

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE No.50 2009 CA 040295 XXXXAG
CASE NO.: 50 2009 CA 029903 XXXXMB
CONSOLIDATED FOR DISCOVERY ONLY

AVP DESTINY, LLC, ANTHONY V. PUGLIESE, III, individually,
LAND COMPANY OF OSCEOLA COUNTY, LLC,
Plaintiffs,

-vs-

FREDERICK A. DELUCA, individually, FD DESTINY, LLC, and DOCTOR'S
ASSOCIATES, INC.,
Defendants.

FD DESTINY, LLC and FD DESTINY MANAGEMENT LLC, and
FREDERICK DELUCA,
Plaintiffs,

-vs-

AVP DESTINY, LLC, ANTHONY V. PUGLIESE, III, ANTHONY V. PUGLIESE
COMPANY, INC., d/b/a/ THE PUGLIESE COMPANY, and JOSEPH REAMER,
Defendants.

CORRECTED TRANSCRIPT

CONTINUED DEPOSITION OF FREDERICK A. DELUCA
VOLUME 8 - PAGE NO. 681-820
Monday, September 25, 2012
1:53 p.m. - 5:05 p.m.

444 W. Railroad Avenue
Suite 300
West Palm Beach, Florida 33401

Reported By:
Patricia A. Lanosa, RPR, FPR, CSR, CLR
Notary Public, State of Florida
US Legal Support, Inc.

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10 ALSO PRESENT:

11 ANTHONY V. PUGLIESE

12 MICHAEL HOLLANDER, VIDEOGRAPHER

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I N D E X
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WITNESS:	DIRECT	CROSS	REDIRECT	RE CROSS
Frederick A. DeLuca				
Cont. By Mr. Gary	686			

- - -
E X H I B I T S
- - -

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*** Certificate of Correction attached to the end of the deposition

1 (The following proceedings are continued from Volume 7)

2 P R O C E E D I N G S

3 - - -

4 Deposition taken before Patricia A. Lanosa,
5 Registered Professional Reporter and Notary Public in
6 and for the State of Florida at Large, in the above
7 cause.

8 - - -

9 THE VIDEOGRAPHER: We are back on the video
10 record. This begins Tape Number 3. The time on
11 the monitor is 1:53 p.m.

12 Thereupon,

13 (FREDERICK A. DELUCA)

14 having been previously duly sworn or affirmed, was examined
15 and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. GARY: (Continued)

18 **Q Okay. We are going to continue your**
19 **deposition. You are still under oath.**

20 **You understand that?**

21 **A Yes.**

22 **Q Okay. Great. Would you get for me the**
23 **agreement -- the operating agreement signed by you and**
24 **Anthony Pugliese?**

25 MR. HUTCHISON: Exhibit 11?

1 MR. GARY: Yes.

2 BY MR. GARY:

3 Q So you just have it handy.

4 Now, so among other things, part of Anthony's
5 duties were to run the company, and he had the
6 responsibility to make sure that salaries were paid
7 attending all of the employees; is that correct?

8 A I don't know the details; but in general, to
9 run the company is correct.

10 Q Well, he had to make sure that the employees
11 were paid, right?

12 A I'm not sure if LCOC had any employees.

13 Q Well, the employees involved on the Destiny
14 project, the Destiny project had employees, didn't it?
15 They had to contract with people. They had to make sure
16 the work was done.

17 A I don't understand what you're talking about.

18 Q Well, well, well, sir, you engaged in this
19 business with Anthony to build a city, in essence. You
20 didn't think it was just going to fall down out of the
21 sky, did you? They had to have people involved working
22 to get things done, even politically. You had to have
23 meetings. You had to talk to representatives. You had
24 to -- you had people involved. You had people you had
25 hired to do the work; isn't that correct?

1 MR. HUTCHISON: Objection to form; move to
2 strike comment of counsel.

3 THE WITNESS: No.

4 BY MR. GARY:

5 Q Let me -- you moved to strike. I'll agree
6 with you. Let me rephrase it.

7 Well, there were employees that had to be paid
8 for the work that they were doing for LCOC.

9 Would you agree with that?

10 A Not necessarily.

11 Q So there were no employees?

12 A I don't know if there were employees of LCOC.

13 Q Why don't you know?

14 A Because I was simply an investor through my
15 company, FD Destiny; and Anthony was the manager and had
16 the responsibilities to manage the project.

17 Q Well, you had one of your friends and one of
18 your long-time workers for years and years and years,
19 Fred Florio, he was there protecting you and
20 representing you, wasn't he?

21 MR. HUTCHISON: Objection to form.

22 BY MR. GARY:

23 Q Do you know Fred?

24 A I know Fred's name.

25 Q How do you know him?

1 A I've known him for over 20 years through
2 franchising. I met him at the International -- through
3 the International Franchise Association. And at a later
4 date, he became -- he did some work for me as a
5 consultant. And then at a later date, he became an
6 employee --

7 **Q So he --**

8 A -- for Prestige Business Consultants.

9 **Q So he worked as an employee, and he worked as**
10 **a consultant for you or one of your entities that you**
11 **owned 100 percent of, and he later became an employee**
12 **for one of your entities that you owned 50 to**
13 **100 percent of; is that correct?**

14 A He became an employee for Prestige Business
15 Consultants.

16 **Q Who owns Prestige Business Consultants?**

17 A Prestige Business Consultants was owned by
18 Peter Buck and myself.

19 **Q And "yourself," meaning FD Destiny?**

20 A That's correct.

21 **Q And how long did he work for the company that**
22 **was owned by Fred DeLuca and Mr. Buck?**

23 A I think he worked at that company for about
24 15 years.

25 **Q Okay. And as a matter of fact, you ended up**

1 naming him the treasurer for you in this Destiny deal --
2 the Destiny project, didn't you, sir?

3 A He was named as the treasurer of LCOC, but not
4 for me, for FD Destiny.

5 Q But you orchestrated that, didn't you? You
6 asked him to do it, didn't you?

7 MR. HUTCHISON: Objection to form.

8 BY MR. GARY:

9 Q Sir?

10 A Yes. I asked him to do it.

11 Q And, by the way, he was doing it for
12 FD Destiny, but you own 100 percent of FD Destiny,
13 right?

14 MR. HUTCHISON: Objection; asked and answered.

15 THE WITNESS: I own 100 percent of FD Destiny.

16 BY MR. GARY:

17 Q Now -- and based on the operating agreement,
18 Anthony had the obligation to maintain adequate capital
19 in light of the company's contemplated business
20 operation; isn't that correct?

21 A I don't know.

22 Q You didn't read the agreement, though, did
23 you?

24 A No.

25 Q But you signed it?

1 A But I signed it.

2 **Q And you're not trying to back out on the**
3 **agreement that you signed, are you?**

4 MR. HUTCHISON: Objection to form.

5 THE WITNESS: No.

6 BY MR. GARY:

7 **Q Now, not only was Anthony the -- the president**
8 **of LCOC, but he was the registered agent for the company**
9 **as well, wasn't he?**

10 A I don't know that.

11 **Q If it's in the operating agreement, you**
12 **wouldn't fuss about that, would you?**

13 MR. HUTCHISON: Objection to form.

14 BY MR. GARY:

15 **Q You signed the operating agreement, didn't**
16 **you?**

17 MR. HUTCHISON: Asked and answered.

18 THE WITNESS: I don't know what's in the
19 operating agreement.

20 BY MR. GARY:

21 **Q I'm saying if it's in there.**

22 A If it's in there?

23 **Q You signed it.**

24 A Well -- well -- what's the question?

25 **Q I said, if it's in the operating agreement --**

1 and I'm not going to sit here and let you read this
2 operating agreement all day -- if it's -- if it's in the
3 operating agreement that Anthony is the registered agent
4 as well as the president of LCOC, you wouldn't have any
5 qualms with that; you wouldn't disagree with that, would
6 you?

7 MR. HUTCHISON: Objection to form.

8 THE WITNESS: As to whether or not it was in
9 the agreement or whether he was the registered
10 agent?

11 BY MR. GARY:

12 Q Whether or not it was in the agreement.

13 A I think it could have been in the agreement,
14 and maybe he wasn't the registered agent. I just don't
15 know who the registered agent was.

16 Q But if it was in the agreement, we know for a
17 fact that you didn't even take time to read the
18 agreement, did you?

19 A That's correct.

20 Q So if it's in the agreement, you signed the
21 agreement, and that's what it is, right?

22 A No.

23 Q Didn't you sign the agreement --

24 A Well --

25 Q -- for him to be the registered agent?

1 A I agreed that he could be the registered agent
2 if that's what was in the agreement.

3 **Q Who was registered agent?**

4 A I don't know.

5 **Q Well, how do you know it wasn't Anthony?**

6 A I said I don't know who it is.

7 **Q Okay. Well, you surely aren't the registered
8 agent, are you?**

9 A Not to my knowledge.

10 **Q Okay. Now, with respect to the -- did you
11 appoint or designate anybody else to work -- no -- did
12 you appoint or designate or hire -- did you do any
13 hiring of any employees for the Destiny project?**

14 A No.

15 **Q Did you have any say in the people that were
16 hired?**

17 A No.

18 **Q Okay. Good. So that was a duty that was
19 solely Anthony's responsibility; is that correct?**

20 A I'm not sure what's in the agreement. I'm not
21 sure if there is a requirement to hire employees.

22 **Q Well, how on God's Earth did you think that
23 this operation was going to get off the ground that you
24 invested and put as your share over \$100 million in if
25 you didn't have any employees?**

1 MR. HUTCHISON: Objection to form.

2 BY MR. GARY:

3 Q Let me rephrase it.

4 Did you -- did you expect -- the concept of
5 this whole project was to build a city, in essence,
6 right?

7 A No. The concept of the project was to entitle
8 land and then sell to others the entitled land.

9 Q So building a city on that property that was
10 discovered by Anthony, later was called "Destiny," the
11 Destiny project was not designed for any construction of
12 any buildings or things of that nature?

13 MR. HUTCHISON: Objection to form.

14 THE WITNESS: I don't understand the question.

15 BY MR. GARY:

16 Q Well, so you're saying that the Destiny
17 project was designed just to sell property?

18 A To entitle the land to increase the value of
19 the land and then to sell the entitled land to others.

20 Q To whom?

21 A To people who would buy it.

22 Q Was it going to require infrastructure?

23 A No.

24 Q Just as it is.

25 Well, did you-all expect to have people

1 **working for you?**

2 A Anthony told me that his intention was to hire
3 consultants who would -- not only was it his intention,
4 he had hired consultants that were highly qualified,
5 that had inspected the land, that knew what could be
6 done; that he, through his experience, knew what could
7 be done and that -- he said that he was going to --

8 **Q I'm not asking you about what he said.**

9 MR. HUTCHISON: Let him finish his answer.

10 THE WITNESS: He said that he was going to
11 have these consultants work to get the land
12 entitled, and that it was going to cost
13 approximately \$3 million to get that done, and it
14 was going to take about two years or three years,
15 and that we were going to sell land --

16 BY MR. GARY:

17 **Q Okay, okay. I gotcha.**

18 A -- to others.

19 **Q So now, during this -- what was the \$3 million**
20 **dollars going to be spent on, they were going to be**
21 **spending it on hiring people, consultants?**

22 A He told me that it would take about
23 \$3-million.

24 **Q I understand what it would take.**

25 I said, "What was the \$3 million going to be

1 **spent on?"**

2 MR. HUTCHISON: Let him finish his answer,
3 Willie.

4 THE WITNESS: I was going to answer that he
5 told me that \$3 million would be needed to hire
6 various types of consultants who were expert in the
7 entitlement process to get the land from its
8 current state to being entitled so that it could be
9 sold.

10 BY MR. GARY:

11 **Q And you thought to do that required no**
12 **infrastructure whatsoever?**

13 A He told me that it was just going to be
14 consultants.

15 **Q Okay. Now, did you ever see -- did you ever**
16 **go visit this piece of property?**

17 A I never did. Well, I shouldn't say "never."
18 I went to --

19 **Q Did you ever see it?**

20 A I'm answering the question. I first went to
21 the property about two years ago or two and half years
22 ago after FD Destiny took over as manager.

23 **Q Sir, I didn't ask you all of that. I said,**
24 **"Have you ever seen the property?"**

25 A I have seen the property.

1 **Q And the property is undeveloped, isn't it?**

2 A Generally, with the exception of a few
3 structures.

4 **Q As a matter of fact, it's cow pastures, right?**

5 A Swamp, cow pastures, hunting lodges, and
6 citrus groves.

7 **Q And you thought you were going to get it
8 developed without infrastructure?**

9 MR. HUTCHISON: Objection; asked and answered.

10 THE WITNESS: No. The plan was to get the
11 land entitled and to sell the land to others who
12 were going to then do what they wanted to do, which
13 might be develop it.

14 BY MR. GARY:

15 **Q Where did the name "Destiny" come from?**

16 A Anthony told me that his wife thought of the
17 name "Destiny."

18 **Q And where was this property located in
19 Florida?**

20 A The property was located at the corner of the
21 Florida Turnpike and State Road 60.

22 **Q Okay. Now, so -- so with Anthony, then, being
23 in charge, being the president, with the responsibility
24 of operating this joint venture of this project or
25 whatever you want to call it, why did you then visit the**

1 **property?**

2 **Had you ever been to Anthony's office?**

3 MR. HUTCHISON: Objection to form.

4 THE WITNESS: I have been to Anthony's office.

5 BY MR. GARY:

6 **Q Have you? And you went to his office more**
7 **than one time?**

8 A Yeah. The first time I went to his office was
9 to discuss the possibility of investing in Anthony --
10 Anthony's project LCOC.

11 **Q Okay. Good. Now, so I guess in general,**
12 **well, you know that -- and you agreed to it in writing**
13 **if you don't know it -- that the official office address**
14 **for the company was going to be and was 101 Pineapple**
15 **Grove Way, Delray Beach, Florida. Delray Beach,**
16 **Florida, Palm Beach County.**

17 **You knew that, right?**

18 MR. HUTCHISON: Objection to the form; move to
19 strike comment of counsel.

20 THE WITNESS: I don't know the actual address.

21 BY MR. GARY:

22 **Q Well, it was in the operating agreement. You**
23 **signed it, right? You signed the operating agreement,**
24 **didn't you?**

25 A As I said many times, I signed the operating

1 agreement.

2 Q And did you -- had you -- did you ever object
3 to that address being the place, the address for the
4 business that you were in with him, Destiny?

5 A I don't know what's in the agreement.

6 Q I said: Have you ever objected to his office
7 being the address of the principal place of business for
8 Destiny?

9 A His office is not the principal place of
10 business for the company now.

11 Q I didn't ask you about now. I said when you
12 went in business with him, when you signed this
13 agreement, when you signed this operating agreement,
14 wasn't -- what was the principal place -- what was the
15 address for the business?

16 A I don't know.

17 Q Did you go to another office other than the
18 one in question to talk about business matters that
19 concerned the partnership or the venture?

20 MR. HUTCHISON: Objection as to form.

21 THE WITNESS: Sometimes we talked about it at
22 my house, and sometimes we talked about business at
23 Anthony's house. Sometimes we talked about
24 business in other places.

25

1 BY MR. GARY:

2 Q But if the operating agreement said that the
3 principal place of business was 101 Pineapple Grove Way,
4 Delray Beach, Florida, you don't have any qualms with
5 that, do you?

6 MR. HUTCHISON: Asked and answered.

7 BY MR. GARY:

8 Q You're not saying it was another place, are
9 you?

10 A I don't know. I don't know the address of
11 Anthony's office, and I don't know what's in the
12 operating agreement.

13 Q Now -- so are you telling this jury that you
14 signed this operating agreement, and now that you're
15 under oath, you are claiming that you don't know one
16 thing that was -- what do you know that was in the
17 operating agreement? What, if anything, do you know
18 that was in the operating agreement?

19 A That Anthony was to be responsible to
20 accomplish the business goals, and he was to get the job
21 done for \$3 million.

22 Q And that was his responsibility, right?

23 A Yes.

24 Q Okay. Good. Now, as a matter of fact, when
25 did you learn that Anthony had gained a right by way of

1 a contract to purchase the first 27,000-plus acres of
2 land that's in question?

3 A I think sometime early in 2005, Anthony told
4 me he had an option to purchase this land.

5 Q Okay. And at the time that you signed the
6 operating agreement back in 2005, is it safe to say at
7 that point, the property values in Florida -- in
8 Florida, like most places, were much higher than they
9 are today? Would you agree with that in general?

10 MR. HUTCHISON: Form and foundation.

11 THE WITNESS: I don't know that for sure.

12 BY MR. GARY:

13 Q Okay. And you are the same DeLuca that owns
14 50 percent of Doctors and Associates which owns Subway
15 Worldwide, right?

16 MR. HUTCHISON: Objection; asked and answered.

17 THE WITNESS: Owns the Subway trademark, yes.

18 BY MR. GARY:

19 Q And you're telling this jury that as a
20 businessman, you don't know whether or not property
21 values in 2005 in the state of Florida, where you were
22 making a \$100 million investment, were higher than they
23 are today?

24 MR. HUTCHISON: Objection as to form and
25 foundation.

1 THE WITNESS: Between 2005 and today, I don't
2 know.

3 BY MR. GARY:

4 Q Sir, I have to say: Back in 2005, were they
5 higher then than they are today?

6 A I don't know.

7 MR. HUTCHISON: Asked and answered; form and
8 foundation.

9 Let me object.

10 BY MR. GARY:

11 Q Now, the 41 acres of land in question was in a
12 unique location, would you agree with me; that it had
13 the benefit of infrastructure already there by the
14 Ronald Reagan Turnpike and Highway 60?

15 A Which 41 acres are you talking about?

16 Q I'm sorry. The entire project. The
17 27,000 acres and -- plus the additional 41,000 [sic]
18 acres that we'll talk about in just a minute.

19 Let's start with the 27,000 acres that he told
20 you he had the rights to.

21 He had a contract on it; he had purchased that
22 property by way of contract. That property has the
23 benefit of infrastructure that's already in place.

24 Wouldn't you agree that the Ronald Reagan
25 Turnpike and Highway 60 is right there, sitting dead

1 **smack near that property?**

2 MR. HUTCHISON: Objection to form.

3 THE WITNESS: First you mention he had
4 purchased the property. He had not purchased the
5 property.

6 BY MR. GARY:

7 **Q Sir, sir, sir?**

8 MR. HUTCHISON: Let him finish his answer.

9 BY MR. GARY:

10 **Q Was the property in question that he talked to**
11 **you about strategically located near the Turnpike exit**
12 **and off of Highway 60 to some degree?**

13 A He told me that the property was strategically
14 located, and he said it was next to the Florida Turnpike
15 and Highway 60. I agree that that was next to the
16 Florida Turnpike and next to Highway 60.

17 I don't necessarily agree --

18 **Q I didn't ask what you agree about, sir.**

19 A I'm just trying to --

20 **Q You're not finishing. They're gratuitous**
21 **comments that are not called for.**

22 MR. HUTCHISON: Let him finish.

23 BY MR. GARY:

24 **Q I asked you if it was strategically located**
25 **near Highway 60 and the Florida Turnpike.**

1 A You asked me if was strategically located. I
2 was trying to answer that.

3 **Q Was it near -- was it located near the Ronald**
4 **Reagan Turnpike?**

5 A If that's the question, yes, it was. Well, if
6 that's the Florida Turnpike, yes.

7 **Q Okay. And was it also located off of**
8 **Highway 60?**

9 A Yes.

10 **Q Do you know what Highway 60 is?**

11 A It's a small road that goes east and west in
12 North Florida.

13 **Q And did you know from talking to him that part**
14 **of this property had frontage; a large part of it had**
15 **frontage on Highway 60?**

16 **Did you know that, sir?**

17 A Yes. He -- he made a big point of explaining
18 to me how it had large frontage on Highway 60 and how
19 that was very important.

20 **Q And he told you that was important because,**
21 **number one, that's highway infrastructure that you don't**
22 **have to spend the money on if you were just buying**
23 **27,000 acres of land in the middle of nowhere without**
24 **roadways, without interchanges from the interstate to**
25 **bring traffic in.**

1 **It wasn't that kind of property, was it, sir?**

2 **It was more strategically located, wasn't it?**

3 MR. HUTCHISON: Objection; form and
4 argumentative.

5 THE WITNESS: What is the question?

6 BY MR. GARY:

7 **Q Well, did you go out to visit the property?**

8 A No, I did not.

9 **Q Did you go -- you went at some point in time,
10 right?**

11 A Prior to investing, I did not. And I did go a
12 few years ago.

13 **Q Okay. So prior to investing, he told you that
14 it was off Highway 60; it had frontage, right?**

15 A Yes.

16 **Q And you found that to be true?**

17 A That was a true statement.

18 **Q He told you that you had the infrastructure of
19 an exchange right by the Ronald Reagan Turnpike. That's
20 the Florida Turnpike.**

21 **He told you that, didn't he?**

22 A He told me that.

23 **Q You found that to be true, didn't you?**

24 A The turnpike exit was close by. True.

25 **Q You found that to be true?**

1 A That the exit was close by?

2 Q Right.

3 A Well, yes.

4 Q And did you know that -- do you have any idea
5 of what it costs to do the infrastructure for an
6 exchange off the Florida Turnpike?

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

9 THE WITNESS: No.

10 BY MR. GARY:

11 Q If I told you that involves over \$50 million,
12 would you disagree with that?

13 MR. HUTCHISON: Objection; form. Move to
14 strike.

15 THE WITNESS: I have no idea what it would
16 cost.

17 MR. HUTCHISON: You can complete your answer,
18 but let me object first if I'm going to object.

19 THE WITNESS: Did you object?

20 MS. HOFFLER: For the record, while we're
21 objecting, we just operate under basic Florida
22 rules. We object to the form. There are no
23 speaking objections, no testifying, no gratuitous
24 comments or even dumb remarks.

25 If we can do that, we'll go very far. We'll

1 really go a lot further.

2 BY MR. GARY:

3 **Q You didn't know that almost \$50 million had**
4 **been spent in road improvements in that area, did you?**

5 A I have no idea of what was spent on roads of
6 that area.

7 **Q And Anthony Pugliese told you that over**
8 **\$50 million had been spent on road improvements between**
9 **Highway 60 and the Florida Turnpike, didn't he?**

10 A I don't recall him -- he told me many things,
11 but I don't recall him telling me that.

12 **Q Now, so we'll be clear: When you went out**
13 **there, you did see the Turnpike interchange, right?**

14 A I did.

15 **Q And he told you, did he not, that Osceola**
16 **County had committed to making State Road 60 a four-lane**
17 **highway by the end of 2007?**

18 **Didn't he tell you that?**

19 A I remember several discussions where he told
20 me that there were plans to make -- turn Highway 60 from
21 a two-lane highway to a four-lane highway.

22 **Q And that was done, wasn't it, sir?**

23 A I don't know.

24 **Q And you don't know because you haven't taken**
25 **time to go out and see, have you?**

1 A Well, I've been there. I just don't know if
2 it was turned into a four-lane highway.

3 **Q You went out there, and you don't know whether**
4 **or not any of Highway 60 is four-lane or not?**

5 MR. HUTCHISON: Objection to form.

6 THE WITNESS: Well, I know that some of it is
7 four-lane.

8 BY MR. GARY:

9 **Q What part is four-lane?**

10 A I don't know which part is four-lane and which
11 part is two-lane.

12 **Q But some of it is four-lane, isn't it?**

13 A Well, Highway 60 is about -- I don't know --
14 100 miles long. Some of it --

15 **Q I'm talking about the area where you went out**
16 **there.**

17 A I don't know what it is in that area now.

18 **Q Well, haven't you been out there recently?**

19 A I was there about a year ago.

20 **Q You've been out there since you stole this**
21 **project away from Anthony, haven't you?**

22 MR. HUTCHISON: Objection as to form;
23 argumentative, move to strike.

24 BY MR. GARY:

25 **Q Haven't you been out there?**

1 MR. HUTCHISON: Move to strike.

2 Come on, Counsel.

3 MS. HOFFLER: Move to strike. Move to strike.

4 BY MR. GARY:

5 **Q Have you been out there since --**

6 MS. HOFFLER: We need to get on the record
7 that this person doesn't know how to operate under
8 Florida rule.

9 Object to the form, and that's it.

10 MR. HUTCHISON: Madame, could you read.

11 (A portion of the record was read by the
12 Reporter.)

13 MR. HUTCHISON: Same objection.

14 BY MR. GARY:

15 **Q Let me rephrase that.**

16 **Since you -- since you took over, or your**
17 **people or your LLC or whatever you want to call it, took**
18 **this property away from Anthony, have you been out**
19 **there?**

20 MR. HUTCHISON: Object to form.

21 THE WITNESS: What do you mean by "take this
22 project away"?

23 BY MR. GARY:

24 **Q Have you been out there in the last year?**

25 A As I said to you, I was there about a year

1 ago.

2 **Q And what -- for what purpose did you go out**
3 **there?**

4 A I went to take a look at the land and to speak
5 with the branch manager.

6 **Q At this point, were you in charge, or was**
7 **Anthony in charge, based on the operating agreement?**

8 **Were you in charge at that point?**

9 A FD Destiny was in charge.

10 **Q And you own 100 percent of FD Destiny, right?**

11 A Correct.

12 **Q You set out to take this property from Anthony**
13 **from the start, didn't you?**

14 A No, I did not.

15 **Q Sir?**

16 A No.

17 **Q You set out to steal it from him from the**
18 **start, didn't you?**

19 MR. HUTCHISON: Objection to form.

20 THE WITNESS: What do you mean by "steal"?

21 BY MR. GARY:

22 **Q You don't know the definition of stealing?**

23 A You tell me what your question means, and I'll
24 answer it.

25 **Q What's your definition for stealing, or do you**

1 **know what it means?**

2 A I know what it means.

3 **Q What does it mean?**

4 A It means that -- when you take something that
5 doesn't belong to you.

6 **Q Well, you've -- you ripped him off for his --**
7 **well, you're trying -- let me put it this way: You're**
8 **trying to rip him off for the 50 percent of his**
9 **ownership of the property that he acquired and you had**
10 **nothing to do with from the start; isn't that true?**

11 MR. HUTCHISON: Objection to the form.

12 THE WITNESS: No. Not at all.

13 BY MR. GARY:

14 **Q Well, you didn't find this property, did you?**

15 A I did not find this property.

16 **Q You didn't get a contract on it, did you?**

17 A I did not get a contract on it.

18 **Q Anthony did, didn't he?**

19 A I think Anthony got a contract on it.

20 **Q He got it before he even met you, didn't he?**

21 A That's correct.

22 **Q And as a matter of fact, did you know the**
23 **value of that property when Anthony talked to you about**
24 **it?**

25 A I only relied on what he told me.

1 **Q** As a matter of fact, he told you that he had
2 bought that property for -- how much you say he paid an
3 acre for it?

4 A Well, what he told me.

5 **Q** How much did he say he paid an acre for it, if
6 you know?

7 A He hadn't paid anything.

8 **Q** How much -- how much -- was he contracted to
9 pay an acre for it and then put a deposit on it and then
10 had a binding contract on it?

11 A He didn't have a binding contract on it.

12 **Q** How much -- how much was he buying the
13 property for?

14 A He had -- he had a -- he had an option to buy
15 it for \$5,000 an acre.

16 **Q** And do you know what an "option" is?

17 A Yes.

18 **Q** What is an "option"?

19 A You have the opportunity to do something if
20 you choose to do it.

21 **Q** You have the right to do it if you choose to
22 do it, right?

23 A If you -- I would say "opportunity".

24 **Q** So he had a option on the property?

25 A That's correct, according to Anthony.

1 **Q According to who?**

2 A According to Anthony. He told you me he had
3 an option on the property.

4 **Q Okay. And you know that Anthony -- don't make**
5 **me go through all of this if I don't have to, sir,**
6 **please -- you know Anthony had an option on that**
7 **property with the Latt Maxcy Corporation to buy that**
8 **land for \$5,000 an acre -- 27,678 acres.**

9 **Didn't you know that, sir?**

10 A I can tell you that Anthony told me that he
11 had an option to buy the property.

12 MR. GARY: May I have this marked.

13 (Plaintiffs' Exhibit No. 12 was marked for
14 identification.)

15 BY MR. GARY:

16 **Q Would you read the title of that for me,**
17 **please. You don't need to look at it. The title on it,**
18 **that's all I need you to do on it right now. Just read**
19 **the title.**

20 MR. HUTCHISON: Give him an opportunity to
21 look at the document.

22 MR. GARY: You know, I'm not going to let him
23 sit and take a half-hour to do some stupid reading.

24 THE WITNESS: I'm just going to scan through
25 this to see what it is.

1 BY MR. GARY:

2 **Q What you need to scan through? Why do you**
3 **need to scan through this to read the title? That's all**
4 **I asked you to do.**

5 A Okay. It says "As Is Sale and Purchase
6 Contract."

7 **Q Between who? Read the next paragraph.**

8 A All right.

9 **Q Read the next paragraph, sir.**

10 A I'd like to review the document.

11 **Q Read the next paragraph.**

12 MR. HUTCHISON: He can review the document.

13 MR. GARY: I don't want him to ask any
14 questions; just read the next paragraph. You don't
15 need to read the document. Unless you can't read.

16 MR. HUTCHISON: I understand the Judge issued
17 an order in this case. I haven't had an
18 opportunity to look through it. In fact, I left it
19 in the car.

20 MS. HOFFLER: Let's move on.

21 MR. GARY: My time is moving on.

22 MR. HUTCHISON: Read the document.

23 MR. GARY: I don't want him to read the whole
24 document. You know it's going to take him
25 30 minutes to do it.

1 MR. HUTCHISON: It's not going to take
2 30 minutes.

3 MR. GARY: I'm not asking him to read through
4 it.

5 BY MR. GARY:

6 Q Can you see the title?

7 A I can see the title.

8 Q Can you read it?

9 A "As Is Sale and Purchase Contract."

10 Q Can you see the next paragraph?

11 A I can.

12 Q Read it.

13 A "1: Sale and purchase," period.

14 Continue?

15 Q Yes.

16 A "A. Real property. The Latt Maxcy
17 Corporation, a Florida corporation ('Seller'), and Land
18 Company of Osceola County, LLC, a Florida limited
19 liability company ('Buyer'), agree to sell and buy on
20 the terms and conditions specified below the property
21 described as."

22 Q Do you see in the next paragraph where it
23 talks about the 27,000 acres?

24 A I see "27,000 acres."

25 Q How many acres do you see?

1 A "27,678 acres."

2 Q So you knew that Anthony had an option to buy
3 that property, didn't you, sir?

4 A As I told you several times, Anthony told me
5 that he had -- he had an option to buy this property.

6 Q Okay. And based on telling you that he had an
7 option to buy, you went in business with him, didn't
8 you?

9 A No.

10 Q Your LLC that you own 100 percent of went in
11 business with him, right?

12 A No.

13 Q So you never engaged to do business with
14 Anthony Pugliese.

15 That's what you're telling this jury?

16 A No. That's not what I'm saying. I answered
17 your question, but --

18 Q I don't need a "but" if you answered the
19 question. Just answer the question.

20 A I'm trying to explain.

21 Q I don't need a "but." I need answers.

22 MR. HUTCHISON: Let him finish his answer.

23 MR. GARY: He said he answered the question.

24 MR. HUTCHISON: He answered his question.

25 MR. GARY: I don't need a "but."

1 MR. HUTCHISON: You are going to have to let
2 him finish his answers.

3 BY MR. GARY:

4 Q You knew Anthony had a contract to buy that
5 27,000 acres for \$5,000 an acre, didn't you, sir?

6 A According to Anthony and what he told me, he
7 had a contract to purchase that land.

8 Q And you knew he was buying it at a steal
9 because he later had an offer to purchase that property
10 by the Fanjul Family for \$11,500 an acre within months
11 after that.

12 You knew that, too, didn't you?

13 A Before I went into business with him? No.

14 Q Did you learn that?

15 A Before I went into business with him?

16 Q Sir?

17 A First of all, why don't you restate the
18 question because you're talking about before and after.

19 Q Sir, did you somewhere along the way discover,
20 know, learn, whatever you want to call it, that Anthony
21 Pugliese had a contract from the Fanjul Family to
22 purchase that 27,000 acres at \$11,500 an acre?

23 A No, because Anthony never had a contract with
24 any family to purchase that land for any amount.

25 MR. GARY: Mark that for me, please, ma'am.

1 (Plaintiffs' Exhibit No. 13 was marked for
2 identification.)

3 BY MR. GARY:

4 **Q Have you ever seen an offer made by the Fanjul**
5 **Family on this property?**

6 A I was told by Anthony.

7 **Q Have you ever seen an offer?**

8 A I have not seen an offer.

9 **Q Take a look at what has been marked as**
10 **Plaintiffs' 13.**

11 MR. HUTCHISON: Do you have an extra copy of
12 that?

13 MR. GARY: Yeah.

14 BY MR. GARY:

15 **Q Had you ever seen this document: Florida**
16 **Family Development Group?**

17 A Let me read this, please.

18 **Q Sir, I said -- I'm just asking: Have you ever**
19 **seen it? I didn't ask you to read it.**

20 A It's only two pages.

21 **Q I don't care how many pages it is. I'm not**
22 **asking you to read it.**

23 MR. HUTCHISON: Willie, he has the right --

24 BY MR. GARY:

25 **Q Have you ever seen the document before?**

1 MR. HUTCHISON: The Judge ruled that he can
2 review any document that is presented to him. It's
3 in the court order, and John's going to get a copy.

4 MR. GARY: I've got a right to get an answer
5 to my question before he reads it.

6 I'm asking: Has he ever seen the document?

7 MR. HUTCHISON: He has a right to read that.

8 We can review the order when John brings it
9 in.

10 MS. HOFFLER: We haven't seen an order,
11 Willie.

12 BY MR. GARY:

13 **Q Have you ever seen this offer that's made by**
14 **the Fanjul Family to purchase this property from Anthony**
15 **Pugliese for \$11,500?**

16 A I don't recall seeing this. Anthony certainly
17 never it showed it to me.

18 BY MR. GARY:

19 **Q But he told you he had it, didn't he?**

20 A Anthony told me that he had someone who had
21 expressed an interest in possibly buying the property at
22 \$11,500 an acre.

23 **Q Okay. And this supports that, doesn't that?**

24 A I haven't had a chance to read it.

25 **Q Okay. Now, well, let me ask you this**

1 question -- let me ask you this question so we can move
2 along here: At some point in time, you knew that an
3 offer existed -- either from Anthony or from somebody --
4 that an offer existed to -- to purchase that property
5 for over 100 percent more than what Anthony -- as a
6 matter of fact, he paid \$5,000 an acre, and he could
7 have gotten 11,500 an acre, based on this document.

8 A What's the question?

9 Q Did you -- did you know that from Anthony at
10 some point in time?

11 MR. HUTCHISON: Objection to form; and asked
12 and answered.

13 BY MR. GARY:

14 Q Did you learn that from Anthony?

15 A Anthony never told me that he had a firm offer
16 to buy the property, but he did tell me about two or
17 three parties -- I'm not sure which -- that expressed an
18 interest in possibly buying the property.

19 Q Was the -- was the Fanjul Family one of those
20 two or three parties?

21 A I said I don't know.

22 Q And as a matter of fact, he told you had an
23 agreement to purchase an additional 14,000 acres, didn't
24 he?

25 A 14,000 acres?

1 **Q Yes.**

2 A I don't recall that.

3 **Q Well, how many acres did you think this deal**
4 **comprised of? How many total acres did you think this**
5 **whole deal comprised of in terms of land?**

6 **Sir?**

7 A We purchased 27,000-plus acres.

8 **Q Well, didn't you have an option on another**
9 **14,000?**

10 A Tell me a time frame you're talking about.

11 **Q Sir, any time frame you want.**

12 **Didn't you have an option on another 14,000?**

13 A At a later date, I understand that there was
14 an option agreement put together for another
15 14,000 acres.

16 **Q You had nothing to do with that, did you?**

17 A No.

18 **Q That was Anthony, wasn't it?**

19 A Well, I shouldn't say I didn't have anything
20 to do with it. Anthony did that. He talked to me about
21 that.

22 **Q He made the deal. He brought the deal to you,**
23 **didn't he?**

24 A No. He didn't bring the deal.

25 **Q Did he bring the 27,000 to you?**

1 A He brought the 27,000-acre -- the opportunity
2 to invest in the 27,000 acres to me.

3 **Q He brought that to you?**

4 A Yes.

5 **Q You had absolutely nothing to do with that**
6 **land being acquired or being -- having the option that**
7 **was acquired on it, did you?**

8 MR. HUTCHISON: Objection; asked and answered.

9 THE WITNESS: That's correct.

10 BY MR. GARY:

11 **Q Okay. And did you also learn, too, that on**
12 **the same property, that Anthony had an offer from the**
13 **Empire Communities?**

14 **Had you heard that term before?**

15 A An offer to do what?

16 **Q Yeah. Have you ever heard of "Empire**
17 **Communities"?**

18 A Not to my recollection.

19 **Q So if he had an offer from the Empire**
20 **Communities for \$15,000 -- \$15,000 on that 2700 acres of**
21 **land, are you telling us that you didn't know anything**
22 **about that?**

23 A Oh, he talked to me and told me that somebody
24 had expressed an interest in purchasing the land for
25 even more than 11,500, but he never told me that he had

1 an actual offer.

2 **Q Okay.**

3 A But he also told me even if he had an offer,
4 he had no interest in selling it.

5 MR. HUTCHISON: Move to strike that.

6 MR. GARY: I'm not asking.

7 What can you tell me about the offer?

8 MR. HUTCHISON: Here's the Court's orders, and
9 it says specifically that "The witness is allowed
10 to complete answers and should be allowed to fully
11 review the" --

12 MR. GARY: Why don't you give us a copy? We
13 don't trust what you're going to say.

14 MS. HOFFLER: You don't need to be nasty.

15 MR. GARY: We're not being nasty.

16 Let's move on. I got time --

17 MR. HUTCHISON: Here's the court order.

18 MR. GARY: We're wasting time here.

19 MR. HUTCHISON: Can I have an exhibit sticker?
20 I'll make a copy of it.

21 Exhibit 14 will be the Court's orders. We'll
22 all have a copy.

23 MS. HOFFLER: We're not going to accept this.
24 This is our deposition. We're not going to put it
25 in as an exhibit. Absolutely not. When you have

1 your chance to ask questions, you can do that.
2 You're not marking an exhibit in our case.

3 Next.

4 MR. HUTCHISON: Here's the copy of the order.

5 MS. HOFFLER: Madame Court Reporter, that will
6 not be an exhibit.

7 MR. GARY: Let me just move along with the
8 questions.

9 THE WITNESS: I didn't finish the answer to my
10 last question.

11 BY MR. GARY:

12 **Q Let me move along with the questions, sir,**
13 **because this is just getting outside of hand. It really**
14 **is, and I want to use my time wisely.**

15 A Should we take a minute so you could read the
16 court order?

17 MS. HOFFLER: No. We don't need to do that.

18 MR. GARY: You just answer the question.

19 MR. HUTCHISON: We'll take a break.

20 MR. GARY: If you would answer the question,
21 sir, you wouldn't have a problem.

22 Answer the question.

23 BY MR. GARY:

24 **Q So let us say this: If Anthony had an offer**
25 **from the Fanjuls to buy that -- to sell to them at**

1 11 point 5 -- \$11,500 an acre and he had the option to
2 buy it at 5,000 an acre, you know, you could see -- Ray
3 Charles could see that's a sizeable profit that could be
4 made.

5 **Would you agree with that?**

6 MR. HUTCHISON: Objection as to form.

7 THE WITNESS: I'm not -- first of all --

8 BY MR. GARY:

9 **Q See, sir?**

10 MR. HUTCHISON: Let him finish his answer.

11 Willie, let him finish his answer.

12 MR. GARY: Wait a minute. I'm going to stop.

13 We'll just go to the Judge.

14 MR. HUTCHISON: Let's go.

15 MR. GARY: I don't need you giving me
16 commentary.

17 Wait a minute. Wait a minute. If we don't
18 stop this, we're going to have to do it.

19 MR. HUTCHISON: I'm ready to go right now. I
20 asked you three times. Let him finish his answers.

21 MR. GARY: He's giving me a whole bunch of
22 garbage that we just don't need.

23 MS. HOFFLER: He's trying to finish his
24 answer.

25 MR. GARY: Let's start over.

1 BY MR. GARY:

2 Q Listen to my question. If you -- if you have
3 to explain, ask me: Can you explain? And if you need
4 to explain, we'll let you explain.

5 But if I ask you how old you are, it doesn't
6 take two days for you to tell me.

7 THE WITNESS: I don't think I need to
8 explain -- ask you for permission to explain my
9 answer.

10 MR. GARY: Well, let me just say this:
11 Anthony told you that there was an offer of 11 --
12 that 11,500 an acre; is that correct?

13 MR. HUTCHISON: Objection.

14 THE WITNESS: No, that's not correct.

15 BY MR. GARY:

16 Q He told that you was option?

17 A No. He told me that some people had expressed
18 interest in possibly making an offer for \$11,500 an
19 acre.

20 Q Okay. In your spare time tonight when you
21 need some reading, if you decide to do some reading,
22 read Exhibit 13 for me.

23 Could you do that?

24 A I'm not going to do anything unless my
25 attorney tells me to.

1 I'll read it right now. It's two pages.

2 **Q Let me ask you this here: Read, if you would,**
3 **the first paragraph on this Exhibit 13.**

4 **Do you have a copy of it there?**

5 MR. HUTCHISON: He's got an unmarked copy.
6 You have the marked copy. I think it's the same
7 thing, isn't it, Willie?

8 MR. GARY: It's the same thing. It's the same
9 thing.

10 BY MR. GARY:

11 **Q Read this.**

12 **After this "Dear Sir," what does it say after**
13 **"Dear Sir"?**

14 A I'm just reviewing the document.

15 **Q Read to the jury what does this document say**
16 **so that all who can hear you and see you will understand**
17 **exactly what this is.**

18 **Read it, sir.**

19 A But I have to look at the document to
20 understand what this is.

21 **Q I didn't ask you to understand it right now.**

22 MR. GARY: Tell him, Counsel.

23 All I'm asking to you do right now is to read.

24 MR. HUTCHISON: Willie, the Judge ruled --

25 MR. GARY: Can you read --

1 MR. HUTCHISON: -- the Judge ruled on this,
2 Willie. The Judge said he has an opportunity to
3 review any documents presented to him. That's the
4 Judge's words in the order as of this morning.

5 So the witness, if you're going to hand him a
6 document, you got to give him reasonable time to do
7 it.

8 MR. GARY: If you're only asked to read a
9 particular word or paragraph, I mean, you don't --
10 you're taking this too far, Counselor.

11 MR. HUTCHISON: No. "The witness shall be
12 allowed to complete his answer fully and allowed to
13 review any documents" --

14 BY MR. GARY:

15 **Q Are you looking at the document?**

16 A Yes, I am.

17 **Q Turn back to the first page.**

18 A Yes.

19 **Q And do you agree with me where it says "Dear**
20 **Sir"?**

21 A I need to review the document, please.

22 **Q No. No. I'm saying, sir, I'm not asking to**
23 **you read anything right now.**

24 **Would you agree?**

25 A I don't want to read anything out of context.

1 **Q You're not reading it out of context. I'm**
2 **reading it.**

3 MR. HUTCHISON: You have the right to read the
4 documents if you need to review, but just do it
5 quickly for us, please.

6 THE WITNESS: I will do that.

7 MR. GARY: I'm going to strike that question.
8 I'm not going to sit here while he wastes my time
9 on this stuff.

10 Let me ask you another question.

11 BY MR. GARY:

12 **Q Did you know that he had a document from the**
13 **Fanjuls that said to him: "Dear Sir: Please accept**
14 **this offer to purchase the above-referenced property"?**

15 **Did you know that?**

16 A He never told me that he had a document, and
17 he never told me he had an offer. He told me that he
18 had people who had expressed an interest in acquiring
19 the document [sic], but it clearly was --

20 **Q Inquiring the document or property?**

21 A The property.

22 **Q The property.**

23 A It was clearly not an offer to purchase the
24 property.

25 **Q But did you hear me when I said: "Dear Sir,**

1 **Please accept this offer"?**

2 **Do you hear me?**

3 MR. HUTCHISON: Are you reading from the
4 document?

5 MR. GARY: Yes. I'm reading from the
6 document.

7 BY MR. GARY:

8 **Q Would you take the exhibit in your hands,**
9 **please, sir?**

10 A Yes. I'd like to review this, please.

11 **Q Sir, do you see where it says on this**
12 **document: "Please accept this offer to purchase the**
13 **above-referenced property"?**

14 **Do you see that?**

15 A I'd like to review the document.

16 MR. HUTCHISON: Review it quickly, then answer
17 his question.

18 BY MR. GARY:

19 **Q Now let's go back to the front page.**

20 A Yes.

21 **Q It says -- you see where it says "Reference**
22 **27,000 acres"?**

23 **Do you see that?**

24 A Yes.

25 **Q "Located at the intersection of Florida**

1 Turnpike and Highway 60."

2 That's the same place where you went when you
3 went out to see the property, right?

4 A Yes.

5 Q Do you see that?

6 A I do.

7 Q Speak up so the jury can hear you.

8 And it says: "Dear Sir: Please accept this
9 offer to purchase."

10 Do you see that?

11 A I see those words.

12 Q And they're talking about the above-referenced
13 property, the 27,000 acres.

14 Do you see that?

15 A I see that.

16 Q Okay. And then you spoke about he told you
17 about an interest that someone had in buying the
18 property.

19 The next sentence says that: "This letter
20 expresses our interest in purchasing the property under
21 the following terms and conditions."

22 Do you see that?

23 A I see that.

24 Q That's in writing, isn't it?

25 A But this is not an offer.

1 **Q** **Sir, that is --**

2 A I see this, but it's not an offer.

3 **Q** **Sir, your definition of an offer is your**
4 **definition, and I'm not asking you what your definition**
5 **is at this point.**

6 I want to you flip this first page and flip to
7 **the second page.**

8 **Do you see a signature on that?**

9 A The second page?

10 **Q** **Yes.**

11 A No.

12 **Q** **Turn to the last page.**

13 **Do you see a signature on the last page?**

14 A I see a signature.

15 **Q** **And down at the bottom, do you see the title**
16 **"the president"?**

17 A I see something that says "president."

18 **Q** **Okay. Now, he also had an agreement to**
19 **purchase the Rhode property, didn't he?**

20 A He didn't have an agreement to purchase this
21 property.

22 **Q** **The Rhode property, right?**

23 A He also had an agreement to purchase. At what
24 time frame are you talking about?

25 **Q** **At any time frame.**

1 A Correct. About a year or so after LCOC was
2 formed by AVP Destiny and FD Destiny with Anthony as
3 manager for LCOC, he negotiated an option to purchase
4 14,000 additional acres on behalf of LCOC.

5 **Q Who negotiated this?**

6 A Anthony did.

7 **Q Did you know he was negotiating it?**

8 A He told me about his discussions. I don't
9 know if he told me about this after or before; but at
10 around the time he was negotiating this in 2006, he told
11 me about that.

12 **Q Okay. So he made full disclosure to you. He**
13 **made disclosure to you on it, right?**

14 MR. HUTCHISON: Objection to form.

15 THE WITNESS: He talked to me about it. I
16 don't know if he made full disclosure to me, but he
17 gave me some information about why he thought it
18 was important to try to get an option on the land
19 across the street from the Rhodes and what his
20 assessment was of the situation.

21 BY MR. GARY:

22 **Q And he was successful at getting the option**
23 **from the Rhodes?**

24 A I understand that he got the option from the
25 Rhodes.

1 **Q And you didn't take part in any of those**
2 **negotiations?**

3 A Anthony was manager at LCOC.

4 **Q Did you take part in any of those**
5 **negotiations? Yes or no?**

6 A I did not speak to the owners of the land.

7 **Q Okay. Did you even ever see the owners of the**
8 **land?**

9 A I don't believe to this day I've ever seen or
10 met the owners of that land.

11 **Q Okay. And when he told you about the option**
12 **or the -- the -- hold on one second. I did give you**
13 **this document.**

14 MR. GARY: Did you mark it?

15 You marked it.

16 Let me give that back so you have it.

17 MR. HUTCHISON: What number is that?

18 COURT REPORTER: 12.

19 MR. HUTCHISON: Do you have an extra copy of
20 that one?

21 MR. GARY: I'll get you one. This is 12.
22 This is the contract with the Maxcy Corporation,
23 the 27 acres.

24 MR. HUTCHISON: Put the sticker on the front,
25 maybe?

1 BY MR. GARY:

2 Q Now, assuming that property had been sold for
3 11 point 5 an acre pursuant to that option, how many
4 millions would Anthony have made on that property?

5 MR. HUTCHISON: Objection as to form.

6 BY MR. GARY:

7 Q Based on just the contract and the property --
8 nothing to do with you -- how many millions would he
9 have made? What would have been the difference in 5,000
10 an acre and 11 point 5 an acre on 2700 acres, sir?

11 Give me the numbers first, and then you can
12 talk until your face turns blue.

13 A On 2700 acres?

14 Q Yes. What would have been the difference?

15 A Well, what would you like me to tell you?

16 That the --

17 Q I want you to tell this jury what would have
18 been the profit that Anthony could have made had he
19 never bumped into you; had he sold the property for --
20 he had, number one, let's assume -- you may question
21 this, and that's okay if you question it -- let's assume
22 that he had a option, that's number one, to purchase the
23 2700 acres for 5,000 an acre. And I know you disagree
24 with that. That's all right.

25 A I'm not sure I disagree with the fact that he

1 had --

2 Q Even if you do, let me just finish.

3 If he sold the option, sold the property
4 option, whatever you want to call it, at 11 point 5
5 thousand an acre, right, irrespective of you, anything
6 else, he just sold it, how much money -- what would have
7 been the difference?

8 MR. HUTCHISON: Objection to form.

9 THE WITNESS: Do you want me to speculate on
10 what would have happened?

11 BY MR. GARY:

12 Q No. I don't want you -- I want to you
13 multiply.

14 You know how to multiply?

15 A What do you want me to multiply?

16 Q Multiply 2700 acres at \$5,000 an acre.
17 27,000 -- how much is the exact number?

18 MR. MAREK: 27,600.

19 BY MR. GARY:

20 Q 27,600 acres at 5,000 an acre. Assume that
21 was the option he had. Assume that was the offer that
22 he had from the Fanjuls.

23 A 5,000 an acre?

24 Q He had an option to buy it at 5 an acre, and
25 he had an offer to purchase it from him for \$11,500 an

1 acre. I'm just talking pure math here now.

2 A He didn't own it.

3 Q He don't have to own it if you own a option,
4 sir. I'm a lawyer.

5 A No.

6 Q You don't have to own it if you own an option
7 to buy in writing. Now you've read the option, you read
8 the agreement to sell it to him, and it's signed.

9 MR. HUTCHISON: No, he didn't. You wouldn't
10 let him.

11 BY MR. GARY:

12 Q Well, the point is that -- go back. Let's
13 assume that he had a dollar option to buy the property
14 for \$5,000 dollars an acre. How much -- how much --

15 A This is --

16 Q How much would 5,000 acres cost at
17 2,700 acres -- 27,000, I'm sorry.

18 At 27 -- if you have 27,000 acres,
19 27,600 acres at \$5,000 an acre, if he exercised that
20 option --

21 A So this --

22 Q -- what would have been the cost of that
23 property?

24 A To Anthony?

25 MR. HUTCHISON: Do you want a calculator?

1 THE WITNESS: About \$138 million.

2 BY MR. GARY:

3 Q To be exact, did you multiply on the
4 27,678 acres?

5 A No. You said 27.

6 Q Let's get it right. 27,678 acres.

7 MR. HUTCHISON: Do you want a calculator?

8 THE WITNESS: Not necessarily. 27,678 acres
9 times -- how much do you want me to multiply that
10 by?

11 BY MR. GARY:

12 Q The number he told you: 5,000 an acre.

13 A 5,000 an acre. That would be what we paid for
14 the land, then?

15 Q Yeah.

16 A How much is that?

17 Q 5,000 an acre. That adds up to 138,003 -- I
18 mean 138 million, \$138,390,000; is that correct?

19 A I haven't done the math, but --

20 Q Well, do the math.

21 A Okay.

22 I think that's correct.

23 Q What's correct? The \$138,390,000?

24 A Correct.

25 Q And if he had sold it for -- speaking of

1 **Anthony -- if he sold it for \$11,500 an acre, do the**
2 **math.**

3 A This is if he had purchased it?

4 **Q If he exercised his option.**

5 A And then if he exercised his option and then
6 subsequently sold it.

7 MS. HOFFLER: Does he want to use a
8 calculator?

9 MR. GARY: Do you have a calculator?

10 THE WITNESS: I'm almost done.

11 Okay.

12 BY MR. GARY:

13 **Q If he had sold it, if Anthony had sold it for**
14 **just 11,500 per acre that's represented in the Fanjuls'**
15 **offer to him, what's your number? How much profit would**
16 **have been on that deal?**

17 MR. HUTCHISON: Objection to form.

18 THE WITNESS: Did you ask me how much the
19 multiplier was, or how much the profit was?

20 BY MR. GARY:

21 **Q How much the multiplier was. What would be**
22 **the difference? What would be the difference?**

23 A Well, first, it's about 300,000 --
24 300 million.

25 **Q 318 million, isn't it?**

1 A I didn't get that answer.

2 Q You got an iPhone?

3 A I do.

4 Q Get your iPhone out and multiply it.

5 MR. HUTCHISON: Here. You want to use mine?

6 THE WITNESS: Either way, it's booting up.

7 I'll use yours.

8 BY MR. GARY:

9 Q What you're going to do for the jury is
10 multiply 27,678 acres times 11,500 per acre.

11 MR. HUTCHISON: Why don't you just multiply it
12 by 6500?

13 MR. GARY: You can do whatever you want to do.

14 THE WITNESS: I got this number:

15 \$318,297,000.

16 BY MR. GARY:

17 Q And subtract for the jury, if you would, the
18 difference between the purchase price at \$500 [sic] --
19 if it had the purchase price of 5,000, I'm sorry, per
20 acre, which is 138,390,000, and subtract that from the
21 Fanjul price of 11 point 5 per acre, which is 318,297 --
22 I'm sorry, let me back up -- \$318,297,000.

23 What's the difference? And we'll fuss about
24 how much of that was profit, but what's the difference?

25 MR. HUTCHISON: Objection to form.

1 THE WITNESS: \$179,907,000 under your
2 hypothetical example.

3 BY MR. GARY:

4 Q Well, you call it "hypothetical," but the jury
5 is going to see the contract from the Fanjuls.

6 As a matter of fact, did you know that the
7 Fanjuls had come to Anthony's office and offered him
8 even more money than that? Did you know that?

9 MR. HUTCHISON: Objection; move to strike
10 comment of counsel and the form.

11 THE WITNESS: If they had, he withheld that
12 information from me and did not tell me that
13 information.

14 BY MR. GARY:

15 Q So the fact of the matter is, you saw that
16 179 million-dollar profit sitting there. And from day
17 one, you set out to steal this property and take it from
18 Anthony Pugliese, didn't you, sir?

19 MR. HUTCHISON: Objection to the form; asked
20 and answered.

21 THE WITNESS: Not at all because the offer
22 from the Fanjuls came in well after we made the
23 purchase of the property, and Anthony could not
24 close on this property without my help.

25 And if I wanted to steal the property as you,

1 quote, say, I could have done that even before the
2 closing.

3 BY MR. GARY:

4 **Q You did it before the closing. You knew you**
5 **were going to take it, didn't you?**

6 A No.

7 **Q You knew from day one you were going steal it,**
8 **didn't you?**

9 MR. HUTCHISON: Objection to form.

10 THE WITNESS: Absolutely not.

11 BY MR. GARY:

12 **Q You -- from day one, you knew you were going**
13 **to rob him of this project, didn't you?**

14 MR. HUTCHISON: Objection to form.

15 THE WITNESS: What do you mean by "rob"?

16 BY MR. GARY:

17 **Q I mean, like, you know, like sophisticated**
18 **stealing.**

19 A You mean when he comes to me --

20 **Q What you did and what you've done.**

21 MR. HUTCHISON: Objection; form.

22 THE WITNESS: He comes to me and asks me for
23 over a hundred million dollars.

24 BY MR. GARY:

25 **Q Let me ask you this question --**

1 MR. HUTCHISON: Have you finished your answer?

2 BY MR. GARY:

3 Q Did you know that he had an offer for even
4 more than -- you said you answered this question, and I
5 don't want to be redundant.

6 So let's assume he had a offer of 15,000 from
7 the group out of Canada.

8 MS. HOFFLER: Empire. Empire.

9 BY MR. GARY:

10 Q Empire. I think I got it right. Empire
11 Properties?

12 MS. HOFFLER: Empire. Empire Group.

13 BY MR. GARY:

14 Q Empire Group. He told you about the Empire
15 Group from Canada who was interested in buying the
16 property?

17 A I don't recall the name "Empire Group," but I
18 remember hearing that he had people that had an interest
19 in the property.

20 Q Run that past me again, sir.

21 You heard of the Empire Group?

22 A I don't recall hearing the name "Empire
23 Group."

24 Q Did you hear of a group that was willing to
25 pay as much as 15,000 per acre?

1 A No. I heard of some people that were talking
2 about possibly paying as much as \$15,000 an acre.

3 **Q Okay. And if it had sold for 15,000, multiply**
4 **the 15,000 per acre times the 27-plus-hundred acres.**

5 A If Anthony had gone ahead and sold it as I
6 wanted him to do?

7 **Q Now, sir, I didn't ask you for that.**

8 **Just answer the question I asked you. You**
9 **know how to use the machine.**

10 **Multiply the 15,000 an acre -- if he had**
11 **gotten that and could have gotten that and had an offer**
12 **for that, multiply that times -- the 27,678 acres by**
13 **15,000.**

14 A Could I take a break now?

15 BY MR. GARY:

16 **Q You're not finished yet.**

17 MR. HUTCHISON: Finish the answer.

18 MR. GARY: Finish the answer. You just can't
19 jump up and leave during the middle of an answer.

20 THE WITNESS: 27,678 times 15,000 is
21 \$415,170,000.

22 BY MR. GARY:

23 **Q We can't hear you. Read that so the jury can**
24 **really hear you. I want to know if Anthony had sold for**
25 **15,000 an acre -- that's just on the 27,678 acres, and**

1 we're going to talk about the additional 14,000 acres
2 when you come back from your break, if you need one --
3 but how much -- tell the jury how much the 15,000 per
4 acre would have been for the 27,678 acres?

5 MR. HUTCHISON: Objection to the form.

6 BY MR. GARY:

7 Q Read it.

8 A How much is the multiplied number?

9 Q Yeah. If you sold it for 15,000 an acre, how
10 much money would that have been in street talk?

11 MR. HUTCHISON: Asked and answered and form.

12 THE WITNESS: What do you mean by "in street
13 talk"?

14 BY MR. GARY:

15 Q Well, sir, multiply it. If you -- I'm an old
16 farmer like we are down here in South Florida -- you
17 probably don't know nothing about that -- but if you got
18 27,678 acres and if you sell that for 15,000 an acre,
19 tell the jury: How much money is that?

20 MR. HUTCHISON: Objection to form; move to
21 strike comments of counsel.

22 BY MR. GARY:

23 Q Just what the total is.

24 A I already said the answer, which is
25 \$415,170,000.

1 MR. GARY: Mr. Videographer, can you hear him
2 down there?

3 MS. HOFFLER: He's got the microphone. We
4 can't hear him, but ...

5 MR. GARY: Okay.

6 THE WITNESS: Take a break now?

7 MR. HUTCHISON: Yeah. We can take a break.

8 MR. GARY: Go ahead and take your break.

9 THE VIDEOGRAPHER: The time on the monitor is
10 3:10.

11 MR. GARY: We started late. We got to keep
12 moving.

13 (Recess taken)

14 THE VIDEOGRAPHER: The time on the monitor is
15 3:39 p.m. This begins Tape No. 4 for your backup
16 video record.

17 MR. GARY: Could you read the last question?

18 (A portion of the record was read by the
19 reporter.)

20 BY MR. GARY:

21 **Q Now, with respect to Empire Communities out of**
22 **Canada, or since you don't -- you're not familiar with**
23 **the exact term or name, you knew he was negotiating;**
24 **talking to some people out of Canada, right?**

25 MR. HUTCHISON: Objection to form.

1 THE WITNESS: I don't know what he was doing.

2 BY MR. GARY:

3 Q Did you know he was discussing selling or
4 discussing offers or conversing back and forth about the
5 value of the property and or selling the property to a
6 group of people out of Canada?

7 A He told me that he wasn't interested in
8 selling the property, so I didn't -- I wouldn't get from
9 that that he is conversing.

10 Q Okay. Well, you -- you got that the Fanjul
11 discussion from him, didn't you? You didn't know the
12 Fanjuls, did you?

13 A Oh, I didn't -- I didn't -- the various people
14 that had an expression of interest, I didn't know any of
15 them.

16 Q So it was various people.

17 Who told you about the various people?

18 A Anthony did and said he wasn't interested in
19 selling the property.

20 Q Okay. I'm not concerned about it. We know he
21 wasn't interested in selling, but I'm talking about
22 offers that may or may not have been made that you were
23 aware of. Okay?

24 So this has nothing to do with whether he was
25 interested in selling. I'm saying, did you know of folk

1 that he was discussing this property with in terms of
2 the value of it, selling it. Whether he was interested
3 or not, he was in discussion with a group out of Canada
4 called Empire Communities Company of Canada.

5 A Did I know?

6 MR. HUTCHISON: Objection as to form.

7 THE WITNESS: Did I know if he was in
8 discussion with them?

9 BY MR. GARY:

10 Q Yes.

11 A I don't know what he did with them.

12 Q Did you know of them?

13 A I don't remember the name.

14 Q Well, who do you know that he was in
15 discussion with, since you made reference he was in
16 discussion with people? Who do you know?

17 A I didn't say he was in discussion with people.

18 Q Are you familiar with any groups that he was
19 in discussion with?

20 A I don't know what he did. He told me that he
21 had -- some people had reached out to him with an
22 interest in purchasing the property.

23 Q Did he tell you -- so at least he told you
24 that, right?

25 A Yes.

1 **Q** **Okay. And that these people were interested**
2 **in purchasing the property?**

3 A He said that there were people that were
4 interested -- interested in selling -- in purchasing the
5 property at a substantial profit. I told him I wanted
6 to sell.

7 **Q** **Okay.**

8 A He said he didn't want to sell.

9 **Q** **Okay. Now, you wanted to sell -- strike that.**
10 **Strike that.**

11 **Now, well, did Anthony tell you that there was**
12 **people that were interested that he was negotiating with**
13 **back and forth for a number of \$685 million --**

14 MR. HUTCHISON: Objection; asked and answered.

15 BY MR. GARY:

16 **Q** **-- on both pieces of the property?**

17 A No.

18 **Q** **Okay. You -- you think you lost your memory?**
19 **You're -- I'm not saying you have amnesia, but you think**
20 **it could be that you just don't remember?**

21 MR. HUTCHISON: Objection to form; move to
22 strike comment of counsel.

23 MR. GARY: Let me rephrase it.

24 BY MR. GARY:

25 **Q** **Did you know, and did Anthony tell you, he --**

1 told you about all of the discussions that he had about
2 people who were interested in purchasing this property,
3 but he didn't want to sell, did he?

4 A No. I don't think you're accurate there
5 because you were just referencing Anthony negotiating to
6 sell the property, including the Latt Maxcy piece.

7 Q You're a stickler for words. Let me -- let me
8 rephrase it.

9 A No. Let me finish my ques -- my answer.
10 You were referencing the Latt Maxcy property,
11 and he was negotiating to sell that for almost
12 700 million. That was several years later, and I am
13 confident he never disclosed that information to me at
14 all.

15 Q Well, now, you -- the point is, you know, he
16 couldn't have sold the property without you, right?

17 A Well, maybe that's why he was trying to buy me
18 out for --

19 Q Maybe, sir.

20 A -- for a small number and sell it to somebody
21 else at a high number. But he never disclosed to me
22 that he was negotiating --

23 MS. HOFFLER: There is no question pending.

24 MR. GARY: I'm going to move to strike. There
25 is no question on that pending. Move to strike the

1 answer that's unsolicited.

2 BY MR. GARY:

3 **Q The fact of the matter is, in terms of people**
4 **interested, you knew there -- and he told about people**
5 **interested and discussions going on about the Fanjul**
6 **11,500 an acre, right? He told you about that, right?**

7 A About --

8 MR. HUTCHISON: Asked and answered.

9 THE WITNESS: About three months after we
10 closed on the property, he told me that he had some
11 expression of interest; might have even been two
12 months.

13 BY MR. GARY:

14 **Q And this was within two to three months after**
15 **you-all acquired the property.**

16 A Let me finish the rest of my answer.

17 **Q Yeah.**

18 A Sir, I was just trying to answer the question.

19 **Q You -- you -- you're not trying to answer the**
20 **question. You're trying to give me a whole bunch of**
21 **verbiage that I don't need. I didn't ask you why. I**
22 **asked you for a question that calls for a yes-or-no**
23 **answer, and I told you time and time again, if you need**
24 **to explain, I'll let you.**

25 MR. HUTCHISON: Mark that question.

1 MR. GARY: I don't need you rambling on and
2 on.

3 I'm going to ask the question again.

4 BY MR. GARY:

5 **Q Did he tell you about --**

6 MR. HUTCHISON: Can you mark that?

7 BY MR. GARY:

8 **Q Did he tell you about --**

9 A I was just trying to answer the question.

10 MR. HUTCHISON: He's going to ask you again.

11 MR. GARY: Sir, I know you're saying you're
12 trying to answer the question. And I'm telling you
13 again: Please, if I ask you a question that calls
14 for a yes-or-no answer, give me the answer. Then
15 if you need to explain your answer, it's okay to do
16 it. That's all I'm saying.

17 And type that up for me, too, please. Okay?

18 BY MR. GARY:

19 **Q Let's start over again. He made you aware of**
20 **the fact that the Fanjuls wanted by this property at**
21 **\$11,500 an acre; is that correct?**

22 MR. HUTCHISON: Objection; asked and answered.

23 BY MR. GARY:

24 **Q Did he make you aware of that?**

25 A I don't recall him telling me the name, but I

1 do recall that a few months after closing, he told me
2 about somebody who had an expression of interest in
3 buying the property at \$11,500 an acre.

4 **Q And now, would that have been around the time**
5 **that the offer from the Fanjuls came in, the one that**
6 **you saw today?**

7 A Let's just reference that so I could get the
8 date.

9 MR. HUTCHISON: Wait.

10 THE WITNESS: I don't see the one from the
11 Fanjuls here.

12 BY MR. GARY:

13 **Q This is the one from the Fanjuls.**

14 MR. HUTCHISON: Exhibit 13?

15 MR. GARY: Yeah.

16 BY MR. GARY:

17 **Q What's the date on that?**

18 A September 9, 2005, is the date of Exhibit 13.

19 **Q And so when did he tell you about the Fanjuls**
20 **offer?**

21 A Well, sometime -- it sounds reasonable --
22 right around this date, he told me that there was a
23 company that had an interest in paying \$11,500 an acre.

24 **Q Okay. Now, in reference to -- and he also**
25 **came back and told you that the Fanjuls had come to his**

1 office, and they had expressed a desire to pay what he
2 thought was somewhere between 15- and \$20,000 per acre
3 because they wanted the property.

4 He told you that, didn't he?

5 A No. He never told me that.

6 Q Sir, do you ever read any documents or send
7 e-mails or make notes of any conversations that you've
8 had with anybody?

9 A I didn't understand the question.

10 Q You said Anthony never told you about his
11 discussions with the possible sale to the Fanjuls.

12 A I don't recall the name "Fanjuls." I do
13 recall him telling me about somebody who expressed an
14 interest talking to him about possibly buying the
15 property at \$11,500 an acre.

16 Q And that would have been around the same time
17 in September 2005 that, that -- this document that says
18 the Florida Family Development Group, which is the group
19 of Fanjuls, it says offer a price, 11,500 per acre.

20 Do you see that?

21 MR. HUTCHISON: Objection to form.

22 THE WITNESS: I don't see where it says

23 "Fanjuls."

24 BY MR. GARY:

25 Q Sir, well, do you see where it says "Offer

1 **price: 11,500 per acre"?**

2 **Do you see that?**

3 A On page one.

4 **Q First page?**

5 A Yes.

6 **Q Do you want to read the next five pages to get**
7 **an answer to that?**

8 MR. HUTCHISON: I think he answered your
9 question.

10 THE WITNESS: Yeah. It -- and it says that
11 this is just a letter of intent; it's not an offer.

12 BY MR. GARY:

13 **Q Well, does it say "Offer price: 11,500 per**
14 **acre"?**

15 **Sir, does it say that in this document?**

16 A Yeah. On the first page, it says "Offer
17 price: \$11,500 per acre."

18 On the second page it says, "This is a letter
19 of intent."

20 **Q Sir, then it says that -- how much money**
21 **they're willing to deposit within 48 hours?**

22 A "\$500,000 deposit due within 48 hours of the
23 effective date of the contract for the sale and
24 purchase." That still had to be negotiated.

25 **Q Okay. And "The earnest-money deposit shall be**

1 paid," right? They don't say to whom, right, but it
2 said "shall be paid"; is that correct?

3 A It says. Yes.

4 Q Okay. Now, so with respect to this e-mail,
5 this, this, this down, and then I'll move on from this,
6 discussions about groups wanting to purchase, if Anthony
7 said he told you directly, he kept you informed, he kept
8 you posted of all developments about any possible sales
9 on this property, you'd agree with that, wouldn't you?

10 A No. I'd say absolutely that's not true --

11 Q Now --

12 A -- because I know of circumstances where --

13 Q Sir, I just asked you, would you agree with
14 this?

15 A I'm just trying to explain my question (sic).

16 Q I know it, but I just asked you: Would you
17 agree with it, and you said no.

18 A I was in the middle of explaining, and you cut
19 me off. I want to finish my answer.

20 Q If he said he kept you informed, do you agree
21 with that? Yes or no?

22 A I said no, absolutely not, because --

23 Q I didn't ask you why you didn't agree. I'm
24 asking --

25 A I'm explaining my answer.

1 Q Sir, sir, but that's not because -- that's,
2 you know, oh, you need to tell me.

3 If it calls for an explanation, I'm going to
4 let you do that. If I ask you a question that calls for
5 a yes or no, just give me that, please, sir, just give
6 me that so we can move on.

7 A I'm in the -- I'm in the process of explaining
8 my answer.

9 Q Yeah. But you're in the process of giving
10 testimony unsolicited, and that's not what we are here
11 about.

12 A You asked me a question, and I'm just trying
13 to answer it, and you have stopped me from answering it.

14 Q What -- I didn't stop you. You answered my
15 question. You've answered my question.

16 A Let me finish.

17 Q You answered my question.

18 A Let me --

19 Q What about Fred --

20 A I still haven't finished.

21 Q Fred Florio.

22 A I'm still trying to finish my question, the
23 answer to my question.

24 Q I'll strike the question.

25 What about Fred Florio? Didn't he tell you

1 **about all these offers that Anthony had? Are you saying**
2 **he's lying, too?**

3 MR. HUTCHISON: Objection to form.

4 THE WITNESS: Well, you said --

5 BY MR. GARY:

6 **Q Didn't he tell you about all the offers that**
7 **Anthony Pugliese had and was discussing in reference to**
8 **the sale of that 27,000 acres plus the 14,000 acres?**
9 **Didn't Fred Florio talk to you about it and report to**
10 **you on it?**

11 A What's the definition of "all the offers"?

12 **Q Well, did Fred report to you any information**
13 **that Anthony gave him on any of them?**

14 A Yes. Early, shortly after purchasing the
15 property, as I said, maybe two to four months after
16 purchasing the property, Fred Florio told me that he had
17 spoken to Anthony, and Anthony told him that there were
18 some people who had expressed an interest in possibly
19 making a contingent offer.

20 And -- and Fred Florio told me that he thought
21 we should sell, and I agreed. And we both spoke to
22 Anthony, and he said he didn't want to sell.

23 **Q Did Fred also -- Fred also told you, too, he**
24 **was talking to people from Canada, didn't he; and**
25 **Anthony was discussing numbers on that property in the**

1 neighborhood of 685 million?

2 Now, we know that Anthony didn't want to sell,
3 okay, so you can get off of that bandwagon for a second.

4 What I'm saying is, didn't Fred Florio tell
5 you that this was part of the discussions that were
6 going on?

7 A What is the time frame of that?

8 Q In the same time frame that you said that he
9 talked to you, whatever that was.

10 A Is this in relation to the Rhode property?

11 Q Sir, you said Fred -- Fred Florio talked to
12 you about some discussions he had with Anthony about the
13 sale of the property, right? So it would have been
14 within that same time frame.

15 A And the answer is no. Fred Florio never told
16 me about any discussions at any time ever, nor did
17 Anthony tell me about any discussions any time ever,
18 where there was a potential purchaser for
19 \$600-plus million.

20 Q \$685 million.

21 A If that was the case, Anthony Pugliese did not
22 share that information with me and kept it from me.

23 Q Isn't it true he shared it with you, and you
24 didn't want him to sell, he didn't want to sell, because
25 you-all felt that the Disney [sic] project was bigger --

1 MS. HOFFLER: The Destiny.

2 BY MR. GARY:

3 Q -- the Destiny project was bigger and better
4 and would give more back in terms of helping to make
5 society better in that you were contemplating the green
6 approach to it and all of these things.

7 Isn't it true that those were some of the
8 reasons that went into you and Anthony deciding not to
9 sell the property?

10 MR. HUTCHISON: Objection to form.

11 THE WITNESS: No, not at all. I wanted to
12 sell the property. And if I had been told about a
13 offer of that magnitude, I would have been quite
14 insistent.

15 But the point is --

16 BY MR. GARY:

17 Q You were told about the Fanjul. You were told
18 about the 11.5, weren't you?

19 A Early in the project, very early in the
20 project.

21 Q Why weren't you insistent on that?

22 A Okay.

23 Q Why weren't you insistent on that?

24 A I will explain that to you. Very early in the
25 project, I talked to Anthony, and he told me that he had

1 some people that were just interested, but he didn't
2 have a firm offer. He said emphatically that he had no
3 interest in selling the property at that time.

4 And I said even though I want to sell, I
5 cannot make the sale on my own. It had to be with
6 Anthony's agreement.

7 And secondly, I didn't know about this
8 business. It was early in the process, and...

9 **Q Sir, I'm not going to sit here for two**
10 **hours --**

11 MR. HUTCHISON: Let him finish his answer.

12 BY MR. GARY:

13 **Q -- and listen to you just --**

14 MR. HUTCHISON: You asked him why. He's
15 answering why.

16 MR. GARY: I'll strike the question. Strike
17 the question. Strike the whole question.

18 MS. HOFFLER: And the answer.

19 MR. GARY: And the answer and let me rephrase
20 it.

21 BY MR. GARY:

22 **Q Now, you said had you known that that was as**
23 **much as \$685 million in discussion about the sale, you**
24 **would have been more -- what you said?**

25 A I would have been more insistent.

1 **Q Insistent?**

2 A Anthony, sell this. I would have even sold my
3 half --

4 **Q Okay.**

5 A -- for --

6 **Q With respect to -- the truth of the matter is,**
7 **you didn't want to sell half. You didn't want to sell**
8 **any of it because you wanted it all; isn't that true,**
9 **sir?**

10 MR. HUTCHISON: Objection; asked and answered.

11 THE WITNESS: No. Absolutely not because on
12 several occasions, I offered to sell the property.
13 We offered to sell the property to Anthony.

14 BY MR. GARY:

15 **Q "We" who?**

16 A FD Destiny offered to sell the property to
17 Destiny.

18 **Q Is that you?**

19 A FD Destiny offered to sell the property.

20 **Q When did you offer to sell it? What date?**

21 **What memo?**

22 A Well, I began talking to Anthony.

23 **Q Do you have a memo?**

24 A About?

25 **Q Offering to sell the property.**

1 A Well, you introduced a memo earlier from --

2 Q Do you --

3 A -- David Friedman.

4 Q Do you have a memo where you sent to Anthony
5 saying, "Here, let's -- let's propose the sale of this
6 property"?

7 Is there any proof, any documentation other
8 than your words?

9 A Yes.

10 Q What proof do you have?

11 MR. HUTCHISON: Objection as to form.

12 THE WITNESS: Okay.

13 BY MR. GARY:

14 Q What proof do you have, written proof?

15 A Okay.

16 MR. HUTCHISON: Objection to form.

17 THE WITNESS: Well, it's something that you
18 offered up earlier, which was the discussion --

19 BY MR. GARY:

20 Q Where are the documents?

21 A -- that I had with David Friedman and Anthony
22 where he could have bought the property from me, from
23 FD Destiny, for exactly what we had in it at no profit.
24 I was --

25 Q Show me that document where it says you -- he

1 could have bought it without no prof -- you making no
2 profit? Show me. Find that document where it says he
3 could have bought it.

4 A Could I have all the exhibits, please?

5 **Q There. There they are.**

6 A Are these all 13?

7 MR. GARY: Where are the ones from this
8 morning? Those are all of them, right?

9 BY MR. GARY:

10 **Q Look through them and show me where it says**
11 **that you are the only one to -- you were willing to sell**
12 **for what you had in the property?**

13 A Well --

14 **Q Show me where it says that.**

15 A Well, this item which you introduced earlier
16 today, which was an e-mail from David Friedman to
17 Anthony and Fred Florio.

18 **Q What's the date on that?**

19 A Well, the date that David Friedman sent this
20 to Anthony and Fred Florio was August 7, 2008.

21 **Q So now look at that and look at all the other**
22 **documents and show me anywhere on any single document**
23 **where you agree to sell for a fixed price or to break**
24 **even. Show me any document where you say that or any of**
25 **your people.**

1 A It say it, this says it right here: That
2 the -- FD be bought out at its initial investment.

3 **Q And what?**

4 A Plus the note and interest.

5 **Q And for how much?**

6 A It approximates that that total sum is
7 \$185 million.

8 **Q And we know that's false stuff, don't we? If**
9 **you put 185 in there, you show the jury how at that**
10 **point in time you had put \$185 million into this**
11 **project.**

12 MR. HUTCHISON: Objection to form.

13 THE WITNESS: Is that a question?

14 BY MR. GARY:

15 **Q Yeah. Tell the jury how you had put**
16 **\$185 million into this project at that time.**

17 A Well, look, I didn't do the math on this.
18 This was the -- and I'll explain this to you.

19 **Q But your employee did the math, didn't he?**

20 A I'm explaining it. So if you -- if you let me
21 explain.

22 **Q Sir, I said, first of all, show me if you can,**
23 **where in there, right, show me where your investment in**
24 **numbers because I -- I don't want your rhetoric -- in**
25 **numbers adds up to \$185 million.**

1 A Okay. Well, I didn't put this together, first
2 of all; but I could show you what we have here.

3 Q Okay. Now you want to vouch for it? Okay.
4 You say "what we have."

5 Who's "we"? Who is "we"?

6 A You and I.

7 Q No, no, no. Show me what you and your, your,
8 your, your, let me get his name correct here, your
9 business manager David Friedman had. Show me what
10 you-all had. I don't know about what you and I have.
11 Show me -- show me what you-all have in that document.
12 That is your document, isn't it?

13 A No. It's not my personal document.

14 Q It's from your employer, isn't it?

15 A I don't know.

16 Q Employee?

17 A I -- I don't know that it is.

18 Q Well, you know, you see his name on there,
19 don't you, sir?

20 A I see his -- I see David Friedman's name here,
21 yes.

22 Q So you see David Friedman's name there.
23 David Friedman worked for you, right?

24 A Yes.

25 Q And he offered that up, didn't he?

1 A Well --

2 MR. HUTCHISON: Objection; form.

3 THE WITNESS: I don't know, but I was trying
4 to explain the 185 million several times, but you
5 kept interrupting me.

6 BY MR. GARY:

7 Q Where do you commit to a number anywhere?
8 Show us where you commit to a number anywhere that you
9 want; Fred DeLuca on behalf of your LLC or where your
10 LLC commits to a number anywhere that you would take.

11 A Well, it doesn't. It doesn't commit to a
12 number, exactly. What it says --

13 Q I'm not asking you what it says. I just asked
14 you a simple question.

15 A I'm trying to --

16 Q I asked you to show me where in any document
17 where you commit to a number, a fixed number that you
18 would take.

19 Since you want to have this jury believe that
20 you wanted the sale, you wanted to get out, show the
21 jury in any document that you have in your boxes or on
22 this table, show the jury where you commit to a fixed
23 number.

24 A Now, I've been trying to --

25 Q I want to see one that exists.

1 A I've been trying to answer six questions in a
2 row. And every time I start, you stop me. And I'm
3 trying to explain from here, and as soon as I say five
4 words, you're interrupting me.

5 **Q Well, sir, you're going to explain. You're**
6 **going to show me on that document? Okay. Let me back**
7 **up.**

8 **Show me on that document, Mr. DeLuca, please,**
9 **where you commit to a fixed number to sell your**
10 **interest.**

11 A Well, I didn't say there was a fixed number
12 here. I said that this document -- that this document
13 shows that I was willing to sell the property at break
14 even, at no profit.

15 **Q Where it say "break even"?**

16 A It doesn't say the words.

17 **Q Where it say "no profit"?**

18 A It says it in all of the words.

19 **Q Where it say "no profit"?**

20 A It says in all of the words here.

21 **Q What does it say the words "no profit"?**

22 A It says it right here: "Propose that Fred's
23 FD be bought out at the initial investment."

24 **Q Yeah, but --**

25 A That would be no profit.

1 **Q Now, sir. Then read the rest of it.**

2 A And "plus paying off the note and interest."

3 **Q And what else?**

4 A Then it says "approximately \$185 million."

5 **Q And what else?**

6 A And then it says "Terms: Continue monthly
7 funding on the project for continuity."

8 Then it says: "Buyout in six months of
9 \$185 million."

10 **Q Plus what?**

11 A "FD to retain 5 percent of entire project."

12 **Q As to entire project, right, forever?**

13 A Well, not necessarily forever. I'd have
14 5 percent --

15 **Q You'd have 5 percent or what else?**

16 A "If the buyout takes more than six months, FD
17 to retain 10 percent of the entire project."

18 **Q Now, go back again and show me where that
19 equals to a fixed number that you would take, that you
20 wanted, that you offer --**

21 MR. HUTCHISON: Objection to form.

22 BY MR. GARY:

23 **Q -- to get out of this deal?**

24 A It says here: "Propose that FD be bought out
25 at the initial investment."

1 That's what it says.

2 **Q How do you know what 10 percent of the whole**
3 **project is?**

4 A It could be zero.

5 **Q And it could be 680 million or billion**
6 **dollars, couldn't it? It could be zero to a billion,**
7 **couldn't it?**

8 MR. HUTCHISON: Objection to form; calls for
9 speculation.

10 THE WITNESS: All I could tell you, sir --

11 BY MR. GARY:

12 **Q It could be zero to a billion, couldn't it?**

13 MR. HUTCHISON: Objection; form, calls for
14 speculation.

15 THE WITNESS: I don't know what it could be.

16 BY MR. GARY:

17 **Q Now, you keep talking about Anthony came to**
18 **you with this deal. The fact of the matter is, you went**
19 **to Anthony with this deal, didn't you, through your**
20 **girlfriend Fran?**

21 **First of all, do you have a banker friend**
22 **that's in the banking business? France -- Fran? Do you**
23 **know Fran?**

24 A Do I know someone named Fran?

25 **Q Yeah.**

1 A Yes.

2 Q In the banking business?

3 A Not currently.

4 Q She used to be?

5 A She worked for a bank.

6 Q She's the one introduced you to Anthony about
7 doing business, didn't she?

8 A Well, yeah. She did introduce Anthony to me.

9 Q Now, wait a minute. She introduced Anthony.
10 She went on and got Anthony, brought him to you, or she
11 introduced you to Anthony?

12 A I'll tell you the story what happened.

13 Q Sir, I just asked you: Did -- was -- how do
14 you know Fran? I mean, she's in the banking business,
15 right?

16 A Fran, who is a manager who worked for City
17 National Bank, told me on several occasions that she had
18 a good client, Anthony, and she told me that he was very
19 interested in meeting with me because he had the need
20 for an investor.

21 Q Okay. Okay. Now, sir, you're saying that
22 Fran told you that Anthony wanted to meet you.

23 That's what you're saying under oath, right?

24 A Yes.

25 Q Okay, good. Good enough. Fair enough.

1 **Now, so -- and then she took you to Anthony,**
2 **right?**

3 A No.

4 **Q When did you -- where did you first meet**
5 **Anthony at?**

6 A The first time I met Anthony was at my house.
7 Anthony came to my house with Tom San Giacomo.

8 **Q You sent her out to get Anthony, didn't you?**

9 A No. Not at all.

10 **Q You suggested for her to bring Anthony in,**
11 **didn't you?**

12 A I met Anthony at my house. I was having a
13 cocktail party. Anthony and Tom San Giacomo came there.
14 They purposely sought me out, and they purposely --

15 **Q You already knew her, though, didn't you?**

16 A Excuse me?

17 **Q You had a relationship with her, didn't you?**

18 MR. HUTCHISON: Objection to form.

19 THE WITNESS: Did I know Fran?

20 BY MR. GARY:

21 **Q Yes.**

22 A I knew her, yes.

23 **Q She was your girlfriend?**

24 MR. HUTCHISON: No, Willie. He's not
25 answering any questions like that. It's in

1 violation of the court order. You've had a copy of
2 the court order for the last three hours, and
3 that's improper.

4 MR. GARY: I move to strike. If it's in the
5 court order, I move to strike it.

6 MR. HUTCHISON: You better read the court
7 order, Willie.

8 MR. GARY: I move to strike it.

9 BY MR. GARY:

10 **Q She was your friend?**

11 A I new Fran because she was a friend.

12 **Q How long had she been your friend?**

13 A I think I might have known her -- I'm not
14 sure, maybe five years.

15 **Q As a matter of fact, now that I think about**
16 **it, didn't you go to his office looking for him before**
17 **he ever came in your house?**

18 A Not to my recollection.

19 **Q You came to his office. Could it be that you**
20 **did and you just don't recall it?**

21 A No.

22 **Q Now, with respect to Fred Florio, did he have**
23 **anything to do with bringing you and Anthony together?**

24 A Not to my knowledge.

25 **Q Well, he came to Anthony's office first,**

1 **didn't he?**

2 A I don't know.

3 **Q If he said that, you'd have no reason to**
4 **disagree with him on that?**

5 MR. HUTCHISON: Objection to form.

6 THE WITNESS: I -- I don't know.

7 BY MR. GARY:

8 **Q The truth of the matter is, you-all went**
9 **looking for Anthony, didn't you, sir?**

10 MR. HUTCHISON: Objection; asked and answered
11 and to form.

12 THE WITNESS: No.

13 BY MR. HUTCHISON:

14 **Q Now, speaking of Fred -- we talked about it a**
15 **little bit -- Fred has been with you about 16, 17 years;**
16 **isn't that true?**

17 A Something of that range.

18 **Q And he's no longer with you now, is he?**

19 A That's correct.

20 **Q As a matter of fact, he left because he was**
21 **concerned about you want him to change his testimony as**
22 **it relates to what he knew about the Destiny project;**
23 **isn't that correct?**

24 A That's not correct.

25 **Q Well, let me -- did you receive a letter from**

1 **him?**

2 A I did.

3 **Q Do you recall him saying: "Dear Fred" -- now,**
4 **let me, just look at what has been marked as**
5 **Plaintiffs' --**

6 MR. GARY: What's my number?

7 THE REPORTER: 14.

8 (Plaintiffs' Exhibit No. 14 was marked for
9 identification.)

10 BY MR. GARY:

11 **Q Now, all I'm asking you to do now is just look**
12 **at it and see if you recognize the signature on it.**

13 A I don't recognize the signature, but I think
14 it's Fred Florio.

15 **Q And copies were sent to whom?**

16 A It says David Friedman.

17 **Q Is that the same David Friedman we've been**
18 **talking about as relates to Doctor's Associates and all**
19 **the other companies that you have?**

20 A That same David Friedman --

21 **Q Your business manager?**

22 A -- David Friedman that works for Rockridge,
23 yes.

24 **Q And who is Carolyn Bolton?**

25 A Carolyn Bolton works for Prestige.

1 **Q** And you own -- you own Capital Management
2 **[sic].** How much of that do you own?

3 A Rockridge Capital?

4 **Q** Yeah.

5 A I own 100 percent of that.

6 **Q** And Prestige Business Consultants: How much
7 of that do you own?

8 A 50 percent of that.

9 **Q** Now, do you recognize -- did you get a letter
10 from Fred back in April of 2012?

11 A I did not get this letter.

12 **Q** Okay. Well --

13 A I got an e-mail from him, but I did not get a
14 letter that was mailed or signed.

15 **Q** Okay. Did your business manager tell you he
16 got a copy of it?

17 A I don't recall.

18 **Q** Did Carolyn from Prestige Business Consultants
19 tell you that she got a copy of it?

20 A I don't recall.

21 **Q** Okay. You got an e-mail, but let me just read
22 this and see if you recognize any of this:

23 "Dear Fred" -- your name is Fred, right?

24 A It is.

25 **Q** And you said that signature down at the

1 bottom, you said you don't recognize it, but you think
2 it's Fred Florio's?

3 A I think.

4 Q Is that what you just told the jury?

5 A It looks like Fred Florio's.

6 Q It looks like it?

7 A It looks like Fred Florio's.

8 Q And you've been around him for 17 years now,
9 right?

10 A Yeah, but I don't know his signature.

11 Q "Dear Fred" -- assume he's talking Fred
12 DeLuca -- "after more than 16 years working with you as
13 your employee," right?

14 Now he has been working with you for the last
15 16 years, hasn't he, with the exception of here
16 recently?

17 A Yes.

18 Q Okay. So here again, Fred Florio, your
19 16-year employee saying to you, "Dear Fred, after more
20 than 16 years of working with you as your employee,
21 friend, confident and advisor, I have concluded that the
22 time has come for me to resign from Prestige Business
23 Consultants Land Company of Osceola County."

24 Is that LCOC, the company we've been talking
25 about?

1 A I -- if -- I would call it Land Company of
2 Osceola County, LCOC.

3 Q Okay. So he go on to say: "and all of their
4 affiliates and everything else related to them and you."

5 And he goes further in his letter to you,
6 saying, "I believe my value to you has always been that
7 I tell you what you need to hear and not what I think
8 you want to hear. I have tried to do that with the
9 Destiny litigation."

10 That's the lawsuit that we're here about,
11 right?

12 A I think so.

13 Q You think so. You know that, don't you, sir?
14 Why do you got to think about that? You know that's the
15 lawsuit we're talking about, don't you?

16 A I'm not thinking about it. I said, "I think
17 so."

18 Q "But after talking to you" -- is that Fred
19 DeLuca paraphrasing -- "after talking to you and your
20 attorneys."

21 Now which attorneys do you have that he talked
22 to?

23 A I'm not sure which ones he's referencing here.

24 Q Well, which attorneys has he talked to,
25 period? That's you're attorneys, in reference to the

1 **Destiny litigation?**

2 A Well, in reference to the Destiny litigation,
3 he would have talked to John Pfannenbecker.

4 **Q Who is John Pfannenbecker?**

5 A John is sitting right here.

6 **Q Point him out for the jury. Pick him up on**
7 **the camera. Point him out. Which? You got three**
8 **people sitting here. Which one?**

9 THE WITNESS: Okay. Do you have that?

10 THE VIDEOGRAPHER: Uh-huh.

11 THE WITNESS: Okay. So the first gentleman
12 closest to the camera is John Pfannenbecker, and
13 the second gentleman here is John Chapman, and the
14 third gentleman here is Rick Hutchison.

15 And these three gentleman are lawyers that
16 Fred has talked to about the Destiny litigation.

17 BY MR. GARY:

18 **Q Okay. So now that we're clear on that, he**
19 **said he talked to you and your attorneys, "and I don't**
20 **think that you like what I have to say."**

21 **Are you reading with me?**

22 A I'm reading it.

23 **Q "I feel that I'm being pressured."**

24 **Did you pressure him?**

25 A Not at all.

1 **Q Did your attorneys pressure him?**

2 A Not at all because --

3 **Q Well, you felt that --**

4 A Let me finish my answer.

5 Not at all. He said he was worried about
6 being questioned, and I told him that if he wants to, he
7 could have his attorney present during anything, and all
8 we ever wanted him to do was to tell the truth.

9 **Q Tell the truth. I know the famous words. I**
10 **know your key word there. I know that deal.**

11 But I'm asking: Now he's saying here that he
12 was being "pressured to change opinions and
13 recollections regarding to the events that are the basis
14 of the Destiny litigation."

15 He's saying that you-all tried to make him
16 lie.

17 MR. HUTCHISON: Objection to form;
18 characteration [sic] of counsel.

19 BY MR. GARY:

20 **Q Well, he's said that you tried to get him to**
21 **change his testimony.**

22 Isn't that what he's saying here?

23 A No.

24 **Q Well, he said he feels "I'm being pressured to**
25 **change my opinions."**

1 A Well --

2 **Q Isn't that what he's saying? Yes or no, sir?**

3 A I have not talked to him about this.

4 **Q I'm talking about this letter. He said, "I**
5 **feel like I'm being pressured to change my opinions and**
6 **recollections -- recollections regarding the events that**
7 **are the basis of the Destiny litigation."**

8 **Do you read that?**

9 A I read that.

10 THE VIDEOGRAPHER: Mr. Gary, I'm sorry, I
11 didn't get the gentleman clearly in the middle.

12 Do you want me to get him?

13 MR. GARY: Yeah, get him.

14 You back on?

15 THE VIDEOGRAPHER: Yeah.

16 BY MR. GARY:

17 **Q Sir, do you -- when -- can you -- "change my**
18 **opinion," it's pretty clear that -- and with the word**
19 **"pressure" before it, you understand what that means,**
20 **what he's trying to say there, don't you?**

21 A I could read all the words in this letter, and
22 I think I understand the letter.

23 **Q Sir, do you understand what "pressure" means?**
24 **You know the definition of "pressure"?**

25 MR. HUTCHISON: He said he understood it.

1 Asked and answered.

2 MR. GARY: Wait, wait.

3 MR. HUTCHISON: It's asked and answered.

4 That's my objection. Asked and answered.

5 BY MR. GARY:

6 **Q What does the word "pressure" mean? You**
7 **understand it. Tell me what it means. Tell the jury**
8 **what it means?**

9 A I don't know what he means by this.

10 **Q So what does "pressure to change your**
11 **opinion," in your vocabulary of definitions, what does**
12 **that mean?**

13 A Someone that's trying to convince you about
14 something.

15 **Q Somebody is trying to convince you?**

16 A Yeah.

17 **Q Okay. Now, and he goes further to say: "I**
18 **don't think anyone wants to hear the truth of what I**
19 **think."**

20 Did you tell him that you didn't want to hear
21 the truth?

22 A Not at all.

23 **Q Did the lawyer tell him that they didn't want**
24 **to hear the truth?**

25 A Not at all.

1 Q That's what he said, isn't it?

2 A That's what he wrote there.

3 Q And he'd been an employee with you for 16
4 years, hadn't he?

5 A He had been.

6 Q Then he goes further to say: "Since you can't
7 change what I have to say, you have decided to try to
8 discredit me."

9 He's talking about you, Mr. DeLuca, isn't he?

10 A Yes, and I know exactly what that's about.

11 Q And you wanted him to change his testimony.
12 You wanted him to lie in this case, he wouldn't do it,
13 and then you went out among his friends to try to
14 discredit him, didn't you, sir?

15 MR. HUTCHISON: Objection; form, asked and
16 answered.

17 THE WITNESS: Not at all. Not one bit the
18 case. What happened was --

19 BY MR. GARY:

20 Q I didn't ask you what happened, sir.

21 And he goes further to say: "I don't like it
22 when someone questions my interity [sic] -- integrity."

23 Do you see that?

24 A I see that.

25 Q And then he goes on, and in closing: "I feel

1 that I could no longer be of any help to you, so I'm
2 giving you my resignation."

3 How much were you paying him a year at that
4 time? Over 100,000, wasn't it?

5 A He was getting paid over 100,000.

6 Q And he gave it up, didn't he?

7 A He did.

8 Q He gave it up, not even having a job, didn't
9 he, sir?

10 A Well, I don't know if that's the case. I
11 think that he had sources of income that I didn't know
12 about.

13 Q The fact of the matter is, if he had stayed
14 with you, he'd be making \$100-plus-thousand a year more
15 than whatever he's making, right? Because you were
16 paying him -- as a matter of fact, how much were you
17 paying a year?

18 A I don't know.

19 Q Over a hundred?

20 A I think it was over a hundred.

21 Q How do you know it was over a hundred?

22 A I don't recall how I know.

23 Q And you got an e-mail from him, too, didn't
24 you sir?

25 A Well, too, I didn't get this. I may have

1 gotten an e-mail.

2 **Q Well, you didn't get that, so we'll move on**
3 **from that, but you got an e-mail.**

4 MR. GARY: And I want to have this marked.
5 (Plaintiffs' Exhibit No. 15 was marked for
6 identification.)

7 MR. HUTCHISON: Do you have a copy, Willie?
8 What number is this?

9 THE REPORTER: 15.

10 BY MR. GARY:

11 **Q Now doing, surely when this --**

12 A Let me read this. Excuse me, sir.

13 **Q Sir, I'm not even going to ask you a question**
14 **about that, not right now. So let me just -- when you**
15 **get to that, you can read it.**

16 A I thought you were presenting it to me.

17 **Q No, no. Surely if this letter was written in**
18 **April of 2012 -- wait a second. I lost my thought.**
19 **I'll come back to that in a second.**

20 **If the April -- if the letter was written in**
21 **2012, you got a memo sometime after that on April the**
22 **10th, didn't you, sir? You got an e-mail?**

23 A I see that on April 10th, we got an e-mail
24 which is eight days after this letter was purportedly
25 written that I didn't receive.

1 **Q** Well, now -- now -- you -- you -- what exhibit
2 number you gave, Ms. -- Madame Court Reporter?

3 **THE REPORTER:** 15.

4 **BY MR. GARY:**

5 **Q** You see what has been marked as Exhibit 15 for
6 the Plaintiffs in this case?

7 **A** I do.

8 **Q** And that's an e-mail from whom?

9 **A** Let me read it.

10 **Q** You can just look up in the caption. I'm
11 going to give you a chance to read it.

12 **A** Okay.

13 **Q** Tell me in the caption: Who is it from?

14 **A** It says from Fred Florio. And I'll read it
15 now.

16 **Q** And then who is it to?

17 **A** It's to Fred DeLuca.

18 **Q** And what is your e-mail address?

19 **A** It's got two e-mail addresses here. One is
20 DeLuca_f@subway.com.

21 **Q** Where is that?

22 **A** That's in the fourth line.

23 **Q** I mean, where is the "Subway.com" located? I
24 mean, where is that address; where would that e-mail go
25 to? What city? What town?

1 MR. HUTCHISON: Objection; form.

2 THE WITNESS: It goes to me, wherever I am.

3 BY MR. GARY:

4 **Q Okay, good. So that is your e-mail address?**

5 A Deluca_ -- well, actually I should be more
6 direct about that. That e-mail address goes to my
7 secretary, Michelle Macavoy.

8 **Q So you decided to be more direct? As a matter
9 of fact, you decided to be truthful, right?**

10 MR. HUTCHISON: Objection.

11 THE WITNESS: No, not at all.

12 MR. HUTCHISON: Form.

13 THE WITNESS: I was just explaining.

14 BY MR. GARY:

15 **Q What's the next, Fred DeLuca? What's the next
16 e-mail? Does that go to you directly?**

17 A That e-mail address is Fred_deluca@subway.com.

18 **Q Where would you get that? At wherever you
19 are?**

20 A That comes to me directly.

21 **Q Then he sent a copy of this to David Freeman;
22 is that correct?**

23 A It is.

24 **Q One of your employees, too, right?**

25 A Yes.

1 **Q And Robert Ray; who is that?**

2 A Robert Ray, I believe he's the gentleman on
3 the phone. And he's on the phone. He's an employee of
4 Rockridge.

5 MR. GARY: Robert, you still on the phone?

6 MR. RAY: I'm on the phone, yes.

7 MR. GARY: You're not sleeping on us, are you?

8 MR. RAY: No, thank you.

9 MR. GARY: I know you're not. I was just
10 joking.

11 BY MR. GARY:

12 **Q Now, in this, this, this e-mail says -- and I**
13 **want to see if you recognize it after I read it: "Dear**
14 **Fred, I'm sorry that our relationship had to end this**
15 **way, but after being you with you" --**

16 MR. HUTCHISON: "I am also sorry." You missed
17 it.

18 BY MR. GARY:

19 **Q "Dear Fred, I am also sorry that our**
20 **relationship had to end this way."**

21 **Now, you had written him sometime back in --**
22 **on April, in April 2012 -- April 4, 2012, right?**

23 MR. HUTCHISON: This e-mail is in response to
24 that; is that what you're saying, Willie?

25 MR. GARY: Yeah.

1 MR. HUTCHISON: Would you mark that as an
2 exhibit?

3 (Plaintiffs' Exhibit No. 16 was marked for
4 identification.)

5 MR. HUTCHISON: What number is this?

6 THE REPORTER: 16.

7 MR. GARY: I'm not ready for this one. You
8 just stay with that. Don't worry about that one.
9 Are you ready?

10 BY MR. GARY:

11 Q Okay. Now, I'm going to read it and see if
12 you recognize any of it, okay, and make sure that you
13 received this. And you got a good memory about it, so I
14 could ask you some questions, and I'll let you read it,
15 but I'm going to read it to you first:

16 "I'm also sorry that our relationship had to
17 end this way. But after being told by you, you couldn't
18 justify paying me now, and that your team didn't feel
19 comfortable working with me, I knew I had overstayed my
20 welcome. Therefore, after giving 16 years of loyalty
21 and support to you, I feel I should move on.

22 "Conversations I had with you and your
23 counsel."

24 Now, he's talking about your lawyers there,
25 right?

1 A I think so.

2 Q "Conversations I had with you and your counsel
3 made it very clear."

4 And what lawyers is he talking about here?
5 The group of lawyers you just pointed out to the jury?

6 A I'm not sure.

7 Q Well, they were the ones that you wanted him
8 to talk to, right?

9 A I'm not sure what he's referencing here.

10 Q Now, "Conversations I had with you and your
11 counsel made it very clear, as I have stated many times
12 before, nobody cares to hear the truth as I know it to
13 be."

14 Do you see that?

15 A I see it.

16 Q Did you prepare an affidavit for him to sign?

17 A Me?

18 Q Your lawyers.

19 A Yeah. He -- I understand that he signed an
20 affidavit with the lawyers.

21 Q Oh, then he did sign a affidavit with the
22 lawyers?

23 A I understand that he did.

24 Q Where is that affidavit?

25 A I don't know.

1 **Q Has anybody produced it? Do you have it?**
2 **Where is the affidavit that he signed?**

3 A I don't know.

4 **Q Who drafted the affidavit?**

5 A I don't know.

6 **Q Did your lawyers do it?**

7 A I think my lawyers did it.

8 **Q Which one of them over there did it? Point**
9 **him out.**

10 A I don't know which one did it. I think Fred
11 Florio worked on it with John Chapman and Rick
12 Hutchison.

13 **Q Now, you told him, though, that you couldn't**
14 **justify keeping him on your payroll because he refused**
15 **to say what you wanted him to say in the litigation;**
16 **that he -- that you wanted him to lie, and he wouldn't**
17 **do it.**

18 **You asked him to lie, didn't you, Mr. DeLuca?**

19 MR. HUTCHISON: Objection; form, asked and
20 answered.

21 THE WITNESS: Not at all. I had spoken to him
22 six months earlier and explained to him that he
23 didn't have very much to do and that what I wanted
24 to do was to help him buy a business that he could
25 operate and profit from.

1 So for the last six months of his employment,
2 his job was to look for a business and come back
3 and bring reports to me, and we would talk about
4 what business I would invest in on his behalf.

5 BY MR. GARY:

6 **Q So you couldn't afford to pay him, but you**
7 **were going to invest and put him in business; is that**
8 **what you want this jury to believe?**

9 A No. I didn't say I couldn't afford to pay
10 him.

11 **Q You couldn't justify paying him, but you could**
12 **put him in business.**

13 A First of all, I don't remember those quotes.
14 The content -- the concept was this: He didn't have
15 much to do.

16 **Q You stated that, sir.**

17 MR. HUTCHISON: Let him finish his answer,
18 Willie.

19 THE WITNESS: I'll try to finish the answer.

20 BY MR. GARY:

21 **Q Yes.**

22 A He didn't have much to do, and I told him that
23 "Fred, I would like to help you out and find a business
24 for you." And, you know, I said to him, "Look around
25 for a business." He told me he was looking.

1 And for the last six months of his employment,
2 at my expense, he was looking for a business to invest
3 in. He didn't come up with much that he found
4 interesting, but I was willing to help him get into
5 business on his own. And that was --

6 **Q Well, let me ask you this here: He's saying**
7 **in this letter that the conversations he had with you**
8 **and your counsel "made it very clear, right, as I have**
9 **stated many times before, nobody cares to hear the**
10 **truth."**

11 **You didn't want to hear the truth, did you,**
12 **about this litigation, did you?**

13 A No. Not at all. I did want to hear the
14 truth.

15 **Q Well, he's saying you didn't want to hear,**
16 **right?**

17 **Let me ask you this: Were you trying to buy**
18 **his testimony with offering him a business?**

19 A No. Not at all.

20 **Q And did you finally, after 17 years, decide**
21 **that you couldn't justify having him any more because**
22 **you couldn't buy his testimony or he wouldn't lie for**
23 **you in the litigation that we're here about today?**

24 MR. HUTCHISON: Objection; form, asked and
25 answered.

1 THE WITNESS: No. Absolutely not. When I --
2 what had happened was he had alienated people that
3 he needed to work with; and therefore, he did not
4 have much work to do. And he was pretty idle, so I
5 talked to him about getting him into a situation
6 where he could make his own money.

7 BY MR. GARY:

8 **Q Okay.**

9 A And I was willing to invest up to a million
10 dollars.

11 **Q You were going to invest a million dollars**
12 **because as you -- as he stated -- you said you couldn't**
13 **justify paying him anymore. But you were still in --**
14 **you were going to put out a million dollars.**

15 **Sir, that million dollar was for his**
16 **testimony, wasn't it?**

17 A Not at all.

18 **Q If he said that you wanted to buy his**
19 **testimony, it's kind of documented in this memo because**
20 **you didn't want to hear the truth; isn't it true, sir?**

21 A No, not at all. It doesn't say that here, and
22 that's not the case.

23 **Q It said your lawyer did make a suggestion,**
24 **right?**

25 A Let me get to that point.

1 Q Well, let me -- let me, let me finish. I'm
2 skipping down. Hold on a second.

3 After he said "You and your counsel made it
4 clear, as I stated many times before, that nobody wants
5 to hear the truth" --

6 A Where are you?

7 Q -- "as I know it to be."

8 On the second paragraph.

9 A On the second paragraph?

10 Q Right. You know, he, he's telling you that
11 your lawyers or you didn't want to hear the truth as he
12 knew it. Whether he's right or wrong, that's what he's
13 telling you in this memo, in this e-mail; isn't that
14 true, sir?

15 A That's what he wrote.

16 Q And he said: "It seems to me that they fail
17 to remember, I was there and they weren't."

18 He's talking about the lawyers trying to get
19 him to sign this affidavit; isn't that true?

20 A I don't know what he was talking about.

21 Q Well --

22 A But I doubt it has anything to do with the
23 affidavit.

24 Q Well, if he says: "It seems to me that they
25 fail," who is he talking about, sir?

1 A I don't know.

2 **Q He's talking about the lawyers, and you know**
3 **it. Your lawyers.**

4 MR. HUTCHISON: Objection; asked and answered.

5 BY MR. GARY:

6 **Q Isn't that true, sir?**

7 **Did you answer? Are you reading?**

8 A Is there a question?

9 **Q Are you waiting on me?**

10 A Yeah.

11 **Q Well, let me move on further.**

12 **So when it says here -- so do we need Fred to**
13 **come in here and tell us what he meant when he said,**
14 **"They failed to remember that I was there and they**
15 **weren't there"?**

16 **It sounds like he's saying somebody is trying**
17 **to put words into his mouth; do you agree with that?**

18 MR. HUTCHISON: Objection as to form.

19 THE WITNESS: No.

20 BY MR. GARY:

21 **Q And you don't know when, he says "they," you**
22 **don't know who he's talking about, right?**

23 A Let me read this so that I have this in
24 context, and maybe I could answer your question better.

25 **Q Okay.**

1 MR. HUTCHISON: Read it.

2 MR. GARY: Speed read.

3 BY MR. GARY:

4 Q Are you still reading?

5 A Still reading.

6 Q Okay.

7 A Not done yet.

8 I'm done.

9 Q You done? Okay.

10 Now he's saying, in the third paragraph:

11 "Neither you nor your lawyers ever told me that I should
12 get a lawyer. Instead, after, I felt badgered."

13 Do you know what the definition of "badgered"
14 is, sir?

15 A In general.

16 Q What's your definition of "badger," feeling
17 someone had badgered you?

18 A When somebody asks you the same question over
19 and over again.

20 Q Okay. Then he says: "I suggested to them
21 that maybe I should consult with an attorney."

22 Do you remember reading that?

23 A I do.

24 Q "Your lawyer did make a suggestion that -- was
25 that I should speak with another lawyer."

1 **Do you see that?**

2 A I do.

3 **Q "But then they go on to say it should be one**
4 **of your lawyers."**

5 **Do you think that's fair?**

6 A Look, I don't know.

7 **Q So do you think that's fair, sir?**

8 A What's fair?

9 **Q That if -- that it should have been one of**
10 **your lawyers. If he's questioning the integrity of you**
11 **and your lawyers, do you think that it was fair to**
12 **suggest to him that he should see another one of your**
13 **lawyers?**

14 MR. HUTCHISON: Objection to form.

15 THE WITNESS: Adam Hodkin that was mentioned
16 here was a good friend of Fred Florio's. I don't
17 know what happened in the conversation, but if
18 somebody said to --

19 BY MR. GARY:

20 **Q But who did he work for? Who did Adam work**
21 **for?**

22 MR. HUTCHISON: Let him finish, Gary.

23 THE WITNESS: Let me finish.

24 Fred Florio knew Adam Hodkin before I knew
25 Adam Hodkin. Fred Florio brought Adam Hodkin to me

1 to work on certain cases.

2 If somebody said, "You know, perhaps you
3 should talk to Adam Hodkin, who is your long-time
4 friend," it seems more than --

5 BY MR. GARY:

6 **Q Where does it say "long-time friend" in here?**

7 A I'm explaining to you. Don't interrupt me,
8 please. I'm explaining to you what the situation is.

9 I said to you that Fred Florio knew Adam
10 Hodkin before I knew Adam Hodkin, and he worked closely
11 with Adam Hodkin on a number of cases, mostly on my
12 behalf --

13 **Q Okay, good. Now let me --**

14 A -- and --

15 **Q Sir --**

16 MR. HUTCHISON: Let him finish, Willie.

17 MR. GARY: You answered.

18 THE WITNESS: Well, you asked me if it was
19 fair, and I'm explaining to you that because of
20 Fred's close friendship and long relationship with
21 Adam Hodkin, it certainly does seem fair that
22 somebody might say -- I don't know what was said --
23 but someone might say, "Why don't you speak to Adam
24 Hodkin?"

25 MR. GARY: Move to strike. You're speculating

1 in your testimony.

2 MR. HUTCHISON: Let him finish.

3 MR. GARY: I just wanted to get my objection
4 in.

5 MR. HUTCHISON: You're asking him. Let him
6 finish.

7 MR. GARY: I'm letting him do it.

8 THE WITNESS: So, anyway, Adam Hodkin, who is
9 his good friend, and he's worked with Adam on a lot
10 of things including things outside of --

11 BY MR. GARY:

12 **Q You said this over and over, sir.**

13 A I'm just --

14 **Q You said they're good friends five times. I**
15 **know that.**

16 MR. HUTCHISON: Let him finish and quit
17 interrupting him, and we'd be done by now.

18 MR. GARY: No, he wouldn't because he's going
19 to sit there and go on and on.

20 Now, go take another second then we'll be
21 done.

22 Let me move to the next question.

23 THE WITNESS: So anyway, speaking to Adam
24 Hodkin who is his long-term friend, who worked with
25 him on other things, it seems like a fair thing to

1 do.

2 BY MR. GARY:

3 Q Okay. Good.

4 Now, so, but -- so, we'll be clear, Adam -- is
5 it Hopkins or Hochkin [sic]?

6 MR. PUGLIESE: Hodkin.

7 BY MR. GARY:

8 Q Hodkin was your lawyer, wasn't he?

9 A Well, he was a lawyer that had done work for
10 me.

11 Q He was a lawyer in the firm that's doing the
12 work for you in this case?

13 A No.

14 Q He wasn't?

15 A No.

16 Q Okay. Now, he says -- well, let me ask you
17 this here: Isn't he your LCOC lawyer right now as we
18 speak?

19 A He might be. I don't know.

20 Q Well, LCOC is involved in this case, isn't it?

21 A I don't know if Adam Hodkin has any work from
22 LCOC.

23 Q Well, he's the lawyer for LCOC. You know
24 that, don't you, right now?

25 A I don't know that.

1 **Q** You don't -- what about -- is he the lawyer
2 for FD Destiny?

3 A I don't know.

4 **Q** You don't? Well, who's the lawyer for
5 FD Destiny?

6 MR. HUTCHISON: In this case you're talking
7 about?

8 BY MR. GARY:

9 **Q** No. Who's the lawyer for FD Destiny?

10 A What do you mean by "the lawyer"?

11 **Q** Well, is -- is -- is Adam Hodkin a lawyer in
12 the FD Destiny project matter, case, period?

13 A I don't know.

14 **Q** Well, who is the lawyer for FD Destiny?

15 A In this case here?

16 **Q** No, for FD Destiny.

17 A I don't know.

18 **Q** The everyday, routine lawyer. It's not Adam?

19 A No. I don't think it has an everyday, routine
20 lawyer.

21 **Q** And you don't know -- well, what if Adam is
22 the lawyer for FD? Does that make a difference?

23 A As I said to you earlier --

24 **Q** Okay. I'll strike that, sir. I'll strike
25 that. I ain't going back through that again, that's for

1 **sure.**

2 **Now -- and is he on your payroll now? Does he**
3 **work for you now? And I'm speaking about Adam Hodkin.**

4 **Is he one of your lawyers?**

5 A Adam Hodkin, in terms of payroll, he's never
6 been an employee of mine. And I know that he has worked
7 on several cases as an independent lawyer.

8 **Q An independent lawyer for you right now**
9 **getting paid to do work for you, handle lawsuits against**
10 **creditors for Destiny for the Destiny Project?**

11 A I'm not sure what his role is right now.

12 **Q You're not sure what his role is, but you're**
13 **sure that he is engaged by you right now as lawyer?**

14 A I'm not sure.

15 **Q Now, he goes on to say, well, even with your**
16 **explanation, he says, "That seems to be a little bit**
17 **strange."**

18 **Do you see that?**

19 A I do.

20 **Q "This is when I got concerned. After all --**
21 **after all, I was there trying to help you." He's**
22 **talking to you, Fred DeLuca, "And the next thing I knew,**
23 **I might have needed an attorney myself. It got to be**
24 **very confusing to me because all I wanted to do was to**
25 **go down to their office and tell the truth."**

1 **When he say "their office," who is he talking**
2 **about to you in this e-mail? Tell the jury.**

3 A I -- excuse me?

4 **Q Who is he talking about "their office"?**

5 A Well, I -- from this, I think he must have
6 meant the office of Rick Hutchison.

7 **Q Your lawyer?**

8 A Yes.

9 **Q And he said all he wanted to do was "tell the**
10 **truth"; isn't that correct?**

11 A That's what he says.

12 **Q "As for Frank, I did not -- I did talk to him**
13 **as I told you I would. In fact, I went to see him."**

14 **Who was Frank?**

15 A Frank Kudzick is a friend of both mine and
16 Fred Florio, and we've known Frank for, oh, over
17 15 years. And Frank -- and Frank had told me about Fred
18 Florio and his activities with Anthony Pugliese.

19 **Q I asked you: Who is Frank, sir?**

20 A And I'm answering the question.

21 **Q I didn't ask you whether he told you; I just**
22 **said: Who is Frank?**

23 A I'm answering the question. I'm explaining
24 who Frank is.

25 **Q Who was Frank? You've given me an answer.**

1 Well, strike that. I don't need to know who Frank is.
2 I'll strike that question.

3 Now, he goes on to say: "In fact, I went to
4 see him" -- he's talking about Frank -- "he showed me
5 the message you sent to him asking if he could meet with
6 you."

7 You sent Frank a message asking him if he
8 could meet with Fred Florio. Did you do that --

9 A Excuse me.

10 Q -- or do we need to get Frank in here to
11 answer that question?

12 A Well --

13 Q Did you do that?

14 A I think you misstated the question.

15 Q Let me read it: "He showed me a message you
16 sent to him asking if he could meet with you."

17 A Yes. And the answer is yes, on Monday
18 morning.

19 Q Why did you have to send Frank --

20 A A message?

21 Q Yeah.

22 A Because --

23 Q To ask him to ask Fred if he could speak with
24 you?

25 A It says here he showed me the message you sent

1 to him asking if Frank could meet with me. I sent a
2 message asking him if he could have lunch with me.

3 **Q Okay. That's fair enough. So it was clear**
4 **that you contacted him, not the other way around, as you**
5 **have said.**

6 **He's calling you a liar there; isn't he, sir?**

7 A Well, he's absolutely wrong because we had
8 a --

9 **Q He's calling you a liar there, isn't he?**

10 A He is, but he's absolutely wrong because I had
11 a conversation with Fred Florio a few days before this.

12 And I explained to him -- I said, "Fred, I saw
13 Frank Kudzick on Friday night, and Frank Kudzick talked
14 to me about how he's been to a number of events with you
15 and with Anthony Pugliese socializing, and he was very
16 concerned about that. And he -- and Frank Kudzick said
17 to me that, you know, these people are conspiring
18 against you, Fred, and he doesn't like it. And I should
19 do something about it."

20 And he said to me, "They just think I'm a dumb
21 guy sitting in the corner, but they're there talking
22 about this case, talking about how Anthony is going to
23 do what he's going to do to -- to win the case, and Fred
24 Florio shouldn't be there. It's not right."

25 And this went on for about ten minutes.

1 **Q Okay.**

2 A And he -- and he -- and then his girlfriend,
3 Michelle, his fiance, Michelle, gave him the fish eye,
4 like, don't talk anymore.

5 **Q You know --**

6 A And Frank said to me -- Frank said to me,
7 "Contact me. We'll go to lunch."

8 And that's the end of that story.

9 **Q How do you know what Michelle did if you**
10 **weren't there?**

11 A Well, I was there personally with Frank
12 Kudzick and Michelle while Frank Kudzick was telling me
13 this story.

14 **Q Okay, okay, okay.**

15 A So I contacted -- I contacted Frank, went to
16 lunch. I also called Fred Florio, and I told Fred
17 Florio what Frank Kudzick said to me. And Fred Florio
18 said to me, "I'm not hanging around with Anthony."

19 So I said to him --

20 **Q Sir, sir, sir, I -- I move to strike the**
21 **question. Strike that. Strike the question.**

22 A Okay.

23 **Q That's enough of that. I'll give up a answer**
24 **on this completely.**

25 **Let me move onto something else.**

1 So he said: "So it was clear that you
2 contacted him, not the other way around as you have
3 said. Frank told me that he would never call you to
4 make such an appointment. He told me he would never
5 talk to you about me or you or your business affairs.
6 He said he knows nothing about your business. So
7 therefore, you -- so therefore, why would you
8 interfere?"

9 You follow that so far?

10 A I follow that, yes.

11 Q "I close -- I chose to believe Frank after
12 seeing the message with my own eyes."

13 Next paragraph -- see if you recognize this
14 paragraph:

15 "My resignation was based on the facts as I
16 have stated them before, and no matter how many times
17 others try to turn things around, I don't think they
18 could convince me to see things any differently."

19 Do you see that, sir?

20 A I see that.

21 Q And that's addressed to you, isn't it?

22 A This e-mail is addressed to me.

23 Q "Due to the fact that we don't see eye-to-eye
24 on this matter and that I have been told by you that
25 nobody feels comfortable working with me, maybe -- maybe

1 they could just all leave me alone."

2 They say, "just leave him alone."

3 Do you see that?

4 A I see that.

5 Q "And do whatever you want to do. Just leave
6 him alone."

7 Do you see that?

8 A It's close what you read, but not exact.

9 Q "After all, they don't -- after all, they
10 don't need me to agree. Please tell your lawyers to
11 stop calling me."

12 Do you see that?

13 A I did. I do.

14 Q Did you tell your lawyers to stop calling him?

15 A Yes.

16 Q Which lawyer did you tell to stop calling him?

17 A Well, I showed this to Rick Hutchison, and I
18 said that -- I told Rick about the situation.

19 Q I said, did you tell your lawyer to stop
20 calling him?

21 A Yes. I explained to them the situation, the
22 unusual, highly unusual situation that occurred.

23 MR. HUTCHISON: Don't get into any
24 communication. Just yes, yes.

25 MR. GARY: Okay. Because you opened the door.

1 MR. HUTCHISON: You don't have to talk about
2 attorney client/communications.

3 THE VIDEOGRAPHER: Mr. Gary, I only have five
4 minutes.

5 MR. HUTCHISON: We're done at 5:00, so we'll
6 be done in a minute.

7 MR. GARY: So are you advising him to get --

8 MR. HUTCHISON: I'm not going to provide
9 attorney/client privilege.

10 MR. GARY: I agree with that.

11 BY MR. GARY:

12 Q Your lawyer is telling you, any conversation
13 you had with him, you, that's privileged.

14 You understand that?

15 A Yes.

16 Q Okay. Good.

17 Now, this million dollars that you were going
18 to give Fred or invest in Fred or buy a business for him
19 or whatever, did Fred ever accept that million dollars?

20 A Well, first of all --

21 Q Did he ever accept a million dollars from you?
22 Did he accept a million dollars from you, sir? Yes or
23 no?

24 MR. HUTCHISON: You can explain.

25 THE WITNESS: No. But to explain more

1 clearly, I didn't offer him a million dollars. I
2 said that I would invest in a business, and he
3 should look for a business that could cost up to a
4 million dollars; and that if he found something, he
5 should bring the business to me, and we would
6 discuss it to see if it's something that he would
7 enjoy and it makes sense.

8 MR. HUTCHISON: It's 5:00.

9 MR. GARY: Just a couple more questions. Let
10 me finish this.

11 BY MR. GARY:

12 **Q Didn't you offer him as much as \$5 million?**

13 A No. I --

14 **Q Didn't you offer him as much as \$5 million to**
15 **stay as he was going out the door?**

16 A No. Absolutely not.

17 **Q And you were 50/50 partners with him?**

18 A I don't understand what you're talking about.

19 **Q Didn't you offer him up to \$5 million; that**
20 **you would invest that much in him if he would stay, and**
21 **you-all would be 50/50 partners.**

22 **And he said no?**

23 MR. HUTCHISON: Form. What's the time frame?
24 You talking about after his resignation letter?

25 MR. GARY: Yeah. Yeah. During that time.

1 THE WITNESS: Are you talking about after he
2 resigned?

3 BY MR. GARY:

4 Q No. Before he resigned.

5 A Well, six months before he resigned, I had
6 talked to him on a number of occasions about businesses.

7 Q This litigation was going on then, too, right?

8 A Yes. And --

9 Q Now, let me ask you this --

10 A But I don't know that -- we talked about a
11 variety of numbers and a variety of possible situations,
12 but he never came with a business that he was interested
13 in.

14 MR. HUTCHISON: You can continue tomorrow,
15 Willie, it's after 5:00.

16 MR. GARY: We were flexible with you, man.
17 You know, you -- we -- we cancelled depositions.

18 MR. HUTCHISON: Flexible, but we've got a
19 whole 'nother day tomorrow. You got him all day.

20 MR. GARY: Well, let's talk about that because
21 we need more than tomorrow.

22 MR. HUTCHISON: Let's do tomorrow and see
23 where we are.

24 THE VIDEOGRAPHER: Can we go off the video
25 record?

1 MR. GARY: Because I'm not going to finish.

2 MR. HUTCHISON: Yeah. We're done for the day.

3 THE VIDEOGRAPHER: The time on the monitor
4 5:02.

5 (At 5:02, the videotaped deposition was
6 adjourned.)

7 MR. GARY: Do you want to agree on this
8 additional time? I can't tell you that I'm going
9 to finish tomorrow because I'm not finished, and I
10 can't be here tomorrow.

11 MR. HUTCHISON: I let you go today because you
12 told me, "Rick, I have one day with him."

13 MR. GARY: I know it.

14 MR. HUTCHISON: So you can go out of order,
15 and I let you go out of order.

16 MR. GARY: I understand. That's okay. Do we
17 need to go to the judge to see if we need more
18 time?

19 MR. HUTCHISON: Yeah, eventually. Let's see
20 how tomorrow goes. Yeah, probably.

21 MR. GARY: Before --

22 MR. HUTCHISON: We're off the record?

23 THE REPORTER: Are we off?

24 MR. GARY: I think we need to be on the
25 record.

1 MR. HUTCHISON: Okay. Let's be on the record.

2 MR. GARY: I told you that I couldn't be here
3 tomorrow. I'm not finished. See, we will use
4 tomorrow. CK will finish. But I'm saying I'm
5 going to ask the Judge for more time, period, even
6 if I ain't finished. We're not going to finish
7 tomorrow. I'm telling you that now. There is no
8 way we can finish tomorrow. We're going to need
9 more time. If you're saying I need to go to the
10 Judge to get that, I'll do it. If you needed more
11 time, I'd give it to you.

12 MR. HUTCHISON: You told me --

13 MR. GARY: I know what I told you.

14 MR. HUTCHISON: Look-it, I'm not the witness.
15 You are going to let me finish. I let you finish.
16 We can give professional courtesy to each other.

17 MR. GARY: I know what I got to do.

18 MR. HUTCHISON: You told me yesterday that you
19 thought that you had to go away Wednesday; you
20 could be here for part of the day Wednesday, but
21 you'd really like to go today, would I let you go
22 out of the order and let you go today instead of
23 CK.

24 I said, "Willie, absolutely. We'll
25 accommodate your schedule, I would do that."

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You said you would be one day. That was what you told me. I held up my end of the bargain.

MR. GARY: I need another two days.

MR. HUTCHISON: We'll have to go to the Judge.

MR. GARY: So we'll finish tomorrow, and then we'll go to the Judge.

MR. HUTCHISON: We'll finish tomorrow, and then if you want to go to the Judge, then that's what we'll do.

MR. GARY: Okay.

THE VIDEOGRAPHER: Tomorrow we're starting again at 9:00 a.m.?

(Witness excused.)

(At 5:05, the deposition was concluded.)

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CERTIFICATE OF OATH

THE STATE OF FLORIDA
COUNTY OF PALM BEACH

I, the undersigned authority, certify that
FREDERICK DELUCA personally appeared before me and was
previously duly sworn on the 25th day of September,
2012.

Dated this 26th day of September, 2012.



Patricia A. Lanosa, CSR, RPR, CLR, FPR
Notary Public - State of Florida
My Commission Expires: 10/09/2014
My Commission No.: DD 594347

Job #951381

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C E R T I F I C A T E

THE STATE OF FLORIDA
COUNTY OF PALM BEACH


I, Patricia A. Lanosa, Registered Professional Reporter and Notary Public in and for the State of Florida at large, do hereby certify that I was authorized to and did report said deposition in stenotype; and that the foregoing pages are a true and correct transcription of my shorthand notes of said deposition.

I further certify that said deposition was taken at the time and place hereinabove set forth and that the taking of said deposition was commenced and completed as hereinabove set out.

I further certify that I am not attorney or counsel of any of the parties, nor am I a relative or employee of any attorney or counsel of party connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

Dated this 26th day of September, 2012.



Patricia A. Lanosa, RPR, FPR, CSR, CLR

Job #951381

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C E R T I F I C A T E

- - -

THE STATE OF FLORIDA
COUNTY OF PALM BEACH

I hereby certify that I have read the foregoing deposition by me given, and that the statements contained herein are true and correct to the best of my knowledge and belief, with the exception of any corrections or notations made on the errata sheet, if one was executed.

Dated this ____ day of _____,
2012.

FREDERICK DELUCA
Job #951381

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