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THE COURT: Come to order.

MR. HUTCHISON: I thought this was okay.

Ms. Hoffler is objecting to the red, but that is something that Mr. Pugliese pled to. So I think that's resolved.

MS. HOFFLER: Versus just saying if you had said it differently but the way it is, but he can say that.

THE COURT: Just omit about the checks were written to the Pugliese Company quote unquote, yes.

MR. HUTCHISON: Judge, this one I just want to revisit, I didn't realize that was an object they didn't object to.

MS. HOFFLER: I don't know that that is correct.

THE COURT: Well, Mr. Gary raised that as an objection claim being this section of the matter would have been argumentative and clearly it is.

MR. HUTCHISON: I'll take that out.

THE COURT: It looks like a paid political advertisement.

MR. HUTCHISON: I'll take the invoice out.

THE COURT: Other than that I don't have a

1 problem with it.

01:27:49

2 MR. HUTCHISON: Okay.

3 MS. HOFFLER: This was not an exhibit that
4 we didn't object, all that stuff, no. I'm
5 sorry --

01:28:00

6 THE COURT: I told you I didn't want the
7 photograph of the question and I thought that
8 Mr. Gary had just objected to the right side of
9 the page, but.

10 MR. HUTCHISON: I'll take out the right side
11 of the page and I'll even take this off.

01:28:11

12 MS. HOFFLER: This is not an exhibit,
13 though. I'm sorry, Your Honor.

14 THE COURT: I agree that it was objected to
15 and I'm going to exclude it as a demonstrative
16 aid at this point. Okay. Thank you. Watch your
17 step.

01:28:23

18 Anyway, let's go ahead and bring in the
19 jury, please. Thank you.

20 THE BAILIFF: The jury is entering. (Jury
21 in).

01:29:01

22 THE COURT: Welcome back ladies and
23 gentlemen. Again thank you for your continued
24 service and sacrifice. We're going to go ahead
25 and hear from now from the DeLuca side.

01:29:31

1 Mr. Hutchison will provide the opening statement. 01:29:36

2 MR. HUTCHISON: Thank you, Your Honor.

3 This case is about theft, it's about
4 incompetence, and it's about ego. Anthony
5 Pugliese is a thief, it's admitted and these 01:29:52
6 convicted. Now, the best defendants is a good
7 off fence and they can attack Fred DeLuca, but
8 where are the documents, what do the documents
9 support? Because like evidence, you looks at the
10 documents and the documents will show that 01:30:10

11 Mr. Pugliese, he committed fraud and he stole and
12 he tried to develop land that was in the middle
13 of nowhere, a project he was not qualified for.
14 This is not a Wal-Mart on the edge of town. It's
15 not a build full building in the stiff Boca 01:30:28
16 Raton. It is 27,000 acres in the middle of
17 nowhere and we'll talk about that in a little
18 bit.

19 But is land was not going to be entitled and
20 just so you understand, the evidence will show 01:30:41
21 that the plan was to buy the land, obtain
22 entitlements and flip it. They weren't going to
23 build a city. They were gone to obtain zoning
24 and entitlements so some other builder could come
25 in and build, but this was a flip. Buy the land, 01:31:00

1 entitle it and sell it. That's what this was. 01:31:11

2 It was a land speculation deal where they could
3 buy it, entitle it and sell it for a profit.

4 I'm going to explain to you is the theft,
5 the incompetence and the ego and then I'm going 01:31:26
6 to review that with a timeline.

7 I'm gonna tell you about the Land Company of
8 Osceola. Mr. Pugliese is not running away from
9 the theft and his lawyers told you in opening,
10 because he can't. He got caught. It's too late 01:31:46
11 to runaway from the theft. He was indicted, he
12 served time, he pled to the crimes, he's a
13 convicted felon and he pled to steeling almost
14 1.2 million. I think it's \$1,195,000, but almost
15 \$1.2 million. 01:32:08

16 In this case he took almost \$2.9 million and
17 the prosecuted didn't look at those, but our
18 expert in this case reviewed the documents and he
19 came up with \$2.9 million and it's the exact same
20 conduct he used in the criminal case, the exact 01:32:24
21 same conduct and I'm going to go over those three
22 methods of stealing in a minute.

23 The first I'm going to talk about theft, T
24 for theft. There were three fraudulent schemes.
25 One was fake companies. What he did was take his 01:32:47

1 in-house lawyer Doug Merrick create LLCs, limited
2 liability companies and the registered agent of
3 course was his partner in crime Joe Reamer and he
4 would create these companies and then -- he would
5 create these companies and then create invoices
6 for these companies, fake invoices and like one
7 would be AEC Environmental and say AEC
8 Environmental did work. He would describe the
9 work that was done, all representations, all
10 fraudulent misrepresentations and they would do
11 that on an invoice. And remember he's the
12 manager of Land Company of Osceola, LCOC as the
13 Judge referred to it, he approved those invoices
14 and then he gave them to Reamer, Joseph Reamer,
15 who would then include them and this is important
16 that you understand, that Fred DeLuca through his
17 company FD Destiny was just an investor here when
18 it comes to paying these invoice or submitting
19 the funds to these invoices. FD Destiny was the
20 investor. So every month LCOC would incur
21 expenses. If they incurred a hundred thousand
22 dollars of expenses, the deal was that FD Destiny
23 had to pay 75 percent and AVP Destiny had to pay
24 25 percent, 75-25.

25 So Mr. Reamer would include it on the

01:32:50

01:33:14

01:33:34

01:33:50

01:34:07

01:34:27

1 monthly funding company, also called a capital
2 call. They called it monthly capital call or
3 monthly funding requests.

4 So he would put the fake invoice on the
5 monthly funding request and send it to Fred
6 DeLuca's or FD Destiny representatives to review
7 and then pay. So if that bill that month was a
8 million dollars and FD Destiny had to put in
9 \$750,000, they would look at these fake

10 companies, AEC Environmental, Auman, Levy Stern,
11 they didn't know they were fake companies, they
12 didn't know they were fake invoices. How would
13 they know because they weren't there on the
14 day-to-day operations and FD Destiny would then
15 submit it's monthly funding to LCOC and this was
16 on a monthly funding. LCOC in theory should have
17 no money, right? It incurs a million dollars of
18 expenses it gets 750 from FD Destiny, 25 from AVP
19 Destiny pays the expenses and at the end of the
20 month there should be no money. Of course
21 there's a time lag, but in theory there should be
22 no money.

23 And then LCOC would then pay the fake
24 company because not only did Mr. Reamer and
25 Mr. Pugliese create a fake company, they opened

1 up a bank account for the fake company and who 01:35:51
2 controlled the bank account, Joseph Reamer.

3 The LCOC check would then be -- Mr. Reamer
4 would take the check from LCOC that he would
5 sign, deposit it in the fake bank account it was 01:36:07
6 a real bank account, but for a fake company and
7 then where did the money end up, in the Pugliese
8 Company.

9 You will see the documents that support that
10 transaction. You will see the document that 01:36:24
11 creates the fake company, you'll see the fake
12 invoices, you'll see Mr. Pugliese's initials on
13 the approval stamp, Joseph Reamer sign the check,
14 the deposit being deposited for example in AEC's
15 bank account and the check from AEC Environmental 01:36:44
16 and that didn't just happen, you saw the alleged
17 22 breaches on the board, if I put a breach down
18 for every time there was a check written there
19 wouldn't be a board big enough because there were
20 numerous checks written to these fake companies. 01:37:03

21 For a total of \$2.9 million, but that was the
22 first wave that came out to seven or \$800,000.
23 About the all using this same scheme.

24 There was AEC Environmental, ARUP LLC, Black
25 Walker, all created by Mr. Pugliese and his 01:37:38

1 in-house lawyer, Joseph Reamer wrote the checks,
2 Mr. Pugliese created the fake invoices,
3 Mr. Pugliese approved the fake invoices,
4 Mr. Reamer asked FD Destiny to fund and FD
5 Destiny wrote the checks, Mr. Reamer deposited
6 the checks in the Pugliese companies and they
7 wrote checks back to the Pugliese companies and
8 those are the names.

9 And it could have been because these last
10 two invoices were submitted, but checks were
11 never written, while I'll get to that part of the
12 story in the timeline, Mr. DeLuca suspected theft
13 in 2009 and stopped funding and that's why he
14 stopped funding in May of 2009, but I'll get to
15 that in a minute.

16 But these are all fake companies, fake
17 invoices. The money was taken, was stolen and we
18 have documents for every bit of that to show.

19 So what happened here your word is your
20 bond? Created fake companies, created fake
21 invoices, he paid those fake companies with FD
22 Destiny's money and with LCOC's money. It's a
23 theft from LCOC too. I represent Land Company of
24 Osceola as well as FD Destiny. He stole from
25 both of them.

1 So much for your word is your bond.

01:39:09

2 The second scheme to steel was work that a
3 real contractor did, but just didn't do it for
4 Land Company of Osceola and you will see that
5 Mr. Pugliese has a 45, \$50 million house on the
6 ocean and the work done on that house to a large
7 extent was paid for by Land Company of Osceola.
8 That money was set aside to pay employees for
9 Christmas gifts. It wasn't set aside to put
10 turkeys on their tables at Thanksgiving. Sounded
11 good, but the money went to Mr. Pugliese's
12 \$45 million house, landscaping \$150,000 or
13 more -- for landscaping. 160 plus thousand
14 dollars for an audio visual system in his house,
15 carpeting for over \$80,000, pest control in the
16 thousands, a moat chiller, because the house has
17 a little moat around it with goldfish or big fish
18 that will get hot in the summer I guess and die
19 so he has a chiller for the moat who pays for the
20 moat chiller, Land Company of Osceola and FD
21 Destiny. not to pay employees, right, not to put
22 clothes on their back. This money go to the
23 employees. Good they at tricks, pull at your
24 hearts --

01:39:28

01:39:53

01:40:16

01:40:34

25 MR. GARY: I'm going to object, Your Honor.

01:40:58

1 THE COURT: Overruled.

01:41:00

2 MR. HUTCHISON: So they were real vendors,
3 they did real work, but they didn't do work for
4 Land Company of Osceola and that was for the
5 benefit of Anthony Pugliese.

01:41:09

6 The third way -- oh, I want to go back to
7 those monthly capital calls that I explained
8 earlier, because those monthly capital calls and
9 this is the money trail, a real vendor, the
10 person who did the audio and visual at his house,
11 Auman and associates AUMAN, a real company goes
12 to their house, gives them an invoice, they
13 change the invoice. Bills the Land Company of
14 Osceola. The manager of Land Company of Osceola
15 approves it. LCOC pays for the moat chiller, the
16 landscaping, the pest control, carpentry, the
17 audio visual system, Auman & Associates. The
18 vendor receives the check, the vendor gets the
19 money, the vendor puts it in his bank account and
20 walks away. The money is not set aside to pay
21 employees. Common sense. Someone gives I was
22 check you cash it, the money is gone. It's not
23 set aside to pay employees.

01:41:35

01:42:03

01:42:23

24 Quickbooks. It's accounting software, okay.
25 This goes into -- this is the money trail for

01:42:44

1 real vendors, real companies who did work for him 01:42:50
2 personally for one of his other companies and
3 LCOC and Destiny paid for it.

4 What happened to your word is your bond?

5 You he hired people to work at his house and he 01:43:05
6 paid for it with FD Destiny's money, the Land
7 Company of Osceola's money. And some of these

8 were included in the money he stole in the
9 criminal case, not only the criminal case, but

10 it's the exact same conduct you'll find with 01:43:23

11 these other vendors, same conduct, and they were
12 all included on the monthly funding request. So

13 when the monthly funding request was made, Auman
14 & Associates, the pest control, the landscaping

15 all went up to Mr. Fred DeLuca's FD Destiny 01:43:38

16 people -- or FD Destiny is owned by Fred DeLuca

17 he's representatives were taking care of it and

18 funded by FFDG and funded by LCOC, both of them.

19 The third scream to defraud or steel is

20 Quickbooks is accounting software. 51st thing I 01:44:01

21 want to show you there's a company called

22 Geotechnical Environmental Consultants, Inc. and

23 Geotechnical was a real company that

24 Mr. Mr. Pugliese and this was sent been behalf of

25 Mr. Pugliese by Doug Merrick and they terminated 01:44:22

1 Geotechnical service in May of 2008. We don't
2 need your services any more. Perfectly fine, no
3 problem with that, but when you go to the
4 accounting and there's payments to Geotechnical,
5 August 15th, 2008 -- well, wait a minute they
6 were terminated back in May. September 15th, big
7 numbers, \$61,916.40 they have to make it look
8 legitimate, \$45,170.54, \$53,919.79. So when you
9 pull up those checks, all part of the
10 investigation that was done in the last several
11 years, who's the check made out to? Not
12 Geotechnical, the Pugliese company. That money
13 was deposited directly into the Pugliese
14 companies bank account, not set aside, not put
15 anywhere else. Right in the operating account
16 commingled with all the other monies that they
17 have.

18 That adds up to over \$200,000.

19 So the accounting records say Geotechnical
20 has got the money, the check says the Pugliese
21 company got the money. That's fraud. And you'll
22 get to see these documents, you'll get to look at
23 these documents. An you'll look at those
24 documents. What happened to your word is your
25 bond on that one?

1 The books contain false entries, false
2 accounting.

01:46:16

3 Here's another one, Ms. Stumberger a long
4 time friend of Mr. Pugliese's without cut that
5 out? May I, Your Honor.

01:46:35

6 THE COURT: Yes.

7 (Whereupon counsel for the respective
8 parties approached the bench and the following
9 proceedings were had outside the presence of the
10 jury:) Your Honor, we object. He's putting up
11 document that's you have ruled on that he
12 couldn't do unless he took that checks were
13 written to the Pugliese Company off. He didn't
14 take that part off

01:46:44

15 MR. HUTCHISON: You said take the, but off.

01:47:04

16 THE COURT: No I said take the whole thing
17 off.

18 MR. HUTCHISON: It will take me two minutes
19 I'll tell them take it off.

20 THE COURT: Okay. I need to see what it
21 says and I'll do that.

01:47:14

22 MS. CARTWRIGHT: Thank you, Your Honor.

23 THE COURT: We've already dealt with it and
24 I already ruled.

25 MR. HUTCHISON: I thought you said take the,

01:47:44

1 but off. 01:47:45

2 THE COURT: I'm sorry if I wasn't clear.
3 Ladies and gentlemen just ignore for purposes of
4 the demonstrative quote but the chinks were
5 written to the Pugliese Company. There's at 01:47:54
6 least some issue as it relates that mat. So
7 again I'm not suggesting that it may or may not
8 be evidence, just for purposes of a demonstrative
9 aid I'm finding that since there's some
10 contention over that, that I'd ask you to 01:48:10
11 disregard only that section, please. You may
12 continue counsel. Are you ready.

13 MR. HUTCHISON: Yes, I am, Judge.

14 Meril Stumberger a long time friend of
15 Anthony Pugliese worked with him for decades, 01:48:37
16 these are the Quickbooks, she was paid \$10,000 --
17 first of all, she was paid \$5,000 or \$5,600 a
18 month. That's what she really got so she did get
19 paid.

20 There's a second entry from Meril Stumberger 01:48:53
21 in the Quickbooks, \$10,000 a month and it starts
22 as far back as April 16th, 2007. And when you go
23 to those checks, who do you think those checks
24 are made payable to? The Pugliese company. The
25 evidence will show and you can see the checks, 01:49:15

1 that the Pugliese company took that \$10,000 a
2 month in April 2007 -- and I won't give you the
3 whole list, but April, May, June, July, all the
4 way through December 2007, all 12 months of 2008,
5 and all the way through April of 2009, till
6 Mr. DeLuca get suspicious and stopped funding,
7 \$10,000 a month. Check in the Quickbooks to
8 Meril Stumberger, the actual check to the
9 Pugliese Company. About 250 or \$260,000 that he
10 stole. And you're going to be able to see those
11 documents. Look for the documents.

12 That's the T, the T, the theft. Now, the I,
13 incompetence. Mr. Pugliese, as successful as he
14 was and I'm not taking away the man's success
15 because we're going to talk about that in a
16 minute, he was unqualified to build -- to go to
17 Yeehaw Junction grab from some of the most
18 environmentally sensitive land in Florida and say
19 I'm gonna take those 27,000 acres and title it
20 for a bunch of homes a bunch of commercial real
21 estate, a bunch of industrial real estate and
22 sell it to builders to butted. He wasn't
23 qualified to do the due diligence and get that
24 done.

25 But when he met Mr. DeLuca and I'll get to

1 this later he said he was and he can do this and
2 this was just like going across the parking lot
3 and turning it in a commercial space. He paid
4 \$137 million or \$138 million for that land.

5 That's a big mistake. It was \$137 million they
6 paid. You know, the old joke you want to buy
7 swamp land in Florida? Usually a joke, here
8 Mr. Pugliese, he actually did it and I'm gonna
9 show that to you in a little bit. He didn't know
10 how to do the proper due diligence. It's one
11 thing to build a Wal-Mart, to build a beautiful
12 building in the city of Boca Raton in an urban
13 area, but when you go taught a remote area, an
14 environmentally sensitive one, it's different.

15 It's like a dermatologist doesn't do brain
16 surgery, right? It's a different area of
17 expertise. And he didn't have the experience to
18 do it. Well, nobody would actually try to do
19 this in the middle of Yeehaw Junction and you're
20 going to hear experts come in to talk about that.
21 It's too remote.

22 You saw the nice photograph and they weren't
23 employees of LCOC as much as they were
24 subcontractors and people who did work. Most of
25 them were politicians in that photograph, photo

1 op, but what you're gonna see is they did their
2 work after the purchase, after the purchase, when
3 they should have done a lot of the work during
4 the due diligence to say is this even a feasible
5 idea, is this a smart side.

01:52:37

01:52:53

6 What I'm going to show you is a map that
7 shows the wetlands in the environmental property
8 and you'll notice the date is December 2005.
9 When was the purchase August 2005. So they knew
10 from the sales brochure there was some wetlands
11 on the property, they didn't know the exact
12 amount and they find out after the purchase and
13 what you're gonna see is there's over 14,000 of
14 preserved wetlands, homes for native and
15 endangered animals and plants, not good building
16 property; that you had more in wetland perimeters
17 and you had an eagle protection sewn, an optimal
18 RCW and that's some type of bird habitat and then
19 there's undevelopable unbuildable uplands.

01:53:16

01:53:37

20 So on the 27,000 acres they had unbuildable
21 about 11,000. And that doesn't mean they
22 couldn't build, they just had the potential to
23 build on 11,000.

01:54:04

24 So of the fraction of 27,000 acres they
25 should have known this beforehand and he could

01:54:19

1 have if he had hired the right professional. 01:54:22

2 You heard a lot about the 27,000 acres, you
3 got about 11,000 that are developable or
4 buildable. And they paired \$5,000 an acre for
5 that and they didn't know that a lot was in fact 01:55:03
6 not buildable or preserved, habitats.

7 You heard a lot about eco sustainable, the
8 evidence is going to show it was going to hurt
9 the environment, it might have been a great idea.
10 It's great to dream, it's great to dream big, but 01:55:23
11 it's got to be realistic. This wasn't realistic.

12 So then you heard about the Rohde property,
13 the other 14,000. That was never purchased,
14 first of all. So the concept was 40,000, but
15 only 27,000 was purchased. The other 14 they had 01:55:47
16 an option to purchase and even then it was for
17 \$30,000 an acre. Farm land, agricultural land
18 right next to this land. They were desperate and
19 opposing counsel stood up here and said
20 Mr. DeLuca embraced it. No, the testimony was 01:56:06
21 going to be Mr. DeLuca did not embrace it. At
22 this point he realized that Mr. Pugliese was over
23 his head and he had to just believe him some more
24 and say this is what you want to do, this is what
25 you think you can do we'll do it because he 01:56:22

1 didn't buy it. They didn't have to pay out
2 \$420 million, right.

3 You remember the price, you remember the
4 price that opposing counsel wrote up here? If
5 they had bought it, this \$420 million, that kind
6 of money, \$557,000 down, and that's just for the
7 land, not a road, not a is your, not a power
8 plant.

9 It was a bad dream. You also headquartered
10 counsel talk about the rural land stewardship
11 act. This land is not suited for the Rural Land
12 Stewardship Act. It took them two years and
13 million dollars of dollars to realize that,
14 almost three years, early 08. They realized that
15 we can't do this under the Rural Land Stewardship
16 Act, so they had to change plans now.

17 You also heard and in fact, you're going to
18 hear L loans is an expert on the Rural Land
19 Stewardship Act say this property would not have
20 worked, you can't do it, it's too small, it's too
21 wet. But they still spent over two years and
22 million dollars doing it.

23 So they were forced to go with Rohde and
24 they tried to piggyback on Rohde because Rohde
25 was a little more dry. It actually had been

1 farmed a little bit so there wasn't as much 01:58:17
2 weapons. But -- I'll get to more oh, Rohde in a
3 minute.

4 Another thing, I'm going to go back to
5 August of 2005 when the land was purchased for 01:58:32
6 \$137 million. You're gonna hear testimony that
7 to go in and pay cash for this land was again a
8 sign he didn't know what he was doing. He should
9 have put an option on the 27,000 acres, do due
10 diligence to see if you can even get 01:58:52

11 entitlements, spend a few million dollars and if
12 you can't, like is customary in the industry like
13 developers do you take a loss and go somewhere
14 else and try to make money, right. You're never
15 gonna bat a thousand, everyone knows that, but 01:59:07
16 you've got to know when to cut your losses.

17 It's funny, he buys it for \$5,000 an acre in
18 2005, but in 2006 he signs an option for \$30,000
19 an acre. He didn't double down. He went in it
20 five, six times. He just didn't know what he was 01:59:27
21 doing.

22 So testimony will be initially testified
23 about three or \$4 million to get entitlements,
24 they budgeted six, they blew through six in three
25 years and by the time it was all over they spent 01:59:48

1 \$20 million and have zero, no entitlements before 01:59:50
2 Mr. DeLuca found Mr. Pugliese stealing and quit
3 funding.

4 Real estate is a speculative business. We
5 know it goes up, we know it goes down. If you've 02:00:06
6 got a loss, it's gonna be a loss, cut your
7 losses. When you're in a hole, stop digging. He
8 kept digging and digging and digging.

9 And the Rohde property, the other 14,000 was
10 a desperate attempt to salvage this and they just 02:00:30
11 waited another year, year and a half and millions
12 of dollars. It wasn't a brilliant idea.

13 So he's very competent to build something in
14 town or a Wal-Mart. He didn't have the comp
15 tense and the qualifications to go to the middle 02:00:57
16 of nowhere and try to do this.

17 The E, I think the acronym tie, theft, comp
18 tense and ego and the E is for ego. He's a
19 wealthy land developer and you will hear
20 testimony he has a net worth of over a hundred 02:01:17
21 \$50 million and he made a ton of money and I
22 applaud his skills as a local in-town, urban
23 developer, land developer, buys and titles and
24 flips. But he was out of his league going to
25 Yeehaw Junction and in fact, you will hear that 02:01:41

1 the biggest piece of property that he bought and 02:01:45
2 entitled for residential is 20 acres in the city
3 of Boca Raton, 15 or 20 years ago when you had
4 15 acres in the city of Boca Raton.

5 20 acres that's a far cry from 27,000 acres 02:02:05
6 in Yeehaw Junction. Like I said you don't have a
7 dermatologist do brain surgery. His experience
8 was a lot different. He got in over his head and
9 his ego wouldn't let him get out.

10 You're gonna hear testimony of the Urban 02:02:29
11 Land Boundary and this only is logical, right.
12 Here is Osceola county and here's Yeehaw Junction
13 and there's something called the Urban Land
14 Boundary and it's a line that the State of
15 Florida draws and it was somewhere up in here. 02:02:45
16 I'm not sure I'm accurate, but it was 30 or
17 40 miles away from Yeehaw Junction. Now, why is
18 that important.

19 The Urban Land Boundary the State of Florida
20 predicts growth each other and says this is how 02:02:59
21 much grown we're going to have a this year so
22 we're going to allow development here inside the
23 Urban Land Boundary. Why, to prevent urban
24 sprawl, so you don't have houses all over rural
25 lands and agricultural lands and farm lands. 02:03:19

1 You're having an organized building, urbanization
2 act to prevent urban sprawl. Another reason is
3 just logical. Where is your power plants, here
4 and you build on, you build on. Where's your
5 sewer lines, you build on, you build on.

02:03:22

02:03:36

6 Down here there's no sewer, there's no
7 water, there's no power. Where is that going to
8 come from.

9 In the entitlement process they had to show
10 need for entitlements. What is the need for
11 80,000 new houses, 80,000 new rooftops. What's
12 the need here. If your urban growth is projected
13 through 2035 and 30 or 40 miles away to a doctor,
14 to an emergency room, to a grocery store, to a
15 school, anywhere. You're 30 or 40 miles away, in
16 any direction, even if you went in the other
17 directions.

02:03:57

02:04:18

18 You heard oh, the State of Florida loved
19 this. No, the State of Florida it was called the
20 department of community affairs, that's the
21 agency that was to review this need and decide
22 whether entitlements should be granted. They did
23 not love this. They did not see the need and
24 need was never shown and not one person from the
25 State of Florida will come in here and say they

02:04:38

02:04:52

1 had the need. 02:04:53

2 There was more than enough need up here.
3 You know, especially in 2008, 2009 and 2010 when
4 the real estate market went down. There was no
5 need and not one person from the State of Florida 02:05:07
6 will come in here and tell you otherwise.

7 So nothing was going to be made here not
8 seven years, not for decades, because you didn't
9 have the need S.

10 Eco friendly, it's a sales pitch, it's a 02:05:38
11 marketing ploy because the truth is this is on
12 the most press teen environmentally sensitive
13 land in the State of Florida or some of it, and
14 it would be eco unfriendly to destroy it.

15 Now, you the heard a little bit about 02:06:16
16 Mr. Pugliese's background. Let me tell you about
17 Mr. DeLuca's. He was 16 years old and they
18 didn't have money to go to college and he went to
19 a father's friend and said do you have any ideas

20 and the guy said well, I just read about a 02:06:30
21 sandwich shop in the New York Times you want to
22 try it and I'll give you a thousand dollars and
23 Mr. DeLuca 16 years old took that thousand
24 dollars, he opened a sandwich shop, one sandwich
25 shop and worked his way; created Subway and gave 02:06:49

1 that guy 50 percent -- a doctor is the one that
2 tones company.

3 Met Mrs. DeLuca in high school. That's his
4 story. He could dream too. I'm going to tell
5 you how Mr. DeLuca get involved.

6 He met Anthony Pugliese and there is no
7 question Anthony Pugliese found this property,
8 there's no question he signed the contract for
9 this property and there's no question he met with
10 Fred DeLuca and said I can make this happen. I'm
11 qualified, I have the know-how, this property
12 I will it all over and he showed Fred some of his
13 other properties, all in town, in Delray and Boca
14 Raton. He took Fred to his \$45 million house on
15 the ocean, he showed him his net worth statement,
16 had over \$150 million, I'm the real deal and Fred
17 is a sandwich maker, so he invested. He said
18 I'll invest.

19 But opposing counsel said he gave Fred
20 50 percent for nothing. Nobody does that, right.
21 Why did Fred DeLuca get 50 percent. He got
22 50 percent because he agreed to fund 75 percent,
23 if right. So Fred DeLuca paid 75 percent of the
24 expenses Anthony Pugliese pays 25 and does the
25 work and hopefully there was profit, they would

1 split the profit, 50-50. In five years they call
2 at this time true-up or even up. So he basically
3 spotted Anthony Pugliese 25 percent and gave
4 Anthony Pugliese 25 percent of the expense.

5 In addition they had to put some money down
6 on the property. Fred DeLuca put down 25 percent
7 of the property in total he was out \$30,000 --
8 \$30 million, sorry, \$30 million. So he didn't
9 get in it for nothing. \$30 million at closing
10 into the property and then he funded money,
11 75 percent of the monthly expenses.

12 You were shown copies of portions of the
13 operating agreement. The operating agreement is
14 what controls the Land Company of Osceola. But
15 it's a limited liability company so you have an
16 operating agreement. To the parties to that
17 operating agreement, you were shown Fred DeLuca
18 signed it and Anthony Pugliese signed it, but you
19 have to read underneath the yellow because
20 underneath the yellow it says Anthony Pugliese
21 signed it on behalf of AVP Destiny LLC and Fred
22 DeLuca signed it on behalf of FD Destiny. They
23 are the two members. This is Land Company of
24 Osceola, a limited liability company, that's what
25 LLC stands for and they are the two members,

1 right. DeLuca owned FD Destiny and Pugliese
2 owned AVP Destiny, but they are the two members
3 and they signed this operating agreement.

4 So they signed as members and that's why
5 Mr. Pugliese's lawsuit is AVP Destiny is suing FD
6 Destiny for breach of contract, one count.

7 That's what he has against this table, and when
8 you go back this you consider FD Destiny as one
9 party. Anthony Pugliese signed it in another
10 place was he also signed it as manager because it
11 was his job to run the day-to-day. He was the
12 one who had the alleged expertise, supposed
13 expertise.

14 I'm not going to go through all the
15 provisions, but needless to say you can't steal
16 and you can't breach fiduciary duties and other
17 things in the operating agreement. common sense.
18 Then you heard Al Quentel. He's a brilliant real
19 estate lawyer and he was Anthony Pugliese's
20 lawyer and LCOC's lawyer in the summer of '05
21 when they negotiated with DeLuca and FD Destiny
22 to sign the operating agreement and Al Quentel
23 will testify by videotape and you'll hear him say
24 yeah it was 75-25, that's how the expenses were
25 to be funded, and that's his own lawyers'

1 testimony.

02:11:44

2 Again, the photo that you saw, these aren't
3 people laborers out in the land shoveling and
4 making cement and building roads. They talk
5 about all the workers on the land. They had
6 lobbyists in Tallahassee lobbying to get
7 approvals, they had lobbyists in Osceola County
8 lobbying, but it had to go through as the has.
9 They had to do some environmental work and some
10 engineers, but they did it after to the closing. 02:12:25
11 They should have done that prior to the closing,
12 but they did it afterwards. When they found out
13 they had 16,000 of undeveloped lands.

14 Mr. Pugliese contracts for the land in '04
15 and yes, they did meet in the spring of '05. 02:12:47
16 Mr. DeLuca agrees to invest and in June, June
17 Mr. DeLuca had to put \$4.2 million given to the
18 seller for the land. The closing is not until
19 August, but there is money that went hard on the
20 land deal, and Mr. Pugliese had \$2 million at 02:13:09
21 this point and they negotiate the operating
22 agreement in the summertime and they close on the
23 land in August of '05.

24 Then late '05 that's the map I showed you,
25 right. We're gonna go back, late '05 he learns 02:13:25

1 that over 50 percent is wetlands, 11,000
2 developable acres. They learn that after the
3 closing, and that's pretty significant.

4 Then the Meril Stumberger entries I showed
5 you. Remember the \$10,000 a month? The theft
6 starting in April of '07. \$10,000 a month, Meril
7 Stumberger you'll see the Quickbooks entries,
8 you'll see the checks to Pugliese company.

9 Then June of '07 they start to go through
10 the original budget, \$6 million and they're
11 running out on it. So Mr. DeLuca says hey I need
12 a budget going forward. I need to see a budget
13 going forward because this was -- we were
14 supposed to have entitlements for \$6 million, we
15 blew through \$6 million in two years and we have
16 nothing. The Judge is gonna read you some
17 stipulated facts later and it's stipulated that
18 in the operating agreement, you can read it in
19 the operating agreement, the LCOC would pay
20 expenses pursuant to an agreed-upon budget.

21 There has to be a budget. Otherwise you're in a
22 plaque hole. So he's saying okay, so we're
23 blowing through the \$6 million budget. What's
24 the budget going forward. So now by August they
25 blew through it. It was actually six, no

1 entitlements.

02:15:12

2 So Mr. DeLuca says until I have a budget,
3 I'm not funding it. Remember oh, there were 18
4 breaches in August and September and October and
5 November of '07. Well, he wouldn't fund because
6 he wasn't given a budget. He said what are we
7 doing, what's the plan? You know we already had
8 to go over and do this Rohde thing because Rohde
9 has already entered into '06. You got a bunch of
10 wetlands we blew threw the original budget and
11 now you want more money. What's the plan,
12 Anthony Pugliese?

02:15:24

02:15:40

13 They wouldn't give him a plan until finally
14 the two met the end of January, might have been
15 February 1st, but right around that time period,
16 and DeLuca now into it up to here, has to say
17 okay, I'll agree on an \$8 million budget just for
18 a while. And he also writes a check for the
19 check he's supposed the right for the fall.

02:15:55

20 He says now we have a budget going forward
21 I'll pay the 75 percent going forward.

02:16:20

22 In all those breach of contract claims that
23 you saw on the board from the opposing counsel,
24 there is not one email saying DeLuca you breached
25 the contract, you owe money, you have to fund

02:16:37

1 this, not one email, not one notice of breach,
2 nothing. Look at the documents. Because he
3 wasn't in breach. He needed a budget, he
4 requested a budget in June and they finally -- he
5 finally gets enough information in January and
6 then he grease to fund, right. So they then does
7 fund '08 and he funds 75 percent of the
8 \$8 million budget.

9 So now, we're in December of '08 and they
10 have spent over \$15 million or about \$15 million
11 on entitlements and how many do they have, none.

12 So they don't agree on a budget for '09
13 because the budget proposed was about \$18 million
14 just for '09. DeLuca says wait a minute, I'm not
15 agreeing on this. So he hired a young guy tend
16 of '08 named Bobby Ray and you'll hear Bobby Ray
17 and Bobby Ray has a little experience at doing
18 budgets. So DeLuca says will you go down to
19 Delray Beach and figure out a budget, these guys
20 have to figure out the budget, they're the
21 professionals they need to figure out what we
22 spent. So Bobby Ray tries to start working on
23 the budget and what happens. He's dealing with a
24 guy named Randy Johnson who is Anthony Pugliese's
25 chief operating offers and he says I keep getting

1 these invoices for AEC Levy Stern, name sound 02:18:20
2 familiar? The companies Mr. Pugliese created.
3 He she did Randy what do these companies do, how
4 much are we going to pay him and the chief
5 operating offers says I don't know what those 02:18:39
6 companies are and Bobby is saying, he's the chief
7 operating offers, we're paying hundreds of
8 thousands of dollars to companies on the monthly
9 capital calls and he didn't know who they are.

10 So Bobby Ray says well, who does? How can I 02:18:54
11 find out what these companies do? Oh, only
12 Anthony. So he gets on a telephone call to
13 Anthony, Anthony Pugliese says oh, air opinion
14 they work on entitlements, AEC they're working
15 with the army corps of engineers and they go down 02:19:14
16 a handful of them. Bobby says well, you know
17 what I'm working for, make a list and send it
18 back to me. Joe Reamer and Anthony Pugliese put
19 together this list. It goes from Reamer to Bobby
20 Ray and it has the list of the fake companies 02:19:32
21 with designated jobs like entitlement work,
22 lobbying work, works with the Army Corps of
23 Engineers, there's different codes one through
24 seven, but you'll see them. These are the
25 documents I want you to see and you should see 02:19:48

ROUGH DRAFT TRANSCRIPT

1 and look at and use in your deliberations to look
2 at.

3 So they work on a budget she still can't
4 agree on a budget because now Bobby Ray is
5 unraveling the union and Randy Johnson flies up
6 to Connecticut and says, you know, in Florida
7 there's this website Secretary of State website
8 you can go on and look up LLCs, limited liability
9 companies, others companies I guess and I want
10 you to look at this and they pulled up a few,
11 Levy Stern, AEC, you'll hear Bobby Ray tell which
12 you ones and you'll see the Joe Reamer is the
13 registered agent, he formed them and they're not
14 real companies.

15 So DeLuca says I'm in the funding any more.
16 So why did Fred DeLuca stop funding because he
17 was stealing.

18 So regarding the breach of contract claim,
19 in the fall of '07, January of '08 the alleged
20 breach there's not one document that says you owe
21 money, you're no breach of the agreement, we're
22 giving you notice of a breach, nothing, just the
23 opposite. You'll see emails from DeLuca or his
24 people saying where's the budget and then
25 regarding May of 2009, you're gonna see more

1 documents than you care to see because some of 02:21:24
2 these checks are three or \$400. Rent a toilets
3 that worked on Anthony Pugliese's house LCOC pays
4 and some of them are huge, tens of thousands of
5 dollars. 02:21:41

6 But the theft start back in 2007 and is
7 almost \$3 million. \$2.9 million and some change,
8 almost \$3 million.

9 So then they have a meeting. FD Destiny
10 stopped funding in May of course and in June 02:22:13
11 DeLuca hires accounts and says okay, send me some
12 certified public accountants to your office in
13 Delray Beach, Anthony we want to see the records
14 and the night before --

15 MR. MARIANI: Your Honor, objection. Can we 02:22:32
16 approach, please.

17 THE COURT: What's the nature of the
18 objection.

19 MR. MARIANI: I'm anticipating where counsel
20 is going next and it's something you ruled on. 02:22:42

21 THE COURT: If I ruled on it, then I don't
22 expect counsel to go into that area. So
23 overruled at this point.

24 MR. HUTCHISON: He went into this in June
25 and I had gets an email from Doug Merrick, 02:22:57

1 Anthony Pugliese -- in-house lawyer and says oh,
2 all the invoices of the project were stolen.

02:23:00

3 MR. MARIANI: Objection, Your Honor, please.

4 THE COURT: All right come up.

5 (Whereupon counsel for the respective
6 parties approached the bench and the following
7 proceedings were had outside the presence of the
8 jury:). Yes, sir.

02:23:13

9 MR. MARIANI: This is the issue on whether
10 invoices were stolen or disappeared or were
11 hiding.

02:23:19

12 THE COURT: Yes.

13 MR. MARIANI: Counsel has indicated in his
14 argument that they have all the information and
15 understand all the numbers. The prejudice, the
16 inference is that Mr. Pugliese or someone on his
17 behalf destroyed those records intentionally got
18 rid of those records. That's the inference, the
19 arguments that being made. They filed joint
20 instructions on this., you've dealt with it, it's
21 a discovery issue. The reality is that counsel
22 said in his opening all the document, all the
23 information to show all of the alleged stealing.
24 At this point to suggest the documents were
25 destroyed is going to prejudice the jury.

02:23:31

02:23:52

02:24:10

1 THE COURT: His arguments -- you know, my
2 documents is the documents were lost.

3 MR. HUTCHISON: And Doug Merrick told
4 DeLuca's people that the documents had been
5 stolen and they blamed it on a guy named Randy
6 Johnson. Now, I don't know what the Ruth is.
7 I'm just telling you what we were told.

8 THE COURT: The evidence is going to show
9 that this gentleman, the in-house lawyer is going
10 to testify to that.

11 MR. HUTCHISON: No, in-house lawyer
12 testified and said the documents are missing.
13 Mr. Pugliese and Mr. Reamer admitted this in
14 deposition. This is not an issue in debate.

15 MR. MARIANI: Your Honor, the plaintiff has
16 already spent a \$500,000 fine on the issue of
17 relating to the discovery around a so called
18 original documents that were lost, stolen. To
19 now infer or implant that issue, it's not
20 important, it's not useful other than to
21 prejudice the jury. That original documents
22 disappeared. There's been no impact on their
23 ability to do the accounting up to the point of
24 eight or \$9 million. So now to infuse this issue
25 and make it seem like somebody destroyed

1 documents or the inference being that yeah they 02:25:32
2 reported them stolen, they really get rid of it,
3 there's been no harm in respect of those original
4 documents.

5 Again for 345 years now and the client has 02:25:48
6 already been sanctioned on that.

7 THE COURT: I understand that what is the
8 relevancy as it relates to the representations
9 made by the attorney.

10 MR. HUTCHISON: Me? The relevancy is this. 02:26:04
11 First of all, heats confusing the issues. It was
12 the computer consultant that said the electronic
13 documents were not properly kept and deleted.
14 This is the actual paper invoices that were
15 stolen. So when they say \$2.9 million were found 02:26:21
16 we didn't have invoices for 234 years. All I'm
17 saying there is all -- they're saying hey DeLuca
18 we gave you everything. No DeLuca couldn't even
19 come down and get the invoices because the
20 invoices were down. That's what happened, it's 02:26:38
21 the facts it's undisputed and the relevant is it
22 goes to independent to steal, independent to
23 fraud and the jury can decide if it's material or
24 not.

25 MR. MARIANI: That's essentially my point. 02:26:52

1 He's trying to refuse deception in regard to 02:26:54
2 these documents. The document's relevance is
3 only to the accounting, to the adding up of the
4 numbers and they've been able to do that to the
5 penny. We've been through this a number of 02:27:06
6 times. He seen said that at the very beginning
7 of his opening that you're going to see
8 everything, we have everything exactly the way
9 it's laid out. So to infuse that issue. On top
10 of that it's unduly prejudicial and we ask that 02:27:20
11 he not be allowed to do it.

12 MR. HUTCHISON: Theft is an intent --

13 THE COURT: I think that it has to be parsed
14 out into the various claims and defenses that
15 have been made. If in good faith these documents 02:27:34
16 are part of the fraud claim, then he's entitled
17 to use that in terms of his -- I don't want to
18 say oral argument, his opening statement. So I'm
19 going to overrule the objection, but again, let's
20 keep it strictly as it's going to relate to the 02:27:58
21 evidence that's going to be admitted and the
22 relationship between the claims that are made. I
23 don't want to go beyond that.

24 MR. HUTCHISON: This is the second time I've
25 been interrupted so I'm going the preview this. 02:28:10

1 She said there was a second July meeting to talk 02:28:12
2 about the stolen money --

3 THE COURT: Stolen money or stolen --

4 MR. HUTCHISON: That he took the money and
5 I'm going to say it was never mentioned. I don't 02:28:23
6 even know their objection. Really that's what
7 the evidence is going to show on my side.

8 MS. HOFFLER: It's not stolen money.

9 MR. MARIANI: That's a different issue, Your
10 Honor. These documents are no relevance. 02:28:34

11 THE COURT: I'm overruling for argument
12 purposes and we'll deal with it during the case
13 if the evidence comes forward and is relevant,
14 fine. If it's not relevant it will be permitted
15 to be argued at closing, thank you. 02:28:50

16 Mr. Crickenberger I want to talk about one
17 thing on the deposition I guess. It's gonna save
18 you sometime.

19 MR. CHAPMAN: The yellow is our
20 designations. 02:29:14

21 THE COURT: That's fine.

22 (Whereupon the following proceedings were
23 had within the presence of the jury:)

24 THE COURT: All right. You can proceed.

25 MR. HUTCHISON: Thank you, Your Honor. 02:29:23

1 So in June of 2009 Mr. DeLuca sends accounts
2 to Delray and they are informed that the invoices
3 for the last four years, five years, I think
4 since the inception of the project were gone.

5 They didn't have the original invoices. They
6 didn't have all the documents. They just
7 disappeared out of the Pugliese company's office.

8 So now Mr. DeLuca meets with Anthony
9 Pugliese in July of 2009 and do you remember the
10 monthly funding requests? The monthly capital
11 call that's come in every month? Well, this is
12 important because DeLuca funded April's capital
13 call in the beginning of May, the 12th rough the
14 15th, the beginning or the middle of May. So the
15 last capital call he actually funded was in

16 April. Then they stopped he didn't fund May's
17 capital call, but he gets May's capital call.

18 What's on it, more of the fake companies, more of
19 the companies that continued to work at Anthony

20 Pugliese's home and other places and he gets a
21 June capital call and what's on it, more of the
22 same. It doesn't say oh, I took \$2.8 million of
23 your money or of LCOC's money and 75 percent of
24 your money to pay the employees, so therefore

25 there's a credit on what you owe. He bills him

1 for the monthly expenses for May -- 02:31:04

2 MR. GARY: Your Honor, I object to this, but
3 this is argument. This is not what testified
4 will show.

5 THE COURT: I agree that it's starting to 02:31:16
6 tread into argument. So the objection is
7 sustained.

8 MR. HUTCHISON: The evidence will show that
9 these monthly capital calls they're looking for
10 the funds to fund that month, but they don't 02:31:26
11 mention anything about Mr. Pugliese having any
12 money set aside to pay other expenses.

13 So the parties, Pugliese and DeLuca meet in
14 July of 2009 and there's in mention.

15 He has money of LCOC's. It's not discussed. 02:31:45
16 In fact, what's discussed is oh, I had to pay
17 myself back \$1.8 million that I used for
18 political contributions. That's what he tells
19 DeLuca in July of 2009 and that's what you'll
20 hear, nothing about \$2.8 million, it was only 02:32:04
21 1.8, and nothing about paying employees or any
22 other expenses of Land Company of Osceola.

23 So essentially LCOC is not funded, FD
24 Destiny files the lawsuit in September,
25 September 12009. FD Destiny filed lawsuit first. 02:32:32

1 MR. GARY: I'm going to object, Your Honor. 02:32:38

2 THE COURT: Overruled.

3 MR. HUTCHISON: In the fall DeLuca is still
4 trying to make heads or tails out of the
5 accounting entries, out of the fraudulent entries 02:32:50
6 and he says there's real companies out there,
7 real contractors from the spring of '09 that are
8 owed money and I don't know who they are, so
9 let's put \$2 million up. I'll put up 75 percent
10 and he D he put \$1.5 million in lawyer, the 02:33:07
11 lawyer's name is Adam Hodkin, they put
12 \$1.5 million in Adam Hodkin's trust account and
13 he asked Anthony Pugliese to pay \$500,000, 75-25,
14 \$2 million, so we can go through and pay the real
15 companies, the real vendors, the real people, the 02:33:26
16 consultants is what they were, subcontractors
17 that were doing work, whether it was surveys or
18 environmental surveys or whatever it was, that
19 was doing work in the spring of 2009 and Anthony
20 Pugliese the evidence will show wouldn't do that. 02:33:42

21 So neither party funded Land Company of
22 Osceola county after this time. So Mr. DeLuca
23 didn't abandon, you were shown Mr. DeLuca
24 abandoned the title work. Nobody would fund Land
25 Company of Osceola county. DeLuca stopped 02:34:04

1 because of the theft in May and Mr. Pugliese
2 wouldn't put any more money in.

02:34:05

3 So despite the fact if it was not a project
4 that should have been started and shouldn't have
5 been going forward, neither party was willing to
6 fund and Mr. DeLuca was trying to pay the real
7 contractors, the real vendors and Mr. Pugliese
8 refused to.

02:34:19

9 Despite that, Mr. FD Destiny, DeLuca through
10 FD Destiny did pay \$1 million of LCOC's expenses
11 in the spring and fall of '09.

02:34:33

12 You heard about Mr. Florio. Mr. Florio was
13 Anthony Pugliese's friend and he was Fred
14 DeLuca's friend, but he wasn't. He's a
15 disgruntled employee --

02:35:08

16 MR. GARY: Object to this. It's argument
17 he's a disgruntled employee.

18 THE COURT: Gentlemen approach the bench,
19 please.

20 (Whereupon counsel for the respective
21 parties approached the bench and the following
22 proceedings were had outside the presence of the
23 jury:)

02:35:22

24 THE COURT: We're really getting far too
25 painstakingly picayune here in terms of these

02:35:35

1 objections. I want them to stop there's certain
2 rhetoric that's permitted. I don't believe it's
3 going over the bounds of permissive rhetoric. So
4 again, I just don't want to continue on every
5 single word and parsing of words here. There's
6 too much to get done to be bogged down in
7 minutiae. This is minutiae proceed, please.

8 (Whereupon the following proceedings were
9 had within the presence of the jury:).

10 THE COURT: You may continue.

11 MR. HUTCHISON: Mr. Florio was a disgruntled
12 employee and he resigned and he was unhappy and
13 to Mr. Gary's credit, not Holland & Knight, but
14 he was mad at Fred DeLuca and he did, he admits
15 and he will come in here on that witness stand
16 and say he didn't know about AEC he didn't know
17 about the first of all companies, he didn't know
18 that Anthony Pugliese was using money on his
19 house. He will tell you that. He'll freely
20 admit that and that will be Mr. Florio's
21 testimony.

22 And the statements in the affidavit he will
23 say the statements in the affidavit are true
24 because they're all about the fake companies,
25 they're all about the fake bank accounts and

1 they're all about the money that Mr. Pugliese
2 stole and Mr. Florio to his credit didn't know
3 about the theft.

4 You also heard Mr. Gary say FD Destiny owes
5 AVP Destiny \$600,000. You will here his own
6 accountant say they couldn't trace or reconcile
7 the accounting records of Land Company of Osceola
8 county. He couldn't reconcile to show that the
9 employees were paid by Anthony Pugliese and as
10 far as other expense that's Anthony Pugliese
11 supposedly used with the \$2.8 million that he
12 took, \$2.9 million that he took, it's knot in the
13 books and records of Land Company of Osceola
14 county, it's not in the books and records of
15 Pugliese company. There's no checks, there's no
16 wire transfers. You have to take Joe Reamer's
17 and Anthony Pugliese's word for it and their own
18 accountant will tell you that. So that money
19 that was taken the \$2.9 million was not taken to
20 spend on LCOC's expenses or for the employees'
21 Thanksgiving an Christmas and the evidence will
22 show there's no proof of that, or the other
23 expenses.

24 The land should have never been bought, it
25 was a big mistake, \$137 million mistake, and both

1 members quit funding, not one entitlement was
2 obtained and million of dollars. FD Destiny
3 invested over \$40 million. The evidence will
4 show that an Anthony Pugliese stole, that he was
5 unqualified and incompetent to do this project or
6 even try this project, and he let his ego get in
7 the way. The evidence will show that Anthony
8 Pugliese and Joseph Reamer stole money from Land
9 Company of Osceola county. The evidence will
10 show that Anthony Pugliese and Joseph Reamer
11 stole money from FD Destiny and the evidence will
12 show that AVP Destiny and Anthony Pugliese
13 violated the contract, they breached the contract
14 when they stole and 33 started creating fake
15 invoices.

02:39:04

02:39:23

02:39:39

02:39:54

16 Anthony Pugliese is the manager, AVP Destiny
17 is a member, they breached the contract and
18 Anthony Pugliese as the manager and Joseph Reamer
19 as the financial man, the accountant for the
20 company, breached their fiduciary duties of trust
21 when they stole and committed fraud.

02:40:12

22 At the end of the case I'm going to ask you
23 to award my clients over \$40 million. Thank you.

24 THE COURT: All right thank you
25 Mr. Hutchison, thank you both counsel. I need to

02:40:30

1 go over this deposition with those that are going 02:40:39
2 to be talking about it, because we need to change
3 our -- come forward please. We're going to need
4 to change our presentation of witnesses.

5 (Whereupon counsel for the respective 02:41:00
6 parties approached the bench and the following
7 proceedings were had outside the presence of the
8 jury:)

9 THE COURT: You know, I've gone through this
10 as best I can, but I'm going to have to discuss 02:41:03
11 some of these matters with you. You've handed
12 me, you know, in excess of 300 pages to try to
13 parse through and multiple objections. I've gone
14 through and ruled on most of them already, but
15 I'm gonna need sometime to do that and the time 02:41:17
16 is not now. So you're gonna have to call someone
17 else now, and perhaps we can get it done during a
18 break, but my preference is probably to do it
19 tend of the day so we don't hold up our jurors.

20 So call your first witness, but it won't be 02:41:35
21 this deposition of Mr. Quentel.

22 (Whereupon the following proceedings were
23 had within the presence of the jury:).

24 THE COURT: All right. Your first witness,
25 please. 02:41:47

1 MR. MARIANI: Your Honor, we're going to
2 call Meril Stumberger.

02:41:52

3 THE COURT: Thank you Mr. Mariani.

4 MR. GARY: Ms. Hoffler is conducting it and
5 she went to the bathroom. I guess she thought it
6 was going to be the video.

02:42:05

7 THE BAILIFF: Stem forward please, face the
8 clerk and raise your right hand.

9 Thereupon:

10 MERIL STUMBERGER

02:43:03

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

13 THE WITNESS: I do.

14 THE COURT: Good afternoon, ma'am if you'd
15 kindly follow the deputy's directions. There are
16 stairs there so please be very careful.

02:43:08

17 THE WITNESS: Okay, thank you.

18 THE COURT: We're just waiting for counsel
19 to return from the restroom.

20 MS. HOFFLER: I'm so sorry, Your Honor. I
21 just ran to the ladies room.

02:44:24

22 THE COURT: No problem. You may proceed.

23 MS. HOFFLER: May it please the Court, Your
24 Honor.

25 THE COURT: You may proceed.

02:44:50

1 MS. HOFFLER: Good afternoon. I apologize,
2 nature called me.

02:44:52

3 DIRECT EXAMINATION

4 BY MS. HOFFLER:

5 Q. Would you please state your name for the
6 jury?

02:44:56

7 A. Yes my name is Meril Stumberger.

8 THE COURT: ma'am you're going to have to
9 speak a limit louder. The microphone base and
10 stem is right in front of you. That should help

02:45:09

11 E.

12 THE WITNESS: Okay.

13 THE COURT: Speak right into the microphone
14 if you will.

15 Q. So ma'am, would you please state your name
16 for the record?

02:45:25

17 A. My name is Meril Stumberger.

18 Q. And Ms. Stumberger what do you do for a
19 living, ma'am?

20 A. I'm a political consultant, zoning
21 consultant.

02:45:35

22 Q. And how long have you been a political
23 consultant?

24 A. Since 1984.

25 Q. And I'm going to come back on your work

02:45:50

ROUGH DRAFT TRANSCRIPT

1 experience, but are you married, ma'am?

02:45:53

2 A. I'm a widow.

3 Q. And how long have you been a widow?

4 A. Since the year 2001.

5 Q. And do you live in Florida?

02:45:59

6 A. Yes, I do.

7 Q. And where do you live now?

8 A. I live in Boca Raton.

9 Q. Do you have children?

10 A. I have one daughter, I have a daughter who's
11 deceased, she died a little over a year ago.

02:46:07

12 Q. And do you have grandchildren?

13 A. Yes --

14 THE COURT: Let's kindly move forward please
15 on the relevant matters again no disrespect to
16 you, ma'am, but this has nothing to do with her
17 involvement in this case.

02:46:19

18 MS. HOFFLER: Okay I'll move forward, Your
19 Honor.

20 Q. So let's just go back to your work
21 experience. You said that you do work in zoning; is
22 that correct?

02:46:29

23 A. Yes.

24 Q. And can you explain to the jury what does
25 that mean?

02:46:40

1 A. An individual will purchase a piece of
2 property, perhaps as an example it would be
3 agricultural, and I would assist in taking it through
4 the process to change the use so they could put on
5 that piece of property what they purchased it for,
6 whether it be a shopping sent, a housing development,
7 a self storage unit, whatever.

02:46:41

02:46:54

8 Q. And how long have you been doing zoning
9 work, ma'am?

10 A. Since 1984.

02:47:09

11 Q. You are familiar with the Destiny project
12 are you not?

13 A. Yes, I am.

14 Q. And please tell the jury how you're familiar
15 with the Destiny project.

02:47:20

16 A. I was working -- I was a consultant and
17 still am for the Pugliese company and when
18 Mr. Pugliese met with one of the brokers that was
19 involved in selling the property, he happened to have
20 known me and Anthony Pugliese called me and we talked
21 about it and he got me involved in the project because
22 I had already done a lot of work for him in the past.

02:47:37

23 Q. And roughly, what year was that?

24 A. That was around 2004, 2005.

25 Q. So were you involved in the actual

02:47:55

1 acquisition of the property with Anthony Pugliese? 02:47:57

2 A. In the acquisition part, to a certain
3 extent, yes.

4 Q. And why do you see that, ma'am?

5 A. Well, the gentleman that had showed the 02:48:06
6 property to him with the two brokers, the real estate
7 agent that had it listed, I happened to have known in
8 the past and that's one reason why Anthony had called
9 me to get on board when he decided to get into the
10 property, purchase it and move forward with it. 02:48:27

11 Q. And were you aware of whether any due
12 diligence was done by Mr. Pugliese relative to the
13 property?

14 A. Yes, we did a lot of due diligence on the
15 property. 02:48:38

16 Q. And can you explain to the jury what's meant
17 by due diligence?

18 A. You have to see, you have to see what the
19 process is going to be, what two extent of the process
20 is going to be to take it through process to get the 02:48:49
21 zoning you want. You have to see if there's
22 environmentally sensitive lands involved. There's so
23 many things you have to go through; engineering, and
24 that's when you determine -- you have a certain period
25 of time in which you say I want my money back or I'm 02:49:08

1 going to close on the property and move forward with
2 what I want to do with it.

02:49:11

3 Q. So did that due diligence happen before the
4 close of the property as well as --

5 A. Yes I believe so, if I can remember
6 correctly.

02:49:19

7 Q. And is there anything that could help your
8 recollection as to whether it happened before the
9 property, before Anthony Pugliese closed on the
10 property?

02:49:29

11 A. Say that again please.

12 Q. Is there anything that could help you
13 remember whether he did the due diligence before he
14 closed on the property?

15 A. Oh I'm sure we did it before, yes.

02:49:39

16 Q. And why do you see that, ma'am?

17 A. That's generally what everybody does and I
18 haven't worked for a developer or real estate investor
19 that didn't do the due diligence on a piece of
20 property before they closed on it. It happens, but
21 it's very rare.

02:49:53

22 Q. And is it your recollection that after
23 the -- after the purchase of the property or after
24 Anthony put a contract on the property, did the due
25 diligence continue?

02:50:06

1 A. Yes.

02:50:07

2 Q. Okay and why do you see that, ma'am?

3 A. Well, I was part of the due diligence.

4 First of all, at that particular time -- first of all,

5 we bought a company that had a piece of property

02:50:20

6 involved anytime, okay. And what happens was it was

7 such a huge piece of property we had to decide what

8 was the best route to take, so I called and made an

9 appointment to see the secretary of the Department of

10 Community Affairs, a man by the name of Thaddeus Cohen

02:50:42

11 at the time, and he met with us at the Airport Hilton

12 Hotel, along with myself, Mr. Pugliese. Bob Basehart

13 was one of our -- was one of the folks that went on

14 board with us and there may have been one or two other

15 folks there, and that's when we discussed with him the

02:51:02

16 size of the property, what we were looking to do, get

17 some direction from him, and that's when he

18 recommended that we should move forward perhaps with

19 the Rural Land Stewardship Act.

20 Q. And could you explain to the jury what the

02:51:24

21 vacs?

22 A. It's really something that a planner should

23 be telling you what that's called, but it's just a

24 much easier route to go change the zoning on as

25 opposed the a regional impact which is a DRI.

02:51:39

1 Q. Now, you mentioned Bob Basehart who is Bob
2 Basehart.

02:51:43

3 A. Bob Basehart was the zoning drawer of Palm
4 Beach County for many years and we hooked up he and I
5 years ago and when he left the department in Palm
6 Beach County and he formed his own company Basehart
7 hand associates and I did a lot of the lobbying work
8 for him dealing with the local government and Bob and
9 Bob rest his company at the same time I did to work on
10 the Destiny project and we gave up our business to go
11 forward with that.

02:51:56

02:52:20

12 Q. And why did you give up your business to go
13 forward with that?

14 A. Well, it was a big project, it was just as
15 big as Disney World. It was huge.

02:52:34

16 MS. CARTWRIGHT: Objection, Your Honor,
17 relevancy.

18 THE COURT: Overruled you can go ahead.

19 Q. You were saying it was justing a large if
20 not as large as Disney World?

02:52:48

21 A. Yes well the original question was.

22 Q. Why did you give up --

23 A. Why did I give up.

24 Q. Yes, ma'am?

25 A. It was going to take up a lot of our time

02:52:57

1 and not only that, in a you'll due respect I'm a 77
2 year old great grandmother I thought it would be a
3 great way to end any career to take up this project
4 that I knew would take up sometime and I expected to
5 retire after that, and Mr. Basehart basically felt the
6 same way himself.

02:52:59

02:53:12

7 Q. How long did you work on the Destiny
8 project?

9 A. From '05, '04 '05 perhaps till around '09.

10 Q. And when you worked on the project in '09,
11 was that during the time that Fred DeLuca had taken
12 over the management of LCOC?

02:53:30

13 A. Yes.

14 Q. And so you did meet Mr. DeLuca?

15 A. Yes.

02:53:42

16 Q. So let's talk about Anthony Pugliese for a
17 moment. You said you had worked with Anthony Pugliese
18 for a number of years; is that correct?

19 A. That's correct.

20 Q. And roughly how many years have you worked
21 with Anthony Pugliese?

02:53:49

22 A. Almost 33.

23 Q. And did you work with Mr. Pugliese on other
24 projects?

25 A. Many projects. I did mostly all of his

02:53:59

1 projects over 33 years.

02:54:01

2 Q. And can you share with the jury the types of
3 project that's Anthony Pugliese had that you worked
4 with him on over the past 30 years?

5 A. Of course. We built -- rezoned for self
6 storage units, apartments, shopping centers, office
7 buildings. That's general the kind of work that we
8 do.

02:54:10

9 Q. And do you recall if any of those projects
10 involved more than 20 acres?

02:54:28

11 A. Some of them.

12 Q. Putting the Destiny aside. And in terms of
13 your work for Mr. Pugliese did you on the Destiny
14 project, did you observe his interaction with
15 employees and consultants?

02:54:45

16 A. Yes.

17 Q. And how would you describe his interaction,
18 ma'am?

19 MS. CARTWRIGHT: Objection, Your Honor,
20 relevancy.

02:54:53

21 THE COURT: Overruled.

22 Q. That means you can go ahead.

23 A. How do I -- his interactions?

24 Q. Yes.

25 A. Anthony Pugliese is a very entertaining man.

02:55:02

1 He's very kind, he's very sweet and he's a very caring
2 soul and we always had such a good time working with
3 him. So he was always very respectful and he was
4 always -- he always listened to your concerns and he
5 certainly wanted to know what you thought of what the
6 projects were when we move forward what we expected to
7 do for the outcome of the project. That's mainly what
8 he was always interested in.

02:55:05

02:55:23

9 Q. Did you find him in working on the Destiny
10 project to be a good manager?

02:55:36

11 A. Excellent.

12 Q. And why do you see that, ma'am?

13 A. Well, everybody was happy with him. To me
14 when somebody can enjoy working with someone -- when
15 you're working with somebody and they create a great
16 atmosphere around you, okay, you enjoy working with
17 that person that's a good person. Everybody loved
18 working with Anthony, but not only on the Destiny
19 project. People over the years they always enjoyed
20 working with Anthony Pugliese and the staff.

02:55:53

02:56:08

21 Q. Did you have occasion to work with or
22 interact with Joe Reamer?

23 A. Joe Reamer, yes.

24 Q. And how would you describe Joe Reamer?

25 A. Joe Reamer, Joe Reamer is someone that sat

02:56:18

1 sometime back office, he did his job and he's a good
2 person. He was always there for you when you needed
3 him, and I think he's a very honest and sincere
4 person. That's how I would describe him.

5 Q. Do you know Laura Pugliese?

6 A. Laura Pugliese.

7 Q. And how would you describe Laura Pugliese?

8 MS. CARTWRIGHT: Objection, inappropriate.

9 THE COURT: Sustained.

10 Q. And can you explain to the jury how you
11 worked with Laura Pugliese?

12 A. Laura is a very intelligent young lady.
13 She's very, very well versed in real estate and very
14 well versed in the process you have to go through and
15 she always made good contributions every one of our
16 meetings. An everybody enjoyed being with her. She
17 just has a great personality.

18 Q. Now, you mentioned in reference to the first
19 acquisition from the Latt Maxcy that's the
20 27,000 acres?

21 A. Yes.

22 Q. You mentioned you bought a company?

23 A. Yes.

24 Q. Did you get paid any compensation?

25 A. Yes.

1 Q. Can you tell the jury how you were
2 complicated for your role?

02:57:33

3 A. I was paid a check.

4 Q. So you were compensated for your work?

5 A. Yes.

02:57:40

6 Q. And when you say the company was bought, is
7 that typically what happens in real estate deals or
8 was that different?

9 A. I guess it's happened before. I'm not
10 saying it hasn't. Most of the time it wasn't, but
11 this time it was.

02:57:53

12 Q. And in terms of the Destiny project itself,
13 what were your responsibilities?

14 A. My responsibilities was basically dealing
15 with government, set up appointments. I took part in
16 interviews when we were hiring people and I attended
17 all kinds of meetings late on as we moved forward,
18 whether it would be in Orlando, Tallahassee, Osceola
19 County.

02:58:13

20 Q. And you've talked about the zoning process
21 and the jurors have heard about entitlements. Could
22 you explain to the jurors what an entitlement is?

02:58:32

23 A. An entitlement is when you buy a piece of
24 property, for an example, it's zoned agricultural and
25 you would raise cattle, livestock or some kind of to

02:58:49

1 mates, fruits, vegetables, whatever, the entitlement
2 is when you at any time through process and say you
3 want to have an apartment building and you want to
4 have a 300 units that's the entitlement you are going
5 after.

02:58:56

02:59:09

6 So what you would do is you would move
7 forward with the process so at the end after you
8 appear before the planning and zoning board, whatever
9 is required to have to appear before the city council,
10 the county commission at the end of the day when they
11 vote in favor of your project it is no longer
12 agricultural it is now zoned for those 300 apartments
13 and the 300 apartments would be your entitlement.

02:59:22

14 Q. And were you involved in the entitlement
15 process on the Destiny project?

02:59:36

16 A. Yes.

17 Q. And explain to the jurors what your
18 involvement was in terms of the entitlement process.

19 A. I set up the various appointments with the
20 Department of Community Affairs. I worked with our
21 planner in house which was Mr. Basehart because we
22 worked together in concert together for many years. I
23 set up appointments in Tallahassee with the Department
24 of Community Affairs, the Department of Environmental
25 Relations. At one point I believe it was the

02:59:49

03:00:04

1 president of the senate at that time was Mr. Ken
2 Pruitt. I worked with the Audubon Society, I worked
3 with the Sierra Club, with the environmentalists.

03:00:11

4 Q. And do you know whether LCOC ever applied
5 for an entitlement relative to the Destiny project?

03:00:34

6 A. Yes.

7 Q. And why do you say that?

8 A. We applied twice, one was the Rural Land
9 Stewardship Act and one with the Department of
10 Community Affairs, with the -- that would be under the
11 DRI, okay. As a matter of fact, it came to a halt at
12 one point because the county of Osceola was going
13 through the process with us. All the managing partner
14 had to do at that time was to --

03:00:45

15 MS. CARTWRIGHT: Objection, Your Honor, lack
16 of foundation.

03:01:16

17 THE COURT: Overruled.

18 Q. You can continue, ma'am.

19 A. All the managing partner at that time had to
20 do was to give the okay to Osceola County to move
21 forward with the project, which never happened and
22 that's when I believe it fell apart.

03:01:24

23 Q. And who was the managing partner at LCOC at
24 the time that was -- that needed to give the okay for
25 the entitlement to take place?

03:01:42

1 A. That managing partner was Fred DeLuca.

03:01:44

2 Q. So in terms of your experience with the
3 entitlement process specifically for Destiny, how
4 close were you, how close were you to the finish line
5 of the entitlement process?

03:01:59

6 MS. CARTWRIGHT: Objection, Your Honor,
7 calls for speculation.

8 THE COURT: How close were you to the finish
9 line to the entitlement process is the question
10 this.

03:02:08

11 MS. HOFFLER: Yes.

12 THE COURT: Agreed, sustain.

13 MS. HOFFLER: Let me rephrase it. Thank
14 you, Your Honor.

15 Q. Based on your experience and based on the
16 meetings you attended, do you know how close you were
17 to getting the entitlement on the Destiny project?

03:02:15

18 THE COURT: Ma'am, hold on. Please wait
19 till the question is finished, understand that
20 I've been doing this for a while. So try not to
21 slip something in when there's an anticipated
22 objection because I know you've been doing this
23 for a while as well.

03:02:31

24 Your objection, ma'am is what.

25 MS. CARTWRIGHT: Lack of foundation,

03:02:52

1 speculation, Your Honor.

03:02:53

2 THE COURT: There really does need to be a
3 foundation established. One is a better
4 explanation of what exactly entitlements entail.

5 Secondly, what the process is in order to gain
6 those entitlements, whether such entitlements
7 whether they be water, sewage, electric, whether
8 they be permitting, whether they be anything of
9 that nature, there may be different entitlements

03:03:08

10 involved and different ways of going about the
11 process and how that process is accomplished
12 because I think just in saying ten months it my
13 mace lead the jury in terms of what is being
14 talked about and whether or not those timeframes
15 can vary depending upon the nature of the
16 entitlements sought.

03:03:27

17 MS. HOFFLER: Okay, Your Honor.

18 Q. In light of Your Honor's concerns are you
19 able to comment on to address the Court's concerns
20 more on the entitlement process and share with the
21 jury in insight that you would have in terms of how
22 close Destiny was to completing that process?

03:04:04

23 A. I think I left off at one point where
24 Osceola County was to move forward with the process,
25 but no one gave the okay on that. Had he given the

03:04:27

1 okay on that --

03:04:34

2 MS. CARTWRIGHT: Objection, Your Honor,
3 calls for speculation lack of foundation again.

4 THE COURT: I agree.

5 MS. HOFFLER: Your Honor, I'll move on.

03:04:40

6 THE COURT: That's fine.

7 Q. I'm going to ask that we public Exhibit 1D
8 and tell me if we can put it up here, the picture. I
9 think we can put it up here on that screen too. We've
10 seen this a lot.

03:05:01

11 Do you recognize that picture?

12 A. Yes.

13 Q. I was trying to do something so this might
14 be closer for you to see, but I don't want you to
15 strain yourself. Don't move it -- oh, you've got a
16 monitor right there.

03:05:12

17 A. Oh, my God. Wait, ma'am. That one is
18 probably better for my eyes. Yes I recognize the
19 picture.

20 Q. Can you share with the jury, do you remember
21 being at that event?

03:05:40

22 A. Yes, yes.

23 Q. And can you show the jury what that was?

24 A. What it was?

25 Q. Yes or what that vent was.

03:05:48

1 A. The event was -- these were all of the
2 consultants that worked on the project for months and
3 months ahead of time and this was an event that we had
4 at the Gay Lord -- it was the Gay Lord hotel in not in
5 Orlando, just -- in Osceola county. It was too far
6 from the project. We had a big luncheon and these are
7 all the consultants that attended the luncheon, along
8 with probably five, six, 700 other folks that was part
9 of the project to the extent it was the members of
10 staff in Osceola County, it was elected officials in
11 Osceola County, it was some of the environment lists
12 and all of the folks that we were dealing with on the
13 project.

03:05:50

03:06:09

03:06:37

14 Q. Was this an unveiling event where there was
15 a discussion about Destiny?

03:06:57

16 A. There was a big discussion about Destiny.
17 The Chamber of Commerce were there and they commented
18 on it.

19 MS. CARTWRIGHT: Objection, Your Honor,
20 hearsay.

03:07:08

21 THE COURT: Overruled.

22 Q. You can continue.

23 A. Mr. Brogan, Frank Brogan was there, our
24 director was there, a Mr. Randy Johnson was there at
25 the time, all of the consultants. These were all of

03:07:20

1 the consultants. This is what it took to put this
2 project together.

03:07:22

3 Q. How was the project received at that event?

4 MS. CARTWRIGHT: Objection, Your Honor,
5 calls for hearsay and speculation.

03:07:38

6 THE COURT: Overruled she can give a general
7 lay opinion as to what she saw and how she
8 perceived it. That would be the extent of the
9 evidence share value I'll instruct the jury.

10 A. It was very well received. It was very well
11 received.

03:07:55

12 Q. You have to wait for the Judge to finish.

13 THE WITNESS: I apologize.

14 THE COURT: It would just be her own
15 impressions. That's all.

03:08:04

16 Yes, ma'am. You can go ahead.

17 THE WITNESS: It was very well received by
18 everyone.

19 Q. Was Mr. DeLuca in attendance at that event?

20 A. No.

03:08:18

21 Q. You mentioned that you met Mr. DeLuca?

22 A. Yes.

23 Q. How did you meet Mr. DeLuca, or when did you
24 meet Mr. DeLuca?

25 A. I met Mr. DeLuca only three or four times.

03:08:25

1 He never attended any of the meetings or nick we had
2 with the consultants so it was very rare that we saw
3 him.

03:08:31

4 I saw him I guess when he was introduced to
5 the project in the very, very beginning and over time
6 like I said I only saw him if he stopped by once or
7 twice and one particular incident we had what big
8 meeting with all of the consultants because they
9 wanted to relate some messages at that time to
10 Mr. DeLuca.

03:08:41

03:09:00

11 Q. And did they relay the messages to
12 Mr. DeLuca?

13 A. Yes.

14 Q. And did you have any other interactions with
15 Mr. DeLuca when he was manager of LCOC?

03:09:07

16 A. Oh, yes, I did.

17 Q. And why do you see that?

18 A. Well, I had a contract that I was supposed
19 to be paid on that if they withdrew the project or the
20 project didn't move forward of the fall of their own.
21 The reason why I did that was because originally --
22 please understand that when I first met Mr. Pugliese
23 for the first document years I had a contract with
24 him. After that I never had a contract with him. It
25 was just on a handshake. He was always a man of his

03:09:20

03:09:41

1 word, she always kept his word and he was always very
2 fair and honest with me.

03:09:44

3 MS. CARTWRIGHT: Objection, Your Honor,
4 inappropriate evidence.

5 THE COURT: Well, you can't vouch for the
6 witness unless the question is asked and the
7 opportunity comes to let the other side to do
8 that. You can testify as to the handshake
9 relationship you had with Mr. Pugliese, but
10 anything beyond that I'd ask you not to comment
11 on. The jury will be instructed to disregard
12 anything beyond that commentary. You may
13 proceed.

03:09:55

14 Q. So as it relates to Mr. DeLuca can you
15 describe your interaction with him and your
16 impression?

03:10:07

17 A. Mr. DeLuca was the managing partner at that
18 point and I had not been paid on my contract. I
19 called him and I asked him if he was going to pay me.
20 He said he was, which he didn't. I asked him if the
21 project was going to move forward, he promised me
22 would it and it didn't. He told me I had to call his
23 people in Connecticut, a gentleman by the name of
24 Bobby Ray, which I did. They never call me back. I
25 had to constantly keep calling them. Each time I got

03:10:20

03:10:33

03:10:54

1 called --

03:10:57

2 MS. CARTWRIGHT: Objection, Your Honor,
3 hearsay.

4 THE COURT: Overruled. Finish your answer
5 and if there's remains an objection at that time
6 I'll hear it.

03:11:02

7 THE WITNESS: Each time I was told I was
8 going to be paid and the project would move
9 forward and it didn't and I just felt like I was
10 not told the truth.

03:11:12

11 THE COURT: This was all coming from
12 Mr. Fred DeLuca.

13 THE WITNESS: Yes, sir.

14 THE COURT: The objection is overruled.
15 We're going to take our amp break right now, and
16 again, I thank the jury for their continued
17 service and sacrifice. I thank you our courtroom
18 personnel as well and I want to also just remind
19 our jurors not to talk about the case with
20 anyone, don't talk about it among yourselves,
21 don't allow anybody to approach you or speak
22 about the case in any fashion, please don't use
23 any form of electronic devices or any other forms
24 of communication to send or receive any message
25 or any about any of the issues in this case or

03:11:20

03:11:40

03:11:55

1 any of its participants. 03:11:58

2 We'll return in 15 minutes which will bring
3 to us 3:25, 3:25 and we'll pick up with the
4 testimony at that time. That pretty much takes
5 care of it. 03:12:12

6 Have a Georgia break we'll see you back at
7 3:25. We'll be in recess until then. Thank you.

8 MS. HOFFLER: Your Honor, may I instruct the
9 witness.

10 THE WITNESS: Do I stay here. 03:12:22

11 THE COURT: No, just please don't talk about
12 your testimony while on break.

13 MS. HOFFLER: but you can go, but don't
14 actually talk to anyone. That's probably the
15 best thing. 03:12:31

16 THE WITNESS: If you want I'll just stay
17 here.

18 THE COURT: No it's 15 minutes. Stretch
19 your legs and relax.

20 (Whereupon a recess was taken.). 03:12:38

21 THE COURT: Welcome back everyone, thank
22 you. Deputy if you'd kindly summon the jury,
23 please.

24 MS. HOFFLER: Judge I wanted to ask after
25 this witness about the deposition. 03:34:31

1 THE COURT: We'll be going through it at the 03:34:33
2 close of the day, which I don't know how long
3 that's going to be. So in other words, have
4 someone else prepared.

5 THE BAILIFF: The jury is entering. 03:34:48

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

8 THE COURT: Women back ladies and gentlemen.
9 Again thank you for your continued service and
10 sacrifice. We're going to continue now with the 03:35:15
11 direct examination of Ms. Stumberger.
12 Ms. Hoffler whenever you're ready.

13 MS. HOFFLER: Thank you may it please the
14 Court.

15 Q. Ms. Stumberger you testified earlier you 03:35:30
16 were involved in the original acquisition by Anthony
17 Pugliese of the 27,000 acres?

18 A. Yes.

19 Q. And you indicated that there was -- that you
20 were compensated for that? 03:35:41

21 A. Yes.

22 Q. Because there was what company that was
23 purchased?

24 A. Yes.

25 Q. And did you receive a consulting fee? 03:35:46

1 A. Yes.

03:35:48

2 Q. And how much was that, ma'am?

3 A. \$400,000.

4 Q. Was that a real estate commission?

5 A. No.

03:35:55

6 Q. It was a consulting fee?

7 A. Yes.

8 Q. Ma'am, obviously, you know, that
9 Mr. Pugliese went to jail?

10 A. Yes.

03:36:04

11 Q. In connection with matters involving the
12 Destiny project?

13 A. Yes.

14 Q. Has that changed your opinion of
15 Mr. Pugliese?

03:36:11

16 A. Absolutely not.

17 MS. CARTWRIGHT: Objection, Your Honor,
18 character evidence, Your Honor.

19 THE COURT: Pardon?

20 MS. CARTWRIGHT: Objection, Your Honor,
21 relevance, character evidence.

03:36:18

22 THE COURT: I can really only hear one at a
23 time. Relevance is really the key here and I
24 agree that it's irrelevant whether her opinion
25 was changed or not changed.

03:36:39

1 MS. HOFFLER: Thank you, Your Honor.

03:36:42

2 Q. Let me ask you this did you continue working
3 for Mr. Pugliese when he got out of jail?

4 A. I'm working there right now.

5 Q. And why is that, ma'am?

03:36:48

6 A. I have no reason to not work there. I
7 respect Mr. Pugliese, he's always been a wonderful
8 person and good honest person to everybody --

9 MS. CARTWRIGHT: Objection, Your Honor,
10 relevance.

03:37:03

11 THE COURT: Sustained. Ma'am, I want to try
12 to get away from character evidence.

13 MS. HOFFLER: I understand, Your Honor.

14 THE COURT: It's not at issue here unless we
15 make it an issue and I don't think it's
16 appropriate to do so. If she's still working
17 there. The question was yes or no. What are you
18 doing there.

03:37:13

19 THE WITNESS: I'm working on a couple of
20 projects right now.

03:37:29

21 THE COURT: Do you work for Mr. Pugliese,
22 for one of these companies as an independent
23 contractor.

24 THE WITNESS: As an independent contractor.

25 THE COURT: So you're not working for

03:37:37

1 Mr. Pugliese you're works as an independent
2 contractor.

03:37:38

3 THE WITNESS: I guess, yes.

4 THE COURT: On projects that Mr. Pugliese is
5 dealing with.

03:37:46

6 THE WITNESS: Yes.

7 THE COURT: Okay, thank you.

8 THE WITNESS: You're welcome.

9 MS. HOFFLER: Actually, Your Honor, I have
10 no further questions that's the question was
11 trying to get to.

03:37:53

12 THE COURT: All right. Fair enough.

13 MS. HOFFLER: Thank you.

14 THE COURT: Ms. Cartwright.

15 CROSS EXAMINATION

03:38:07

16 BY MS. CARTWRIGHT:

17 Q. Good afternoon?

18 A. Good afternoon.

19 Q. I believe you said you've been working for
20 Mr. Pugliese or one of his companies both before the
21 Yeehaw Junction property was developed, to be
22 developed?

03:38:14

23 A. Yes.

24 Q. And you worked for him also doing the
25 development of the project?

03:38:23

1 A. Yes.

03:38:26

2 Q. And you're still working for him today?

3 A. Yes.

4 Q. And throughout the time that you've been
5 working for Mr. Pugliese or one of his companies, you
6 were working in what counties?

03:38:30

7 A. Now?

8 Q. Yes, what counties now?

9 A. Broward and Palm Beach.

10 Q. During the time that you worked for
11 Mr. Pugliese on the Destiny, what hack called the
12 Destiny project, you indicated just a little while ago
13 that you were paid \$400,000; is that correct?

03:38:52

14 A. Yes.

15 Q. And the entity that paid you that \$400,000,
16 was that Gersper Realty?

03:39:07

17 A. I don't remember.

18 Q. Do you remember if it was one of
19 Mr. Pugliese's companies?

20 A. Oh, I'm sure it had to be.

03:39:17

21 Q. Were there brokers that handled the closing
22 on the property?

23 A. Brokers that handled the closing?

24 Q. Real estate brokers.

25 A. That I don't know. I know there was brokers

03:39:31

1 involved. 03:39:32

2 Q. And at the time the property closed were you
3 a real estate -- did you have a real estate license?

4 A. No.

5 Q. And you real estate you would not be able to
6 receive a commission for real estate? 03:39:42

7 A. Yes.

8 Q. And you received \$400,000 at the closing of
9 the property. Now, you don't have any --

10 THE COURT: Bring your voice down, please. 03:39:56

11 I tried to add just the microphone for the
12 witness, but we can hear you well.

13 MS. CARTWRIGHT: I'm loud, I'm sorry.

14 Q. You don't have any personal knowledge of the
15 lawsuit that was brought between FD Destiny and AVP
16 Destiny? 03:40:11

17 A. Not really.

18 Q. And you've never seen the operating
19 agreement that was between AVP Destiny and FD Destiny?

20 A. No. 03:40:29

21 Q. And so you're not aware of any of the
22 funding obligation that's FD Destiny had to the matter
23 or you're not aware of any of the funding obligations
24 AVP Destiny had?

25 A. No. 03:40:43

1 Q. So you don't know what FD Destiny was
2 required to pay pursuant to the operating agreement,
3 do you?

03:40:45

4 A. To pay to -- it's unclear to me.

5 Q. To pay to LCOC, to the land company. You
6 weren't aware of what they were required to pay?

03:40:56

7 A. No.

8 Q. And you weren't aware of what Mr. Pugliese
9 and his companies were required to pay?

10 A. No.

03:41:05

11 Q. And you indicated that you had a contract
12 with I guess LCOC?

13 A. Yes.

14 Q. And at the end of this time period you
15 didn't get paid; is that correct?

03:41:23

16 A. Yes.

17 Q. And that contract, Ms. Stumberger did
18 require Mr. Pugliese to set aside \$10,000 a month for
19 you; is that correct?

20 A. Yes.

03:41:34

21 Q. And this contract was entered into in April
22 of 2006, 2007?

23 A. Perhaps.

24 Q. And from 2007 until I guess 2009, \$10,000 a
25 month was supposed to be accrued for you for payment

03:41:53

1 of your bonus; is that correct? 03:41:56

2 A. Yes.

3 Q. And at that time by 2009 it was probably
4 \$240,000 that was owed to you, accrued for you?

5 MS. HOFFLER: Your Honor, objection,
6 foundation. 03:42:10

7 THE COURT: No I thinks that what's trying
8 to be developed as the question is being asked.
9 It's overruled. You can answer, ma'am.

10 Q. And so at the end of I guess middle of 2009 03:42:22
11 you had about \$240,000 that Mr. Pugliese said that he
12 was putting aside for you?

13 A. Yes.

14 Q. Pursuant to your contract. And when the
15 contract ended or when your work for the Destiny 03:42:38
16 project ended, you didn't go to Mr. Pugliese and ask
17 him where was your \$240,000; is that correct?

18 A. I don't remember.

19 Q. You don't recall going to Mr. Pugliese and
20 saying where are is my \$240,000? 03:42:56

21 A. I'm just trying to think. I think I
22 mentioned it, but he was no longer -- I'm not sure if
23 he was the managing partner then and I had to go to
24 Mr. DeLuca.

25 Q. So at no time did you go to Mr. Pugliese who 03:43:12

1 signed the contract and ask him where your money was? 03:43:16

2 A. Now, remember there was a period of time
3 that passed from -- six weeks happened when we didn't
4 get a paycheck either. So in that time I believe the
5 managing partners switched and that's why I went to 03:43:30
6 Mr. DeLuca.

7 Q. Well, do you remember giving a deposition
8 testimony, Ms. Stumberger?

9 A. Yeah a long time ago, yes.

10 Q. And it was in a case -- and during the 03:43:40
11 deposition testimony you said that you would give
12 testimony under oath?

13 A. Yeah.

14 Q. And do you recall in that testimony and I
15 will refer counsel to deposition page 167 -- and I 03:43:55
16 will bring it for you.

17 Deposition page 165 lines one to three.
18 Your Honor, may I approach the witness with the
19 deposition?

20 THE COURT: Do you have an extra copy. 03:44:26

21 MR. MARIANI: Your Honor, improper
22 impeachment. The witness said she didn't know.
23 It's not to refresh your recollection unless
24 she's attempting to impeach.

25 THE COURT: Well, it's essentially the same 03:44:38

1 thing. If she knew an answer at the time that 03:44:39
2 the deposition was taken, but doesn't know it
3 now, that is both potentially a refreshment of
4 recollection and an ability or an attempt to
5 impeach. So they basically have the aim 03:44:54
6 characteristics. Typically a refreshment of
7 recollection is you'd most often by the party
8 calling the witness. Impeachment is used by the
9 party not calling the witness. So I think it's
10 appropriate. 03:45:15

11 You may approach the witness, ma'am.

12 A. Where are we looking?

13 Q. I refer you to deposition page 167, lines
14 two to six?

15 A. Wait a minute you gave me the wrong page. 03:45:43

16 Q. Question so when did you go to him and say
17 when can I get my accrued monies."

18 A. Excuse me where are we look something do you
19 mind showing me.

20 Q. Page 167? 03:46:11

21 A. Oh, you said 165.

22 Q. Right here.

23 A. Here, okay.

24 "Q: So when did you go to him and say can I
25 get my accrued monies. 03:46:30

1 THE COURT: Ma'am, you may not realize how
2 loud you are speaking.

03:46:32

3 "Q: When did you go to him and say can I
4 get my accrued monies.

5 "A: I didn't.

03:46:45

6 "Q: You never asked him.

7 "A: No, because I was told the only way I
8 could try to get my accrued money is to go to
9 court.

10 MR. MARIANI: Objection, Your Honor.

03:46:56

11 MS. HOFFLER: Improper impeachment the
12 witness said she didn't know and her testimony is
13 confirming that she didn't know. She didn't
14 remember.

15 THE COURT: Was that your answer at the time
16 you gave it, ma'am. Overruled.

03:47:06

17 THE WITNESS: You know, I don't remember. I
18 would have to go back and read from the beginning
19 to see what it was here.

20 THE COURT: Okay, take a few minutes and put
21 it in some context, not a few minutes, a few
22 seconds to put night context if you'd like to.

03:47:18

23 THE WITNESS: Okay. What was this question
24 now, again, may I ask you? I'm sorry.

25

1 BY MS. CARTWRIGHT:

03:48:13

2 Q. My question is you didn't go to Mr. Pugliese
3 and ask him for your \$250,000, is that correct?

4 A. No.

5 Q. No, it's not correct or --

03:48:23

6 A. No, no.

7 Q. You did not?

8 A. I don't think I did, no.

9 Q. And you knew that Mr. Pugliese had \$250,000
10 that he had set aside for you for your bonus?

03:48:31

11 A. I knew the money was set aside for a bonus,
12 yes.

13 Q. Mr. Pugliese was the one that told you that
14 he had that money for you, correct?

15 A. He told me it was being set aside.

03:49:09

16 Q. And he didn't give you that money?

17 A. He had to use the money for company.

18 Q. And who told you he had to use the money?

19 A. I believe Mr. Pugliese and I had that
20 discussion at one point.

03:49:21

21 Q. So the money that Mr. Pugliese set aside for
22 you he said he used for some other purpose?

23 A. Well, that's vague what the purpose is. He
24 used it to keep the company going.

25 Q. When is it that he told you this?

03:49:40

1 A. I don't remember. I don't remember exactly. 03:49:42
2 I'd be lying if I told you when exactly.

3 Q. At any time did Mr. Pugliese return the
4 monies that he said aside for you to you?

5 A. No. 03:49:50

6 MS. CARTWRIGHT: That's all I have.

7 THE COURT: Thank you Ms. Cart right. Ms.
8 Hoffler redirect based on cross.

9 REDIRECT EXAMINATION

10 BY MS. CARTWRIGHT: 03:49:57

11 Q. Just a few questions. You were asked
12 questions about a contract you had and you were to
13 receive a bonus in the vent the project was
14 successful?

15 A. That's correct. 03:50:18

16 Q. So the Destiny project would have had to be
17 successful; is that right?

18 A. Yes.

19 Q. And was the Destiny project successful?

20 A. No. 03:50:28

21 Q. But however you were entitled to a salary,
22 isn't that right?

23 A. Yes.

24 Q. And you were getting paid a salary, isn't
25 that right? 03:50:35

ROUGH DRAFT TRANSCRIPT

1 A. I was getting a consulting fee every month
2 and expense, yes.

03:50:36

3 Q. And expense. And were you paid all of your
4 consulting fees and expense?

5 A. I think so, yes.

03:50:51

6 THE COURT: Any questions from the jury?

7 Okay, thank you, ma'am.

8 JUROR FERRETTI: I have one.

9 THE COURT: You'll have to listen more
10 carefully to my instructions. The process is to
11 write down the question. I seen suggested to
12 write down the question during the testimony and
13 then cross it off if it was covered. So write it
14 down, please, hand it to the deputy who will hand
15 it to me and we will go through it with counsel
16 to ensure it is legally permissible. I also gave
17 an example of that yesterday concerning any
18 traffic accident, an accident report is normally
19 not admissible into evidence because of the quid
20 pro quo explanation that I tried to give
21 yesterday as well.

03:51:07

03:51:26

03:51:42

22 Which means please don't take it personally
23 if your question is not asked. Thank you very
24 much folks. Counsel.

25 (Whereupon counsel for the respective

03:52:12

1 parties approached the bench and the following
2 proceedings were had outside the presence of the
3 jury:)

4 THE COURT: Court Exhibit 1 is: Was the
5 \$400,000 consulting fee paid up front. Number
6 two is did witness receive checks for \$10,000 in
7 April, May, June of 2007. Any objections.

8 MR. HUTCHISON: No objection.

9 MS. HOFFLER: No.

10 THE COURT: Hearing no objection we will
11 proceed.

12 MR. MARIANI: Are we allowed to follow-up.

13 THE COURT: Yes that was also explained.

14 (Whereupon the following proceedings were
15 had within the presence of the jury:).

16 THE COURT: Please don't comment on the
17 nature of the question, only answer it if you
18 can.

19 First question is was the \$400,000
20 consulting fee paid up front.

21 THE WITNESS: No.

22 THE COURT: The question is was the \$400,000
23 consulting fee paid up front.

24 THE WITNESS: No.

25 THE COURT: Thank you. Did you receive

1 checks for \$10,000 in April, May and June of
2 2007.

03:54:14

3 THE WITNESS: I don't remember.

4 THE COURT: I gets we had a couple of things
5 that we had to be filed as court exhibits in the
6 last two days, so it's actually four and five.

03:54:37

7 You don't remember receiving checks for
8 \$10,000 in April, May and June of '07.

9 THE WITNESS: I don't remember the date.

10 THE COURT: Okay. that's fine. Any
11 follow-ups from the Pugliese parties?

03:54:48

12 MS. HOFFLER: Your Honor, I have no further
13 questions.

14 THE COURT: Thank you. Anything from the
15 DeLuca parties.

03:55:08

16 MS. CARTWRIGHT: I have one question.

17 Q. Ms. Stumberger, \$400,000 was paid to you in
18 a lump sum at the closing of the property in August,
19 2005?

20 THE WITNESS: Not at the closing.

03:55:22

21 Q. When was it -- right following the closing
22 of the property?

23 A. Sometime after the closing. It wasn't right
24 following, it was just a little time after. I don't
25 exactly remember.

03:55:36

1 Q. So a lump sum was paid a little time after
2 \$400,000?

03:55:37

3 A. Yes.

4 Q. After the closing of the property?

5 A. Yes.

03:55:42

6 MS. CARTWRIGHT: Thank you that's all I
7 have.

8 THE COURT: Okay, thank you. All right.
9 Anything else from the jury?

10 All right. Thank you very much, ma'am.
11 Watch your step again there are stairs there,
12 please and you're free to go. Thank you for your
13 time (witness excused).

03:55:49

14 MR. MARIANI: Your Honor, may we approach.

15 THE COURT: Yes.

03:56:03

16 (Whereupon counsel for the respective
17 parties approached the bench and the following
18 proceedings were had outside the presence of the
19 jury:)

20 THE COURT: Again I'm sorry about that
21 folks, it's just the way it is hooked up.

03:56:21

22 MR. MARIANI: Your Honor, we don't have a
23 life witness. We expected to put Meril on after
24 we had the Al Quentel testimony. So I have two
25 suggestions, one we can start that if Your Honor

03:56:39

1 has gone through the front part of it. It's
2 4 o'clock.

03:56:42

3 THE COURT: I'm ready to make rulings up to
4 page 300. Here are the rulings for the record.
5 And we'll go fast and I'm not going to entertain
6 argument. If I needed argument I would have told
7 you. There is some argument that I'll need that
8 goes up to around page through hundred. So until
9 300 I'm fine.

03:57:00

10 So 13, 22 to 1625, please so that the court
11 reporter can see my lips move in case she can't
12 hear me well -- 1322 to 16/25, sustained.

03:57:13

13 17, one through 25 is sustained on relevance
14 grounds to both. 181 through 2115, sustained,
15 relevance. 372215 through 1322 through 24,
16 relevance is overruled.

03:57:40

17 22, I'm sorry 262 through 28/13, overruled.

18 291 through 3018, overruled. 317 through
19 14, 3117 through 324, 3215 through 21 overruled
20 on the grounds stated.

03:58:07

21 3224 through three, 14 overruled.

22 34, 15 through 19, overruled.

23 34, 22 through 25, overruled.

24 35, two through nine overruled.

25 3521 through 24, overruled. Hearsay

03:58:27

1 objection was made. However the information
2 provided was not offered to prove the truth of
3 the matter asserted.

03:58:33

4 38, eight through nine, the foundation
5 objection is sustained.

03:58:42

6 40, 22 through 41, nine, overruled.

7 43, eight through 12 overruled. 43, 19
8 through 41, one overruled.

9 44, four to seven, 44, nine through 24,
10 sustained as vouching, which would be relevance
11 and counsel testifying presumably. However
12 overruled as to page 44, 3 through seven.

03:59:11

13 475 through 4813, overrule.

14 50, 21 through 5118, sustained as
15 speculative. I made notation to see lines 16
16 through 18 I guess to demonstrate the
17 speculation, which is what I did. In other words
18 he concluded his testimony saying I guess or
19 words to that effect.

03:59:35

20 53, four to 57, seven sustained on
21 relevancy.

03:59:57

22 58, two through ten sustained as leading.
23 Which is also counsel testifying.

24 69, 20 through 24, sustained as leading,
25 counsel testifying.

04:00:12

1 76 through 12, 736 through seven, 74, four
2 through ten -- okay, are overruled except for 75,
3 14 -- I'm sorry, 75 line four through 13 is
4 sustained.

5 75, lines four through 13 is sustained. And
6 I think that should be 74 -- I'm sorry, 75 line
7 four through 13. It's the same page. Whoever
8 wrote it up wrote the same page twice.

9 76 line 11 through 12 is overruled. 7618
10 through 22 overruled.

11 Relevancy is sustained as to 77 line three
12 through 78 line six. Overruled as to 78 line
13 seven through line 18. Sustained, 78 line 19
14 through 25. He has no personal knowledge and is
15 not competent to testify on the on that.

16 Overruled page 79 line one through 23.

17 Sustained page 79 line 24 to 80 line six.

18 Overruled page 80 line nine through 81 line
19 20.

20 Sustained page 82 line five through line 15.

21 Overruled page yes, sir line 22 to page 84,
22 line two.

23 Sustained page 84 line three to 13.

24 Overruled 84 line 18 through 23.

25 I had a question on page 84 line 25 to page

1 88 -- I'm sorry, page 84 line 25 to page 85 04:02:39
2 line -- I can't read my own writing. Why was it
3 relevant as to whether Quentel believed in
4 Destiny Glen he was part of the project and he
5 sustained the business. He was making money off 04:03:16
6 of it. If he did not believe in it.

7 What was his payment or what was his
8 remuneration.

9 MR. CHAPMAN: Whether he believed in the
10 project or not I do not think is relevant. I 04:03:41
11 think it's improper opinion testimony. He's not
12 an expert witness in this case, so his opinion as
13 to his belief in the project is something that's
14 not relevant.

15 MR. MARIANI: He's not an expert witness, 04:03:57
16 Your Honor but he's deceased and his reputation
17 precedes him. He is one of the foremost real
18 estate lawyers in the State. So his view of the
19 project is not being offered for the truth of the
20 matter -- 04:04:11

21 THE COURT: Well, it's not hearsay, it's
22 just whether or not he believed in Destiny.
23 Whether or not he goes on for pages about that, I
24 don't know what it's relevancy is.

25 MR. CRICKENBERGER: Your Honor, he had the 04:04:27

1 reputation. His reputation obviously he wanted
2 it to succeed.

3 THE COURT: In an abundance of caution I'll
4 allow it. And that goes to the end of or that
5 guess to the end of page 84.

6 298, 24 to 299, 23 is sustained on relevancy
7 and cumulative grounds. And I was wondering on
8 page 300 line 12 whether he can testify,
9 Mr. Quentel to the State's legal authority.
10 Pardon.

11 MR. CHAPMAN: My position would be the name.
12 It's in problem that he's an expert -- he's given
13 testimony as to what the law is in this area.
14 Nobody is challenging Mr. Quentel's credentials,
15 but his explanation of law, is his opinion and
16 expert testimony, that's what it is. He has not
17 been proffered as an expert.

18 THE COURT: Excuse me, folks this is not an
19 invitation to talk. This is already very
20 difficult in terms of using this white noise and
21 the added background speaking only makes it more
22 difficult for me to try to concentrate and up to
23 page 300 of a deposition. So I've tried my best
24 to save you the time while other things have been
25 going on I've been reviewing the deposition.

1 So please provide me with that same basic
2 courtesy if you would. Thank you. And deputy
3 I'd ask that you keep an eye on the background
4 discussion because I've mentioned it in the past
5 it is very disturbing and distracting.

04:06:30

04:06:46

6 MR. MARIANI: So his view on the viability
7 of the project is important for two reasons. One
8 there's other testimony --

9 THE COURT: We're beyond that. I'm talking
10 now about his testimony about State authority
11 legal authority. Let me look at -- I'm trying to
12 find that reference. It's so hard to read
13 because of this highlighting that you all chose
14 to do. Just really not helpful to me, this blood
15 red highlighting of plaque type.

04:06:58

04:07:20

16 We're not going to get past this anyway. So
17 why don't we just start running it now. But
18 there's going to have to be some kind of editing.

19 MR. MARIANI: Could we Your Honor, could we
20 allow the jury to take about a ten minute break
21 to do that and then we'll put the testimony
22 clear.

04:07:45

23 THE COURT: Okay.

24 MR. MARIANI: Thank you, Your Honor.

25 (Whereupon the following proceedings were

04:08:05

1 had within the presence of the jury:)

04:08:05

2 THE COURT: I've been asked to give about
3 ten minutes to allow the video to be edited.
4 We're going to start playing that videotaped
5 deposition of Mr. Quentel accordingly. So we'll
6 be with you momentarily. Why don't you go ahead
7 and take the jury back deputy if you would. If
8 anyone wants to go downstairs they can do that if
9 they like. Don't talk about the case or don't
10 allow anybody to talk about it with you. Thank
11 you.

04:08:13

04:08:41

12 (Whereupon the jury retired from the
13 courtroom and the following proceedings were
14 had:).

15 (Whereupon a recess was taken.).

04:28:15

16 THE BAILIFF: Court to order court is back
17 in session.

18 THE COURT: Yes, sir.

19 MR. MARIANI: My apologies this is going
20 slower than we anticipated. I wanted to suggest
21 to the court that perhaps given the hour, you
22 should let the jury go and I apologize again, it
23 was not our intent to waste any of the Court's
24 time or the jury's time.

04:28:27

25 THE COURT: As I mentioned earlier, we have

04:28:45

1 to think about these things in a much more
2 practical and efficient manner. I presume this
3 was intended for sometime and planned for
4 sometime since there's been plenty of time for
5 preparation and we have multiple lawyers on each
6 side, and I'm working alone. I don't have the
7 kind help that you all do.

8 The only one who's more stretched is our
9 court reporter if she has dailies and other
10 specific matters that need to be attended to. So
11 she and I are the ones that have to work alone
12 separately, however, unfortunately.

13 But the point I'm making is that this should
14 have been anticipated and again, while it's 6:30
15 at night while we get a jury last night and
16 everybody is tired including me, I'm not a work
17 horse, I'm in the a plow horse, I'm a human being
18 like the rest, but at the same time I understand
19 and appreciate the fact that these people, that
20 being the jury, are sacrificing their time and
21 are not being paid for this. Every minute that
22 we waste is a minute that they are wasting
23 unnecessarily.

24 The point I'm making is and you must know
25 how I do things is that I will take my own time

1 and have taken my own time on numerous occasions 04:30:19
2 in this case in order to prepare properly and
3 hand this been handed to me last night it would
4 have been taken care of efficiently and
5 effectively and most likely prior to having to 04:30:30
6 come in today; meaning it would have been done
7 early this morning and any brief argument that I
8 would have needed would have been able to be done
9 before opening statements. It would have given
10 the videographer sufficient time in order to take 04:30:48
11 care of things.

12 There is little room for error I find,
13 unfortunately, no matter who it may be, but
14 there's little room here because of the time
15 constraints on this jury. That's my concern. So 04:31:06
16 I'll ask that in the future things be done in a
17 more effective and efficient manner.

18 MR. MARIANI: Yes, sir.

19 THE COURT: Having a bit more for so it?
20 What the court has to go through these things, 04:31:25
21 I'd like to watch sports, I'd like to be able to
22 enjoy my evenings, but many times my evenings are
23 taken up doing what other judges in different
24 court reporter have clerks do, I don't have the
25 luxury nor do my colleagues on the trial bench. 04:31:43

1 Thus we are left doing a lost work on our own
2 time, which I don't mind doing, because if it's a
3 sacrifice that I make to the benefit of these
4 jurors, I'm more than willing to do that because
5 of my respect for the fact they are taking their
6 own individual time and sacrifice and have time
7 to be with us.

04:31:47

8 You may bring them in, please and I'll let
9 them know what's going on.

04:31:58

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

04:32:39

12 THE COURT: Ladies and gentlemen,
13 unfortunately the videotaped deposition cannot be
14 edited in a reasonable amount of time. Therefore
15 I'm going to go ahead and release you for the
16 evening. I think I mentioned, if I didn't
17 mention it to you, I apologize, but tomorrow is
18 going to be a shortened day because of a matter
19 that I need to address in the amp, but what I was
20 hoping to do is go from 8:30 to one, with a break
21 in the morning so that we'll only miss -- you
22 know, if you take away the lunch break and we
23 take away the usual 9:30 starting time, that's
24 about -- it's a little over two hours. So we'll
25 only miss what would be in essence about an hour

04:32:59

04:33:20

04:33:45

1 and 45 minutes of realtime tomorrow, despite the
2 fact that I have to attend to something else.

3 So is there anybody who's going to be
4 terribly inconvenienced if we asking to come in
5 at 8:20 tomorrow morning so we can conserve as
6 much time as possible. I want to remind counsel
7 I want the video edited. Accordingly I'm going
8 to take more time to deal with that issue now,,
9 but we'll have it ready for you tomorrow morning
10 right off the top, as I understand it.

11 So we'll see you back tomorrow. Again
12 please don't talk about the case with anybody,
13 don't allow anybody to speak with you about it.
14 Please don't use any electronic devices,
15 computers or otherwise or even more traditional
16 methods like dictionaries too look up terms to do
17 any investigation of the case or any of its
18 participants.

19 Again we thank you so much for your
20 sacrifice and service and we'll see you back
21 assembled tomorrow at 8:20 and we'll get started
22 as soon thereafter as possible. Thank you again
23 and thank you to our courtroom personnel as well.

24 (Whereupon the jury retired from the
25 courtroom and the following proceedings were

1 had:)).

04:35:05

2 THE COURT: Let's get this finished so we
3 don't have to worry about it tomorrow. I'll
4 leave with you any notes too in case there's any
5 issue hopefully you can read them.

04:35:42

6 I have no idea what you're doing other than
7 interrupting me while I'm reading.

8 MR. HUTCHISON: I apologize.

9 MS. CARTWRIGHT: Your Honor, I have one that
10 doesn't have the highlighting.

04:37:17

11 THE COURT: It's too late. I've already
12 gone through 300 pages of highlighting and now
13 I'm being offered one without highlight portion
14 the last six objections.

15 Thank you, but I'm used to it now. Next
16 time you represent to the Court both sides that
17 we just have a few objections and they turn into
18 the equivalent of about a hundred pages,
19 understand that you're making representations to
20 a court of law as attorneys.

04:37:29

04:38:12

21 MR. CHAPMAN: Yes, Your Honor.

22 MR. CRICKENBERGER: Understood. Understand
23 that we have no objection. These are all their
24 objections.

25 THE COURT: The point is it was represented

04:38:26

1 by both counsel that there were just a few. 04:38:28

2 Okay. 302, 4 to 303 4 overruled.

3 302, 23 to 303, 2, the foundational
4 instruction and it starts in context, it says
5 from page 302 line 23, ." But as far as you know, 04:39:31
6 with respect to the recommendations and the
7 comments that they suggested the project led by
8 Mr. Pugliese and his team did, they for to most
9 part work with the State of Florida to try to
10 work through issues." I have no idea what that 04:39:49
11 means. What issues are we talking about?

12 MR. CHAPMAN: Your Honor, I believe the
13 reference to the testimony is with respect to
14 this report and comments received from the
15 Department of Community Affairs, the Pugliese's 04:40:04
16 parties position that's there were negotiations
17 going on, there was no foundational testimony
18 that Mr. Quentel was involved in any way with
19 reviewing what they call an ORC report or in any
20 way involved with any of the negotiations with 04:40:18
21 that work report. Therefore we believe his
22 testimony on that subject lack as sufficient
23 foundation.

24 THE COURT: Well, he's a lawyer and he's
25 familiar with the ORK report. That was 04:40:30

1 established in the earlier Tom so if that's what 04:40:34
2 he's talking about, that's what the basis of it
3 is, that will be overruled. I find it
4 sufficient. Because the only objection is
5 foundation. So that objection is overruled on 04:40:43
6 those grounds.

7 So now what are we doing going back to 302,
8 20 to 303, 2.

9 MR. CHAPMAN: Your Honor, to streamline the
10 issues, starting on page 305, line two and then 04:41:05
11 going through page 305 --

12 THE COURT: You mean 306.

13 MR. CHAPMAN: 306. Mr. Quentel is talking
14 about proposed revisions to an operating
15 agreement that may or may not have been prepared. 04:41:23
16 As Your Honor knows the Pugliese parties have a
17 count for breach of an operating agreement. Any
18 proposed draft or discussions of an operating
19 agreement in Mr. Quentel's testimony we believe
20 is not relevant and would only serve to confuse 04:41:39
21 the jury and should be not admitted. For the
22 record that beginning on page 303, line 25.

23 THE COURT: No, I'm picking -- I've already
24 ruled on that. I'm allowing that testimony to go
25 in. 04:42:02

1 305, line 12 the preceding has not been
2 objected to at least from what I can see, it's
3 tough to tell because it goes back and forth in
4 terms of there's a reference to 305 in one
5 section and it goes back to 306.

04:42:03

04:43:04

6 I find that 30512 to 30610 the objection is
7 sustained on relevancy grounds. 306, 11
8 regarding the revisions I think is relevant. The
9 anyway nature of the land is probably repetitive,
10 but I didn't read every single page of 300
11 pages -- are we going to play this entire thing
12 to the jury? Is that what the plan is.

04:43:53

13 MR. MARIANI: Yes, Your Honor.

14 THE COURT: 300 plus pages?

15 MR. CRICKENBERGER: Yes, Your Honor.

04:44:07

16 THE COURT: That's five hours of testimony.

17 MR. MARIANI: It's been edited. We don't
18 have any way to put Mr. Quentel in.

19 THE COURT: I understand. The rest of that
20 I find to be non-objectionable and can be read
21 into the record, through the end of -- I guess it
22 stops at page 311, line 12. I guess there is
23 some more after that, but there's some
24 objections -- 315, no.

04:45:27

25 315, line 16 this actually went to a vote in

04:46:21

1 Osceola county, correct. 04:46:51

2 MR. CHAPMAN: Yes, there was a vote in
3 Osceola County who approved this to the
4 Department of Community Affairs who has ultimate
5 approval. 04:46:59

6 THE COURT: Page 315, 16 through 23 would be
7 excised as irrelevant, whether somebody loves
8 something or not can't be interpreted by another
9 witness as far as this Court is concerned
10 especially a body of commissioners. But I'll 04:47:23
11 allow 24 -- line 24 line 15. 16 through the end
12 of that answer is hearsay.

13 MR. MARIANI: Would you repeat those lines,
14 Your Honor.

15 THE COURT: If I can read this -- 16 through 04:48:03
16 23, picking up on 24. When Fred DeLuca pulled
17 the plug on the funding, when he stopped the
18 funding of this project, was Anthony Pugliese and
19 his team making progress on getting this project
20 approved passing rough the various State 04:48:26
21 agencies, were they making process?

22 What's the objection.

23 MR. CHAPMAN: Objection that's counsel
24 testifying, it's leading it's not relevant to the
25 question that was asked, and it's speculation by 04:48:41

1 Mr. Quentel.

04:48:44

2 THE COURT: Okay, I'll sustain the
3 objection.

4 MR. CRICKENBERGER: Your Honor, would you
5 entertain any argument on that.

04:49:05

6 THE COURT: No, the objection is sustained
7 as to form and deleting, but the statement --
8 it's a statement. When Fred DeLuca pulled the
9 plug on the funding. That's the part of the
10 question that's objectionable and I would sustain
11 the objection asked in open court in the same
12 fashion.

04:49:24

13 MR. MARIANI: Could we rewrite the question.

14 THE COURT: No, the man is dead. How can we
15 answer, it would be a long disanswer the answer.

04:49:42

16 Okay, 321.

17 MR. CHAPMAN: Yes our objection to 321 would
18 be the answer was Anthony 100 percent and plug
19 zero percent. It's speculation. Mr. Quentel did
20 not testify that he was aware of what it was that
21 Mr. DeLuca was doing with respect to this
22 project.

04:50:05

23 THE COURT: That would be a matter of cross
24 examination, but as a lawyer for Pugliese he's
25 entitled to provide his observations as to who

04:50:16

1 was driving the project from his standpoint. So 04:50:19
2 that objection is overruled.

3 MR. CHAPMAN: Thank you, Your Honor.

4 THE COURT: All right, gentleman and ladies
5 have a good night. Thank you. Make sure you're 04:50:29
6 all ready to go at 8:20 the tables will be yours
7 at that time. End end end end end end.

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