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THE COURT: Okay, welcome everybody.

MR. HUTCHISON: Morning, Your Honor.

MR. MARIANI: Morning, Your Honor.

THE COURT: Looks like the video is ready to go. So bring in the jury please.

MR. HUTCHISON: Just up with question. Do you want to do anytime order of direct cross and redirect.

THE COURT: I want it to flow as it is in the deposition itself.

MR. HUTCHISON: So we'll go with cross and redirect.

THE COURT: However the deposition is set up, no matter what the editing is I want it to flow in the way that it flows in the deposition if that's not clear, I don't know how much clearer I can make it.

Deputy if you'd summon the jury please. Thank you.

THE BAILIFF: The jury is entering.

(Whereupon the jury entered the courtroom and the following proceedings were had:).

THE COURT: Good morning ladies and gentlemen. Again thank you for your continued

1 service and sacrifice. Before the day is done 08:35:55  
2 just remind me if I don't remember myself, which  
3 I will hopefully, that I'll have a letter for all  
4 of you that if you need to give to an employer,  
5 that will be fine. It will be my pleasure to do 08:36:08  
6 that for you.

7 Have a seat please all and we will now be  
8 playing the videotaped depo of the witness,  
9 Mr. Quentel, Albert Quentel. I understand it has  
10 been edited to some degree because of either 08:36:27  
11 court rulings or the parties' agreement to edit  
12 some of the material out so forgive the editing  
13 process if it may be choppy in parts, though with  
14 today's technology I don't think that should be a  
15 problem. 08:36:46

16 In any event, go ahead and proceed to play.  
17 The videographer is here.

18 Q. State your full name for the record for the  
19 jury please.

20 A. Albert drew Quentel. 08:37:02

21 Q. And I know you don't look like a spring  
22 chicken, but I want to you to tell the jury your age?

23 A. I'm fix years old.

24 Q. Are you married?

25 A. No I'm widowed. 08:37:16

1 Q. Children?

08:37:19

2 A. Yes.

3 Q. How many children?

4 A. Six.

5 Q. I'm not gonna put you on the spot and ask  
6 you to give me their ages, but let me ask you this  
7 question. Have you ever been involved in a lawsuit  
8 where you were a witness before?

08:37:23

9 A. Yes, sir.

10 Q. And what kind of a case was that?

08:37:36

11 A. Well, there was, one that I recall was one  
12 where I was being sued by a bank which said it sold  
13 land to a developer and also sold me two lots in Coco  
14 Plum development in Dade County and the bank didn't  
15 know about the Coco Plum lot, in addition to the land.

08:38:09

16 Q. So that was kind of a failure to disclose?

17 A. Well, that's what they alleged, and of  
18 course the case didn't get very far because the lawyer  
19 that represented the bank also represented the  
20 developer and they got the deeds at the same time.

08:38:30

21 Q. Okay. Now, did you have your deposition  
22 taken in that case?

23 A. Yes, sir.

24 Q. Okay. As a matter of fact how many times  
25 have you had to did I have a deposition, if you

08:38:45

1 recall?

08:38:50

2 A. I don't particularly recall. I've been an  
3 expert witness too.

4 Q. Okay. So you've been qualified by courts in  
5 the State of Florida to give expert testimony as a  
6 lawyer?

08:39:03

7 A. Yes, sir.

8 Q. And how many times have you, if you recall  
9 have you been so qualified?

10 A. I clearly recall only one where there was  
11 actually court testimony and that involved a mortgage  
12 priorities.

08:39:21

13 Q. So in the cases where you've given expert  
14 testimony, were you testifying for plaintiff or  
15 defendant or were you a fact witness? You were giving  
16 expert testimony, right?

08:39:47

17 A. Yes, sir, I was giving it -- actually I was  
18 an expert for a plaintiff in an easement case and --

19 Q. Was that here in Miami?

20 A. Yes, sir.

08:40:12

21 Q. Okay, good. Okay. Since we're talking  
22 about you being an expert witness and that requires  
23 some experience and training, I'm going to go ahead  
24 and if you would, give me in a nutshell the benefit of  
25 your educational training and your background leading

08:40:32

1 up to you becoming the lawyer that you are to give  
2 this expert testimony?

08:40:36

3 A. Right. Well, I went to school in Dade  
4 County public schools, citrus grove elementary and  
5 junior high and Miami senior high school, graduated  
6 from there in 1952 and then I entered the University  
7 of Florida and graduated with a BA in 1956, and then  
8 law school at the University of Florida. I graduated  
9 in 1959.

08:40:49

10 Q. So you've been a gator all the way?

08:41:13

11 A. I'm a gator all the way.

12 Q. You got out of law school, what did you do?  
13 What happened?

14 A. Well, sir, I had a child and a wife and I  
15 had to get a job. I had to go to work right away, so  
16 I graduated from law school. It was pretty late,  
17 June, June 15th I started working.

08:41:25

18 Q. Who did you go to work for?

19 A. Well, it was a firm that was then known as  
20 Evans Mershon Sawyer and Simmons. Then they were  
21 later become known as Mershon Sawyer, Dunwoody and  
22 Cole and that's where I began June 15th, 1959.

08:41:45

23 Q. And the rest is history. What did they have  
24 you doing?

25 A. Well at first I did a lot of miscellaneous

08:42:11

1 stuff, you know, like helping litigators. Bill  
2 burdens who later became a federal district judge was  
3 a case involving lease termination of the Dunes Hotel  
4 in Miami Beach and Sunny Isles. I helped research on  
5 that.

08:42:14

08:42:37

6 As it happened they had a fellow leave that  
7 had been in real estate, so early on they put me in  
8 real estate and I stayed with it ever since.

9 Q. Okay. So at some point in time you left  
10 that firm?

08:42:58

11 A. Yes, sir.

12 Q. But before you left that firm you started  
13 from scratch and accelerated to where. Where were  
14 you?

15 A. Well, they had two kinds of partners, one  
16 was a noncapital partner, where your compensation was  
17 purely percentage of your earnings after expenses and  
18 the other was a capital partner, where you had capital  
19 in the firm and again, you got a percentage of  
20 earnings based on -- you know, after the noncapital  
21 partners were taken off, and I was a capital partner.

08:43:07

08:43:26

22 Q. So you worked your way out from just an  
23 entry level attorney to becoming a capital share and  
24 partner?

25 A. Yes, sir.

08:43:51

1 Q. What was your title? 08:43:51

2 A. My title was just --

3 Q. Just partner?

4 A. Partner. It was a pure partnership.

5 Q. Okay. And you've already -- now, so where 08:43:57  
6 did you go from there?

7 A. Well, October 1, 1971 I came to Greenberg  
8 Traurig and I joined it as a named principal in the  
9 firm and of course it's a PA, so instead of being a  
10 partnership arrangement, you know, it has the Corp. 08:44:26  
11 are the aspects.

12 Q. And are you still with the firm?

13 A. Yes, I am.

14 Q. So you've been with the firm for 40 plus  
15 years? 08:44:41

16 A. 40 years this fall.

17 Q. 40 years this fall?

18 A. October 1.

19 Q. And tell us a little bit about what you've  
20 done for the firm over the years, real estate only or 08:44:50  
21 talk to the jury a little bit about what services  
22 you've performed?

23 A. Yes, sir. It's all been real estate  
24 connected and one of the great experiences I had was  
25 in 1960, when I was at Evans Mershon, I was called in 08:45:05

1 by one of the senior partners and he said I'd like you  
2 to meet Bill gram and he and his brothers are going to  
3 develop some land they own and I'd like you to work  
4 with them. The brothers were of course Bob Graham and  
5 Phil Graham.

08:45:11

08:45:38

6 Q. The Bob Graham that late became the governor  
7 of the State of Florida and a U.S. senator?

8 A. U.S. senator. And I had known Bob at Miami  
9 high, but I knew him at the University of Florida.

10 Q. Okay. Now, so what did you do for them?

08:45:58

11 A. Well, just about everything. They had  
12 3,000 acres of land out at the big curve of the  
13 Palmetto Expressway. That is where the Palmetto  
14 Expressway, state road 826, runs south from south Dade  
15 and at the point of their land it turned east and runs  
16 east-west over to the Golden Glades intersection.

08:46:19

17 So it was 3,000 acres of pasture land.

18 Q. Okay.

19 A. And they wanted to develop something on it.  
20 What they developed is now known as the town of Miami  
21 lakes and it's an incorporated municipality.

08:46:38

22 Q. So you were a part of developing that down  
23 of Miami lakes?

24 A. Yes, sir, I was. You know, there are a lot  
25 of things involved in that kind of development. You

08:46:58



1 have to -- you do a lot of planning. I was not a  
2 planner. They had experts for that, and then you have  
3 to put that into a legal framework. You have to do  
4 you know, planning and there are a bunch of lakes in  
5 Miami lakes which are artificially dug to create fill  
6 for the land. So they did that and you had road  
7 dedications, you had planning restrictive covenants  
8 for architectural control, mandatory homeowners  
9 association.

08:47:02

08:47:19

10 I don't know for those who are not familiar  
11 with the community, it's a complete town.

08:47:49

12 Q. Now, have you had the opportunity to work on  
13 any other projects that you were proud of in the real  
14 estate development area or -- I know Miami Lakes was  
15 number one probably. Anything bigger than that?

08:48:08

16 A. Well, I have, I've worked on them and some  
17 of them were Arvida Corporation's Dade County  
18 developments and they were basically a land wholesaler  
19 and then they went into the business of building and  
20 they did excellent developments, although they got  
21 into some trouble with construction defects that  
22 Hurricane Andrew proved up.

08:48:33

23 Q. Right.

24 A. And then, you know, there have been a lot of  
25 other developments. Key Colony on Key Biscayne was

08:48:49

1 approved in 1976 for 1230 units. It's on like  
2 43 acres and I know -- you know, it was a big battle  
3 out there to get that done and you couldn't build  
4 because they had a moratorium of building permits and  
5 certificates of occupancy because of lack of water  
6 supply and I figured out a way to bring a water main  
7 for over six miles under Biscayne bay, 44-inch main.  
8 Developers financed that. Key Colony and plus two  
9 others. And then we'd get some of the money back that  
10 wasn't used on connections for us for new development  
11 on the key. That was a wonderful project, got a  
12 unanimous vote out of the county commission to approve  
13 that, 1230 units.

08:48:53

08:49:16

08:49:40

14 It was like the number one selling condo in  
15 Dade County in 19 -- '78, '79.

08:49:56

16 Q. Okay.

17 A. And then, you know, in the sunset years of  
18 my career, I met Anthony Pugliese.

19 Q. Tell as you little bit about Anthony  
20 Pugliese, how you met and how that came about?

08:50:16

21 A. Okay. Well, he came in like September of  
22 2004, September 2004, and he said I got a situation  
23 where I've got two things and the big thing is I'm  
24 negotiating to buy the Latt Maxcy ranch, it's up in  
25 Osceola County. It's 27,500 acres. I'm thinking holy

08:50:48

1 smoke nine times the size of Miami Lakes you could  
2 really build something there.

08:50:58

3 Q. Bigger than Disney World?

4 A. It's bigger than Disney World, and he says,  
5 you know, he was -- they were having a bidding contest  
6 for this land, where the seller, Latt Maxcy, LA. The  
7 T, MAXCY, was putting their land up and you could  
8 either buy all of it at once or where you could buy  
9 pieces of it, parcels that they put up and they had a  
10 contract for this, that and the other.

08:51:08

08:51:34

11 So Anthony said you know, he's in the  
12 bidding for this thing and he thinks he's gonna get  
13 it.

14 Q. How did he get to you?

15 A. Well, that came through the broker,  
16 interestingly enough. This guy named Jerry Gould and  
17 Jerry Gould knew Bob Traurig and Bob Traurig and I  
18 go -- you know, that's the Traurig of Greenberg  
19 Traurig, truly the reason I'm at this firm, you know.

08:51:47

20 In 19 -- no, get back to Anthony getting to  
21 us. Jerry Gould says you ought to go see Bob Traurig.  
22 So Bob looks at this stuff and he says this is too  
23 complicated. However you look at it.

08:52:16

24 Q. Too complicated for the senior partner. It  
25 was a big deal?

08:52:39

1           A.     Well, there was a crazy, I say crazy  
2 loosely, there was a financing deal that we  
3 recommended that Anthony did not take, you know, for  
4 financing and that required a lot of analysis and this  
5 and that.

08:52:40

08:52:57

6                     So we had a meeting --

7           Q.     Back to how it all started, you met?

8           A.     We met and then Anthony and Tom San Giacomo.

9           Q.     Who is Sam Giacomo?

10          A.     Well, Bob was a guy that Anthony I did  
11 hired, kind of like a right-hand man. He came up  
12 there and well, the two of them said we'd like you to  
13 help us on this. They also had another thing, which  
14 was a paper recycling business up in New Jersey and  
15 Tom's family had been in the picker business for like  
16 three generations and knew a lot about it and they had  
17 the chance to buy this thing. So they were really at  
18 the time I first met Anthony he was talking about two  
19 things. One was Destiny, what you know became  
20 Destiny, 27,500 acres from Latt Maxcy.

08:53:16

08:53:39

08:54:02

21          Q.     Okay.

22          A.     The second thing was the paper business,  
23 which really was Tommy's interest in town and he would  
24 go 50-50 on that.

25          Q.     Okay. I'm going to go back to Destiny and

08:54:17

1 talk about Destiny. Tell us what is Destiny. You had  
2 all this experience in building cities and towns and  
3 land and things of that nature, but, but Destiny was  
4 somehow some way, it was a fit for what you had been  
5 involved in over the years.

08:54:27

08:54:59

6 But can you talk about Destiny to the jury  
7 for just a moment?

8 A. Yes. Well, it was like most real estate  
9 developments, it was a dream. One thing I've learned  
10 in the 57-something years I've been working with real  
11 estate people is that big things get done by dreams.  
12 They get done by people that have the idea of a  
13 concept. They can look at a piece of land and look  
14 like the sorriest thing in the world and. Phil Graham  
15 suns once said that about Miami Lakes. They is a  
16 sorry looking piece of land. What else can we do?  
17 Let's put a country club here, and that's what they  
18 did.

08:55:19

08:55:51

19 You know, it happens that way. So Anthony  
20 had the ability, which I recognized right off, to see  
21 something and figure out okay, this is a strategically  
22 located parcel of land. It's on the Turnpike, it's on  
23 State road 60, and it's on U.S. 441.

08:56:07

24 So it's not the middle of nowhere. It's the  
25 middle of everywhere and there's nothing else

08:56:38

1 competing around it. You know, and with 27,500 acres,  
2 you could make it the most beautiful thing in the  
3 world. You have undisturbed pristine property that  
4 could be kept as a preservation area. You had land  
5 that could be developed. You had all different things  
6 in the world and the present zoning of it, what the  
7 county had envisioned up to that point was one unit  
8 per five acres.

08:56:42

08:57:04

9 Well, can you imagine any worse urban sprawl  
10 than one unit per five acres. I mean, how would you  
11 get the dog to the vet? You'd have to drive to frost  
12 proof. How do the children go to school? You have to  
13 take them somewhere where buses can pick them up. It  
14 was just a nightmare, you know, to develop with the  
15 existing zoning.

08:57:29

08:57:48

16 But having one person control it, you could  
17 do some really serious planning.

18 Q. Now, you indicated highway 60 plus 441 was a  
19 plus and then you had the Turnpike. Why do you place  
20 so much value and significance to that, to those?

08:58:17

21 A. Well, it's transportation and it's just --  
22 one of the things that made Miami Lakes so successful  
23 was that you could get there. It was at the big curve  
24 of the palmetto express way to get there. So I could  
25 see you could get to Destiny, it's at State road 60

08:58:42

1 and of course we didn't call it Destiny in those days. 08:58:47  
2 I'm saying Destiny, but that was the name Anthony came  
3 up with.

4 Q. Okay. So -- but talk to the jury a little  
5 about the value of having the exchange already in 08:59:02  
6 place from the Turnpike?

7 A. Yeah, that was the key to the thing because  
8 you didn't have to beautify a road coming into the  
9 development. It's right there, you know, virtually at  
10 the exit of the Turnpike and I know I was surprised 08:59:21  
11 later when the planners, traffic, you know, the  
12 traffic consultants in the state well, we're going to  
13 need another interchange so I applied to the Turnpike  
14 authorized and I got that. Because there's so many  
15 miles, and getting that approved was a plus. 08:59:50

16 Q. That was a plus?

17 A. Yes, sir.

18 Q. Talk to the jury a little bit about the  
19 value of not having to spend the money or just the  
20 cost involved, the savings if you already have an 09:00:03  
21 exchange in place, exactly what you needed?

22 A. I had no idea what exchanging cost now, but  
23 they're obviously very, very expensive.

24 Q. Why do you see that?

25 A. Well, it seems like road prices have 09:00:17

1 inflated and we saw what exchanges like -- the state  
2 is always rebuilding them. I saw that in Miami Lakes,  
3 you know, when they rebuilt 138th street, it's also  
4 called Opa Locka expressway and the palmetto, you  
5 know, what a huge amount of expense that was and they  
6 acquired a lot of land from Miami Lakes to do it.

09:00:21

09:00:46

7 Q. So and having an exchange already in place  
8 was very significant?

9 A. Very significant, yes.

10 Q. Saved a lot of money?

09:01:02

11 A. Yes.

12 Q. Mr. Quentel you were talking about the  
13 project a little bit and about some of the good things  
14 that were already in place there in that area. I  
15 assume that that was one of the reasons why -- well,  
16 just tell me what did you think of the project, this  
17 piece of property and what happened with it and what  
18 Anthony's dream was and what his goals were for this  
19 project?

09:01:22

20 A. I thought it was exciting and interesting.  
21 It just had a lot of merit to it.

09:01:45

22 Q. Why do you see that again?

23 A. Well, anytime you can take a piece of land  
24 like that and develop it the way the developer wanted,  
25 to that is using a Georgia planner. You know, you

09:02:08



1 just don't lay out lots and rectangles and so on, but  
2 you had all the ability to do that on this property,  
3 to lay it out, to use good planning, to use advanced  
4 methods of construction and transportation all sorts  
5 of aspects that make a community nice.

09:02:12

09:02:39

6 Q. Thank you. You met Anthony. At some point  
7 did you meet a Fred DeLuca?

8 A. Yes, I did.

9 Q. How did that come about, if you will?

10 A. Well, I heard a lot about Fred DeLuca. The  
11 first one I met was Fred Florio, who referred to  
12 himself as Dr. No. He seemed to --

09:02:56

13 Q. Was that Dr. Know it all?

14 A. No, Dr. NO.

15 Q. Oh, I'm sorry.

09:03:19

16 A. Apparently he advised, like looked over,  
17 vetted, whatever term you want to use, investments for  
18 Fred DeLuca personally and I didn't know who Fred  
19 DeLuca was until Anthony and Tom told me that a mutual  
20 banker had introduced him and then in effect Florio  
21 showed up and I assume that Florio -- and Florio is a  
22 fine person who was very, very bright.

09:03:45

23 Q. And what was your understanding as to what  
24 role Fred DeLuca was going to be playing or asked to  
25 play in this transaction?

09:04:13

1           A.     Well, he was going to come into the deal as  
2 a 50-50 partner.

3           Q.     From the start?

4           A.     Yes. Well, I understood -- I wasn't too  
5 clear on how he was gonna be in the beginning. In  
6 other words I didn't know if he was going to come in  
7 as a partner or if he was going to come in just to  
8 finance the thing. But partner seemed much more  
9 likely because the up side potentials a so much more.

10          Q.     Did you later discover and find out that he  
11 did come in as a partner?

12          A.     Oh, yes, yes. And I was kind of like kept  
13 informed, you know, as the things would progress. In  
14 other words I'd get a report that Anthony and Tom met  
15 with Fred DeLuca.

16          Q.     Did you spend a lot of time working with  
17 Anthony in terms of just conversation from time to  
18 time, day-to-day?

19          A.     Yes, yes. There was a lot of contact.

20          Q.     Okay, Georgia. Before we go any further in  
21 terms of Fred DeLuca's involvement, back to Anthony  
22 for a second.

23                 You talked about, you know, this project and  
24 what you thought of it and the potential hit and  
25 everything else. Did Anthony talk to you and discuss

1 with you and were you aware to a certain extent of the 09:05:48  
2 time of people he had printout together to make this  
3 all happen?

4 A. Well, that sort of evolved over a period of  
5 time. 09:06:00

6 Q. Right.

7 A. At the beginning it was Anthony, Tom San  
8 Giacomo and a few core people that Anthony's office  
9 and then as this thing evolved more and more people  
10 were involved in the project. 09:06:28

11 Q. And as more and more people became involved,  
12 were you made aware of some of the people that were  
13 involved?

14 And he put together a pretty good team.

15 MR. HUTCHISON: Objection to form and  
16 foundation. 09:06:47

17 A. Well, a development team was put together  
18 and I thought it had some of the brightest people.  
19 Whether you've had a lot of experience working with  
20 developers and their consultants you begin to know 09:07:04  
21 pretty well inside and out. You know, you can list  
22 into them and figure out in a few meetings if they  
23 know what they're doing; and we had regular meetings  
24 at least once a month.

25 Q. Was Anthony at those meetings? 09:07:27

1           A.     Anthony and Fred Florio and Tom San Giacomo  
2 and there were others. There was originally Quinn  
3 Turner was involved in a lot of the aspects and Bob  
4 Whiddon came on as a planner and then the engineer was  
5 Barry Walter, we had Randy Austin early on who is a  
6 who is an expert on birds and wildlife and so on.

09:07:29

09:07:56

7           They all made it clear to us that we had to  
8 get a four season wildlife surveys and four season --  
9 you know, water level studies and this and that and  
10 the other and studies of soils and topography and  
11 everything else.

09:08:33

12           George Wilson was involved in it early on  
13 very heavily.

14           Q.     What did George Wilson do? What was his  
15 background?

09:08:51

16           A.     You know, I can't tell you his complete  
17 background, I don't know what that is, but he knew all  
18 the players at the State level and he knew how to get  
19 things done that way and he knew the time that like to  
20 do call themselves stake holders.

09:09:13

21           Q.     Right?

22           A.     That's the polite term for the busy body  
23 that thinks he ought to have a say about your  
24 developer.

25           but he knew all those guys, you know, and

09:09:27

1 he talked their language and got along with them, you  
2 know. So actually, you know, he would bring them in  
3 and attempt to get them on our side.

09:09:30

4 Q. You thought it was a smart thing to do?

5 A. Oh, yes, yeah.

09:09:48

6 Q. Now, you talked about these meetings and the  
7 team meetings. Was Anthony always there?

8 A. Not always. I recall a few times he was not  
9 as well.

10 Q. But for the most part.

09:10:01

11 A. For the most part.

12 Q. What about Fred DeLuca did you ever see him?

13 A. Fred DeLuca never attended a meeting. When  
14 I say a meeting, I mean a development meeting.

15 Q. Were things were being planned?

09:10:17

16 A. With planners, yeah. But Florio was almost  
17 always there.

18 Q. But not once did you see Fred DeLuca?

19 A. No, I saw him one time in Anthony's office.

20 You know, he'd been going over things with Anthony and

09:10:33

21 I came in to meet with him too, but Fred DeLuca didn't  
22 stay. He said he had a migraine and he was gonna  
23 leave.

24 Q. He was out of it?

25 A. Yeah.

09:10:54

1 Q. Now, this timeframe that we're talking  
2 about, just so the jury was clear, was when the  
3 project was at it's early staying.

09:10:54

4 A. Yes, sir.

5 Q. And now, when you first met Anthony, was  
6 Fred DeLuca even in the deal at that time?

09:11:03

7 A. No, sir.

8 Q. Okay, good. And when you first met Anthony  
9 Pugliese, was he in the process of acquiring the  
10 property at that time?

09:11:39

11 A. Yes.

12 Q. Anthony Pugliese?

13 A. Yes.

14 Q. Are you familiar with how that process went,  
15 in terms of Anthony acquiring the property?

09:11:49

16 A. Yes, very much so.

17 Q. Could you the jury a little bit about that  
18 please?

19 A. Well, the first thing was negotiating the  
20 contract. Anthony -- well, Anthony before the lawyers  
21 came to a meeting with the other side, the Latt Maxcy  
22 people, bid for the price and negotiated the price of  
23 the land and negotiated to buy all of it, and then at  
24 that point they said okay, well, let's take the  
25 contract form that we had created and let's work

09:12:03

09:12:24

1 appropriate specific contract deal between land  
2 company -- well, Anthony which he then chose the Land  
3 Company of Osceola County and the seller.

09:12:29

4 So that contract was -- and that was a long  
5 process as you can imagine. There was the fact that  
6 Latt Maxcy wanted to at least back the orange grove  
7 property for a period of time, harvest it. They  
8 wanted all the cattle in a certain area of the ranch,  
9 give them sometime to get them off of there.

09:13:03

10 So that those issues had to be worked out,  
11 and then there was access from the so called Peavine  
12 Road, which was a private road that they had which was  
13 on the west side or close to the west side of the  
14 27,500 acres, but actually slightly over on the Latt  
15 Maxcy property and that was thought, you know, we  
16 needed access from that to get in and look at certain  
17 things, all the access points on State road 60.

09:13:30

18 Q. So, to be clear here, the contract for this  
19 27,000 acres, as a matter of fact it ended up being  
20 more than 27,000 acres, didn't it?

09:14:24

21 A. Yeah I think it's around 27,500, but to tell  
22 you the truth, I don't remember.

23 Q. Well, there were two parcels that were  
24 purchased, am I correct?

25 A. Well, there was land no two counties, but I

09:14:37

1 always thought of it like one big property. 09:14:40

2 Q. And of course then even though the land was  
3 in two counties, your perspective in terms of the  
4 location as to how suitable it was for what that  
5 project was going to be was going to be the same, the 09:15:00  
6 two counties?

7 A. That's right. It didn't affect it. There  
8 was an aspect of State approvals that made it  
9 advantageous not to have land in two counties. But  
10 that's a further story that we haven't gotten into 09:15:22  
11 yet.

12 Q. And that was worked, we worked through that?

13 A. Yes Wednesday.

14 Q. Okay, good. Now, was there due diligence  
15 done on behalf of Anthony before they finalized the 09:15:35  
16 contract?

17 A. Well, Anthony signed the contract. It was  
18 negotiated and signed and then due diligence was done  
19 by Barry Walter and Quinn Turner and everybody else in  
20 the consulting group went along at that time to see if 09:16:00  
21 there were any major problems.

22 Q. And there were none?

23 A. There were none.

24 Q. Now, so the jury is clear, this 27,000 acres  
25 and whatever additional acreage that was acquired, 09:16:24



1 that was the subject of discussing and work with  
2 Anthony before you met Fred DeLuca?

09:16:43

3 A. Yes.

4 Q. No doubt about that?

5 A. That's correct.

09:16:52

6 Q. Tell us about the Land Company of Osceola  
7 County and how that --

8 A. Well, that was a limited liability company.  
9 32 has laws like most states that permit various forms  
10 of entities, like you have a corporation and you have  
11 a general partnership, a limited partnership or a  
12 limited liability company and a limited liability  
13 companies have a lot of add van takings because of the  
14 flexibility in the way they're governed and operated,  
15 the so called operating agreement.

09:17:27

09:17:46

16 Q. Right?

17 A. Which is like the charter and the way, you  
18 know, the entity is to be run. So early on and I  
19 don't remember how this specifically, the decision was  
20 made, in other words if he said to me should I take  
21 the title in my name, the answer would have been no.  
22 But Anthony had a general counsel in house named Henry  
23 Portner and I think he actually formed the limited  
24 liability company called Land Company of Osceola  
25 County, the LLC.

09:18:04

09:18:19

1 Q. Were you familiar with the price that  
2 Anthony Pugliese worked out with the Maxcy family for  
3 the purchase?

09:18:29

4 A. Yes.

5 Q. Tell as you little about that deal and what  
6 up thought of it.

09:18:39

7 A. Well, the deal, what Anthony wanted to you  
8 about on was at \$5,000 per acre and that was --

9 Q. Now, so we be clear, because I'm not that  
10 good add math, but \$5,000 an acre at 27,000 acres is  
11 somewhat of a major deal?

09:18:59

12 A. A major other, major other deal.

13 Q. If my accounting, my math is right, it's  
14 somewhere in the neighborhood of 130 plus, 37,  
15 \$38 million?

09:19:19

16 A. That's right.

17 Q. As I understand it, he won a bid. So there  
18 were other people involved trying to get it?

19 A. Trying to get it, right.

20 Q. He wasn't the only one pursuing it?

09:19:36

21 A. That's right.

22 Q. And this contract that we just alluded to  
23 was that the contract you were making reference to,  
24 the \$5,000 per aced by that he won?

25 A. Yes.

09:19:53

1 Q. And we'll get to the contract in what  
2 second, but it wasn't the type of contract even though  
3 it dealt with \$137 million, but at the end of the day  
4 with Anthony and this family making this deal, was  
5 Anthony Pugliese -- you know, he did a lot of what he  
6 was doing based on?

09:20:07

09:20:23

7 MR. HUTCHISON: Objection, form and  
8 foundation.

9 Q. So is it safe to say that Fred DeLuca came  
10 into this deal after Anthony Pugliese had made the  
11 deal, won the bid for to buy and purchase this  
12 27,000 acres?

09:20:42

13 MR. HUTCHISON: Objection to form.

14 Q. Now, you talked about your knowledge of the  
15 projects. It was a big project. Did you have anyone  
16 else working on it with you or was it just you for the  
17 most part?

09:21:12

18 A. No, I had a number of people here in the  
19 office helping me.

20 Q. Okay. Did you Mr. Quentel work on the on  
21 rating agreement?

09:21:23

22 A. A little bit, but mostly that was negotiated  
23 by --

24 Q. In-house counsel?

25 A. Well by Pugliese's in-house counsel,

09:21:42

1 Mr. Porter, but also the support in our firm for what 09:21:47  
2 is mostly tax question type things, and that was one  
3 of the lawyers named Sam Levy, who is one of our  
4 shareholders out of Denver, Colorado.

5 Q. For the most part did you review the drafts 09:22:07  
6 of the operating agreement?

7 A. Not in detail. I just became generally  
8 familiar with them and I discussed them. But I was  
9 really focused on the deal part rather than the  
10 operating part. 09:22:28

11 Q. Did you have an understanding as to how the  
12 funding was going to work with the LCOC project?

13 A. Yes.

14 Q. Tell the jury a little bit about that. What  
15 was your understanding as to how that was going to  
16 work. 09:23:01

17 A. Well, I was told by Anthony and Tom San  
18 Giacomo that there were -- that in meeting with Fred  
19 DeLuca, okay, he was going to come into the deal and  
20 he asked that a memorandum be written up, you know, of 09:23:24  
21 the deal points and that was generated by Sam San  
22 Giacomo and that became sort of the outline of the  
23 deal. This is what we're going to do. And so it was  
24 pretty clear what they were going to do.

25 The cash requirement was really -- there was 09:24:05

1 another deal involved too, that was the paper company,  
2 the paper company acquisition.

09:24:08

3 Q. Okay.

4 A. So the bargain, as I recall it, was  
5 explained to me at the time and everything and I  
6 saw -- I think there are memos by Tom maybe in the  
7 form of emails or something that set all this out,  
8 that there would be \$35 million in cash for the two  
9 deals.

09:24:20

10 Q. Okay.

09:24:41

11 A. And the paper deal was I think about  
12 \$28 million. I may be wrong in that figure. But  
13 anyway a total of \$35 million cash and Anthony would  
14 put up 25 percent of that and DeLuca would put up  
15 75 percent of it. So I think the figures were like,  
16 I'd have to do the math, around --

09:25:05

17 Anyway the paper deal closed earlier, it  
18 closed in May of 2005 and the land deal in all tenth  
19 of 2005 and the way it worked out, in the paper deal  
20 Anthony put in more cash. So when it came time to do  
21 the land deal, he put in less cash.

09:25:40

22 Q. He also owned the right to the property. He  
23 contracted for the 27,000 acres before?

24 A. Exactly.

25 Q. Before he met DeLuca. It had nothing to do

09:26:04

1 with that?

09:26:07

2 A. Nothing to do.

3 Q. No interest in it, no money in it?

4 A. Exactly.

5 Q. Now, let me just go back for a second. Who  
6 was the Rohde family?

09:26:16

7 A. Rohde, ROHDE was a FPL of I think four  
8 brothers and assist and they owned land north of State  
9 road 60 abutting the Turnpike. So in other words they  
10 were a neighbor to the north of the property.

09:26:53

11 Q. Okay.

12 A. And the Rohde family is one of those old,  
13 old families in Osceola County. Osceola County is I  
14 guess like a lot of rural counties or maybe not, but  
15 anyway, there were a few major property owners so  
16 they've been ranchers there for several generations  
17 and I think their ancestor, maybe the father and  
18 mother, had put together this whole big ranch and then  
19 each of the children got a portion of it. You know,  
20 they divided up parcels.

09:27:14

09:27:37

21 So that was the Rohde family.

22 Q. Now, how did they -- did they become a part  
23 of this venture, this deal, this transaction?

24 A. Yes, yes, they did. They became a part of  
25 it through this theory, that Anthony said, you know,

09:27:56

1 with our property, the 27,000 acres, we can do --  
2 probably get a certain number of units. I don't  
3 remember what he said was the number.

4 Q. Okay.

5 A. And the Rohde property, if they developed,  
6 could probably get a certain number of units. But I  
7 think if we put the two together, we could get A plus  
8 B, but we could get a larger figure, the figure would  
9 be larger than either one could have separately obtain  
10 the approvals for this property.

11 Q. So what did you think about that approach?

12 A. I thought it was very insightful. I thought  
13 it was a brilliant approach. I thought that's true,  
14 you can see that because you have both sides of the  
15 road, you have the ability to shift things from one  
16 area to another within that property. You have the  
17 ability to kind of phase everything, you know.

18 Q. Now, during this time that we're talking  
19 about here, bringing this teal together, were there  
20 other companies involved in this property as well?  
21 Were there other people of interest that?

22 A. Well, not between -- I'm not sure I  
23 understand the question really well. But in other  
24 words later as the development approvals, the State  
25 wanted to include Latt Maxcy, but that was part of the

1 twists and contortions that the Department of  
2 Community Affairs and this Tom Pelham kind of forced  
3 on us in effect.

4 Q. Was it all just money or was it --

5 A. Well, yeah. In other words it was the price  
6 they would pay plus contract they wanted. They  
7 wanted to lease the orange Groves to harvest the  
8 crops. They wanted to keep the cattle in this area of  
9 the ranch for a certain period of time, and you know,  
10 they wanted a few other things. Those were the mine  
11 or in terms of the whole deal, mine or aspects of it.

12 Q. And of course the Rohde family had some  
13 interest in it?

14 A. Well, the Rohdes did not get along terribly  
15 well with Latt Maxcy and that's just one of the  
16 things. You know, I've heard the story and I can't  
17 tell you what it was, but something happened with  
18 somebody's grandfather or father or something, you  
19 know.

20 Q. Right.

21 A. People have long memories.

22 Q. Was this project geared for just senior  
23 citizens?

24 A. No, it was geared for people that worked and  
25 had jobs that could be brought to the property. In



1 other words that the various things would be done to 09:31:44  
2 create income producing jobs that you'd have right  
3 there in the community and that you could have a mix.  
4 It's not to be a retirement center. It's not like  
5 tongue use a well known example, the villages which is 09:32:03  
6 more of a retirement center except that the guys are  
7 the doctors and the ambulance drivers and so forth  
8 like that. But this was going to be where people come  
9 in and work and live and not have so far to drive to  
10 work. And maybe they'd take a bus or take a bicycle 09:32:21  
11 or maybe they would walk.

12 Q. Thank you Mr. Quentel.

13 MR. HUTCHISON: Object form foundation.

14 Q. When did Destiny first become the forefront  
15 of this deal? 09:32:38

16 A. Well, it's hard to say. It evolved over  
17 time and certainly when he got the land there was no  
18 notion of, you know, what they would do other than you  
19 know, there were a veers of possibilities. One was  
20 ranchettes, you know, 20-acre ranchettes or something, 09:32:56  
21 selling this to people.

22 Others were to build a city. So it evolved  
23 over time that the way you get the most money out of  
24 it and have to spend in the long run the least per  
25 unit housing unit on infrastructure, you know, roads, 09:33:18

1 water, sewer contributions to schools and all those  
2 things, was to go with the project to build new town,  
3 a fairly serious population amount.

09:33:26

4 Q. Now, this all predated any workers  
5 agreement?

09:33:49

6 A. Well, no, Florida law has kind of evolved on  
7 brokerage and I happen to know a lot about that, but  
8 basically what this looks like is that -- you know, it  
9 says seller is broker John Shepherd, Remax Realty.

10 Q. So it sounds like they were expecting some  
11 type of brokerage. But that's around \$137 million?

09:34:12

12 A. That's a lot of money, yes, sir. So then  
13 the question was they asked me, they said well, how  
14 can we, if we did this thing, you know, we don't want  
15 \$137 million worth of ordinary income, what can we do.  
16 So I got with one of our tax experts and said we'll  
17 grant him an option and close after a year, because  
18 that way it becomes a capital gain.

09:34:35

19 Q. You decided to move on with the Destiny  
20 project?

09:35:16

21 A. Right.

22 Q. Mr. Quentel I've handed you what's been  
23 marked as Exhibit 2 or 3?

24 A. Yes, sir.

25 Q. Take a look at that and see if you recognize

09:35:28

1 that document?

09:35:30

2 A. Yes, this is the purchase and sales contract  
3 for the ranch, the 27,000 plus acres.

4 Q. And what's the date on that contract?

5 A. I think the date is -- let me check.  
6 December 6, 2004.

09:35:50

7 Q. Thank you very much. Now, after the  
8 contract for purchase, was there another odd?

9 A. Oddly enough under Anthony's signature.

10 Q. There's another date?

09:36:43

11 A. December 6, 2005, but that's wrong. It's  
12 the date that the seller has on here under their  
13 signature, December 6, 2004 because we actually closed  
14 the deal August 10, 2005. So it's just an error in  
15 writing.

09:37:07

16 Q. The purchase was made in 2004?

17 A. Yes, sir.

18 Q. Okay. After the contract was consummated  
19 and the project got underway, Fred DeLuca got involved  
20 at some point. Do you recall where he got involved in  
21 deal?

09:37:56

22 MR. HUTCHISON: Objection to form.

23 Q. When he got involved?

24 A. When. I don't remember exactly it could  
25 have been April, May of 2005. Maybe it was even more

09:38:20

1 beyond that point. 09:38:26

2 Q. Did there come a point in time that there  
3 was an unveiling, a reception that was hold H do you  
4 recall that?

5 MR. HUTCHISON: Objection to form. 09:38:42

6 A. Yes, I do.

7 Q. And were you present?

8 A. Yes.

9 Q. Will you mark this for me please.

10 MR. MARIANI: Your Honor, if I could 09:38:58

11 interrupt a minute this is the photo that was  
12 published yesterday. Can we show it for a moment  
13 and then go back to the testimony.

14 THE COURT: All right. Okay. Let's go back  
15 to the testimony. 09:39:19

16 Q. Did there come a point in time that there  
17 was an unveiling, a reception that was held?

18 MR. HUTCHISON: Objection to form.

19 A. Yes, I do.

20 Q. And were you present? 09:39:45

21 A. Yes.

22 Q. Will you mark this for me please. I show  
23 you that photograph and ask you if you recognize  
24 anybody on there?

25 A. Yes I recognize a lot of people on here. 09:40:18

1 Q. Starting with?

09:40:20

2 A. Well, there's Anthony Pugliese and myself  
3 sitting there.

4 Q. That sort of depicts some of the people that  
5 were present on the day that there was an unveiling of  
6 the project and that reception?

09:40:29

7 A. Yes. These were the people that were  
8 involved in some way with working on Destiny.

9 Q. And to the best of your knowledge, if you  
10 have personal knowledge of it, who orchestrated that  
11 unveiling and that reception?

09:40:48

12 A. Well, I think it was Anthony and Fred Florio  
13 was there. I see where he is in this picture. But I  
14 think most of the ranging was Anthony.

15 Q. You had some people who were there?

09:41:14

16 A. Yes, sir.

17 Q. Who were some of those people? What if any  
18 significance?

19 A. Well, if you take the first row, there was  
20 Larry Walter, who was an engineer, a surveyor and  
21 general overall expert in matters, you know, relating  
22 to Osceola County.

09:41:25

23 Q. Is he in the front?

24 A. He's on the far left here wearing the white  
25 shirt.

09:41:48

1 Q. Can you turn that around? 09:41:49

2 A. Oh, sure. Yeah. So Larry Walter is this  
3 fellow right here.

4 Q. Members of the jury, bear with us.

5 A. Okay, this is Larry Walter right here. 09:42:12

6 Q. And who is Larry again so the jury can be  
7 clear?

8 A. Well, he's with the engineering firm based  
9 in Kissimmee and their experts in Osceola County. He  
10 had actually been the chairman of the water authority  
11 or something for the county. 09:42:32

12 Q. And to the best that you know did he work on  
13 this project?

14 A. Yeah I knew a lot about what he did. It was  
15 more complex issues of surveying and planning and a  
16 survey of property. They did that and he did a lot of  
17 things related to the property. 09:42:54

18 Q. Okay. I'm going to try to move this along  
19 as I can. Do you recognize any other?

20 A. This one with the necktie here is Scott  
21 Leftwich. He's a traffic expert, probably the finest  
22 traffic expert in Florida was a teacher I think of the  
23 current Department of Transportation at the time. I  
24 say the teacher, he's a college professor and taught  
25 this guy. 09:43:28  
09:43:54

1 Q. He taught the current chief --

09:43:54

2 A. At that time of he was involved with the  
3 project. You know, people like that change in the  
4 department, but you know, he wrote a book written on  
5 traffic. In Florida you go to this guy, Scott  
6 Leftwich.

09:44:11

7 Q. And can you just point out some of the other  
8 people of interest there?

9 A. Well, this right here is Meril Stumberger  
10 who is a governmental lobbyist that has worked very  
11 closely with Anthony over the years, and right in the  
12 center there is Anthony's wife. Over here with the  
13 white hair is Henry Rohde.

09:44:26

14 Q. That's the famous Mr. Rohde?

15 MR. HUTCHISON: Objection, form and move to  
16 strike.

09:44:56

17 A. The famous Rohde of the Rohde family. Then  
18 next to him is Roz Gatewood with the Pugliese Company.  
19 She's sort of like a public relations person and did a  
20 lot of things in connection with the press about the  
21 property.

09:45:21

22 Q. So help me out here you had local officials  
23 here?

24 A. Now, I can't tell you --

25 Q. You can't point those out?

09:45:49

1           A.     I know there was a county commissioner. We  
2 had a number of tables, it was a big lunch on and I  
3 think it was sponsored by the Chamber of Commerce of  
4 the county as well.

5           Q.     What about State officials, did you have  
6 State officials there as well?

7           A.     I don't remember if there were State  
8 officials at this or not. I see Fred Florio looks  
9 like right next there, right there is Fred. He's  
10 right next to George Wilson, who's the consultant I  
11 mentioned earlier.

12          Q.     George Wilson?

13          A.     Yes.

14          Q.     Spelled with 2L, WILLSON. And you're  
15 sitting on the front row?

16          A.     Well, I was lucky. I was sort of put on the  
17 spot. You get one of those things and you get a guy  
18 like Anthony who has a strong personality and they're  
19 all scared to sit next to him, but he's kind of a  
20 brash guy. I got to sit next to Anthony anytime I  
21 have a chance.

22          Q.     And why is that?

23          A.     I like him. We get along well.

24          Q.     Now, this may have been State officials  
25 there that you don't recall?



1 A. Yeah I don't recall. 09:47:10

2 Q. But this unveiling it was a big day?

3 A. Oh, it was huge. The big event going on in  
4 that county at that time.

5 Q. Did you see in that photograph or do you see 09:47:22  
6 Fred DeLuca?

7 A. No.

8 Q. Did he show up?

9 A. No, he didn't.

10 Q. I've heard talk about a concept that was 09:47:37  
11 built into this project, the green concept. Are you  
12 familiar with that?

13 A. Yes. That was one of the cornerstone idea  
14 that Anthony had was to make this very green and what  
15 I mean by that it would be energy efficient, it would 09:47:59  
16 use the latest techniques to take advantage of  
17 sunlight and natural environment and trying to get the  
18 buildings to be lead certified with leadership and  
19 what is it called -- I forget what it stands for,  
20 energy and efficiency design and so forth. 09:48:26

21 Q. As a matter of fact speaking of the green  
22 design and green concept, were you familiar with the  
23 work of this project involved that received an award  
24 from the President Clinton's climate initiative?

25 A. Yes they did. They were chosen. 09:48:55

1 Q. What is that about. 09:48:58

2 A. Well, President Clinton has gotten involved  
3 a lot in that area, about promoting the green dough  
4 signs and the use of less energy and all of those  
5 designs related to it. I didn't describe all of it. 09:49:27  
6 He has a prestigious organization and he actually gave  
7 Destiny an award.

8 Q. Was this a local award or was it an  
9 international?

10 A. It was international. 09:49:40

11 Q. That was given to this project by a former  
12 president of the United States of America?

13 A. That's true.

14 Q. Mr. Quentel, was the Audubon Society a part  
15 of this venture? 09:49:56

16 A. Well, when you say a part they were very  
17 interested in it. The head of Audubon in Florida, may  
18 be a national figure right now, he was brought by  
19 George Wilson to meet with the development team. I  
20 was at that meeting. 09:50:22

21 Q. That was a pretty big deal?

22 A. Yeah, because if we could get their support  
23 for what we're doing, you know, that was a lot of  
24 weight that carried at the State level.

25 Q. Could you explain to the jury what the 09:50:39

1 Audubon Society was about. 09:50:40

2 A. Well, Audubon Society was named after John  
3 James Audubon who was the famous patentor of wildlife,  
4 you know, of birds in America and his -- the  
5 organization named for him was created years and years 09:50:59  
6 ago to provide maintenance of bird life and habitats  
7 and unusual species, rare species to make people  
8 familiar with them.

9 Over the years the organization has evolved  
10 into one of the most prestigious environmental groups, 09:51:31  
11 in other words it predates all these things like  
12 nature conservancy and other groups. It has  
13 interesting attitudes about development. One of them  
14 is they don't care how tall you get as long as you  
15 don't disturb the birds' habitat. They saw this with 09:52:01  
16 preservation areas that had been laid out by the team  
17 of consultants as doing that. In other words the  
18 wetlands areas and the areas where different types of  
19 unusual species lived and bred and so forth and so on,  
20 these would be preserved. 09:52:33

21 So there were birds of enormous density on  
22 the land.

23 Q. So they were on board?

24 A. When you say they were on board, they're  
25 kind of a tricky bunch. They will tell you they're on 09:52:47

1 board and they'll be on board the day they tell you,  
2 but they're wily.

3 Q. You stray way from them --

4 A. Something they don't like, be your worst  
5 enemy.

6 Q. So how would you describe what kind of time  
7 an effort went into the planning and implementation of  
8 the ideas and the vision of putting this town  
9 together?

10 MR. HUTCHISON: Objection, form and  
11 foundation.

12 A. It was a total effort. I know Anthony was  
13 doing some other things at the time, but it was a  
14 total fobbing focus of everybody in the consulting  
15 group. It was a big job. It is not an unusual things  
16 to have set backs and problems and we believe that we  
17 were over coming those, not run out of patience and  
18 persistence.

19 Q. How would you describe the project then in  
20 terms of -- was this dream on its way? Was it coming  
21 together?

22 MR. HUTCHISON: Objection, form.

23 A. Yes, it was.

24 Q. Was it making progress?

25 A. Yes.

1 THE COURT: Why don't we go at this point 09:54:41  
2 since we have a natural break in the tape, go  
3 ahead and take our morning break. It will be for  
4 15 minutes folks and it will likely be the only  
5 break we're going to take today unless there is a 09:54:52  
6 convenience issue that is needed from our jury  
7 and for our court reporter who will let me know  
8 about that. I'll be glad to take another one if  
9 needed.

10 All right, so please don't talk about the 09:55:05  
11 case. Don't allow anybody to speak to you about  
12 it. Don't use any form of electronic devices or  
13 other -- I didn't ask anyone to stand. I've  
14 left-hand reminded you once not to do that so the  
15 jury's attention is not diverted from what I have 09:55:25  
16 to say. Thank you again.

17 Please do not use any form of electronic  
18 devices or other means of communication to  
19 discuss in any fashion your jury service.  
20 Anything having to do with this case, any of the 09:55:41  
21 issues or any of the participants in the matter.

22 Again thank you for your service and  
23 sacrifice. Thank you to our courtroom personnel.  
24 We'll see you back at 10:10. Thank you folks.

25 (Whereupon the jury retired from the 09:55:58

1 courtroom and the following proceedings were  
2 had:)

3 THE COURT: The reason I don't want the jury  
4 distracted there has been numerous instances in  
5 this community that jury distracts has been the  
6 result of mistrials and other issues. If this  
7 jury is distracted from my instructions and they  
8 use that as an excuse then this Court is on the  
9 line L please follow my instructions.

10 We'll be in recess.

11 (Whereupon a recess was taken.)

12 THE COURT: Can you bring in the jury.

13 MR. HUTCHISON: Can I bring up one thing.  
14 We're going to public a document in our phase and  
15 there's an email in the chain that talks about  
16 the loan. We have a redacted version.

17 Mr. Mariani disagrees with it. I don't want to  
18 be inconsistent with your prior ruling. This is  
19 the section that talks about the loan. We're not  
20 going to use that email in our question of  
21 Mr. Quentel and it talks about the loan and I  
22 don't want to be inconsistent with your motion in  
23 limine or open the door to it.

24 THE COURT: Mr. Morrell. Sam De Giacomo is  
25 who please.

1 MR. HUTCHISON: He was a representative of 10:15:34  
2 Mr. Pugliese.

3 MR. MARIANI: He worked on the project, Your  
4 Honor.

5 THE COURT: I just want to know who is who 10:15:38  
6 again because there's so many different names.

7 MR. HUTCHISON: San Giacomo would be on  
8 Pugliese's.

9 THE COURT: Okay.

10 MR. HUTCHISON: This is the proposed 10:16:05  
11 redaction. This is the proposed redaction of  
12 that email.

13 THE COURT: And what is the intent.

14 MR. HUTCHISON: This is the email I want to  
15 show him about the 25/75. 10:16:30

16 THE COURT: Can we just take out the next  
17 part or why would we need that next page in.

18 MR. HUTCHISON: Well, the front page is all  
19 I want to use.

20 THE COURT: Well, then excise it from the 10:16:43  
21 second page.

22 MR. HUTCHISON: And then the front page has  
23 a couple of redactions because I think the reline  
24 continued over.

25 MR. MARIANI: For completeness of the 10:16:53

1 document we would say no redaction on the exhibit 10:16:56  
2 being introduced.

3 MR. HUTCHISON: It's a different topic.

4 MR. MARIANI: Either all of the document or  
5 none of the document in terms of their 10:17:08  
6 admissibility. Into the redactions are of the  
7 loan.

8 THE COURT: Is he going to speak to the  
9 second page as well.

10 MR. HUTCHISON: No only the front page. 10:17:50  
11 We're only asking about the --

12 THE COURT: I don't see a problem with the  
13 front page to be introduced for the purpose it's  
14 being sought to be introduced, because it has to  
15 do with the 75/25 and it's relevant. So what I'm 10:17:59  
16 going to do -- I don't want this redaction. It's  
17 of no evidentiary consequence. So the second  
18 page would not be -- are you just seeking to have  
19 it admitted or shown to the jury.

20 MR. HUTCHISON: Both. Public the first page 10:18:16  
21 with those couple black lines on it.

22 THE COURT: Why are the black lines on  
23 there.

24 MR. HUTCHISON: Because I think it's the  
25 reline. It's the reline, you know, the subject 10:18:24



1 matter line. It just gets forwarded on as you go 10:18:27  
2 back an forth. They're talking about another  
3 subject.

4 THE COURT: Just like I say I'll admit the  
5 first page, the second page is of no evidentiary 10:18:48  
6 value.

7 MR. MARIANI: Okay, over objection. It will  
8 be admitted with the redacted line.

9 THE COURT: With the redacted line. I mean,  
10 I don't see why we need to have the line 10:19:01  
11 redacted.

12 MR. MARIANI: Exactly.

13 THE COURT: I don't see a reason. Why can't  
14 we just have a copy made of the unredacted  
15 version and that's fine. 10:19:12

16 MR. HUTCHISON: There's the two.

17 THE COURT: Let's do it that way. We don't  
18 need to have it redacted.

19 MR. HUTCHISON: Just use page one of the  
20 original. 10:19:20

21 THE COURT: Use page 11 and excise page two.  
22 If there's an objection to page two, page two  
23 will not be admitted in its redacted form because  
24 it doesn't have any content.

25 MR. MARIANI: And Your Honor, we'd like to 10:19:34

1 invoke the rule so any parties not  
2 participating --

10:19:37

3 THE COURT: Well, you know, it's a bit late  
4 now, because there have been witnessed who have  
5 been called and who have been subject to  
6 testimony, as Ms. Stumberger and Mr. Quentel. So  
7 I don't know how effective that rule is going to  
8 be. Do you have any objection to the late  
9 requested rule of sequestration.

10:19:45

10 MR. HUTCHISON: At this point in time the  
11 purpose of the rule has been undermined and I  
12 think it's too late.

10:20:05

13 MR. MARIANI: We can invoke the rule at any  
14 time in the proceedings.

15 THE COURT: I don't know about that. Do you  
16 have a case that suggest that's or not? I've  
17 never had that happen before. Anytime the rule  
18 is sought to be invoked it's been invoked at the  
19 inception of the testimony or before that.

10:20:14

20 MR. MARIANI: There's no authority that  
21 suggests that's the only time.

10:20:27

22 THE COURT: I don't know if there is or  
23 isn't. I'm not certain that you have authority  
24 that suggests it or not, but again, the rule is  
25 significantly eviscerated if you come in during

10:20:38

1 the trial after two witnesses have testified and 10:20:42  
2 now are seeking to sequester those who may have  
3 been subject to that testimony who are  
4 nonparties.

5 So I'll have to take a look and see what 10:20:57  
6 we're going to do right now, but right now I'm  
7 going to defer ruling on as such time case law is  
8 provided to me one way or the other as to the  
9 rules administration and whether it is in fact  
10 eviscerated in whole or in part by the fact it 10:21:10  
11 was requested in a tardy fashion.

12 MS. HOFFLER: If I could add, to my  
13 knowledge and opposing counsel can confirm this,  
14 the only witnesses that have been in the  
15 courtroom have been parties. 10:21:23

16 THE COURT: I don't know that and I don't  
17 know if anybody knows that. We've had a myriad  
18 of people in this courtroom, they're all welcome  
19 to be here, they have not been sequestered and I  
20 don't know and I can't parse out and I'm not sure 10:21:33  
21 anybody can parse out who is who and whether  
22 anybody came in at any time that could have been  
23 missed by any counsel, including yourselves.

24 You're sitting with your back to the audience,  
25 which is appropriate and I don't know who is who. 10:21:48

1           You've obviously had difficulties with names           10:21:53  
2           in the past, so I'm sure not only as to who the  
3           people are, but I have no idea who they are by  
4           face.

5           MR. GARY: Your Honor, can we do it going           10:22:05  
6           forward.

7           THE COURT: I'm not going forward. Like I  
8           said until the case law is presented to me that a  
9           tardily requested invocation of the rule of  
10          sequestration where there has been and there will           10:22:13  
11          be representation business counsel under oath  
12          that they have no knowledge of anyone who has  
13          been sitting in this courtroom who have been  
14          exposed to Ms. Stumberger and/or to Mr. Quentel's  
15          testimony and who may be called as a witness in           10:22:27  
16          this case, if all of those safeguards are  
17          provided to the Court then I'll consider it.

18          Bring in the jury, please.

19          THE BAILIFF: Yes, sir. Jury is entering.

20          (Whereupon the jury entered the courtroom           10:23:17  
21          and the following proceedings were had:)

22          THE COURT: Thank you, women back ladies and  
23          gentlemen. Thank you for your service and  
24          sacrifice. We're going to continue with the  
25          testimony of Mr. Quentel and I'll remind you as I           10:23:24

1 did earlier in any instructions and that is to  
2 consider the testimony of the witness as if the  
3 witness appeared live.

4 Thank you very much. Sir, you may continue.  
5 Thank you very much.

6 Excuse me, sir. Please listen carefully,  
7 folks. I indicated I would be providing a letter  
8 for each of you. There were no restrictions,  
9 everyone is going to get a letter. I don't know  
10 why I get three people who now indicate to me  
11 that they need a letter. So again, kindly follow  
12 the directions of the court so that I don't need  
13 to take up your valuable time and having to  
14 repeat myself again unnecessarily.

15 Thank you very much for your continued  
16 service.

17 Q. Did you believe in the project?

18 A. Yes.

19 Q. Why did you believe in it?

20 A. Well, I guess all the things that you've  
21 been talking about before, you had a wonderful piece  
22 of property and a very strategic location. You know,  
23 they say the real estate valuation, it's location,  
24 location. Some, it had the location. It had the  
25 clean slate, meaning you could do with it what you

1 wanted to do, which meant you could respect the 10:24:50  
2 natural beauty of the property. You could develop it  
3 with using all kinds of modern transportation. So  
4 everything from pedestrian paths to light rail. You  
5 could make it convenient for people to live there and 10:25:15  
6 you could make it convenient to work there and there  
7 was a tie-in with universities that were asked to  
8 bring research facilities there and the idea that they  
9 would be offered campuses there for the that research  
10 purpose. 10:25:46

11 You had a sufficient amount of land to do  
12 all this and you had a willing county that would have  
13 loved to have seen development at the south end of the  
14 county where all up to that time had taken place as  
15 really an extension of Orlando, running down close to 10:26:06  
16 Kissimmee and over into celebration and so on and they  
17 wanted some activity in the south end of the county.

18 Q. New at some point this deal was closed on.  
19 You were involved with that to some extent were you  
20 not? 10:26:45

21 A. Yes, as a lawyer.

22 BY MR. HUTCHISON:

23 Q. The first time you met Anthony Pugliese was  
24 in 2004; is that right?

25 A. Yes, that's right. 10:27:05

1 Q. You've been a lawyer for how many years? 10:27:07

2 A. Since 59's. So how many years, 51 this  
3 year, 52.

4 Q. Now, you as lawyer you don't get into the  
5 financial feasibility of real estate ventures do you? 10:27:25

6 A. No, sir I do not.

7 Q. And with respect to the 27,000 acres in  
8 Yeehaw Junction, did you give any opinions as to the  
9 financial feasibility of the Yeehaw Junction or  
10 Destiny project? 10:27:40

11 A. You say did I give any? No, no, I did not.

12 Q. Did you review any prefinancial feasibility  
13 studies during the due diligence phase of the purchase  
14 of the Yeehaw Junction property?

15 A. No. 10:28:03

16 Q. Are you aware of whether any were done?

17 A. I am not aware.

18 Q. Tell us who Tom San Giacomo is?

19 A. Tom San Giacomo worked for Anthony Pugliese  
20 and they have been friends for decades. 10:28:25

21 Q. Dave Worroll WORROLL. Who is he?

22 A. He's a financial person, controller or  
23 something like that and he was the interface the  
24 matters of finance.

25 Q. Was he working on behalf of Fred DeLuca in 10:28:46

1 the Land Company of Osceola County in the purchase of  
2 the Yeehaw Junction property?

10:28:51

3 A. Yes, he was.

4 Q. LCOC is a limited liability company?

5 A. Yes, it is.

10:29:03

6 Q. It has two members?

7 A. Right.

8 Q. One member is FD Destiny and that stands for  
9 Fred DeLuca, the FD, correct?

10 A. Right.

10:29:13

11 Q. And the other one is AVP Destiny LLC,  
12 correct?

13 A. Correct.

14 Q. AVP Destiny was to contribute 25 percent and  
15 FD Destiny was to contribute 75 percent of the  
16 additional costs, correct?

10:29:21

17 A. Right.

18 Q. Let me show you Exhibit 26. That's an email  
19 from you to San Giacomo, the front page of Exhibit 26?

20 A. Yes. Uh-huh.

10:30:14

21 Q. And you write." Under the operating  
22 agreement for Land Company of Osceola County LLC,  
23 section 5.3 on page 15, capital contributions are in  
24 the ratio of 75 percent by the FD entity and  
25 25 percent by the AVP entity until August 10th, 2010

10:30:30



1 when they become 50-50."

10:30:34

2 That's what you write, correct?

3 A. Yes.

4 Q. And you understood Dave Worroll worked for  
5 floc didn't he?

10:30:47

6 A. Yes, he did. Okay, I read that.

7 Q. And you were looking at the sequence in  
8 Exhibit 267, the second email from the top, which is  
9 also the bottom email on the page is from Tom San  
10 Giacomo to Dave Worroll WORROLL and Joe Esposito and  
11 Fred DeLuca dated June 21st, 2007. Do you see that?

10:31:02

12 A. Yes.

13 Q. And that email from Tom San Giacomo is after  
14 the email you sent to Mr. Gentleman month on two itch.  
15 He essentially takes your language and write

10:31:28

16 Mr. Worroll and writes that the operating agreement  
17 for Land Company of Osceola County, section 5.3 on  
18 page 15, capital contributions not ratio of 75 percent  
19 by the FD entity and 25 percent by the AVP entity  
20 until August 10th, 2010, when the they become 50-50  
21 which is the language you wrote in the email to him,  
22 correct?

10:31:47

23 A. Yes.

24 Q. Okay. And that was your understanding of  
25 how the future cost, operating costs of LCOC were to

10:31:56

1 be funded, correct?

10:32:02

2 A. Correct.

3 Q. And then after sending it to Dave Worroll,  
4 Mr. San Giacomo forwarded that email to you which is  
5 the top email on Exhibit 267, correct?

10:32:15

6 A. Right.

7 Q. He sent it to Anthony Pugliese and to you,  
8 correct?

9 A. Correct.

10 Q. I show you had Exhibit 275. It's an email  
11 from Julie Kendig, KENDIG. Who is Julie Kendig?

10:32:28

12 A. She's one of the shareholders in our Orlando  
13 office. She's an expert in zoning and what we  
14 generally have been calling entitlements. In other  
15 words to get the property so it was buildable.

10:32:48

16 Q. So she works for Greenberg Traurig?

17 A. Yes.

18 Q. This is an email from Julie Kendig to Tom  
19 San Giacomo, including others. It's Exhibit 25. Take  
20 a look at that?

10:33:08

21 A. This was March 2005. So it was after the  
22 contract was signed. Good letter.

23 Q. I said Julie Kendig, KENDIG it's actually  
24 hyphen Schrader, SCHRADER. What is her specialty?

25 A. In entitlements especially in Osceola

10:33:33

1 County.

10:33:36

2 Q. So when you use the word entitlements what  
3 does entitlements mean?

4 A. It means the comprehensive manual case that  
5 this property would be developed. It means zoning on  
6 the property, in setting forth the various land uses  
7 that the ultimate design showed to be employed and it  
8 means obtaining water approvals from the water  
9 management district. In this case it was in two  
10 districts, but we believe one of them would cede the  
11 authority to negotiate the aspects of the water plan  
12 to one of the other -- to one of the specific  
13 agencies.

10:33:50

10:34:18

14 And it means clearing transportation issues  
15 with the Department of Transportation and generally  
16 enabling the property to have lots or development  
17 parcels that could be sold to builders.

10:34:39

18 Q. And one large part of that so to increase  
19 the number of units that can be build on the property?

20 A. Absolutely.

10:35:01

21 Q. In fact, this property when purchased was  
22 entitled or the zoned to have one unit per every  
23 five acres, correct?

24 A. Correct.

25 Q. That would be one rooftop or one house per

10:35:12

1 five acres?

10:35:14

2 A. Correct and the ultimate thing that was  
3 developed in using various strategies was -- would  
4 have put us between 60,000 and 85,000 rooftops on this  
5 Latt Maxcy of this property and the Rohde property.

10:35:29

6 Q. But that hasn't happened, correct?

7 A. That hasn't happened, correct.

8 Q. I want to talk about this letter marked 275  
9 which is attached to Julie Kendig's email?

10 A. Right.

10:35:47

11 Q. In the first email who is F CRADDOCK?

12 A. Well, that was the chief business guy for  
13 the Maxcy family and Maxcy, the person named Latt  
14 Maxcy for whom the ranch and the company was named,  
15 was deceased and the owners were then the family. I  
16 think they're name was Wilson and that was through a  
17 daughter that Maxcy had, and the head of that group  
18 was known as Pete Wilson. I'm not sure that that's  
19 his name.

10:36:11

20 But basically he hired and Craddock as his  
21 chief business person.

10:36:36

22 Harry Lerner was sort of the deputy to  
23 Craddock.

24 Q. In the next paragraph in the second  
25 sentence, Ms. Kendig writes it is estimated that

10:36:51

1 approximately 40 percent of the property contains  
2 wetlands soils."

10:36:56

3 A. Yes.

4 Q. Our review of the current -- when she says  
5 40 percent of the Yeehaw Junction property?

10:37:06

6 A. Yeah, the 27,000 acres.

7 Q. 40 percent of that was wetlands?

8 A. Yes.

9 Q. Then she goes on to right, our review of the  
10 current development entitlements for the property has  
11 determined there's a residential density allocation  
12 for the up land portion of the property of one unit to  
13 five acres."

10:37:17

14 Do you see that?

15 A. Yes.

10:37:29

16 Q. Julie Kendig goes on to write in the second  
17 page in the second full paragraph starting out." The  
18 major issue. Do you see that paragraph?

19 A. Yes.

20 Q. She says any increase in entitlement portion  
21 the property which the development team has identified  
22 resolves around Osceola County's population projects  
23 that's are contained in the comprehensive plan H do  
24 you see that?

10:37:49

25 A. Yes.

10:38:02

1 Q. Then she says the 307 layings demand for 10:38:03  
2 Osceola County is not currently sufficient to justify  
3 any significant increase in density for the property  
4 without creating a vacuum that would shift almost all  
5 available population projections away from other 10:38:14  
6 portions of the county."

7 So she was saying that I think you said this  
8 before, but Ms. Kendig is saying that essentially  
9 there's only a certain amount of allocation for future  
10 residential units and that if then titled the 10:38:29  
11 27,000 acres in the south part of the county at Yeehaw  
12 Junction, would it take away from all further growth  
13 from the north part of the growth is that accurate?

14 A. That's accurate, in other words because  
15 again what I tried to explain on that straight line 10:38:47  
16 projection, to the State Department of Community  
17 Affairs insisted on using, if you even told the county  
18 and/or developers in the county would realize what  
19 happened because they knew exactly what this Julie  
20 Kendig did in approaching this letter. 10:39:09

21 Q. Then she goes on to write: "The development  
22 team has recommended to the Pugliese Company that no  
23 public mention be made of the proposed development of  
24 the property until the populations are finalized."

25 Do you see that? 10:39:37

1 A. Yes. 10:39:38

2 Q. So that was the strategy that was  
3 implemented as best you can recall?

4 A. Well, at a certain point it was no longer  
5 viable because as part of the Department of Community  
6 Affairs' reaction Tom anything that involves any kind  
7 of change or any kind of growth, they try to delay  
8 roadblock, sabotage, otherwise prevent anything from  
9 happening. 10:39:46

10 So in fact, the EAR based amendments were  
11 not done in August, were not. They just went on and  
12 on. 10:40:23

13 Q. They were in late 2007, correct?

14 A. I don't even know when it was first  
15 developed, when it finally happened. The strategy,  
16 you know, was that we wait because we thought  
17 something was going to happen with the EAR based  
18 amendment. But I don't know how long that strategy  
19 remind viable because nothing ever what happened the  
20 heir based amendment. 10:40:40

21 Q. Well, Ms. Kendig writes these issues should  
22 be resolved between August and September of this year  
23 which I assume at that time is what she anticipated,  
24 correct? 10:41:05

25 A. Everyone anticipated, yes. Everyone 10:41:18

1 anticipated that they would happen sooner, in the 10:41:22  
2 hopes that everything was lined up.

3 Q. The second page, last paragraph, first  
4 sentence." As a result of our due diligence findings  
5 (or lack of the ability to bring same to closure at 10:41:34  
6 this time) the development team has recommended to the  
7 Pugliese Company that they request an extension of the  
8 due diligence period for the purchase of the property.  
9 I suggested extension would be a series of three-month  
10 extensions at the conclusion of each three month 10:41:53  
11 period the Pugliese Company would report back to Latt  
12 Maxcy regarding the status of the due diligence, the  
13 county's resolution of the EAR based amendment and the  
14 projects issue. Do you see that?

15 A. Yes, I do. 10:42:11

16 Q. She goes on to write during the extension  
17 period the Pugliese Company and its development team  
18 would encourage the speedy resolution of the issues  
19 surrounding the Osceola County EAR based amendment.  
20 Is that what happened? 10:42:24

21 A. No. There was no extension of the due  
22 diligence in three-no segments.

23 Q. The seller would not agree to that?

24 A. That's right.

25 Q. What about any potable water studies did you 10:42:36



1 see any of those prior to the closing on August 10th? 10:42:41

2 A. I don't remember potable water suedes, no.

3 Q. Any market studies regarding future sales  
4 did you see any of those prior to August 10th, 2005?

5 A. I don't remember. 10:42:57

6 Q. Did you see any studies regarding sue wasp  
7 treatment plants or requirements prior to August 10th,  
8 2005?

9 A. They were certainly discussed.

10 Q. Did you see a study done prior to August 10,  
11 2005 with respect to that? 10:43:09

12 A. I don't remember. No, I don't think I saw a  
13 study of it.

14 Q. Last deposition you mentioned that when you  
15 first purchased the property on August 10th, 2005,  
16 that there wasn't a set strategy going forward at that  
17 point that they were looking at various options  
18 including one was selling ranchettes, you know, small  
19 acres and ranchettes. One was selling to sell off  
20 some entitlements and sell off different pieces to  
21 builders. Do you recall that? 10:43:23

22 A. Yes, I do recall that. 10:43:41

23 Q. So when the property was purchased on  
24 August 10th, 2005, there was no guarantee as to how  
25 many entitlements, if any extra entitlements would be 10:43:55

1 obtained at all; is that correct? 10:43:58

2 A. No guarantee, I think that's true.

3 Q. It was a risk. It was a risk as to whether  
4 there would be more entitlements and if so how many  
5 entitlements? 10:44:14

6 A. That's true.

7 Q. Did you see any financial studies regarding  
8 how much it would cost to bring electricity to the  
9 property?

10 A. No. 10:44:26

11 Q. Did you see any on how to bring water or  
12 sewer lines to the property, how much that would cost?  
13 Did you see any studies on that?

14 A. No.

15 Q. At some point there was a decision made to 10:44:38  
16 seek additional entitlements or increase the density  
17 of the Yeehaw Junction property under the Rural Land  
18 Stewardship Act, correct?

19 A. Yes.

20 Q. You talked about the Department of Community 10:44:59  
21 Affairs. Ultimately they had to approve whether  
22 Yeehaw Junction was going to get additional  
23 entitlements, correct?

24 A. Ultimately, yes.

25 Q. And that is the Department of Community 10:45:10

1 Affairs would have made a decision as to whether to  
2 increase the density or allow somebody to build more  
3 units or houses on the Yeehaw Junction property?

10:45:11

4 A. Yes.

5 Q. At one point in time when LCOC was seeking  
6 additional entitlements under the Rural Land  
7 Stewardship Act or the RLS it's also called, the  
8 Department of Community Affairs insisted that LCOC  
9 work with the Latt Maxcy company. Do you recall that?

10:45:26

10 A. I do.

10:45:48

11 Q. Rural Land Stewardship Act the Urban Land  
12 Boundary was on the north end of the county?

13 A. I believe it was more like 60.

14 Q. And the Urban Land Boundary is a perimeter  
15 that extends from the current area, the more urban  
16 area in the north end of the county that they  
17 recommend growth in that boundary, right?

10:46:07

18 A. Yes.

19 Q. So the Urban Land Boundary restrictions  
20 development in the area to prevent.

10:46:35

21 A. I think that's a generally accurate  
22 statement.

23 Q. Who's Jeff Jones?

24 A. I think he is the official for Osceola  
25 County who had the title of smart growth director.

10:46:50

1 Q. Now, back to Exhibit 280 Ms. Kendig writes  
2 subsequently your client proposed to construct on its  
3 41,000 acres of property a very large city including  
4 approximately 2,050,000 people with a very large  
5 development footprint. Do you see that sentence  
6 there?

10:46:56

7 A. Yes.

10:47:18

8 Q. Let's talk about that. What they were  
9 saying in this letter is the Department of Community  
10 Affairs was not going to approve additional  
11 entitlements under the Rural Land Stewardship Act,  
12 correct?

10:47:28

13 A. For this size project, correct as well.

14 Q. When you last worked on the LCOC project,  
15 were the entitlements still one unit per every  
16 five acres?

10:47:47

17 A. As far as I know they were that way when we  
18 bought it and they remained that way, but I don't know  
19 for sure.

20 Q. To your knowledge, it's still that way  
21 today?

10:48:03

22 A. As far as I know. That may have changed,  
23 but as far as I know it is.

24 Q. The last time you would have worked on the  
25 LCOC project would have been spring of 2009?

10:48:13

1 A. Yes I think so. I don't remember the exact  
2 dates.

10:48:16

3 Q. And add least as of spring of 2009, the  
4 entitlement or zoning was still one unit per  
5 five acres at the Yeehaw Junction property, right?

10:48:26

6 A. I think so, yeah.

7 Q. Tom San Giacomo why was he fired, do you  
8 know?

9 A. Probably, yes.

10 Q. Could you tell us?

10:48:40

11 A. Well, there were certain expenditures in a  
12 related business that were not approved by the crosser  
13 or other officers involved.

14 Q. He was stealing?

15 A. I don't think he's ever been accused of  
16 stealing. I think he was accused of spending money  
17 that in ways that he shouldn't have spent the money.

10:49:06

18 Q. Did you know that Mr. Pugliese created  
19 companies and actually billed LCOC for work that  
20 wasn't done?

10:49:25

21 A. Created companies. No, I'm not aware of  
22 that.

23 Q. In preparing for this deposition did you  
24 speak to Mr. Pugliese or any of his three lawyers that  
25 are sitting here.

10:49:40

1 A. Oh, sure I've talked to all of them. 10:49:41

2 Q. And you've talked about your deposition?

3 A. Did I talk to them about the deposition?

4 You know, we had sees list conversations about, you

5 know, when it was gonna be and where it was gonna be 10:49:51

6 and all that sort of stuff.

7 Q. In preparation for your deposition, did you

8 have any conversations with them?

9 A. In preparation for the deposition.

10 Q. Did you go over any documents with them? 10:50:08

11 A. Well, wait a minute. Now, sure, we went

12 over documents at some point I think to try to get

13 ready I for the thing.

14 Q. Did you go over any of those documents with

15 any of Mr. Pugliese's lawyers? 10:50:25

16 A. Well, we had some of the lawyers, yeah at

17 one time.

18 Q. When was that?

19 A. You know, I don't remember when that date

20 was. Did you come down or no, I know Willie came down 10:50:41

21 at some point. No, not Willie, CK Hoffler. Yeah.

22 Q. CK Hoffler, she's a lawyer that works with

23 Willie Gary, correct?

24 A. Yes, yes.

25 Q. Who else came down? 10:51:00

1 A. March win porter.

10:51:03

2 Q. That's another lawyer that works with Willie  
3 Gary?

4 A. Yes, uh-huh.

5 Q. Who else came down for that meeting?

10:51:09

6 A. I think Anthony Pugliese and Doug Merrick  
7 and Edgar Belaval.

8 Q. Edgar Belaval is an in-house lawyer that  
9 works for Mr. Pugliese?

10 A. Yes.

10:51:23

11 Q. And Doug Merrick is another lawyer that  
12 works for Mr. Pugliese?

13 A. Doug Merrick, yeah, right there.

14 Q. In fact, those two gentleman are here at  
15 this deposition?

10:51:36

16 A. That's correct.

17 Q. And was that at your offices in Miami?

18 A. Yes.

19 Q. Did Mr. Pugliese or my of his lawyers tell  
20 you that Mr. Pugliese created a company called

10:51:42

21 consolidated transport consultants and build land  
22 company of Osceola County for work that wasn't done?

23 A. No, I don't know that.

24 Q. Did they tell you that they actually opened  
25 a bank account in the name of consolidated transport

10:51:59

1 consultants and dipped money from LCOC in that bank  
2 account and then took that money from that bank  
3 account and dipped it in the Pugliese Company's bank  
4 account did they tell you that?

10:52:02

5 A. No.

10:52:13

6 Q. Did they tell you they had created a company  
7 called plaque walker and associates and build LCOC for  
8 work that wasn't done?

9 A. No.

10 Q. Did they tell you they created a fake bank  
11 company for that company and dipped money from LCOC  
12 into that bank account?

10:52:21

13 A. No.

14 Q. Did they tell you they took from the bank  
15 account of Black Walker and associates and gave it to  
16 the Pugliese Company?

10:52:32

17 A. No.

18 Q. How about a company called creative  
19 solutions environmental did they tell you they created  
20 a company called creative solution environmental for  
21 work that wasn't done?

10:52:47

22 A. No.

23 Q. Did they tell you they created a bank  
24 account for that company and then dipped nine into  
25 LCOC's account?

10:52:59



1 A. No. 10:53:03

2 Q. Did they tell you this dipped money from  
3 that cook and dipped night that Pugliese bank account?

4 A. No.

5 Q. Did they tell you when you met with them or 10:53:13  
6 at any time that Mr. Pugliese had created some  
7 invoices to show that work was done for LCOC when it  
8 was really done at his house?

9 MR. HUTCHISON: Again, objection.

10 A. I don't know anything about that, no. 10:53:26

11 Q. So you were never told that invoices were  
12 created to show that work was done for LCOC even  
13 though the work was really done at Mr. Pugliese's  
14 house? You were never told about that?

15 A. No. I don't know anything about that. 10:53:39

16 Q. Were you ever told that Mr. Pugliese created  
17 invoices an had LCOC pay invoices that were for work  
18 done at his self storage facility? Were you told  
19 that?

20 A. No. 10:53:57

21 Q. Did Mr. Pugliese or his lawyers ever tell  
22 you that Mr. Pugliese was creating invoices for work  
23 that wasn't done at LCOC and paying those invoices out  
24 of LCOC funds?

25 A. No. 10:54:13

1 Q. Did Mr. Pugliese or his lawyers tell you  
2 that they submitted those invoices to Fred DeLuca, FD  
3 Destiny, to pay, to fund LCOC based on those invoices  
4 created by Mr. Pugliese?

10:54:16

5 A. No, I don't know about that.

10:54:32

6 Q. Who's Joe Reamer?

7 A. I think his title is maybe business manager  
8 of the Pugliese Company.

9 Q. They haven't gotten the money out of Yeehaw  
10 Junction, correct?

10:54:52

11 A. Right, right.

12 Q. And my question to you is that the money  
13 that was put into Yeehaw Junction Fred DeLuca paid  
14 more than 75 percent, correct?

15 A. Yeah.

10:55:01

16 Q. Now, when Mr. Pugliese ran LCOC, he hired  
17 Greenberg Traurig, correct?

18 A. Correct.

19 Q. And Greenberg Traurig -- LCOC paid Greenberg  
20 Traurig three and a half million dollars in attorneys'  
21 fees?

10:55:17

22 A. If you say so, I never added it up.

23 Q. Does that sound close to you?

24 A. It sounds reasonable. I wasn't sure if it  
25 was that or it was like \$2 million or something. But

10:55:32

1 I don't know. It was a substantial amount of money. 10:55:40

2 Q. Now, Mr. Gary asked you about some studies  
3 that were done and you mentioned hydrology and sewer.  
4 My question is those studies were not done before  
5 August of 2005 or at least as far as, you know? 10:55:53

6 A. That's correct.

7 THE COURT: While we have a break, counsel  
8 want to approach on an issue I spoke about  
9 earlier, please.

10 (Whereupon counsel for the respective 10:56:08  
11 parties approached the bench and the following  
12 proceedings were had outside the presence of the  
13 jury:)

14 THE COURT: Has anybody had the opportunity  
15 among your team while you've been listening to 10:56:20  
16 the deposition, the three lawyers aside to do any  
17 research as of yet on the sequestration issue?

18 MR. MARIANI: No.

19 THE COURT: I have, I have. Again, why I  
20 have come the a find of this material within two 10:56:36  
21 minutes and why no one from this team while  
22 they're sitting at the table, three lawyers  
23 abreast on each side and haven't taken any time  
24 to research it is beyond me. However, in any  
25 event pro force Ehrhardt speaks in section 166.1 10:56:55

1 speak to the exclusion of witnesses and cites to 10:57:06  
2 two cases one is last better vs. at the time that  
3 says it is within the discretion of the court to  
4 sequester the other is Jones vs. division of  
5 administration State Department of transportation 10:57:18  
6 which is a Fourth District Court of Appeal case,  
7 the other one a fifth district Court of Appeal  
8 case.

9 The fourth district case is from 1977 and in  
10 that case it says although it is preferred that 10:57:47  
11 the time to request the exclusion of witnesses is  
12 before any witnesses have testified, the  
13 sequestration is to aid in the fabrication as to  
14 great to automatically deny exclusions in the  
15 process of testimony at trial. 10:58:07

16 In that case that trial court indicated that  
17 he believed it erred by excluding the witness  
18 testimony after an expert witness had testified  
19 and granted a new trial.

20 The fourth district reversed saying it was 10:58:30  
21 in the trial court's discretion stood what he or  
22 she did at the trial.

23 So while I think it is a discretionary  
24 matter at this time because of the significant  
25 number of people who have been in the courtroom 10:58:42

1 and any lack of knowledge to who they were, I 10:58:46  
2 presume that the fourth district has suggested  
3 that the better way to proceed, citing a Delaware  
4 case and the treatise as it relates to the rules  
5 behind sequestration and the concept behind same 10:59:01  
6 would be to allow the request following the  
7 witness' testimony that we've had in this case.

8 So it will be counsel's responsibility  
9 hereafter to monitor whom it may be that is  
10 coming into the courtroom to determine whether or 10:59:18  
11 not they may be witnesses. As to what has  
12 transpired up to now, there's in the a whole lot  
13 I can do about it. But the rule will be invoked  
14 speak into the microphone please.

15 MS. HOFFLER: The Court folks that are 10:59:37  
16 videotaping this and you counsel has access to  
17 life feed of that and so if you could just  
18 clarify for counsel, that also means because they  
19 have access to life feed, their witnesses an  
20 experts should not be watching. 10:59:50

21 MR. HUTCHISON: I don't have a life feed to  
22 them. I didn't want them to be here at all. I  
23 didn't ask for them. They sent me an email and I  
24 intentionally did not respond. I did not want  
25 them in this courtroom. 11:00:05

1 MS. HOFFLER: I just wanted to clarify. 11:00:07

2 MR. HUTCHISON: Regarding our experts can we  
3 have our experts in the courtroom to hear  
4 Mr. Pugliese testify since these going to talk  
5 about real estate development and our expert 11:00:14  
6 about Mr. O'Leary I, have our experts or read  
7 their transcript if they can't be here that day.

8 THE COURT: Well, the rule -- of course  
9 there's objections to everything on both sides.  
10 Let me read the rule because just saying 11:00:30  
11 objection is not legally appropriate nor has any  
12 significance from a legal standpoint as well.

13 A witness may not be excluded if the  
14 witness -- I'm going to the specific  
15 subsection -- is a person who's precedence shown 11:00:45  
16 by the parties' attorney to be essentially to the  
17 presentation of the parties' cause N most cases  
18 that is an expert who will assist the attorney in  
19 terms of the expert testimony. So I'm going to  
20 grant the motion and it will apply to both sides, 11:01:03  
21 that if an expert witness is testifying, a  
22 singular expert witness may be in the courtroom  
23 and will sit behind counsel so the jury is not  
24 confused as to who that person may be and will be  
25 able to assist counsel in terms of the technical 11:01:22

1 subjects that are the subject of the expert  
2 testimony that is being provided.

11:01:27

3 MR. HUTCHISON: Point of clarification, J  
4 I'm only getting 24 hours notice. I might not be  
5 able to get an expert here in 24 hours. Can they  
6 read the transcript.

11:01:39

7 THE COURT: Yes.

8 MR. HUTCHISON: Number two that would  
9 include Mr. Pugliese's testimony since he's  
10 testifying as a developer.

11:01:46

11 THE COURT: I don't think -- I think that I  
12 am not allowing any of his testimony to be of an  
13 expert nature so the answer to that question  
14 would be no.

15 Anything else.

11:01:58

16 MS. HOFFLER: Yes, Your Honor, in the last  
17 segment of the testimony of Mr. Al Quentel with  
18 Mr. Hutchison's question it made it seem as the  
19 lawyers just because the way he framed the  
20 question sent the invoices along with the clients  
21 and I would ask the Court to have just a  
22 clarification to the jury in the event -- because  
23 the question was posed in such a way he said --

11:02:09

24 THE COURT: That request is denied. The  
25 witness is not here. The witness is deceased

11:02:21

1 he's obviously unavailable and I'm in the trying 11:02:24  
2 to all the --

3 MR. HUTCHISON: There will be redirect.

4 THE COURT: Hold on please. I need to make  
5 this clear on the record. I'm in the trying to 11:02:34  
6 be all the funny about the matter, it's not a  
7 matter of humor on just a master truth so the  
8 point I'm making is if it wasn't covered on cross  
9 examination, it may be covered by argument you,  
10 but I'm not going to intrude on the deposition 11:02:49  
11 and I'm not going to make or involve  
12 clarification of anything unless it is so grossly  
13 evident to the Court that it needs clarification  
14 to the jury. It place as it place. Thank you.

15 MS. HOFFLER: Thank you, Your Honor. 11:03:06

16 MR. GARY: Thank you.

17 THE COURT: Just for the record the motion  
18 to sequester is granted, albeit tardy based upon  
19 primarily Jones vs. division of administration  
20 case that I've cited. Thank you. 11:03:22

21 All right. You can continue the  
22 continuation of the witness' deposition, please,  
23 sir. (Whereupon the deposition continued).

24 BY MR. GARY:

25 Q. Is it save to say it's a long process when 11:03:41



1 you start with to develop a community, zoning change,  
2 environment changes?

11:03:45

3 A. It's a very long process, yes.

4 Q. Why do you see that?

5 A. Well, things take a long time and it's  
6 tedious and it requires patience and assistance and you  
7 have to stay even tougher about it because it's hard  
8 not to feel very bad when you're jerked around like  
9 the Department of Community Affairs did us.

11:04:01

10 Q. And that's to be expected isn't it?

11:04:43

11 A. Yeah, but you have to -- you know, you have  
12 to keep your even keel and just keep plugging away.

13 Q. And did Anthony Pugliese and Destiny keep  
14 slugging away even when they ran into some bumps and  
15 curves from the State of Florida in this project?

11:05:02

16 A. Yes, sir they did.

17 Q. But one comment that you made while you were  
18 being questioned just a few minutes ago, you said the  
19 State of Florida never said we're gonna block your  
20 project?

11:05:25

21 A. That's right.

22 Q. What do you mean by that?

23 A. Well, you know, first of all, they don't  
24 have the legal authority and if they did, you know,  
25 they're too afraid to come right out and say it

11:05:43

1 because you're going to sue them if they do that, if  
2 they have some preconceived ideas about your property  
3 and development that's in the what was intended and  
4 they can't do that. So sometimes they slow it down  
5 sometimes to the point of a very tortuous peace as in  
6 this case telling us the land stewardship and then  
7 deciding later on to give the land stewardship.

11:05:46

11:06:10

8 Q. And based on your knowledge and your  
9 involvement in this project, did Anthony Pugliese ever  
10 run into any situations where they just decided to  
11 shut down the project or it wasn't going to work or  
12 did they continue the fight rough the challenges?

11:06:41

13 A. Never, they never shut it down. You can  
14 look at other projects in other places as well as  
15 Florida and see that that's the attitude you have to  
16 take. You just have to keep working at it and over  
17 womaning. So that letter of objections and the ORC  
18 and so forth, that was something to over come. You  
19 had to deal with all the issues.

11:07:04

20 Q. What does ORC stand for?

11:07:42

21 A. Objections -- what was it you had.

22 Q. Recommendations and comments?

23 A. Yes.

24 Q. Sights not just an objection, they make  
25 recommendations?

11:07:51

1 A. Oh, yes. 11:07:52

2 Q. That's expected?

3 A. Yeah and they make comments. Now, the  
4 comments you have to give them an answer to. The  
5 recommendations you have to consider and say you 11:08:00  
6 consider them and you adopt that recommendation. And  
7 then the objections, you have to work it around so  
8 that they either sees their objection or the county  
9 can approve it anyway. But then under the law that  
10 was in effect then they had a rate to appeal it and it 11:08:26  
11 would go to the governor and cap net an they would  
12 decide whether or not to approve it or not.

13 Q. But as far as you know, with respect to the  
14 recommendations and the comments that they suggested,  
15 did the project led by Anthony Pugliese and his team, 11:08:44  
16 did they for the most part work with the State of  
17 Florida in trying to work through issues?

18 A. Yes.

19 Q. Was Anthony Pugliese doing that, the kind of  
20 attitude that he was going to work through it? 11:09:03

21 A. Yes, he did.

22 Q. Why do you see that?

23 A. Well, he never gives up. He's got the -- he  
24 never did in this case. He has the persistence and  
25 nimbleness of mind to let him figure out how to -- you 11:09:21

1 know, if this one particular thing won't work he'll go 11:09:27  
2 to another one and what about this, what about that,  
3 and that was the purpose of all the consultants. You  
4 would bounce ideas off of them and decide how to go.

5 Q. Now, at some point in time did you prepare 11:09:44  
6 an amended operating agreement?

7 A. Yes, sir, I did. In other words I prepared  
8 drafts of such a document. I prepared forms, and we  
9 submitted them, but in the end nothing was ever  
10 signed. 11:10:07

11 Q. And in reference to the Rohde property, that  
12 increased the size of the project tremendously, didn't  
13 it?

14 A. Yes, sir it did.

15 Q. And what was the significance of that as it 11:10:19  
16 related to the first operating agreement?

17 A. Well, the first operating agreement, the  
18 27,000 acres, all south of State road 60, which is the  
19 main thoroughfare that runs from Yeehaw Junction, to  
20 the Turnpike and also the confluence of U.S. 441 11:10:43  
21 there, west to frost proof and that area.

22 Our land, the 27,000 acres, was all on the  
23 south side of state road 60.

24 The Rohde land was on the north side of  
25 state road 60 and it would give them a much more 11:11:07

1 easily developable property that Anthony's concept of 11:11:16  
2 it which the Rohde family agreed, which was if you put  
3 the two of them together, you wound up with  
4 entitlement of mortgage that's called a collective  
5 property of 41,000 acres and you would end up with the 11:11:42  
6 27,000 approved, plus the 14,000.

7 Q. So did you think it was a good idea?

8 A. Yes.

9 Q. Now, obviously this was going to almost  
10 do you believe the size of the deal, the venture, is 11:11:59  
11 that correct?

12 A. Yes. There were a number of reasons to have  
13 an amendment to the opt rating agreement.

14 Q. Tell the jury what was some of those  
15 reasons? 11:12:15

16 A. Well, one of the reasons was as Land Company  
17 of Osceola County was set up, it was 50 percent owned  
18 by Anthony Pugliese and 50 percent owned by Fred  
19 DeLuca. It was so desirable to give incentives to  
20 certain of the key employees that would be working on 11:12:36  
21 it and that would be a small percentages with the  
22 control remaining in both -- you know, in Pugliese and  
23 DeLuca T small percentages would go to employees such  
24 as Sam San Giacomo.

25 Q. And Randy Johnson? 11:13:00

1           A.     Well, Randy Johnson later. Randy didn't  
2 come in until later on. And then at a certain point  
3 it was thought that, you know, as actually if I recall  
4 it, as I recall it, I recall this very specifically,  
5 Joe Esposito, one of the lawyers of the Subway who was  
6 representing DeLuca on the legal side of things said  
7 that Fred DeLuca wanted some percentage put in for  
8 Fred also.

11:13:03

11:13:26

9           Q.     Fred DeLuca wanted the also?

10          A.     Yes, so that was revision was also made.  
11 There was also a necessity to revise it because of the  
12 Indian River County land. Now, most of the land from  
13 Latt Maxcy a you in Osceola County. A little bit was  
14 across the other side of U.S. 441 and the Turnpike,  
15 and that was -- well, it may not have been the  
16 Turnpike, but it was across 441, and that land ran  
17 into Indian River County.

11:13:53

11:14:17

18                     Under the rules that were applicable to  
19 development, if a person were to have a development in  
20 two counties you had to go through both county  
21 commissions and both planning staffs, both of them,  
22 and they would be, you know, treated together. So it  
23 was very important to get did Indian River County land  
24 separated in a way that would not be under the rules  
25 of the Department of Community Affairs, aggregated and

11:14:38

11:15:07

1 that was called aggregation. In other words if the 11:15:11  
2 land owner owned to parcels that were basically and  
3 went for approval of one, they would make him put the  
4 other one with it to get it all approved.

5 So that was devised to sell that to Fred 11:15:26  
6 DeLuca's son and to Anthony Pugliese's son, 50-50 in a  
7 separate limited liability company, and that needed to  
8 be covered.

9 And then there was another reason because of  
10 the Rohde deal. 11:15:58

11 Q. And when you say raising it, it was for  
12 making changes in the operating agreement?

13 A. Yes, sir. At some point along and you know  
14 you've got to -- everyone has to remember that when  
15 this was going on every time we had one of these 11:16:18  
16 meetings Fred Florio was sitting there and --

17 Q. Where was Fred DeLuca?

18 A. Well, Fred DeLuca was we don't know where,  
19 but he wasn't with us.

20 Q. Did he ever show up for any meetings that 11:16:32  
21 you know of?

22 A. He never showed up for a meeting with the  
23 development team. I have seen him in Anthony's office  
24 in Delray.

25 Q. I'm just talking about the meetings with 11:16:50

1 development team. Did you ever see Fred show up for  
2 one single meeting?

11:16:52

3 A. No, sir, I did not. Basically we always  
4 understood and Florio let it be known that he was  
5 the -- he call himself the Dr. No. If there was going  
6 to be something turned down for DeLuca, he would do  
7 it.

11:17:05

8 Q. Okay.

9 A. He was there all the time. So in connection  
10 with these meetings, you know, that went on we said  
11 okay this is what we need to do in the Indian River  
12 County land and that was another thing that should  
13 have been in an amendment to the operating agreement.

11:17:19

14 Q. How many different revisions did you have  
15 going back and forth, back and forth of dealing with  
16 the amendments that were proposed and suggested and  
17 needed to be made to this agreement? How many?

11:17:42

18 A. I happen to know the figure because I looked  
19 at it one day. When we do a document, it has what's  
20 called a library, which is the file you know. In this  
21 case and it has a document -- and each time you revise  
22 it there's a document number and there's a V and  
23 there's the version number and the last time I  
24 remember looking, we were up to 17 versions.

11:18:13

25 Q. Did Fred DeLuca ever sign, to your

11:18:53



1 knowledge, did he ever sign the proposed amended -- 11:18:57  
2 amendments to the document?

3 A. No.

4 Q. Based on your knowledge, did he lead Anthony  
5 to believe he was going to do it, were you all under 11:19:21  
6 the impression that you were working back and forth  
7 together so it could be signed?

8 A. On several occasions Joe Esposito had told  
9 me that he had the document." Teed up for Fred's  
10 signature. By teed up I mean that to mean that Fred 11:19:38  
11 DeLuca was going to sign.

12 Q. And this would be a year, several years  
13 after closing, the original closing?

14 A. It went on and on with these different  
15 things were going to happen. 11:20:04

16 Q. And Fred DeLuca never stepped up to the  
17 plate and signed the amendments to the operating  
18 agreement?

19 A. No.

20 Q. That were the topic of 66. He never did? 11:20:17

21 A. He never did.

22 Q. Tell the jury what you meant when you said  
23 that there was a hundred percent approval, a unanimous  
24 vote by the county commissions?

25 A. That's right and they were all in favor of 11:20:35

1 it. And that was -- you know, would it mean so many  
2 things to them. Like it with mean -- they final get  
3 some development in the southern end of the county,  
4 without piling up everything around the Kissimmee and  
5 Orlando suburb. It with mean their tax roll would  
6 increase. The tax assessor at that kick off luncheon  
7 that we talked about the last time, got up and said  
8 when a wonderful thing it would be for increasing the  
9 tax roll and giving the county more money to do things  
10 with, and it would give something to very important  
11 citizens to the family, they were the Rohde family.

12 The county commission everyone I ever talked  
13 to about it and as expressing to me were that they  
14 thought that Destiny would be would be a defining  
15 experience for the county, one that would affect the  
16 county for the next 50 years or more in very  
17 beneficial ways by having a beautiful planned  
18 community at their southern reaches and benefiting  
19 people with places to live and new things to do with  
20 the county.

21 Q. When Fred DeLuca pulled the plug on the  
22 funding, when he stopped the funding of this project,  
23 was Anthony an his team making progress on getting  
24 this will project approved and passed by the various  
25 State agencies that they needed? Were they making

1 progress?

11:22:51

2 A. Yes.

3 Q. Why do you see that?

4 A. Well, the part of the process with the State  
5 is you have to appease them in certain ways. You have  
6 to, you know, concede certain things to them, and by  
7 asking for 100,000 units when we had, you know, the  
8 need significantly less and could have lived with, you  
9 know, 60,000, you would look like you gave victories  
10 to the planners that they had accomplished something.

11:23:00

11 You just had to keep wearing them down and you might  
12 have had to wait till a new administration took  
13 office. Pelham didn't seem to be going anywhere and  
14 didn't seem to have support at the political levels  
15 where he needed to be namely, the governor.

11:23:28

11:23:58

16 Q. Now, now, there was a question about studies  
17 that were done or not done. One was I think there was  
18 a water management study and I think you indicated you  
19 didn't know -- you didn't know whether one was done or  
20 not?

11:24:19

21 A. Well, that was before, before, you know, in  
22 terms of the due diligence before closing. There were  
23 all kinds of studies done, including every kind of  
24 water management and the other things that  
25 Mr. Hutchison was asking about, hydrological and this

11:24:36

1 and that. We knew where the water would flow. We  
2 knew everything about the water.

11:24:43

3 Q. Do you know anything that would stop Fred  
4 DeLuca from doing any studying of his own if he wanted  
5 to?

11:25:02

6 A. Nothing, no, sir.

7 Q. Do you know of any he did?

8 A. No, sir.

9 Q. Even though Anthony Pugliese secured this  
10 property before he met Fred DeLuca, Fred DeLuca still  
11 came in with a 50 percent interest in all the equity  
12 that that property had any time to do S that your  
13 understanding?

11:25:14

14 A. Yes.

15 Q. Best you know from day one from start to  
16 finish in terms of sweat equity, running the business,  
17 coordinating the project, meeting with the State  
18 agencies, hiring the experts, the day-to-day sweat  
19 labor, when it comes to Pugliese and Fred DeLuca based  
20 on all the knowledge you have of this project, tell  
21 the jury, who was getting it done? Who was out there  
22 in the trenches making this happen?

11:25:28

11:26:00

23 A. Well, it was Anthony a hundred percent and  
24 Fred DeLuca zero percent.

25 THE COURT: Is that the end.

11:26:20

1 MR. MARIANI: Yes, Your Honor. 11:26:23

2 THE COURT: Okay, that ends the testimony of  
3 Mr. Quentel, thank you.

4 Next witness, please.

5 MR. GARY: Your Honor, at this time we'd 11:26:32  
6 like to call Mr. Fred Florio to the stand,  
7 please.

8 THE BAILIFF: sir, if you'd stay here and  
9 be sworn by the Judge.

10 THE COURT: Raise your right hand please. 11:27:25

11 Thereupon:

12 ALFRED FLORIO

13 was called as a witness and having been first duly  
14 sworn, was examined and testified as follows:

15 THE WITNESS: I do. 11:27:28

16 THE COURT: Very well. Take the stand  
17 please watch your step there are stairs there.  
18 When the witness is seated Mr. Gary you may  
19 proceed, sir.

20 The microphone the movable at the stem and 11:27:47  
21 the base so if you need to bring it closer we'll  
22 see how it goes. Go ahead, sir.

23 DIRECT EXAMINATION

24 BY MR. GARY:

25 Q. May it please the Court, Your Honor. 11:27:59

1           Sir, would you state your full name or just           11:28:01  
2 introduce yourself to the jury please?

3           A.   Alfred Anthony Florio -- it's Alfred Anthony  
4 Florio.

5           Q.   Can you turn it up just a notch.           11:28:29

6           THE COURT: Sneak the microphone you should  
7 be fine.

8           Q.   Speak into the microphone please, sir.  
9 Let's try it again. Tell the jury your name, please?

10          A.   Alfred Anthony Florio.           11:28:46

11          Q.   And where do you live?

12          A.   Coral Springs, Florida.

13          Q.   And how long have you lived there?

14          A.   On an off, since 1972.

15          Q.   Tell us where were you born?           11:29:05

16          A.   Northern New Jersey.

17          Q.   And you went to high school there?

18          A.   West orange high school.

19          Q.   And you worked with Fred DeLuca for many  
20 years, correct?           11:29:31

21          A.   16 years.

22          Q.   And before we get into your work with Fred  
23 DeLuca, Fred DeLuca as a matter of fact how did you  
24 all meet?

25          A.   I met Fred in 1985 with the international           11:29:49

1 franchise association. We were both franchise or and 11:29:56  
2 we were members of this association out of Washington  
3 DC.

4 Q. And before I get into your relationship with  
5 him and we'll talk about that, let's just so the jury 11:30:15  
6 can get a little insight on you growing up and what  
7 how did you get to the business of being in the  
8 franchise business. Give us the benefit of your  
9 educational, background and training.

10 A. Actually, I was -- I went to high school, I 11:30:38  
11 was graduating high school. Actually I was going to  
12 go to college. My vision was to be either a tax  
13 attorney or a tax accountant. My last year in high  
14 school I got hurt playing sports and I had a lung  
15 problem. I punctured a lung and by the time I got out 11:31:01  
16 of school, then I could not go to -- way to school. I  
17 was coming down to the University of Miami.

18 So I ended up staying in New Jersey and  
19 going to fairly dick son, which is in Madison, New  
20 Jersey. I went there, I started playing sports again. 11:31:23  
21 After the first semester it's hard for me to talk  
22 about this even now, but I blew out a lung and I ended  
23 up having to have a some surgery which made me blind  
24 for a while, and then I had to have a this surgery.

25 So all of a sudden my whole career was gone. 11:31:52

1 I wasn't able to go back to school for about a year 11:31:58  
2 because I couldn't read and I ended up going to barber  
3 school, to be a haircutter because after convalescing  
4 for a year, I didn't know what to do so I couldn't be  
5 a carpenter because I couldn't care wood with my lung 11:32:16  
6 problem, I couldn't be an electrician, I couldn't go  
7 into an attic, I couldn't be a plumber, carry a tub.

8 My mother had a cousin who happened to be a  
9 barber in Washington DC for Eisenhower -- letting you  
10 know how old I am, Eisenhower and Nixon and he said 11:32:36  
11 did you think of going to haircutting school, be a  
12 cosmetologist.

13 So here I was an aspiring college kid ended  
14 up being a barber, not that there was anything wrong  
15 with being a barber, it just wasn't me. So I did that 11:32:53  
16 and I ended up from there I ended up having problems  
17 with my lung over the course of a couple of years. I  
18 decided to move to Florida where the weather would  
19 suit -- I wouldn't have to get pneumonia. I was  
20 scared. 11:33:15

21 MR. HUTCHISON: Objection, Your Honor, this  
22 is getting into a narrative and a little bit  
23 irrelevant.

24 THE COURT: Let's proceed on it, please.

25 THE WITNESS: So I came to Florida, I became 11:33:25



1 a companies me too much -- 11:33:27

2 THE COURT: What I meant by that is it's not  
3 your fault, sir. Mr. Gary if you could ask the  
4 next question please.

5 Q. So you came to Florida? 11:33:37

6 A. Yes.

7 Q. And tell the jury when you came to Florida,  
8 what kind of work did you get into?

9 A. Well, when I was 21 -- this operation was  
10 when I was 18, 19 years old. When I was 21 years old 11:33:49  
11 I bought an shop in knowledge, but when the winters  
12 came I knew I had to get out of there because I  
13 couldn't take the wents.

14 So I came to Florida, I had to go back to  
15 school I ended up teaching men's hair styling at the 11:34:04  
16 Broward college and attained my Florida license and  
17 then I became to be a consultant to the barber  
18 industry.

19 Q. Did you have your own shop?

20 A. I did, in New Jersey. I sold it when I was 11:34:18  
21 21. I bought it when I was 21, I sold it when it was  
22 24. I came to Florida, started teaching school and at  
23 that time there was a conversion. There was no more  
24 barber shops they were unisex haircutting places,  
25 there was no more men see hair styling and I was 11:34:36

1 responsible in Florida for teaching a lot of people to 11:34:39  
2 convert their shops and that was my job.

3 Q. By this time were you married with kids?

4 A. I did I had just gotten married. I was 25  
5 years old. 11:34:53

6 Q. And from there, that business, what was your  
7 next stop?

8 A. I had a brother that was -- my father had  
9 become disabled M my brother was working his way  
10 through schools in a shade manufacturing company 11:35:09

11 making regular window shades and I told him, you know,  
12 my sister had moved down, I moved my parents down. I  
13 said to my brother why don't you come down here  
14 there's no more sun than Florida. You can go into  
15 business in Florida and I'll help you. I owned him 11:35:25

16 \$1,100, he opened up a little business. I started  
17 doing his accounting and then somebody walked in after  
18 I'd been in business for about a year and said did you  
19 guys ever think about making vertical blinds. I said  
20 what's a vertical blind. Nobody knew what a vertical 11:35:42

21 blind was and we agreed to do that and then after that  
22 it was just history. The vertical blind business took  
23 off, we ended up owning five factories, we went into a  
24 franchise business opened up 127 retail stores, and I  
25 actually got a kick out of it because I'm sitting here 11:36:02

1 in the lobby here every vertical blind that's in these 11:36:05  
2 buildings I put in. So it was a very, very large  
3 business.

4 Q. Now, the 127 retail stores, were they just  
5 in the State of Florida? 11:36:18

6 A. No, we did business in 18 states.

7 Q. And how did you run 127 stores?

8 A. It was a franchise operation.

9 Q. Tell you how you put that in place?

10 A. Well, there was franchise. We decided to 11:36:32  
11 franchise. After we built our first four factories we  
12 decided -- we had people that were coming to us  
13 friends, family, relatives coming to work for us  
14 because our business had been very successful. You  
15 know, we didn't put cousins and family in making 11:36:48  
16 vertical blinds in the factory, so we decided that we  
17 would open up others and let them tell the products  
18 that we were manufacturing and we felt we could get  
19 them to move quicker, we could save them a little bit  
20 of money and that's how the franchise business came 11:37:03  
21 about.

22 I was a little familiar with the franchise  
23 business because my family, my uncles were the  
24 founders of Shop-Rite, which is a very large food  
25 business compared to like Publix and that was a 11:37:21

1 franchise in New Jersey so I was more or less brought  
2 up in the idea of that franchising existed.

11:37:24

3 Q. Did you get into any other businesses that  
4 were franchised?

5 MR. HUTCHISON: Judge, I'm going to object.  
6 Could we move along to the relevant testimony.

11:37:43

7 THE COURT: What's the relevance Mr. Gary.

8 MR. GARY: His experience and training in  
9 the franchise business.

10 THE COURT: Sustained. Let's move on to  
11 something else please.

11:37:56

12 MR. GARY: Thank you, Your Honor.

13 Q. When did you meet and how did you meet Fred  
14 DeLuca?

15 A. When I joined the international franchise  
16 association in 1985, Fred was.

11:38:13

17 Q. What year was that again?

18 A. 1985 Fred was an existing member.

19 Q. And how did that happen. Tell the jury?

20 A. They were courting us to become -- we were a  
21 very fast growing franchise. They courted us, they  
22 asked us to come to Washington DC and they took me to  
23 lunch and they were trying to get my organization to  
24 join theirs.

11:38:31

25 During the course of that meeting they asked

11:38:44

1 me if I had met Fred DeLuca and I said no. I had  
2 heard of him and the fact that we were the same age,  
3 we were brought up in the same area, I thought it  
4 would be a good I'd before I committed that I would  
5 call Fred and talk to Fred and see what they thought  
6 about it. So I call from Washington DC. I called  
7 him, I told him that I had heard about him. He said  
8 he had heard about me. I said are you free this  
9 afternoon, I'm leaving Washington DC I'd like to call  
10 you before I commit to joining this organization. And  
11 he agreed.

11:38:46

11:39:03

11:39:16

12 So I got on the next flight out of  
13 Washington, flew to Hartford and went down to Milford  
14 and talked to him.

15 Q. And what did you understand his business to  
16 be?

11:39:28

17 A. He was the founder, cofounder of Subway,  
18 which was a very fast growing sandwich chain.

19 Q. And then of course you went to Washington DC  
20 and you all met. What happened at this meeting? What  
21 happened?

11:39:46

22 A. He just assured me that it was a pretty good  
23 organization, that they were new, but he felt that  
24 they had a future and it was worthwhile to join. So I  
25 joined.

11:40:00

1 Q. Did you join? 11:40:01

2 MR. HUTCHISON: Objection, Judge relevance.

3 THE COURT: Overruled.

4 Q. Did you join?

5 A. Yes. 11:40:07

6 Q. And what happened as a result of that?

7 A. After that we sort of began a relationship.

8 The IFA had meetings every year -- every month where  
9 they would go and they would have, you know,

10 conventions. People would talk about the new laws 11:40:23

11 that were going to happen. The association was the  
12 organized franchisors.

13 At this time the franchise laws had come  
14 into effect. The federal trade commission had the  
15 authority to give you guidelines and the franchisors 11:40:40  
16 would get together and share idea, have round tables,  
17 share ideas and at that there would also be a

18 convention where every franchise or would set up a  
19 booth, people would come in and you would be able to  
20 do a dog and upon I show, explain your franchise, tell 11:41:00  
21 them what you're deal was. Then they would go to the  
22 next booth and the next guy would do the same thing.

23 Sometimes they would get 30, 40,000 people  
24 over the course of a weekend and they did this every  
25 month. So every month I would have the opportunity to 11:41:15

1 see Fred and talk to Fred and along with all the other 11:41:20  
2 franchisors.

3 Q. Tell the jury, how many years -- at some  
4 point you went to work for him and we'll get to that  
5 point, but how many years did you work for him? 11:41:32

6 A. About 16 years.

7 Q. Okay. Now, let's go back to when did you  
8 start working with Fred DeLuca and how did that  
9 happen?

10 A. Well, our business was, you know, very 11:41:47  
11 successful, so I sold it in 1988 and I think we really  
12 started began doing well, around 1978. So I had it  
13 for ten years I got an offer from a fortune 500  
14 company to buy it, I sold it. I was 40 years old and  
15 I retired. My vision was just to retire and spend 11:42:07  
16 sometime with my kids who I probably neglected the ten  
17 years while we were traveling, building our business  
18 and I did that for -- I want to tell you about four  
19 years. I just retired.

20 And then around 1992 we got back one of the 11:42:30  
21 factories that we had sold but the company ended up  
22 owing some money so we went back in the business and  
23 it wasn't the same. You know, it's never the same if  
24 you're in a business and now you want to go back into  
25 the business. Things changed. So I decided that I 11:42:48

1 wasn't going to do anything and that's when Fred had 11:42:51  
2 moved to Fort Lauderdale on a temporary basis. He had  
3 an apartment, I had my house down there and we started  
4 really now being friends, because when we talked and  
5 when we were together it really wasn't about business. 11:43:07  
6 It was more of a friendship because I wasn't working,  
7 you know, he was and I wasn't.

8           And so the time I spent with them was pretty  
9 much social.

10           Q. Now, at some point in time did you go to 11:43:24  
11 work for Fred DeLuca?

12           A. Yeah it was around 1984 -- '94 '95. He came  
13 to my house and he looked at my dining room table and  
14 there was all these different proposals, because as I  
15 retired the IFA asked me if I was willing to do some 11:43:49  
16 consulting for new members and member help out some  
17 new members. So I would say well, I'm not so sure,  
18 but send me the proposal. If I think there's any  
19 merit to the proposals I'll look at them and if I can  
20 do some consulting mechanic I can do that. If it was 11:44:07  
21 something I was interested in investing in maybe I  
22 would do that.

23           Fred came to my house and said your dining  
24 room table looks like my dining room table. I said  
25 why is that. He says people send me all this stuff 11:44:22



1 too.

11:44:25

2 At the end we decide maybe we ought to do  
3 something. Let's get an office put all these papers  
4 on a conference table and we'll go through them  
5 together and maybe we'll clear our houses up an our  
6 houses won't be a mess.

11:44:37

7 So we formed a company -- well, actually I  
8 went to work for him at first as a consultant and I  
9 was a consultant to Subway for six, eight months,  
10 maybe a year and then Fred said why don't we just --

11:44:53

11 Q. What did you do as a consultant?

12 A. Actually, I was more of a brain session  
13 thing. We had used -- while I was in business and he  
14 was in business we used the same public relation  
15 company. We shared some attorneys outside of the  
16 Subway attorneys if we had something to do  
17 international or something we would say who do you use  
18 and we would use the same people.

11:45:07

19 The marketing company, our PR company, they  
20 were the same companies. So we had a lot -- the  
21 people that he had I knew, he knew my people. So his  
22 business started really really exploding and he says I  
23 can't be every place that I have to be, people respect  
24 you, they know we're close friends, you come with me  
25 and when I can't go someplace, you can and I agreed.

11:45:23

11:45:42

1 I thought that it was a pretty good idea and he had 11:45:45  
2 what couple of concerns that he asked me to brainstorm  
3 with him.

4 He was expanding, you know, the normal  
5 franchise problems and he wanted to brainstorm how he 11:45:56  
6 might, you know, circumvent some of the problems or  
7 things that he might do.

8 Q. Okay. Now, was the sandwich business the  
9 only business he was in?

10 A. Well -- 11:46:14

11 Q. Did he have other investments?

12 A. Oh, he certainly had other investments at  
13 this time. I think well, when I was there there was I  
14 think 99 Subway affiliated companies. There was a  
15 real estate company, there was other things, real 11:46:27  
16 estate companies.

17 Q. When you say Subway affiliated, what do you  
18 mean?

19 A. Well, if I looked at the --

20 MR. HUTCHISON: Objection to relevance, Your 11:46:38  
21 Honor, at this point.

22 THE COURT: Overruled, only to the extent  
23 I'll suggest to the jury that it may impact upon  
24 Mr. Fred DeLuca's involvement in the timing. So  
25 you'll use it for that purpose only. 11:46:58

1 Do you remember the question, sir?

11:47:01

2 A. No.

3 Q. I think I was inquiring about some of the  
4 other investments other than the sub sandwich that he  
5 was invested in?

11:47:13

6 A. Well, Fred had quite a few things. He owned  
7 some real estate property. The company that signed  
8 all the leases, the company that -- there was a real  
9 estate company. There was just many things that he  
10 had and for everything that he owned and things that  
11 he owned separately, things he owned with Peter buck  
12 and Subway affiliated companies. Threw a Subway of  
13 Australia, Subway of wherever. There was company for  
14 every place that he went and there was 99 companies.

11:47:30

15 Q. Did he approach people about investment,  
16 making investments into their business?

11:47:50

17 A. Yeah, well, I mean when you're on the top of  
18 that game, which we were, I think I was in the top if  
19 not the top franchise for women in 1988. He was the  
20 fastest growing franchise around that time. So when  
21 you're in that capacity, if you went to the franchise  
22 association meeting people came up to you and they  
23 would love to talk to you, how did you guys accomplish  
24 what you've accomplished. Would you be interest, I  
25 have an idea.

11:48:11

11:48:30

1           So it got to the point where if somebody had 11:48:31  
2 an idea they would come and want to talk to us. If he  
3 had one other and they wanted ten, they would talk to  
4 us. If they had tenant wanted a hundred or if he had  
5 a hundred and they wanted to go to Brazil they would 11:48:41  
6 talk to us because we had experience in that capacity.

7           So we were constantly approached by people  
8 to look at an investment, maybe investment in it  
9 ourself or just do some consulting for them.

10          Q.    Okay. Tell the jury now at some point Fred 11:48:57  
11 DeLuca and Anthony Pugliese came together, they met;  
12 is that correct?

13          A.    Yes.

14          Q.    Did Anthony Pugliese go to Fred DeLuca or  
15 did Fred DeLuca want to meet Anthony Pugliese? 11:49:16

16          A.    Fred approached Anthony about investing in  
17 the business through a mutual friend that was a  
18 banker. Her name was Fran Saavedra and frank had  
19 exposed -- can I give you a little history there.

20          Q.    As it relates to leading up to their coming 11:49:40  
21 together to do business together, yes.

22          A.    Fran was a banker and every time she would  
23 get people that would want to go to the bank and the  
24 bank wouldn't loan them money because the bank has  
25 certain parameters -- banks only give you money if you 11:49:55

1 don't need it. So frank would say hey guys I have a 11:50:00  
2 guy that came into the bank. He has a great business,  
3 but he's not bank worthy. Would you maybe wanted to  
4 help him. Maybe you want to look at his business. He  
5 doesn't meet the bank criteria, but it seems pretty 11:50:14  
6 good.

7 So frank was doing that for us and she gave  
8 us many leads to talk to people.

9 Q. So Anthony Pugliese didn't go looking for  
10 Fred? 11:50:29

11 A. No. Fran had asked me if I would want to  
12 meet Anthony Pugliese and it was just basically social  
13 meeting. She said you know you'd probably like this  
14 guy. He's a lot like you, she's from south orange  
15 you're from west orange. And I knew of the Pugliese 11:50:42  
16 Company because we were interior designers, they had  
17 the best probably pool company. They built outside,  
18 they did landscaping they did pools so a lot of times  
19 when we got involved with doing major homes in  
20 New Jersey we would be doing the inside of the house 11:51:00  
21 and the Pugliese Company would be doing the outside of  
22 the house. But I didn't know Anthony. I met his  
23 father I met his brother-in-law, but I didn't know  
24 him.

25 One day I was in Delray she said would you 11:51:11

1 like to meet Anthony. I said yeah so I met. I met  
2 with him. I though it was a terrific thing it had  
3 nothing to do with business it had nothing to do with  
4 approaching me for anything and I left.

5 Fran said to me Anthony is a good guy. I  
6 said yeah he is. He's got really some great  
7 credentials and he's got these major projects that  
8 he's doing. She said do you think Fred would be  
9 interested in investing. I said I don't know. You  
10 have dinner with Fred, talk to Fred. Why don't you  
11 ask Fred. You see him every night.

12 Fred called me up and said you met with  
13 Anthony Pugliese.

14 Q. He said what now?

15 A. He said I understand you met with Anthony  
16 Pugliese. He said that you were kind of impressed. I  
17 said well, the guy seems very successful and the  
18 products -- projects looked very interesting. He said  
19 well, I'd like to make an appointment to meet with him  
20 and I said well, Fred it's really outside of our  
21 realm. He's a land developer. We're a franchise  
22 thing. He says well, you know, we have some extra  
23 money, he has some extra money he said and Fran seems  
24 to think it's a great deal and so that was fine. I  
25 said why don't you have Fran make the appointment.

1 Q. He said Fran thought it was a great deal? 11:52:33

2 A. He told me that Fran thought it was a good  
3 deal.

4 MR. HUTCHISON: Objection hearsay, Judge.

5 Move to strike. 11:52:41

6 THE COURT: Sustained let's not lead the  
7 witness into unnecessary testimony.

8 A. In other words so he called me and told me  
9 listen, I spoke to Fran last night and she thought  
10 that it was sounded really interesting to me. I want 11:52:51  
11 to meet with him. I said Fred why don't you have Fran  
12 schedule a meeting and if you have any interest after  
13 that, you can instruct me on what you want me to do.  
14 And so --

15 Q. Did you ever get an instruction from Fred 11:53:08  
16 DeLuca about meeting with Anthony Pugliese?

17 A. Yeah. Fred had cocktail parties. We had  
18 cocktail parties once a week, couple time as month.

19 Q. Who would have the cocktail parties?

20 MR. HUTCHISON: Objection, relevance, Your 11:53:24  
21 Honor.

22 THE COURT: Overruled.

23 A. So anyway Fred DeLuca would throw cocktail  
24 parties at his house every Friday night or whatever  
25 and he said listen to me we're going to have a 11:53:37

1 cocktail party Friday night why don't you invite  
2 Anthony down and I said again Fred why don't you have  
3 Fran do it. Fran invited Anthony and Anthony came  
4 down and at that cocktail party Fred met Anthony for  
5 the first time to my recollection and that was it. He  
6 said I would like to come by your office and they  
7 arranged for the following week for Fred to go up to  
8 Anthony's office.

11:53:39

11:53:56

9 Q. Now, these cocktail parties, did he tell you  
10 to arrange them, how would he pay -- he had different  
11 companies, right?

11:54:09

12 MR. HUTCHISON: Objection, Judge relevance.

13 THE COURT: Sustained.

14 Q. Okay. So let's move on. Let's get back to  
15 you invited him to the cocktail party?

11:54:26

16 A. Correct.

17 Q. Fred DeLuca asked you to do that?

18 A. Yes.

19 Q. Okay. And did Anthony come?

20 A. Yes.

11:54:36

21 Q. And did they get to meet and if so how did  
22 that happen?

23 A. It was just a cocktail party. When Anthony  
24 arrived I brought Fred over and I introduced them.

25 Q. Then at some point in time this business

11:54:57



1 relationship involving Destiny, you understand what  
2 that project was?

11:55:02

3 A. Yeah. Anthony had made arrangements with  
4 Fred for Fred to attend -- Fred called me and asked me  
5 if I would go with him. We went up there and  
6 Anthony -- they had a general chit chat and seemed to  
7 get along very well.

11:55:20

8 Q. When you say went up there?

9 A. Went to Anthony's office. And Anthony had a  
10 conference room, it's a very elaborate office, he had  
11 a conference room that had easels of many different  
12 projects from self storage to buildings to just land.  
13 Fred was very bested in that meeting. Anthony at the  
14 end of the meeting Fred said well, what do you have  
15 that's new and he told him he's working on two  
16 particular jobs which were very, very large.

11:55:32

11:55:55

17 Q. Now, we're at Anthony's office, right?

18 A. Yes.

19 Q. You and Fred I mean, you and Fred went to  
20 Anthony's office?

11:56:09

21 A. Yes.

22 Q. You set up the meeting?

23 MR. HUTCHISON: Objection, leading and asked  
24 and answered, Your Honor.

25 THE COURT: Agreed oath both counts. Let's

11:56:16

1 move on to something knew, please. 11:56:18

2 Q. Go right ahead. Tell us after you all got  
3 there.

4 A. Well, it was a nice meeting. Anthony told  
5 him that he was working on very, very large deal. He 11:56:27  
6 was in the middle of due diligence, there was two of  
7 them. One was to buy a recycling plant.

8 MR. HUTCHISON: Objection, Your Honor,  
9 regarding that. Sidebar.

10 THE COURT: Okay. 11:56:40

11 MR. HUTCHISON: If the court is inclined.

12 THE COURT: Step forward, please.

13 (Whereupon counsel for the respective  
14 parties approached the bench and the following  
15 proceedings were had outside the presence of the 11:56:48  
16 jury:)

17 MR. HUTCHISON:

18 THE COURT: I couldn't hear with you the old  
19 time mute coming from -- the old time horns  
20 coming from their ears. 11:57:06

21 MR. HUTCHISON: In the motion in limine you  
22 ruled the blue sky was in the admissible. We're  
23 not going to go into the whole Greensky recycling  
24 plant. Your witness is headed there.

25 MR. MARIANI: And Mr. Quentel already 11:57:20

1 testified about the recycling plant. 11:57:21

2 MR. HUTCHISON: He did very well and it was  
3 over our objection.

4 MR. MARIANI: Exactly.

5 THE COURT: Well, I've already ruled about 11:57:28  
6 the Greensky not being relevant, but it's not  
7 being admitted if there's going to be any  
8 testimony to it I don't want to get into it there  
9 very deeply, it's just a matter of how these two  
10 individuals met and got together. So limited to 11:57:38  
11 that, I'll limit to that. So the objection is  
12 overruled only to the extent that we're in the  
13 going to get into it other than just to identify  
14 the parties' relationship.

15 MR. GARY: Thank you, Your Honor. 11:58:00

16 (Whereupon the following proceedings were  
17 had within the presence of the jury:).

18 THE COURT: All right.

19 MR. GARY: Thank you, Your Honor.

20 Q. As you said were saying, when you all came 11:58:09  
21 together that night you discussed some business  
22 possibilities?

23 A. Yes.

24 Q. Is that correct?

25 A. Yes. 11:58:17

1 Q. And was Fred DeLuca looking for business  
2 investments?

11:58:18

3 A. Yeah, Fred was an entrepreneur. He was  
4 always looking for something else. I wouldn't say  
5 that he looked, but he would never let an opportunity  
6 go buy. So he was always interested in looking at  
7 other opportunities.

11:58:31

8 Q. He would jump on opportunities?

9 MR. HUTCHISON: Objection leading.

10 THE COURT: Let try to just move forward  
11 instead of repeating the witness' testimony.  
12 Thank you.

11:58:44

13 MR. GARY: Thank you, Your Honor.

14 Q. Now, at the meeting that night, this should  
15 at Anthony Pugliese's house; is that correct?

11:58:56

16 A. No --

17 Q. I mean, his office?

18 A. His office.

19 Q. Okay. What business ideas, what business  
20 ventures, what business potentials were discussed  
21 between Anthony Pugliese and Fred DeLuca?

11:59:06

22 A. Well, Anthony showed him -- I want to tell  
23 you there was probably 16, 18 different project that's  
24 Anthony had in his office, he's set up with this and  
25 that. There was two that he was working on that

11:59:27

1 hadn't been closed yet. One of them was a recycling  
2 plant in New Jersey that he was looking at making an  
3 investment in that hadn't been finalized yet, and  
4 there was a very large land purchase in central  
5 Florida that he was working on doing due diligence on,  
6 but yet had not finalized all of the details.

11:59:30

11:59:45

7           Pretty much at that point, you know the  
8 meeting ended, we left there. Fred was told me he was  
9 pretty much impressed with Anthony and thought that he  
10 had achieved quite a few things and looked like he was  
11 still very aggressive and was going to do more. And  
12 then we left. We went and got a drink and it wasn't  
13 until next day that Fred called me and said that  
14 would I approach Anthony on maybe him participating in  
15 the two new things.

12:00:09

12:00:30

16           Q.    Okay, so let me be clear to the jury. Did  
17 Anthony Pugliese call you all to say I want to you  
18 participate, I want you to join me, I want you to get  
19 in business?

20           A.    No.

12:00:44

21           MR. HUTCHISON:  Objection, asked and  
22 answered and leading.

23           THE COURT:  Sustained as to both.

24           Q.    Now, how did you go about then -- because  
25 you was Anthony's -- mean you were Fred DeLuca's

12:00:55

1 agent?

12:00:59

2 MR. HUTCHISON: Objection, leading and  
3 improper in form, Your Honor.

4 Q. How would you title your self as it relates  
5 to the business you were doing for Fred DeLuca?

12:01:10

6 A. Well, Fred and Peter -- by this time I was  
7 just no longer a consultant to Subway. Fred had form  
8 add company called prestige business consultants with  
9 Peter buck in the DAI, the Subway organization, and  
10 they made me the president of that company. So  
11 anytime they were going to look at a new venture,  
12 certainly within Florida, certainly others outside the  
13 state but the majority of it in Florida, if they were  
14 going to do it together I would be involved in doing  
15 the due diligence, coming back giving my  
16 recommendation after I would compile the information  
17 that was needed to look at and evaluate to may be  
18 participate.

12:01:30

12:01:50

19 Q. Now, did you witness or did you participate  
20 in some of the partnership discussions that Fred would  
21 have as it relates to some of the other businesses?  
22 Was this kind of a routine role for you or not?

12:02:04

23 A. Yeah I mean that's what I did. My role at  
24 prestige was really two fold. A I was a trouble  
25 shooter for anything that was going wrong at any of

12:02:25

1 the companies that they did already have, and then  
2 secondly, if there was going to be an investment or  
3 somebody was going to look into something that they  
4 might do in the future, I was also responsible for  
5 that, primarily within the State of Florida, but there  
6 were other instance where's I had to fly to  
7 Connecticut and Ohio and Texas. But primarily in  
8 Florida I handled it all. I was the president and  
9 that's what I did.

12:02:28

12:02:39

10 Q. Were you aware of any deals that Fred DeLuca  
11 had made that he backed out on?

12:03:00

12 MR. HUTCHISON: Objection relevance, Your  
13 Honor.

14 THE COURT: Sustained.

15 Q. Now, let's go back to the deal in question  
16 with Anthony Pugliese. Were you aware of that  
17 contract that was formed?

12:03:11

18 A. Yeah, after the fact. Yeah, I mean, Fred  
19 and Anthony got together quite a few times to  
20 negotiate. I first went to Anthony and I said would  
21 you be interested in maybe talking to Fred about being  
22 a partner. He's a successful business guy, he has  
23 money to spare and would you be interested in maybe  
24 talking to him about partnering up to do these things.  
25 He was impressed with your operation.

12:03:33

12:03:51

1 Q. Who was impressed?

12:03:53

2 A. Fred DeLuca was impressed with Anthony's  
3 operation and he expressed to me he would like to  
4 participate. He asked me if I would approach Anthony  
5 and ask Anthony if he would be -- he would be welcome  
6 to talk and see if maybe they could do it together and  
7 I set up that next meeting, where the two of them met  
8 on their own.

12:04:03

9 They met and the outcome of that meeting was  
10 that Fred said that he thought that they came to an  
11 agreement and that I should continue to talk to  
12 Anthony about the possibility of him participating if  
13 the two project that's Anthony had that he hadn't  
14 finalized yet.

12:04:21

15 Q. And one would have been the Destiny?

12:04:38

16 A. Well, the Yeehaw Junction property.

17 Q. As it relates to that property what was your  
18 understanding of who well the rights to purchase or  
19 who had acquired, was it Fred DeLuca or was it Anthony  
20 Pugliese?

12:05:13

21 A. Our meetings with Anthony about maybe  
22 participating with him I think started sometime in --  
23 I want to tell you May.

24 Q. May of what year?

25 A. Must have been '05. Anthony had already

12:05:28



1 been working on it. He had a contract, he had a  
2 deposit.

12:05:33

3 Q. Let me stop you. You said Anthony had been  
4 working on it?

5 MR. HUTCHISON: Objection leading and asked  
6 and answered.

12:05:39

7 THE COURT: Sustained as to leading.

8 Q. Had Anthony Pugliese put a deposit on the  
9 property?

10 A. Yes.

12:05:52

11 Q. Did Fred DeLuca put up any of that money?

12 A. The original deposit, no.

13 Q. And as far as acquiring that property, based  
14 on your understanding, was that done before you set up  
15 this meeting where they came together?

12:06:12

16 A. Yes, Anthony was already in the process of  
17 due diligence on that property before I met him.

18 Q. Do you know whether he had put a dip down on  
19 that property?

20 MR. HUTCHISON: Objection, asked and  
21 answered.

12:06:27

22 THE COURT: Overruled.

23 A. Yes he did.

24 Q. Do you know how much it was?

25 A. No I know it was millions, in the million

12:06:34

1 mark. I don't know if it was -- \$5 million seems -- 12:06:39

2 THE COURT: Try not to gets, sir. If you  
3 don't know the answer if you're asked to give an  
4 estimate you may give an estimate, but if you  
5 don't know the answer to a question kindly answer 12:06:51  
6 accordingly.

7 A. I guess the answer to the question was yes I  
8 did know he had a substantial invest, deposit down.

9 Q. Was it in the millions?

10 A. I'm sure it was. 12:07:05

11 Q. And did Fred DeLuca ever as to that deposit  
12 ever give him half of that?

13 A. Eventually there was -- once Fred agree,  
14 once they went into the closing, then they were  
15 supposed to be a square up time where whatever it was 12:07:22  
16 if Fred was putting up money, Anthony was putting up  
17 money the money was supposed to balance out at the  
18 time of the closing. So at the time of the closing  
19 Anthony had to come up with a little less money  
20 because he had already put down some money. 12:07:38

21 Q. But even with -- so I be clear on this, Fred  
22 DeLuca what percentage of the business did they assign  
23 to each other?

24 A. They were going to be 50-50 partners.

25 Q. But Fred DeLuca hadn't put up 50 percent of 12:08:01

1 the deposit at that point? 12:08:07

2 A. No, not till the closing, not till the  
3 property actually came to close.

4 Q. So if the property closed and there was some  
5 time period for there to be some kind of a let's even 12:08:28  
6 the slate here, if the property had sold say within  
7 two weeks, two days after the deal was made and before  
8 that 75-25 had gone into place, Fred DeLuca still  
9 would have gotten 50 percent of the property, right?

10 MR. HUTCHISON: Objection, form, speculation 12:08:51  
11 and leading.

12 THE COURT: Sustained as to leading and  
13 speculation in terms of foundation. I'm not sure  
14 if you establish what this gentleman actually  
15 knows and what he remembers from 11 years ago and 12:09:05  
16 what the transaction entailed and what his  
17 involvement was anytime. All of those things  
18 must be laid as far as a foundation is concerned  
19 before getting into the details.

20 Q. Were you involved in putting this deal 12:09:21  
21 together for Fred DeLuca?

22 A. My involvement was basically to sit in some  
23 of the meetings to decide -- check the feasibility, do  
24 some of the research, look over some of the due  
25 diligence that was already done and to determine 12:09:42

1 whether or not in my opinion it was a feasible project 12:09:44  
2 to go forward with.

3 Q. Did you make a recommendation to Fred after  
4 he had asked you to set up these meetings and all of  
5 that? 12:09:56

6 A. Well, it wasn't really me making a  
7 recommendation. He decided that he was going to do it  
8 and he asked me what I thought and I said I agreed.

9 Q. And why did you agree?

10 A. Because after I did review the paperwork and 12:10:13  
11 the diligence papers that were done and interviewed  
12 certain people that I thought would she did some light  
13 on whether or not it was a feasible deal or not, I  
14 came to the conclusion that it was very feasible and  
15 it was going to be a terrific deal for the future. 12:10:33

16 Q. And now, and did you relay that to Fred?

17 A. Yeah.

18 Q. And what was his reaction to that?

19 A. Well, like I said, he had come to the  
20 conclusion, as I did, and he just came to me and so it 12:10:54  
21 was an agreement to Fred. It wasn't like I was saying  
22 I think you should do this. He had already told me  
23 that he wanted to do it. All I did was I concurred  
24 with him was I thought that that was a good decision.

25 Q. So let me just be clear about this. As to 12:11:28

1 that, the acquisition of that particular property, who 12:11:32  
2 paid as to the acquisition of the 27,000 acres, are  
3 you familiar with that?

4 A. It was 27,410 acres.

5 Q. That was already acquired by Anthony before 12:12:01  
6 you all came into the deal?

7 A. It wasn't acquired. Anthony had a contract  
8 on it, a deposit and was in the process of doing due  
9 diligence when we first looked at it.

10 Q. So we just be clear of the monies that were 12:12:16  
11 put down for the deposit, Fred DeLuca didn't shell out  
12 any of that money did he?

13 MR. HUTCHISON: Objection, asked and  
14 answered.

15 THE COURT: Mr. Gary I have to ask you not 12:12:31  
16 to repeat for the fourth time now the same  
17 question. I know your job is difficult as is all  
18 counsel when they're questioning witnesses  
19 however I must insist and interject at this  
20 point. 12:12:46

21 Q. Tell the jury if you would, how did you  
22 assess -- you've had a lot of dealings with Anthony  
23 Pugliese, haven't you?

24 A. I had no deal --

25 Q. I'm talking about since this project, since 12:12:59

1 you met back during 2004, five?

12:13:03

2 A. The only projects that I was aware, worked  
3 on with Anthony were the two I'm talking about the  
4 recycling plant in New Jersey which they eventually  
5 became partners in and the land deal.

12:13:19

6 Q. Now, as it relates to the land deal, how  
7 would you assess Anthony's approach to dealing with  
8 you all in terms of honesty and fairness and things of  
9 that nature?

10 MR. HUTCHISON: Objection, Judge, improper  
11 question, characterization.

12:13:39

12 THE COURT: Character evidence or evidence  
13 of that would not be admissible under these  
14 circumstances as I indicated toy earlier.

15 Q. Did Anthony do what he said he was going to  
16 do?

12:13:53

17 A. Yeah. Yeah in fact, I thought out of all  
18 the people I've ever dealt with Anthony was kind of  
19 refreshing. He was a refreshing guy to deal with, you  
20 know. I felt extremely comfortable, as well as Fred.  
21 We felt very comfortable that he was very capable. He  
22 had been accomplished in the industry that he was  
23 looking at and that was it.

12:14:08

24 20 explain a little bit about the comfort  
25 level --

12:14:29

1 MR. HUTCHISON: Objection, Judge,

12:14:31

2 nonresponsive.

3 THE COURT: Can continue your answer, sir.

4 A. To explain to you that these jobs were --

5 both of these instances were very substantial. The

12:14:40

6 purchase of the land was \$137 million T recycling

7 plant was \$40 million. When we agreed, when Fred

8 agreed to do that he had a very good comfort level to

9 want to invest, you know, 50 percent of these deals.

10 It was only about four or five months after

12:15:06

11 that that Fred approached me and he said Freddie, I

12 really like this, we get along great with Anthony,

13 could I buy into Anthony's whole company, meaning the

14 other projects that he had going.

15 Q. Now, let me just stop you. He asked you to

12:15:23

16 inquire about that?

17 A. Right.

18 Q. Anthony Pugliese ever approached you at all

19 about doing that?

20 A. No, no.

12:15:32

21 MR. HUTCHISON: Objection, Judge, leading

22 and relevance.

23 THE COURT: Sustained as to leading again

24 I'll ask you not to ask leading questions also to

25 the fact to not repeat what the witness has

12:15:47

1 already said either at the time of the answer or 12:15:50  
2 subsequent there too during the testimony.

3 You may proceed. Thank you.

4 MR. GARY: Thank you again.

5 Q. So explain to the jury if you would then 12:15:59  
6 what transpired to get in what you did to bring Fred  
7 DeLuca into business dealings with Anthony Pugliese.

8 A. The negotiations that Fred was going to  
9 participate and to what degree were his conversations  
10 were Anthony. They were partners. What I was trying 12:16:26  
11 to say is that your question was was there a comfort  
12 level and I said yes there is, because it was only a  
13 few months later where Fred I came to me and asked me  
14 to approach Anthony that he would like to participate  
15 in all of Anthony's projects that were in skis tense 12:16:42  
16 and I said I didn't think that that was going to work.

17 Anthony's projects some of them he had had  
18 for years. There was a lot of value in those projects  
19 and Fred loved the fact that when Anthony and him  
20 talked, that Anthony had already done quite a bit of 12:17:04  
21 work and Fred was going to be brought into these deals  
22 at the cost, the dead cost of whatever Anthony had.  
23 Threw not going to be any profit that Anthony was  
24 going to try to tack on. Anthony had a contract for  
25 \$5,000 an acre he was going to sell it to Fred -- you 12:17:21



1 know, his partnership was \$5,000 an acre. They this a 12:17:25  
2 contract on the recycling thing, there was a number  
3 and that was it.

4 So here after the fact, after Anthony's  
5 organization had already done a substantial amount of 12:17:34  
6 work, you know, Fred was taken in for the same cost  
7 had Anthony had right from the beginning.

8 So I knew when Fred asked, Fred told me I  
9 would like to buy in. I said what are you talking  
10 about buying in for, he says whatever he has into it 12:17:49  
11 and I said that's not going to work. The guy has had  
12 some of these things for ten years, 20 years. You  
13 can't buy in, but if you want to buy in at current  
14 value.

15 Fred said see what you can do. I said well, 12:18:01  
16 do you have any number that you're talking about and  
17 Fred had told me that he was willing to invest over  
18 and above the recycling plant over and above the thing  
19 he was telling me that he would invest another hundred  
20 million dollars. 12:18:16

21 So I think that goes to say the comfort  
22 level that we had with Anthony during the tires  
23 six, eight months that we were doing business  
24 with him. Fred kept on wanting to go deeper and  
25 deeper into the partnership and invest more 12:18:34

1 money.

12:18:36

2 Q. So were you involved in the Destiny project  
3 after it was brought together, pulled together between  
4 Anthony and Fred DeLuca?

5 A. Yes the Destiny project and the recycling  
6 business became pretty much my main focus.

12:18:58

7 Q. Let's just talk about the Destiny piece,  
8 okay.

9 A. Well, basically the partnership between  
10 Anthony Pugliese and fuck became my main focus then.  
11 We brought in somebody else to help me deal with all  
12 the other things that I was dealing with so I could  
13 more or less focus on the third partnership and their  
14 investments.

12:19:09

15 Q. You were working full time for the most  
16 part?

12:19:28

17 A. Pretty much. I still had other obligations.

18 Q. Who was paying your salary?

19 A. I was getting paid by the consulting company  
20 prestige, prestige business consultants.

12:19:42

21 Q. And who was prestige and who owned prestige  
22 business?

23 MR. HUTCHISON: Objection, asked and  
24 answered, Your Honor.

25 THE COURT: Overruled. You can repeat

12:19:53

1           yourself.

12:19:54

2           A.     Fred DeLuca and Peter buck were 5050  
3 partners in prestige business consultants which was  
4 the company out looking at reviewing consulting to  
5 other business opportunities.

12:20:07

6           Q.     And were they 50-50 partners in Subway?

7           A.     Yes.

8           Q.     So who paid your check?

9           THE COURT: He just indicated who wrote it,  
10 Mr. Gary. Please move forward.

12:20:21

11          Q.     As it relates to what about the car -- did  
12 you go to work on this Destiny project full time?

13          A.     Not initially. I was there -- well, I  
14 should say, if there was a meeting, I was there. I  
15 would go there at least three, four times a week  
16 initially until '08. So from '05 to '08 I was there  
17 substantial -- I mean, I went to every meeting. I met  
18 with everybody in the meeting with regard to that. It  
19 wasn't until '08, end of '07, '08 that I was there  
20 full time.

12:20:49

12:21:15

21          Q.     What did you think of the project after you  
22 got into it full time?

23          A.     You know, I think that if it wasn't for -- I  
24 was getting ready to retire again. When Anthony and  
25 Fred decided they were going to be partners in this,

12:21:37

1 it's the only reason why I continued to work because I 12:21:39  
2 was pretty much then -- I was done with all the stuff  
3 we were doing. I didn't need to do that. When they  
4 got into the business of this land development and  
5 some of the other things that they were doing 12:21:54  
6 together, there was an interest to me. I got  
7 rekindled that I would like to continue to work  
8 because it was the first time in my life now that I  
9 was not going to be the teacher. I was going to be  
10 the student. I was going to go into this and learn 12:22:09  
11 about this, building this recycling, you know, the  
12 city and building -- you know, learning about land  
13 development and to me that was interesting you could  
14 stay home if and read if you retired so it kind of  
15 intrigued me. 12:22:29

16 Plus the fact if nobody ever did it. I  
17 didn't know anybody that built a city. You know, I  
18 never knew anybody that bought the size of property.  
19 This property was 23 percent larger than the City of  
20 Miami and it was nothing on it, but a couple of 12:22:44  
21 coughs. So interesting. What did you do now. What  
22 comes first, the road? I mean I didn't know. So it  
23 was really interesting. So I got rekindled in energy  
24 to stay and learn.

25 Q. Not to cut you off, but you did your due 12:23:04

1 diligence for Fred on this, right?

12:23:06

2 A. Yeah, my main purpose was to verify the due  
3 diligence that was done. At this particular point  
4 there might have been 13 or 14 or 15 different  
5 organizations. There was people that specialized in,  
6 you know, species, the bird and the bees and what kind  
7 of things were on the thing. There was another guy  
8 specialized in what are you going to do with the  
9 traffic. There was another guy that was plants, what  
10 you know plant could you interfere with and what  
11 couldn't you interfere with. There was engineering,  
12 there was water.

12:23:19

12:23:35

13 So my communication was with all the  
14 consultants who were now, you know, doing the due  
15 diligence to say how is this going to be done. It was  
16 nice to say you're going to build a city, but how do  
17 you build a city. So when these guys would explain  
18 the process, they would explain it to me and I was  
19 there simply just to go back to Fred and verify that  
20 the ball was moving down the field, that we did talk  
21 to this guy, we did talk to that guy, this is their  
22 opinion, they're the experts, these is who these  
23 people are and this is what they're telling me.

12:23:49

12:24:04

24 So therefore the communication wasn't from  
25 Anthony to Fred. The communication right from me and

12:24:21

1 I was paid by Fred. 12:24:24

2 Q. Did Fred DeLuca show any interest in the  
3 day-to-day management of the Destiny project?

4 A. Well, I mean, obviously as we would get  
5 together socially he would say how are things going, 12:24:39  
6 but there was no -- in the beginning there was no  
7 major involvement. It wasn't -- his involvement came  
8 as things started to change and things started to  
9 build and inquiries started to come in.

10 Q. What started to come? 12:24:59

11 A. No offers started coming in. People started  
12 to look at it after the closing and there was a point  
13 where, you know, we closed on one day and a couple  
14 weeks --

15 MR. HUTCHISON: Objection, Your Honor, 12:25:10  
16 sidebar on this one Your Honor please.

17 THE COURT: All right. Approach.

18 (Whereupon counsel for the respective  
19 parties approached the bench and the following  
20 proceedings were had outside the presence of the 12:25:22  
21 jury:)

22 MR. HUTCHISON: He's about ready to talk  
23 about the offers that you ruled were not  
24 admissible that were not means full of values an  
25 he's going to say it right now that's what he's 12:25:36

1 talking about. 12:25:38

2 MR. GARY: I didn't hear, Your Honor.

3 MR. HUTCHISON: About the offers alleged  
4 offers.

5 THE COURT: These offers that were made that 12:25:44  
6 were not signed.

7 MR. GARY: I wasn't going there.

8 THE COURT: As long as we're not getting  
9 into that, make sure we don't get into those  
10 issues until they're fully vetted by the Court, 12:25:58  
11 okay.

12 MR. GARY: Okay, Your Honor.

13 (Whereupon the following proceedings were  
14 had within the presence of the jury:).

15 THE COURT: You may continue Mr. Gary. 12:26:13

16 MR. GARY: Please the Court. Thank you.  
17 Madam Court Reporter, could you read the last  
18 question back.

19 (The portion requested was read back by the  
20 reporter as above recorded.) 12:26:47

21 MR. HUTCHISON: I would suggest Your Honor  
22 it be rephrased.

23 THE COURT: I agree. You can rephrase the  
24 question please Mr. Gary.

25 Q. Now, were you reporting to Fred DeLuca the 12:27:02

1 status of the property and what was going on with the 12:27:08  
2 property and how it was doing, whether it was doing  
3 great, whether you believed? It? Were you reporting  
4 to him on the day-to-day operations?

5 A. Yes. 12:27:20

6 Q. And what were you telling him?

7 A. Exactly what I was happening. I told him if  
8 we had a meeting, I told him we had a meeting, who  
9 attend meeting and just basically in general I was  
10 there to confirm that all these meetings were taking 12:27:38  
11 place, the project was moving forward and let him know  
12 good news as well as if I thought something was  
13 happening that wasn't so great.

14 You know, I would just again confirm that  
15 there were people that were being paid were actually 12:27:56  
16 working on getting this thing accomplished which the  
17 purpose of us was to get the entitlements changed.  
18 You know, originally that the city -- it was zoned for  
19 agricultural for one house for five acres and now  
20 we're trying to build a city. 12:28:15

21 So it had to be rezoned and all these guys  
22 were working on accomplishing getting the rezoning.

23 Q. Tell the jury, how did you assess the work,  
24 the effort that Anthony Pugliese and the team were  
25 putting into the project, this project? 12:28:35



1           A.     Well, the group of people that were hired  
2 were very, very -- according to my due diligence on  
3 them, they were by far the best people that were in  
4 the state and in that county doing their jobs. Many  
5 of them were consultants to the board of commissioners  
6 for the county. One in particular, Scott Leftwich, he  
7 was in charge of traffic which is always a big deal  
8 when you're trying to do something like this.

12:28:41

12:28:58

9           Scott was actually the consultant for the  
10 State and he did all the plans for all the roads for  
11 the State and I thought well, this is great because if  
12 he does our planning, where is the State going to go  
13 to check it. They're going to call him and he's going  
14 to say not only did I check it, I did it.

12:29:21

15           There was Larry Walters who was an engineer  
16 who did the majority of the stuff in Osceola County.  
17 Bob Whiddon was a city planner and very well known,  
18 very accomplished people and lights on as people came  
19 in that would want to invest in our company, when I  
20 gave them the list of credentials of the people we had  
21 hired as consultants, there was many many people --

12:29:36

12:29:52

22           MR. HUTCHISON:  Objection, hearsay, calls  
23 for hearsay.

24           THE COURT:  Just generically, you can answer  
25 the question.  I don't want you to get into

12:30:02

1           specifics, sir. Just answer the question.

12:30:04

2           A. Well, there was nobody that ever questioned  
3 the capabilities of the group that we put together and  
4 it was also told to me that if anybody else had to do  
5 it they couldn't find better people and more  
6 accomplished people to get the job done.

12:30:17

7                       We had the dream team is what we called it  
8 because there was nobody better to do what we were  
9 trying to do and that team was put together by Anthony  
10 Pugliese and his staff.

12:30:30

11           Q. How many acres of land was the subject of  
12 this project? How many acres all together?

13           A. Well, there was 27,000 -- initially purchase  
14 was 27,410 acres. We were rezoning you will all of it  
15 except for 350 acres, because 350 acres was in I guess  
16 it's Indian River County and not Osceola county and we  
17 didn't want to deal with the two counties and have to  
18 go through all the duplication. So we separated  
19 350 acres of Indian River County and retitled it and  
20 actually sold it off to Jonathan DeLuca and al bees  
21 Pugliese. They became the owners. 350 acres and  
22 Anthony Pugliese and Fred DeLuca owned the remaining  
23 27,000 -- whatever the number is.

12:30:59

12:31:26

24           Q. Now, so your impression what was your  
25 impression of Anthony Fred DeLuca -- I'm sorry,

12:31:59

1 Anthony Pugliese's ability to run and manage this  
2 property?

12:32:06

3 A. There was no question in my mind that  
4 Anthony was a very diligent guy, worked very hard.

5 His work ethic was there, he put in a lot of time and  
6 remember you're only as good as the people you hire

12:32:24

7 and the people were hired to do this there was nobody  
8 better to do this. So I think that with his internal

9 engines, his guidance and his vision, I think that was

10 the spirit of the thing, but the idea that you had the

12:32:43

11 ability to pick the right people to get the job done,

12 it wasn't a one-man show. I mean, nobody counted on

13 Anthony Pugliese himself doing this, but they did look

14 at his guidance and his value at making the right

15 decision and by starting with the right group of

12:33:03

16 people to do it is the right starting point.

17 Q. Now, did there come a point in time where

18 there were delays in funding of the project from Fred

19 DeLuca's side?

20 A. Yeah there were a couple of times when the

12:33:30

21 money that was supposed to --

22 Q. Tell the jury about that?

23 A. There was a couple of times obviously we

24 would get the bills, we would look at the bills and a

25 capital call would be sent out. Now, for the first, I

12:33:44

1 don't know, the first real big chunk of money, the  
2 money had already been set aside at the closing for  
3 this is the money for the property, this is the money  
4 for this and there's certain money for the go ahead  
5 that was set aside.

12:33:48

12:34:02

6 After that money was extinguished, then they  
7 had what they would call a capital call where they  
8 would get the bills at the end of the month, they  
9 would total them up, Anthony would put in his share,  
10 Fred would put in his share. There were times because  
11 of Fred DeLuca's you know, other commitments, his  
12 other businesses, his travel, you know, he's doing  
13 business at the time in 116 countries, that the money  
14 from Fred DeLuca's side was late coming and the  
15 explanation was always that he was traveling.

12:34:17

12:34:39

16 When those things occurred, Anthony Pugliese  
17 put in his share also and then when Fred would come  
18 back and regroup, then he would catch up, whether or  
19 not it was one month or I think sometimes it went  
20 three or four months where Anthony had to fund the  
21 project on his own.

12:34:56

22 Q. You're speaking from your own personal  
23 knowledge, you know this?

24 A. Oh, yeah, yeah. Yeah, because it was a  
25 funny situation. When you're trying to accomplish

12:35:12

1 what we're trying to accomplish, if a developer went 12:35:15  
2 to the at the time and said they wanted to build a  
3 city, the first thing out of the commissioner's mouth  
4 was well, you guys developers, how are you gonna do  
5 what you sewed you did? Are you going to do what you 12:35:30  
6 say you're going to do.

7 I said listen we're not worried about  
8 financing this thing we have our own money. We're  
9 going to finance this. I tell you we're going to do  
10 this because we're not counting on any bank or 12:35:43  
11 financial institution. We're going to do it.

12 So my whole purpose was whether or not we  
13 had the people capable to do this, that we did and  
14 there was no question and I was there to substantiate  
15 the fact that we were going to go ahead and do this. 12:35:58

16 Q. Now, you were an officer of LCOC; is that  
17 correct?

18 A. Yeah I think I was. I think I was  
19 secretary/treasurer, treasurer.

20 Q. Let's go back so the jury can have a good 12:36:21  
21 understanding, to when Fred DeLuca would not -- as a  
22 matter of fact when you talk about funding, were you  
23 talking about that they had agreed upon that each one  
24 would do pursuant to the contract?

25 A. Well, they had an operating agreement and 12:36:41

1 the lays, everything was funded and operated according 12:36:43  
2 to the agreement that they had made.

3 Q. And did Fred DeLuca live up to that part of  
4 the agreement by funding pursuant to the agreement?

5 MR. HUTCHISON: Objection calls for a legal 12:37:00  
6 conclusion and speculation.

7 THE COURT: Sustained.

8 Q. Did Mr. DeLuca come up with his funding when  
9 it was required on time?

10 MR. HUTCHISON: Objection, asked and 12:37:14  
11 answered.

12 THE COURT: Overruled on that ground.

13 A. Yeah, initially, the agreement was lived up  
14 to for the first little while, certainly for the first  
15 I think year, maybe year and a half. Everything 12:37:29  
16 seemed to go pretty smoothly. Because we closed in  
17 '05 and I don't think that there was anything that  
18 even began to be of any concern until '07 about the  
19 funding. So up to around '07 everything was going  
20 fine. 12:37:54

21 Q. And there came a point in time when funding  
22 was an issue as it relates to Fred DeLuca?

23 A. Yeah. Well, obviously sometime around '07  
24 there was money that was late coming in and basically  
25 it was just told to me -- because if somebody didn't 12:38:09

1 get paid they would come to me, you know. Like I was 12:38:13  
2 sitting there with the money in my pocket. They would  
3 say Fred is our bill going to be paid. I said I'm  
4 waiting for money from Fred. I assured them they  
5 would get the money. 12:38:26

6 Q. Was Anthony Pugliese doing his part, putting  
7 up his part of the money so those people could get  
8 paid?

9 A. Well, like I said the first part of '07, for  
10 about a three or four month period there was no money 12:38:37  
11 coming from Fred's side.

12 Q. Why was that?

13 A. They said he didn't have any problem with it  
14 they said. They just said that Fred is traveling and  
15 you know had he gets back we'll settle it up. I went 12:38:49  
16 to Anthony and I said to Anthony you know, these  
17 people are calling me. What are you gonna do about  
18 it. He says well, it's no big deal. Fred is good for  
19 the money. When Fred comes back he'll square up. In  
20 the meantime I'll pay it. And Anthony went into his 12:39:07  
21 own pocket and paid not only his share, but Fred's  
22 share.

23 Q. And you were the fresher, right?

24 A. Right.

25 Q. Now, do you know what's the longest stint of 12:39:22

1 time that Fred DeLuca went without funding the  
2 project?

12:39:28

3 A. I think that it was four, five months.

4 Q. And were people working?

5 A. Yeah.

12:39:46

6 Q. Had to be paid?

7 A. Yeah.

8 Q. And who was paying this?

9 A. Anthony.

10 Q. Did you have a conversation with Fred DeLuca  
11 about this, that you had concerns?

12:40:10

12 A. At the time, the first time it happened it  
13 wasn't really much of a concern. I took it for  
14 granted that he was busy. Anthony took for granted  
15 that he was busy and there wasn't -- didn't seem to be  
16 my problem why he wasn't doing it other than -- Fred  
17 was a pretty good guy. If he could put off paying you  
18 tomorrow, wait till tomorrow to pay you, if he didn't  
19 pay you today he would pay you tomorrow. Were you  
20 going to worry about it. You weren't going to worry  
21 about him eventually paying you, you knew that he  
22 would and Anthony didn't seem to -- Anthony, the  
23 relationship that Anthony had with Fred at that time  
24 it was sort of like a precious one. You know, they  
25 wouldn't do anything to interrupt each other. You

12:40:28

12:40:47

12:41:06



1 know, Fred had all the confidence in Anthony that he  
2 was going to get the job done and Fred had all the  
3 confidence that Anthony would live up to his  
4 commitments.

12:41:09

5 So at that particular point Anthony didn't  
6 want to rock the boat or told me when I went to him,  
7 he said don't worry about it. I'll straighten it out  
8 when Fred comes back.

12:41:21

9 Q. What was the reason, if you know, for the  
10 funding not coming in?

12:41:36

11 MR. HUTCHISON: Objection, Your Honor, asked  
12 and answered.

13 THE COURT: Overruled. You can answer.

14 A. At that point, you know again, the money  
15 wasn't coming because they were -- Fred was traveling  
16 and they needed the commitment from Fred. Tongue guys  
17 at Subway had the checkbook and that money wasn't  
18 coming out down from Subway until Fred okayed it and  
19 if Fred wasn't here, he didn't have the chance to get  
20 together with his guys and ask the questions of me  
21 that he needed to answer before he cut the check.

12:41:52

12:42:12

22 Q. Were you telling them to cut the check? Did  
23 you expressed some concern to him about people not  
24 being paid?

25 MR. HUTCHISON: Objection, leading.

12:42:26

1 A. Yeah. 12:42:28

2 Q. What did you say?

3 THE COURT: Overruled.

4 A. I told him that Anthony had for that four  
5 month period, that Anthony had laid out the money and 12:42:33  
6 we need a better system while I was away or traveling  
7 we needed a better system instead of hanging around  
8 and waiting for him to get back and address it. I  
9 understood he was busy, but this was a separate  
10 entity, this was a separate business. You know, the 12:42:50  
11 people didn't want to know that Fred was in China so they  
12 didn't get paid for a month. They didn't want to know  
13 that.

14 Q. And he went up to how many months?

15 A. The first time I think it was like four, 12:43:00  
16 five months that we actually waited for the money.  
17 But like I said it didn't really have that much of a  
18 detrimental effect at that point because Anthony was  
19 poke out his share of the money.

20 Q. With regard to your conversations with Fred 12:43:29  
21 DeLuca about the delays in the funding or financing of  
22 the Destiny project, what did he -- what was his  
23 response to you when you confronted him about it?

24 A. Well, he understood. When the project  
25 started really expanding, Fred then started to pay 12:43:54

1 a little bit more attention, because now there was  
2 more things that intrigued him in the project, you  
3 know. As soon as we had gotten a couple offers --

12:44:01

4 MR. HUTCHISON: Objection.

5 Q. Don't go into offers. Don't discuss that?

12:44:19

6 A. As soon as people had expressed interest in  
7 the city and giving us all that confirmation that the  
8 city was actually going to happen, Fred did start to  
9 pay more and more attention to it, because he realized  
10 that the value was there and he did realize that he  
11 needed to pay more attention to it than just simply  
12 buying a piece of property and eventually two years  
13 later selling it.

12:44:36

14 Q. So he based it on the fact he thought the  
15 value was there and then he started paying?

12:44:51

16 MR. HUTCHISON: Objection, leading.

17 THE COURT: Sustained.

18 Q. Explain to the jury what was his concern  
19 about the value or his response to the value that he  
20 had placed or realized from this project?

12:45:08

21 MR. HUTCHISON: Objection, asked and  
22 answered.

23 THE COURT: He's just answered the question  
24 a moment ago. So let's move on please.

25 Objection sustained.

12:45:26

1 Q. Now, were you contacted by vendors on the 12:45:32  
2 Destiny project regarding delays in getting paid?

3 A. Yes.

4 Q. What was that all about?

5 A. Again, I was there to substantiate that we 12:45:46  
6 had the funding to pay them and if they tried to -- if  
7 there was a question on why they didn't get their  
8 check they would call me to verify you know that they  
9 were told that there check would be coming and is  
10 there any problem. 12:46:01

11 I had a personal relationship starting out  
12 with these guys. These vendors that we were using  
13 were treating me like a new kid on the block. I  
14 didn't know anything about the land development  
15 business. So I was going to them and I was like the 12:46:15  
16 student. They were telling me. So I developed a  
17 relationship with them where I would call them up and  
18 say can you explain to me what these three initials  
19 are.

20 So if they had a question on anything, 12:46:29  
21 whether their check was late or what I thought about  
22 their approach, they would ask me.

23 So many times if their check was laid they  
24 would call me up and say is there any problem. No,  
25 you'll get your money. 12:46:45

1 Q. You were the treasurer, you tell the jury,  
2 was there anything that Anthony Pugliese was doing  
3 that caused those vendors or employees not to be paid?

12:46:47

4 MR. HUTCHISON: Objection, leading and asked  
5 and answered.

12:46:57

6 THE COURT: Sustained as to asked and  
7 answered.

8 Q. How was Anthony Pugliese dealing with the  
9 funding shortage?

10 MR. HUTCHISON: Objection, asked and  
11 answered, Your Honor.

12:47:07

12 THE COURT: I think he's already testified  
13 he's taken it out of his own pocket.

14 Q. Did delays in payment to vendors and to some  
15 of the workers that you know of, how did all of this  
16 affect the progress of the project or the viability of  
17 the project?

12:47:30

18 MR. HUTCHISON: Objection, asked and  
19 answered.

20 THE COURT: Overruled.

12:47:43

21 A. Initially the fact that Anthony was meeting  
22 the payments and the bills, the delinquency from  
23 Connecticut payments didn't really have too much of a  
24 negative effect on it because they were still getting  
25 their money. Did it create a strain on Anthony and

12:48:01

1 the people at the Pugliese Company, but it didn't  
2 really have too much of a direct effect on the vendors  
3 other than you know, if they're late one time, you're  
4 late. If you're late the second time now, all of a  
5 sudden maybe there's a little something. So every  
6 time it was a little bit late, the questions would be,  
7 you know, more frequent.

12:48:05

12:48:19

8 But initially from '05 to '07, you know  
9 everything was handled pretty much as it should be  
10 handled.

12:48:35

11 Q. Did the operating costs go up after the  
12 acquisition of the additional 14,000 acres?

13 A. Oh, well, yeah. We had the 27,000 acres and  
14 then all of a sudden we had opportunity to purchase  
15 14,000 more acres and those anchors were very much  
16 more valuable than ours.

12:48:56

17 Q. Who acquired that deal. Who put that deal  
18 together?

19 A. Anthony.

20 Q. Did Fred DeLuca have anything to do with it?

12:49:11

21 A. No.

22 Q. Did he put up any deposits on it?

23 A. No.

24 Q. Who put up the deposit?

25 A. There was actually no deposit required to

12:49:18

1 put up on that. It was part of negotiating a contract  
2 for future payments. So it was the option to buy this  
3 property over a ten year period.

12:49:20

4 So at that particular time when we  
5 originally had the contract to buy it, there was no up  
6 front money other than an agreement that we would pay  
7 all of the expenses of that property to do the due  
8 diligence.

12:49:38

9 Q. And who signed to be responsible for that?

10 A. Well, the company, the LCOC.

12:49:55

11 Q. And again, Anthony negotiated that?

12 A. Yes.

13 Q. Did you think he did a good job on that?

14 A. Yeah, actually that was the thing that

15 really changed the whole scope of the project.

12:50:13

16 Q. And did Fred DeLuca get 50 percent of that?

17 A. Yes.

18 Q. Now, did there ever come a time when you had  
19 some discussions with Anthony Pugliese about his house

20 and certain things that were happening there, like a

12:50:48

21 big deal about the fish and how they were treated and  
22 things like that. Were you privy to any of that?

23 MR. HUTCHISON: Objection hearsay and

24 leading.

25 THE COURT: Overruled. Were you privy to

12:51:04

1 any of this was the question? 12:51:09

2 A. I knew that Anthony obviously was building a  
3 home. He was building a home and at some point we  
4 would even have meetings at his home. Fred would come  
5 up to Anthony's home. Yeah, so I was. 12:51:21

6 Q. You had business meetings at his home?

7 A. Yeah.

8 Q. And was Fred DeLuca at some of those as  
9 well?

10 A. Yeah. 12:51:31

11 Q. There became an issue about some money that  
12 was spent on I believe it was a fish tank. Are you  
13 familiar with that?

14 A. I know that Anthony had a moat and you his  
15 house. 12:52:05

16 Q. Yeah?

17 A. Yeah there seemed to be -- and again I read  
18 this in the paper.

19 THE COURT: Don't tell us what you read in  
20 the paper, sir. Just answer the question as best  
21 that you know of your own knowledge. 12:52:12

22 Q. Personal knowledge.

23 A. Okay. There was some concern about a water  
24 chiller or something that was put into or used at  
25 Anthony's home. I remember that that was a bone of 12:52:29



1 contention later on as when these lawsuits started. 12:52:36

2 Q. And what is your understanding as to how  
3 that happened, how it came about?

4 A. Well, I guess later on --

5 MR. HUTCHISON: Objection, Your Honor, 12:52:54  
6 foundation.

7 THE COURT: Sustained as to foundation, as  
8 far as the way you came about knowing it is  
9 important to establish first.

10 Q. How did you learn about this? 12:53:06

11 A. I think it was one of the claims. I learned  
12 that it was an issue when I read through some of the  
13 legal complaint.

14 Q. When you say the legal complaint, what legal  
15 complaint are you talking about? 12:53:30

16 A. Fred DeLuca filed --

17 MR. HUTCHISON: Judge I think it's  
18 irrelevant and foundation, calls for hearsay.

19 THE COURT: If it's just from the complaint  
20 it sell, you have in other personal knowledge, if 12:53:41  
21 you developed that knowledge there after that's  
22 something different. But if that's your full and  
23 complete understanding is simply by reading  
24 something else whether it be a newspaper or legal  
25 document, then that would not be competent and 12:53:55

1 substantial evidence. 12:53:57

2 A. Well, obviously I was there in the office  
3 when it became an issue. When I heard of it becoming  
4 an issue through Fred. I said what is this about, you  
5 know. So that's how I found out that there was a 12:54:11  
6 concern about a chiller that was supposedly paid for  
7 from our business, their business, LCOC, that was put  
8 into Anthony's home. Like the chiller was supposed to  
9 be put into Anthony's home for his personal use and  
10 Fred questioned me why this had been done, to pay for 12:54:31  
11 something for Anthony's personal use.

12 Q. Now, had you talked to Anthony about it?

13 A. Well, it was something that was kind of  
14 funny to me, because --

15 MR. HUTCHISON: Objection it calls for 12:54:49  
16 hearsay, Your Honor.

17 THE COURT: I'm sorry, I was handed  
18 something that was an apparent emergency and I  
19 did not hear the question. Ask it again, please.

20 Q. Did you discuss this with Anthony and 12:54:58  
21 without telling us what he said to you, can you tell  
22 us?

23 A. Well, the chiller, the chiller was a kind of  
24 a funny thing. We had people coming in --

25 MR. HUTCHISON: Objection, foundation again. 12:55:10

1 THE COURT: Well, this is apparently came  
2 from Mr. Pugliese.

12:55:11

3 MR. HUTCHISON: Yes.

4 THE COURT: Do you have any other  
5 objections.

12:55:17

6 MR. HUTCHISON: Well, hearsay, yes and  
7 foundation.

8 THE COURT: Sustained. Sustained on hearsay  
9 grounds. It's in the a statement by party  
10 opponent. The witness is being called at the  
11 behest of the Pugliese parties and therefore is  
12 neither construed as a statement of a party  
13 opponent nor as an admission against interest.

12:55:30

14 You may proceed.

15 MR. GARY: Okay. Thank you, Your Honor.

12:55:45

16 Q. I'll get back to that in just a second. At  
17 some point in time, speaking of the complaint that was  
18 filed in this case, how did you know about the  
19 complaint, the complaint that was filed again Anthony  
20 Pugliese; is that correct?

12:56:11

21 MR. HUTCHISON: Objection, relevance.

22 THE COURT: I'll let him answer the  
23 question. Overruled at this point.

24 A. Well, I was going to the office, you know,  
25 five times -- you know, spending 60 hours there a

12:56:21

1 week, and I got an email from Fred -- well, I got a  
2 phone call from Fred followed by an email, telling me  
3 that he was waiting for some information from people  
4 at the office, Anthony's staff and that under no  
5 circumstances am I supposed to speak to Anthony, am I  
6 supposed to communicate with anybody that Anthony  
7 knows, and I think the memo is that -- in short was  
8 not even any courtesy phone calls. He said just stop  
9 going. And I said what's this about and he told me  
10 that he was waiting for some information from Anthony  
11 and he didn't want me to interfere with him getting it  
12 and I said well, I don't understand that, but I have  
13 senators calling me, I had Congress man calling me to  
14 talk about the project and we were working on major,  
15 major development things.

12:56:24

12:56:46

12:57:08

12:57:28

16 I said in fact, one of the senators was at  
17 my country club. I said the guy lives down the street  
18 from me I'm not supposed to say hello to him. He said  
19 no. And I said I don't understand what this is about.  
20 I pursued it with him and he told me he was getting  
21 ready, contemplating filing some legal action against  
22 Anthony and I was not allowed to do it and I abided by  
23 it.

12:57:44

24 I got to tell you the truth. The truth is I  
25 picked up the phone and I called Anthony. Did you get

12:58:03

1 this memo that I'm in the allowed a courtesy phone  
2 call after spending all this time and he said well, he  
3 said yeah I got it. He said let's do this. Let's  
4 abide by his wish.

12:58:07

5 MR. HUTCHISON: Objection hearsay, Your  
6 Honor, and relevance.

12:58:20

7 THE COURT: Sustained. The jury is to  
8 disregard the statement, please.

9 Q. Don't tell us what Anthony said as Your  
10 Honor has indicated?

12:58:33

11 THE COURT: Let me know Mr. Gary when would  
12 be a good time to break for the day please. As  
13 I've earlier indicated.

14 MR. GARY: Just a few minutes, Your Honor.  
15 I'll finish this.

12:58:45

16 THE COURT: Not a problem.

17 BY MR. GARY:

18 Q. Now, were you ever called in by Fred DeLuca  
19 or his lawyers concerning that lawsuit to talk to you  
20 about it?

12:58:58

21 A. Yes.

22 Q. Tell the jury what happened.

23 MR. HUTCHISON: Objection, Your Honor.  
24 Sidebar or at least some timeframe to frame the  
25 question.

12:59:11

1 THE COURT: To the -- let's come on up. I 12:59:13  
2 think is probably a good time to break. We are  
3 getting into something different.

4 So ladies and gentlemen I'm going to go  
5 ahead and release you now for the weekend. Again 12:59:23  
6 we're not holding court on Monday. We don't hold  
7 on court on Mondays, but in this instance of  
8 course it's honoring Dr. Martin Luther King so it  
9 is a national hold did I and a court holiday so  
10 we will not be open for business on Monday. 12:59:42

11 So we'll see you back on Tuesday,  
12 January 17th at 9:20 and again it's really really  
13 important that you continue to follow the Court's  
14 order and that is not to speak to anybody about  
15 the case, not to do any research on your own, not 01:00:02  
16 to read any newspaper account, if applicable  
17 about the case in any way shape or form. Please  
18 do not look up any terms or again use any kind of  
19 more traditional methods such as book or the like  
20 to do any investigation of anyone having to do 01:00:22  
21 with the case or any of the issues involved with  
22 the case. Please do not use any form of social  
23 media, we've gone through that quite extensively  
24 and do not use any form. Electronic devices to  
25 send any messages or to post anything in any 01:00:38

1 fashion regarding your jury service those  
2 involved or any of the issues in the case.

01:00:40

3 Again I thank our courtroom personnel, but  
4 again at this point we'll adjourn. We will be in  
5 recess until 9:20 and next week we'll see you in  
6 10E and we'll moving up to 10C, I meant 10C as in  
7 Charlie. 10C is where we will be continuing the  
8 trial and that will be our home for the reminder  
9 of the case, okay.

01:00:51

10 Thank you again for your service and  
11 sacrifice and attention. You're a wonderful  
12 group. We look forward to seeing you again on  
13 Tuesday.

01:01:19

14 (Whereupon the jury retired from the  
15 courtroom and the following proceedings were  
16 had:).

01:01:27

17 Okay Mr. Flora you may step down. Please do  
18 not speak about your testimony during the pendency of  
19 the weekend have a good weekend, sir. See you back on  
20 Tuesday.

01:01:50

21 THE WITNESS: Okay. Thank you.

22 THE COURT: Anyone who wants to stay you can  
23 have a seat.

24 My concerns obviously are several follow.  
25 One is hearsay, two is attorney-client privileged

01:02:11

1 information. Those are the two major concerns I 01:02:16  
2 have. Because Mr. Florio as an agent of Mr. Fred  
3 DeLuca and the person with essentially the most  
4 knowledge concerning Mr. Fred DeLuca's  
5 involvement in this project was privy to any 01:02:27  
6 discussions between Mr. Fred DeLuca and his  
7 counsel, that agency relationship, as far as  
8 I know in terms of my knowledge of  
9 attorney-client privilege works extend to  
10 Mr. Florio during those conversations. 01:02:43

11 That's problem number one.

12 Problem number two. He is testifying as I  
13 understand it now has an add have versus witness  
14 to Mr. DeLuca which takes on again another so to  
15 speak or yet another matter that we have to deal 01:03:03  
16 with. So I don't know how extensive you're going  
17 to get into this, but we need to kind of draw  
18 some lines in terms of where we need to go and  
19 how we need to address it.

20 MR. MARIANI: Your Honor, I'd like to send 01:03:22  
21 you some law on the adverse issue. Simply by  
22 calling someone a disgruntled former employee  
23 doesn't create an adverse witness presumption.

24 THE COURT: I don't know that. Feel free to  
25 do that. 01:03:41



1 MR. MARIANI: We'll look at that issue. 01:03:42

2 This witness was friendly to Mr. DeLuca. In  
3 fact, there's a lot of testimony that he was  
4 Mr. DeLuca's best friend. The fact that he may  
5 or may not be friendly or may be friendly with 01:03:57  
6 Mr. Pugliese doesn't create like I say the  
7 adverse witness presumption.

8 So we'll give you some law on that on  
9 Tuesday morning.

10 THE COURT: Okay. 01:04:13

11 MR. HUTCHISON: That's on easy one, Judge  
12 and we'll give you some law on that too. But the  
13 attorney-client privilege, there wasn't a  
14 timeframe in the question so I'd like to get a  
15 proffer where they were going, but I can tell you 01:04:24  
16 the time is met with Mr. Florio he was an  
17 employee of Mr. DeLuca and telling me what was  
18 going on with Land Company of Osceola County. So  
19 he was clearly working for him and clearly they  
20 were attorney-client privileged meetings. I 01:04:38  
21 don't know where you were going with that  
22 Mr. Gary. Maybe you can proffer it and enlighten  
23 us. Clearly that's my biggest concern and the  
24 adverse witness is the second one.

25 THE COURT: Okay. Thank you. 01:04:49

1 MR. GARY: You want me to respond to that. 01:04:53

2 THE COURT: If you would please so we know  
3 again where we're going and how we can avoid very  
4 delicate matters and the fourth District Court of  
5 Appeal has already spoken on the subject of the 01:05:06  
6 add attorney-client privilege issue, but I don't  
7 want to by any means circumvent to what I  
8 consider to be a sacred and very well established  
9 principle.

10 MR. GARY: That being said I'll just wait 01:05:25  
11 and let my partner do the research on it and see  
12 what we come up with there as it relates to our  
13 right to inquire about conversations that he had  
14 with Mr. DeLuca about the legal aspect of the  
15 case. 01:05:42

16 THE COURT: Well --

17 MR. GARY: An I would say in all fairness,  
18 his lawyers wouldn't have been there for that.

19 THE COURT: Again, I am reasonably sure that  
20 any interpretation of the law that I provided to 01:05:55  
21 you would extend to an agent such as Mr. Florio  
22 has the presumption of privilege is very strong  
23 at this point in time. We'll see again what the  
24 evidence brings and the questioning brings, but  
25 there should be very little as far as this Court 01:06:22

1 is concerned, in terms of any relevancy as well 01:06:25  
2 as it relates to any discussions between counsel  
3 and Mr. Fred DeLuca or counsel and Mr. Florio.

4 So again we have to not only deal with the  
5 issue of privilege, but if I'm in any way 01:06:39  
6 incorrect and there's some type of way to get  
7 around the privilege, the relevancy is something  
8 to consider.

9 MR. HUTCHISON: May we get a proffer.

10 MR. MARIANI: You don't have to answer it, 01:06:58  
11 but I'd like to ask counsel a question. Are you  
12 representing the every time you met with Florio  
13 he was an employee or agent.

14 MR. HUTCHISON: Yes.

15 MR. MARIANI: Every time. 01:07:10

16 MR. HUTCHISON: Every tile.

17 MR. MARIANI: You never met with him after.

18 MR. HUTCHISON: He resigned and he never  
19 spoke with Fred DeLuca after the resignation and  
20 he never spoke with me after. 01:07:18

21 MR. MARIANI: Thank you.

22 MR. HUTCHISON: That's as far as I know and  
23 I can pretty much tell you and go back and look.

24 MR. MARIANI: How about anybody else in your  
25 firm. 01:07:26

1 THE COURT: Mr. Chapman.

01:07:27

2 MR. CHAPMAN: I never spoke with Mr. Florio.

3 I was just going to say I don't know whether

4 Mr. DeLuca and Mr. Florio had a conversation

5 after the resignation, but it's certainly my

01:07:35

6 understanding that there was never a

7 conversation. Everything was via email.

8 MR. HUTCHISON: John and I spoke with Florio

9 while he was employed, John Chapman and I.

10 MR. CHAPMAN: Correct.

01:07:47

11 MR. HUTCHISON: Mr. Florio testified in his

12 deposition and we can double check this, but I'm

13 fairly confident that once you had resigned he

14 never spoke with him again.

15 MR. GARY: That's not true.

01:07:58

16 MR. HUTCHISON: He testified to it.

17 THE COURT: We'll see. We'll see. But

18 again it's with my already disclosed statements

19 that I made to you about my concerns that, we

20 tread lightly on this. We must be very, very

01:08:15

21 concerned about especially the attorney-client

22 privilege. I know you all are.

23 Have a good weekend. Thank you again to

24 Alice and to our deputy clerk and to our deputies

25 as well for all of their assistance. We'll see

01:08:34

1           you back on Tuesday. Please be ready to go in  
2           10C at 9:20. All right.

01:08:36

3           MR. HUTCHISON: Thank you, Your Honor.

4           THE COURT: Thank you all and to the audio  
5           inks thank you for your behavior. You all have  
6           done a very nice job and I have had little of  
7           concerns in that regard as well. So I thank you  
8           as well. End end end

01:08:49

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