRISTIAN ISLAND THAT DOES NOT ALLOW BARS, AS A MATTER OF  
16 FACT, DON'T EVEN SELL CIGARETTES. AND WE ARE DEVELOPING 40  
17 UNITS THERE.

18 Q AND WERE YOU THE ORIGINAL DEVELOPER OF THE  
19 RESORT CAMPGROUND PARK KNOWN AS SALT SPRINGS?

20 A YES.

21 Q I'M GOING TO ASK YOU SOME QUESTIONS ABOUT  
22 SALT SPRINGS.

23 LET'S START WITH, WHERE IS SALT SPRINGS,  
24 FLORIDA?

25 A SALT SPRINGS, FLORIDA IS ABOUT 23 MILES  
26 NORTHEAST OF OCALA, WHICH IS IN THE CENTER OF THE STATE IN

1 BETWEEN OCALA AND JACKSONVILLE.

2 Q SO IS IT RELATIVELY NEAR JACKSONVILLE?

3 A IT WAS IN -- WITHIN 45 MINUTES OF  
4 JACKSONVILLE.

5 Q OKAY. AND JUST SO WE CAN ALL FOCUS ON OUR  
6 GEOGRAPHY HERE, 45 MINUTE -- CENTER OF THE STATE, SOMEWHERE  
7 AROUND OCALA AND JACKSONVILLE, HOW FAR FROM TAMPA, FLORIDA?

8 A APPROXIMATELY 125 MILES.

9 Q WHEN DID YOU BEGIN DEVELOPING THE SALT  
10 SPRINGS PARK?

11 A 1987.

12 Q AND DID YOU HAVE ANYONE HELP YOU?

13 A YES, THERE WERE A NUMBER OF PEOPLE INVOLVED.

14 Q WELL, WHO WERE THE PRIMARY PEOPLE INVOLVED  
15 WITH YOU, MR. PATTON?

16 A MY BROTHER -- WELL, NOT AT THE TIME. MY  
17 BROTHER WAS IN '87. BUT MR. LEWIS, RANDOLF TUCKER,  
18 CHIP YONGE, MIKE TYE, MORRIS GOODWIN, AND ED THOMAS.

19 Q AND YOU MENTIONED RANDOLF TUCKER'S NAME.  
20 WAS HE ONE OF THE MAJORITY SHAREHOLDERS?

21 A AT THE TIME THAT WE JOINED IN, YES, HE WAS.

22 Q AND THEN WHAT HAPPENED?

23 A MR. LEWIS AND I PUT UP THE FRONT MONEY TO  
24 CLOSE ON THE PROPERTY AND ACTUALLY DUMP MONEY IN, TO  
25 SUSTAIN THE CORPORATION OR THE OPERATION WHILE WE'RE  
26 GETTING UNDERWAY WITH DEVELOPMENT AND THEN GETTING THE

1 SALES PROGRAM UNDERWAY.

2 Q DID YOU BUILD THE PARK?

3 A YES, I DID.

4 Q DESCRIBE IT AFTER YOU FINISHED BUILDING IT.

5 A WELL, THE PARK CONSISTED OF 77 ACRES OF THE  
6 PARK ITSELF, AND THEN WE HAD THE SHOPPING CENTER PROPERTY.  
7 WHEN WE WERE FINISHED -- WELL, NOT TOTALLY FINISHED WITH  
8 IT, BUT WE HAD 525 R.V. SITES, A VERY LARGE CLUBHOUSE, TWO  
9 SWIMMING POOLS, TWO SPAS, AND ANOTHER RECREATION BUILDING.

10 Q DESCRIBE THE QUALITY OF THE CONSTRUCTION.

11 A EXCELLENT, THE ONLY WAY TO PUT IT.

12 Q AND WHEN WAS THE ACTUAL CONSTRUCTION TAKING  
13 PLACE?

14 A I STARTED IN LATE 1987 -- MAYBE I SHOULD  
15 DIGRESS AND GIVE YOU A LITTLE BACKGROUND, HISTORY.

16 MR. MOSHENKO: NOT RESPONSIVE. THE WITNESS IS  
17 VOLUNTEERING TESTIMONY.

18 THE COURT: SUSTAINED.

19 BY MR. SHERMAN: Q SO YOU BEGAN THE DEVELOPMENT  
20 CONSTRUCTION IN LATE '87?

21 A YES.

22 Q AND HOW LONG DID IT TAKE?

23 A WE WERE STILL DEVELOPING THE PARK WHEN WE  
24 SOLD THE CORPORATION TO FIRST NATIONWIDE.

25 Q THAT WAS IN '92?

26 A THAT WAS IN '92.

1 Q NOW, AT SOME POINT DID YOU BEGIN TO SELL  
2 MEMBERSHIPS?

3 A YES, WE DID.

4 Q DID YOU SELL MEMBERSHIPS BEFORE YOU HAD  
5 COMPLETED YOUR DEVELOPMENT?

6 A OH, YES.

7 Q AND WERE YOU INVOLVED IN THE PROCESS OF  
8 SELLING MEMBERSHIPS?

9 A YES, I WAS.

10 Q YOU'VE HEARD OF A COAST TO COAST AFFILIATED  
11 RESORT PARK?

12 A YES.

13 Q AT THE TIME YOU FIRST BEGAN TO DEVELOP SALT  
14 SPRINGS, WAS IT THEN A COAST TO COAST AFFILIATED R.V. PARK?

15 A NO, IT WAS NOT.

16 Q SO WHOSE IDEA, IF YOU KNOW, WAS IT TO BECOME  
17 A COAST TO COAST AFFILIATED RESORT PARK?

18 A ALL OF US COLLECTIVELY. THAT WAS -- THAT  
19 WAS OUR MAIN THRUST, WAS TO BECOME AN AFFILIATION OF COAST  
20 TO COAST.

21 Q DID YOU BECOME A COAST TO COAST AFFILIATE  
22 BEFORE YOU BEGAN MARKETING TO MEMBERS?

23 A WE WERE IN THE PROCESS SIMULTANEOUS.

24 Q AND WE'LL COME BACK TO THE COAST TO COAST  
25 AFFILIATION IN A FEW MOMENTS.

26 BUT I WANT TO FOCUS YOU NOW ON YOUR SUCCESS

1 IN MARKETING THE SALT SPRINGS PARK TO MEMBERS.

2 WERE YOU SUCCESSFUL?

3 A VERY SUCCESSFUL.

4 Q DESCRIBE THAT. WHAT DO YOU MEAN BY THAT?

5 A IN THE FOUR YEARS THAT I WAS THERE, WE HAD  
6 SOLD APPROXIMATELY 6300 MEMBERSHIPS.

7 Q AND DID YOU BECOME KNOWLEDGEABLE ABOUT THE  
8 OTHER OPERATIONS IN THE MEMBERSHIP CAMPGROUND INDUSTRY AT  
9 THE TIME?

10 A YES.

11 Q AND THIS 6300 MEMBERSHIPS, WHERE DID THIS  
12 PLACE YOU OR RANK YOU, TO YOUR KNOWLEDGE?

13 A TO MY KNOWLEDGE WE WERE IN THE UPPER 10  
14 PERCENT OF THE RESORTS ACROSS THE NATION.

15 Q IN TERMS OF MEMBERSHIP?

16 A IN TERMS OF MEMBERSHIP AND QUALITY.

17 Q WHY DO YOU SAY IN TERMS OF QUALITY?

18 A THROUGHOUT THE INDUSTRY -- IT'S DIFFICULT TO  
19 EXPLAIN -- BUT SOME OF THE DEVELOPERS OF RESORTS WOULD  
20 PROMISE BUT NOT DELIVER ON WHAT THEY WERE PUTTING INTO A  
21 RESORT; WE WERE GOING TO PUT A POOL IN HERE, BUT IT NEVER  
22 MATERIALIZED. AND, YOU KNOW, WHILE OUR PHILOSOPHY IS, IF  
23 YOU'RE GOING TO DO IT, YOU DO IT RIGHT, AND YOU COMPLETE  
24 IT.

25 Q DID YOU DO IT RIGHT?

26 A YES, WE DID.

1 Q DID YOU COMPLETE IT?

2 A YES, WE DID.

3 Q NOW, I DON'T WANT TO GET TOO PERSONAL WITH  
4 THIS, MR. PATTON, BUT HOW MUCH OF YOUR OWN PERSONAL ASSETS  
5 WERE TIED UP INTO THAT PARK, PERCENTAGE-WISE?

6 MR. MOSHENKO: OBJECTION. IRRELEVANT.

7 THE WITNESS: PERCENTAGE-WISE?

8 THE COURT: OVERRULED.

9 THE WITNESS: PERCENTAGE-WISE, PROBABLY SOMEWHERE  
10 50 TO 60 PERCENT.

11 BY MR. SHERMAN: Q SO IS THIS PARK IMPORTANT TO  
12 YOU FROM A FINANCIAL STANDPOINT?

13 A DEFINITELY. I HAD 1,322,000 OF MY OWN MONEY  
14 INTO IT.

15 MR. MOSHENKO: OBJECTION. THE WITNESS IS  
16 VOLUNTEERING TESTIMONY.

17 THE COURT: OVERRULED.

18 BY MR. SHERMAN: Q AT THE TIME YOU SOLD THE PARK  
19 TO FIRST NATIONWIDE, WERE THE BILLS CURRENT?

20 A YES, THEY WERE.

21 Q WERE YOU KEEPING THE DEBTS CURRENT?

22 A ABSOLUTELY.

23 Q PAYING THE PROPERTY TAXES?

24 A ABSOLUTELY.

25 Q NOW, YOU MENTIONED A FEW MOMENTS AGO THAT  
26 YOU BECAME AFFILIATED WITH CAMP COAST TO COAST EARLY ON IN

1 THE MARKETING OF MEMBERSHIPS; DO YOU RECALL THAT?

2 A YES.

3 Q DID YOU HAVE ANY DIFFICULTIES ORIGINALLY IN  
4 BECOMING AFFILIATED WITH CAMP COAST TO COAST?

5 A YES.

6 Q DESCRIBE THOSE DIFFICULTIES.

7 A TO BECOME A COAST TO COAST AFFILIATE, THEIR  
8 REQUIREMENT IS THAT YOU HAVE A CERTAIN LEVEL OF AMENITIES  
9 IN A PARK. SINCE WE WERE JUST STARTING OUT WITH THE  
10 DEVELOPMENT OF ACTUALLY STARTING TO PUT THE SITES IN, THE  
11 WATER, THE SEWER, THE ELECTRIC, THE TELEPHONE, EVERYTHING,  
12 COAST TO COAST HAD TURNED US DOWN.

13 AND AFTER DEALING OR TALKING BACK AND FORTH  
14 WITH THE PEOPLE AT COAST TO COAST, MR. LEWIS AND MYSELF  
15 PERSONALLY GUARANTEED THAT THAT PARK WOULD BE COMPLETED; IT  
16 WOULD BE BUILT OUT. AND BASED ON THAT, COAST TO COAST  
17 ACTUALLY BENT -- AS I WOULD CALL IT ANYWAY -- THEIR OWN  
18 RULES AND REGULATIONS, AND LET US BECOME AN AFFILIATE.

19 Q DID YOU THINK THERE WAS SOMETHING WRONG WITH  
20 CAMP COAST TO COAST BENDING THE RULES TO LET YOU BECOME AN  
21 AFFILIATE?

22 MR. MOSHENKO: OBJECTION. HIS PERSONAL OPINION ON  
23 THIS IS IRRELEVANT.

24 THE COURT: OVERRULED.

25 THE WITNESS: MY OPINION, NO. I WAS GLAD.  
26 ACTUALLY WE WERE BEGGING TO BE AN AFFILIATE.

1 BY MR. SHERMAN: Q NOW, ON THAT ISSUE, DID CAMP  
2 COAST TO COAST ASSIST IN YOUR SALES EFFORTS?

3 A DEFINITELY.

4 Q HOW SO?

5 A WELL --

6 MR. MOSHENKO: YOUR HONOR, OBJECTION. THIS LACKS  
7 FOUNDATION. THIS MAN WAS INVOLVED IN SALES.

8 THE COURT: OVERRULED.

9 THE WITNESS: IN THE MEMBERSHIP INDUSTRY, COAST TO  
10 COAST WAS LOOKED UPON AS BEING THE COHESION IN THE  
11 MEMBERSHIP INDUSTRY, OF HAVING ALL OF THE AFFILIATES OF ALL  
12 THE PARKS ACROSS THE NATION; THAT IF YOU'RE A MEMBER OF ONE  
13 PARK AND YOU'RE A COAST TO COAST AFFILIATE AND YOU SIGN FOR  
14 THE COAST TO COAST MEMBERSHIP, YOU CAN TRAVEL ACROSS THE  
15 NATION, STAYING AT ALL OF THESE RESORTS FOR "X" AMOUNT OF  
16 DOLLARS PER NIGHT.

17 SO, THEREFORE, IT WAS A DYNAMIC SALES TOOL  
18 FOR OUR SALES STAFF TO BE ABLE TO OFFER COAST TO COAST  
19 MEMBERSHIP. IF YOU BUY A MEMBERSHIP IN OUR RESORT, THEN WE  
20 CAN PUT YOU INTO COAST TO COAST.

21 BY MR. SHERMAN: Q AND WHEN YOU SAY, "WE CAN PUT  
22 YOU INTO COAST TO COAST," DID YOUR MEMBERS ALSO BECOME  
23 MEMBERS OF CAMP COAST TO COAST, THOSE THAT ELECTED TO?

24 A YES.

25 Q AND APPROXIMATELY WHAT PERCENTAGE OF YOUR  
26 MEMBERS ALSO DECIDED TO BECOME MEMBERS OF CAMP COAST TO

1 COAST?

2 A APPROXIMATELY 60, 65 PERCENT.

3 Q OKAY. LET'S FAST-FORWARD NOW TO  
4 SPRING/SUMMER, 1992. AND LET ME DIGRESS ACTUALLY FOR ONE  
5 MOMENT.

6 MR. PATTON, I UNDERSTAND YOU'RE A LITTLE  
7 HARD OF HEARING?

8 A YES, I AM.

9 Q OKAY. SO FAR SO GOOD?

10 A SO FAR.

11 THE COURT: WE HAVE AN INSIDE JOKE AROUND HERE.  
12 YOU DON'T HAVE ANY CATS, DO YOU?

13 THE WITNESS: I TAKE IT SOMEONE ELSE IS HARD OF  
14 HEARING?

15 BY MR. SHERMAN: Q WHAT DID YOU SAY?

16 SPRING/SUMMER OF 1992, WERE YOU LOOKING TO  
17 SELL THE PARK?

18 A WE HAD DISCUSSED IT, BUT NOT SERIOUSLY.

19 Q WERE YOU IN FINANCIAL DIFFICULTIES THEN?

20 A NO, NOT AT ALL.

21 Q WERE YOU IN NEED OF A WORKOUT SPECIALIST TO  
22 COME IN THEN?

23 A NO, DEFINITELY NOT.

24 Q WERE YOU IN NEED OF SOME TURNAROUND ARTIST?

25 A NOTHING TO TURN AROUND. I WAS THERE.

26 Q AND SO WHY DID YOU SELL?



1 COME IN TO, YOU KNOW, KICK THE TIRES?

2 A YES.

3 Q CHECK IT OUT?

4 A YES.

5 Q WHO WAS THAT?

6 A THAT WAS HAL PARKS AND HIS, WELL, LIVE-IN  
7 FIANCE. I DON'T KNOW HER FIRST NAME. WE CALLED HER  
8 "SAM." THEY WERE MR. NOVELLI'S TROUBLESHOOTERS, IF YOU  
9 WILL, OR, YOU KNOW, PEOPLE THAT EVALUATED DIFFERENT  
10 COMPANIES OR DIFFERENT PARKS.

11 Q AND DID THEY COME IN AND EVALUATE THE PARK?

12 A THEY WENT THROUGH EVERYTHING FOR THREE  
13 MONTHS, THROUGH EVERYTHING.

14 Q I WANT TO SHOW YOU SOME DOCUMENTS. I THINK  
15 THAT THESE ARE IN EVIDENCE ALREADY -- THEY'RE NOT?

16 LET ME SHOW YOU SOME DOCUMENTS, THEN.  
17 EXHIBIT 1709.

18 THE COURT: THEY HAVE NOT BEEN RECEIVED IN EVIDENCE  
19 YET.

20 MR. SHERMAN: OKAY.

21 Q DO YOU RECOGNIZE WHAT THOSE DOCUMENTS ARE?

22 A YES, I DO.

23 Q WHAT ARE THEY?

24 A THIS IS A SECURITY AGREEMENT OR A PURCHASE  
25 AGREEMENT, PURCHASE AND SALE AGREEMENT.

26 Q INVOLVING YOUR PARK?

1 A YES. AND FIRST NATIONWIDE.

2 MR. SHERMAN: MOVE IT INTO EVIDENCE, YOUR HONOR.

3 THE COURT: NO OBJECTION?

4 IT WILL BE SO RECEIVED.

5 (WHEREUPON, EXHIBIT NO. 1709, PURCHASE AND  
6 SALE AGREEMENT, WAS RECEIVED IN EVIDENCE.)

7 MR. SHERMAN: PUT 1709 UP ON THE BOARD, PLEASE,  
8 MIKE.

9 Q AND SO THIS FIRST DOCUMENT IS 1709. THIS IS  
10 WHAT'S CALLED A SECURITY AGREEMENT, MR. PATTON?

11 A YES.

12 MR. SHERMAN: OKAY. LET'S GO TO 1709-006, MIKE.  
13 MAYBE NEXT PAGE -- NO, THE ONE BEFORE -- THERE WE GO.

14 Q LET ME TURN TO THE PAGE FOR YOUR BENEFIT.  
15 WHAT IS THIS DOCUMENT?

16 A A PROMISSORY NOTE.

17 Q WAS THIS PROMISSORY NOTE GIVEN TO YOU AND  
18 YOUR BROTHER AND MR. LEWIS?

19 A YES, IT WAS.

20 Q AND LET'S GO TO THE TWO PAGES INTO THAT.  
21 SEE THERE'S A SIGNATURE AT THE BOTTOM THERE?

22 A YES.

23 Q FIRST NATIONWIDE RESORT MANAGEMENT?

24 A YES.

25 Q DO YOU RECOGNIZE THE SIGNATURE?

26 A YES, I DO.

1 Q WHOSE SIGNATURE IS IT?

2 A THAT'S MR. HANS SCHULZ.

3 MR. SHERMAN: AND LET'S GO BACK, THE TWO PAGES NOW,  
4 MIKE.

5 Q THE AMOUNT OF THIS PROMISSORY NOTE WAS  
6 \$4,575,000; IS THAT RIGHT?

7 A YES.

8 Q AND SO WAS FIRST NATIONWIDE PROMISING TO  
9 PAY YOU, YOUR BROTHER, AND MR. LEWIS THAT AMOUNT OF MONEY?

10 A YES, IT WAS.

11 Q OVER TIME?

12 A YES, OVER A THREE-YEAR PERIOD.

13 Q AND THE FIRST DOCUMENT WE SAW WAS THAT  
14 SECURITY AGREEMENT?

15 A YES.

16 Q DO YOU RECALL THAT?

17 A YES.

18 Q AND THEY GAVE YOU A SECURITY AGREEMENT TO  
19 BACK UP THIS PROMISE?

20 A YES.

21 MR. MOSHENKO: COULD I JUST GET AN INTERPRETATION  
22 OR UNDERSTANDING FROM THE COURT?

23 WHEN THE COURT ADMITTED 1709, WERE YOU  
24 REFERRING TO THE ONE DOCUMENT THAT HE IDENTIFIED --

25 MR. SHERMAN: YOUR HONOR, I'M REFERRING TO --

26 MR. MOSHENKO: -- OR WERE YOU REFERRING TO

1 EVERYTHING?

2 MR. SHERMAN: I'M REFERRING TO PLAINTIFFS' TRIAL  
3 EXHIBIT 1709.

4 MR. MOSHENKO: I'D ASK THE COURT --

5 THE COURT: IT'S TWO DOCUMENTS.

6 MR. MOSHENKO: THAT'S THE PROBLEM. IT'S ABOUT NINE  
7 DOCUMENTS, AND THERE'S NO FOUNDATION FOR MANY OF THEM.

8 IF THE COURT COULD JUST RULE THAT THE TWO  
9 DOCUMENTS ARE WHAT THE COURT WAS REFERRING TO, I'LL SIT  
10 DOWN.

11 MR. SHERMAN: WHY DON'T WE JUST TAKE IT AS IT  
12 COMES. SO FAR WE HAVE A SECURITY AGREEMENT AND PROMISSORY  
13 NOTE WHICH I PRESUME ARE IN EVIDENCE.

14 THE COURT: THEY'RE IN EVIDENCE.

15 MR. MOSHENKO: OKAY.

16 MR. SHERMAN: FAIR ENOUGH.

17 LET'S GO TO ON SANCTION 1709-16, PLEASE.  
18 THAT'S THE SAME SECURITY AGREEMENT. I THINK IT IS. AND IF  
19 WE COULD GO TO THE NEXT PAGE, PLEASE, MIKE.

20 MELISSA, DO YOU HAVE ANOTHER COPY OF THE  
21 1709 SO I CAN LOOK AT IT?

22 OKAY. ACTUALLY LET'S GO TO THE PARAGRAPH 2  
23 OF THAT SECURITY AGREEMENT, THE PAGE BEFORE.

24 Q CAN YOU SEE THAT FROM THERE, MR. PATTON?

25 A YES, I CAN.

26 Q "THE COLLATERAL THAT'S SUBJECT OF THIS

1 AGREEMENT AND OF SECURED PARTY'S SECURITY INTEREST CONSISTS  
2 OF ALL OF THE DEBTOR'S ACCOUNTS, INTERESTS, AND GENERAL  
3 INTANGIBLE, INCLUDING JUDGMENTS ARISING FROM THE SALE OF  
4 MEMBERSHIPS BY DEBTOR TOGETHER WITH ALL PAYMENTS RECEIVED  
5 THEREFROM OR PROCEEDS THEREOF."

6 THAT'S A LOT OF LEGAL MUMBO-JUMBO; RIGHT?

7 A YES, IT IS.

8 Q WHAT DID YOU UNDERSTAND YOU WERE GETTING  
9 WHEN YOU SOLD THE PARK?

10 A THE UNDERSTANDING WAS WE HAD \$5.2 MILLION IN  
11 RECEIVABLES AT THE TIME. AND AS THOSE RECEIVABLES CAME IN,  
12 THAT'S WHAT FIRST NATIONWIDE OR A.R.A. WOULD USE TO MAKE  
13 THE PAYMENTS TO MR. LEWIS, MY BROTHER AND MYSELF.

14 Q SO DID YOU FEEL SECURE?

15 A YES, WE DID.

16 Q AND THESE WERE RECEIVABLES THAT YOU THOUGHT  
17 YOU'D BE SECURED WITH BASED ON MEMBER CONTRACTS?

18 A YES.

19 Q THE MEMBER CONTRACTS THAT YOU SOLD?

20 A YES.

21 Q THE MEMBER CONTRACTS THAT YOU PAID OUT MONEY  
22 OUT OF YOUR OWN POCKET TO MARKET?

23 A YES.

24 MR. MOSHENKO: OBJECTION. LEADING AND SUGGESTIVE.

25 THE COURT: OVERRULED.

26 BY MR. SHERMAN: Q AND DID YOU ALSO RECEIVE SOME

1 CASH AS A DOWN PAYMENT?

2 A VERY LITTLE.

3 Q HOW MUCH?

4 A \$25,000.

5 Q DID YOU THINK IT WAS TOO LITTLE AT THE TIME?

6 A YES. I WOULD HAVE LOVED TO HAVE MORE; BUT  
7 LOOKING AT IT, WE THOUGHT WE HAD OUR CONTRACTS AND  
8 AGREEMENTS AND EVERYTHING TIED UP SO TIGHTLY THAT THERE  
9 WOULD NOT BE A PROBLEM ON RECEIVING OR GETTING PAYMENT FROM  
10 FIRST NATIONWIDE OR A.R.A. WE JUST THOUGHT WE HAD IT ALL  
11 TIED UP.

12 Q AS OF JUNE, 1992, WHEN THIS DEAL CLOSED, TO  
13 YOUR KNOWLEDGE HAD FIRST NATIONWIDE RESORTS OR ANY COMPANY  
14 IN THE NOVELLI ORGANIZATION SPENT ONE DIME TO MARKET YOUR  
15 MEMBERS?

16 A NO.

17 Q WELL, YOU SOLD THE PARK. AND THERE DID COME  
18 A POINT IN TIME WHEN SOME PAYMENTS ON THE PROMISSORY NOTE  
19 WERE NOT MADE; IS THAT RIGHT?

20 A YES.

21 Q AND THAT BEGAN, AS I THINK YOU SAID EARLIER,  
22 SOMETIME IN LATE '92?

23 A NOVEMBER.

24 Q NOW, WHEN IT FIRST HAPPENED, DID YOU THINK  
25 THAT THERE WAS ANY -- ANYTHING, YOU KNOW, INTENTIONALLY  
26 GOING WRONG HERE?

1           A           NOT AT THE TIME. I WAS IN OREGON AT THE  
2 TIME AND --

3           MR. MOSHENKO: OBJECTION. NONRESPONSIVE AFTER "NOT  
4 AT THE TIME." THE WITNESS IS VOLUNTEERING TESTIMONY.

5           THE COURT: SUSTAINED.

6           BY MR. SHERMAN: Q WHY NOT?

7           A           AS I STARTED TO EXPLAIN, I WAS IN OREGON,  
8 RECEIVED A CHECK IN THE MAIL, DEPOSITED THE CHECK IN MY  
9 BANK, AND 15 DAYS OR SO LATER THE CHECK COMES BACK NSF,  
10 NON-SUFFICIENT FUNDS. CALLING RAY'S ORGANIZATION AND  
11 TALKING TO MR. FESSINMEYER, HE SAID THEY WERE CHANGING  
12 BANKS AND EVERYTHING HAD GOTTEN ALL MESSED UP, BUT HE WOULD  
13 ISSUE ME A CHECK TO REPLACE IT, WHICH HE DID. HE SENT ME  
14 ANOTHER CHECK TO REPLACE THAT CHECK, AND IT CAME BACK NSF.  
15

16                       THEN I MADE A TRIP TO SOUTHERN CALIFORNIA,  
17 MY BROTHER AND I, AND ACTUALLY RECEIVED ANOTHER CHECK IN  
18 RAY'S OFFICE FROM MR. FESSINMEYER TO REPLACE THE ONES THAT  
19 HAD BOUNCED. I PUT IT IN BANK OF AMERICA AND THEIR BANK  
20 FOR COLLECTION. WHEN I TOOK IT TO THE BANK, I WAS INFORMED  
21 THAT THERE WAS NOT SUFFICIENT FUNDS TO COVER THAT CHECK.  
22 SO I LEFT IT IN THERE FOR COLLECTION, IN WHICH IT WAS NEVER  
23 COLLECTED ON.

24           Q           SO WHAT DID YOU DO NEXT?

25           A           NOTHING WE COULD DO EXCEPT KEEP CALLING RAY  
26 AND MR. FESSINMEYER, AND THEN WE KEPT GETTING PROMISES,

1 KEPT GETTING, YOU KNOW, THE DIFFERENT STORIES OF VARIOUS  
2 THINGS.

3 Q DID YOU EVER HIRE A LAWYER?

4 A YES, WE HAD A LAWYER.

5 Q A LAWYER?

6 A AT THE TIME WE HAD THE ONE LAWYER.

7 Q BY THE TIME THIS IS ALL FINISHED, HOW MANY  
8 LAWYERS HAVE YOU HIRED TO COLLECT ON THIS PROMISSORY NOTE?

9 A PROBABLY ABOUT 10.

10 Q WELL, LET'S GO TO EXHIBIT 963.

11 WHAT IS EXHIBIT 963?

12 A THIS IS A COMPLAINT FILED IN THE FIFTH  
13 JUDICIAL CIRCUIT IN MARION COUNTY, FLORIDA.

14 Q DO YOU HAVE PERSONAL KNOWLEDGE OF THIS  
15 DOCUMENT?

16 A YES, I DO.

17 Q DID YOU AUTHORIZE THE FILING OF THIS LAWSUIT?

18 A YES, I DID.

19 MR. SHERMAN: I'D LIKE TO MOVE EXHIBIT 963 INTO  
20 EVIDENCE.

21 MR. MOSHENKO: ALL RIGHT, YOUR HONOR. NO  
22 OBJECTION.

23 THE COURT: 963 IS RECEIVED.

24 (WHEREUPON, EXHIBIT NO. 963, COMPLAINT, WAS  
25 RECEIVED IN EVIDENCE.)

26 BY MR. SHERMAN: Q SO THIS IS A COMPLAINT. IT

1 SAYS HERE THE FLORIDA STATE COURT, JAMES H. PATTON,  
2 C. EDWARD PATTON AND EDWARD E. LEWIS, PLAINTIFFS, VERSUS  
3 FIRST NATIONWIDE RESORT MANAGEMENT, INC., AND GUARDIAN  
4 CREDIT CORPORATION, DEFENDANTS.

5 WAS THIS COMPLAINT FILED ON ACCOUNT OF THE  
6 MISSED PAYMENTS?

7 A YES.

8 Q NOW, I NOTICE THAT A.R.A.'S NAME, THE  
9 CORPORATION THAT YOU OWNED THAT MR. NOVELLI TOOK OVER, IS  
10 NOT NAMED AS A DEFENDANT. IS THERE A REASON WHY?

11 A THAT WOULD BE BECAUSE A.R.A. HAD FILED  
12 BANKRUPTCY IN MARCH OF 1993.

13 Q AND LET ME SHOW YOU EXHIBIT 929. IS THAT  
14 THE BANKRUPTCY PETITION?

15 A YES.

16 MR. SHERMAN: I'D LIKE TO MOVE EXHIBIT 929 INTO  
17 EVIDENCE.

18 MR. MOSHENKO: YOUR HONOR, I HAVEN'T SEEN IT YET.

19 THE COURT: IT'S ALREADY IN.

20 MR. SHERMAN: ALL RIGHT. WITH THE EXCEPTION OF THE  
21 LAST TWO PAGES, THAT'S RIGHT.

22 THE COURT: ALL RIGHT.

23 MR. SHERMAN: LET'S GO -- MIKE, IF YOU COULD GO A  
24 LITTLE FURTHER DOWN, PLEASE.

25 Q OKAY. YOU SEE HERE IT SAYS, MIDDLE DISTRICT  
26 OF TENNESSEE, NASHVILLE, IN RE ADVENTURE RESORTS OF

1 AMERICA, INC.

2 THAT WAS YOUR COMPANY BEFORE YOU SOLD IT;

3 RIGHT?

4 A YES.

5 Q AND THEN IT SAYS, "STREET ADDRESS OF DEBTOR"

6 -- DO YOU SEE "STREET ADDRESS OF DEBTOR, 1001 BELL ROAD,

7 HERMITAGE, TENNESSEE"?

8 A I HAD NEVER HEARD OF IT.

9 Q WELL, WASN'T THE A.R.A. OFFICE IN HERMITAGE,

10 TENNESSEE?

11 MR. MOSHENKO: OBJECTION. LACKS FOUNDATION. CALLS

12 FOR SPECULATION.

13 THE COURT: OVERRULED.

14 THE WITNESS: NO. THE A.R.A. OFFICE WAS IN OCALA,

15 FLORIDA.

16 BY MR. SHERMAN: Q HAD YOU EVER DONE BUSINESS IN

17 TENNESSEE?

18 A NO. I SHOULD CLARIFY THAT AND SAY NOT WHILE

19 I WAS INVOLVED IN A.R.A. WE NEVER DID ANY BUSINESS IN

20 TENNESSEE.

21 Q SO AND LET'S GO DOWN TO THE DATE HERE --

22 WELL, MAYBE IT'S ON THE NEXT PAGE. LET'S GO TO THE NEXT

23 PAGE.

24 DO YOU RECOGNIZE MR. NOVELLI'S SIGNATURE

25 THERE ON THE SIGNATURE --

26 A YES, I DO.

1 Q MARCH 8TH, 1993.

2 WHAT DID YOU DO AFTER A.R.A. FILED THIS  
3 BANKRUPTCY IN TENNESSEE?

4 A WE SECURED THE SERVICES OF A  
5 MR. DOUGLAS DRAPER IN NEW ORLEANS, LOUISIANA, WHO WAS A --  
6 AT LEAST REPUTED TO BE A VERY, VERY GOOD BANKRUPTCY  
7 ATTORNEY.

8 Q YOU HAD TO HIRE ANOTHER LAWYER?

9 A WE HIRED ANOTHER ATTORNEY.

10 Q AND WHAT DID MR. DRAPER DO?

11 A STARTED HANDLING THE MECHANICS OF THIS  
12 BANKRUPTCY FILING, GOING IN FOR A CHANGE OF VENUE FROM  
13 TENNESSEE TO JACKSONVILLE, FLORIDA, WHERE IT WAS THE PROPER  
14 DISTRICT THAT IT SHOULD HAVE BEEN FILED IN.

15 Q YOU KNOW, ALL THIS BUSINESS ABOUT BANKRUPTCY  
16 EXPERTISE OF DRAPER AND CHANGING VENUE, HAD THIS BEEN  
17 SOMETHING THAT YOU WERE FAMILIAR WITH BEFORE YOU SOLD THE  
18 PARK TO MR. NOVELLI?

19 A NOT AT ALL. I HAD NO KNOWLEDGE OF  
20 BANKRUPTCIES, YOU KNOW, HOW THE SYSTEM IS OR ANYTHING. I  
21 HAD NO KNOWLEDGE OF BANKRUPTCIES.

22 Q DID YOU SPEAK WITH MR. NOVELLI ABOUT HIS  
23 KNOWLEDGE OF BANKRUPTCY AT SOME POINT IN TIME?

24 A YES. LATER, YOU KNOW, AFTER THIS ON MANY,  
25 MANY VISITS TO RAY'S OFFICE.

26 Q WHAT DID MR. NOVELLI SAY TO YOU ABOUT HIS

1 KNOWLEDGE OF BANKRUPTCY?

2 MR. MOSHENKO: UNCERTAIN AS TO TIME. COULD WE GET  
3 A TIME?

4 THE COURT: OVERRULED.

5 THE WITNESS: MR. NOVELLI TOLD MYSELF AND MR. LEWIS  
6 AND MY BROTHER THAT HE HAD STUDIED BANKRUPTCY WHILE HE WAS  
7 IN FEDERAL PRISON.

8 BY MR. SHERMAN: Q DID MR. NOVELLI TELL YOU THAT  
9 HE HAD BECOME EXPERT IN BANKRUPTCY LAW?

10 MR. MOSHENKO: OBJECTION. LEADING AND SUGGESTIVE.

11 THE COURT: OVERRULED.

12 THE WITNESS: HE INDICATED THAT HE WAS VERY SHARP  
13 AT IT.

14 BY MR. SHERMAN: Q NOW, AFTER THIS BANKRUPTCY WAS  
15 FILED, DID THERE COME A POINT IN TIME WHEN PAYMENTS AGAIN  
16 BEGAN TO BE MADE TO YOU?

17 A YES.

18 Q DO YOU RECALL APPROXIMATELY WHEN THAT  
19 OCCURRED, APPROXIMATELY?

20 A TOWARDS THE END OF 1994.

21 Q SO ABOUT ALMOST A YEAR AND A HALF, TWO  
22 YEARS?

23 A UH-HUH.

24 Q IS THAT A YES?

25 A YES, THAT IS CORRECT.

26 Q NOW, IN THE MEANTIME, MARCH, '93, TILL THE

1 END OF '94 -- DO YOU REMEMBER THAT LAWSUIT --

2 A YES.

3 Q -- WE PUT UP ON THE BOARD A FEW MOMENTS AGO?

4 A YES.

5 Q WHAT WAS GOING ON IN THAT LAWSUIT?

6 ANYTHING?

7 A VIRTUALLY NOTHING. TRYING TO SERVE

8 MR. NOVELLI PROVED TO BE, WELL, QUITE A TASK. ACCORDING TO

9 MR. MC KEVER, WHO WAS OUR ATTORNEY IN OCALA, FLORIDA --

10 MR. MOSHENKO: OBJECTION. HEARSAY. THE WITNESS IS

11 NOW DESCRIBING CONVERSATIONS WITH OTHER PARTIES.

12 THE COURT: OVERRULED.

13 MR. MOSHENKO: OVERRULED?

14 BY MR. SHERMAN: Q PLEASE CONTINUE.

15 A AND, ANYWAY, ACCORDING TO MR. MC KEVER, HE

16 WAS HAVING A VERY, VERY DIFFICULT TIME IN SERVING

17 MR. NOVELLI ON THE WEST COAST. WHEN WE FINALLY GOT HIM

18 SERVED, ACCORDING TO WHAT MR. MC KEVER TOLD ME, IS A

19 PROCESS SERVER ACTUALLY FOLLOWED RAY AND CAUGHT HIM AT AN

20 INTERSECTION AND GOT OUT OF HIS CAR AND TAPPED ON HIS

21 WINDOW. AND WHEN RAY LOWERED THE WINDOW IS WHEN HE SERVED

22 HIM.

23 Q NOW, ARE YOU FAMILIAR WITH THE LEGAL PHRASE

24 "STATE COURT RECEIVER"?

25 A YES, I AM.

26 Q AND WAS A RECEIVER EVER APPOINTED OVER THE

1 SALT SPRINGS PARK AND A.R.A.?

2 A YES.

3 Q ON HOW MANY OCCASIONS DID THAT HAPPEN?

4 A TWICE.

5 Q AND WHEN WAS THE FIRST TIME A RECEIVER WAS  
6 APPOINTED?

7 A I BELIEVE IT WAS IN THE MIDDLE PART OF 1994.

8 Q AND WHAT WAS THAT RECEIVER'S NAME?

9 A MR. GEORGE MC KAY.

10 Q NOW, AT SOME POINT IN TIME, SAY -- LET ME  
11 BACK UP, ACTUALLY, FROM THE TIMING STANDPOINT.

12 THE PAYMENTS STARTED AGAIN YOU SAY IN LATE  
13 '94?

14 A YES.

15 Q AND HOW LONG DID THEY CONTINUE?

16 A APPROXIMATELY FOUR MONTHS.

17 Q AND THEN WHAT HAPPENED?

18 A THEY CEASED.

19 Q DID THEY EVER START UP AGAIN AFTER THAT?

20 A NO.

21 Q DID THERE COME A POINT IN TIME WHEN YOU  
22 DECIDED TO TAKE SOME LEGAL ACTION AGAINST ANY OF  
23 MR. NOVELLI'S COMPANIES IN TENNESSEE?

24 A STATE THAT AGAIN, PLEASE.

25 Q YEAH.

26 DID THERE COME A POINT IN TIME WHEN YOU

1 PARTICIPATED IN AN INVOLUNTARY BANKRUPTCY FILING?

2 A YES.

3 Q DESCRIBE THAT.

4 A I WAS AT MY ATTORNEY'S OFFICE IN NEW  
5 ORLEANS, AND A CALL CAME IN FOR MR. DRAPER. HE TOOK IT IN  
6 THE CONFERENCE ROOM THAT WE WERE HOLDING OUR MEETING,  
7 AND -- ACTUALLY, IF YOU COULD BRING THAT BACK UP ON THE  
8 SCREEN, I NOTICED THERE MR. RUSNAK IS THE ONE THAT SIGNED  
9 THE A.R.A. FILING.

10 Q THAT'S JOSEPH RUSNAK?

11 A YES. JOSEPH RUSNAK. AND MR. RUSNAK PLACED  
12 A CALL TO MR. DRAPER INQUIRING WHETHER OR NOT WE WOULD JOIN  
13 IN AS A CREDITOR TO PLACE FIRST NATIONWIDE INTO INVOLUNTARY  
14 BANKRUPTCY AND JOIN HIM.

15 Q WAIT. JOSEPH RUSNAK -- I'M LOOKING AT THIS  
16 BANKRUPTCY PETITION. JOSEPH RUSNAK IS THE LAWYER THAT'S  
17 WORKING FOR MR. NOVELLI; IS THAT RIGHT?

18 A YES.

19 Q THAT WAS YOUR UNDERSTANDING?

20 A YES.

21 Q SO, WHAT'S MR. NOVELLI'S LAWYER DOING  
22 CALLING YOU ASKING YOU IF YOU WANT TO JOIN IN A BANKRUPTCY  
23 PETITION AGAINST ONE OF HIS OTHER COMPANIES?

24 MR. MOSHENKO: CALLS FOR SPECULATION, YOUR HONOR.

25 THE COURT: SUSTAINED.

26 BY MR. SHERMAN: Q DID MR. RUSNAK TELL YOU WHY HE

1 WAS TAKING THIS COURSE OF ACTION?

2 A YES.

3 Q WHAT DID HE SAY?

4 MR. MOSHENKO: SEEKS HEARSAY, YOUR HONOR.

5 THE COURT: OVERRULED. I'M GOING TO ALLOW IT.

6 THE WITNESS: HE SAID THAT HE HAD NOT BEEN PAID FOR  
7 HIS SERVICES, AND HE WANTED US TO JOIN IN TO PLACE FIRST  
8 NATIONWIDE INTO BANKRUPTCY.

9 BY MR. SHERMAN: Q LET'S GO TO EXHIBIT 376-005.

10 ACTUALLY, BEFORE YOU PUT IT UP, I BELIEVE  
11 THAT 376, EXHIBIT 376, IS IN EVIDENCE I'M TOLD, YOUR  
12 HONOR. I JUST WANT TO PUT THIS UP.

13 THE COURT: IT'S IN EVIDENCE.

14 BY MR. SHERMAN: Q I JUST WANT TO PUT THIS UP FOR  
15 SOME TIMING AND CONTEXT.

16 THIS IS A -- THIS WAS A PLEADING FILED BY  
17 MR. JAMES JOSEPH IN THE FIRST NATIONWIDE BANKRUPTCY IN  
18 APRIL, '98, AND HE RECITES IN THIS OVERVIEW SOME HISTORY;  
19 TALKS ABOUT THE FIRST NATIONWIDE CASE HAVING BEEN COMMENCED  
20 ON MAY 24, 1996, BY FIRST NATIONWIDE. AND THAT WAS OUT IN  
21 CALIFORNIA.

22 THAT WAS AFTER THIS INVOLUNTARY THAT YOU  
23 WERE TALKING ABOUT?

24 A YES.

25 Q OKAY. SO THEN YOU FILED THE INVOLUNTARY  
26 WITH MR. NOVELLI'S FORMER LAWYER AND ANOTHER CREDITOR, I

1 PRESUME; RIGHT?

2 A IN NASHVILLE.

3 Q AND THEN MR. NOVELLI HAD FIRST NATIONWIDE  
4 PUT INTO BANKRUPTCY IN CALIFORNIA?

5 A IN SAN BERNARDINO.

6 Q WHAT WERE THEY DOING IN SAN BERNARDINO, TO  
7 YOUR KNOWLEDGE?

8 MR. MOSHENKO: OBJECTION. CALLS FOR SPECULATION.

9 THE COURT: SUSTAINED.

10 BY MR. SHERMAN: Q TO YOUR KNOWLEDGE, DID FIRST  
11 NATIONWIDE CONDUCT OPERATIONS IN SAN BERNARDINO?

12 MR. MOSHENKO: CALLS FOR SPECULATION. LACKS  
13 FOUNDATION.

14 THE COURT: TO HIS KNOWLEDGE HE SAID.

15 THE WITNESS: WHETHER OR NOT THEY HAD ANY BUSINESS  
16 THERE, I DON'T KNOW IF THEY CONDUCTED ANY IN SAN BERNARDINO  
17 OR NOT. OVER THE YEARS THEY MAY HAVE HAD SOME BUSINESS  
18 THERE. I DON'T KNOW.

19 BY MR. SHERMAN: Q OKAY. BUT --

20 A BUT ANYWAY, IT WAS SAN BERNARDINO.

21 Q AND THEN IT SAYS HERE THAT THE DEBTOR  
22 CONTINUED -- THAT'S FIRST NATIONWIDE CONTINUED IN  
23 POSSESSION OF ITS ASSETS AND OPERATED ITS BUSINESS UNTIL OR  
24 ABOUT SEPTEMBER 27, 1996, AT WHICH TIME JAMES J. JOSEPH  
25 QUALIFIED AS THE TRUSTEE.

26 DO YOU RECALL THAT OCCURRING?

1           A        YES, I DO.

2           Q        WHEN IT HAPPENED?

3           A        UH-HUH.

4           Q        AND WHEN THIS BANKRUPTCY IN CALIFORNIA WAS  
5 FILED, DID YOU HAVE TO GO OUT AND HIRE ANOTHER LAWYER?

6           A        YES.

7           Q        SPEND MORE MONEY ON LAWYERS?

8           A        SPENT A LOT OF MONEY ON ATTORNEYS.

9           Q        NOW, WHEN A BANKRUPTCY TRUSTEE WAS APPOINTED  
10 OF FIRST NATIONWIDE, DID YOU HAVE ANY PARTICULAR REACTION  
11 AS FAR AS WHETHER IT BE A GOOD THING OR NOT A GOOD THING?

12          A        OH, WE WERE QUITE HAPPY AND ELATED THAT WE  
13 HAD A TRUSTEE, FINALLY; THAT -- YOU KNOW, TO GET SOMETHING  
14 DONE.

15          Q        HAVE YOU HEARD OF THIS BANKRUPTCY CONCEPT  
16 CALLED "CREDITOR'S COMMITTEE"?

17          A        YES.

18          Q        AND WHAT DID YOU UNDERSTAND A CREDITOR'S  
19 COMMITTEE TO BE?

20          A        IT'S A COMMITTEE OF THE CREDITORS OF THE  
21 COMPANY, IF YOU WILL, THAT HAS FILED BANKRUPTCY, THAT  
22 OPERATES UNDER THE TRUSTEE.

23          Q        AND DID YOU HAVE A ROLE IN THE CREDITOR'S  
24 COMMITTEE --

25          A        YES.

26          Q        -- FOR FIRST NATIONWIDE?

1           A           I WAS CHAIRMAN OF THE CREDITOR'S COMMITTEE.

2           Q           SO YOU HEADED IT UP?

3           A           YES.

4           Q           AND AS THE HEAD OF THE CREDITOR'S COMMITTEE,  
5 DID YOU UNDERSTAND WHETHER ONE OF YOUR JOBS WAS TO MEET  
6 WITH THE BANKRUPTCY TRUSTEE, MR. JOSEPH, AND BASICALLY GET  
7 YOUR ARMS AROUND THE CASE?

8           A           YES.

9           Q           AND WHAT WAS YOUR UNDERSTANDING?

10          A           IT WAS MY UNDERSTANDING THAT WE WERE  
11 SUPPOSED TO WORK TOGETHER AND TRY TO LIQUIDATE WHAT WE  
12 COULD TO SATISFY THE CREDITORS.

13          Q           NOW, PRIOR TO SUMMER/FALL OF 1996, THOSE  
14 EVENTS THAT I JUST SHOWED YOU A FEW MOMENTS AGO, DID YOU  
15 BELIEVE THAT YOU HAD SOME UNDERSTANDING AS TO THE NET WORTH  
16 AND THE INCOME OF FIRST NATIONWIDE?

17          A           YES.

18          Q           AND WHAT WAS THAT UNDERSTANDING BASED ON?

19          A           BASED ON FINANCIAL STATEMENTS.

20          Q           AND IN THE MONTHS PRIOR TO THE FIRST  
21 NATIONWIDE BANKRUPTCY, WHAT WAS YOUR UNDERSTANDING,  
22 GENERALLY, AS TO THE SIZE OF THE COMPANY, THEIR FINANCIAL  
23 HEALTH AND THE LIKE?

24          A           LOOKING AT THE FINANCIAL STATEMENTS THAT  
25 WERE SUPPLIED TO US AND OTHER INDIVIDUALS -- TO GIVE YOU AN  
26 EXAMPLE, IN 1995 THEIR BOTTOM-LINE NET PROFIT SHOWED NINE

1 MILLION NINE HUNDRED SOME ODD THOUSAND DOLLARS. AND OF  
2 COURSE THE BALANCE SHEET OF FIRST NATIONWIDE WAS UP AT  
3 NINETY-SOME MILLION DOLLARS.

4 Q SO ARMED WITH THAT INFORMATION, WHEN  
5 MR. JOSEPH WAS APPOINTED AS TRUSTEE, WHAT WERE YOU TRYING  
6 TO DO AS CHAIRMAN OF THE CREDITOR'S COMMITTEE?

7 A TRYING TO LIQUIDATE ASSETS TO SATISFY THE  
8 CREDITORS.

9 Q WERE YOU ABLE TO DO THAT?

10 A NO. NO.

11 Q WELL, WHY NOT, WITH INCOME OF \$9 MILLION AND  
12 ASSETS OF 97 MILLION?

13 A DIFFICULT TO EXPLAIN.

14 MR. MOSHENKO: OBJECTION, YOUR HONOR. MAY WE  
15 APPROACH?

16 THE COURT: YOU MAY APPROACH.

17 (DISCUSSION OFF THE RECORD.)

18 THE COURT: IS THIS YOUR FIRST EXPOSURE TO AN  
19 UNRULY JURY?

20 THE WITNESS: TO AN UNRULY JURY, YEAH. WE SHOULD  
21 CALM THEM DOWN.

22 THE COURT: PROCEED.

23 BY MR. SHERMAN: Q GIVEN YOUR UNDERSTANDING,  
24 MR. PATTON, OF THE SIGNIFICANT ASSETS AND EQUITY OF FIRST  
25 NATIONWIDE THAT YOU HAD UNDERSTOOD WAS THE CASE, PRIOR TO  
26 THE BANKRUPTCY FILING --

1 A YES.

2 Q -- DID YOU SPEAK WITH MR. JOSEPH ABOUT JUST  
3 TRYING TO GET EVERYONE PAID AND GETTING ON WITH IT?

4 A MANY OCCASIONS, YES.

5 Q AND WHAT HAPPENED?

6 MR. MOSHENKO: OBJECTION. CALLS FOR HEARSAY.

7 THE WITNESS: NOTHING.

8 THE COURT: OVERRULED.

9 THE WITNESS: NOTHING.

10 THE COURT: YOU MAY ANSWER.

11 THE WITNESS: NOTHING.

12 MR. MOSHENKO: HE DID, YOUR HONOR. HE SAID

13 "NOTHING."

14 THE COURT: OH.

15 THE WITNESS: WE JUST COULDN'T SEEM TO GET ANYTHING  
16 DONE.

17 BY MR. SHERMAN: Q DID YOU EVER INVESTIGATE IN  
18 THIS '95-'96 TIME FRAME WHETHER POTENTIAL LAWSUITS COULD BE  
19 BROUGHT AGAINST MR. NOVELLI AND HIS COMPANIES?

20 A DID I INVESTIGATE?

21 Q YEAH, WHETHER POTENTIAL LAWSUITS COULD BE  
22 BROUGHT?

23 A YES. YES, I DID.

24 Q WHAT DID YOU DO IN THAT REGARD?

25 A THROUGH MR. DRAPER THEY EXPLORED THE  
26 POSSIBILITY OF FILING A LAWSUIT AGAINST MR. NOVELLI AND

1 TRYING TO BRING IN R.I.C.O. FOR ONE THING.

2 Q AND LET'S GO BACK TO THE PARK --

3 A UH-HUH.

4 Q -- WHICH IS WHERE ALL THIS STARTED AFTER  
5 ALL.

6 '96, ARE THE BILLS BEING PAID?

7 A NO. NO.

8 Q WHAT BILLS WEREN'T BEING PAID?

9 A THE OPERATION OF THE PARK ITSELF.

10 ELECTRICITY, WATER, SEWER, EMPLOYEES WERE NOT BEING PAID.

11 Q HOW DID YOU KNOW THAT?

12 A MR. MC KAY WAS RECEIVER AT THE TIME, AND THE  
13 MONIES THAT WERE COLLECTED THAT CAME INTO CALIFORNIA HE  
14 COULD NOT GET HIS HANDS ON. AND HE CALLED ME AND SAID,  
15 "JIM, I'M GOING TO HAVE TO SHUT THE PARK DOWN BECAUSE  
16 THEY'RE TURNING OFF THE ELECTRICITY," WHICH THEY DID FOR  
17 THE ONE NIGHT ANYWAY. AND MY BROTHER, MR. LEWIS AND MYSELF  
18 SENT \$10,000 TO PAY THE ELECTRIC BILL TO GET IT TURNED BACK  
19 ON.

20 Q FOR A PARK YOU DIDN'T OWN AT THE TIME?

21 A YES.

22 Q WHY DID YOU DO THAT?

23 A MEMBERS. I HAD A GREAT CONCERN FOR THE  
24 MEMBERS. NOT ONLY THAT, ABOUT THREE WEEKS LATER, MY  
25 BROTHER AND I SENT \$35,000 TO PAY WATER AND SEWER AND SOME  
26 OF THE OTHER BILLS AND SOME OF THE EMPLOYEES.

1 Q I WANT TO GO TO EXHIBIT 203. I BELIEVE  
2 THAT'S BEEN ADMITTED INTO EVIDENCE. LET ME SHOW YOU THAT.  
3 IT'S GOING TO COME UP ON THE SCREEN IN A MOMENT.

4 THE COURT: IT'S IN.

5 BY MR. SHERMAN: Q CAN YOU SEE THIS? CAN YOU SEE  
6 THAT OKAY OVER THERE?

7 A YES.

8 Q A LETTER FROM MR. JOSEPH TO MR. DRAPER,  
9 MARCH OF 1998. I REALIZED I JUST SKIPPED TWO YEARS.

10 A YES.

11 Q JUST JUMPED ABOUT TWO YEARS OR SO FROM '96  
12 TO '98.

13 AND IN THIS LETTER, MR. JOSEPH IS SENDING TO  
14 MR. DRAPER A LIST OF DISBURSEMENTS BY FIRST NATIONWIDE.

15 HAVE YOU EVER SEEN THIS LETTER BEFORE?

16 A YES, I HAVE.

17 Q AND HAVE YOU SEEN THE DISBURSEMENTS?

18 MIKE, WOULD YOU GO TO THE NEXT PAGE TO  
19 FAMILIARIZE EVERYONE WITH WHAT THIS LOOKED LIKE.

20 AND --

21 A YES.

22 Q AND WHAT DID YOU GO OVER THIS FOR? FOR WHAT  
23 PURPOSE DID YOU REVIEW THIS?

24 A I WANTED TO KNOW, AS WELL AS THE OTHER  
25 CREDITORS, WHERE -- THE MONIES THAT WERE COLLECTED, WHERE  
26 THEY WERE GOING, WHERE THE FUNDS WERE GOING.

1 Q NOW, LET'S GO BACK TO THE FIRST PAGE.  
2 MARCH, 1998.

3 YOU HAD SOLD THE PARK TO MR. NOVELLI'S  
4 ORGANIZATION IN '92. BY 1998 HOW MUCH HAD YOU SPENT  
5 BETWEEN PAYING FOR THE ELECTRIC BILL, THE EMPLOYEES AND  
6 GONE OUT-OF-POCKET AND FOR LAWYERS?

7 A \$200-, \$225,000.

8 Q AND THAT'S JUST OUT OF YOUR OWN POCKET?

9 A YES, IT'S OUT OF MY POCKET.

10 Q MARCH, 1998, DID YOU SEE THIS SOMETIME IN  
11 THAT TIME FRAME?

12 A YES, UH-HUH.

13 Q HOW EXCITED WERE YOU IN MARCH, 1998, ABOUT  
14 THE PROSPECT OF CHASING AFTER MR. NOVELLI FOR ANY IMPROPER  
15 EXPENDITURES?

16 A I WAS VERY UPSET, ON MANY DIFFERENT THINGS.  
17 THE CONVERSATIONS AND DISCUSSIONS THAT I HAD WITH  
18 MR. JOSEPH IN TRYING TO, YOU KNOW, STOP EXPENDITURES THAT  
19 WERE NOT -- THAT I FELT, ANYWAY, WERE NOT AUTHORIZED, THAT  
20 SHOULD BE SPENT OUT OF FIRST NATIONWIDE -- HE AND I HAD  
21 MANY, MANY HEATED DISCUSSIONS REGARDING THE FUNDS THAT CAME  
22 IN AND HOW THEY WERE EXPENDED.

23 Q BY MARCH, 1998, WERE YOU EAGER TO START  
24 PURSUING MR. NOVELLI FOR ANY IMPROPER DIVERSIONS OF FUNDS?

25 A YES. YES.

26 Q DID YOU?

1 A NO. WE REALLY DIDN'T PURSUE IT.

2 Q WHY NOT?

3 A QUITE HONESTLY, I WAS TOTALLY DISGUSTED WITH  
4 THE LEGAL SYSTEM. MR. NOVELLI KNEW HOW TO OPERATE THE  
5 LEGAL SYSTEM, AND OBVIOUSLY I DIDN'T. AND THE ATTORNEYS  
6 THAT I HAD DIDN'T EITHER BECAUSE WE NEVER COULD GET  
7 ANYTHING DONE.

8 Q I DO WANT TO GO BACK IN TIME AGAIN. I'M  
9 SORRY WE'RE BOUNCING AROUND A LITTLE BIT, AND I APOLOGIZE  
10 FOR THAT.

11 LET'S GO TO AFTER THE FIRST -- AFTER  
12 MR. JOSEPH WAS APPOINTED THE TRUSTEE IN SEPTEMBER, 1996. I  
13 WANT TO SHOW YOU A DOCUMENT, EXHIBIT 2097.

14 2097. AND I'M GOING TO DIRECT THE WITNESS  
15 TO A PARTICULAR PAGE IN 2097. I'M JUST TRYING TO LOCATE IT  
16 RIGHT NOW. IT'S 2097. THE BATES NUMBER, 12375. IT'S  
17 ABOUT FIVE PAGES FROM THE END.

18 SEE THERE'S SOME REFERENCES ON THAT PAGE TO  
19 SOME BANKRUPTCY FILINGS?

20 A YES.

21 Q AND DID THE A.R.A., ADVENTURE RESORTS OF  
22 AMERICA, FILE ANOTHER BANKRUPTCY?

23 A YES, THEY DID.

24 Q AND WHEN DID THAT OCCUR?

25 A THAT WAS IN '96.

26 Q AND WHERE WAS THAT BANKRUPTCY FILED?

1 A TAMPA, FLORIDA.

2 Q NOT JACKSONVILLE?

3 A NOT JACKSONVILLE. TAMPA.

4 Q TRANSFERRED?

5 A YES. WE HAD TO GO IN AND FIGHT THAT, AS  
6 WELL, AND GET IT TRANSFERRED BACK AGAIN TO JACKSONVILLE.

7 Q NOW, DO YOU REMEMBER THAT LAWSUIT THAT YOU  
8 FILED BACK IN '93?

9 A YES.

10 Q DID YOU EVER -- WERE YOU EVER ABLE TO  
11 FINALLY PROSECUTE THAT LAWSUIT --

12 A YES.

13 Q -- WITH ALL THESE BANKRUPTCIES?

14 A YES.

15 Q AND WHEN DID THAT HAPPEN, WERE YOU ABLE TO  
16 FINALLY PROSECUTE THE LAWSUIT?

17 A 1997.

18 Q AND DID YOU GET A JUDGMENT?

19 A YES, WE DID.

20 Q OKAY. WE'LL GET TO THE JUDGMENT IN A  
21 MOMENT.

22 BUT I WANT TO FOCUS YOU IN THE TIME FRAME  
23 EARLY 1997.

24 A OKAY.

25 Q THE A.R.A. BANKRUPTCY HAD BEEN FILED?

26 A YES.

1 Q MR. JOSEPH WAS THE TRUSTEE OVER FIRST  
2 NATIONWIDE.

3 DID YOU EVER GET AN INVITE TO COME AND MEET  
4 WITH MR. NOVELLI TO DISCUSS THE SITUATION OF THE AMOUNTS  
5 THAT HE OWED TO YOU IN EARLY 1997?

6 A YES.

7 Q HOW DID YOU GET THAT INVITE?

8 A I DON'T RECALL IF IT WAS DIRECTLY FROM RAY  
9 OR WHETHER IT WAS THROUGH RANDOLF TUCKER. BUT THE THOUSAND  
10 ADVENTURES THING HAD CROPPED UP, AND RAY NOVELLI WANTED TO  
11 TALK TO MYSELF AND GEORGE MC KAY ABOUT JOINING IN WITH HIM  
12 IN TRYING TO PICK UP THOUSAND ADVENTURES.

13 Q WAIT. WAIT.

14 YOU SAID THOUSAND ADVENTURES. WHAT DID YOU  
15 HAVE TO DO WITH RAY NOVELLI AND THOUSAND ADVENTURES?

16 A I DIDN'T HAVE ANYTHING TO DO WITH IT AT THE  
17 TIME. IS THAT THE QUESTION, WHAT DID I HAVE TO DO WITH IT?

18 Q OKAY. SO YOU GOT A PHONE CALL FROM EITHER  
19 MR. NOVELLI OR MR. TUCKER INVITING YOU TO COME SPEAK TO  
20 THEM ABOUT THOUSAND ADVENTURES?

21 A YES.

22 Q DID YOU COME AND MEET WITH MR. NOVELLI?

23 A YES, I DID.

24 Q WHO ELSE WAS PRESENT?

25 A GEORGE MC KAY.

26 Q WHAT WAS SAID?

1           A            THAT THOUSAND ADVENTURES WAS IN BANKRUPTCY,  
2 AND MR. VOPNFORD WAS -- AT THAT TIME I WAS TOLD THAT HE HAD  
3 ACTUALLY LEFT THE COUNTRY; THAT PROSECUTORS ACROSS THE  
4 NATION WAS AFTER HIM.

5           Q            WHO TOLD YOU THAT?

6           A            I REALLY -- I DON'T RECALL THE SPECIFIC  
7 INDIVIDUAL. IT WAS KIND OF DISCUSSED AMONG ALL OF US AND  
8 EVEN THROUGHOUT THE INDUSTRY. AND IT WAS TOLD TO ME THAT  
9 THERE WERE SEVERAL COMPANIES -- THIS IS BY MR. NOVELLI AND  
10 MR. ROBERT MITCHELL -- THAT THERE WERE SEVERAL COMPANIES  
11 THAT HAD BOUGHT THOUSAND ADVENTURES MEMBERSHIP CONTRACTS TO  
12 THE TUNE OF ABOUT \$30 MILLION. AND THAT THESE COMPANIES  
13 WERE INTERESTED IN US COMING IN AND TAKING OVER THE  
14 THOUSAND ADVENTURES OPERATIONS SO IT WOULD INSURE THAT THEY  
15 RECEIVED THEIR PAYMENTS ON THOSE CONTRACTS.

16          Q            WAS THIS EXPLAINED TO YOU BY MR. NOVELLI?

17          A            STATE THAT AGAIN?

18          Q            WAS THIS EXPLAINED TO YOU, THAT WHICH YOU  
19 JUST TESTIFIED TO, BY RAYMOND NOVELLI?

20          A            MR. NOVELLI AND MR. ROBERT MITCHELL.

21          Q            WHAT'S THE TIME FRAME?

22          A            THE END OF FEBRUARY, FIRST OF MARCH OF '96,

23 I BELIEVE IT WAS -- NO. WAIT. '97. IT WOULD HAVE BEEN

24 '97.

25          Q            NOW, THIS WAS ALL AT A MEETING WITH THESE  
26 OTHER GENTLEMEN IN FEBRUARY OR MARCH, '97?

1           A           MR. NOVELLI AND MR. MC KAY AND MYSELF DROVE  
2 TO CARLSBAD, MET WITH BOB MITCHELL AND MR. CHRIS DAVIS OF  
3 TRAVELERS INVESTMENT COMPANY.

4           Q           AND WHAT WAS DISCUSSED AT THIS MEETING?

5           A           THE THING THAT WAS DISCUSSED THERE WAS THE  
6 AMOUNT OF MONEY THAT THEY HAD TIED UP IN THOUSAND  
7 ADVENTURES CONTRACTS, AND HOW WE MAY WORK TOGETHER IN  
8 PICKING UP THE THOUSAND ADVENTURES PARKS AND MEMBERS, AND  
9 ENSURING THAT THEY GOT PAYMENT ON THOSE CONTRACTS.

10          Q           HAVE YOU EVER HEARD OF THE TOMMY CLOUD RANCH  
11 IN TEXAS?

12          A           TOMMY CLOUD AND HIS PARTNER IS CONSUMERS  
13 FINANCE COMPANY IN DALLAS, TEXAS. THEY'RE ONE OF THE OTHER  
14 FIRMS THAT HAD BOUGHT MEMBERSHIP CONTRACTS OF THOUSAND  
15 ADVENTURES.

16          Q           HAVE YOU EVER GONE TO ANY MEETING AT THE  
17 TOMMY CLOUD RANCH IN TEXAS TO TALK ABOUT THESE ISSUES?

18          A           NO, I WAS NEVER AT THE TOMMY CLOUD RANCH. I  
19 WAS AT THEIR OFFICE IN DALLAS.

20          Q           AND DID MR. NOVELLI AT THE TIME YOU WERE  
21 HAVING THESE CONVERSATIONS WITH HIM IN FEBRUARY OR MARCH  
22 TELL YOU WHETHER HE HAD ALREADY BEEN TO A MEETING WITH ALL  
23 THE LENDERS AND MR. VOPNFORD AT THE TOMMY CLOUD RANCH?

24          A           NO.

25          Q           SO DID MR. NOVELLI TELL YOU IN ANY OF THESE  
26 MEETINGS OR CONVERSATIONS IN LATE FEBRUARY-MARCH TIME FRAME

1 WHETHER HE WAS INTERESTED IN DOING THIS?

2 A OH, YES. HE WAS DEFINITELY INTERESTED IN  
3 DOING IT.

4 Q WHAT DID HE SAY TO YOU ON THAT ACCOUNT?

5 A WELL, WHAT RAY WAS TRYING TO DO IS GET  
6 GEORGE AND I TO JOIN IN WITH HIM AND GIVE SOME CREDIBILITY  
7 AND -- WELL, AND FINANCIAL AID TO TRYING TO TAKE OVER  
8 THOUSAND ADVENTURES.

9 Q DID MR. NOVELLI SAY ANYTHING ABOUT WHETHER  
10 HE HAD AN INTEREST IN GETTING THE DUES CHECKS FROM MEMBERS?

11 A YES, HE DID.

12 Q WHAT DID HE SAY ON THAT SUBJECT?

13 A IT WASN'T JUST THAT. IT WAS HAVING TO DO  
14 WITH ALL MEMBERS AND ALL THE DUES CHECKS, WHAT RAY'S SAYING  
15 WAS; THAT HE LIKED TO GET THOSE ITTY-BITTY CHECKS.

16 Q LIKED THOSE ITTY-BITTY CHECKS?

17 A ITTY-BITTY CHECKS. RANDOLF TUCKER AND I  
18 ALWAYS KIND OF HAD A LITTLE RUNNING JOKE ABOUT IT BETWEEN  
19 US. EVERY TIME SOMETHING WOULD COME UP, WE'D SAY YEAH,  
20 LET'S GET THOSE ITTY-BITTY CHECKS.

21 Q NOW, RANDOLF TUCKER, WHAT DID HE HAVE TO DO  
22 WITH THIS THOUSAND ADVENTURES SITUATION AT THE TIME?

23 MR. MOSHENKO: LACKS FOUNDATION. CALLS FOR  
24 SPECULATION.

25 BY MR. SHERMAN: Q TO YOUR KNOWLEDGE?

26 A TO MY KNOWLEDGE, RANDOLF TUCKER JUST

1 INUNDATED ME WITH PROPOSAL ON TOP OF PROPOSAL OF TRYING TO  
2 FIT US IN OR GET US TO JOIN IN AND BACK OFF OF THE LAWSUIT  
3 AGAINST RAY AND ALSO A.R.A. AND THE FORECLOSURE ON A.R.A.,  
4 AND THROW IT IN, AND GET ALL OF THESE THOUSAND ADVENTURES  
5 MEMBERS.

6 Q SO WHAT DID YOU SAY?

7 A PARDON ME?

8 Q WHAT WAS YOUR REACTION TO THIS PLAN?

9 A DIDN'T WANT ANYTHING TO DO WITH IT.

10 Q HOW COME?

11 A THE ONLY THING I WANTED TO DO WAS TRY TO  
12 WORK OUT SOMETHING THAT I COULD GET PAID ON MY PROMISSORY  
13 NOTE AND MY HARD WORK THAT I PUT INTO A.R.A., IS WHAT I WAS  
14 TRYING TO JOCKEY AROUND FOR.

15 Q WAS THAT MEANT TO BE?

16 A PARDON ME?

17 Q WAS THAT MEANT TO BE?

18 A NO, IT WASN'T MEANT TO BE.

19 MR. MOSHENKO: OBJECTION. CALLS FOR SPECULATION.

20 THE COURT: OVERRULED.

21 BY MR. SHERMAN: Q SO YOU GOT A JUDGMENT?

22 A YES.

23 Q AND WE MOVED THAT INTO EVIDENCE. THAT'S  
24 EXHIBIT 337. IF WE CAN JUST PUT THAT UP ON THE SCREEN.

25 THAT'S YOUR JUDGMENT; RIGHT?

26 A YES.

1 Q DO YOU HAVE THAT JUDGMENT AT HOME?

2 A YES.

3 Q HAVE YOU EVER COLLECTED A DIME ON IT?

4 A NO.

5 Q WHO IS THE JUDGMENT AGAINST?

6 MR. MOSHENKO: OBJECTION. THE DOCUMENT SPEAKS FOR  
7 ITSELF, YOUR HONOR.

8 MR. SHERMAN: IT'S A LONG DOCUMENT. THERE ARE A  
9 LOT OF THINGS IN THERE.

10 THE COURT: OVERRULED.

11 THE WITNESS: THE JUDGMENT IS AGAINST ADVENTURE  
12 RESORTS OF AMERICA AND RAYMOND NOVELLI.

13 BY MR. SHERMAN: Q FOR HOW MUCH?

14 A \$4.6 MILLION.

15 Q DID YOU FORECLOSE ON THE PARK FINALLY?

16 A PACIFIC/OCALA FORECLOSED ON THE PARK.

17 Q SO YOU GOT THE PARK BACK?

18 A PACIFIC/OCALA DID.

19 Q AND JUST SO WE'RE CLEAR, PACIFIC/OCALA IS A  
20 COMPANY THAT YOU HELPED FORM?

21 A YES.

22 Q WHEN PACIFIC/OCALA -- LET ME BACK UP.

23 DID PACIFIC/OCALA FORECLOSE IN JULY '97?

24 A YES.

25 Q AND WHEN PACIFIC/OCALA FORECLOSED ON THE  
26 PARK AND FINALLY GOT THE PARK BACK --

1 A YES.

2 Q DO YOU REMEMBER THAT SECURITY AGREEMENT I  
3 SHOWED YOU REAL EARLY ON?

4 A YES.

5 Q THE REFERENCE TO THE COLLATERAL AND THE  
6 MEMBERS?

7 A YES.

8 Q SO YOU GOT THE MEMBERS THEN, TOO; RIGHT?

9 A NO, DID NOT. THAT'S WHEN --

10 Q WHAT HAPPENED?

11 A -- MR. NOVELLI HAD STARTED OR FORMED A  
12 COMPANY FOR THIS THOUSAND ADVENTURES THING CALLED "TRAVEL  
13 AMERICA." A LETTER AND A DUES BILLING AND A MEMBERSHIP  
14 CARD WENT OUT TO EVERY A.R.A. MEMBER.

15 Q WHEN?

16 A IN JULY, AUGUST, 1997.

17 Q SO YOUR COMPANY GETS THE PARK BACK. DID YOU  
18 OPEN IT UP, REOPEN?

19 A YES, WE DID.

20 Q BUT NO MEMBERS?

21 A NO MEMBERS.

22 Q WHAT DO YOU DO WITH A PARK THAT DOESN'T HAVE  
23 MEMBERS?

24 A NOT MUCH. ALTHOUGH, WE DID HAVE MEMBERS  
25 THAT WERE USING THE PARK. WE DID NOT HAVE A MEMBERSHIP  
26 LIST. THE MEMBERSHIP LIST THAT WAS IN THE COMPUTER SYSTEM

1 HAD BEEN REMOVED BY MRS. NOVELLI, THE HARD DRIVE. WE COULD  
2 NOT CONTACT THE A.R.A. MEMBERS. BUT MEMBERS WOULD SHOW UP  
3 AT THE GATE. WE WOULD TAKE THE MEMBER IN BECAUSE THE  
4 MEMBER HAD A RESERVATION. WASN'T THE MEMBER'S FAULT THAT  
5 THEY NO LONGER HAD A PARK UNDER A.R.A. SO WE TOOK THEM IN  
6 AND SERVICED THOSE MEMBERS OR HOSTED THOSE MEMBERS.

7 Q DID YOU THEN HAVE TO BEGIN THE PROCESS OF  
8 TRYING TO REBUILD THE MEMBERSHIP BASE?

9 A YES, WE DID.

10 Q AND HOW DID YOU GO ABOUT TRYING TO REBUILD  
11 THE MEMBERSHIP BASE?

12 A GEORGE MC KAY WENT TO THE BANKRUPTCY COURT  
13 IN CALIFORNIA, MR. JOSEPH, AND ACTUALLY BOUGHT THE FIRST  
14 NATIONWIDE MEMBERSHIP LIST OF 35,000 NAMES, WHICH INCLUDED  
15 THE A.R.A. MEMBERS, GETTING THAT LISTING, WHICH WAS ON  
16 TAPE. THEN WE HAD TO HAVE THEM TRANSCRIBED AND GET THEM  
17 DOWN ON FLOPPIES SO WE COULD RUN THEM ON THE COMPUTER TO  
18 GENERATE MAILING LABELS.

19 Q HOW MUCH DID YOU PAY MR. JOSEPH FOR THAT  
20 LIST?

21 A AS I RECALL, GEORGE PAID 3500 FOR THAT LIST.

22 Q SO THAT LIST WAS A LIST OF ALL OF FIRST  
23 NATIONWIDE'S MEMBERS' --

24 A YES.

25 Q -- NAMES?

26 A YES.

1 Q ADDRESSES?

2 A YES.

3 Q PHONE NUMBERS?

4 A YES.

5 Q NOW, WHEN MR. JOSEPH WAS APPROACHED AND  
6 ASKED TO PROVIDE THE LIST, DID MR. JOSEPH, TO YOUR  
7 KNOWLEDGE, SAY, "CAN'T TURN IT OVER; IT'S CONFIDENTIAL AND  
8 PROPRIETARY"?

9 MR. MOSHENKO: OBJECTION. CALLING FOR HEARSAY --

10 THE WITNESS: I DON'T KNOW. I WASN'T INVOLVED.

11 MR. MOSHENKO: -- SINCE HE SAID SOMEONE ELSE WENT  
12 AND SPOKE TO MR. JOSEPH. LACKS FOUNDATION.

13 THE COURT: I'M GOING TO ALLOW IT, COUNSEL.

14 THE WITNESS: I DON'T KNOW. I WASN'T INVOLVED IN  
15 THE CONVERSATION. THAT TOOK PLACE BETWEEN MR. MC KAY AND  
16 MR. JOSEPH.

17 BY MR. SHERMAN: Q WELL, DID ANYONE EVER SAY TO  
18 YOU IN SUMMER, FALL OF '97, "DON'T USE THAT LIST. IT'S  
19 CONFIDENTIAL AND PROPRIETARY"?

20 A NO.

21 Q ANYONE EVER SAY TO YOU IN THE FALL OF '97,  
22 "DON'T USE THAT LIST; THERE'S A BANKRUPTCY STAY IN EFFECT;  
23 YOU CAN'T CONTACT THOSE MEMBERS"?

24 A NO.

25 Q DID YOU EVER SPEAK WITH BOB THOMPSON AFTER  
26 YOU FOUND OUT THAT THE HARD DRIVE IN THE COMPUTER WAS TAKEN

1 AND THE MEMBERS WERE GONE?

2 A YES, I DID.

3 Q AND DID YOU UNDERSTAND WHAT BOB THOMPSON'S  
4 ROLE WITH THE NOVELLI ORGANIZATION WAS?

5 A BOB THOMPSON HAS ALWAYS BEEN RAY'S  
6 RIGHT-HAND MAN.

7 Q WHAT DID MR. THOMPSON SAY TO YOU ABOUT THE  
8 MEMBERSHIP LISTS AND MEMBERS BEING GONE?

9 A WELL, WHEN WE WENT BACK INTO THE PARK, HAD  
10 NO WAY OF CONTACTING THE A.R.A. MEMBER TO ADVISE THEM AS TO  
11 WHAT HAD TAKEN PLACE, I CALLED RAY'S ORGANIZATION AND  
12 TALKED TO BOB THOMPSON ON SEVERAL OCCASIONS. THE ONE LAST  
13 TIME THAT WE DID SPEAK WITH MR. THOMPSON, MR. MC KAY AND  
14 MR. MAYER, THE OTHER MAIN PRINCIPAL IN PACIFIC/OCALA, WE  
15 WERE ON A SPEAKER PHONE. AND I HAD TOLD BOB, I SAID,  
16 "WELL, BOB, YOU'VE GOT TO SUPPLY THE LIST BECAUSE WE'VE GOT  
17 ALL OF THE MEMBERS THAT ARE SHOWING UP AT THE GATE, AND WE  
18 CAN'T KEEP HOSTING THESE MEMBERS UNLESS WE GET SOME FORM OF  
19 REVENUE. SO I NEED TO CONTACT THE MEMBERS."

20 HE SAID, "WELL, RAY'S POSITION ON THIS IS,  
21 HE OWNS A.R.A., AND THOSE ARE A.R.A. MEMBERS. AND WE WILL  
22 TRANSFER THEM INTO THE TRAVEL AMERICA IF WE WANT TO."

23 Q WHAT WAS YOUR RESPONSE?

24 A MY RESPONSE, WELL, I DON'T THINK YOU WANT TO  
25 HEAR IT.

26 Q WHY DON'T YOU GIVE US THE --

1 A I --

2 Q -- CLEAN VERSION?

3 A "YOU'RE A DIRTY S.O.B. BECAUSE YOU'RE NOT  
4 CONCERNED ABOUT THE MEMBERS WHATSOEVER, YOU KNOW. YOU'RE  
5 NOT GIVING THEM THE OPPORTUNITY OF MAKING THE CHOICE  
6 WHETHER TO BE A MEMBER AT A.R.A. OR DO THEY WANT TO BE IN  
7 TRAVEL AMERICA."

8 Q WHAT DID THOMPSON SAY?

9 A HE SAID, "HEY, THAT'S THE WAY IT IS."

10 MR. SHERMAN: YOUR HONOR, COULD I SUGGEST THAT WE  
11 TAKE OUR BREAK NOW? I'M GOING TO TRY TO SEE HOW I CAN  
12 COMPLETE THIS VERY QUICKLY.

13 THE COURT: SEE YOU IN 20.

14 MR. SHERMAN: THANK YOU.

15 (RECESS TAKEN.)

16 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN  
17 COURT IN THE PRESENCE OF THE JURY:)

18 THE COURT: PROCEED, COUNSEL.

19 BY MR. SHERMAN: Q MR. PATTON, I HAVE PLACED  
20 BEFORE YOU A DOCUMENT WHICH HAS BEEN MARKED AS EXHIBIT  
21 1706, AN OCTOBER 1, 1997, LETTER.

22 DO YOU HAVE THAT IN FRONT OF YOU?

23 A YES, THAT'S HERE.

24 Q AND DO YOU RECOGNIZE THAT LETTER?

25 A YES, I DO.

26 Q WHAT IS IT?

1           A           IT'S A LETTER FROM -- SIGNED BY MYSELF  
2 REGARDING ELITE RESORTS OF AMERICA.

3           MR. SHERMAN: I'D LIKE TO MOVE EXHIBIT 1706 INTO  
4 EVIDENCE, YOUR HONOR.

5           MR. MOSHENKO: NO OBJECTION.

6           MR. SHERMAN: LET'S PUT IT UP ON THE BOARD.

7           THE COURT: SO RECEIVED.

8                       (WHEREUPON, EXHIBIT NO. 1706, LETTER  
9 REGARDING ELITE RESORTS OF AMERICA DATED OCTOBER 1, 1997,  
10 WAS RECEIVED IN EVIDENCE.)

11           BY MR. SHERMAN: Q SO THIS IS -- THAT'S YOUR  
12 SIGNATURE AT THE BOTTOM?

13           A           YES, IT IS.

14           Q           AND LET'S GO TO THE BODY, OCTOBER 1, '97.

15                       "DEAR FRIENDS, ELITE RESORTS OF AMERICA IS  
16 PROUD TO ANNOUNCE THE NEW ELITE RESORTS AT SALT SPRINGS,  
17 FORMERLY KNOWN AS 'ADVENTURE RESORTS OF AMERICA - SALT  
18 SPRINGS RESORT.'"

19                       FIRST OF ALL, WHAT IS ELITE RESORTS OF  
20 AMERICA?

21           A           ELITE RESORTS OF AMERICA WAS -- WELL, A  
22 COMPANY THAT MR. MC KAY AND A FELLOW THAT HE BROUGHT IN  
23 FROM TORONTO, CANADA, MR. ED MAYER, AND MYSELF, FORMED.

24           Q           AND DID ELITE RESORTS OF AMERICA HAVE  
25 ANYTHING TO DO WITH THE PARK THAT YOU HAD SOLD TO  
26 MR. NOVELLI'S ORGANIZATION ABOUT FIVE YEARS EARLIER?

1 A YES, IT DID.

2 Q AND WHAT WAS THE RELATIONSHIP?

3 A ELITE RESORTS WAS A SUCCESSOR TO  
4 PACIFIC/OCALA. PACIFIC/OCALA HAD FORECLOSED ON THE  
5 PROPERTY BY VIRTUE OF BUYING A NOTE AND -- WELL, A MORTGAGE  
6 AND TRUST DEED FROM MINNEAPOLIS EMPLOYEES RETIREMENT FUND.

7 Q THEY HELD THE FIRST?

8 A THAT HELD THE FIRST MORTGAGE.

9 Q SO ELITE RESORTS OF AMERICA BECAME, IN  
10 EFFECT, THE COMPANY OPERATING THE PROPERTY?

11 A YES.

12 Q THAT WAS YOUR COMPANY, MR. MAYER'S, AND THE  
13 OTHER GENTLEMAN'S, MR. MC KAY'S?

14 A YES. I WAS A VERY -- A VERY SMALL PART OF  
15 IT PERCENTAGE-WISE.

16 Q AND IT SAYS HERE THAT ON JULY 30, 1997 --  
17 WELL, LET -- "ELITE RESORTS OF AMERICA, INC., IS NOT  
18 AFFILIATED WITH ADVENTURE RESORTS OF AMERICA OR TRAVEL  
19 AMERICA, AND IS NOT LEGALLY OBLIGATED TO PROVIDE SERVICES  
20 TO THEIR MEMBERS."

21 NOW, AS FAR AS THIS LEGAL OBLIGATION -- I  
22 REALIZE EVEN THOUGH YOU PROBABLY SPENT MORE TIME THAN YOU'D  
23 CARE TO WITH THE LAWYERS, YOU'RE NOT A LAWYER; RIGHT?

24 A THAT'S TRUE.

25 Q BUT AS FAR AS NOT BEING LEGALLY OBLIGATED TO  
26 PROVIDE SERVICES, WHAT WAS THAT ALL ABOUT?

1           A           WELL, IT GETS FAIRLY COMPLICATED.

2           Q           WHY DON'T YOU GIVE US THE SHORT VERSION.

3           A           OKAY. WELL, TRAVEL AMERICA HAD SENT LETTERS  
4 AND BILLING NOTICES TO ALL OF THE A.R.A. MEMBERS AND I'M  
5 SURE OTHER MEMBERS OF OTHER PARKS AS WELL. BUT I WAS ONLY  
6 CONCERNED WITH THE A.R.A. MEMBER, TELLING THEM THAT THEIR  
7 MEMBERSHIP HAD BEEN TRANSFERRED FROM A.R.A. INTO TRAVEL  
8 AMERICA.

9                       TRAVEL AMERICA DIDN'T OWN ANY MEMBER, HAD  
10 NOT HAD ANY -- WHAT KIND OF A TRANSFER COULD TRAVEL AMERICA  
11 JUST ARBITRARILY DO IN TRANSFERRING THAT MEMBER INTO TRAVEL  
12 AMERICA? I TRIED TO EXPLAIN THIS TO THE 800 OR SO MEMBERS  
13 THAT I HAD THE OCCASION TO TALK TO, AND THEY -- AND I'M  
14 SURE THAT THE OLDER PERSON LIKE MYSELF WOULD UNDERSTAND  
15 THIS; THAT THEY SAY, OH, NO, WE'RE TRANSFERRED INTO TRAVEL  
16 AMERICA, AND WE'VE GOT THIS DUES BILLING THAT WE HAVE TO  
17 PAY, AND THEIR COLLECTION DEPARTMENT JUST KEEPS CALLING AND  
18 THREATENING US AND SENDING US LETTERS THAT THEY'RE GOING TO  
19 SUE US IF WE DON'T PAY.

20                      SO IN LOOKING AT THIS LETTER HERE, WHAT WE  
21 ATTEMPTED TO DO WAS TO INFORM THAT MEMBER THAT SALT SPRINGS  
22 RESORT REALLY WAS NOT A.R.A. ANY LONGER. A.R.A. WAS STILL  
23 UNDER THE CONTROL OF MR. JIM JOSEPH, WHO WAS THE TRUSTEE IN  
24 THE FIRST NATIONWIDE BANKRUPTCY, WHO OWNED THE STOCK IN  
25 A.R.A.

26                      AND, OF COURSE, I KEPT CALLING JIM JOSEPH

1 SAYING, JIM, YOU'VE GOT TO DO SOMETHING ABOUT THIS; THAT  
2 HOW CAN THESE MEMBERS BE TRANSFERRED INTO SOMETHING THAT  
3 NEVER EXISTED BEFORE BEING TRAVEL AMERICA? AND IT'S TAKING  
4 AN ASSET AWAY FROM FIRST NATIONWIDE, AS WELL AS A.R.A.

5 Q WHAT WAS JOSEPH'S RESPONSE?

6 A JUST CAST IT OFF.

7 Q SO IN THIS LETTER WERE YOU -- WAS ONE OF  
8 YOUR PURPOSES IN SENDING THIS TO TRY TO REBUILD THE  
9 MEMBERSHIP BASE?

10 A DEFINITELY SO. WE HAD OPERATED FROM JULY UP  
11 TO OCTOBER WITHOUT ANY REVENUE COMING IN FROM A MAINTENANCE  
12 OR DUES BASE, AND IT COSTS APPROXIMATELY \$60- TO \$70,000 A  
13 MONTH TO OPERATE THAT PARK.

14 Q NOW, I KNOW EARLIER YOU HAD TESTIFIED AS TO  
15 SOME OF THE REASONS FOR MAKING SOME ADVANCEMENTS FOR THE  
16 OPERATION OF THE PARK A YEAR EARLIER; ELECTRICITY, THINGS  
17 LIKE THAT.

18 A UH-HUH.

19 Q AND YOU HAD MENTIONED THAT PART OF YOUR  
20 CONCERN IN DOING THAT WAS THE MEMBERS WHO WERE USING THE  
21 RESORT.

22 AT THIS TIME IN OCTOBER, 1997, YOU WANTED  
23 THESE MEMBERS WHO HAD BEEN TAKEN TO COME BACK; IS THAT  
24 RIGHT?

25 A DEFINITELY SO.

26 Q BUT YOU WEREN'T JUST SAYING, "COME BACK, YOU

1 KNOW, COME ON BACK FOR FREE, JUST COME TO US," WERE YOU?

2 A NO.

3 Q WHY WEREN'T YOU JUST OFFERING EVERYONE FREE  
4 MEMBERSHIPS AT THE PARK?

5 A WELL, THE PARK OR A.R.A. WAS OWNED BY  
6 MYSELF, MY BROTHER, AND MR. LEWIS. WHEN IT GOT DOWN TO  
7 SATISFYING THE JUDGMENT THAT MINNEAPOLIS EMPLOYEES  
8 RETIREMENT FUNDED, MY BROTHER AND MR. LEWIS -- WELL,  
9 MR. LEWIS HAD HAD A STROKE BY THAT TIME, AND HE COULDN'T DO  
10 ANYTHING. SO I BROUGHT GEORGE MC KAY IN SINCE I DIDN'T  
11 HAVE THE MEANS TO DO IT AT THAT TIME. I WAS OUT OF MONEY.

12 SO I BROUGHT MR. MC KAY IN TO PURCHASE THE  
13 FIRST MORTGAGE ON THE PARK. AND THEN MR. MC KAY BROUGHT IN  
14 ED MAYER, WHO HAD A LOT OF MONEY. AND IN LOOKING AT IT, IT  
15 WASN'T JUST FOR THE MEMBER, BUT IT WAS FOR OURSELVES, AS  
16 WELL, THAT WE HAD OVER \$2 MILLION INVESTED IN TRYING TO  
17 GAIN THE PARK BACK -- OR IN GAINING THE PARK BACK. AND  
18 JUST TO BRING THE MEMBER IN AT NO COST WOULD NOT HAVE BEEN  
19 FAIR TO MR. MAYER AND MR. MC KAY.

20 Q MAYER AND MC KAY WEREN'T ON THIS JUNE, 1992,  
21 NOTE; IS THAT RIGHT?

22 A THAT'S RIGHT.

23 Q SO THEY HADN'T HAD TO ENDURE THE FIVE YEARS  
24 OF PAIN THAT YOU HAD TO?

25 A THAT'S RIGHT.

26 Q I WANT TO ASK YOU SOME QUESTIONS ABOUT HOW

1 THE PARK OPERATED WAY BACK, WAY BACK BEFORE THE SALE TO  
2 FIRST NATIONWIDE. AND I KNOW YOU GAVE SOME TESTIMONY ABOUT  
3 YOUR RELATIONSHIP WITH COAST TO COAST. I WAS GOING TO ASK  
4 SOME OTHER QUESTIONS ABOUT THAT NOW.

5 IN THE LATE '80'S AND EARLY '90'S, WERE  
6 THERE RESORT DEVELOPERS OUT THERE THAT UNDERSOLD YOUR  
7 PRODUCT BY A FEW HUNDRED OR A FEW THOUSAND DOLLARS?

8 A YES.

9 MR. MOSHENKO: OBJECTION, YOUR HONOR. LACKS  
10 FOUNDATION. PERSONAL KNOWLEDGE. AND THIS IS EXPERT  
11 TESTIMONY FROM A NON-DESIGNATED EXPERT.

12 THE COURT: SPEAKING OBJECTION.

13 MR. MOSHENKO: MAY I APPROACH, YOUR HONOR?

14 THE COURT: NO. I DON'T THINK THAT'S NECESSARY.

15 MR. MOSHENKO: ALL RIGHT.

16 THE COURT: OVERRULED.

17 THE WITNESS: YES.

18 BY MR. SHERMAN: Q AND I'M GOING TO USE A PHRASE.  
19 TELL ME IF YOU'VE HEARD IT BEFORE. A LOW COST RESORT  
20 PROVIDER?

21 A YES.

22 Q SOMETIMES REFERRED TO -- REAL PEJORATIVELY  
23 AS, LIKE, A CHEAP MAGNET RESORT?

24 A YES.

25 Q YOU'VE HEARD SOME OF THOSE; RIGHT?

26 A UH-HUH, YES.

1 Q WERE THOSE RESORTS OPERATING WHILE YOU WERE  
2 OPERATING SALT SPRINGS?

3 A YES.

4 Q AND DID YOU EVER HAVE THEIR MEMBERS VISIT  
5 YOUR PARK?

6 A OH, YES, DEFINITELY SO.

7 Q AND WHEN YOU SAY "DEFINITELY SO," LET'S --  
8 THIS IS, I GUESS, OBVIOUS TO EVERYONE AT THIS POINT IN THE  
9 COURTROOM.

10 YOU'RE IN FLORIDA, THE FLORIDA RESORT?

11 A UH-HUH.

12 Q SO SNOWBIRDS TO SALT SPRINGS?

13 A YES.

14 Q AND SO DID YOU GET A LOT OF THESE SNOWBIRDS  
15 FROM LOW-COST PROVIDERS COME AND VISIT?

16 A YES.

17 Q WAS THAT A BURDEN?

18 A IT DOES COST MONEY TO HOST THE INDIVIDUAL,  
19 YES.

20 Q DID YOU OFFSET IT IN SOME WAY?

21 A YES.

22 Q HOW DID YOU DO IT?

23 A SOLD SECOND MEMBERSHIPS.

24 Q HOW SUCCESSFUL WERE YOU AT THAT?

25 A VERY SUCCESSFUL.

26 Q NOW, YOU KNOW THERE'S A COAST LICENSEE

1 MANUAL; HAVE YOU EVER HEARD OF THAT?

2 A YES. YES. I'VE READ IT.

3 Q AND SOMETHING IN A COAST LICENSEE MANUAL  
4 THAT -- THERE'S BEEN SOME REFERENCE TO AS FAR AS AN  
5 ANTI-RAIDING RULE; DID YOU EVER HEAR ABOUT THAT?

6 A YES.

7 Q HOW DID THAT CORRELATE TO THESE SNOWBIRDS  
8 COMING DOWN AND VISITING YOUR RESORT FROM RESORTS WHERE  
9 THEY HADN'T PAID AS MUCH MONEY?

10 MR. MOSHENKO: OBJECTION. PAROL EVIDENCE.

11 THE COURT: OVERRULED.

12 MR. MOSHENKO: IMPROPER EXPERT FOUNDATION.

13 THE COURT: OVERRULED.

14 MR. MOSHENKO: IMPROPER EXPERT TESTIMONY. AND  
15 LACKS FOUNDATION.

16 THE COURT: OVERRULED.

17 THE WITNESS: NOBODY PAID ANY ATTENTION TO IT.  
18 NOBODY PAID ANY ATTENTION TO ANTI-RAIDING. EVERYBODY WAS  
19 OUT TO GAIN EVERY MEMBER THAT THEY COULD.

20 MR. MOSHENKO: MOTION TO STRIKE. THE WITNESS IS  
21 TESTIFYING AS TO WHAT EVERYBODY HAS DONE WITHOUT  
22 FOUNDATION.

23 THE COURT: MOTION DENIED.

24 BY MR. SHERMAN: Q DID YOU MAKE MONEY HOSTING  
25 COAST MEMBERS?

26 A YES.

1 Q ARE YOU FAMILIAR WITH THE TERM "ORPHAN  
2 PROGRAM" OR "ORPHAN MEMBERS"?

3 A YES.

4 Q WHAT DOES IT MEAN?

5 A IT MEANS THAT IF A PARK SHOULD HAPPEN TO GO  
6 OUT OF BUSINESS FOR WHATEVER REASON AND ITS MEMBERS ARE  
7 MEMBERS OF COAST TO COAST, THEN COAST TO COAST WILL ASSIST  
8 IN FINDING A PARK THAT THAT MEMBER CAN ACTUALLY BELONG TO  
9 TO RETAIN THEIR MEMBERSHIP IN COAST.

10 Q AND WHEN YOU SAY "GO OUT OF BUSINESS FOR ANY  
11 REASON," DID YOU UNDERSTAND WHETHER GOING OUT OF BUSINESS  
12 FOR ANY REASON INCLUDED SIMPLY PULLING OUT OF COAST?

13 A YEAH, I SUPPOSE SO, I MEAN, IF YOU WANT TO  
14 PULL OUT OF COAST. NOW, OF COURSE AT A.R.A. WHEN WE WERE  
15 SELLING OUR MEMBERSHIPS, WE GUARANTEED THE MEMBER THAT IF  
16 WE WENT OUT OF BUSINESS, THAT WE WOULD TRANSFER THEIR  
17 MEMBERSHIP INTO A LIKE PARK, THEREBY MAINTAINING OR  
18 PRESERVING THEIR MEMBERSHIP IN COAST.

19 Q DID COAST CONCEAL THIS ORPHAN PROGRAM FROM  
20 YOU?

21 A NO. NO.

22 Q NOW, AS A RESORT DEVELOPER, MR. PATTON, DID  
23 YOU EVER BELIEVE THAT THERE WAS ANYTHING UNFAIR IN COAST  
24 CONTACTING COAST'S MEMBERS IF A RESORT DISAFFILIATES FROM  
25 COAST?

26 MR. MOSHENKO: OBJECTION. HIS PERSONAL OPINION IS

1 IRRELEVANT.

2 THE COURT: OVERRULED.

3 THE WITNESS: NO.

4 BY MR. SHERMAN: Q WHY NOT?

5 A BECAUSE WE USED THE COAST TO COAST PRODUCT  
6 AS A VERY STRONG SELLING ASPECT OR TOOL IN SELLING OUR  
7 MEMBERSHIP. AND SO DOING I LOOKED AT THE MEMBER THAT HAD  
8 THE TWO MEMBERSHIPS. THEY HAD A MEMBERSHIP WITH OUR  
9 RESORT; PLUS HE HAD A MEMBERSHIP IN COAST TO COAST. SO IF  
10 I WERE TO DROP OUT OF COAST TO COAST, I DIDN'T LOOK AT IT  
11 BEING ANYTHING OUT OF THE ORDINARY FOR COAST TO TRY TO TAKE  
12 CARE OF THAT MEMBER AND GIVE THEM THE PRODUCT AND SERVICES  
13 THAT THEY HAD ORIGINALLY CONTRACTED FOR.

14 Q I JUST HAVE A FEW REMAINING QUESTIONS.

15 MR. PATTON, DOES THE NAME "RANDY WRIGHT"  
16 MEAN ANYTHING TO YOU?

17 A YES.

18 Q WHO IS RANDY WRIGHT?

19 A RANDY WRIGHT WAS MY OPERATIONS MANAGER FOR  
20 FOUR AND A HALF YEARS.

21 Q SALT SPRINGS?

22 A YES, AT SALT SPRINGS.

23 Q AND TO YOUR KNOWLEDGE DID HE REMAIN ON --

24 A NO.

25 Q -- AFTER YOU SOLD?

26 A NO, HE DID NOT.

1 Q AND DID YOU EVER HEAR MR. NOVELLI SPEAK  
2 ABOUT RANDY WRIGHT?

3 A YES, I DID.

4 Q WHEN?

5 A WHEN WE WERE DOING OUR TRANSACTION WITH  
6 MR. NOVELLI AND SELLING A.R.A. TO THEM, MR. NOVELLI  
7 INSISTED THAT I FIRE RANDY WRIGHT.

8 Q WHAT DID HE SAY?

9 A HE TOLD ME THAT RANDY WRIGHT WAS A THIEF,  
10 THAT HE HAD STOLE MONEY AT ALL SEASONS RESORT IN ORLANDO  
11 WHEN HE WORKED FOR MR. NOVELLI.

12 Q WAS MR. WRIGHT A THIEF?

13 A NO, ABSOLUTELY NOT.

14 MR. MOSHENKO: OBJECTION. THIS LACKS FOUNDATION.

15 THE WITNESS: STRAIGHT ARROW.

16 THE COURT: OVERRULED. HE CAN RENDER AN OPINION.

17 MR. MOSHENKO: WHETHER OR NOT HE STOLE AT ALL

18 SEASONS RESORT?

19 THE COURT: HE CAN RENDER AN OPINION AS TO WHETHER  
20 HE IS HONEST OR NOT.

21 BY MR. SHERMAN: Q CAN YOU RENDER AN OPINION AS TO  
22 WHETHER HE IS HONEST OR NOT?

23 A I HAVE A DEFINITE OPINION WHETHER HE IS  
24 HONEST OR NOT. AND HE IS VERY, VERY HONEST.

25 Q WELL, DO YOU KNOW OTHERS WHO KNOW

26 MR. NOVELLI AND HIS COMPANIES?

1 A YES, I DO.

2 Q HAVE YOU TALKED ABOUT MR. NOVELLI AND HIS  
3 COMPANIES WITH OTHER PEOPLE?

4 A YES, I HAVE.

5 Q HAVE YOU TALKED ABOUT WHETHER MR. NOVELLI IS  
6 HONEST OR DISHONEST?

7 A YES, WE HAVE, MANY TIMES.

8 Q DOES MR. NOVELLI HAVE A REPUTATION FOR BEING  
9 TRUTHFUL OR NOT TRUTHFUL?

10 A NOT TRUTHFUL.

11 MR. MOSHENKO: LACKS FOUNDATION, YOUR HONOR.

12 THE COURT: OVERRULED.

13 BY MR. SHERMAN: Q WHAT IS THE REPUTATION?

14 A MR. NOVELLI'S REPUTATION IS VERY, VERY POOR  
15 AT BEST, AND VERY, VERY UNTRUTHFUL.

16 Q IF MR. NOVELLI WAS TO COME INTO COURT TO  
17 TESTIFY, AS YOU'RE TESTIFYING RIGHT NOW ON THE WITNESS  
18 STAND, AND SWEAR TO TELL THE TRUTH, WOULD YOU BELIEVE HIM?

19 A ABSOLUTELY NOT.

20 MR. SHERMAN: I HAVE NO FURTHER QUESTIONS.

21 THE COURT: THANK YOU.

22 CROSS-EXAMINATION.

23 CROSS-EXAMINATION

24 BY MR. MOSHENKO: Q MR. PATTON, IF MR. NOVELLI  
25 CAME IN HERE AND TESTIFIED THAT YOU SOLD HIM SALT SPRINGS  
26 RESORT IN ABOUT 1993, YOU WOULDN'T BELIEVE HIM?

1 A IN 1993 OR '92?

2 Q '92.

3 IF HE WERE TO COME IN AND SAY, I BOUGHT --  
4 THAT MR. PATTON SOLD MY COMPANY THE SALT SPRINGS RESORT IN  
5 1992, YOU WOULDN'T BELIEVE THAT?

6 A I WOULD BELIEVE IT, BUT I WOULDN'T  
7 NECESSARILY BELIEVE IT DUE TO THE FACT I NEVER GOT PAID FOR  
8 IT.

9 Q AND IF HE CAME IN HERE AND TESTIFIED THAT HE  
10 KNEW YOU SINCE ABOUT 1992, YOU WOULDN'T BELIEVE HIM?

11 A I WOULD BELIEVE THAT. THAT'S FACT.

12 Q WELL, YOU'RE GOING TO SIT HERE AND TELL US  
13 YOU WOULDN'T BELIEVE HIM, WHAT HE WOULD TESTIFY TO, WITHOUT  
14 EVEN KNOWING WHAT HE TESTIFIED TO?

15 MR. SHERMAN: OBJECTION. THAT ASSUMES THAT THE  
16 WITNESS DOESN'T KNOW WHAT HE TESTIFIED TO.

17 THE COURT: SUSTAINED.

18 BY MR. MOSHENKO: Q ISN'T WHAT YOU'RE SAYING --  
19 YOU'RE ANSWERED MR. SHERMAN'S QUESTION IF HE CAME HERE AND  
20 TESTIFIED, YOU WOULDN'T BELIEVE HIM. AND YOU DON'T KNOW  
21 WHAT HE TESTIFIED TO, DO YOU?

22 A NO, I DON'T KNOW WHAT HE TESTIFIED TO.

23 Q NOW, YOU DON'T LIKE MR. NOVELLI, DO YOU?

24 A AS A MATTER OF FACT, YES, I DO LIKE  
25 MR. NOVELLI.

26 Q YOU BELIEVE MR. NOVELLI TRANSFERRED SOME

1 MEMBERS WHEN HE SHOULDN'T HAVE TRANSFERRED THEM?

2 A STATE THAT AGAIN, PLEASE?

3 Q YOU BELIEVE THAT HE CAUSED THE TRANSFER OF  
4 SOME RESORT MEMBERS WHEN HE SHOULD NOT HAVE TRANSFERRED  
5 THEM?

6 A YES, I DO.

7 Q OKAY. AND THAT'S VERY OFFENSIVE TO YOU; IF  
8 SOMEBODY WHO DIDN'T HAVE THE RIGHT TO TRANSFER MEMBERS WERE  
9 TO SEND LETTERS TO MEMBERS SAYING, WE ARE TRANSFERRING YOU  
10 FROM THIS RESORT TO THAT RESORT, THAT WOULD UPSET YOU?

11 A UNDER THE CIRCUMSTANCES, YES.

12 MR. MOSHENKO: LET'S -- COULD I PLEASE LOOK AT THAT  
13 LAST EXHIBIT THAT IS UP ON THE SCREEN. IT IS THE --  
14 EXHIBIT 1706. AND BLOW UP THE FIRST TWO PARAGRAPHS,  
15 PLEASE.

16 Q NOW, YOU'VE ALREADY TESTIFIED THAT ELITE  
17 RESORTS IS THE SUCCESSOR RESORT THAT TOOK OVER SALT  
18 SPRINGS, AND THAT'S WHAT IT SAYS IN THE FIRST PARAGRAPH;  
19 RIGHT?

20 A YES.

21 Q OKAY. AND YOU AGREE YOU TESTIFIED THAT  
22 ELITE RESORTS IS NOT AFFILIATED WITH ADVENTURE RESORTS OF  
23 AMERICA; RIGHT?

24 A YES.

25 Q AND YOU KNEW THAT ADVENTURE RESORTS OF  
26 AMERICA HAD SOME MEMBERS BECAUSE ADVENTURE RESORTS OF

1 AMERICA HAD SALT SPRINGS RESORT?

2 A YES.

3 Q OKAY. AND THOSE WERE ADVENTURE RESORTS OF  
4 AMERICA'S MEMBERS?

5 A NO, THEY WERE NOT.

6 Q WHEN YOU SOLD MEMBERSHIPS TO THE SALT  
7 SPRINGS RESORT AND YOU SOLD THE CORPORATION, ADVENTURE  
8 RESORTS OF AMERICA, MR. NOVELLI WAS BUYING AN INTEREST, OR  
9 AT LEAST THE FIRST NATIONWIDE WAS BUYING AN INTEREST IN A  
10 CORPORATION, A RESORT, AND SOME MEMBERS; DON'T YOU AGREE?

11 A AT THE TIME THAT THE PURCHASE WAS MADE,  
12 YES. BUT YOU'RE FORGETTING THE FACT THAT I HAD A JUDGMENT,  
13 A --

14 MR. MOSHENKO: EXCUSE ME.

15 "YES" IS RESPONSIVE. I OBJECT. THE WITNESS  
16 IS VOLUNTEERING TESTIMONY.

17 THE COURT: SUSTAINED.

18 BY MR. MOSHENKO: Q SO -- SO YOU AGREE THAT  
19 ADVENTURE RESORTS OF AMERICA HAD SOME MEMBERS, DON'T YOU,  
20 AT SOME TIME?

21 A UP TO --

22 Q AT SOME TIME?

23 A SOMETIME, YES.

24 Q OKAY. NOW, YOU AND MR. NOVELLI HAD SOME  
25 DISAGREEMENTS RELATING TO THOSE MEMBERS' ACCOUNTS AS THEY  
26 WERE REPRESENTED TO FIRST NATIONWIDE BY YOU; ISN'T THAT

1 TRUE?

2 A NO.

3 Q YOU WROTE THE MEMBERS AT THE DATE OF THIS  
4 LETTER, THE SAME MEMBERS THAT WERE ADVENTURE RESORTS OF  
5 AMERICA'S MEMBERS THAT YOU THOUGHT WERE BEING TRANSFERRED  
6 TO TRAVEL AMERICA, THAT ELITE RESORTS WAS NOT OBLIGATED TO  
7 PROVIDE SERVICES TO THEIR MEMBERS. THAT'S WHAT IT SAYS  
8 THERE; RIGHT?

9 A TO TRAVEL AMERICA MEMBERS, YES.

10 Q AND THE "THEIR MEMBERS," "THEIR," THE WORD  
11 T-H-E-I-R, IS A REFERENCE TO THE WORDS UP ABOVE, ADVENTURE  
12 RESORTS OF AMERICA OR TRAVEL AMERICA MEMBERS?

13 A NOT EXCLUSIVELY A.R.I. MEMBERS, BUT ALL OF  
14 THE TRAVEL AMERICA MEMBERS, WHETHER OR NOT THEY WERE FROM A  
15 PARK IN COLORADO OR IOWA OR ARIZONA OR WHERE, WE WERE NOT  
16 OBLIGATED TO HOST THAT MEMBER.

17 Q AND SO IT DIDN'T MATTER WHETHER THE MEMBER  
18 WAS AN A.R.A. MEMBER OR A T.A. MEMBER, IN YOUR MIND YOU  
19 WANTED THIS PUBLIC TO KNOW THAT YOU WEREN'T GOING TO  
20 PROVIDE SERVICES TO THEM; CORRECT?

21 A THAT IS CORRECT.

22 Q ALL RIGHT. AND YOUR PLAN WAS TO GET LISTS  
23 OF THE NAMES OF THOSE MEMBERS FROM ANY SOURCE YOU COULD AND  
24 SELL THEM NEW MEMBERSHIPS?

25 A SELL THEM A MEMBERSHIP, YES.

26 Q WELL, THE LISTS WERE LISTS OF MEMBERS,

1 WEREN'T THEY?

2 A YES, THEY WERE.

3 Q AND THE MEMBERS, THEREFORE, HAD MEMBERSHIPS,  
4 AND YOU WANTED TO SELL THEM NEW MEMBERSHIPS; RIGHT?

5 A YES, I DID. I WANTED TO SELL THEM.

6 Q YOU WEREN'T INTERESTED IN -- I'LL STOP AT  
7 THAT POINT.

8 AND YOU HAD NO COMPULSION TO VIOLATING WHAT  
9 WE ALL KNOW IS CALLED THE ANTI-RAIDING RULE, DID YOU?

10 MR. SHERMAN: OBJECTION. ASSUMES FACTS NOT IN  
11 EVIDENCE.

12 THE COURT: SUSTAINED.

13 BY MR. MOSHENKO: Q YOU'VE TESTIFIED YOU IGNORED  
14 THE ANTI-RAIDING RULE; RIGHT?

15 A I DIDN'T IGNORE THE ANTI-RAIDING RULE.  
16 EVERY MEMBER THAT CAME INTO OUR RESORT --.

17 MR. MOSHENKO: OBJECTION. THE WITNESS IS  
18 VOLUNTEERING TESTIFYING AFTER HE SAYS --

19 THE COURT: I'M GOING TO ALLOW HIM TO EXPLAIN HIS  
20 ANSWER.

21 THE WITNESS: EVERY MEMBER THAT -- FROM ANY SOURCE,  
22 OR ANY LOCATION IN THE NATION THAT CAME INTO OUR RESORT, WE  
23 PRESENTED THEM WITH THE OPPORTUNITY OF PURCHASING A  
24 MEMBERSHIP IN THE SALT SPRINGS RESORT, IF THEY LIKED IT.  
25 IF THEY LIKED WHAT THEY SAW AND WANTED TO BUY IT, THEN WE  
26 WOULD LET THEM BUY THE MEMBERSHIP.

1 BY MR. MOSHENKO: Q AND MR. SHERMAN IS CORRECT;  
2 YOU DIDN'T TESTIFY YOU IGNORED IT. YOUR WORDS WERE, QUOTE,  
3 "I DIDN'T PAY ANY ATTENTION TO IT," CLOSE QUOTE?

4 A I DIDN'T SAY I DIDN'T. NO ONE IN THE  
5 INDUSTRY PAID ANY ATTENTION TO THE ANTI-RAIDING AS YOU  
6 REFER TO IT.

7 Q YOU DENY THAT YOU SAID, "I DIDN'T PAY ANY  
8 ATTENTION TO IT"? DO YOU DENY THAT?

9 A YES, I DO. I DON'T THINK THAT I DID.

10 Q ALL RIGHT. SO DOESN'T, SIR, THAT MEAN THAT  
11 YOU HAD NO COMPULSION TO VIOLATING THE ANTI-RAIDING RULE,  
12 BECAUSE YOU BELIEVED EVERYBODY DID?

13 A EVERYBODY DID IT. AND EVERYBODY TRIED TO  
14 SELL A MEMBERSHIP INTO THEIR RESPECTIVE RESORT.

15 NOW, WHETHER OR NOT THAT'S A VIOLATION OF AN  
16 ANTI-RAIDING RULE IS SUBJECTIVE TO ANYBODY'S  
17 INTERPRETATION.

18 Q HOW DO YOU KNOW THAT -- HOW DO YOU KNOW THAT  
19 APOLLO GROUP VIOLATED THE ANTI-RAIDING RULE?

20 A HOW DO I KNOW?

21 Q YEAH.

22 DO YOU EVEN KNOW WHO THE APOLLO GROUP IS?

23 A YES, I KNOW WHO WAS INVOLVED IN THE APOLLO  
24 GROUP. BUT I DON'T KNOW THAT THEY WERE SELLING  
25 MEMBERSHIPS. SO I DON'T KNOW.

26 Q HOW DO YOU KNOW THEY WERE VIOLATING THE

1 ANTI-RAIDING RULE IF YOU DON'T KNOW THEY WERE SELLING  
2 MEMBERSHIPS?

3 A I DIDN'T SAY THEY WERE.

4 MR. SHERMAN: OBJECTION.

5 THE WITNESS: I DON'T MEAN TO BE ARGUMENTATIVE, BUT  
6 I ASSUME THEY WEREN'T.

7 THE COURT: COUNSEL, NO ARGUMENT, PLEASE.

8 MR. SHERMAN: ARGUMENTATIVE.

9 BY MR. MOSHENKO: Q YOU TESTIFIED YOU DON'T KNOW  
10 IF THEY WERE SELLING MEMBERSHIPS?

11 A NO, I DON'T.

12 Q YOU TESTIFIED EVERYBODY WAS VIOLATING IT?

13 A THE ESTABLISHED RESORTS. TO MY KNOWLEDGE  
14 THE APOLLO GROUP DIDN'T HAVE A RESORT.

15 Q OKAY. YOUR TESTIMONY WAS EVERYBODY WAS  
16 VIOLATING IT; RIGHT?

17 THE COURT: COUNSEL, YOU'VE COVERED THAT POINT.

18 MOVE ON.

19 BY MR. MOSHENKO: Q THAT WAS AN EXAGGERATION,  
20 WASN'T IT?

21 A IT'S NOT EXAGGERATION. THE RESORTS IN THE  
22 INDUSTRY.

23 Q IT WAS A JUSTIFICATION FOR YOUR IGNORING --

24 THE COURT: COUNSEL, YOU'RE ARGUING. PLEASE, NEXT  
25 QUESTION.

26 BY MR. MOSHENKO: Q ALL RIGHT. NOW, YOU

1 AFFILIATED ELITE RESORTS OF AMERICA WITH CAMP COAST TO  
2 COAST; IS THAT CORRECT?

3 A YES.

4 Q WHEN DID YOU DO THAT?

5 A THAT WAS ABOUT SEPTEMBER OF '97.

6 MR. MOSHENKO: I'D LIKE TO SHOW THE WITNESS  
7 EXHIBIT 2075.

8 YOUR HONOR, EXHIBIT 2075 IS A COAST TO  
9 COAST AFFILIATION AGREEMENT PARTIAL FOR ELITE RESORTS OF  
10 AMERICA.

11 THE COURT: I'M ADVISED IT HAS NOT BEEN ADMITTED.

12 MR. MOSHENKO: YES. IT HAS NOT.

13 MR. SHERMAN: I DON'T UNDERSTAND WHY IT'S NOT --  
14 MAY WE APPROACH?

15 THE COURT: YES.

16 (DISCUSSION OFF THE RECORD.)

17 BY MR. MOSHENKO: Q DO YOU HAVE THE DOCUMENT UP  
18 THERE, SIR?

19 A YES, I DO.

20 Q OKAY. COULD YOU TURN TO THE SIGNATURE  
21 PAGE.

22 DO YOU RECOGNIZE THE SIGNATURES THERE?

23 A YES.

24 Q COULD YOU TURN TO THE PAGE BEHIND IT,  
25 SCHEDULE A.

26 DO YOU RECOGNIZE THE REFERENCE TO YOUR

1 RESORTS, ELITE RESORTS OF AMERICA, INC.?

2 A YES.

3 Q DOES THE DATE ON THE SIGNATURE PAGE REFRESH  
4 YOUR MEMORY THAT YOU DIDN'T AFFILIATE UNTIL DECEMBER, 1997?

5 A I WOULD LIKE TO POINT OUT --

6 Q EXCUSE ME. COULD YOU PLEASE ANSWER MY  
7 QUESTION?

8 A OH, YES. I SEE THAT THIS DOCUMENT WAS  
9 SIGNED IN DECEMBER OF 1997. THE AGREEMENT WITH CAMP COAST  
10 TO COAST I HAD MADE IN SEPTEMBER, AND THE DOCUMENTATION WAS  
11 NOT COMPLETED UNTIL DECEMBER. IN NOVEMBER I WAS OUT OF  
12 ELITE RESORTS OF AMERICA. IT WAS SIGNED BY LORI A. YONGE,  
13 OR CHIP YONGE AS A FINAL -- AS THE FINAL DOCUMENT. I WAS  
14 NO LONGER ASSOCIATED WITH ELITE RESORTS OF AMERICA IN  
15 NOVEMBER.

16 Q BUT YOU WERE ASSOCIATED BEFORE NOVEMBER;  
17 RIGHT?

18 A YES, I WAS.

19 Q YOU WERE ASSOCIATED, AND I THINK YOU JUST  
20 SAID YOU MADE SOME AGREEMENTS WITH COAST TO COAST IN  
21 SEPTEMBER; RIGHT?

22 A BEING A COAST TO COAST AFFILIATE.

23 Q CORRECT.

24 AND YOU ALSO MADE THOSE AGREEMENTS HAVING IN  
25 MIND THAT COAST TO COAST WAS GOING TO FEED YOU HUNDREDS IF  
26 NOT THOUSANDS OF THE PLAINTIFFS' MEMBERS?

1           A           NOT TRUE.

2           Q           ISN'T IT TRUE THAT COAST TO COAST  
3 TRANSFERRED MEMBERS TO THE ELITE RESORTS THAT WERE  
4 PLAINTIFFS' MEMBERS?

5           A           WHICH PLAINTIFF?

6           Q           ISN'T IT TRUE THAT ELITE RESORTS GOT MEMBERS  
7 FROM THE PLAINTIFFS' ORLANDO RESORTS?

8           A           NOT WHILE I WAS AT ELITE RESORTS OF AMERICA.

9           Q           IN THE FALL OF 1997, YOU WERE AWARE THAT  
10 COAST WAS GOING TO BE TRANSFERRING WHAT YOU CALLED ORPHANED  
11 MEMBERS TO YOUR RESORTS?

12          A           ABSOLUTELY NOT TRUE.

13          Q           SO YOU DON'T KNOW THAT THEY TRANSFERRED  
14 MEMBERS FROM ORLANDO, ALAN COVE, THORNHAVEN, LAKE FRANCE,  
15 BIG TURTLE, INDIAN MILL, FOX RIVER, COUNTRY MEADOWS,  
16 MISSISSIPPI PINES AND SCENIC TRAILS RESORTS TO THE ELITE  
17 RESORTS?

18          A           NO.

19          MR. SHERMAN: OBJECTION. MISSTATES THE EVIDENCE.

20          MR. MOSHENKO: IT'S IN THE EVIDENCE, 1808.

21          MR. SHERMAN: OBJECTION.

22          MR. MOSHENKO: IT'S PART OF THE EVIDENCE.

23          THE COURT: I'LL HAVE TO TAKE THAT OBJECTION UNDER  
24 SUBMISSION. I HAVEN'T SEEN -- I DON'T RECALL THE  
25 DOCUMENT. APPROACH.

26                           (DISCUSSION OFF THE RECORD.)

1 THE COURT: FOR THE RECORD, THE OBJECTION IS  
2 SUSTAINED.

3 BY MR. MOSHENKO: Q LET'S PUT UP ON THE SCREEN  
4 1808.

5 NOW, I GOT TO GET ORIENTED HERE. YOU NEED  
6 TO GO TO THE ELITE RESORTS, CURRENT PARK.

7 MR. SHERMAN: YOUR HONOR, IF THIS IS 1808, THAT'S  
8 NEWS TO ME. I'VE NEVER SEEN THIS.

9 THE COURT: 1808?

10 MR. MOSHENKO: WE HAVE SORTED -- IT'S A RE-SORTED  
11 COPY OF 1808, YOUR HONOR, WHICH INCLUDES ALL REFERENCE OF  
12 ALL OF THE TRANSFERS TO ELITE RESORTS AND THE RESORTS THAT  
13 THEY WERE TRANSFERRED FROM. THIS IS THE DATA THAT'S IN  
14 1808.

15 THE COURT: WE ADMITTED A AND B OF 1808. WHAT IS  
16 THIS?

17 MR. MOSHENKO: THIS IS A RE-SORTED --

18 MR. SHERMAN: IS IT A OR B?

19 THE COURT: A OR B?

20 MR. MOSHENKO: IT'S A RE-SORTING OF A.

21 MR. SHERMAN: IS IT A OR B?

22 THE COURT: IT'S NEITHER.

23 MR. MOSHENKO: BUT IT'S THE DATA THAT'S IN A OR B  
24 RE-SORTED ELECTRONICALLY.

25 THE COURT: GO TO A OR B, THEN.

26 MR. MOSHENKO: I'LL DO THAT, YOUR HONOR. I'LL DO

1 THAT WHEN THE PLAINTIFFS COME BACK, AFTER THE WITNESS IS  
2 GONE. THAT'S FINE. I'LL FINISH MY EXAMINATION IN FIVE  
3 MINUTES.

4 MR. SHERMAN: WITHOUT THIS.

5 MR. MOSHENKO: WITHOUT THIS.

6 Q SO CURRENT TO TODAY, MR. PATTON, YOU'RE  
7 TELLING US YOU NEVER HEARD THAT THE ELITE RESORTS RECEIVED  
8 ANY OF THE MEMBERS BY VIRTUE OF TRANSFERS BY COAST TO COAST  
9 FROM ORLANDO, ALAN COVE, THORNHAVEN, LAKE FRANCE,  
10 BIG TURTLE, INDIAN MILL, FOX RIVER, COUNTRY MEADOWS,  
11 MISSISSIPPI PINES OR SCENIC TRAILS RESORT?

12 A THAT'S WHAT I'M TELLING YOU, THE TIME THAT I  
13 WAS THERE.

14 Q NO. I'M TALKING ABOUT TODAY.  
15 CURRENT TO TODAY?

16 A TODAY.

17 MR. SHERMAN: EXCUSE ME. IF MR. MOSHENKO IS NOT  
18 USING IT -- THANK YOU.

19 BY MR. MOSHENKO: Q CURRENT TO TODAY IS MY  
20 QUESTION.

21 YOU NEVER HEARD THAT THOSE MEMBERS WERE  
22 TRANSFERRED FROM ANY OF THOSE RESORTS TO ELITE RESORTS?

23 A I DON'T KNOW THAT.

24 Q SIR, I DON'T EXPECT YOU TO KNOW AS IN HAVING  
25 BEEN THERE. BUT MY QUESTION WAS, YOU HAVE NEVER HEARD IT?  
26 HAVE YOU HEARD IT?

1           A           I HAVE HEARD INDIVIDUALS SAY THE CAUSE OF  
2 THIS ACTION IS BECAUSE COAST TRANSFERRED MEMBERS FROM ONE  
3 RESORT TO ANOTHER RESORT.

4           Q           DID YOU HEAR IT WHEN YOU HAD DINNER WITH  
5 MR. SHERMAN LAST NIGHT?

6           A           I DON'T KNOW THAT I HEARD THAT SPECIFICALLY  
7 LAST NIGHT, BUT I HEARD IT FROM MR. SHERMAN BACK OVER THE  
8 PAST THREE WEEKS.

9           Q           HOW MANY DIFFERENT MEETINGS HAVE YOU HAD  
10 WITH MR. SHERMAN TO ASSIST HIM IN THIS COAST TO COAST  
11 ACTION?

12          A           I MET MR. SHERMAN FOR THE VERY FIRST TIME  
13 LAST NIGHT FOR APPROXIMATELY AN HOUR AND A HALF TO TWO  
14 HOURS.

15          Q           BUT YOU'VE SPOKEN TO HIM ON THE PHONE MANY  
16 TIMES?

17          A           NO, NOT MANY TIMES. I'VE SPOKEN TO  
18 MR. SHERMAN A COUPLE OF TIMES.

19          Q           AND HOW ABOUT MR. SHERMAN OR HIS ASSISTANTS,  
20 HOW MANY TIMES HAVE YOU INTERACTED WITH THEM?

21          A           A COUPLE OF TIMES WITH MELISSA MILLER.  
22 THAT'S ONLY DUE TO THE FACT THAT I WAS ON THE EAST COAST,  
23 AND I WANTED TO KNOW WHEN I MIGHT BE SCHEDULED TO APPEAR IN  
24 THIS COURT TO GIVE THE FACTS IN THIS CASE THAT I KNOW.

25          Q           ALL RIGHT. SO YOU HAVE OBJECTIONS WHEN  
26 MR. NOVELLI TRANSFERS MEMBERS, BUT YOU DON'T OBJECT TO

1 IT --

2 A DUE TO THE FACT THAT I HAD A JUDGMENT ON  
3 THOSE MEMBER CONTRACTS. HE FORMED A COMPANY CALLED "TRAVEL  
4 AMERICA" THAT HAD NOTHING TO DO WITH ANY OF THOSE MEMBERS.  
5 HOW COULD HE TRANSFER THOSE MEMBERS WHEN THEY ARE OWNED BY  
6 FIRST NATIONWIDE THAT'S IN BANKRUPTCY IN SAN BERNARDINO,  
7 AND THEY ARE AN ASSET OF FIRST NATIONWIDE? AND WHEN I  
8 FORECLOSED ON THEM, THEY BECAME MY MEMBER CONTRACTS.

9 OKAY?

10 Q DO YOU KNOW THAT -- WHETHER A.R.A. IS A  
11 PLAINTIFF IN THIS ACTION?

12 A I HAVE SEEN IT ONCE, I BELIEVE. AND -- IN  
13 THE FILING.

14 Q AND IF A.R.A. IS SITTING HERE ASSERTING  
15 CLAIMS FOR ITS MEMBERS WHAT CAUSED --

16 A THEY HAVE NO MEMBERS.

17 Q WHAT CAUSES YOU TO CONCLUDE THAT THOSE  
18 MEMBERS WERE TRANSFERRED?

19 A I DON'T KNOW THAT THEY WERE TRANSFERRED --

20 Q AND, IN FACT, YOU DON'T OBJECT TO COAST --

21 A -- BY COAST TO COAST.

22 THE COURT: EXCUSE ME. PLEASE --

23 THE WITNESS: I DON'T KNOW THE MEMBERS WERE  
24 TRANSFERRED BY COAST TO COAST. ALL I KNOW, TRAVEL  
25 AMERICA --

26 THE COURT: THE REPORTER CAN STOP REPORTING.

1           MR. MOSHENKO: INSTRUCT THE WITNESS NOT TO  
2 VOLUNTEER.

3           THE COURT: I'M GOING TO TELL YOU, AND I'M GOING TO  
4 ASK YOU, PLEASE DON'T OVER-SPEAK EACH OTHER.

5           THE WITNESS: I'LL TRY NOT TO.

6           BY MR. MOSHENKO: Q A SIMPLE YES OR NO QUESTION.

7                         YOU OBJECT IF COAST TRANSFERS MEMBERS AWAY  
8 FROM A NOVELLI RESORT TO ELITE RESORTS, DO YOU?

9           A           I DON'T CARE.

10          Q           BUT YOU DO OBJECT IF YOU FEEL THAT YOUR  
11 MEMBERS ARE TRANSFERRED BY SOMEBODY ELSE? YES OR NO?

12          A           YES, I WOULD.

13          MR. MOSHENKO: NO FURTHER QUESTIONS.

14                         REDIRECT EXAMINATION

15          BY MR. SHERMAN: Q LET'S JUST GO OVER EXHIBIT 337,  
16 THE JUDGMENT THAT YOU AND MR. MOSHENKO WERE HAVING SOME  
17 DISCUSSION ABOUT.

18          MR. MOSHENKO: I ASKED NO QUESTIONS ABOUT THE  
19 JUDGMENT. IT'S BEYOND THE SCOPE.

20          THE COURT: IT'S ALREADY TALKED ABOUT HERE.

21          MR. MOSHENKO: AND IT'S CUMULATIVE.

22          THE COURT: I'LL ALLOW IT.

23          MR. SHERMAN: 337, PLEASE. DOES YOUR HONOR MIND IF  
24 I DO THIS FROM HERE?

25          THE COURT: NO. GO AHEAD.

26          BY MR. SHERMAN: Q LET'S GO TO PARAGRAPH 28.

1 LET'S JUST READ THIS TOGETHER.

2 THIS IS THE JUDGMENT THAT YOU GOT AGAINST  
3 THE -- MR. NOVELLI AND HIS COMPANIES.

4 A AND ADVENTURE RESORTS.

5 Q OKAY. "PENDING THE SALE HEREIN ORDERED OF  
6 ALL OF DEFENDANT ADVENTURE RESORTS OF AMERICA, INC.'S,  
7 ACCOUNTS, INSTRUMENTS AND GENERAL INTANGIBLES ARISING FROM  
8 THE SALE OF MEMBERSHIPS BY ADVENTURE RESORTS OF AMERICA,  
9 TOGETHER WITH ALL PAYMENTS RECEIVED THEREFROM OR PROCEEDS  
10 THEREOF, AND TRANSFER THEREOF TO THE PURCHASER AT SUCH  
11 SALE, OR EARLIER PAYMENT TO COUNTER-CLAIMANTS OF THE AMOUNT  
12 ADJUDGED DUE THEM IN PARAGRAPH 16 ABOVE" -- THAT'S THE 4  
13 AND A HALF MILLION?

14 A YES, UH-HUH.

15 Q "THE DEFENDANT, ADVENTURE RESORTS OF  
16 AMERICA, AND ITS OFFICERS, DIRECTORS, AGENTS, AND  
17 EMPLOYEES, AND DEFENDANT, RAYMOND G. NOVELLI, ARE ENJOINED  
18 AND RESTRAINED FROM TRANSFERRING OR ATTEMPTING TO TRANSFER  
19 ANY INTEREST IN ANY OF DEFENDANT ADVENTURE RESORTS OF  
20 AMERICA, INC.'S, ACCOUNTS, INSTRUMENTS AND GENERAL  
21 INTANGIBLES ARISING FROM THE SALE OF MEMBERSHIPS, OR ANY  
22 PAYMENTS RECEIVED THEREFROM, OR PROCEEDS THEREOF, OR ANY  
23 INTEREST IN ANY PORTION THEREOF, TO ANY PERSON OR ENTITY."

24 DO YOU SEE ANY EXCEPTION THERE FOR TRAVEL  
25 AMERICA?

26 A NONE THAT I SEE.

1 MR. SHERMAN: NO FURTHER QUESTIONS.

2 THE COURT: ANYTHING FURTHER?

3 MR. MOSHENKO: NO. NO FURTHER QUESTIONS.

4 THE COURT: THANK YOU, SIR.

5 ARE YOU GOING BACK TO FLORIDA OR GOING TO  
6 OREGON?

7 THE WITNESS: NO. I'M GOING BACK TO OREGON AND  
8 BACK TO FLORIDA AUGUST 5TH.

9 THE COURT: THE WEATHER IS BETTER IN OREGON RIGHT  
10 NOW.

11 THE WITNESS: UP THERE IT'S NICE. DON'T GO TO  
12 FLORIDA.

13 THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

14 MR. SHERMAN: CALL JEFFREY KEIM.

15 THE COURT: THAT'S THE ONE THAT'S GOING TO BE  
16 TESTIFYING THROUGH THE VIDEO.

17 MR. SHERMAN: SHOULD WE PLAY IT?

18 THE COURT: YES.

19 MR. SHERMAN: YOUR HONOR, WOULD IT MAKE SENSE TO  
20 DIM THE LIGHT, NOT TURN OFF THE LIGHTS OFF, BUT JUST DIM  
21 THE LIGHTS? I REALIZE WE DON'T HAVE A RHEOSTAT HERE, BUT  
22 MAYBE TURN ONE SET OF LIGHTS OFF. WHY DON'T WE TRY.

23 THE COURT: NO HOLDING HANDS IN THE BALCONY.

24 ///

25 ///

26 \* \* \* \* \*

1

2

(THE FOLLOWING TESTIMONY WAS PLAYED THROUGH

3 VIDEO DEPOSITION TO THE JURY IN OPEN COURT:

4

PAGE 4, LINES 2 THROUGH 4.

5

PAGE 5, LINES 16 TO 20.

6

PAGE 6, LINES 12 TO 23.

7

PAGE 7, LINE 5, TO PAGE 7, LINE 17.

8

PAGE 9, LINE 18, TO PAGE 11, LINE 4.

9

PAGE 11, LINE 13, TO PAGE 12, LINE 2.

10

PAGE 16, LINE 18, TO PAGE 16, LINE 23.

11

PAGE 17, LINE 3, TO PAGE 18, LINE 10.

12

PAGE 19, LINE 25, TO PAGE 20, LINE 4.

13

PAGE 20, LINE 17, TO PAGE 21, LINE 19.

14

PAGE 22, LINE 12, TO PAGE 22, LINE 23.

15

PAGE 25, LINE 12, TO PAGE 26, LINE 25.

16

PAGE 27, LINE 12, TO PAGE 29, LINE 17.

17

PAGE 31, LINE 14, TO PAGE 32, LINE 2.

18

PAGE 32, LINE 21, TO PAGE 33, LINE 6.

19

PAGE 35, LINE 6, TO PAGE 39, LINE 3.

20

PAGE 39, LINE 14, TO PAGE 40, LINE 21.

21

PAGE 42, LINES 5 TO 17.

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PAGE 43, LINE 15, TO PAGE 44, LINE 45.

23

PAGE 49, LINE 17, TO PAGE 51, LINE 24.

24

PAGE 53, LINE 8, TO PAGE 53, LINE 14.

25

PAGE 53, LINE 19, TO PAGE 55, LINE 8.

26

PAGE 55, LINE 16, TO PAGE 55, LINE 19.

1 PAGE 56, LINE 1, TO PAGE 56, LINE 15.  
2 PAGE 57, LINE 20, TO PAGE 59, LINE 7.  
3 PAGE 60, LINE 4, TO PAGE 64, LINE 25.  
4 PAGE 65, LINE 17, TO PAGE 67, LINE 18.  
5 PAGE 72, LINE 15, TO PAGE 72, LINE 24.  
6 PAGE 73, LINES 4 TO 10.  
7 PAGE 73, LINE 22, TO PAGE 74, LINE 2.  
8 PAGE 76, LINE 18, TO PAGE 80, LINE 24.  
9 PAGE 81, LINE 20, TO PAGE 85, LINE 7.  
10 PAGE 86, LINE 2, TO PAGE 88, LINE 7.  
11 PAGE 88, LINE 20, TO PAGE 91, LINE 9.  
12 PAGE 92, LINE 6, TO PAGE 95, LINE 10.  
13 PAGE 96, LINE 2, TO PAGE 97, LINE 2.  
14 PAGE 97, LINE 11, TO PAGE 98, LINE 4.  
15 PAGE 100, LINE 11, TO PAGE 101, LINE 8.  
16 PAGE 111, LINE 11, TO PAGE 112, LINE 5.  
17 PAGE 113, LINE 7, TO PAGE 115, LINE 8.  
18 PAGE 115, LINE 22, TO PAGE 118, LINE 1.)

19

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22

(WHEREUPON THE VIDEO DEPOSITION WAS PLAYED

23 IN OPEN COURT:)

24

(VIDEO REFERENCE: 10:25 A.M.)

25

MR. MOSHENKO: OBJECTION, LACKS FOUNDATION, YOUR

26 HONOR.

Note that either the Judge ruled or the attorneys agreed that some of the deposition was either irrelevant or prejudicial to one side or the other. Offending portions of the transcript have been removed because they were not read or shown to the jury. You are seeing what they saw.

1                   SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2                                   COUNTY OF ORANGE  
3 \_\_\_\_\_  
4 TRAVEL AMERICA, INC.,                    )  
5 a Delaware corporation, et al.,         )  
6                                   Plaintiffs,         )  
7                   vs.                         )    CASE NO. 789743  
8 CAMP COAST TO COAST, INC.,             )  
9 a Delaware corporation, et al.,         )  
10                                   Defendants.         )\_\_\_\_\_

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Video Deposition of JEFFREY J. KEIM  
at 1639 Hendry Street, Fort Myers, Florida  
commencing at 10:00 A.M., Tuesday, February  
29, 2000, by Irene C. Klein, Registered  
Professional Reporter and Notary Public.

1 APPEARANCES OF COUNSEL:  
2 FOR THE PLAINTIFFS (via telephone):  
3 LAW FIRM OF TERRY M. MOSHENKO, P.L.C.  
4 BY: BRUCE F. DEPOL, ESQ.  
5 1570 Brookhollow Drive, Suite 118  
6 Santa Anna, California 92705  
7 (714) 708-8866  
8 FOR THE DEFENDANTS:  
9 ALSCHULER GROSSMAN STEIN & KAHAN, L.L.P.  
10 BY: MICHAEL R. HEIMBOLD, ESQ.  
11 2049 Century Park East  
12 Thirty-Ninth Floor  
13 Los Angeles, California 90067-3213  
14 (310) 277-1226  
15  
16 ALSO PRESENT:  
17 Joe Pitcher, Videographer  
18  
19  
20  
21  
22  
23  
24  
25

1 BY MR. HEIMBOLD:  
2 Q Good morning, Mr. Keim, could you  
3 spell your full name for the record please?  
4 A J-E-F-F-E-R-Y. Middle initial J.

16 Q Okay. Do you also understand that the  
17 oath that you've been given by the court reporter  
18 is the same oath that you would be given in a court

19 of law?

20 A Yes, I do.

.....Keim, Jeffrey (Vol. 1)

page 6

12 First of all, before we get started,  
13 where did you go to college?

14 A Ball State, Muncie, Indiana.

15 Q Did you graduate?

16 A No.

17 Q When did you stop going?

18 A Ninety -- I'm sorry. '84.

19 Q And how long did you attend Ball

20 State?

21 A Three and a half years.

22 Q And what was your major?

23 A General business.

.....Keim, Jeffrey (Vol. 1)

page 7

5 Q And after discontinuing your education  
6 at Ball State, did you take a full-time job?

7 A Yes.

8 Q And what were you doing?

9 A With Resort Development International.

10 Q Also known as RDI?

11 A RDI -- in Fort Myers.

12 Q And what year was that that you  
13 started with Resort Development International?

14 A '84.

15 Q And when you started with RDI in 1984,  
16 what were your duties?

17 A Director of Operations.

..... Keim, Jeffrey (Vol. 1)

page 9

18 Q Now, how long were you employed by

19 RDI?  
20 A Until I sold the business in 1990. It  
21 will be three years this September, so 1997.  
22 Q Okay.  
23 A I am still an employee of RDI, which  
24 was purchased by Blue Green.  
25 Q Okay. So approximately thirteen years

.....Keim, Jeffrey (Vol. 1)

page 10

1 from 1984 to 1997 with RDI?  
2 A Yes.  
3 Q Okay. And during your tenure with  
4 RDI, did RDI acquire more properties?  
5 A Yes.  
6 Q Okay. So when the company was sold in  
7 1997, how many properties were being managed by  
8 RDI?  
9 A 38.  
10 Q And what types of properties were  
11 these?  
12 A Mostly timeshare properties on a  
13 beach. There were several campgrounds, two hotels,  
14 golf courses, ski hill.  
15 Q Okay. Now, the campgrounds -- you  
16 mentioned there were several campgrounds being  
17 managed by RDI in 1997?  
18 A Mm-hmm.  
19 Q Which ones were those?  
20 A Shenandoah Crossing in Virginia. It's  
21 a five star Camp Coast to Coast.  
22 Q Okay.  
23 A Christmas Mountain Village, Wisconsin  
24 Dells, Wisconsin.  
25 Q Any others you can think of?

.....Keim, Jeffrey (Vol. 1)

page 11

1 A Another five star. Texarkana,  
2 Arkansas. I can't recall the name. I will in a  
3 second. Millwood Landing is the name of that. At

4 that time there was also Big Buck in Tennessee.

13 Q All right. Now, are these all private  
14 membership campgrounds?

15 A Yes.

16 Q All right. And I take it RDI  
17 contracted with these campgrounds to manage their  
18 operations?

19 A Yes, RDI Resort Services.

20 Q Okay. And what sort of services would  
21 RDI perform for these campgrounds?

22 A Pretty much A to Z. Day-to-day  
23 management on-site.

24 Q Okay.

25 A And all corporate support such as

.....Keim, Jeffrey (Vol. 1)

page 12

1 accounting, billing, financial reports,  
2 collections, customer service.

.....Keim, Jeffrey (Vol. 1)

page 16

18 Q All right. Okay. Are you familiar  
19 with the company called All Seasons Resorts?

20 A Yes.

21 Q And are you familiar with a lawsuit  
22 called Finova Capital v. All Seasons Resorts?

23 A Yes.

.....Keim, Jeffrey (Vol. 1)

page 17

3 Q Yeah. You were appointed as a

4 receiver for All Seasons Resorts in connection with  
5 that action, correct?

6 A Yes.

7 Q And where was that action pending?

8 A In Phoenix, Arizona.

9 Q Okay. And how were you contacted  
10 regarding becoming a receiver for All Seasons  
11 Resorts?

12 A Prior to the receivership I received a  
13 phone call from Finova Capital Corp.

14 Q Okay. And what did Finova Capital  
15 Corp. say to you during this phone call?

16 A I believe the call was from Roger -- I  
17 believe Schroeder (phonetic) along with Tom Ruley,  
18 another employee of Finova -- had asked me if I was  
19 familiar with All Seasons Resorts and briefed me on  
20 what their situation with All Seasons, and if we  
21 would be interested in serving as a management or  
22 providing management functions, myself as  
23 individual receiver along with the corporation that  
24 I owned to provide those services to the  
25 corporation.

.....Keim, Jeffrey (Vol. 1)

page 18

1 Q Okay. And when you say they briefed  
2 you on the situation, what was the Finova situation  
3 with All Seasons?

4 A At that time all I remember is that  
5 they were owed a lot of money, were not being paid,  
6 were not receiving payments from All Seasons  
7 regarding those loans. There were several resorts  
8 of which they had a first position on three or four  
9 and needed somebody to come in and manage the  
10 system.

.....Keim, Jeffrey (Vol. 1)

page 19

25 Q All right. And after you accepted

.....Keim, Jeffrey (Vol. 1)

page 20

1 their offer to become the receiver, what's the next  
2 step you took in connection with becoming a  
3 receiver for All Seasons?

4 A Hiring an attorney.

17 Q Okay. And after you hired an  
18 attorney, who was Mike MacKinnon, what's the next  
19 action you took as a receiver?

20 A After being appointed?

21 Q Right.

22 A Immediately, then that was right  
23 before Labor Day in August before September, I sent  
24 a team of my employees out to the All Seasons  
25 Resorts office in California along with my

.....Keim, Jeffrey (Vol. 1)

page 21

1 attorney.

2 Q Okay. And which employees did you  
3 send to the All Seasons office?

4 A I sent my M.I.S. director at the time.  
5 Many years ago -- I do not recall his name.

6 Q Okay.

7 A To secure data from the computers they  
8 had.

9 Q M.I.S., is that management information  
10 systems?

11 A Yes.

12 Q Okay.

13 A And sent my operations man. At that  
14 time was Terry Dodd.

15 Q And was he an employee of RDI?

16 A Yes.

17 Q Okay.

18 A And I also sent along a field manager,

19 on-site property manager, Dave Walosky.

.....Keim, Jeffrey (Vol. 1)

page 22

12 Q Okay. And do you know what the three  
13 of them did once -- or the four of them, excuse me,  
14 when they got to the All Seasons office?

15 A They went into the lobby and informed  
16 the receptionist of who they were --

17 Q Okay.

18 A -- and what they were there for.

19 Q Okay. And then what did they do?

20 A Requested at that time to speak with  
21 Ray Novelli.

22 Q And did they speak with Ray Novelli?

23 A I do not believe so.

.....Keim, Jeffrey (Vol. 1)

page 25

12 Q Okay. And after your appointment did  
13 you have an opportunity to visit the various  
14 resorts in the system?

15 A Yes. Immediately I sent the two  
16 people I mentioned earlier --

17 Q Right.

18 A -- Terry Dodd and Dave Walosky and  
19 another gentleman, Tim Fisher, who is a senior vice  
20 president for my corporation --

21 Q Okay.

22 A -- to the property. I wanted all the  
23 properties to be visited immediately either by  
24 myself or my staff.

25 Q Okay. And at the beginning of the

1 receivership do you recall how many properties  
2 there were in the All Seasons Resort system?

3 A There were ten immediately. There  
4 were twelve properties, but I believe at my  
5 appointment there were ten under my control.

6 Q Okay. Did you visit the Orlando  
7 resort, All Seasons resort?

8 A That was the first property. Due to  
9 location being so close to Fort Myers, that was the  
10 first property I visited.

11 Q Okay. And could you describe the  
12 condition of the Orlando resort when you first  
13 visited it?

14 MR. DEPOL: Overbroad, uncertain.

15 THE WITNESS: I drove to the location. The  
16 park was closed to the members and to the  
17 public. It was -- there was tape and signs  
18 by the Internal Revenue Service. There was  
19 an All Seasons resort employee -- excuse  
20 me -- I believe it was maintenance, kind of a  
21 caretaker.

22 BY MR. HEIMBOLD:

23 Q Okay. Were you allowed access to the  
24 park?

25 A Yes.

12 Q Okay. And did you inspect the  
13 premises of the resort while you were there?

14 A Yes.

15 Q And what did you find?

16 A There was -- first thing I noticed,  
17 there were several trailers, mallards, rental  
18 trailers that were there all locked with some type  
19 of padlock.

20 Q Okay.

21           A           I saw the swimming pool. It has not  
22 been taken care of. Green, much algae growth.  
23           Q           Right.  
24           A           Weeds. Grass was very high. Looked  
25 like it had been abandoned for several months.

1 Buildings that looked -- a lot of preventative  
2 maintenance had not been done. Paint -- needed  
3 paint. Mostly weeds growth. Kind of looked  
4 abandoned.

5 Q Okay. And around what time of the  
6 year was this visit undertaken by you?

7 A It was in September.

8 Q All right. And is this normally a  
9 time when in your experience membership campground  
10 members would have been visiting the park?

11 A Obviously, Labor Day is a very big  
12 weekend down there and September is getting into  
13 the shoulder season.

14 Q Right.

15 A The winter time is the busiest season  
16 there.

17 Q Okay. And did you speak with the  
18 maintenance person when you were at the resort?

19 A I spoke with a person. I don't --  
20 can't say for certain that it was a maintenance  
21 person.

22 Q Okay. And what did he tell you about  
23 the resort?

24 A He showed me around to where the  
25 laundry room was, showed me around where the camp

1 sites were, walked me around where those rental  
2 trailers were, looked in some windows. He did not  
3 have keys for such as the store or administrative  
4 office.

5 Q Right.

6 A Walked through the laundry room.  
7 Looked at the pool equipment room. And he showed  
8 me -- he was telling me something about the water  
9 situation and a pump, because there was an  
10 outstanding issue with the Southwest Florida  
11 Water -- that's here -- the water management --

12 Q Okay.

13 A -- authority.

14 Q And what did he tell you about that?

15 A That there was shut down. There were  
16 some problems that had to be worked out and that's  
17 all I recall at that time.

14 Q All right. I've got some court  
15 documents that were filed in connection with your  
16 receivership, which I'm going to show you, and  
17 perhaps they will refresh your recollection as to  
18 exactly what parks were part of the system.

19 A Fox River was the Illinois property.

20 Q Okay. All right. I'd like to mark as  
21 Exhibit 160 a document on the letterhead of Pyle,  
22 Sims, Duncan & Stevens addressed to Mr. Andrew  
23 Mauthe, M-A-U-T-H-E, Esquire. It's dated August 5,  
24 1997. Would you please take a look at that?

25 (Deposition Exhibit No. JJK-160 was

1 marked for identification and is annexed  
2 hereto.)

21 Q All right. The first document we are  
22 looking at, it starts page one is Summary of Facts  
23 and Conclusions and it lists one, two, three, four,  
24 five resorts. Why don't we skip that page? And  
25 then we go to one that is printed on the landscape

.....Keim, Jeffrey (Vol. 1)  
page 33

1 format, it's called Property Analysis. On the top  
2 left corner it says "Lienholder, Eagle Lake" in  
3 Minnesota.

4 A Mm-hmm.

5 Q Was that one of the resorts?

6 A Yes.

..... Keim, Jeffrey (Vol. 1)  
page 35

6 Q And that is ten resorts. So the ten  
7 resorts we just listed, which are Orlando, Lake  
8 France, Honey Brook, Skyview, Grass Lake, Rogers  
9 Lake, Fox River, Wisconsin Dells, Eagle Lake, and  
10 Hidden Valley, is that the total of resorts that  
11 were being managed or owned by All Seasons Resorts  
12 when you became receiver?

13 A Yes.

14 Q Were these resorts all owned by All  
15 Seasons when you became receiver?

16 MR. DEPOL: Objection, uncertain, calls for a  
17 legal conclusion.

18 THE WITNESS: I believe they were.

19 BY MR. HEIMBOLD:

20 Q Okay. In this exhibit we just looked  
21 at, which looks like a summary of all the liens

22 against the various properties, have you seen this  
23 document before today?

24 A Yes, I have.

25 Q When is the first time you saw it?

.....Keim, Jeffrey (Vol. 1)  
page 36

1 A Shortly after the appointment of  
2 receivership.

3 Q Okay. And is this to your knowledge  
4 an accurate list of all the liens against these  
5 various properties?

6 MR. DEPOL: Overbroad, uncertain.

7 THE WITNESS: I believed it to be at the  
8 time.

9 BY MR. HEIMBOLD:

10 Q Okay. And did you rely upon this list  
11 as an accurate list of all the liens against the  
12 properties in your role as receiver?

13 A Yes.

14 Q I'll hand a copy of this to the  
15 reporter.

16 Now, you mentioned that you visited  
17 the Honey Brook resort, which I believe is in  
18 Pennsylvania, shortly after becoming the receiver;  
19 is that correct?

20 A Yes.

21 Q And did you notice the condition of  
22 the Honey Brook resort when you were there?

23 A Yes, I went there specifically to that  
24 one after Ohio because of some things I had heard,  
25 and I don't recall from who, of the condition of

.....Keim, Jeffrey (Vol. 1)  
page 37

1 the property.

2 Q All right. Could you describe the  
3 condition of the Honey Brook resort?

4 MR. DEPOL: Overbroad, uncertain.

5 THE WITNESS: Yes. What I saw when I visited  
6 the property first was the roads were in very

7 poor condition. There were washouts, ruts.

8 BY MR. HEIMBOLD:

9 Q Okay.

10 A And but most importantly, it was  
11 obvious, when you first pull in, it was a section  
12 of the property that had been timbered.

13 Q And when say timbered, what do you  
14 mean by that?

15 A Trees were cut, recent, sawdust --  
16 fresh sawdust.

17 Q Approximately how many trees were cut?

18 A More than one hundred. It would be  
19 hard to guess other than that.

20 Q All right. And did the cutting of the  
21 trees have an effect on the appearance of the  
22 property?

23 A Yes.

24 Q What effect was that?

25 A It was very noticeable, as soon as you

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1 pull off, that the property was being timbered off  
2 in that section of the campground and it was  
3 recently.

4 Q All right.

5 A Recently had occurred.

6 Q I'd like to show you another exhibit.

7 This is a pleading from the Finova Capital v. All  
8 Seasons Resorts case, and it's the Supplement to  
9 Motion for Appointment of a Receiver with a  
10 Declaration of Tom Ruley, Michael Salce -- is it  
11 S-A-L-C-E?

12 A Salce.

13 Q Salce. And Michael Stuckey. And  
14 we'll mark that as 161. Have you ever seen this  
15 document before?

16 A Yes, I remember this.

17 Q All right. And on page 2 of the  
18 pleading on line -- beginning on line 11 it says:  
19 "On a recent inspection of the Honey Brook  
20 campground, Finova discovered that All Seasons,

21 without Finova's permission or knowledge,  
22 authorized a timber company to enter the Honey  
23 Brook campground property and log in excess of  
24 three hundred thousand dollars worth of valuable  
25 trees."

1                   Did you find that statement to be  
2 true?  
3           A        Yes, most definitely.

14           Q        Okay. Could you go to page 5 of this  
15 pleading please? Beginning on line 6, it says:  
16 "In addition to the logging problems, a number of  
17 the campground amenities at Honey Brook have been  
18 neglected and need repair."

19                   Bruce, I'll read this for your  
20 convenience.

21                   It says: "These items include: A  
22 collapsed (and now removed) picnic pavilion; a  
23 swimming pool that needs repair and paint to be  
24 operable; a water damaged ceiling in the clubhouse;  
25 cracked and deteriorating surfaces in the

1    basketball and tennis courts. Mr. Waters could not  
2    provide Finova with any information as to whether  
3    All Seasons had a plan to rebuild the pavilion or  
4    repair the pool, clubhouse ceiling, or basketball  
5    and tennis courts."

6                   Did you find these conditions which  
7    are described in this paragraph to be existent when  
8    you visited the campground?

9           A        Yes. I remember that specifically,  
10   all of them. I can picture the tennis courts and  
11   the swimming pool, and I believe I did the report  
12   that had all this word for word in it.

13           Q        Okay. And what did you notice about  
14   the swimming pool in this report?

15           A        Again, cracked, inoperable. It wasn't  
16   open. The basketball court had cracks all  
17   throughout the hard surface with grass and weeds  
18   growing through it.

19 Q Right.  
20 A Fence was in bad shape around the  
21 basketball and tennis courts.

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5 Q All right. Okay. The next exhibit  
6 I'm going to mark as Exhibit 162. This is a  
7 letter, which is on All Seasons letterhead. It  
8 begins "Greetings". And it is not signed, but  
9 there's a signature line: "Sincerely, Jeffrey J.  
10 Keim." It's undated.  
11 Mr. Keim, have you seen this letter  
12 before?  
13 A Yes, I drafted this letter.  
14 Q Okay. And when did you draft this  
15 letter?  
16 A Shortly after the appointment. It  
17 would have been in September.

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15 Q Okay. Now on the sixth paragraph it  
16 says: "It is critical that you continue to send  
17 your dues, which are the lifeblood of the company.  
18 Without them, the resorts cannot continue to  
19 operate. You may pay at any All Seasons Resort, or  
20 mail them to ASR, 12995 Cleveland Avenue, Suite  
21 164, Fort Myers, Florida. Do not call the old ASR  
22 office in California and make your payments via  
23 credit card."  
24 Now, were you instructed by the Court  
25 the receive payments for All Seasons?

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1           A           Yes, I was.

2           Q           Okay. And did the Court also issue  
3 instructions that the former owners of All Seasons  
4 or the current owners of All Seasons, being Ray  
5 Novelli, were not to receive payments?

6           A           I believe it was worded that way, yes.

7           Q           Okay. Now, on the last -- second to  
8 last paragraph, which would be the seventh  
9 paragraph, it says: "In reviewing some preliminary  
10 unaudited financial records that were supplied by  
11 the old ASR staff, I see that less than fifty  
12 percent of all the overall income went back into  
13 resort operations and maintenance."

14                       And was that in fact the case upon  
15 review of the documents?

16           A           Later, yes. This was right after I  
17 saw it and I wrote, "if these records are indeed  
18 accurate." And yes, I believe it to be accurate.

19           Q           Okay. So upon further review of the  
20 financial documents in your role as receiver, did  
21 you learn that the All Seasons resort management  
22 was in fact putting less than fifty percent of all  
23 overall income back into the resort?

24           MR. DEPOL: Lack of foundation, uncertain.

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17                       to mark as 163 for the Defendants.

18           MR. DEPOL: Okay.

19 BY MR. HEIMBOLD:

20           Q           The next exhibit is going to be 164.  
21 This has also been produced in this case. And the  
22 title of the document is Order. It's stamped  
23 September 24th of '97. And it's an order in the  
24 Finova Capital Corporation case v. All Seasons  
25 Resorts.

1                   Now, Mr. Keim, have you seen this  
2 document before?

3           A        I believe I have.

4           Q        Okay. And it talks about -- it opens  
5 up -- the document begins by saying: "On December  
6 27th, 1996, Defendant All Seasons Resorts moved to  
7 vacate, modify or vacate (the Court's) prior order  
8 appointing a receiver and for ancillary relief."

9                   Do you recall that proceeding?

10          A        Yes, I do.

11          Q        And it references: "An evidentiary  
12 hearing on Defendant's motion was held on March  
13 14th, 1997." Did you attend a hearing in  
14 connection with this motion?

15          A        I did attend a hearing in Arizona, but  
16 I don't know if this was the one or not.

17          Q        Okay. Now, the Order under the  
18 Findings of Fact states that All Seasons -- on  
19 paragraph 8 on page 3: "All Seasons generates  
20 revenues of approximately \$5 to \$6 million per  
21 year."

22                   Did you find that to be case in your  
23 role as receiver for All Seasons?

24          MR. DEPOL: Objection, lack of foundation,  
25 overbroad.

1           A        Yes, I believe it was. Yes, I do.

2           Q        And paragraph 9 under the Findings of  
3 Fact, it states that: "At the time All Seasons was  
4 generating this cash, it was failing to pay its  
5 debt obligations to Finova and other creditors,  
6 failing to meet payroll, failing to pay utilities,  
7 and failing to pay over monies to the Internal  
8 Revenue Service. At the same time that it was  
9 failing to pay these obligations, All Seasons was  
10 making numerous transfers to affiliated companies."

11                   In your examination of the books and

12 records of All Seasons Resorts and in your running  
13 of All Seasons Resorts as receiver, did you find  
14 these statements to be true?

15 A Yes.

16 MR. DEPOL: Overbroad, uncertain, lack of  
17 foundation.

18 BY MR. HEIMBOLD:

19 Q Okay. Did you find that All Seasons  
20 Resorts was failing to make its payroll?

21 MR. DEPOL: Same objection.

22 THE WITNESS: Yes, I knew that was a fact  
23 after coming in.

24 BY MR. HEIMBOLD:

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8 BY MR. HEIMBOLD:

9 Q Okay.

10 A -- or returned for insufficient funds.

11 Q Is that within 30 to 60 days of your  
12 appointment as receiver?

13 A Yes.

18 THE WITNESS: Yes, I had reviewed records,  
19 and I made a list of that and turned it in to  
20 the Judge -- to the Court.

21 BY MR. HEIMBOLD:

22 Q Okay. So you did prepare a list of  
23 paychecks that had actually been bounced?

24 A Yes.

25 Q And on how many pay periods would you

1 say paychecks have been bounced by All Seasons  
2 Resorts to its employees?

3 MR. DEPOL: Overbroad, uncertain.

4 THE WITNESS: It was my recollection at the  
5 time or my recollection now that at the time  
6 it was three to five pay periods.

7 BY MR. HEIMBOLD:

8 Q Okay. And did the employees of All  
9 Seasons that you met in your various trips to the  
10 resorts express displeasure at having their  
11 paychecks bounce?

12 MR. DEPOL: Overbroad, uncertain.

13 THE WITNESS: Yes, very much so. I did hear  
14 that first person from those employees.

15 BY MR. HEIMBOLD:

16 Q Okay. How many people told you that?

17 A I would be guessing. I do not recall.  
18 Several employees.

19 Q All right. Now, this Order also  
20 states that All Seasons was failing to pay its  
21 utilities. Did you find that All Seasons Resorts  
22 was failing to pay the utilities at the various  
23 resorts?

24 MR. DEPOL: Overbroad, uncertain, lack of  
25 foundation.

1 THE WITNESS: Yes, I did. That is based upon  
2 talking with the managers and being on a --  
3 from several -- the electric utilities were  
4 cut off and being on a cash basis with a lot  
5 of local vendors.

6 BY MR. HEIMBOLD:

7 Q Okay. And did you find this to be the  
8 case at the ten resorts that we listed earlier?

9 MR. DEPOL: Overbroad, uncertain.

10 THE WITNESS: Almost all -- all the resorts,  
11 yes.

12 BY MR. HEIMBOLD:

13 Q Had had their utilities cut off or  
14 were on a cash basis?

15 MR. DEPOL: Same objection.

16 THE WITNESS: Yes. I can't say for certain  
17 it was all ten, but it was certainly most all  
18 of them.

19 BY MR. HEIMBOLD:

20 Q Okay. Next, the Order says that the  
21 company, All Seasons Resorts, failed to pay monies  
22 to the Internal Revenue Service. In your review of  
23 the books and records of All Seasons Resorts and in  
24 your running of All Seasons Resorts, did you find  
25 that All Seasons had in fact failed to pay the

1 Internal Revenue Service?

2 MR. DEPOL: Overbroad, uncertain, lack of  
3 foundation.

4 THE WITNESS: Yes. From the records I could  
5 receive, they were withholding funds from the  
6 paychecks, but not forwarding 941 reports or  
7 withholding wages. And I did have  
8 conversations with the lady from the IRS.

16 Q And you said that Section 941 -- what  
17 is Section 941?

18 A It's an employer's form to fill out  
19 for withholding -- employee withholding taxes.

1 recall. I did not run payroll personally.

2 BY MR. HEIMBOLD:

3 Q All right. Okay. Now, did you ever  
4 learn how much money All Seasons had failed to pay  
5 to the Internal Revenue Service in Section 941  
6 taxes?

7 MR. DEPOL: Overbroad.

8 THE WITNESS: I can go off of what I received  
9 forms from the Internal Revenue Service.

10 BY MR. HEIMBOLD:

11 Q Okay. And what did these forms tell  
12 you?

13 A My recollection of those forms of the  
14 communication I had as receiver with the IRS, those  
15 sums were 5.8 million dollars.

20 Q Under that it says: "All Seasons'  
21 employee payroll checks bounced repeatedly in  
22 1996." And those were the bounced checks you  
23 referred to, I take it?

24 A Yes, that's what I'm referring to.

25 Q Okay. Paragraph 13 it says: "All of

1 the All Seasons' campgrounds needed to have their  
2 electrical systems upgraded." Did you find that to  
3 be the case in your visit to the campgrounds?

4 MR. DEPOL: Uncertain, overbroad, lack of  
5 foundation.

6 THE WITNESS: Yes. I am not an electrician,  
7 but from speaking to on-site personnel,  
8 maintenance members, volunteers, yes, there  
9 were many deferred maintenance issues and  
10 junction boxes, fuse boxes that I -- in my  
11 opinion was unsafe.

12 BY MR. HEIMBOLD:

13 Q Okay. Do you recall any conversations  
14 with any of the maintenance people at the resorts  
15 regarding the state of the electrical systems?

16 MR. DEPOL: Overbroad.

17 THE WITNESS: Yes, I recall some  
18 specifically.

19 BY MR. HEIMBOLD:

20 Q And which ones do you recall  
21 specifically?

22 A First one that comes to mind I always  
23 remember is talking to a member, an elderly  
24 gentleman, that I was asking in my research: Is he  
25 aware of any electrical problems or panels that

1 need repaired to provide service to the sites? His  
2 comments was, "I wouldn't walk a dog early in the  
3 morning."

4 Q Okay. Referring to the fact you might  
5 get electrocuted?

6 A Wet. Yeah. Might get -- all the dogs  
7 jump.

4 Q Okay. On paragraph 14 it says: "At  
5 the same time that All Seasons was not paying  
6 withheld wages to the IRS, not paying utilities,  
7 not meeting payroll, and not maintaining and  
8 repairing the campgrounds, it was making transfers  
9 of monies to affiliated companies."

10 Now, in your review of the books and  
11 records for All Seasons Resorts and as your role as  
12 receiver for All Seasons, did you find this to be  
13 the case?

14 MR. DEPOL: Overbroad, uncertain, lack of  
15 foundation.

16 THE WITNESS: Yes. I did find checks in the  
17 paid files --

18 BY MR. HEIMBOLD:

19 Q Right.

20 A -- that I had copies of All Seasons'  
21 checks that were cut to non affiliated -- what I  
22 consider non affiliated entities.

23 Q Okay. And do you recall what some of  
24 these entities were?

25 A Yes, some of them specifically I

1 remember. One was -- a couple of them were  
2 Presidential Air.

3 Q Right.

4 A There was another corporation or  
5 company. It was a motor home company, Revcon. And  
6 there were some to -- I would consider not related  
7 was a family trust, Hans Family Trust, I believe.

8 Q Okay. Now, on paragraph 18 of this  
9 same Order -- I'm going to page 4 -- the Order  
10 states that: "All Seasons did not prepare and did  
11 not possess current financial statements, and the  
12 independent accountants determined that All  
13 Seasons' financial records and controls were  
14 unreliable."

15 Did you talk with independent  
16 accountants as receiver of All Seasons?

17 A Yes, I did. I spoke with  
18 representatives from Coopers & Lybrand that came in  
19 and reviewed those books and records.

20 Q Okay. And are these the books and  
21 records that your representatives gathered while  
22 they visited All Seasons' office?

23 A Yes, Coopers & Lybrand went to  
24 California to the office and reviewed the records  
25 that we had secured.

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1 Q Okay. And were you able to find any  
2 current financial statements for All Seasons  
3 Resorts?

4 MR. DEPOL: Overbroad, uncertain, lack of  
5 foundation.

6 THE WITNESS: Not financial records that I  
7 could put much merit in, but there were some.

8 BY MR. HEIMBOLD:

9 Q Okay. And were you ever able to find  
10 any audited financial statements for All Seasons  
11 Resorts?

12 MR. DEPOL: Same objections.

13 THE WITNESS: No, I don't believe I found any  
14 audited statements.

15 BY MR. HEIMBOLD:

16 Q Okay. And did the independent  
17 accountants express to you their belief that the  
18 All Seasons' financial records were unreliable?

19 MR. DEPOL: Same objection.

20 THE WITNESS: Yes, they did.

21 BY MR. HEIMBOLD:

22 Q All right. Do you recall the name of  
23 any of these independent accountants?

24 A No, I do not recall names. I just  
25 know it was from the national firm of Coopers &

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1 Lybrand.

2 Q Okay. And based upon your numerous  
3 years in the resort campground industry and your  
4 understanding of financial statements, did you  
5 believe that their financial records were  
6 unreliable?

7 MR. DEPOL: Overbroad, uncertain, lack of  
8 foundation.

9 THE WITNESS: No, I didn't think they were  
10 reliable or near complete.

11 BY MR. HEIMBOLD:

12 Q Okay. Now, in paragraph 21 of this  
13 Court's Order under Findings of Fact, the Order  
14 states: "All Seasons corporate structure was  
15 chaotic and unknown even to its officers. All  
16 Seasons' controller, John Workman, did not know who  
17 any of the officers of the company were, did not  
18 even know if the company had a president, vice  
19 president, secretary, or treasurer, had no idea of  
20 the number of bank accounts that All Seasons had  
21 since April 1995, and had no idea whose job it was  
22 to open or close bank accounts."

23 Did you ever meet or talk to John  
24 Workman?

25 A I did not personally, but my staff

1 did.

2 Q Okay. And did they inform you that  
3 John Workman had no knowledge of the operation of  
4 this company?

5 MR. DEPOL: Objection, lack of foundation.

6 THE WITNESS: Yes, they did inform me that.

7 BY MR. HEIMBOLD:

8 Q Now, paragraph 23 of the Findings of  
9 Fact of this Order, it says: "All Seasons  
10 defaulted on its numerous obligations because the  
11 revenue was diverted to improper uses outside of  
12 All Seasons."

13 Did you find this to be the case?

14 MR. DEPOL: Overbroad, uncertain, lack of  
15 foundation.

16 THE WITNESS: Yes, that was my opinion based  
17 upon the transactions I saw.

18 BY MR. HEIMBOLD:

19 Q Okay. And the transactions you saw,  
20 are these the checks written to related companies  
21 with no justification that you saw?

22 MR. DEPOL: Overbroad, uncertain.

23 THE WITNESS: Yes, it was based on some large  
24 checks I saw that were cut to those outside  
25 affiliate -- or outside related parties.

17 Q Okay. Now, beginning paragraph 32,  
18 the Court lists its conclusions of law in  
19 connection with this Order. Paragraph 38 of the  
20 Order says: "All Seasons violated the Court's  
21 Order by diverting collections away from the  
22 receiver, improperly continuing to engage in  
23 collection activities after the receiver was  
24 appointed, and engaging in other activities

25 designed to prevent the receiver from collecting

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1 all amounts owed."

2 Did you find this to be the case in  
3 your role as receiver?

4 MR. DEPOL: Overbroad, uncertain, lack of  
5 foundation.

6 THE WITNESS: Yes, it was -- it was  
7 definitely the case and it had a lot of  
8 problems for me in doing what I was hired to  
9 do.

10 BY MR. HEIMBOLD:

11 Q Okay. After you were appointed  
12 receiver, did you send out dues statements  
13 informing the members that they should pay the dues  
14 directly to the receiver?

15 A Yes, I did. I sent that on RDI  
16 letterhead.

17 Q Okay. And what sort of responses did  
18 you get to these requests for dues?

19 MR. DEPOL: Overbroad.

20 THE WITNESS: I received many responses. For  
21 the most part I received a lot of money that  
22 was deposited into my receivership account to  
23 run All Seasons Resorts.

24 BY MR. HEIMBOLD:

25 Q Right.

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1 A I also received hundreds and hundreds  
2 of letters back from members stating that they had  
3 paid to get out of it, they are not a member  
4 anymore, with some supporting documents of that. I  
5 also received many letters from family members of  
6 the person I mailed it to, who many cases those  
7 people were deceased.

8 Q So the members to whom you were  
9 sending dues statements were actually dead?

10           A           Many of them. Probably hundreds of  
11 them, yes.

12           Q           Okay. And where did you get the  
13 addresses for the members to whom you were sending  
14 dues statements?

15           A           The only thing I had to go from is the  
16 books and records secured from the California  
17 office was either in copy or off of their computer  
18 to list members.

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15           Q           Okay. And did you review records that  
16 were kept in the normal course of business by All  
17 Seasons Resorts?

18           MR. DEPOL: Overbroad, uncertain, calls for a  
19 legal conclusion.

20           THE WITNESS: I reviewed what I could get my  
21 hands on from them, yes.

22           MR. HEIMBOLD: Okay. I would like to mark  
23 this Supplemental Declaration of Terry Dodd  
24 as 165.

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4           Q           Okay. The next document I'd like to  
5 show you, Mr. Keim, is a document entitled  
6 Receiver's Report for the Period Ending December  
7 31, 1996. This was also in the Finova Capital  
8 Corporation v. All Seasons Resorts case, and it is  
9 file stamped January 21, 1997 by the Clerk of the  
10 U.S. District Court in Arizona.

22                               Mr. Keim, have you seen this document  
23 before?  
24               A           I sure have.  
25               Q           And did you review this document

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1 before it was filed in the court back in 1996?  
2               A           Very closely.

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18               Q           Okay. Now, this document states that:  
19 "All Seasons Resorts is justly indebted to the  
20 United States in the amount of \$5,796,506.00." Is  
21 that an accurate number of indebtedness for the  
22 Section 941 taxes?  
23               MR. DEPOL: Uncertain, lacks foundation.  
24               THE WITNESS: Based upon the information  
25 given to me from the IRS, yes, it was.

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1 BY MR. HEIMBOLD:  
2               Q           And again, I know you described it  
3 briefly before. Since we're on the exhibit, could  
4 you describe what a Section 941 tax is please?  
5               A           It was payroll withholding taxes. You  
6 withhold the money from the employee and then are  
7 supposed to file a 941 and forward those funds on  
8 to the IRS.  
9               Q           Okay. Now, in your role as receiver  
10 did you find that these amounts were actually

11 withheld by All Seasons Resorts?

12 MR. DEPOL: Overbroad, uncertain, lack of  
13 foundation.

14 THE WITNESS: Just on more of the recent ones  
15 that I could see that were that year, yes, I  
16 could see where -- on payroll information?

17 BY MR. HEIMBOLD:

18 Q Yes.

19 A Where they did withhold taxes --

20 Q Okay.

21 A -- I could not find any evidence of  
22 filing the 941's or paying them.

23 Q Okay. So in other words, All Seasons  
24 Resorts was withholding taxes from its employees  
25 out of their paychecks and not forwarding the money

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1 to the IRS; is that correct?

2 MR. DEPOL: Overbroad, uncertain, lack of  
3 foundation.

4 THE WITNESS: In my opinion, yes, that is  
5 definitely the fact.

6 BY MR. HEIMBOLD:

7 Q All right. Now, on Exhibit 2 of this  
8 same receiver's report, it's labeled Unpaid  
9 Property Taxes, and then it lists the following  
10 resorts: Lake France, Fox River, Honey Brook,  
11 Grass Lake, Orlando, Hidden Valley, Eagle Lake,  
12 Skyview, Wisconsin Dells, and Rogers lake. Have  
13 you ever seen this exhibit before?

14 A Yes, I have.

15 Q Could you describe the exhibit for us,  
16 what it entails?

17 A It's a rough list based upon the  
18 information utilizing the assistance of my attorney  
19 and myself from these counties of what was owed on  
20 the All Seasons Resorts to the respective counties.

21 Q Okay. And is this an accurate list of  
22 the amount of property taxes owed by the various  
23 resorts?

24 A It was accurate at the time it was

25 prepared, yes.

1 Q Okay. And what is the total  
2 indebtedness for property taxes owed by the various  
3 resorts?

4 A The list shows \$1,782,000.

5 Q Okay. And did you make any attempts  
6 to pay those property taxes when you were receiver?

7 A No.

8 Q And why is that?

9 A There was not the cash to do that. I  
10 was supposed to keep the resorts open at the time  
11 and get a handle on the assets.

12 Q Now, at the top of this chart it says  
13 "Resort" and then there is a range of years. The  
14 last year indicated is 1996. There are no entries  
15 yet. And the first year, it looks like it's a  
16 range. Is that 1985 through 1992?

17 A I believe that's what it is, yes.

18 Q Okay. So this is a total then of  
19 unpaid property taxes since 1985, is that correct?

20 A Yes.

21 Q And then it looks like the Proof of  
22 Claim for the Internal Revenue Service is actually  
23 two pages, Exhibit 1. And it looks like the 940  
24 and 941 taxes are delinquent from 1986 through  
25 1995. Is that correct? Actually through 1996.

1 MR. DEPOL: Objection, lack of foundation.

2 THE WITNESS: Yes, the report brings us up  
3 through the third quarter of '96.

4 BY MR. HEIMBOLD:

5 Q All right. And then I take it you  
6 verified as receiver that up to and including June  
7 30 of 1996 the 941 payroll taxes were not being  
8 paid; correct?

9 MR. DEPOL: Overbroad, uncertain.

10 THE WITNESS: That's what I could see. Yes,  
11 they were not being paid.

12 BY MR. HEIMBOLD:

13 Q All right. Now, on page 3 of this  
14 Receiver's Report on paragraph 1 the document  
15 states: "In May of '96 Grass Lake Resort was sold  
16 at an annual tax sale for delinquent taxes. The  
17 redemption period of one year will end in May 1997  
18 unless payment in the amount of \$86,665 is  
19 tendered."

20 Is that true to your knowledge?

21 MR. DEPOL: Objection, lack of foundation.

22 THE WITNESS: Yeah, it would have been true  
23 at the time. That's what I gathered that  
24 information from that county.

25 - - -

20 Q All right. Could you turn to page 5  
21 of this report please? Actually page 6.

22 Earlier you testified that you found  
23 that All Seasons Resorts was making or paying  
24 expenses for related companies, correct?

25 A Yes, I did.

1           Q           And on page 6 there's a list of these  
2 payments, which are referred to as "canceled bank  
3 drafts to related entities."

4                       And, Bruce, for your benefit I'll read  
5 you the paragraph.

6                       It says: "Additionally known expenses  
7 to ASR were produced in the form of ASR's office  
8 lease payable to First Nationwide Resort  
9 Management, Inc., in the amount of \$3,500 per  
10 month. Canceled bank drafts to related entities as  
11 detailed below were also discovered by the  
12 Receiver. The impact that these payments may have  
13 had is not included in this comparative analysis,  
14 but are listed for information purposes."

15                      Then underneath that there are several  
16 payments made by All Seasons to various payees.  
17 The first one is the Presidential Air payment for  
18 25 thousand dollars dated May 6th of '96.

19                      Mr. Keim, do you recall discovering  
20 that check?

21                      MR. DEPOL: Lack of foundation.

22                      THE WITNESS: Yes, I remember it stands out  
23 rather.

24 BY MR. HEIMBOLD:

25                      Q           Okay. And why does it stand out in

1 your mind?

2 A It's a large sum, 25 thousand dollars,  
3 and a unique type of company, Presidential Air.

4 Q And what do you know about  
5 Presidential Air?

6 MR. DEPOL: Overbroad, uncertain.

7 THE WITNESS: All I know now is the same  
8 thing I did know then, it was not a  
9 related -- to All Seasons Resorts, but it was  
10 relating to Mr. Ray Novelli. And I believe  
11 it's my belief now that he rather either  
12 owned or owned a controlling interest in  
13 Presidential Air.

14 BY MR. HEIMBOLD:

15 Q Okay. And this check for 25 thousand  
16 dollars, did you ever find or learn what the check  
17 was made out for?

18 A I didn't find any back up to that  
19 check other than just the canceled check for that  
20 25 thousand dollars.

21 Q Okay. And so there was no record in  
22 ASR's business records of what this payment was  
23 for, is that correct?

24 MR. DEPOL: Lack of foundation, overbroad.

25 THE WITNESS: I don't recall there was.

1 BY MR. HEIMBOLD:

2 Q All right. Now, underneath that  
3 there's a payment listed to payee Revcon in the  
4 amount of five thousand dollars dated May 6, '96.  
5 And do you know what the company Revcon is?

6 A What I believe now and I believed at  
7 the same time, it was -- it's a manufacturing -- or  
8 mobile home manufacturing company.

9 Q Okay. And why is this check listed on  
10 this list of checks?

11 A Again, what I found were several  
12 checks cut on the same day in large sums to where  
13 I -- my opinion it's unrelated to All Seasons  
14 Resorts.

15 Q Okay. So these checks -- well, could  
16 you state for us then the reason why these nine  
17 checks are included in this report and the hundreds  
18 of other checks are not?

19 A This was just a sample for information  
20 purposes that I wanted to provide of what I was  
21 originally finding was that money was being  
22 spent -- All Seasons' funds were being spent for  
23 non All Seasons' expenses for outside entities.

24 Q Okay. And this Revcon check for five  
25 thousand dollars, do you recall discovering that

1 check?

2 A Yes, I do.

3 Q And did you ever find any backup for  
4 that check having been written?

5 MR. DEPOL: Overbroad, lack of foundation.

6 THE WITNESS: Not that I recall attached to  
7 the check.

2 Q Okay. Now, and without going through  
3 the rest of the checks, all the checks listed here  
4 or the payments on page 6 of this Exhibit 166, did  
5 you ever find any support or any documentation  
6 relating these payments to a business purpose of  
7 All Seasons Resorts?

8 MR. DEPOL: Overbroad, uncertain, lack of  
9 foundation.

10 THE WITNESS: No, I didn't find any support  
11 that would relate them to All Seasons  
12 Resorts.

13 BY MR. HEIMBOLD:

14 Q Okay. Now, on page 7 the report says:  
15 "Also, check stubs (checks are missing) for:  
16 Raymond G. Novelli payroll 7/22 commissions." And  
17 there's a check for \$1,170 in August of '96, and  
18 also, Marlies Novelli "cash for Hans" \$1,068, and  
19 finally a Farmers Insurance Exchange, '89 motor  
20 home July payment of \$298.

21 Why are these amounts listed on this  
22 report?

23 A I put them on there just because I  
24 thought they were suspicious. I did not have the  
25 canceled checks, but I had the stubs in that type

1 of checkbook transaction register that they run or  
2 they had run before I came in there.

3 Q Okay. And why were these checks  
4 suspicious to you?

5 A Because of the names, related parties,  
6 Ray Novelli and "cash for Hans". I did not find  
7 where All Seasons Resorts owned a motor home, yet  
8 they were paying for motor home insurance.

9 Q Okay. Now in the Title Report  
10 Summaries on page 7, beginning on 19 -- beginning  
11 on 17 it says: "The recorded encumbrances on the  
12 resort locations are extensive." And the resort  
13 locations referred to in this Title Report Summary,  
14 are these the ten resorts we talked about earlier  
15 today?

16 A Yes, they are.

17 Q All right. Now, on line 19 it says:  
18 "There are 24 judgments and mechanics liens  
19 totalling \$2,164,960." Did you perform a review of  
20 All Seasons' documents and public records to search  
21 for these judgments and mechanics liens?

22 MR. DEPOL: Overbroad, uncertain.

23 THE WITNESS: I put that together based on  
24 all the information I gathered from the  
25 sites, from the managers, and my staff.

1 BY MR. HEIMBOLD:

2 Q Okay. And did you review the  
3 documents upon which this number is based, the  
4 \$2,164,000?

5 MR. DEPOL: Overbroad, uncertain.

6 THE WITNESS: Yes, I saw they were mechanics  
7 liens or judgments.

20 Beginning on line 27 of page 7, it  
21 says: "ASR's issuance of Not Sufficient Funds  
22 checks" -- it says: "ASR appears to have had a  
23 well established and unconscionable practice of  
24 presenting worthless checks to employees and  
25 vendors. Exhibits 7 and 8 are tables merely

1 summarizing the original dishonored checks that the  
2 receiver has in his possession for payroll and for  
3 vendors, respectively. When the receiver commenced  
4 his services it was not clear, and still is not  
5 clear, how many checks ASR had issued against  
6 accounts that did not have funds sufficient to  
7 honor them.

8 "Although not required, the receiver  
9 had no choice but to reimburse many vendors (such  
10 as utility providers) for outstanding dishonored  
11 amounts to avoid service interruption."

12 Could you turn to pages 7 -- Exhibits  
13 7 and 8 please? It's at Bates stamp number  
14 beginning 168.

15 A I'm there.

16 Q Okay. Now, the first -- beginning of  
17 168, it says "Dishonored Payroll" and it's two  
18 pages -- it lists checks totalling \$41,745. Did  
19 you cause this list to be put together?

20 A Yes, I did.

21 Q And is it based upon a review of  
22 checks provided to you by All Seasons Resorts?  
23 MR. DEPOL: Overbroad, uncertain.  
24 THE WITNESS: It was based upon all my  
25 avenues of, you know, talking to employees

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1 and the records.  
2 BY MR. HEIMBOLD:  
3 Q Okay. And did bank records produced  
4 by All Seasons Resorts verify these amounts?  
5 MR. DEPOL: Overbroad, uncertain, lack of  
6 foundation.  
7 THE WITNESS: As I remember, it did.  
8 BY MR. HEIMBOLD:  
9 Q Okay. Is this a comprehensive list of  
10 all the dishonored payroll checks or are there  
11 more?  
12 MR. DEPOL: Calls for speculation.  
13 THE WITNESS: It was all I was aware of at  
14 the time.  
15 BY MR. HEIMBOLD:  
16 Q Okay. And then Exhibit 8 beginning on  
17 Bates stamp 170, it's labeled "Dishonored Vendor"  
18 and it's sort of cut off on top, but there's a list  
19 of numerous checks totalling \$36,356.55. Did you  
20 cause this list to be put together?  
21 A Yes, I did.  
22 Q All right. And was it based upon a  
23 review of documents and banking documents produced  
24 during your receivership?  
25 MR. DEPOL: Overbroad, uncertain, lack of

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1 foundation.  
2 THE WITNESS: Yes, it was based upon my  
3 review. That type of information is very  
4 readily accessible, because everybody wants  
5 to offer it to me.

6 BY MR. HEIMBOLD:

7 Q Okay. Now, did you ever learn as  
8 receiver that Mr. -- a Mr. Christensen was a  
9 lienholder on several All Seasons resorts?

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6 Q Now, I'd like you to go to page 10  
7 under "Members' Reaction". It says: "Since the  
8 publication of the Receiver's address, Mr. Keim has  
9 received 2,631 unsolicited pieces of correspondence  
10 from All Seasons Resorts." Is that an accurate  
11 number of correspondence from members which you  
12 received as of the date of this report?

13 MR. DEPOL: Overbroad, uncertain, lack of  
14 foundation.

15 THE WITNESS: It's an exact number as of the  
16 date of report. We kept every piece.

17 BY MR. HEIMBOLD:

18 Q Okay. And did you review these member  
19 correspondence?

20 A Did I --

21 Q Did you review the various  
22 correspondence from these members?

23 A I personally reviewed most of them. I  
24 can't say that I reviewed all 2,631, but most all  
25 of them, yes, I did.

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1 Q All right. And what were the  
2 substance of most of these letters?

3 MR. DEPOL: Overbroad, uncertain.

4 THE WITNESS: Substance of most all of them,  
5 over two thousand of them were -- fell into

6 generally three or four categories. Most  
7 were that "I don't own it anymore" or "I'm  
8 not a member anymore".

9 BY MR. HEIMBOLD:

10 Q Okay. And so these -- are these  
11 examples of responses to the dues statements which  
12 we talked about earlier?

13 A Yeah. We could classify them into  
14 those type of categories of either "I'm not a  
15 member anymore", "that could be my parent's or  
16 family related parties that are deceased".

17 Q So people were notifying you that  
18 whomever you were sending these dues statements to  
19 were dead, is that correct?

20 A Yes.

21 Q Okay. What other types of letters?

22 A "I don't want this anymore. I do not  
23 want to be a member."

24 Q Any other types you can remember?

25 A The other were favorable of "it's

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page 94

1 about time." "Thank you for helping us." "I'm  
2 glad ASR is being looked at in more detail."

3 Q And are those the four major  
4 categories of these 2,631 letters?

5 A Yes, those would be the basic groups.

6 Q Okay. Now, did you rely on the  
7 information which you received in these letters in  
8 your role as receiver?

9 MR. DEPOL: Overbroad, uncertain.

10 THE WITNESS: Yeah, I sure did. There was a  
11 large sampling.

12 BY MR. HEIMBOLD:

13 Q Okay. And how did you rely on that?  
14 How did you use this information?

15 A It gave me -- that information gave me  
16 avenues to research as far as trying to get more of  
17 an accurate members' list. I did not want to waste  
18 more All Seasons' money in receivership by sending  
19 information to wrong addresses, people that are

20 passed away, people that don't own it anymore, and  
21 trying to be more prudent in the expenses there.

22 Q Okay. Did you use the information you  
23 gained from these letters to cull down the  
24 membership list?

25 MR. DEPOL: Overbroad, uncertain.

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1 THE WITNESS: Yes. Sending out the billings  
2 and preparing and ordering the cards for  
3 membership cards, it was rather expensive,  
4 and I wanted to fine tune that as much as  
5 possible, so I did rely on that.

6 BY MR. HEIMBOLD:

7 Q Okay. I'd like you to take a look at  
8 Exhibit 12 to this Receiver's Report.

9 A Is there a stamp on it?

10 Q 181.

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2 Q And let's see, how many letters are  
3 there here? One, two, three, four, five, six,  
4 seven, eight. There's eight letters attached here  
5 as Exhibit 12. Are these letters representative of  
6 the 2,600 letters you had received as of the date  
7 of this report?

8 MR. DEPOL: Overbroad, uncertain, lack of  
9 foundation.

10 THE WITNESS: Yeah, they are part of that  
11 number.

12 BY MR. HEIMBOLD:

13 Q Okay. Now I note that the date of  
14 this report is December 31, '96. Did these type of  
15 letters continue to come in following the date of  
16 this report?

17 A Yes, they most definitely did up until  
18 July of '97.

19 Q Okay. So how many letters were you  
20 estimating or would you estimate that you received

21 a week of this type?

22 MR. DEPOL: Overbroad, uncertain, lack of  
23 foundation.

24 THE WITNESS: It would be an estimate, but  
25 there were -- that came in through customer

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1 service or collection department or  
2 accounting billings, hundreds a week.

11 Q Okay. The next document we're going  
12 to take a look at is a Receiver's report for the  
13 period ending June 30, 1997. It's probably twenty  
14 to forty pages thick. I will hand it to the  
15 witness.

16 Mr. Keim, have you seen this  
17 Receiver's Report before?

18 A Yes, I sure have.

19 Q And did you review this report before  
20 it was filed with the Court?

21 A In detail.

22 Q All right. Now, I'd like to walk you  
23 through some of the financial statements that were  
24 included on it. The first statement says: "All  
25 Seasons Resorts' Balance Sheet, June 30th, 1997,

1 Assets."

2 Did you cause this report to be

3 prepared?

4 A Yes, this came from my employees.

11 Now, there is an income statement for  
12 combined operations for the ten periods ending June  
13 30th, 1997. Do you have that in front of you?

14 A Mm-hmm.

15 Q And on the second page of that report  
16 or third page, actually, it shows a net loss of  
17 \$297,362.38. Is that an accurate figure of loss  
18 over the ten periods ending June 30th, 1997?

19 MR. DEPOL: Overbroad, uncertain, lack of  
20 foundation.

21 THE WITNESS: Yes, that's what the statement  
22 shows.

23 BY MR. HEIMBOLD:

24 Q And then following that are Statement  
25 of Operations for the various ten resorts. And

1 once again, those statements for the individual  
2 resorts were prepared on the MAS 90 system on or  
3 around June 30th, 1997; is that correct?

4 A Yes. After June, yes.

5 Q And are the figures on those reports  
6 accurate?

7 MR. DEPOL: Objection.

8 THE WITNESS: I believe they are.

11 Q Okay. Did you see any evidence that  
12 All Seasons would remove members from its list that  
13 were 180 days delinquent on their membership dues?

14 MR. DEPOL: Same objection.

15 THE WITNESS: No, they kept all those  
16 delinquents on there.

17 BY MR. HEIMBOLD:

18 Q All right. And did you see numerous  
19 members who were in fact delinquent over 180 days  
20 on the membership list?

21 MR. DEPOL: Same objection.

22 THE WITNESS: Most definitely, yes.

23 BY MR. HEIMBOLD:

24 Q How many would you say, rough  
25 estimate?

1 MR. DEPOL: Same objection.

2 THE WITNESS: Several thousand.

3 BY MR. HEIMBOLD:

4 Q Who were over 180 days delinquent?

5 A Yes.

7 Q As part of your receivership of All  
8 Seasons and your review of the books, did you  
9 become familiar with the debt collection practices  
10 of All Seasons Resorts?

11 MR. DEPOL: Overbroad, uncertain.

12 THE WITNESS: Yes, of what they had done  
13 prior to my involvement, yes.

14 BY MR. HEIMBOLD:

15 Q Okay. Can you describe what knowledge  
16 of the All Seasons' debt collection practices you  
17 gained?

18 MR. DEPOL: Same objection.

19 THE WITNESS: From what I heard and what I  
20 could see in documents, they were very  
21 aggressive in collecting debts. Extensive  
22 telephone campaign, use of third party  
23 collection agencies.

24 BY MR. HEIMBOLD:

25 Q Okay. And how about -- did you find

1 any evidence of abuse of collection tactics?

2 MR. DEPOL: Overbroad, uncertain, lack of  
3 foundation.

4 THE WITNESS: Evidence -- the only evidence  
5 or what I base that on is comments from other  
6 owners.

7 BY MR. HEIMBOLD:

8 Q Okay.

9 A And sample collection letters.

10 Q Now, when you say "owners" are you  
11 referring to --

12 A Members.

13 Q Okay. And what sort of comments did  
14 you get?

15 MR. DEPOL: Overbroad.

16 THE WITNESS: Comments were that "they were  
17 very aggressive." "I gave it back years  
18 ago." "I keep writing several times  
19 communication back and forth. They'll never  
20 take me off."

21 BY MR. HEIMBOLD:

22 Q Okay. So these would be the type of  
23 comments that we mentioned earlier? In other  
24 words, the letters that you received in response to  
25 your solicitations for dues, the 2,600 letters we

1 talked and the ones following that, in that group  
2 of letters would you get letters talking about  
3 these debt collection practices?

4 MR. DEPOL: Overbroad, uncertain.

5 THE WITNESS: Yes. Members kept coming to me  
6 and saying "I am not a member anymore and  
7 this is why" or "I don't want to be a member  
8 and this is why."

22 Q All right. Earlier in the deposition,  
23 Mr. Keim, we talked briefly about Camp Coast to  
24 Coast. And were a lot of the All Seasons Resort  
25 members also members of Camp Coast to Coast?

1 MR. DEPOL: Overbroad, uncertain, lack of  
2 foundation.

3 THE WITNESS: From what I could see in All  
4 Seasons I was aware of, and in the industry  
5 in general, my resorts, the majority of the  
6 members of All Seasons were members of Camp  
7 Coast to Coast.

8 BY MR. HEIMBOLD:

9 Q Okay. Now, is the membership in Camp  
10 Coast to Coast by these All Seasons Resorts'  
11 members, is that a separate membership than the  
12 member's membership in the separate resorts?

13 MR. DEPOL: Lack of foundation, overbroad.

14 THE WITNESS: Yeah, it's definitely a  
15 separate membership. They are not required  
16 to become members of Camp Coast to Coast.  
17 That's a separate agreement between -- that's  
18 third party.

19 BY MR. HEIMBOLD:

20 Q And in your understanding of how this

21 industry operates, what normally happens, if you  
22 know, when a resort withdraws from the Camp Coast  
23 to Coast system? What happens to the Camp Coast to  
24 Coast members?

25 MR. DEPOL: Overbroad, lack of foundation.

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1 THE WITNESS: Well, in Camp Coast to Coast  
2 membership guidelines you must be a member or  
3 owner at a Camp Coast to Coast affiliated  
4 resort.

5 BY MR. HEIMBOLD:

6 Q Okay.

7 A Camp Coast to Coast did not own  
8 resorts. If your resort that you own or a member  
9 at disaffiliates with Camp Coast to Coast and  
10 affiliates with another related party, you can't be  
11 a member of Camp Coast to Coast.

12 BY MR. HEIMBOLD:

13 Q Okay. And have you ever heard of Camp  
14 Coast to Coast taking steps to reaffiliate these  
15 members with other parks?

16 MR. DEPOL: Uncertain, overbroad, lack of  
17 foundation.

18 THE WITNESS: I have heard of Camp Coast to  
19 Coast disaffiliating parts of their system  
20 because of quality --

21 BY MR. HEIMBOLD:

22 Q All right.

23 A -- and helping those members find  
24 another resort.

25 Q And is that practice of helping

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1 members find another resort known throughout the  
2 membership campground industry?

.....Keim, Jeffrey (Vol. 1)

	DEPOSITION EXHIBITS	
	JEFFREY J. KEIM	
	DESCRIPTION	IDENTIFIED
1		
2		
3		
4	KEIM, J.	
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20	Accountants	

1 THE COURT: OVERRULED.

2 MR. SHERMAN: YOUR HONOR, WE'RE GOING TO ASK YOU  
3 MOVE EXHIBIT 160 AND OTHER EXHIBITS INTO EVIDENCE AT THE  
4 CONCLUSION OF THE VIDEOTAPING.

5 THE COURT: ALL RIGHT.

6 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
7 IN OPEN COURT.)

8 (VIDEO REFERENCE: 10:30 A.M.)

9 MR. MOSHENKO: OBJECTION, YOUR HONOR. LACKS  
10 FOUNDATION. PERSONAL KNOWLEDGE IS NOT SHOWN, NO  
11 AUTHENTICATION. AND THE DOCUMENT IS NOT IN EVIDENCE.

12 MR. SHERMAN: AND THE TESTIMONY SHOWS THE  
13 FOUNDATION. THAT FOLLOWS.

14 THE COURT: THE OBJECTION IS OVERRULED. PROCEED.

15 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
16 IN OPEN COURT:)

17 (VIDEO REFERENCE: 10:34 A.M.)

18 MR. MOSHENKO: WE OBJECT TO THE USE OF THE  
19 DOCUMENT ON THE GROUNDS HEARSAY. AND IT LACKS FOUNDATION,  
20 AND THE WITNESSES WHO ARE DECLARANTS THEREIN ARE NOT BEFORE  
21 THE COURT AND NOT SUBJECT TO CROSS-EXAMINATION.

22 MR. SHERMAN: YOUR HONOR, IT'S A FILING ON THE  
23 COURT RECORDS IN SUPPORT OF THE COURT'S ORDER, AND IT IS  
24 ALSO SHOWN TO BE RELIABLE BY THE WITNESS'S OWN TESTIMONY  
25 WHICH THE WITNESS JUST GAVE WITH RESPECT TO WHAT HE  
26 PERSONALLY OBSERVED.

1           MR. MOSHENKO:  AND NOT A PLAINTIFF ADDED TO THERE,  
2 YOUR HONOR.

3           THE COURT:  THE OBJECTION IS OVERRULED.

4                           (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
5 IN OPEN COURT:)

6                           (VIDEO REFERENCE:  10:37 A.M.)

7           MR. MOSHENKO:  OBJECTION.  LACKS FOUNDATION.  
8 ASSUMES FACTS NOT IN EVIDENCE.  AND THE WITNESS IS NOT  
9 QUALIFIED TO RENDER OPINIONS ON THE VALUE.

10          THE COURT:  AS TO THE VALUE OF THE TREES, SUSTAINED.

11          MR. MOSHENKO:  AS TO THE VALUE OF THE TREES, THANK  
12 YOU.

13          MR. SHERMAN:  OTHERWISE, THE TESTIMONY --

14          THE COURT:  OTHERWISE, THE TESTIMONY STAYS IN.

15          MR. MOSHENKO:  MAY WE -- ALL RIGHT.  I UNDERSTAND.

16                           (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
17 IN OPEN COURT:)

18                           (VIDEO REFERENCE:  10:37 A.M.)

19          MR. MOSHENKO:  OBJECTION, YOUR HONOR.  THIS IS THE  
20 CUMULATIVE OBJECTION THAT WE TALKED ABOUT IN CHAMBERS, AND  
21 WE NEED TO ASSERT IT ON THE RECORD; THAT WE'RE BASICALLY  
22 JUST REREADING A DOCUMENT THAT'S ALREADY IN EVIDENCE.

23          MR. SHERMAN:  YOUR HONOR, WE'LL GIVE THEM A RUNNING  
24 OBJECTION TO THIS, AS WE DISCUSSED.

25          MR. MOSHENKO:  AND I ACCEPT THE RUNNING OBJECTION  
26 TO THE READING OF THIS DOCUMENT AGAIN.

1 THE COURT: THANK YOU.

2 MR. MOSHENKO: ASSUMING THAT YOU'RE GOING TO  
3 OVERRULE MY OBJECTION AT THIS TIME.

4 THE COURT: OVERRULED.

5 MR. MOSHENKO: I DON'T WANT TO MAKE AN ASSUMPTION.

6 THE COURT: LET'S LET MR. KEIM GO TO LUNCH. WE'LL  
7 SEE YOU ALL AT 1:30.

8 (VIDEO REFERENCE: 10:50 A.M.)

9 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN  
10 COURT OUTSIDE THE PRESENCE OF THE JURY:)

11 MR. SHERMAN: YOUR HONOR, MR. PATTON'S EXAMINATION  
12 TOOK SHORTER THAN I HAD EXPECTED, AND MR. KEIM'S DEPOSITION  
13 PROJECTION IS PROBABLY GOING TO END, I GATHER, 2:00, 2:15,  
14 THEREABOUTS.

15 WE COULD DO ONE OF SEVERAL THINGS, YOUR  
16 HONOR. WE HAD YESTERDAY TOLD COUNSEL THAT WE RESERVE THE  
17 RIGHT TO CALL MR. SCHULZ. AND I KNOW THAT MR. RIVIN HAD  
18 EARLIER TODAY INDICATED TO MR. MOSHENKO THAT WE'D -- WE  
19 LIKELY WOULDN'T BE DOING IT TODAY, BUT WE COULD DO THAT.  
20 WE'D BE PREPARED TO DO IT.

21 THE COURT: IS MR. SCHULZ AVAILABLE?

22 MR. MOSHENKO: HE IS AVAILABLE. HE HAD UNDERSTOOD  
23 HE WOULD BE CALLED TODAY.

24 THE COURT: LET'S BRING HIM IN.

25 MR. SHERMAN: LET'S DO THAT.

26 THE COURT: SEE YOU AT 1:30.

1 (WHEREUPON THE COURT WAS IN RECESS UNTIL  
2 1:30 P.M. OF THE SAME DAY.)

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1 WESTMINSTER, CALIFORNIA - THURSDAY, JULY 20, 2000

2 AFTERNOON SESSION

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN  
4 COURT IN THE PRESENCE OF THE JURY:)

5 MR. SHERMAN: WHAT I WAS GOING TO SUGGEST, WE DIM  
6 LIGHTS AGAIN, AND ALSO IF WE COULD BEGIN WITH THE QUESTION  
7 THAT HAD BEEN ASKED.

8 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
9 IN OPEN COURT:)

10 (VIDEO REFERENCE: 10:57 A.M.)

11 MR. MOSHENKO: OBJECTION, YOUR HONOR. HE IS  
12 DESCRIBING CONVERSATIONS WITH THIRD PARTIES. I CAN'T  
13 CROSS-EXAMINE. IT IS HEARSAY.

14 MR. SHERMAN: THESE ARE ADOPTED ADMISSIONS.

15 THE COURT: OBJECTION IS OVERRULED.

16 MR. MOSHENKO: THEY'RE NOT ADMISSIONS BY US, YOUR  
17 HONOR.

18 THE COURT: OVERRULED.

19 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
20 IN OPEN COURT:)

21 (VIDEO REFERENCE: 10:58 A.M.)

22 MR. MOSHENKO: YOUR HONOR, MAY I HAVE A CONTINUING  
23 HEARSAY, FOUNDATION AND BEST EVIDENCE OBJECTION?

24 THE COURT: YES.

25 MR. MOSHENKO: THANK YOU, YOUR HONOR.

26 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED

1 IN OPEN COURT:)

2 (VIDEO REFERENCE: 11:04 A.M.)

3 MR. MOSHENKO: OBJECTION. CONCLUSIONS OF LAW, YOUR  
4 HONOR. IMPROPER FOR A LAY WITNESS TO EXPRESS OPINIONS ON  
5 CONCLUSIONS OF LAW.

6 MR. SHERMAN: THE QUESTION IS IF HE FOUND IT TO BE  
7 THE CASE.

8 MR. MOSHENKO: HE IS EXPRESSING AN OPINION OF A  
9 CONCLUSION OF LAW.

10 MR. SHERMAN: OPINION OF THE RECEIVER.

11 THE COURT: OVERRULED.

12 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
13 IN OPEN COURT:)

14 (VIDEO REFERENCE: 11:47 A.M.)

15 MR. MOSHENKO: OBJECTION, YOUR HONOR. WE'RE NOW  
16 GOING TO HEAR MR. CHRISTIANSON TESTIFY THROUGH MR. KEIM.  
17 IT'S HEARSAY. I CAN'T CROSS-EXAMINE THE DECLARANT,  
18 MR. CHRISTIANSON.

19 MR. SHERMAN: YOUR HONOR, WE CAN GO ON TO PAGE  
20 91 -- EXCUSE ME FOR ONE MOMENT.

21 THE COURT: FOR THE RECORD, THE OBJECTION IS  
22 SUSTAINED.

23 MR. MOSHENKO: THANK YOU.

24 MR. SHERMAN: PAGE 92, LINE 6.

25 MR. MOSHENKO: THANK YOU.

26 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED

1 IN OPEN COURT.)

2 (VIDEO REFERENCE: 12:30 P.M.)

3 MR. MOSHENKO: OBJECTION, YOUR HONOR. THE  
4 OBJECTION IS THEY ARE NOW SEEKING TO USE THIS WITNESS AS AN  
5 UNDESIGNATED EXPERT WITNESS ON A MATTER BEYOND THE SCOPE OF  
6 HIS EXPERTISE. IT'S IRRELEVANT, AND IT'S IMMATERIAL TO DO  
7 SO WITH THE WITNESS.

8 MR. SHERMAN: THE WITNESS HAS ALREADY TESTIFIED TO  
9 HIS EXTENSIVE EXPERIENCE, YOUR HONOR. AND WE'RE ASKING FOR  
10 HIS KNOWLEDGE.

11 MR. MOSHENKO: BUT HE IS NOT A DESIGNATED EXPERT,  
12 YOUR HONOR.

13 THE COURT: THE OBJECTION IS OVERRULED.

14 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
15 IN OPEN COURT.)

16 (VIDEO REFERENCE: 12:30 P.M.)

17 MR. MOSHENKO: THE SAME OBJECTION, YOUR HONOR.  
18 INDUSTRY EXPERT. HE IS NOT DESIGNATED.

19 MR. SHERMAN: THE SAME POSITION.

20 THE COURT: OVERRULED.

21 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
22 IN OPEN COURT.)

23 (VIDEO REFERENCE: 12:31)

24 MR. MOSHENKO: OBJECTION. "HAVE YOU EVER HEARD" IS  
25 CALLING FOR HEARSAY. LACKS FOUNDATION.

26 MR. SHERMAN: THE SAME POSITION, YOUR HONOR.

1 THE COURT: OVERRULED.

2 (WHEREUPON THE VIDEO DEPOSITION WAS PLAYED  
3 IN OPEN COURT.)

4 MR. SHERMAN: YOUR HONOR, AT THIS POINT WE'D LIKE  
5 TO MOVE INTO EVIDENCE EXHIBITS 160, 161, 162, 164, 165, 166  
6 AND 167, WHICH WERE ALL EITHER EXPLICITLY REFERRED TO,  
7 EXPRESSLY REFERRED TO, OR SHOWN TO THE WITNESS AND SHOWN TO  
8 OPPOSING COUNSEL DURING THE DEPOSITION. THESE ARE ALL ON  
9 DEFENDANTS' TRIAL EXHIBIT LIST.

10 MR. MOSHENKO: CAN YOUR HONOR TAKE THAT OFF THE  
11 RECORD SUBMISSION -- SINCE THE LAST TIME SHOWING A DOCUMENT  
12 TO A WITNESS IS NOT SUFFICIENT FOUNDATION. BUT THERE MAY  
13 BE SOME FOUNDATION AND, THERE MAY BE NOT. THE OFFER OF  
14 FIVE OR SIX DOCUMENTS TOGETHER WOULD REQUIRE SEPARATE  
15 ANALYSIS BY THE COURT.

16 MR. SHERMAN: ACTUALLY, 164 IS ALREADY IN EVIDENCE.

17 THE CLERK: 166 IS ALSO IN EVIDENCE.

18 THE COURT: 166 IS ALSO. THE REST OF THEM WILL  
19 COME IN.

20 MR. MOSHENKO: NOT UNDER SUBMISSION; THEY'LL COME  
21 IN?

22 THE COURT: COME IN.

23 MR. MOSHENKO: THEN I'LL PUT MY OBJECTION ON. LACK  
24 OF FOUNDATION IN THE RECORD FOR THE ADMISSIBILITY OF ALL  
25 THOSE EXHIBITS.

26 IN ADDITION, AT THIS TIME I MOVE TO STRIKE

1 THE ENTIRE DEPOSITION AS BEING IRRELEVANT TO THE EVENTS OF  
2 SEPTEMBER, OCTOBER, NOVEMBER OF 1997. IT HAD NOTHING TO DO  
3 WITH COAST TRANSFERRING MEMBERS.

4 MR. SHERMAN: OBJECTION. SPEAKING OBJECTION.

5 THE COURT: THE OBJECTION IS OVERRULED.

6 MR. MOSHENKO: IT WAS A MOTION TO STRIKE, YOUR  
7 HONOR.

8 THE COURT: MOTION DENIED.

9 MR. SHERMAN: YOUR HONOR.

10 THE COURT: EXCUSE ME. ARE WE FINISHED NOW WITH  
11 THE DEPO?

12 MR. SHERMAN: YES, WE ARE.

13 THE COURT: LET'S HAVE A LITTLE LIGHT ON THE  
14 SUBJECT.

15 MR. SHERMAN: YOUR HONOR, ON THE SUBJECT OF THE  
16 KEIM VIDEOTAPE DEPOSITION, IN ORDER TO ENSURE THAT THE  
17 RECORD IS CLEAREST, I WOULD LIKE TO SUGGEST -- WHETHER WE  
18 MOVE THIS INTO EVIDENCE OR NOT, I HAVE A PORTION OF THE  
19 EXCERPTED TRANSCRIPT THAT WE HAD PROVIDED TO COUNSEL, THAT  
20 WE HAD PROVIDED TO YOUR HONOR. I'D LIKE TO ENSURE THAT THE  
21 COURT REPORTER HAS THAT AS WELL SO THAT THE ACTUAL PORTIONS  
22 OF THE DEPOSITION TRANSCRIPT PAGE AND LINE SITES ARE  
23 CLEARLY DESIGNATED IN THE RECORD. AND WE CAN EITHER MOVE  
24 THIS IN AS A SEPARATE EXHIBIT OR PERHAPS JUST PROVIDE IT TO  
25 THE COURT REPORTER.

26 THE COURT: DID YOU WANT THE COURT REPORTER TO

1 TRANSCRIBE IT?

2 MR. SHERMAN: NOT TO TRANSCRIBE IT, BUT -- NOT TO  
3 TRANSCRIBE IT AGAIN, BECAUSE I BELIEVE IT WAS TRANSCRIBED.  
4 BUT RATHER TO MAKE SURE THAT THE PAGE AND LINE CITATIONS  
5 ARE APPROPRIATELY PUT IN.

6 THE COURT: PROVIDE IT TO THE COURT REPORTER.

7 MR. SHERMAN: THANK YOU. OKAY. I'LL DO THAT  
8 FOLLOWING THE PROCEEDING TODAY.

9 THE COURT: YOU'RE FINISHED WITH THIS WITNESS?

10 MR. SHERMAN: WE'LL EXCUSE THE WITNESS.

11 THE COURT: ANY CROSS?

12 MR. MOSHENKO: THAT'S THE POINT. I HAVEN'T HAD MY  
13 CROSS YET. COULD HE TAKE THE STAND AGAIN? I HAVE NO  
14 CROSS, YOUR HONOR.

15 THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

16 MR. SHERMAN: THE DEFENDANTS WOULD LIKE TO CALL  
17 HANS SCHULZ UNDER 776.

18 THE COURT: PLEASE RAISE YOUR RIGHT HAND AND FACE  
19 THE CLERK.

20 HANS SCHULZ,  
21 CALLED AS A WITNESS ON BEHALF OF THE DEFENDANTS UNDER  
22 SECTION 776 OF THE EVIDENCE CODE, HAVING BEEN FIRST DULY  
23 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

24 THE CLERK: TAKE A SEAT IN THE WITNESS STAND,  
25 PLEASE.

26 STATE YOUR FULL NAME FOR THE RECORD. SPELL

1 YOUR LAST NAME FOR THE REPORTER, PLEASE.

2 THE WITNESS: HANS W. SCHULZ, S-C-H-U-L-Z.

3 CROSS-EXAMINATION

4 BY MR. SHERMAN: Q GOOD AFTERNOON, MR. SCHULZ.

5 A GOOD AFTERNOON.

6 Q THE HANS SCHULZ FAMILY TRUST IS NAMED AS A  
7 PLAINTIFF IN THIS ACTION; CORRECT?

8 A CORRECT.

9 Q AND YOU ARE NAMED AS THE TRUSTEE OF THE  
10 HANS SCHULZ FAMILY TRUST; CORRECT?

11 A THAT'S CORRECT.

12 Q AND TO BE EVEN MORE SPECIFIC, THE  
13 HANS SCHULZ FAMILY TRUST ALSO IS SHOWN IN THIS CASE AS THE  
14 OWNER OF -- AS WHAT'S REFERRED TO A "DOING BUSINESS AS" --  
15 THE DELTA ISLE RESORT PARK; CORRECT?

16 A CORRECT.

17 Q AND THE DELTA ISLE RESORT HAD BEEN OWNED BY  
18 FIRST NATIONWIDE PRIOR TO THE TIME THAT IT BECAME OWNED BY  
19 THE HANS SCHULZ FAMILY TRUST; CORRECT?

20 A I BELIEVE SO.

21 Q AND THE WAY HANS SCHULZ FAMILY TRUST  
22 ACQUIRED DELTA ISLE WAS TO FORECLOSE A LIEN AGAINST THE  
23 PARK; CORRECT?

24 A CORRECT.

25 Q WAS IT YOUR IDEA TO FORECLOSE ON THE DELTA  
26 ISLE RESORT?

1           A           YES.

2           Q           IN FACT, IT WAS NOT YOUR IDEA TO FORECLOSE  
3 ON THE DELTA ISLE RESORT; IT WAS MR. NOVELLI'S IDEA?

4           A           I MIGHT HAVE CONFERRED WITH HIM.

5           Q           YOU RECALL YOUR DEPOSITION WAS TAKEN IN THIS  
6 CASE, MR. SCHULZ?

7           A           OKAY.

8           Q           CORRECT?

9           A           YES.

10          Q           AND WHEN YOUR DEPOSITION WAS TAKEN, YOU TOOK  
11 AN OATH TO TELL THE TRUTH JUST LIKE YOU TOOK WHEN YOU CAME  
12 HERE TODAY; CORRECT?

13          A           YES.

14          Q           AND YOU TOLD THE TRUTH AT YOUR DEPOSITION;  
15 RIGHT?

16          A           YES.

17          MR. SHERMAN: I'D LIKE TO PLAY THE DEPOSITION  
18 TESTIMONY OF HANS SCHULZ TAKEN ON OCTOBER 5, 1999, PAGE 35,  
19 LINE 13, THROUGH PAGE 35, LINE 23.

20          MR. MOSHENKO: THE ORIGINAL DEPOSITION IS MISSING.  
21 WE'LL HAVE TO GO WITHOUT IT AT THIS POINT. NO OBJECTION.

22          MR. SHERMAN:

23                           "QUESTION: WAS IT YOUR  
24                           IDEA TO FORECLOSE ON THE DELTA  
25                           ISLE RESORT?

26                           "ANSWER: WAS IT MY

1 IDEA? NO.

2 "QUESTION: WHOSE IDEA  
3 WAS IT?

4 "ANSWER: MR. NOVELLI'S.

5 "QUESTION: SO HE

6 SUGGESTED TO YOU THAT YOU SHOULD  
7 FORECLOSE -- 'YOU' BEING THE  
8 SCHULZ FAMILY TRUST -- FORECLOSE  
9 ON THE DELTA ISLE PROPERTY?

10 "ANSWER: YES.

11 "QUESTION: THAT WAS A  
12 COUPLE OF YEARS AGO?

13 "ANSWER: YES."

14 Q NOW, DID THE SCHULZ FAMILY TRUST MAKE AN  
15 INVESTMENT IN THE DELTA ISLE PROPERTY?

16 A YES.

17 Q BUT THE SCHULZ FAMILY TRUST HAS NEVER GOTTEN  
18 BACK ITS INVESTMENT IN DELTA ISLE UP THROUGH THE PRESENT;  
19 CORRECT?

20 A I DON'T THINK SO.

21 Q YOU AGREE?

22 A YES.

23 Q NOW, WHEN YOU MADE THE SCHULZ FAMILY TRUST  
24 INVESTMENT IN DELTA ISLE, YOU DID NOT EXPECT TO EVER GET  
25 ANYTHING BACK FROM THAT INVESTMENT; CORRECT?

26 A NOT TRUE.

1 Q LET ME SHOW YOUR DEPOSITION TESTIMONY TAKEN  
2 ON THAT SAME DATE, OCTOBER 5, 1999, PAGE 105, LINES 10  
3 THROUGH 20.

4 MR. MOSHENKO: NO OBJECTION.

5 MR. SHERMAN:

6 "QUESTION: HOW ABOUT  
7 DELTA ISLE? HAVE YOU EVER  
8 GOTTEN -- 'YOU' BEING THE  
9 HANS SCHULZ TRUST -- EVER GOTTEN  
10 YOUR INVESTMENT BACK FROM YOUR  
11 INVESTMENT IN DELTA ISLE?

12 "ANSWER: NOT THAT I  
13 RECALL.

14 "QUESTION: WHEN YOU MADE  
15 THE INVESTMENT IN DELTA ISLE,  
16 DID YOU EVER EXPECT TO GET ANY  
17 MONEY BACK FROM DELTA ISLE?

18 "ANSWER: I DIDN'T EXPECT  
19 ANYTHING.

20 "QUESTION: YOU JUST GAVE  
21 THEM THE MONEY?

22 "ANSWER: YES."

23 Q NOW, FIRST NATIONWIDE ACTUALLY ACQUIRED  
24 DELTA ISLE FROM THE SYCAMORE PARK CORPORATION; CORRECT?

25 A I BELIEVE THAT'S CORRECT.

26 Q AND THAT WAS ACQUIRED BY FIRST NATIONWIDE

1 FROM SYCAMORE PARK IN APRIL, 1993; CORRECT?

2 A I CAN'T RECALL THE DATE.

3 Q SYCAMORE PARK WAS NOT A  
4 NOVELLI-ORGANIZATION-RELATED ENTITY, WAS IT?

5 A AT THE TIME?

6 Q YES.

7 A I DON'T BELIEVE SO.

8 Q LET ME SHOW YOU EXHIBIT 935, PLEASE.

9 MR. SCHULZ, IT'S CORRECT THAT IN THE  
10 1996-1997 TIME FRAME YOUR TRUST, OVER WHICH YOU ARE THE  
11 NAMED TRUSTEE, RETAINED LEGAL COUNSEL IN SACRAMENTO,  
12 CALIFORNIA TO REPRESENT IT IN CONNECTION WITH BANKRUPTCY  
13 PROCEEDINGS INVOLVING DELTA ISLE?

14 A YES.

15 Q AND THIS DOCUMENT, EXHIBIT 935, IS ONE OF  
16 THE PRODUCTS OF YOUR LAWYER'S EFFORTS; CORRECT?

17 A I BELIEVE SO.

18 MR. SHERMAN: I'D LIKE TO MOVE EXHIBIT 935 INTO  
19 EVIDENCE.

20 MR. MOSHENKO: RELEVANCE, YOUR HONOR.

21 THE COURT: IT WILL BE RECEIVED.

22 (WHEREUPON, EXHIBIT NO. 935, DOCUMENT RE  
23 DELTA ISLE BANKRUPTCY, WAS RECEIVED IN EVIDENCE.)

24 MR. SHERMAN: PUT IT UP ON THE BOARD.

25 Q THIS SHOWS THAT IN MAY OF 1997, THE SCHULZ  
26 FAMILY TRUST WAS FILING WHAT'S KNOWN AS A DISCLOSURE

1 STATEMENT INVOLVING DELTA ISLE; RIGHT?

2 A YES.

3 Q AND LET'S -- AND THAT WAS A DISCLOSURE  
4 STATEMENT IN THE DELTA ISLE BANKRUPTCY THAT WAS PENDING AT  
5 THAT TIME; RIGHT?

6 A I BELIEVE SO.

7 Q SO LET'S GO TO THIS DOCUMENT TO SEE IF IT  
8 DOESN'T REFRESH YOUR RECOLLECTION ON SOME OF THE EVENTS  
9 THAT OCCURRED PRIOR TO THAT TIME. LET'S GO TO PAGE 3.

10 OKAY. YOUR LAWYER WRITES ABOUT A PRIOR  
11 BANKRUPTCY ON PAGE 3; DO YOU SEE THAT?

12 A OKAY.

13 Q "GIVEN THE ENORMOUS DEBT LOAD OWED BY THE  
14 DEBTOR, AND RECOGNIZING THAT THE DEBTOR WOULD NEVER BE ABLE  
15 TO PAY OFF ALL OF ITS CREDITORS, THE CURRENT OWNER OF THE  
16 DEBTOR'S COMMON STOCK, FIRST NATIONWIDE, CAUSED THE DEBTOR  
17 TO FILE FOR PROTECTION UNDER CHAPTER 11 OF THE UNITED  
18 STATES BANKRUPTCY CODE TWO DAYS AFTER IT PURCHASED THE  
19 DEBTOR'S COMMON STOCK ON APRIL 23, 1993."

20 AND THAT'S THEN DEFINED AS THE FIRST  
21 BANKRUPTCY.

22 "FIRST NATIONWIDE HOPED THAT IT COULD KEEP  
23 THE DEBTOR OPERATING THE DELTA RESORT FOR ITS MEMBERS AND  
24 PAY OFF SOME OF THE DEBTOR'S DEBTS. FIRST NATIONWIDE WAS  
25 SUCCESSFUL IN CONTINUING TO OPERATE THE DELTA RESORT  
26 THROUGH THE DEBTOR FOR ITS MEMBERS -- BUT IT WAS

1 UNSUCCESSFUL IN REORGANIZING THE DEBTOR AND PAYING OFF THE  
2 DEBTOR'S DEBTS.

3 "THE DEBT LOAD WAS STILL TOO LARGE. A PLAN  
4 OF REORGANIZATION WAS CONFIRMED IN THE FIRST BANKRUPTCY IN  
5 WHICH FIRST NATIONWIDE GUARANTEED TO COVER ANY SHORTFALL  
6 UNDER THE PLAN.

7 "IN JANUARY, 1996, THE DEBTOR DEFAULTED  
8 UNDER THE PLAN, AND FIRST NATIONWIDE WAS UNABLE TO PERFORM  
9 UNDER ITS GUARANTEE AND COVER THE SHORTFALL.

10 AS STATED BEFORE, THE DEBT LOAD WAS SIMPLY  
11 STILL TOO LARGE. FIRST NATIONWIDE WAS FORCED INTO  
12 INVOLUNTARY BANKRUPTCY IN JUNE OF 1996. IT APPEARS THAT  
13 FIRST NATIONWIDE WILL SUCCESSFULLY EMERGE FROM THAT  
14 BANKRUPTCY."

15 NOW, MR. SCHULZ, AT THE TIME THAT THE LAWYER  
16 FOR YOUR TRUST MADE THESE REPRESENTATIONS TO THE COURT, DID  
17 YOU BELIEVE THEM TO BE TRUE?

18 A YES.

19 Q AND FOCUSING NOW ON THE 1993 BANKRUPTCY OF  
20 DELTA ISLE, INDEED THE WAY DELTA ISLE EMERGED FROM THAT  
21 FIRST BANKRUPTCY WAS FOR FIRST NATIONWIDE TO STAND BEHIND  
22 DELTA ISLE TO GUARANTEE ITS DEBT OBLIGATIONS; CORRECT?

23 A I DON'T KNOW.

24 Q AND, IN FACT, FIRST NATIONWIDE DID NOT KEEP  
25 ITS PROMISE TO STAND BEHIND THE DEBT OBLIGATIONS, DID IT?

26 A I DON'T KNOW.

1 Q AND BY JANUARY, 1996, FIRST NATIONWIDE HAD  
2 BROKEN ITS PROMISE; CORRECT?

3 MR. MOSHENKO: OBJECTION. IT'S ARGUMENTATIVE, YOUR  
4 HONOR.

5 THE COURT: OVERRULED.

6 THE WITNESS: I DON'T KNOW.

7 BY MR. SHERMAN: Q AND IN 1996 ONE OF DELTA ISLE'S  
8 CREDITORS, SUNRISE BANK, IS OWED A LOT OF MONEY; CORRECT?

9 A I DON'T KNOW.

10 Q DID SUNRISE BANK BEGIN TO TRY TO FORECLOSE  
11 ON THE DELTA ISLE PROPERTY?

12 A I DON'T KNOW THAT, EITHER.

13 Q DID SUNRISE BANK FILE A LAWSUIT AGAINST THE  
14 SCHULZ FAMILY TRUST?

15 A I DON'T KNOW THAT ONE, EITHER.

16 Q I'LL SHOW YOU EXHIBIT 958.

17 PLACING BEFORE YOU AS EXHIBIT 958 A  
18 CERTIFIED COPY OF A VERIFIED COMPLAINT NAMING THE --  
19 HANS SCHULZ AS THE TRUSTEE.

20 DO YOU SEE WHERE YOU'RE NAMED AS A  
21 DEFENDANT?

22 A YES.

23 Q DOES THAT REFRESH YOUR MEMORY THAT IN FACT  
24 IN CONNECTION WITH THE FINANCIAL FAILURE OF DELTA ISLE, A  
25 CREDITOR, SECURED CREDITOR OF DELTA ISLE, SUNRISE BANK,  
26 FILED A LAWSUIT AGAINST YOU?

1           A           IT DOESN'T REFRESH MY MEMORY, BUT I CAN SEE  
2 IT HERE.

3           MR. SHERMAN: I'D LIKE TO MOVE EXHIBIT 958 INTO  
4 EVIDENCE, YOUR HONOR.

5           MR. MOSHENKO: IRRELEVANT, YOUR HONOR. HEARSAY.

6           THE COURT: IT WILL BE SO RECEIVED.

7           MR. MOSHENKO: YOUR HONOR, DOES THE RULING RELATE  
8 TO THE COMPLAINT?

9           THE COURT: THE COMPLAINT.

10          MR. MOSHENKO: OR THE MANY, MANY ATTACHMENTS?

11          MR. SHERMAN: I BELIEVE THAT THE ATTACHMENTS WERE  
12 EXHIBITS TO THE COMPLAINT FILED BY SUNRISE BANK.

13          MR. MOSHENKO: IT APPEARS -- I'M GUESSTIMATING  
14 THOSE ARE ATTACHMENTS.

15          MR. SHERMAN: THAT'S WHAT WE GOT OUT OF THE  
16 SACRAMENTO SUPERIOR COURT.

17          THE COURT: IT'S RECEIVED IN EVIDENCE.

18          MR. SHERMAN: OKAY. AND SO --

19          THE COURT: IN TOTAL.

20                       (WHEREUPON, EXHIBIT NO. 958, CERTIFIED COPY  
21 OF A VERFIED COMPLAINT, WAS RECEIVED IN EVIDENCE.)

22          BY MR. SHERMAN: Q SO SUNRISE BANK SUED SYCAMORE  
23 PARK, DELTA ISLE, FIRST NATIONWIDE, HANS SCHULZ, AND A  
24 WHOLE HOST OF OTHERS; RIGHT?

25          A           YES.

26          Q           AND SUNRISE BANK SUED YOU AND ALL THESE

1 OTHERS -- MIKE, IF WE CAN GO TO THE RIGHT-HAND SIDE -- WHAT  
2 THIS IS FOR IS VERIFIED COMPLAINT FOR MONEY DUES UNDER A  
3 PROMISSORY NOTE, BREACH OF A CONTRACT, A DELTA ISLE  
4 GUARANTEE AND BREACH OF A CONTRACT ON FIRST NATIONWIDE  
5 GUARANTEE AS WELL AS OTHER CLAIMS; RIGHT?

6 A CORRECT.

7 Q AND YOU'VE HEARD THE NAME "GERALD MUTO"  
8 BEFORE; RIGHT?

9 A I'VE HEARD THE NAME.

10 Q YOU KNOW THAT GERALD MUTO WAS APPOINTED BY  
11 THE SACRAMENTO COUNTY SUPERIOR COURT AS A RECEIVER TO TAKE  
12 CHARGE AND POSSESSION OVER THE OPERATIONS OF DELTA ISLE;  
13 RIGHT?

14 A OKAY.

15 Q AND THIS WAS OVER THE OBJECTION OF  
16 MR. NOVELLI AND YOURSELF?

17 A I DON'T REMEMBER.

18 Q AND YOU DO REMEMBER THAT GERALD MUTO, BY THE  
19 SPRING OF 1996, BEGAN TO OPERATE DELTA ISLE; CORRECT?

20 A I DON'T REMEMBER THE EXACT DATE, BUT I  
21 BELIEVE IT.

22 Q YOU BELIEVE THAT HE DID IN FACT BEGIN TO  
23 OPERATE THE RESORT?

24 A YES.

25 Q AND NOT YOU?

26 A LIKE I SAID BEFORE, I BELIEVE IT.

1 Q BUT THEN DELTA ISLE ITSELF FILED FOR  
2 BANKRUPTCY; CORRECT?

3 A CORRECT.

4 Q AND THAT WAS A BANKRUPTCY FILING IN THE  
5 SPRING OF '96; RIGHT?

6 A I DON'T RECALL THE DATE.

7 Q LET ME SHOW YOU EXHIBIT 930. I BELIEVE IT  
8 IS UP THERE.

9 EXHIBIT 930 IS THE BANKRUPTCY PETITION  
10 SIGNED BY MARLIES NOVELLI; CORRECT?

11 A YES.

12 MR. SHERMAN: I'D LIKE TO MOVE EXHIBIT 930 INTO  
13 EVIDENCE.

14 MR. MOSHENKO: IRRELEVANT, YOUR HONOR.

15 THE COURT: IT WILL BE RECEIVED IN EVIDENCE.

16 (WHEREUPON, EXHIBIT NO. 930, BANKRUPTCY  
17 PETITION, WAS RECEIVED IN EVIDENCE.)

18 BY MR. SHERMAN: Q ON SYCAMORE PARK, INC., D.B.A.  
19 DELTA ISLE CORPORATION. AND LET'S GO TO THE NEXT PAGE.

20 MAY OF 1996, MARLIES H. NOVELLI AS THE  
21 AUTHORIZED AGENT. MAY 15, 1996.

22 NOW, EVEN WITH THE BANKRUPTCY FILING,  
23 THOUGH, THIS GERALD MUTO CONTINUED TO HAVE CONTROL OVER  
24 DELTA ISLE; RIGHT?

25 A I DIDN'T KEEP UP ON THE DAY-TO-DAY  
26 OPERATIONS, AND SO I DON'T KNOW.

1 Q WELL, LET'S JUST TALK ABOUT THE BIG PICTURE.  
2 YOU KNEW FROM AN OPERATIONAL STANDPOINT THAT  
3 YOU AND FIRST NATIONWIDE AND THE OTHER NOVELLI COMPANIES  
4 WERE NOT INVOLVED, BIG PICTURE, IN OPERATING DELTA ISLE IN  
5 THE SUMMER OF 1996; ISN'T THAT RIGHT?

6 A I ASSUME. I DON'T KNOW FOR A FACT.

7 Q OKAY. AND LET ME SHOW YOU -- LET'S GO BACK  
8 TO EXHIBIT 935. YOU SHOULD HAVE IT THERE AS WELL.

9 935, PAGE 4, IF YOU CAN GO TO LINES 12  
10 THROUGH -- IN MARCH, 1996, THIS IS WHAT YOUR LAWYERS WROTE;  
11 CORRECT, MR. SCHULZ?

12 A I DON'T KNOW WITHOUT STUDYING IT, BUT I TAKE  
13 YOUR WORD.

14 Q WELL, HELGA WHITE WAS YOUR LAWYER; RIGHT?

15 A WAS THE LAWYER FOR THE SCHULZ FAMILY TRUST.

16 Q OKAY. AND YOUR LAWYER FOR THE SCHULZ FAMILY  
17 TRUST WROTE: "IN MARCH, 1996, SUNRISE BANK FILED A NOTICE  
18 OF DEFAULT TO FORECLOSE ON THE DELTA RESORT REAL PROPERTY,  
19 AND SHORTLY THEREAFTER HAD A RECEIVER, GERALD D. MUTO,  
20 APPOINTED," AND IT GOES ON.

21 "SECOND BANKRUPTCY. TO SAVE THE DEBTOR FROM  
22 LOSING THE DELTA RESORT REAL PROPERTY IN A FORECLOSURE SALE  
23 TO THE BANK AND TO SAVE THE INVESTMENTS MADE BY DELTA  
24 RESORT'S MEMBERS, ON MAY 16, 1996, THE DEBTOR FILED THE  
25 PRESENT CHAPTER 11 BANKRUPTCY PROCEEDING."

26 THEN IT GOES ON. "SUBSEQUENTLY, THE COURT

1 APPOINTED GERALD D. MUTO AS EXAMINER OF THE BANKRUPTCY  
2 ESTATE WITH POWERS TO OPERATE THE DEBTOR'S BUSINESS."

3 AND SO MR. MUTO HAD THE JOB TO OPERATE THE  
4 DELTA ISLE BUSINESS; CORRECT?

5 A CORRECT.

6 Q HE WAS IN CHARGE, CORRECT?

7 A YES.

8 Q MR. MUTO HAD THE JOB TO CONTACT MEMBERS AND  
9 COLLECT DUES; RIGHT?

10 A I BELIEVE SO. I DON'T KNOW FOR A FACT,  
11 BUT --

12 Q AND AS OF THE TIME OF THE SECOND BANKRUPTCY,  
13 DELTA ISLE OWED THE INTERNAL REVENUE SERVICE SUBSTANTIAL  
14 AMOUNTS OF MONEY IN BACK TAXES FOR PAYROLL WITHHOLDING,  
15 INCLUDING PENALTIES; RIGHT?

16 A I DON'T KNOW THAT, EITHER.

17 Q LET'S GO TO 935, PAGE 22.

18 MR. SCHULZ, YOU'RE NOT DENYING THE FACT; YOU  
19 JUST DON'T RECALL; IS THAT RIGHT?

20 A THAT'S CORRECT.

21 Q OKAY. LET'S SEE IF THIS REFRESHES YOUR  
22 RECOLLECTION.

23 SEE HERE ON PAGE 22, LINE 24, "THE INTERNAL  
24 REVENUE SERVICE HAS FILED A PROOF OF CLAIM FOR SYCAMORE  
25 PARK FOR \$593,026.76 FOR UNPAID WITHHOLDING TAX, FICA AND  
26 FUTA TAXES FOR THE PERIOD FROM JUNE 30, 1990, THROUGH THE

1 PETITION DATE AS FOLLOWS."

2 AND THEN YOU SEE THE VARIOUS TOTALS THAT  
3 YOUR LAWYER MADE. DO YOU SEE THAT?

4 A YES.

5 Q AND THESE WERE PERIODS, TAX PERIODS,  
6 MR. SCHULZ, IN JUNE OF '93 -- MIKE, IF YOU COULD HIGHLIGHT  
7 THAT ON LINE 9 -- IN SEPTEMBER, '94, AND IN JUNE OF '95  
8 WHERE FIRST NATIONWIDE WAS OPERATING THE PROPERTY; RIGHT?

9 A RIGHT.

10 Q AND, IN ADDITION TO THE WITHHOLDING TAX, THE  
11 PAYROLL TAXES THAT WERE OWED, OF NEARLY 600,000 WITH  
12 PENALTIES, THERE WERE NEARLY AN ADDITIONAL \$200,000 IN  
13 OTHER TAXES OWED TO THE INTERNAL REVENUE SERVICE; IS THAT  
14 RIGHT?

15 A I DON'T KNOW WHERE YOU SEE THAT, BUT -- OH,  
16 YEAH. I SEE. THAT'S RIGHT.

17 Q NOW, IN ADDITION TO THE BACK TAXES THAT  
18 HADN'T BEEN PAID TO THE FEDERAL GOVERNMENT, DELTA ISLE  
19 HADN'T PAID CALIFORNIA STATE TAXES IN SOMETIME EITHER;  
20 RIGHT?

21 A I DON'T KNOW THAT. WHERE DO YOU SEE THAT?

22 Q PAGE 26.

23 A OKAY.

24 Q DIRECTOR OF THE EMPLOYMENT DEVELOPMENT  
25 DEPARTMENT OF THE STATE OF CALIFORNIA FILED A PROOF OF  
26 CLAIM FOR \$74,208.60 FOR UNPAID TAXES FOR THE PERIOD OF

1 APRIL 1, 1990, THROUGH JUNE 16, 1996; RIGHT?

2 A CORRECT.

3 Q SO THAT'S ABOUT \$875,000 THAT DELTA ISLE  
4 ITSELF OWED TO TAXING AUTHORITIES; RIGHT?

5 A I DIDN'T DO THE MATH, SO --

6 Q MONIES THAT DELTA ISLE AND FIRST NATIONWIDE  
7 KNEW WERE OWED TO THE I.R.S. AND OTHER STATE TAXING AND  
8 FEDERAL TAXING AUTHORITIES, BUT HAD NOT BEEN PAID; CORRECT?

9 A I ASSUME THAT'S CORRECT, YES.

10 Q AND FOCUSING BACK ON MR. MUTO AGAIN, BY THE  
11 SUMMER OF 1996, THE MAN IN CHARGE, MR. MUTO, WROTE TO ALL  
12 OF DELTA ISLE'S MEMBERS; YOU RECALL THAT, DON'T YOU?

13 A I DON'T RECALL THAT, NO.

14 Q LET ME SHOW YOU EXHIBIT 933. THIS WAS A  
15 PLEADING OF THE BANKRUPTCY COURT SHOWING A NOTICE GOING TO  
16 ALL THE MEMBERS AT DELTA ISLE; RIGHT?

17 A THAT'S WHAT IT SAYS.

18 MR. SHERMAN: I'D LIKE TO MOVE EXHIBIT 933 INTO  
19 EVIDENCE.

20 MR. MOSHENKO: NO OBJECTION --

21 THE COURT: IT WILL BE RECEIVED.

22 MR. MOSHENKO: -- OTHER THAN RELEVANCE.

23 (WHEREUPON, EXHIBIT NO. 933, BANKRUPTCY  
24 COURT PLEADING, WAS RECEIVED IN EVIDENCE.)

25 BY MR. SHERMAN: Q THIS IS FILED AUGUST 16, 1996.

26 "NOTICE TO CAMPGROUND MEMBERS OF CHAPTER 11 CASE. A

1 VOLUNTARY PETITION FOR REORGANIZATION UNDER CHAPTER 11 OF  
2 THE BANKRUPTCY CODE WAS FILED IN THIS CASE ON MAY 16, 1996,  
3 AND AN ORDER FOR RELIEF HAS BEEN ENTERED. YOU WILL NOT  
4 RECEIVE NOTICE OF ALL DOCUMENTS FILED IN THIS CASE UNLESS  
5 YOU REQUEST IT."

6 IT GOES ON.

7 "GERALD D. MUTO WAS APPOINTED EXAMINER IN  
8 THIS CASE ON JUNE 18, 1996."

9 MR. SHERMAN: I HAVE NO FURTHER QUESTIONS.

10 THE COURT: ANY CROSS?

11 MR. MOSHENKO: EXHIBIT -- JUST A COUPLE. THAT'S  
12 WHY I'M GOING TO DO IT FROM HERE.

13 REDIRECT EXAMINATION

14 BY MR. MOSHENKO: Q EXHIBIT 933.

15 IN THE MIDDLE PARAGRAPH, MR. SCHULZ, THE  
16 NOTICE REQUIRES THE CAMPERS TO CONTINUE TO MAKE THEIR  
17 PAYMENTS OF DUES TO DEBTOR -- TO THE DEBTOR; THE DEBTOR WAS  
18 THE COMPANY, SYCAMORE PARK, INC.; CORRECT?

19 A CORRECT.

20 Q NOW, I'D LIKE TO GO TO 930, AND I'M DONE.  
21 EXHIBIT 930 -- I'M SORRY. IT WASN'T 930.

22 EXHIBIT 935, PLEASE, AND PAGE 3.

23 NOW, MR. SCHULZ, YOU WERE QUESTIONED ABOUT  
24 THE DEBT TO SUNRISE BANK AND WHETHER OR NOT THEY COMMENCED  
25 A FORECLOSURE; DO YOU RECALL THOSE QUESTIONS?

26 A COULD YOU REPEAT THAT, PLEASE.

1           Q           YOU WERE QUESTIONED ABOUT SUNRISE BANK AND  
2 WHETHER OR NOT SUNRISE BANK COMMENCED A FORECLOSURE; IS  
3 THAT CORRECT?

4                       DO YOU REMEMBER BEING ASKED THAT QUESTION?

5           A           THAT'S CORRECT.

6           Q           COULD WE BLOW UP THE FOOTNOTE AT THE  
7 BOTTOM.

8                       DO YOU RECALL THAT, AS A MATTER OF FACT, ON  
9 FEBRUARY 24, 1997, THE SCHULZ FAMILY TRUST CURED THE  
10 FORECLOSURE WITH SUNRISE BANK BY PAYING NEARLY A MILLION  
11 DOLLARS?

12          A           YES.

13          Q           AND, IN FACT, THAT'S WHAT THIS DOCUMENT  
14 SAYS. THE ORIGINAL UNPAID PRINCIPAL BALANCE WAS \$830,000.  
15 IN ADDITION, THE AMOUNT WAS INCREASED BY \$130,000 ON  
16 FEBRUARY 24, 1997, WHEN THE SCHULZ FAMILY TRUST CURED THE  
17 DEBTOR'S DEFAULT OF THE SUNRISE BANK LOAN.

18                      THAT WOULD REQUIRE ALMOST A MILLION DOLLARS  
19 PAYMENT; RIGHT?

20          A           CORRECT.

21          MR. MOSHENKO: THAT'S ALL I HAVE.

22          THE COURT: THANK YOU.

23                      ANYTHING FURTHER?

24          MR. SHERMAN: NOTHING FURTHER.

25          THE COURT: THANK YOU. YOU MAY STEP DOWN.

26                      WHO IS YOUR NEXT WITNESS?

1           MR. SHERMAN: YOUR HONOR, OUR NEXT WITNESS WILL BE  
2 THE BANKRUPTCY TRUSTEE OF THOUSAND ADVENTURES, INC.,  
3 MR. ERIC LAM. HE IS NOT DUE TO ARRIVE UNTIL SUNDAY,  
4 HOWEVER. SO WE'D LIKE TO BE ABLE TO PUT HIM ON THE WITNESS  
5 STAND ON MONDAY MORNING.

6           THE COURT: THERE IS NOTHING MORE TODAY.

7           MR. SHERMAN: I'M SORRY, YOUR HONOR.

8           THE COURT: WE'LL GIVE YOU A LONG BREAK THIS  
9 AFTERNOON. SEE YOU MONDAY MORNING AT 9:00.

10          MR. SHERMAN: YOUR HONOR, ON MONDAY AFTERNOON, YOU  
11 WANTED TO SAY ANYTHING?

12          THE COURT: NO.

13                         (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN  
14 COURT OUT OF THE PRESENCE OF THE JURY:)

15          MR. MOSHENKO: I UNDERSTAND HOW DIFFICULT IT IS TO  
16 ESTIMATE HOW LONG WITNESSES ARE GOING TO TAKE AND,  
17 THEREFORE, RUNNING OUT OF WITNESSES. NEVERTHELESS, I THINK  
18 THE DEFENSE MUST HAVE SOME IDEA WHO IS ON DECK AFTER  
19 MR. LAM, IF WE CAN GET THAT INFORMATION. EVEN IF IT  
20 DOESN'T TURN OUT TO BE THE EXACT ORDER, WE FOLLOWED THE  
21 PRACTICE OF GIVING THEM AN ON-DECK SUGGESTION.

22          THE COURT: WHO WILL IT BE?

23          MR. SHERMAN: KEN HOEL.

24          MR. MOSHENKO: AND THEN AFTER MR. HOEL?

25          MR. SHERMAN: I DON'T KNOW, YOUR HONOR.

26          MR. MOSHENKO: OKAY.

1           MR. RIVIN: THAT TAKES US THROUGH MONDAY AND INTO  
2 PART OF TUESDAY.

3           THE COURT: GOOD. AND HAVE YOU RECEIVED THE --

4           MR. MOSHENKO: WE RECEIVED IT YESTERDAY AFTERNOON,  
5 YOUR HONOR, AND THAT'S WHERE MR. SHAW IS. HE IS WORKING ON  
6 IT.

7           THE COURT: YOU HAVE TO GET YOUR RESPONSE TO THEM  
8 BY --

9           MR. MOSHENKO: SATURDAY, 5:00 P.M.

10          MR. SHERMAN: 5:00 P.M.

11          THE COURT: SATURDAY, 5:00. SO WE'LL BE READY ON  
12 MONDAY AFTERNOON.

13          MR. MOSHENKO: THAT'S MY UNDERSTANDING. WE'LL  
14 ARGUE MONDAY AFTERNOON,

15          THE COURT: OKAY. FAIR ENOUGH. HAVE A NICE  
16 WEEKEND, GENTLEMEN, AND LADIES.

17                               (WHEREUPON THE COURT WAS IN RECESS UNTIL  
18 MONDAY, JULY 24, 2000, 9:00 A.M.)

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