

1 WESTMINSTER, CALIFORNIA - MONDAY, JUNE 19, 2000

2 MORNING SESSION

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN
4 CHAMBERS:)

5 THE COURT: ON THE RECORD.

6 NOW, MICHAEL IS GOING TO BE REPORTING THIS.

7 SO IF YOU'LL STATE YOUR NAMES AND YOUR REPRESENTATION,

8 PLEASE, FOR THE RECORD.

9 MR. SHERMAN: GOOD MORNING, YOUR HONOR.

10 MICHAEL SHERMAN FOR THE DEFENDANTS.

11 MR. RIVIN: AND IRA RIVIN FOR THE DEFENDANTS.

12 MR. MOSHENKO: GOOD MORNING. TERRY MOSHENKO FOR

13 THE PLAINTIFFS.

14 MR. SHAW: JERRY SHAW FOR THE PLAINTIFFS.

15 THE COURT: OKAY. WHAT DO YOU WANT TO CONSIDER

16 FIRST, THE MOTION TO EXCLUDE OPINIONS AND TESTIMONY

17 REGARDING PURPORTED MONOPOLIZATION BY COAST?

18 I PRESUME YOU RECEIVED THAT?

19 MR. SHAW: WE DID, AND I'M NOT GOING TO HAVE

20 MR. DAWSON TESTIFY THAT COAST IS MONOPOLIZING THE

21 INDUSTRY. SO IT'S NOT AN ISSUE. AND I WILL SO INSTRUCT

22 HIM THAT IF HE GETS INTO THAT PARTICULAR AREA -- I DO -- I

23 WOULD JUST REQUEST THE COURT THAT BEFORE WE START WITH

24 MR. DAWSON, BEFORE WE BRING IN THE JURY, IF WE CAN STATE ON

25 THE RECORD, IT WILL HELP ME, THAT NO TESTIMONY REGARDING

26 MONOPOLIZATION, NO TESTIMONY REGARDING THE R.P.I. LAWSUIT.

1 I MET WITH HIM ON FRIDAY AND DISCUSSED THAT WITH HIM, THAT
2 THAT'S NOT TO BE DISCUSSED. THERE WILL BE NO ISSUE
3 REGARDING THE R.P.I. -- THE COAST VERSUS R.P.I. LAWSUIT.
4 SO --

5 THE COURT: I'LL GRANT THE MOTION, AND WE'LL TALK
6 ABOUT IT ON THE RECORD IN HIS PRESENCE.

7 MR. SHAW: I WOULD APPRECIATE THAT.

8 MR. RIVIN: THANK YOU, YOUR HONOR.

9 MR. MOSHENKO: YOUR HONOR, I JUST SAW THAT MOTION
10 FOR A COUPLE OF MINUTES BECAUSE IT CAME TO US THIS
11 MORNING. AND IT MAY BE THAT THE BREADTH OF THE MOTION IS
12 SUCH THAT IT GOES FAR BEYOND MR. DAWSON. AND I THINK IT
13 WOULD BE PREMATURE FOR -- I'M SORRY. I DON'T HAVE A COPY
14 IN FRONT OF ME.

15 MR. RIVIN: IT'S DIRECTED TO MR. DAWSON.

16 MR. MOSHENKO: DIRECTED ONLY TO MR. DAWSON? I
17 WITHDRAW MY COMMENTS, YOUR HONOR.

18 MR. SHERMAN: LET ME SAY SOMETHING ABOUT THE
19 MONOPOLIZATION ISSUE, YOUR HONOR.

20 THIS WEEKEND I WENT BACK AND I REREAD THE
21 TRIAL TESTIMONY OF MR. MITCHELL. AND, IN FACT, I EVEN READ
22 THE OPENING STATEMENT OF MR. MOSHENKO. MR. MOSHENKO CALLS
23 OUR CLIENT A MONOPOLIST. MR. MITCHELL, WITHOUT ANY
24 FOUNDATION, WITHOUT ANY BASIS FOR HIS SUPPOSED EXPERT
25 OPINION, CALLS OUR CLIENT A MONOPOLIST. I EXPECT TO HEAR
26 MR. NOVELLI OFFER THE SAME OBSERVATION.

1 MONOPOLY HAS NO PLACE IN THIS TRIAL. IT'S
2 NOT OVERBROAD. IT'S QUITE APPROPRIATE. I DON'T WANT TO
3 HEAR THE WORD "MONOPOLY."

4 MR. MOSHENKO: OBJECT, YOUR HONOR, TO A MOTION
5 BEING RULED ON WITHOUT A MOTION BEING PRESENTED. IT SOUNDS
6 LIKE MR. SHERMAN WANTS THE COURT TO TAKE UP A MOTION THAT
7 HASN'T EVEN BEEN PRESENTED.

8 MR. SHERMAN: I'M SO MOVING.

9 MR. MOSHENKO: AND YOUR HONOR HAS HEARD ME COMPLAIN
10 THAT WE HAVE BEEN GETTING MOTIONS WITH 20 MINUTES' NOW
11 NOTICE. NOW WE JUST GOT A MOTION WITH 20 SECONDS' NOTICE
12 AMOUNT. I WOULD OBJECT TO THAT.

13 AND IF COUNSEL WANTS TO BRING A MOTION ON
14 THAT ISSUE, I'D BE GLAD TO DEAL WITH IT BUT WITH SOME
15 APPROPRIATE, REASONABLE OPPORTUNITY TO CONSIDER IT, MORE
16 THAN 20 SECONDS.

17 THE COURT: OKAY. WE'VE HANDLED THIS ONE. LET'S
18 GO TO THE NEXT ONE.

19 MOTION TO LIMIT TRIAL TESTIMONY OF
20 KENDRICK ROBINSON AND OBJECTIONS TO THE PORTIONS OF
21 DEPOSITION.

22 WANT TO BE HEARD?

23 MR. SHERMAN: YES. THANK YOU, YOUR HONOR.

24 YOUR HONOR, ON FRIDAY AFTERNOON AFTER I
25 SPOKE WITH MR. RIVIN AND HE CONVEYED TO ME THE WITNESS
26 LINEUP FOR TODAY, AND AFTER I SCRATCHED MY HEAD AND

1 WONDERED WHAT IS GOING ON, I DID SPEAK WITH MR. MOSHENKO TO
2 CONFIRM THE SELECTION OF MR. ROBINSON AND MR. HAYNES, WHICH
3 WILL BE THE NEXT MOTION THE COURT WILL BE DEALING WITH.

4 MR. MOSHENKO TOLD ME THAT MR. ROBINSON'S
5 DEPOSITION, THE INTENT TO PLAY CERTAIN PORTIONS OF
6 MR. ROBINSON'S DEPOSITION, WAS A PROTECTIVE MEASURE BY THE
7 PLAINTIFFS. AND IN MR. RUTENBERG'S PRESENCE, MR. MOSHENKO
8 SAID, "TO BE USED AS FILLER, IF NEED BE."

9 I THINK WE'VE HAD ENOUGH FILLER IN THIS
10 CASE. WHERE'S THE BEEF? WE DON'T NEED TO HEAR
11 MR. ROBINSON FOR THE REASONS SET FORTH IN THAT MOTION.

12 MR. SHAW: MAY I RESPOND, YOUR HONOR?

13 I WASN'T THERE WHEN MR. MOSHENKO CALLED.
14 THIS -- MR. ROBINSON CERTAINLY ISN'T FILLER. MR. MOSHENKO
15 MAY HAVE REFERRED TO THIS -- TO THE FACT THAT WE'RE READY
16 TO PUT ON THE VIDEOTAPE DEPOSITION OF MR. ROBINSON.

17 HE IS A REGIONAL DIRECTOR. MR. RYMAN AND
18 MR. RANDALL HAVE BOTH TESTIFIED THAT THE REGIONAL DIRECTORS
19 ARE THE ONES THAT MADE THE CONTACT WITH THE DEVELOPERS, THE
20 RESORT DEVELOPERS. HE IS AN IMPORTANT, CAUSAL LINK TO THE
21 COMMUNICATION BETWEEN COAST TO COAST TO THESE DEVELOPERS.
22 THIS IS -- IS PROBATIVE. THIS IS NOT CUMULATIVE EVIDENCE.

23 IN FACT, MR. RYMAN AND MR. RANDALL TESTIFIED
24 THERE WERE A LOT OF THINGS THAT THEY DIDN'T KNOW THAT WERE
25 BEING COMMUNICATED TO THE DEVELOPERS BECAUSE IT WAS THE
26 REGIONAL DIRECTOR'S JOB. THIS IS ONE OF THE THREE REGIONAL

1 DIRECTORS. WE'RE NOT GOING TO CALL ALL THREE REGIONAL
2 DIRECTORS. WE'RE GOING TO CALL ONE.

3 THE COURT: ROBINSON WORKS FOR COAST?

4 MR. SHAW: CORRECT.

5 MR. SHERMAN: AND WE WILL STIPULATE THAT HE
6 COMMUNICATED WITH DEVELOPERS.

7 MR. SHAW: YOUR HONOR, THE SECOND POINT IS, WHAT HE
8 COMMUNICATED IS WHAT'S CRUCIAL TO OUR CASE, OUR BURDEN OF
9 PROOF. WHAT YOU'LL -- WHAT YOU DON'T SEE ANYWHERE IN
10 MR. SHERMAN'S OBJECTION ARE ANY EVIDENTIARY OBJECTIONS.
11 THERE'S -- I FOUND ONE. IT'S HEARSAY AS TO MY LINES 167
12 AND 168, PAGE 4 OF MY DESIGNATIONS, ITEM 79 AND 80. THOSE
13 WERE MEETINGS THAT TOOK PLACE BETWEEN MR. RYMAN,
14 MR. RANDALL AND MR. ROBINSON. THEY'RE DISCUSSIONS BETWEEN
15 THE PARTIES, ADMISSION BY PARTY OPPONENT EXCEPTIONS TO THE
16 HEARSAY RULE. THOSE -- THAT'S THE ONLY OBJECTION
17 EVIDENTIARY-WISE.

18 THIS IS NOT GOING TO TAKE LONG. WE NEED TO
19 HAVE THIS RULING THIS MORNING BECAUSE WE'RE GOING TO GO
20 HAVE THE VIDEOTAPE DEPOSITION NOW EDITED TO ONLY PLAY THESE
21 PORTIONS. I DON'T THINK IT'S GOING TO TAKE MUCH MORE THAN
22 45 MINUTES, MAYBE AN HOUR TO PLAY THE TAPE. THAT'S ALL.
23 IT'S KEY EVIDENCE FOR US.

24 OTHER THAN -- OTHER THAN THE CUMULATIVE
25 ASPECT, THE CUMULATIVE OBJECTION, THERE ARE NO OTHER
26 OBJECTIONS, OTHER THAN THE HEARSAY, WHICH ARE VERY CLEARLY

1 AN EXCEPTION TO THE HEARSAY RULE. AND I BELIEVE THAT THIS
2 IS A LINK AND IMPORTANT EVIDENCE BETWEEN RYMAN AND RANDALL
3 AND THE RESORT DEVELOPERS BECAUSE THIS IS THE INDIVIDUAL
4 THAT WAS MAKING THE CONTACT.

5 MR. SHERMAN: YOUR HONOR, AGAIN, AS TO THE CONTACT,
6 WE'LL STIPULATE TO THAT.

7 IF THE COURT IS INCLINED TO HAVE THE JURY
8 SIT THROUGH MR. ROBINSON'S DEPOSITION, WHETHER IT BE READ
9 OR VIDEO, WE WILL HAVE SPECIFIC EVIDENTIARY OBJECTIONS AS
10 THEY COME UP.

11 THE COURT: WHERE IS ROBINSON?

12 MR. SHERMAN: ROBINSON IS IN COLORADO.

13 THE COURT: DID YOU ASK THAT HE BE PRODUCED?

14 MR. MOSHENKO: WE DID NOT ASK THAT HE BE PRODUCED.
15 HE'S A COLORADO RESIDENT. HE'S BEYOND THE JURISDICTION OF
16 SUBPOENA, AND WE COULD NOT COMPEL THEM TO PRODUCE HIM. WE
17 DIDN'T EXPECT THAT THEY WOULD PRODUCE HIM.

18 AND, FRANKLY, YOUR HONOR, IF I MIGHT
19 COMMENT, SINCE MY NAME HAS BEEN BROUGHT UP AND QUOTED IN
20 THIS, THAT THE REFERENCE TO "FILLER" IS OUT OF CONTEXT.

21 AS YOUR HONOR KNOWS TODAY, THIS ENTIRE
22 WEEK'S WITNESS LINEUP HAS BEEN ALTERED WHEN MR. NOVELLI HAD
23 TO BE MOVED. AND I -- WHEN I REFERENCED "FILLER," I WAS
24 TALKING ABOUT WHEN -- THE "WHEN" ISSUE, WHEN WOULD
25 MR. ROBINSON BE USED, NOT WHY MR. ROBINSON WOULD BE USED.

26 I TOLD MR. RIVIN THAT WE HAD LIVE WITNESSES

1 WE THOUGHT AND EXPECTED FOR TODAY AND TOMORROW. BUT IF IN
2 THE EVENT WE HAD A LIVE WITNESS, WE WOULD USE THE LIVE -- A
3 LIVE WITNESS RATHER THAN THE DEPOSITION TRANSCRIPT.

4 IN THE EVENT WE FOUND OURSELVES, FOR ANY
5 REASON, WITHOUT A LIVE WITNESS, THEN WE WOULD FILL THE TIME
6 BY GOING TO THE DEPOSITION TRANSCRIPT.

7 THE COURT: WE GOING TO GET TO THIS TODAY, THE --
8 THE FILMING?

9 MR. MOSHENKO: IT'S ENTIRELY DEPENDENT ON TIMING
10 WITH OTHER WITNESSES. THAT'S WHY I CALLED HIM A FILLER. I
11 SAID WE WOULD USE -- I GET CALLED, "WHEN ARE YOU GOING TO
12 PUT ON MR. ROBINSON'S TRANSCRIPT?"

13 I WILL USE MR. ROBINSON'S TRANSCRIPT IF AND
14 WHEN WE EITHER COME TO IT IN THE NORMAL COURSE OR WE RUN
15 OUT OF WITNESSES. IN THAT CASE I COULD GO TO HIM SOONER.

16 THE COURT: YOU MEAN THERE'S SOME CHANCE YOU WON'T
17 USE IT AT ALL?

18 MR. MOSHENKO: NO, SIR. NO. THERE'S NO CHANCE WE
19 WON'T USE IT AT ALL. MR. ROBINSON IS THE DISTRICT
20 MANAGER. HE HAS -- HE PARTICIPATED, PHYSICALLY PRESENT, IN
21 THE MEETINGS BETWEEN RYMAN AND RANDALL AND EVERETT WHERE
22 THEY RECEIVED AND RESPONDED TO MR. NOVELLI AND
23 MR. VOPNFORD'S LETTERS.

24 HE WAS THE -- AS MR. SHAW INDICATED, WE
25 CONSISTENTLY RAN INTO THE RESPONSE WHEN WE QUESTIONED
26 RANDALL AND RYMAN ABOUT WHAT OCCURRED VIS-A-VIS COAST AND

1 THE DEVELOPERS. WE CONSTANTLY RAN INTO THE RESPONSE,
2 "YOU'RE GOING TO HAVE TO ASK THE DISTRICT DIRECTORS. THEY
3 HANDLE THAT."

4 MR. ROBINSON IS THE DISTRICT DIRECTOR THAT
5 HANDLED THAT. HE IS NOW A VICE PRESIDENT OF COAST TO
6 COAST. HE'S A CRITICAL, IMPORTANT --

7 THE COURT: HOW TOUGH WILL IT BE TO GET HIM OUT
8 HERE?

9 MR. SHERMAN: NOT TOUGH AT ALL. MOREOVER, I WOULD
10 SUGGEST IF THE ISSUE IS THESE SO-CALLED CRITICAL ISSUES,
11 YOUR HONOR, MAYBE IF SOMEONE COULD TELL US WHAT THEY ARE,
12 WE'LL STIPULATE TO THEM TO OBTAIN THE NEED OF CALLING THIS
13 SO-CALLED CRITICAL WITNESS AT ALL.

14 I HAVE A FEELING WHEN YOU BOIL IT DOWN AND
15 YOU GET RID OF THE FILLER, THERE'S NOT MUCH LEFT.

16 MR. SHAW: MAY I RESPOND?

17 AS TO A PARTY WITNESS SUCH AS MR. ROBINSON,
18 I'VE LEARNED FROM MR. SHERMAN FOR THE LAST COUPLE OF MONTHS
19 THAT WE CAN PLAY A VIDEOTAPE WHENEVER WE WANT OF THE
20 PARTY'S WITNESS. SO WE HAVE THE RIGHT -- WHETHER HE COMES
21 OR NOT, WE HAVE THE RIGHT TO PLAY THIS VIDEOTAPE.

22 THE COURT: SUBJECT TO THE DISCRETION OF THE COURT.

23 MR. SHAW: ABSOLUTELY. NO DOUBT ABOUT THAT.

24 THE COURT: THAT'S WHY I ASKED HOW TOUGH IT WOULD
25 BE TO GET HIM OUT HERE.

26 MR. SHERMAN: I DON'T THINK IT WOULD BE TOUGH AT

1 ALL, BUT I THINK IT WOULD BE EVEN EASIER TO STIPULATE TO
2 THE KEY EVIDENCE.

3 THE COURT: THAT WOULD BE FINE IF WE CAN DO IT.

4 WHAT'S THE KEY EVIDENCE YOU WANT TO
5 INTRODUCE THROUGH HIM?

6 MR. SHAW: THIS TESTIMONY, THESE SECTIONS REGARDING
7 HIS DEALING WITH THE --

8 THE COURT: FORTY-FIVE MINUTES OF A DEPO?

9 MR. SHAW: CORRECT, YOUR HONOR.

10 MR. SHERMAN: I DOUBT IT.

11 MR. SHAW: YOUR HONOR, I HAVE NO FACTS IN HERE THAT
12 I WOULD -- I THINK THAT MR. SHERMAN AND I COULD STIPULATE
13 TO ABOUT WHAT WAS TOLD TO THE RESORT DEVELOPERS, HOW THE
14 ORPHAN PROGRAM WAS DEALT WITH, WHAT THEY DID DURING THIS
15 CRITICAL TIME PERIOD OF THE MASS TRANSFER.

16 THE COURT: WE'RE GOING TO GO INTO ALL THAT WITH
17 ONE OF THESE DISTRICT DIRECTORS.

18 MR. MOSHENKO: HE'S THE ONLY ONE, YOUR HONOR.

19 THE COURT: I PREFER HE BE HERE.

20 MR. SHERMAN: HE WILL BE.

21 MR. MOSHENKO: WHEN?

22 THE COURT: WHEN CAN WE GET HIM HERE?

23 MR. SHERMAN: I DON'T KNOW. I'LL GIVE HIM A CALL.

24 THE COURT: TRIAL THROUGH DEPOSITION IS VERY,
25 VERY -- NO PUN INTENDED -- TRYING.

26 HERE'S A MOTION TO LIMIT CERTAIN IRRELEVANT,

1 CUMULATIVE, LACKING-IN-FOUNDATION, AND PREJUDICIAL
2 TESTIMONY OF PARK MANAGER, LARRY HAYNES.

3 MR. SHERMAN: MAY I BE HEARD ON THAT?

4 THE COURT: YES.

5 MR. MOSHENKO: BEFORE YOUR HONOR TAKES THE TIME,
6 COULD I JUST SUGGEST, YOUR HONOR, THAT MR. HAYNES IS
7 ARRIVING AT NOON; AND I'LL HAVE A CHANCE TO TALK TO HIM,
8 AND IF WE COULD HEAR THIS MOTION BEFORE LUNCH RATHER THAN
9 RIGHT NOW, AGAIN, SINCE THIS JUST CAME TO US THIS MORNING,
10 WE WOULD HAVE A BETTER OPPORTUNITY TO RESPOND TO IT.

11 MR. SHERMAN: I TOLD MR. MOSHENKO ABOUT THIS ON
12 FRIDAY.

13 THE COURT: LET'S DO IT NOW. LET'S GET IT OUT OF
14 THE WAY.

15 MR. SHERMAN: YOUR HONOR, WE ARE NOW STARTING OUR
16 SIXTH WEEK OF TRIAL. AND LET ME BEGIN BY PAYING HOMAGE TO
17 MR. MOSHENKO'S OFTEN-REPEATED PHRASE ABOUT HOW HARD AND HOW
18 CHALLENGING IT IS FOR HIM TO LINE UP WITNESSES AND HOW THEY
19 HAVE BEEN SO ACCOMMODATING TO DEFENDANTS, BECAUSE I REALLY
20 DON'T KNOW THAT WE NEED TO HEAR IT AGAIN AND AGAIN AND
21 AGAIN IN RESPONSE TO THIS MOTION.

22 THERE ARE OVER 100 WITNESSES ON PLAINTIFFS'
23 WITNESS LIST THAT THEY FILED WITH THE COURT. WE'VE SEEN SO
24 FAR -- I DON'T KNOW WHAT THE NUMBER IS; IT'S A HANDFUL OF
25 THOSE WITNESSES. WE'VE NOT SEEN PLAINTIFF SCHULZ, THE
26 SCHULZ TRUST REFERENCE IN MR. MOSHENKO'S OPENING

1 STATEMENT. WE HAVE NOT SEEN MR. NOVELLI. WE HAVE NOT SEEN
2 MR. NOVELLI'S RIGHT-HAND MAN, ROBERT THOMPSON. WE HAVE NOT
3 SEEN WENDY ARCHIBALD, GAL-FRIDAY. WE HAVE NOT SEEN
4 REPRESENTATIVES OF THOUSAND ADVENTURES OHIO. WE HAVE NOT
5 SEEN REPRESENTATIVES OF THOUSAND ADVENTURES ALABAMA.

6 YOUR HONOR HAS INDICATED THAT THE COURT
7 WOULD LIKE TO SEE PLAINTIFFS FINISH UP THEIR CASE EITHER
8 SOMETIME BEFORE OR AFTER THE JULY 4TH BREAK. I'M NOT
9 EXACTLY SURE WHAT YOUR HONOR HAS IN MIND ON THAT.

10 AND SO THE QUESTION IS, WHEN CONSIDERING THE
11 SPECIFIC FACTS OF THIS MOTION AND THE FACT THAT IT BECAME
12 OBVIOUS TO ME AFTER I HEARD ABOUT MR. HAYNES, AND PUT ONE
13 AND ONE TOGETHER WITH THE DAVE RANDOLPH LETTER -- WHICH
14 YOUR HONOR HAS PRESUMABLY NOW BEEN ABLE TO SEE -- THAT
15 MR. HAYNES IS BEING PRESENTED IN AN EFFORT TO EITHER GET
16 SOME MORE FILLER UP HERE, SOME MORE PARK MANAGERS. WE KNOW
17 WHAT THEY'RE GOING TO SAY. WE CAN ALL RECITE THE MANTRA BY
18 NOW.

19 BUT MR. HAYNES'S OTHER PURPOSE, OBVIOUSLY,
20 IS TO SLIME COAST TO COAST WITH A LETTER THAT WAS SENT BY A
21 DISGRUNTLED PARK MANAGER OF MR. NOVELLI'S WEEKS OR MONTHS
22 OR PERHAPS EVEN A YEAR BEFORE COAST CONTACTED MEMBERS OF
23 THAT FACILITY.

24 THE FACT IS THAT MR. RANDOLPH WAS NAMED AS A
25 DEFENDANT IN THIS CASE BY THE PLAINTIFFS. THEY NEVER TOOK
26 HIS DEPOSITION. THEY'VE NEVER LAID AN ADEQUATE FOUNDATION

1 FOR THIS LETTER. AND THAT LETTER WOULD BE HIGHLY
2 PREJUDICIAL GIVEN THE FACT THAT THIS DISGRUNTLED NOVELLI
3 EMPLOYEE OBVIOUSLY HAD HIS OWN MEMBER LIST AND DECIDED HE
4 WAS GOING TO CONTACT, NOT THE COAST MEMBERS, BUT ALL THE
5 GRASS LAKE MEMBERS.

6 I DID NOTICE THAT THERE WAS ONE ERROR IN
7 THE -- IN THE EXHIBIT, EXHIBIT NUMBER 2. I SHOWED THAT TO
8 MR. MOSHENKO BEFORE WE CAME IN HERE. OUT OF 2172. YOUR
9 HONOR WILL RECALL THAT THOSE WERE THE COMPUTER SCREENS.
10 AND IF I MAY SHOW IT TO THE COURT, WHAT I SHOWED
11 MR. MOSHENKO. PAGE 8067 OF EXHIBIT 2172. I DID SHOW THIS
12 TO MR. MOSHENKO.

13 YOU'LL NOTICE, NOVEMBER 30, '97, RESORT WILL
14 TERMINATE AGREEMENT WITH COAST TO COAST. SO THAT'S
15 NOVEMBER 30, 1997, BY COAST'S OWN RECORDS. RANDOLPH'S
16 LETTER, EXHIBIT 1 --

17 THE COURT: THAT'S NOT INCLUDED IN THIS.

18 MR. SHERMAN: I MADE A MISTAKE. I INCLUDED THIS
19 PAGE THAT I'M SHOWING TO YOUR HONOR. I MEANT TO INCLUDE
20 THAT PAGE.

21 BUT, AGAIN, THE POINT IS THAT LOGIC AND TIME
22 LINE AND FACTS ARE SUCH THAT THIS LETTER, THE OCTOBER 25TH,
23 26TH LETTER OF RANDOLPH -- WHICH I'M SURE THAT'S WHY THEY
24 GOT HAYNES OUT HERE FOR -- PRECEDES COAST'S ACTION. THAT'S
25 YOUR HONOR'S EXHIBIT 1.

26 THE COURT: OKAY. RANDOLPH WAS WORKING FOR

1 NOVELLI?

2 MR. SHERMAN: YES. HE WAS WORKING FOR NOVELLI FOR,
3 ACCORDING TO THIS LETTER, TEN YEARS. I WILL HAVE WITNESSES
4 WHO COULD TESTIFY, IF NEED BE, THAT RANDOLPH HAD A
5 DISAGREEMENT WITH NOVELLI IN APPROXIMATELY THE FALL OF '97
6 TIME PERIOD, LEFT NOVELLI'S EMPLOY, HAD ACCESS TO HIS OWN
7 MEMBER LISTS -- HAD ACCESS TO HIS OWN MEMBER LISTS OF THE
8 GRASS LAKE MEMBERS, AND DECIDED, APPARENTLY, TO TAKE THE
9 ACTION THAT IS REFLECTED IN THIS LETTER. HE DID NOT SPEAK
10 WITH COAST BEFOREHAND. HE DID NOT GET ANYTHING FROM COAST
11 BEFOREHAND. THIS WAS AN ACTIVITY THAT HAD NOTHING TO DO
12 WITH --

13 THE COURT: ARE PLAINTIFFS CONTENDING THAT DEFENSE
14 IS RESPONSIBLE FOR RANDOLPH'S ACTIONS?

15 MR. MOSHENKO: NOT AT THIS TIME, YOUR HONOR. BUT
16 AS I INDICATED, YOUR HONOR, I HAVEN'T SPOKEN TO MR. HAYNES
17 ABOUT IT AND -- BECAUSE HE IS ARRIVING THIS AFTERNOON. BUT
18 AS FAR AS THE RANDOLPH LETTER IS CONCERNED, WE DO NOT HAVE
19 A CURRENT CONTENTION TO THAT EFFECT, YOUR HONOR.

20 MR. SHERMAN: GIVEN THAT FACT, GIVEN THAT WE'VE NOW
21 HAD FIVE PARK MANAGERS TESTIFY, WHAT'S NEW?

22 THE COURT: YEAH. WHAT ARE WE CALLING HAYNES FOR?

23 MR. MOSHENKO: ALL RIGHT. WELL, YOUR HONOR, WE --
24 WE DON'T RUN INTO THE CUMULATIVE ARGUMENT WHEN THE
25 DEFENDANTS OFFER RESORT AFTER RESORT AFTER RESORT AFTER
26 RESORT EVIDENCE BY WAY OF LETTERS. AND SO I WOULD SUBMIT

1 THAT THE CUMULATIVE ARGUMENT DOESN'T FLY WHEN WE OFFER
2 RESORT MANAGERS AS EVIDENCE TO COUNTERACT THE RESORT
3 LETTERS THAT THE DEFENDANTS HAVE -- HAVE BEEN ALLOWED TO
4 OFFER INTO EVIDENCE.

5 THIS MOTION I THINK IS BASED UPON -- BEYOND
6 THE RANDOLPH ARGUMENT, WHICH I THINK WE'VE DISPOSED OF,
7 THIS MOTION IS BASED ON SEVERAL INCORRECT PREMISES. FOR
8 EXAMPLE, ON PAGE 3, PARAGRAPH 2, THE FACTS IN EVIDENCE
9 CONCLUSIVELY PROVE THAT COAST DID NOT COMMUNICATE WITH ANY
10 COAST MEMBER OF A.S.R. UNTIL AT THE EARLIEST DECEMBER,
11 1997.

12 WELL, EXHIBIT 1563, PAGE NUMBER 139, BATE
13 STAMP CCC 00365 IS IN EVIDENCE. AND IT CONCLUSIVELY PROVES
14 THAT COAST COMMUNICATED WITH THOSE MEMBERS ON NOVEMBER 5 OF
15 1997.

16 MR. SHERMAN: I STAND CORRECTED. I HAD FORGOTTEN
17 ABOUT THAT. AFTER THE RANDOLPH LETTER.

18 MR. MOSHENKO: SO THE CONCLUSIVE PROOF OF THE
19 LETTER IS CONTRARY TO WHAT THE LETTER STATES.

20 NEXT, THE COUNSEL ARGUES THAT GRASS LAKE WAS
21 AN A.S.R. RESORT UNTIL IT WAS SOLD AT AUCTION ON OCTOBER
22 27, 1997. BUT -- AND WHICH IS TRUE. BUT THE EVIDENCE
23 CONCLUSIVELY PROVES THAT GRASS LAKE WAS A PLAINTIFFS'
24 RESORT THAT HAD A HISTORY WITH COAST THAT DATED BACK INTO
25 THE EARLY '90'S. AND WE SHOULD BE ALLOWED TO PROVE IT.

26 COUNSEL LAST TIME I LOOKED WAS NOT DRAWING

1 ANY DISTINCTIONS BETWEEN THE RESORTS. THEY WERE ATTACKED
2 AS BEING CLOSED OR BEING IN POOR CONDITION OR POOR SHAPE OR
3 HAVING MEMBERS WHO ARE UNHAPPY OR HAVING MEMBERS WHO CHOSE
4 OF THEIR OWN ACCORD WITHOUT REFERENCE TO THE COAST
5 CORRESPONDENCE TO THEM -- AND THERE WERE AT LEAST TWO,
6 POSSIBLY THREE CORRESPONDENCE TO THE GRASS LAKE MEMBERS
7 FROM COAST.

8 SO DEFENDANTS BRING UP ALL OF THESE ISSUES.
9 AND WHEN WE OFFER TO BRING A WITNESS THAT CAN DEAL WITH THE
10 ISSUES THAT THE DEFENSE BROUGHT UP, WE HEAR THAT IT'S
11 CUMULATIVE AND IRRELEVANT.

12 YOUR HONOR, I BELIEVE IT'S HIGHLY RELEVANT
13 AND PROBATIVE IF THIS MAN CAN COME IN AND TALK ABOUT THE
14 CONDITION OF THE RESORT, CAN TALK ABOUT HIS EXPERIENCE WITH
15 THE MEMBERS, CAN TALK ABOUT ISSUES OF ALL SEASONS RESORTS
16 BEING OPENED OR CLOSED.

17 THE COURT: OKAY. LET'S GET THIS JURY IN AND GO TO
18 WORK, AND WE WILL DEAL WITH THIS AS IT ARISES.

19 MR. SHERMAN: VERY WELL.

20 THE CLERK: YOU WANT TO GO ON THE RECORD BEFORE
21 THE JURY'S BROUGHT IN?

22 THE COURT: YEAH.

23 MR. MOSHENKO: WITH MR. DAWSON.

24 MR. SHAW: WITH MR. DAWSON. IT WOULD BE HELPFUL.

25 THE COURT: DAWSON.

26 MR. RIVIN: ONE FURTHER MATTER FOR SCHEDULING.

1 WE DON'T KNOW WHO'S GOING TO BE ON THE STAND
2 TOMORROW.

3 MR. SHERMAN: NO IDEA.

4 THE COURT: WHO ARE WE GOING TO HAVE TOMORROW?

5 MR. MOSHENKO: YOUR HONOR, I'M GLAD SCHEDULING WAS
6 BROUGHT UP.

7 WE HAVE MR. DAWSON AND HAYNES AND
8 MR. ROBINSON POSSIBLY TODAY. WE HAVE SCHEDULED -- WE WOULD
9 LIKE TO PUT ON TOMORROW BOGGESS WHO IS HERE AS A DEFENSE
10 VICE PRESIDENT WHO COMES FROM VENTURA.

11 MR. SHERMAN: HE COMES FROM COLORADO. HE LIVES IN
12 COLORADO.

13 MR. MOSHENKO: I PERHAPS STAND CORRECTED.

14 MR. BLOCK I BELIEVE LIVES IN CALIFORNIA.

15 MR. SHERMAN: HE'S HAD OPEN HEART SURGERY. AND AS
16 I LEARNED LATE LAST WEEK, HE IS -- CANNOT DRIVE FOR ANOTHER
17 SEVERAL WEEKS.

18 MR. MOSHENKO: WELL, THEN PERHAPS WE'LL HAVE TO USE
19 MR. BLOCKS'S DEPOSITION TESTIMONY, YOUR HONOR.

20 MR. SHERMAN: YOUR HONOR, ON THE SUBJECT OF THESE
21 TWO TENDERS FOR TOMORROW, AS MR. RIVIN ASKED MR. MOSHENKO
22 LAST WEEK -- THIS WAS NOT THE FIRST TIME MR. MOSHENKO HEARD
23 THIS. WE HAD BEEN TELLING HIM THIS FOR WEEKS IF NOT
24 MONTHS --

25 MR. MOSHENKO: ABOUT MR. --

26 MR. SHAW: ABOUT MR. BLOCK? FIRST TIME I EVER

1 HEARD ABOUT MR. BLOCK.

2 MR. SHERMAN: NO. ABOUT DEFENDANTS --

3 MR. SHAW: MY THOUGHTS GO WITH HIM. I'M NOT --

4 MR. SHERMAN: EXCUSE ME. YOU CAN CONVEY YOUR
5 THOUGHTS AFTER I'M THROUGH SPEAKING, PLEASE.

6 MR. SHAW: CERTAINLY. I APOLOGIZE.

7 MR. MOSHENKO: AS WE'VE BEEN TELLING MR. MOSHENKO
8 NOW FOR WEEKS IF NOT MONTHS ON THE SUBJECT OF THE COAST
9 WITNESSES AND DEFENDANT WITNESSES, WE'D LIKE TO GET MORE
10 THAN 24 HOURS' NOTICE.

11 AS THE COURT WILL RECALL, WHEN WE STARTED
12 THIS TRIAL WEEKS AGO, WE HAD A 72-HOUR RULE. THAT'S BEEN
13 ABROGATED OBVIOUSLY. AND IF THEY WANT TO BRING A PARK
14 MANAGER IN, SOMEONE ON MR. NOVELLI'S PAYROLL ON 12 HOURS'
15 NOTICE, THAT'S -- I GUESS THEY'RE GOING TO DO THAT.

16 THE COURT: CAN'T DO IT.

17 MR. SHERMAN: THEY CAN'T DO IT.

18 THE COURT: CAN'T DO IT.

19 MR. SHERMAN: THE OTHER THING IS, MARK BOGGESS HAS
20 ONE THING TO SAY. MR. MARK BOGGESS -- IN FACT, WE PLAN ON
21 BRINGING HIM IN ON OUR CASE IN CHEESE -- CASE IN CHIEF.
22 BOGGESS ONLY KNOWS ABOUT THE CLAIMED ALTER EGO ISSUES. HE
23 IS THE C.F.O. OF AFFINITY GROUP. MR. BOGGUS'S TESTIMONY
24 HAS NOTHING TO DO WITH ANY JURY ISSUE IN THIS CASE.

25 MR. SHAW: MAY I JUST MAKE A SHORT COMMENT?

26 BECAUSE I KNOW I'M GOING TO HEAR ABOUT THIS FOR A WHILE.

1 MR. SHERMAN SAID SIX WEEKS OF TRIAL.

2 MR. MITCHELL TOOK THE STAND ON MAY 18.

3 MR. SHERMAN: 17. OPENING STATEMENTS WERE ON THE
4 17TH.

5 MR. SHAW: AND MR. MITCHELL FINISHED -- 16 DAYS
6 WE'VE HAD IN TRIAL COUNTING THE 17TH. WE HAD A 50-DAY --
7 50- TO 60- -- 50-DAY TRIAL TIME. I FIGURED WE COULD PUT
8 OUR CASE ON IN 25 DAYS. I BELIEVE IT'S GOING TO BE 28
9 GIVEN THE FOUR DAYS THAT I DIDN'T COUNT ON, FOUR DAYS OF
10 CROSS-EXAMINATION. MR. SHERMAN SAID SEVEN, AND I THINK
11 HE'S NOW CUT IT TO FOUR.

12 WE DID HAVE MR. NOVELLI PLANNED FOR TODAY.
13 BUT BECAUSE OF THURSDAYS'S ISSUE, WE NOW HAVE HIM PUT OVER
14 UNTIL NEXT MONDAY. I BELIEVE THAT'S WHAT'S GOING TO CAUSE
15 THE THREE-DAY SLIDE FROM 25. TODAY'S THE 17TH DAY OF
16 TRIAL. IT HASN'T BEEN SIX WEEKS. FOUR TIMES FOUR DIVIDED
17 BY 16 IS FOUR WEEKS. FOUR TRIAL DAYS. I THINK WE'RE
18 PRETTY CLOSE TO BEING ON SCHEDULE. WE'VE SLIPPED A LITTLE
19 BIT. BUT THE REASON WE HAVE A PROBLEM FOR THIS WEEK IS
20 BECAUSE LAST WEEK WE HAD PLANNED ON MR. NOVELLI. AND I
21 UNDERSTAND THE COURT. WE'RE NOT GOING TO BREAK UP. THE
22 ONLY TESTIMONY THAT HE DOESN'T BREAK UP IS IF HE STARTS
23 NEXT MONDAY.

24 SO WE DO HAVE SOME ISSUES NOW. BUT THIS
25 CONCEPT THAT WE'RE SOMEHOW DELAYING THIS OR WE'RE
26 SOMEHOW -- WE CAME IN HERE AND MADE A GOOD FAITH -- A GOOD

1 FAITH ESTIMATE OF 50 DAYS. WE NOW ARE 16 DAYS INTO TRIAL.
2 IF YOU DIVIDE THE 50, 25-25. WE'RE GOING TO BE CLOSE TO
3 OUR 25.

4 I'M SORRY. I'M NOT ASKING FOR A RESPONSE.
5 I JUST WANT TO MAKE A POINT.

6 THE COURT: LET ME ASK YOU SOMETHING.

7 NOVELLI IS ONLY GOING TO BE TIED UP ONE DAY
8 THIS WEEK?

9 MR. MOSHENKO: CORRECT.

10 THE COURT: THURSDAY?

11 MR. MOSHENKO: CORRECT.

12 MR. SHAW: CORRECT.

13 THE COURT: WHERE IS HE TODAY?

14 MR. MOSHENKO: WHERE IS HE TODAY? HE'S AROUND.

15 MR. SHAW: HE'S HERE. HE'S HERE.

16 THE COURT: MAYBE WE OUGHT TO KICK HIM IN THEN
17 TODAY, PUT HIM IN TODAY AND TUESDAY AND WEDNESDAY.

18 MR. MOSHENKO: YOUR HONOR, THE COURT OF COURSE
19 CONTROLS THE TRIAL. BUT WE -- WE'RE WORKING ON HIM FOR
20 THIS WEEK, AND SO THE COURT SAID NO. SO WE TOOK OUR EFFORT
21 OFF OF WORKING ON HIM THIS WEEK. AND I HAVE A LIST OF SIX
22 OR EIGHT WITNESSES I CAN GET WITH THIS WEEK, IF I CAN GET
23 SOME COOPERATION FROM THE DEFENDANTS. I'VE GOT ROBINSON,
24 BOGGESS, BLOCK, EVERETT, ADAMS, RYMAN. THOSE ARE SIX
25 DEFENSE WITNESSES. AND I TALKED TO COUNSEL LAST WEEK ABOUT
26 EVERETT AND ADAMS, AND I GET THIS (INDICATING). TODAY I

1 TALKED TO COUNSEL IN FRONT OF YOUR HONOR ABOUT BOGGESS AND
2 BLOCK, AND I GET THIS (INDICATING). AND WE GET ROB -- A
3 NEGATIVE ON ROBINSON THAT -- TO SHIFT US OFF BACK ONTO
4 NOVELLI, I WOULD EXPRESS A CONCERN AS TO HIS --

5 THE COURT: OKAY. ALL RIGHT. WE'LL STAY WHERE WE
6 ARE.

7 MR. SHAW: -- EFFECTIVE TRIAL PREPARATION AND A
8 WASTE OF TIME.

9 MR. MOSHENKO: I ASKED LAST WEEK FOR A SCHEDULE
10 FROM RYMAN AND ADAMS. I STILL DON'T HAVE IT. I WOULD LIKE
11 TO KNOW OR FROM COUNSEL FOR THE DEFENSE A SCHEDULE FOR
12 ROBINSON, BOGGESS, SCHNEIDER, AND EVERETT. I THINK I WAS
13 TOLD LAST WEEK EVERETT'S AVAILABLE THIS WEEK. WE CAN GO
14 WITH MR. EVERETT THIS WEEK AS WELL. AS TO WHICH IS FIRST
15 AND WHICH IS SECOND, I CAN'T TELL YOU BECAUSE I HAVEN'T
16 HEARD FROM THEM.

17 IN ADDITION, I'LL INFORM THE COURT AND
18 COUNSEL THAT WE ARE FLYING IN AN ATTORNEY FROM, I BELIEVE,
19 FLORIDA NAMED RANDOLPH TUCKER WHO WAS A DEVELOPER AND AN
20 ATTORNEY WHO'S BEEN DEALING WITH COAST TO COAST FOR I'M
21 TOLD MORE THAN A DECADE. AND HAS RELEVANT, PROBATIVE
22 THINGS TO SAY.

23 WE HAVE SOME MEMBERS, ALL SEASONS COAST TO
24 COAST MEMBERS, WHO WOULD BE PROVIDING TESTIMONY RELATING TO
25 THINGS SUCH AS THE LETTERS THAT THE DEFENDANTS HAVE BEEN
26 SHOWING TO THE JURY.

1 AND WE HAVE, IN ADDITION TO MR. HAYNES, ONE
2 ADDITIONAL MANAGER WHICH WE PROPOSE TO BRING IN AND
3 PRESENT. HIS NAME IS MR. HODGES. BUT I WILL TELL THE
4 COURT, BECAUSE OF HAVING TO SHIFT WITNESSES, THESE PEOPLE
5 ARE FOR THE MOST PART FLYING IN TODAY AND TOMORROW. SO WE
6 COULD USE THEM ON WEDNESDAY AND THURSDAY. WE WOULD LIKE A
7 DEFENSE -- DEFENDANTS TO PRODUCE A DEFENDANT PARTY FOR
8 TOMORROW SO THAT WE CAN GET WITH THAT WITNESS.

9 MR. SHERMAN: YOUR HONOR, I WAS TOLD BY
10 MR. MOSHENKO ON FRIDAY THEY WANT MR. EVERETT. THEY GOT
11 MR. EVERETT. AS FAR AS ROGER RYMAN IS CONCERNED, AS I TOLD
12 YOUR HONOR AND MR. MOSHENKO IN A SIDEBAR, WE WILL BRING
13 MR. RYMAN BACK IN OUR CASE IN CHIEF, AND MR. MOSHENKO CAN
14 GO BEYOND THE SCOPE OF OUR EXAMINATION.

15 I WOULD ASK YOUR HONOR TO PERHAPS REVIEW
16 WITH MR. MOSHENKO RIGHT NOW HIS PROPOSED WITNESS SELECTION
17 BECAUSE JUDGING BY THE LACK OF EFFICIENCY THAT WE'VE SEEN
18 SO FAR IN THIS CASE WITH THAT LINEUP, THEY WON'T BE
19 FINISHED UNTIL LATE JULY.

20 THE COURT: LET THEM WORRY ABOUT IT. I'M GOING TO
21 DECLARE A MISTRIAL IF IT'S NOT FINISHED BY SEPTEMBER THE
22 1ST. SO, YOU KNOW --

23 MR. SHERMAN: WELL, WE WOULD ASK YOUR HONOR TO
24 AVOID THAT BY ENFORCING A TIME DEADLINE WITH RESPECT TO
25 THEIR PRESENTATION OF THE CASE. WE DON'T NEED ANOTHER PARK
26 MANAGER. AND I'M JUST SORT OF WONDERING WHEN WE'RE GOING

1 TO SEE THE KEY WITNESSES IN THIS CASE.

2 THESE THIRD-TIER WITNESSES -- YOU KNOW,
3 RANDOLPH TUCKER, I'LL RESERVE FURTHER OBSERVATION ON THAT.
4 BUT WE DON'T WANT A MISTRIAL. YOUR HONOR DOESN'T WANT A
5 MISTRIAL. AND IF PLAINTIFFS ARE PLAYING FOR A MISTRIAL,
6 THEN I'D ASK THE COURT TO RESPOND TO MR. MOSHENKO BY
7 TELLING HIM, NO, YOU'RE NOT GOING TO BE PUTTING ON GOOFY,
8 DIZZY, DAFFY AND THE OTHER SEVEN DWARFS. WE'RE GOING TO
9 FINISH THIS UP.

10 MR. MOSHENKO: WOULD YOUR HONOR INSTRUCT THE
11 DEFENDANTS TO GIVE US A SCHEDULE OF ROBINSON, BOGGESS,
12 BLOCK, EVERETT, SCHNEIDER AND ADAMS AND RYMAN, PLEASE?

13 THE COURT: YEAH. DO THAT BY NOONTIME.

14 MR. MOSHENKO: THANK YOU.

15 MR. SHERMAN: WE WILL NOT BE CALLING RYMAN BACK
16 EXCEPT IN OUR CASE IN CHIEF.

17 THE COURT: YOU'LL CALL HIM BACK IN YOUR CASE IN
18 CHIEF.

19 MR. SHERMAN: WITH RESPECT TO MR. BOGGESS, SINCE HE
20 KNOWS NOTHING ABOUT THE LETTERS THAT WENT OUT AND IS NOT
21 INVOLVED IN ANY MATERIAL RESPECT IN COAST OPERATIONS, HE
22 ONLY HAS ONE THING TO SAY THAT'S RELEVANT TO THIS CASE, AND
23 THAT DEALS WITH THE CLAIMS OF ALTER EGO. AND WHAT I WOULD
24 SUGGEST, YOUR HONOR, IS IF THOSE CLAIMS OF ALTER EGO EVEN
25 SURVIVE A DIRECTED VERDICT, WHICH OBVIOUSLY IS SOMETHING
26 FOR YOUR HONOR TO DECIDE, WE'LL BRING BOGGESS IN OUR CASE

1 IN CHIEF. AND WE CAN PUT HIM ON ON A FRIDAY OUTSIDE OF THE
2 PRESENCE OF THE JURY.

3 BUT AS FAR AS -- AS FAR AS THE OTHERS,
4 MR. EVERETT'S IN THE COURTROOM. HE'S READY TO GO
5 TOMORROW. I'LL SPEAK WITH MR. ADAMS. I'LL FIND THAT OUT.

6 AS FAR AS MR. BLOCK, I'VE INFORMED THE COURT
7 AS TO HIS HEART SURGERY. I'D ALSO SUGGEST TO THE COURT
8 THAT HE'S GOT NOTHING TO ADD TO THIS CASE.

9 AS FAR AS MR. ADAMS IS CONCERNED, I THINK --
10 I'M SORRY. I JUST MENTIONED THAT.

11 SO THAT'S THE LINEUP. AND I'LL ASK THAT
12 MR. ADAMS BE CONTACTED. AND IF THEY WANT TO START WITH
13 MR. EVERETT TOMORROW, THEY CAN START WITH MR. EVERETT
14 TOMORROW. BUT WE DON'T WANT A MISTRIAL.

15 THE COURT: OKAY.

16 MR. MOSHENKO: YOUR HONOR, MY ONLY ADDED COMMENT TO
17 WHAT COUNSEL HAS INDICATED IS AS REGARDS MR. RYMAN.
18 MR. RYMAN'S DIRECT -- REDIRECT WAS INTERRUPTED AT DEFENSE'S
19 REQUEST HAVING TO DO WITH MR. RYMAN'S SCHEDULE WITH THE
20 REPRESENTATION THAT HE WOULD BE AVAILABLE FOR COMPLETION OF
21 THE REDIRECT DURING THE PLAINTIFFS' CASE.

22 THE COURT: I DON'T RECALL THAT.

23 MR. MOSHENKO: THAT I HEARD --

24 MR. SHERMAN: HE WAS ON THE WITNESS STAND THREE
25 DAYS.

26 MR. MOSHENKO: THEY TOLD US HE WOULD BE AVAILABLE

1 TO BE BROUGHT BACK. THEY CERTAINLY DIDN'T LET US
2 UNDERSTAND THAT IF BY AGREEING TO INTERRUPT HIS REDIRECT WE
3 WERE FOREGOING THE OPPORTUNITY TO COMPLETE THE REDIRECT
4 DURING THE PLAINTIFFS' CASE.

5 AND IF COUNSEL WOULD LIKE TO STIPULATE TO
6 WHAT HE -- TO HIS RESPONSES TO THE COMPLETION OF THE
7 REDIRECT, THEN WE DON'T NEED HIM. BUT IF COUNSEL WOULD
8 REFUSE -- AS I EXPECT COUNSEL WOULD REFUSE -- TO WHAT THE
9 REDIRECT -- STIPULATE TO WHAT THE REDIRECT WOULD BRING,
10 THEN WE'RE BEING DEPRIVED OF OUR OPPORTUNITY TO COMPLETE
11 THE WITNESS BECAUSE OF A CONVENIENCE OF MR. RYMAN'S
12 SCHEDULE ISSUE. AND I THINK THAT WOULD BE UNFAIR AND
13 IMPROPER.

14 MR. SHERMAN: LET'S HIT IT.

15 THE COURT: LET'S GO.

16 MR. RIVIN: MR. EVERETT WILL BE TOMORROW? WILL GO
17 TOMORROW?

18 MR. MOSHENKO: WE WILL GO WITH MR. EVERETT
19 TOMORROW.

20 MR. RIVIN: IN THE MORNING?

21 MR. MOSHENKO: I DON'T KNOW. I DON'T KNOW WHERE
22 WE'RE GOING TO BE IN THE MORNING. TOMORROW WE'LL GO WITH
23 MR. EVERETT.

24 MR. RIVIN: WHO WILL BE YOUR NEXT WITNESS AFTER --

25 MR. MOSHENKO: I DON'T KNOW.

26 MR. SHAW: AND YOU'LL LET US KNOW ABOUT ROBINSON?

1 MR. MOSHENKO: WE HAVE WITNESSES COMING IN TODAY.

2 MR. SHERMAN: YES.

3 MR. MOSHENKO: WE'VE GOING TO ACCOMMODATE THE
4 WITNESSES THAT HAVE TRAVELED ACROSS COUNTRY BEFORE WE WORRY
5 ABOUT MR. EVERETT WHO HAS BEEN SITTING IN COURT TODAY.

6 MR. SHERMAN: IT'S NOW 20 TO 10:00 MONDAY. I WOULD
7 LIKE TO KNOW WHO'S GOING TO BE AT 9:00 A.M. TOMORROW. I'D
8 RATHER NOT HAVE A MENU. I WOULD LIKE TO HAVE A NAME.

9 MR. MOSHENKO: MR. HAYNES WILL BE TOMORROW
10 MORNING. MR. -- OR MR. PRIMO WILL BE TOMORROW MORNING.

11 MR. SHERMAN: PRIMO?

12 MR. MOSHENKO: PRIMO. P-R-I-M-O.

13 THE CLERK: DOES HE HAVE A FIRST NAME?

14 THE COURT: LOUIE.

15 MR. SHERMAN: OUT OF NEW JERSEY.

16 MR. MOSHENKO: I DON'T -- UNLESS IT'S DARWIN.
17 MIGHT BE DARWIN PRIMO.

18 MR. SHERMAN: WHO IS HE?

19 MR. MOSHENKO: HE IS A MEMBER. I BELIEVE HE'S ON
20 THE PLAINTIFFS' LIST.

21 MR. SHERMAN: DARWIN PRIMO.

22 MR. MOSHENKO: BUT, AGAIN, I DON'T KNOW WHO WILL BE
23 TOMORROW MORNING BECAUSE I DON'T KNOW WHERE WE'RE GOING TO
24 BE ON THE EVIDENCE.

25 MR. SHERMAN: HOW WOULD YOUR HONOR SUGGEST WE
26 PREPARE FOR TOMORROW'S WITNESS?

1 MR. MOSHENKO: HE'S ON FOR TOMORROW. MR. EVERETT
2 IS ON FOR TOMORROW. PREPARE FOR MR. EVERETT TOMORROW.

3 MR. SHERMAN: VERY GOOD. THANK YOU, YOUR HONOR.

4 THE COURT: LET'S GO.

5 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
6 COURT OUTSIDE THE PRESENCE OF THE JURY:)

7 THE COURT: IN THE MATTER OF TRAVEL AMERICA VERSUS
8 COAST.

9 BOTH SIDES READY TO PROCEED?

10 MR. MOSHENKO: YES, YOUR HONOR.

11 THE COURT: CALL THE NEXT WITNESS.

12 MR. MOSHENKO: THE PLAINTIFFS' NEXT WITNESS WOULD
13 BE MR. WILLIAM DAWSON.

14 THE COURT: INSTRUCT MR. DAWSON AS TO WHAT WE
15 DISCUSSED IN CHAMBERS, PLEASE.

16 MR. MOSHENKO: YES, YOUR HONOR. CAN I ASK THAT HE
17 BE SWORN IN?

18 THE CLERK: RAISE YOUR RIGHT HAND, PLEASE.

19 WILLIAM DAWSON,
20 CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFFS, HAVING
21 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
22 FOLLOWS:

23 THE CLERK: TAKE A SEAT IN THE WITNESS STAND,
24 PLEASE.

25 STATE YOUR FULL NAME AND SPELL YOUR LAST FOR
26 THE RECORD, PLEASE.

1 THE WITNESS: WILLIAM DAWSON, D-A-W-S-O-N.

2 MR. SHAW: MR. DAWSON, JUST FOR THE RECORD, I WANT
3 TO CLARIFY TWO POINTS OF YOUR TESTIMONY HERE THIS MORNING.

4 NUMBER ONE, THE COURT HAS ORDERED THAT THERE
5 BE NO DISCUSSION IN YOUR TESTIMONY OR REFERENCE MADE IN
6 YOUR TESTIMONY REGARDING A LITIGATION MATTER THAT WAS FILED
7 BY RESORTS PARK INTERNATIONAL, KNOWN AS THE ACRONYM R.P.I.,
8 VERSUS COAST TO COAST.

9 DO YOU UNDERSTAND THAT ORDER FROM THE COURT?

10 THE WITNESS: I UNDERSTAND THAT.

11 MR. SHAW: OKAY. AND DO YOU AGREE THERE WILL BE NO
12 REFERENCE IN YOUR TESTIMONY HERE TODAY ON EITHER MY
13 DIRECT-EXAMINATION OR DEFENDANTS' CROSS-EXAMINATION ABOUT
14 THE LAWSUIT OR ANYTHING RELATED TO THAT LAWSUIT?

15 THE WITNESS: OKAY. I AGREE.

16 MR. SHAW: OKAY. SECOND ISSUE WHERE THE COURT HAS
17 ORDERED IS THAT THERE BE NO REFERENCE TO A MONOPOLY BY
18 COAST TO COAST IN THE RECIPROCAL USE SYSTEM OR ANY
19 REFERENCE OF MONOPOLY AT ALL IN THE WAY THAT COAST TO COAST
20 DOES BUSINESS IN THE INDUSTRY.

21 DO YOU UNDERSTAND THAT?

22 THE WITNESS: I UNDERSTAND THAT.

23 MR. SHAW: SO YOU'RE VERY CLEAR ON THE FACT THAT
24 THERE WILL BE NO USE OF THE WORD "MONOPOLY" AS FAR AS COAST
25 TO COAST IS CONCERNED?

26 THE WITNESS: YES.

1 MR. RIVIN: YOUR HONOR, IF I MAY, THE ORDER THAT
2 MR. SHAW JUST REFERENCED REGARDING MONOPOLY SAYINGS WAS A
3 LITTLE BIT BROADER. IT'S NOT JUST THE WORD "MONOPOLY" OR
4 MONOPOLIZATION. IT'S ANYTHING RELATED TO MONOPOLY OR
5 MONOPOLIZATION. I WANT TO MAKE SURE THE WITNESS UNDERSTOOD
6 THAT.

7 MR. SHAW: ARE YOU CLEAR, MR. DAWSON?

8 THE WITNESS: I'M CLEAR.

9 MR. RIVIN: AND ALSO ON THE LAWSUIT, THERE'S
10 ALSO -- THE LAWSUIT THAT MR. SHAW REFERRED TO AND THAT IS
11 SUBJECT TO THE ORDER, SOMETIMES IS REFERRED TO AS AN R.P.I.
12 LAWSUIT OR A NACO LAWSUIT. AS I UNDERSTAND IT, THE ORDER
13 COVERS BOTH.

14 MR. SHAW: DO YOU UNDERSTAND THAT MR. DAWSON?

15 THE WITNESS: I DO.

16 MR. RIVIN: AND FINALLY WE SAW A FLASH OF A
17 DOCUMENT PUT UP ON THE SCREEN RIGHT BEFORE WE WENT ON THE
18 RECORD, AND THAT DOCUMENT IS A COAST DOCUMENT GOING BACK TO
19 1993. THAT INCLUDES A REFERENCE TO LITIGATION BETWEEN
20 R.P.I. AND COAST. AND WE WANT TO MAKE SURE THAT THAT DOES
21 NOT GET SHOWN ACCIDENTALLY OR INTENTIONALLY.

22 MR. MOSHENKO: THAT DOCUMENT HAS ALREADY BEEN
23 SHOWN, YOUR HONOR, INCLUDING THE REFERENCE THAT COUNSEL
24 REFERS TO. I RECALL IT HAS COME UP. BUT ASIDE FROM THAT
25 COMMENT, IT'S UP TO MR. SHAW AS TO HOW HE INTENDS TO USE
26 MR. DAWSON SINCE HE IS COUNSEL ON HIM.

1 MR. SHAW: MR. RIVIN'S REFERENCE IS TO PAGE 4 OF
2 EXHIBIT 1644 WITH THE BATES STAMP 4130 WHERE IT TALKS
3 ABOUT -- I'M SORRY. I'VE GOT THE WRONG PAGE. I
4 APOLOGIZE. LET ME FIND IT SPECIFICALLY SO THERE'S NO
5 MISUNDERSTANDING.

6 MY INTENTION WAS NOT TO SHOW THAT PORTION OF
7 THIS EXHIBIT 1644 THAT HAD THAT REFERENCE TO IT.

8 MR. RIVIN: THAT'S FINE.

9 THE COURT: ALL RIGHT. WITH THAT IN MIND, LET'S
10 START.

11 MR. SHAW: OKAY. THANK YOU, YOUR HONOR.

12 MR. RIVIN: THERE'S ONE OTHER THING WE TALKED ABOUT
13 ON WEDNESDAY OR THURSDAY, AND THAT IS, WE WON'T HAVE ANY
14 REFERENCE TO JACK KEMP.

15 THE COURT: RIGHT.

16 MR. SHAW: TO WHAT, MR. RIVIN?

17 MR. RIVIN: JACK KEMP.

18 THE COURT: NO REFERENCE TO KEMP.

19 MR. RIVIN: WELL, THERE WILL BE A REFERENCE TO KEMP
20 BECAUSE THE CO-PRINCIPAL OF R.P.I. IS DICK KEMP. WE DON'T
21 WANT A REFERENCE TO HIS BROTHER, JACK KEMP.

22 THE COURT: RIGHT.

23 MR. SHAW: FINE, YOUR HONOR. THANK YOU.

24 THE WITNESS: ARE WE -- JUST SO I'M CLEAR ON ONE
25 POINT ON SOME OF THE STATEMENTS THAT WERE MADE DURING THAT
26 TRIAL ABOUT COAST TO COAST, IS THAT PERSONA NON GRATA CAN

1 WE USE THOSE?

2 MR. MOSHENKO: WHAT TRIAL?

3 MR. RIVIN: ABSOLUTELY. THAT LACKS FOUNDATION
4 ALSO.

5 MR. MOSHENKO: WHICH TRIAL ARE YOU TALKING ABOUT?

6 THE WITNESS: I'M TALKING ABOUT THE STATEMENTS THAT
7 WERE MADE IN REFERENCE TO COAST TO COAST THAT WERE IN SWORN
8 AFFIDAVIT.

9 MR. RIVIN: BY A COURT.

10 THE WITNESS: NO. BY INDIVIDUALS.

11 MR. SHERMAN: YOUR HONOR, IT'S ALL HEARSAY, AND
12 IT'S LACKING FOUNDATION.

13 THE COURT: WELL, RAISE YOUR OBJECTIONS AS THEY
14 ARISE.

15 MR. MOSHENKO: I'M JUST CONCERNED THE WITNESS IS
16 UNCLEAR. AND I THINK THAT IF HE HAS A QUESTION, BEFORE WE
17 TAKE THE RISK THAT HE IS NOT --

18 THE COURT: THE QUESTION IS NOT DIRECTED TO HIM.
19 HE ISN'T GOING TO SAY ANYTHING ABOUT IT.

20 MR. MOSHENKO: I DON'T KNOW WHAT HE IS REFERRING
21 TO, YOUR HONOR.

22 MR. RIVIN: I BELIEVE, YOUR HONOR, THE WITNESS IS
23 REFERRING TO THE LITIGATION THAT WE'VE JUST TALKED ABOUT
24 AND THAT HE IS NOT TO MENTION.

25 THE COURT: ALL RIGHT.

26 MR. SHAW: THANK YOU, YOUR HONOR.

1 THE COURT: BRING THE JURORS IN, PLEASE.

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

4 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

5 THE JURY: GOOD MORNING, YOUR HONOR.

6 THE COURT: WE'VE BEEN WORKING FOR 55 MINUTES NOW,
7 AND YOU'VE BEEN HAVING NOTHING BUT FUN.

8 THE WITNESS ON THE STAND IS
9 MR. WILLIAM DAWSON WHO HAS BEEN CALLED BY THE PLAINTIFFS.

10 MR. SHAW: THANK YOU, YOUR HONOR. WE'RE CALLING
11 MR. DAWSON UNDER CIVIL PROCEDURE SECTION 2034 AS AN EXPERT
12 WITNESS.

13 DIRECT EXAMINATION

14 BY MR. SHAW: Q MR. DAWSON, WHAT'S YOUR
15 OCCUPATION?

16 A I'M CHAIRMAN OF A COMPANY CALLED "RESORT
17 PARKS INTERNATIONAL."

18 Q AND IS THAT ALSO REFERRED TO BY THE INITIALS
19 R.P.I.?

20 A CORRECT.

21 Q AND THAT STANDS FOR "RESORTS PARKS
22 INTERNATIONAL"?

23 A CORRECT.

24 Q WHAT KIND OF BUSINESS IS R.P.I. IN?

25 A WE'RE IN THE SAME BASIC BUSINESS THAT COAST
26 TO COAST IS IN.

1 Q AND WHAT BUSINESS IS THAT?

2 A THAT'S THE RECIPROCAL USE NETWORK FOR
3 PRIVATE RESORTS, MEMBERSHIP RESORTS.

4 Q I'D LIKE TO TALK ABOUT YOUR EDUCATIONAL
5 BACKGROUND.

6 WHERE AND WHEN DID YOU GRADUATE FROM HIGH
7 SCHOOL?

8 A I GRADUATED FROM HIGH SCHOOL IN STOCKTON,
9 CALIFORNIA. I WAS ONLY THERE A YEAR AND A HALF. I MOVED
10 THERE FROM KANSAS CITY AND WAS -- SPENT MOST OF MY -- BORN
11 AND RAISED IN THE MIDWEST.

12 Q AND THEN WHERE DID YOU ATTEND COLLEGE?

13 A I STARTED COLLEGE, MONTEREY PENINSULA
14 COLLEGE; AND AFTER MY FATHER PASSED AWAY I MOVED BACK AND
15 WENT TO THE UNIVERSITY OF KANSAS.

16 Q AND WHAT YEARS WERE YOU AT THE UNIVERSITY OF
17 KANSAS?

18 A I WAS AT THE UNIVERSITY OF KANSAS FROM 1958
19 THROUGH '61.

20 Q AND WHAT DEGREE DID YOU -- WHAT DEGREES DID
21 YOU PURSUE, COURSE OF STUDY DID YOU PURSUE AT THE
22 UNIVERSITY OF KANSAS?

23 A I STARTED OUT IN MECHANICAL ENGINEERING AND
24 REALIZED THAT I HAD SOME LIMITED APTITUDE IN THAT AREA AND
25 SHIFTED TO JOURNALISM.

26 Q AND DURING YOUR TIME AT COLLEGE, YOU WERE

1 INVOLVED IN A GROUP CALLED "PEOPLE TO PEOPLE"?

2 IS THAT CORRECT?

3 A CORRECT.

4 Q AND WHAT KIND OF A -- WHAT KIND OF A GROUP
5 WAS PEOPLE TO PEOPLE?

6 A PEOPLE TO PEOPLE WAS A PROGRAM THAT WAS
7 ORIGINALLY STARTED BY EISENHOWER IN 1956. HE CALLED A
8 WHITE HOUSE MEETING OF WHAT HE CONSIDERED TO BE THE HUNDRED
9 TOP BUSINESS LEADERS IN THE UNITED STATES TO TRY TO GET THE
10 PEOPLE OF THE UNITED STATES IN TOUCH WITH THE PEOPLE IN
11 OTHER COUNTRIES DIRECTLY WITHOUT GOING THROUGH
12 GOVERNMENTS. SO HE WOULD ORGANIZE BUSINESS TRIPS AND
13 SPORTS TRIPS AND DIFFERENT KINDS OF MISSIONS AND
14 UNDERSTANDING AS THEY CALLED THEM. WE JUST PICKED UP THE
15 NAME BECAUSE IT WAS A WELL-KNOWN NAME. AND THIS WAS THE
16 ERA OF JACK KENNEDY AND DOING SOMETHING FOR YOUR COUNTRY,
17 AND THIS PROGRAM JUST KIND OF MUSHROOMED MUCH TO OUR
18 SURPRISE.

19 Q AND YOU WERE INVOLVED IN THE BEGINNING OF
20 THAT PROGRAM AT THE UNIVERSITY LEVEL WHILE YOU WERE AT THE
21 UNIVERSITY OF KANSAS?

22 A CORRECT.

23 Q AND THAT WOULD HAVE BEEN IN THAT 1958 TO
24 1960 TIME PERIOD?

25 A WE STARTED IN LATE 1960. AND THAT WAS AS A
26 RESULT OF JUST A HAPPENSTANCE MEETING OF A COUPLE OF

1 STUDENTS FROM CUBA WHO WERE TRYING TO GET THEIR PARENTS
2 OUT, AND WE WERE SUCCESSFUL IN DOING THAT.

3 Q WHEN YOU SAY "WE," WHO WAS INVOLVED IN THE
4 PROGRAM?

5 A THERE WAS ANOTHER FELLOW IN LAW SCHOOL. HIS
6 NAME WAS RICK BARNES, AND MYSELF, AND WE WERE LATER JOINED
7 BY RAFER JOHNSON, WHO WAS -- AT THAT TIME WAS THE 1960
8 OLYMPIC DECATHLON CHAMPION IN ROME.

9 Q AND YOU AND MR. RAFER JOHNSON HAVE BEEN
10 INVOLVED IN THAT PROGRAM EVER SINCE?

11 A WELL, WE WEREN'T DIRECTLY INVOLVED FOR A
12 PERIOD OF ABOUT 20 YEARS. WE'RE DIRECTLY INVOLVED NOW. I
13 SERVE AS CHAIRMAN OF THE BOARD. RAFER SERVES ON THE BOARD
14 OF DIRECTORS, AND HE IS ALSO ONE OF THE DIRECTORS OF THE
15 AMBASSADOR TRAVEL GROUP, WHICH OPERATES ALL THE STUDENT
16 TRAVEL PROGRAMS.

17 Q WELL, LET'S FAST-FORWARD TO TODAY, THEN.
18 IT STARTED IN -- EARLY 1960'S YOU WERE
19 INVOLVED AS A STUDENT WITH RAFER JOHNSON.

20 AND NOW WHEN DID YOU TAKE OVER AS CHAIRMAN
21 OF THE BOARD OF PEOPLE TO PEOPLE?

22 A A YEAR AND A HALF AGO.

23 Q AND PRIOR TO THAT WERE YOU ALSO INVOLVED IN
24 THE PROGRAM?

25 A I REALLY GOT RE-INVOLVED IN IT WHEN THEY
26 SCHEDULED A WORLD CONFERENCE FOR NEWPORT BEACH, AND NOTHING

1 HAD -- BASICALLY NOTHING HAD BEEN DONE. AND SO THEY
2 CONTACTED ME AND ASKED IF I COULD HELP. AND SO I -- AND AS
3 A RESULT, THE CONFERENCE WENT VERY WELL. AND SO I GOT --
4 REKINDLED MY INTEREST. AND RAFER WAS AT THE CONFERENCE.
5 AND WE WERE SUCCESSFUL IN GETTING SOMEBODY TO BUY THE
6 TRAVEL COMPANY. PETER UBERROTH AND HIS BROTHER, JOHN,
7 BOUGHT THE TRAVEL COMPANY. SO THIS WORKED WELL. SO THE
8 WHOLE PROGRAM IS NOW --

9 MR. RIVIN: YOUR HONOR, CAN WE APPROACH FOR ONE
10 QUICK MINUTE?

11 THE COURT: YOU MAY.

12 (PAUSE IN PROCEEDINGS.)

13 BY MR. SHAW: Q ONE LAST QUESTION ON PEOPLE TO
14 PEOPLE. WHERE ARE THE HEADQUARTERS OFFICES?

15 A HEADQUARTERS NOW IS IN KANSAS CITY.

16 Q LET ME NOW TAKE YOU BACK TO THAT EARLY 1960
17 PERIOD WHEN YOU LEFT THE UNIVERSITY OF KANSAS.

18 CAN YOU GIVE US YOUR EMPLOYMENT BACKGROUND?

19 A WHEN I LEFT THE UNIVERSITY OF KANSAS I WENT
20 TO GEORGIA ON -- STILL WORKING FOR PEOPLE TO PEOPLE ON A
21 PILOT PROJECT FOR ADULTS. BECAME ACQUAINTED WITH A FELLOW
22 NAMED ANGUS WYNNE WHO WAS IN DALLAS. STARTED THE FIRST SIX
23 FLAGS OVER TEXAS THEME PARK IN DALLAS. OPENED IT IN '61.
24 I WENT TO WORK FOR HIM IN 1967. AND I CONTINUED IN THAT
25 BUSINESS. AND WE OPENED SEVEN THEME PARKS BETWEEN '68 AND
26 '79.

1 Q DURING THAT TIME PERIOD, FROM '68 TO '79,
2 COULD YOU DESCRIBE FOR ME YOUR DUTIES WITH THAT COMPANY,
3 WITH MR. WYNNE'S COMPANY, SIX FLAGS?

4 A WELL, I STARTED OUT AS A MARKETING -- THEY
5 CALLED THEM, YOU KNOW, SALESMEN THEN. NOW THEY'RE
6 MARKETING REPRESENTATIVES. AND JUST GREW IN THE COMPANY.
7 AS WE GO FROM ONE PARK TO ANOTHER -- AS I SAID, THERE WERE
8 18 PARKS BUILT. SO IT WAS PRETTY EASY WITH THAT KIND OF A
9 GROWTH CURVE TO INCREASE YOUR STATURE AND YOUR POSITION.
10 AND I ENDED UP AS C.E.O. THE LAST PARK WE BUILT WAS IN
11 INDONESIA, AND THAT WAS JUST -- I RAN THAT PROJECT WITH MY
12 WIFE, AND WHEN -- WE DECIDED TO SETTLE DOWN AND HAVE A
13 FAMILY.

14 Q AND THAT WAS IN THE 1980 TO 1983 TIME
15 PERIOD --

16 A RIGHT.

17 Q -- THAT YOU WERE CHIEF EXECUTIVE OFFICER OF
18 THE COMPANY AND DEVELOPED THAT THEME PARK IN INDONESIA?

19 A CORRECT.

20 Q AND YOU CAME HOME FROM INDONESIA OR CAME
21 BACK TO THE UNITED STATES, AT ANY RATE, SOMETIME IN 1983?

22 A RIGHT.

23 Q AND THEN WHAT DID YOU DO IN 1983 WHEN YOU
24 SETTLED DOWN TO HAVE A FAMILY?

25 A WE STARTED LOOKING FOR A COMPANY TO BUY THAT
26 WE THOUGHT HAD A FUTURE THAT WAS IN THE LEISURE BUSINESS

1 BECAUSE THAT WAS OUR BACKGROUND. AND RESORT PARKS
2 INTERNATIONAL WAS AVAILABLE FOR SALE. THAT WAS -- IT WAS A
3 DIVISION OF THE CARLSBERG GROUP UP IN CENTURY CITY. THERE
4 ARE TWO CARLSBERG BROTHERS. ONE HAD A GREAT INTEREST IN
5 THIS BUSINESS. THEY OWNED CALIFORNIA PINES AND STALLION
6 SPRINGS, AND THEY HAD MADE A DECISION THAT ONE OF THE
7 THINGS THAT NEEDED TO BE DONE WITH OUTDOOR RESORTS OR WITH
8 THESE PARTICULAR PROPERTIES WAS TO FIND A WAY TO INTEREST
9 THE NON-R.V.'ER.

10 SO THIS COMPANY WAS SET UP TO LEASE PARK
11 MODELS OR CABINS OR MODULAR HOMES TO THESE DEVELOPERS. AND
12 THEY HAD STARTED THAT BUSINESS. AND HE WAS KILLED IN A
13 HUNTING ACCIDENT IN RUSSIA. SO THE COMPANY FLOUNDERED FOR
14 ABOUT A YEAR AND A HALF, AND SO WE BOUGHT IT.

15 Q AND WHAT YEAR DID YOU BUY IT?

16 A WE BOUGHT -- WE ACTUALLY CLOSED ON IT IN
17 1984.

18 Q AND WHAT WAS YOUR POSITION WITH THE COMPANY
19 WHEN YOU PURCHASED RESORTS PARK INTERNATIONAL OR R.P.I.?

20 A I WAS PRESIDENT AT THAT TIME.

21 Q AND ARE YOU -- YOU INDICATED INITIALLY IN
22 YOUR TESTIMONY TODAY THAT YOU'RE NOW CHAIRMAN OF THE BOARD?

23 A RIGHT.

24 Q AND WHEN DID YOU BECOME CHAIRMAN OF THE
25 BOARD?

26 A I DON'T REMEMBER EXACTLY. IT WAS SIX, SEVEN

1 YEARS AGO. AND DICK KEMP BECAME PRESIDENT, AND I BECAME
2 CHAIRMAN.

3 Q SO MR. KEMP IS NOW PRESIDENT. YOU'RE
4 CHAIRMAN OF THE BOARD.

5 IS YOUR -- IS MRS. DAWSON INVOLVED IN THE
6 COMPANY?

7 A YES.

8 Q AND WHAT IS HER TITLE?

9 A EXECUTIVE VICE-PRESIDENT.

10 Q AND, AGAIN, THE COMPANY, R.P.I., IS A
11 SERVICE COMPANY; IS THAT CORRECT?

12 A CORRECT.

13 Q WHAT'S THE DEFINITION OF A SERVICE COMPANY?

14 A WELL, WE SERVICE THE MEMBERS OF WHAT'S BEEN
15 SAID HERE TO BE OUTDOOR RESORTS OR MEMBERSHIP RESORTS.

16 Q WHEN YOU SAY "SERVICE MEMBERS," WHAT SERVICE
17 DOES R.P.I. PROVIDE?

18 A WE PROVIDE AN EXCHANGE SERVICE FOR THEM,
19 RECIPROCAL SERVICE, SO THEY CAN USE OTHER RESORTS.

20 Q NOW, LET'S TALK ABOUT R.P.I.

21 YOU PURCHASED IT IN 1984 WITH YOUR WIFE,
22 MRS. DAWSON, AND THEN THE COMPANY WAS SOLD IN 19 -- IN OR
23 ABOUT 1988; IS THAT CORRECT?

24 A RIGHT. CORRECT.

25 Q WHO PURCHASED R.P.I.

26 A ORIGINALLY A COMPANY CALLED THOUSANDS TRAILS

1 PURCHASED R.P.I. WE HAD WORKED WITH THEM FOR ABOUT A YEAR
2 AND A HALF. THOUSAND TRAILS WAS -- I GUESS ONE COULD SAY
3 THE CADILLAC OF THE INDUSTRY. THEY HAD FIFTY-SOME-ODD
4 RESORTS AND A HUNDRED THOUSAND MEMBERS AT THAT TIME. THEY
5 WERE THE BEGINNING OF THIS BUSINESS. AND THEY HAD NO
6 RECIPROCAL SERVICE. UNDER THE TERMS OF THEIR AGREEMENT,
7 IF YOU WERE A THOUSAND TRAILS MEMBER AND HAD BECOME A
8 MEMBER OF THOUSAND TRAILS, IN YOUR CONTRACT IT SAID THAT
9 THEY WOULD NOT ENTER INTO ANY RECIPROCAL AGREEMENTS WITH
10 ANYBODY, WITH ANY OTHER RESORTS, WITH ANY OTHER COMPANY.

11 AND SO WE HAD FELT THAT WAS A GOOD
12 OPPORTUNITY FOR US. BECAUSE IF THEY OWNED A RECIPROCAL
13 COMPANY, THAT WOULD BE DIFFERENT, AND THAT WOULD PROVIDE
14 THEIR MEMBERS THE OPPORTUNITY TO HAVE THE AVAILABILITY OF
15 OTHER RESORTS.

16 WE SURVEYED THEIR MEMBERS AND FOUND OUT THAT
17 80 PERCENT OF THEM WERE IN FAVOR OF THAT. BUT IT WAS STILL
18 A DIFFICULT DECISION. AND WE HAD PARTNERED UP WITH ONE OF
19 THE TIME SHARE EXCHANGE COMPANIES TO GET THE ADDITIONAL
20 SERVICE SERVICES, VACATION CLUBS AND
21 CONDOMINIUMS CALLED "INTERVAL INTERNATIONAL."

22 Q HOW DO YOU SPELL THAT?

23 A I-N-T-E-R-V-A-L. INTERVAL INTERNATIONAL.

24 AND R.P.I. HAD PARTNERED UP AND MADE A DEAL.

25 THIS WAS A LONG EXPLANATION WHICH PROBABLY
26 COULD BE SHORTER BECAUSE THE NEXT DAY THEY DECLARED

1 BANKRUPTCY.

2 Q WHO DECLARED BANKRUPTCY?

3 A THOUSAND TRAILS.

4 Q SO THE SALE TO THOUSAND TRAILS NEVER WENT
5 THROUGH?

6 A NO. WE SIGNED ALL THE LETTER OF INTENT AND
7 HAD A CHAMPAGNE DINNER, AND THAT WAS THE END OF THAT. AND
8 THEY WERE THEN PURCHASED BY NACO, NATIONAL AMERICAN
9 CORPORATION, A WEEK LATER OUT OF BANKRUPTCY. AND EVERY
10 TIME I HAD -- THEY WERE HEADQUARTERED IN SEATTLE. EVERY
11 TIME I WOULD GO TO SEATTLE, I WOULD GO AND CALL ON NATIONAL
12 AMERICA CORPORATION JUST TO TALK TO JOHN SCHOKLEY, WHO WAS
13 PRESIDENT OF THAT COMPANY, AND --

14 Q SO WHEN NACO PURCHASED THOUSAND TRAILS OUT
15 OF BANKRUPTCY, DID R.P.I. SELL ITS INTEREST TO NACO AT THAT
16 POINT?

17 A WE DID TWO WEEKS LATER. FRANKLY, AT THE
18 TIME I HAD NO IDEA WHETHER WE WERE GOING TO HAVE ANY KIND
19 OF DEAL OR NOT. JOHN WAS NOT A -- HE WAS A PRETTY BRUTE
20 ARKANSAS KIND OF GUY, AND HE DIDN'T MINCE ANY WORDS ABOUT
21 THINGS. SO -- BUT THEN HE CAME DOWN, AND HE SAID HE WANTED
22 TO BUY THE COMPANY. AND HE DID.

23 MR. RIVIN: YOUR HONOR, I'D LIKE TO ASK THE WITNESS
24 TO PLEASE DO A SLIGHTLY BETTER JOB OF RESPONDING TO THE
25 QUESTIONS AND JUST RESPONDING AS OPPOSED TO TAKING AS MUCH
26 TIME AS HE IS. I'M JUST CONCERNED ABOUT TIME, YOUR HONOR.

1 THE COURT: ALL RIGHT. THANK YOU.

2 BY MR. SHAW: Q MR. DAWSON, SO NACO PURCHASED
3 R.P.I.; CORRECT?

4 A RIGHT.

5 Q AND R.P.I. IS NOW A SUBSIDIARY OF NACO?

6 A THAT'S A SUBSIDIARY OF THOUSAND TRAILS, AND
7 NACO IS ALSO A SUBSIDIARY OF THOUSAND TRAILS.

8 Q OKAY. SO IF WE LOOKED AT THE STRUCTURE OF
9 THE COMPANY THAT R.P.I. IS INVOLVED IN NOW, YOU'VE GOT
10 THOUSAND TRAILS?

11 A UH-HUH.

12 Q AND THAT WAS IN BANKRUPTCY?

13 A RIGHT.

14 Q AND IT CAME OUT OF BANKRUPTCY, AND ONE OF
15 THE SUBSIDIARIES IS NACO?

16 A RIGHT.

17 Q AND ONE OF THE OTHER SUBSIDIARIES IS R.P.I.?

18 A RIGHT.

19 Q DOES R.P.I. HAVE ANY SUBSIDIARIES?

20 A NO -- WELL, WE HAVE A VACATION CLUB UNDER
21 R.P.I.

22 Q SO YOU'VE GOT A VACATION CLUB?

23 A RIGHT.

24 Q TELL ME ABOUT -- WHAT'S THE VACATION CLUB?

25 A IT'S A SERIES OF VACATION DISCOUNTED
26 AIRFARE, CONDOMINIUMS, GOLF PACKAGES.

1 Q DOES THOUSAND TRAILS HAVE ANY OTHER
2 RELATIONSHIPS WITH ANY OTHER CAMPGROUNDS?

3 A NO. THEY OPERATE CAMPGROUNDS FOR THE
4 GOVERNMENT UNDER ANOTHER SUBSIDIARY CALLED "WILDERNESS
5 MANAGEMENT."

6 Q AND HOW ABOUT AN ENTITY CALLED "ENJOY
7 AMERICA"; WHAT IS ENJOY AMERICA?

8 A ENJOY AMERICA IS UNDER R.P.I. THAT'S PUBLIC
9 CAMPGROUNDS.

10 Q AND HOW MANY PUBLIC CAMPGROUNDS?

11 A THEY'RE RIGHT AT 400. THREE HUNDRED NINETY
12 SOMETHING.

13 Q SO 390 PLUS CAMPGROUNDS.

14 A UH-HUH.

15 Q DOES R.P.I. HAVE ANY OTHER SUBSIDIARIES OR
16 ANY OTHER ARRANGEMENTS?

17 A NO.

18 Q IS THERE A COMPANY CALLED "AMERICAN LAND AND
19 LEISURE" IN SALT LAKE CITY?

20 A YEAH. BUT THAT'S NOT A PART OF RESORTS
21 PARKS INTERNATIONAL. THAT'S OWNED PERSONALLY BY MY WIFE.

22 Q YOUR WIFE HAS THAT COMPANY?

23 A RIGHT.

24 Q AND R.P.I. DOES BUSINESS WITH AMERICAN LAND
25 AND LEISURE?

26 A NO. JUST AT THIS POINT WE'RE ONLY

1 INVESTORS.

2 Q NOW, THIS -- YOU'VE BEEN CHAIRMAN OF THE
3 BOARD FOR THE LAST SIX OR SEVEN YEARS, AND R.P.I. HAS BEEN
4 UNDER THE THOUSAND TRAILS UMBRELLA, IF YOU WILL, FOR --
5 SINCE IN OR ABOUT 1988; IS THAT CORRECT?

6 A CORRECT.

7 Q WHAT OTHER -- I WANT TO STAY WITH YOUR
8 BACKGROUND AND WHAT YOU DO BUSINESS-WISE.

9 OTHER THAN BEING CHAIRMAN OF THE BOARD OF
10 R.P.I., WHAT OTHER BUSINESS VENTURES ARE YOU INVOLVED IN?
11 YOU'VE EXPLAINED TO ME NOW ABOUT --

12 A I'M ON THE BOARD OF DIRECTORS OF A COMPANY
13 CALLED WATERSHED COMMUNICATION IN WHITEFISH, MONTANA. THAT
14 COMPANY PUBLISHES A MAGAZINE AND A DIRECTORY FOR THE
15 NATIONAL FOREST SERVICE. AND THIS WILL BE THE FIRST ONE --
16 SECONDLY, I'M ON THE BOARD OF AMERICAN LAND AND LEISURE.

17 Q AND YOU'RE ALSO CHAIRMAN OF THE BOARD OF
18 PEOPLE TO PEOPLE. WE DISCUSSED THAT --

19 A RIGHT.

20 Q -- EARLIER.

21 DO YOU DO ANY CONSULTING WORK?

22 A WELL, I'VE DONE SOME -- IT'S -- MOST OF
23 THAT'S BEEN RELATED BACK TO OUR DAYS IN THE THEME PARK
24 BUSINESS. AND WE'VE DONE A NUMBER OF DIFFERENT KINDS OF
25 CONSULTING PROJECTS. BUT THEY'VE ALL BEEN PRETTY MUCH --
26 THEY'RE ALL LEISURE-RELATED, EVERYTHING FROM DESIGNING

1 CAMPGROUNDS, DESIGNING THEME PARKS, PUTTING IN LEISURE
2 CENTERS AND SHOPPING MALLS, AND WE STILL DO THAT. AS A
3 PART OF THE SALES AGREEMENT THAT WE MADE, WE HAVE THE RIGHT
4 TO DO THAT, THAT BUSINESS.

5 Q THAT IS, TO DO THE CONSULTING WORK?

6 A RIGHT.

7 Q DO YOU -- HAVE YOU DONE ANY CONSULTING FOR A
8 GROUP CALLED A.R.D.A., A-R-D-A?

9 A WELL, WE WROTE THE STRATEGIC PLAN FOR
10 A.R.D.A. A NUMBER OF YEARS AGO.

11 Q WHAT'S A.R.D.A. STAND FOR?

12 A AMERICAN RESORT DEVELOPMENT ASSOCIATION.
13 THAT'S SORT OF THE TRADE ASSOCIATION FOR ALL OF THE TIME
14 SHARE AND MEMBERSHIP RESORTS.

15 Q IS THE DEFENDANT IN THIS CASE, COAST TO
16 COAST, INVOLVED IN THAT GROUP, A.R.D.A., AS FAR AS YOU
17 KNOW?

18 A THEY'RE INVOLVED AND ON THE BOARD.

19 Q ON THE BOARD.

20 AND YOU'RE ON THE BOARD?

21 A NO.

22 Q BUT YOU DID -- YOU PREPARED A BUSINESS PLAN
23 FOR A.R.D.A.?

24 A RIGHT.

25 Q ANY OTHER CONSULTING WORK THAT YOU HAVEN'T
26 DISCUSSED WITH US?

1 A WELL, I'VE MADE NOTES OF SOME OF THE THINGS,
2 BUT I'M JUST NOT SURE THAT IN THE INTEREST OF TIME THAT WE
3 OUGHT TO -- WE NEED TO GO THROUGH ALL OF THAT OR ALL THE
4 THEME PARKS. I MEAN, EVERYBODY HERE I THINK KNOWS PRETTY
5 MUCH WHAT THAT IS.

6 Q SUFFICE IT TO SAY, YOU'RE ACTIVE IN THIS
7 BUSINESS THAT INVOLVES COAST TO COAST, THE DEFENDANT, AND
8 INVOLVES YOUR COMPANY, R.P.I.; IS THAT CORRECT?

9 A CORRECT.

10 Q AND YOU'RE HIRED BY BUSINESS PEOPLE IN THIS
11 INDUSTRY TO GIVE THEM EXPERT ASSISTANCE AS A CONSULTANT; IS
12 THAT CORRECT?

13 A CORRECT.

14 Q AND YOU'RE PAID FOR THAT?

15 A PAID FOR THAT. THAT'S CORRECT.

16 Q AND YOU HAVE BEEN RETAINED TO TESTIFY AS AN
17 EXPERT IN THIS CASE; IS THAT CORRECT?

18 A THAT'S CORRECT.

19 Q AND WHO'S RETAINED TO?

20 A THE PLAINTIFF HAS RETAINED ME.

21 Q AND HAVE YOU EVER BEEN -- WELL, LET ME
22 WITHDRAW THAT AND START AGAIN.

23 WHAT ASSIGNMENT WERE YOU GIVEN IN THIS CASE?

24 A THE ASSIGNMENT THAT I HAD WAS TO SEE IF
25 THERE WAS -- NUMBER ONE, TO MAKE A DETERMINATION OR AN
26 EVALUATION OF WHETHER COAST TO COAST COULD HAVE MEMBERS OR

1 NOT HAVE MEMBERS, WHAT WAS MY OPINION OF THAT.

2 Q SO DID COAST HAVE MEMBERS?

3 A WELL, WE JUST DON'T BELIEVE THAT --

4 MR. RIVIN: YOUR HONOR, BEFORE WE HEAR ANY OPINIONS
5 EXPRESSED, CAN WE GET THE FOUNDATION FOR WHAT THE OPINIONS
6 ARE GOING TO BE?

7 WE'D LIKE TO HAVE A DISCUSSION WITH THE
8 COURT REGARDING THESE OPINIONS BEFORE THEY COME IN.

9 THE COURT: ALL RIGHT. THANK YOU.

10 BY MR. SHAW: Q OKAY. WHAT WAS YOUR NEXT
11 ASSIGNMENT?

12 A DOES THE COAST TO COAST HAVE -- IF THEY DID
13 HAVE MEMBERS, COULD THEY MOVE MEMBERS. IN OTHER WORDS, DID
14 THEY HAVE THE RIGHT TO MOVE THOSE INDIVIDUALS, IF THEY HAD
15 THEM.

16 Q CAN I USE THE WORD, COULD THEY TRANSFER?

17 A THAT'S FINE.

18 Q IS THAT IT? OKAY.

19 AND WHAT WAS YOUR NEXT ASSIGNMENT?

20 A WE HAD AN ASSIGNMENT ON THE CONFIDENTIALITY
21 OF MEMBERS. BY "CONFIDENTIALITY," THE ASSIGNMENT WAS DO
22 YOU HAVE THE RIGHT TO CONTACT MEMBERS. IF YOU ASSUME THAT
23 THEY ARE YOUR MEMBERS, CAN YOU CONTACT THEM AND TELL THEM
24 TO DO THINGS, ASK THEM TO DO THINGS.

25 Q SO ARE MEMBERS A PROTECTED ASSET OR
26 CONFIDENTIAL?

1 A RIGHT.

2 Q AND WHAT WAS YOUR NEXT ASSIGNMENT?

3 A I'LL HAVE TO THINK FOR A MINUTE HERE.

4 Q YOU WERE ALSO ASKED WHAT WOULD BE THE EFFECT
5 OF THE TRANSFER OF MEMBERS, AS FAR AS DUES WERE CONCERNED,
6 ON THE PLAINTIFF; IS THAT CORRECT?

7 A WELL, THAT'S UNDER A SEPARATE CATEGORY, BUT
8 THAT'S CORRECT. I HAD IT UNDER -- ON THE REASSIGNMENT OF
9 MEMBERS, THE EFFECT OF THAT. A LITTLE MORE FAR-REACHING
10 THAN YOUR STATEMENT.

11 Q SO EFFECT OF REASSIGNMENT OF MEMBERS?

12 A RIGHT.

13 Q AND DID YOU DO AN INVESTIGATION AND AN
14 ANALYSIS OF THESE FOUR AREAS THAT YOU WERE ASSIGNED?

15 A I DID.

16 Q AND ARE YOU PREPARED TO GIVE OPINIONS HERE
17 TODAY ON THOSE FOUR AREAS?

18 A I AM.

19 Q LET'S TAKE ITEM NUMBER ONE.

20 WHAT IS YOUR OPINION REGARDING WHETHER OR
21 NOT COAST TO COAST HAD MEMBERS?

22 MR. RIVIN: OBJECTION. IMPROPER LEGAL CONCLUSION.
23 CUMULATIVE. MAY WE DISCUSS THIS AT A SIDEBAR?

24 THE COURT: APPROACH THE BENCH.

25 (DISCUSSION OFF THE RECORD.)

26 BY MR. SHAW: Q MR. DAWSON, LET'S GO BACK TO YOUR

1 FOUR ASSIGNMENTS.

2 FIRST ASSIGNMENT WAS -- AND I'VE DONE IT IN
3 A VERY SHORTHAND, CRYPTIC FASHION. BUT YOUR ASSIGNMENT
4 BASICALLY WAS WHO DO THE MEMBERS BELONG TO; IS THAT
5 CORRECT.

6 MR. RIVIN: OBJECTION. WAS THE QUESTION JUST WHAT
7 IS THE ASSIGNMENT?

8 MR. SHAW: THE ASSIGNMENT.

9 THE WITNESS: WELL, THE MEMBERS BELONG TO THE
10 RESORT.

11 MR. RIVIN: OBJECTION.

12 THE COURT: SUSTAINED.

13 MR. RIVIN: AND THE OBJECTION --

14 THE COURT: THE QUESTION IS, WHAT IS THE
15 ASSIGNMENT.

16 BY MR. SHAW: Q DO YOU HAVE AN OPINION, HAVE YOU
17 FORMULATED AN OPINION IN THAT REGARD?

18 A I FORMULATED THE OPINION THAT --

19 MR. RIVIN: OBJECTION, YOUR HONOR. THE WITNESS IS
20 GOING BEYOND THE QUESTION.

21 LET ME MAKE MY OBJECTION.

22 LACK OF FOUNDATION. THE WITNESS IS OFFERING
23 EXPERT OPINION, EXPERT TESTIMONY, THAT GOES BEYOND THE
24 SCOPE OF WHAT'S APPROPRIATE FOR AN EXPERT. THIS IS ALSO
25 CUMULATIVE. AND FOR THOSE REASONS I BELIEVE IT'S AN
26 INAPPROPRIATE QUESTION.

1 THE COURT: SUSTAINED ON ALL GROUNDS.

2 MR. RIVIN: THANK YOU.

3 BY MR. SHAW: Q YOU KNOW THAT COAST DOES HAVE
4 MEMBERS; CORRECT?

5 A I KNOW THEY SAY THEY DO, YES.

6 Q AND FROM YOUR OWN PERCIPIENT KNOWLEDGE, DO
7 YOU KNOW WHETHER THAT'S CORRECT OR NOT?

8 MR. RIVIN: OBJECT. SAME OBJECTION. LACK OF
9 FOUNDATION.

10 THE COURT: SUSTAINED.

11 MR. RIVIN: HEARSAY.

12 MR. SHAW: HE IS NOW TESTIFYING ABOUT HIS OWN
13 PERCIPIENT KNOWLEDGE OF WHETHER THEY HAVE MEMBERS.

14 MR. RIVIN: IT'S NOT RELEVANT.

15 THE COURT: THE OBJECTION IS SUSTAINED.

16 BY MR. SHAW: Q HAVE YOU -- WHAT AREAS HAVE YOU
17 REVIEWED -- LET'S TALK ABOUT THE BASIS AND REASON FOR YOUR
18 OPINION.

19 WHAT AREAS HAVE YOU REVIEWED IN COMING TO
20 THE CONCLUSION REGARDING WHETHER OR NOT COAST HAD MEMBERS?

21 MR. RIVIN: YOUR HONOR, OBJECTION. IF THE OPINION
22 IS INAPPROPRIATE, THEN THE FOUNDATION OF THE OPINION IS
23 IRRELEVANT.

24 MR. SHAW: YOUR HONOR, WE HAVEN'T GOTTEN TO THE
25 OPINION. I'M ASKING HIM WHAT HE DID TO LAY A FOUNDATION
26 FOR THE COURT TO KNOW WHAT HE REVIEWED, WHAT ANALYSIS HE

1 WENT THROUGH IN ORDER --

2 THE COURT: I'LL ALLOW THAT.

3 MR. SHAW: THANK YOU.

4 Q LET'S TALK ABOUT WHAT WAS THE BASIS -- WHAT
5 DID YOU INVESTIGATE AND ANALYZE AND FORMULATE TO ARRIVE AT
6 YOUR OPINION REGARDING THE COAST MEMBERS?

7 A I LOOKED AT THE HISTORY OF THE INDUSTRY FROM
8 THE DAY IT BEGAN WITH THOUSAND TRAILS. AND THIS INDUSTRY
9 HAS BEEN SINCE ITS INCEPTION A CLUB FORMAT. IT HAS NO
10 DEEDED INTEREST. IT HAS --

11 MR. RIVIN: OBJECTION. THIS GOES BEYOND THE SCOPE
12 OF THE QUESTION, YOUR HONOR.

13 THE COURT: SUSTAINED.

14 MR. SHAW: YOUR HONOR, I'M JUST ASKING HIM WHAT HE
15 REVIEWED. HE IS TESTIFYING ABOUT -- I'M SORRY, YOUR HONOR.
16 I WILL REPHRASE THE QUESTION.

17 Q I'D LIKE YOU TO JUST FOCUS, MR. DAWSON, ON
18 SPECIFICALLY WHAT YOU REVIEWED AND WHAT YOU ANALYZED.

19 AND YOU'VE TALKED ABOUT THE INDUSTRY ITSELF,
20 AND YOU'RE NOW DESCRIBING FOR ME WHAT THE INDUSTRY IS.

21 A THE INDUSTRY IS REALLY A CLUB PRODUCT THAT
22 HAS MEMBERS, AND IT'S LIKE ANY OTHER CLUB. AND THERE WAS
23 NO SUCH THING AS A COMPANY HAVING A MEMBER SEPARATE FROM
24 THE MEMBER OF THE RESORT UNTIL 1990.

25 MR. RIVIN: OBJECTION, YOUR HONOR.

26 THE COURT: SUSTAINED.

1 MR. RIVIN: MAY WE -- MAY THE WITNESS BE ADMONISHED
2 TO SIMPLY ANSWER THE QUESTION? THIS IS INAPPROPRIATE.

3 THE COURT: DON'T GO BEYOND THE DIRECT QUESTION,
4 PLEASE.

5 BY MR. SHAW: Q ALL RIGHT. LET'S TALK ABOUT WHERE
6 THE MEMBERS ARE.

7 THE RESORTS HAVE MEMBERS?

8 A RIGHT.

9 Q AND LET'S JUST NOW TALK ABOUT R.P.I. I
10 DON'T WANT TO TALK ABOUT COAST TO COAST. I WANT TO TALK
11 ABOUT R.P.I.

12 YOU'RE IN THE SAME BUSINESS AS COAST TO
13 COAST?

14 A YES, WE ARE.

15 Q YOU OFFER THE SAME RECIPROCAL USE AS COAST
16 TO COAST?

17 A YES, WE DO.

18 Q AND YOU OFFER RECIPROCAL USE SERVICES TO
19 CLOSE TO 400 RESORT DEVELOPERS; IS THAT CORRECT?

20 A CORRECT.

21 Q AND IN OFFERING THE -- RESORT DEVELOPERS
22 LIKE MR. NOVELLI; CORRECT?

23 A CORRECT.

24 Q DOES R.P.I. HAVE ANY MEMBERS?

25 A NO.

26 Q THE ANSWER IS NO?

1 A NO.

2 Q AND WHY DOESN'T R.P.I. HAVE ANY MEMBERS?

3 MR. RIVIN: OBJECTION. LACK OF FOUNDATION.

4 IRRELEVANT.

5 THE COURT: HE SHOULD HAVE A FOUNDATION FOR IT.

6 BUT I DON'T SEE THE RELEVANCY.

7 MR. SHAW: WELL, YOUR HONOR, HE IS TALKING ABOUT

8 THIS INDUSTRY. HE IS TALKING ABOUT --

9 THE COURT: HE IS TALKING ABOUT R.P.I.

10 MR. SHAW: YES, CORRECT, IN THIS PARTICULAR

11 INDUSTRY, WHICH IS RELEVANT.

12 THE COURT: HE SAID HE DOESN'T HAVE ANY MEMBERS.

13 MR. SHAW: CORRECT.

14 THE COURT: SO BE IT.

15 BY MR. SHAW: Q WHY DOESN'T R.P.I. HAVE ANY

16 MEMBERS?

17 MR. RIVIN: THE SAME OBJECTION. IRRELEVANT.

18 THE COURT: THAT -- FOR THAT PURPOSE IT'S NOT

19 RELEVANT.

20 MR. SHAW: WELL, IT'S FOR THE PURPOSE OF THIS

21 PARTICULAR -- TALKING ABOUT THIS PARTICULAR INDUSTRY AND

22 R.P.I.'S RELATIONSHIP IN THIS PARTICULAR INDUSTRY THAT

23 GIVES THE BACKGROUND FOR THIS CASE, YOUR HONOR.

24 THE COURT: BUT R.P.I. IS ONLY ONE SEGMENT OF THE

25 INDUSTRY.

26 MR. SHAW: THAT'S CORRECT, YOUR HONOR. HE IS

1 TESTIFYING ABOUT HIS LITTLE CORNER OF THE WORLD, IF YOU
2 WILL.

3 THE COURT: THEN IT'S NOT RELEVANT.

4 BY MR. SHAW: Q MR. DAWSON, THE RESORTS HAVE
5 MEMBERS; CORRECT?

6 A CORRECT. THE RESORTS HAVE MEMBERS.

7 Q AND YOU ANALYZED THAT RELATIONSHIP BETWEEN
8 COAST TO COAST AND THE RESORTS?

9 A CORRECT.

10 Q AND YOU HAVE AN OPINION AS TO WHETHER THE
11 RESORTS HAVE MEMBERS -- AS AN EXPERT IN THE FIELD SINCE
12 1984, YOU HAVE AN OPINION AS TO WHETHER OR NOT COAST TO
13 COAST HAS MEMBERS AS OPPOSED TO THE RESORTS HAVING MEMBERS?

14 A I DO.

15 Q IS THAT CORRECT?

16 A YES.

17 Q AND WHAT IS THAT OPINION?

18 MR. RIVIN: YOUR HONOR, THIS IS THE SAME QUESTION
19 THAT WAS ASKED PREVIOUSLY, AND THE COURT --

20 THE COURT: SUSTAINED.

21 MR. RIVIN: -- THE COURT SUSTAINED OBJECTIONS --

22 THE COURT: SUSTAINED.

23 MR. RIVIN: -- THE SAME OBJECTIONS.

24 BY MR. SHAW: Q LET'S TALK ABOUT THE ISSUE OF
25 TRANSFER.

26 YOU WERE GIVEN THE ASSIGNMENT TO TALK ABOUT

1 AND ANALYZE AND FORMULATE AN OPINION AS TO WHETHER OR NOT
2 COAST TO COAST COULD TRANSFER THE PLAINTIFF MEMBERS;
3 CORRECT?

4 A CORRECT.

5 Q AND HAVE YOU ANALYZED THAT PARTICULAR AREA?

6 A YES.

7 Q AND WHAT DID YOU LOOK AT? WHAT WAS THE
8 BASIS AND REASON FOR YOUR ANALYSIS?

9 A WHETHER A PERSON COULD TRANSFER THE COAST TO
10 COAST MEMBERSHIP.

11 Q AND WHAT DID YOU LOOK AT SPECIFICALLY?

12 A WE LOOKED AT THE AGREEMENTS, AND THE COAST
13 TO COAST MEMBERSHIP CAN'T BE TRANSFERRED WITHOUT HAVING A
14 RESORT MEMBERSHIP. SO IT'S OF NO VALUE.

15 MR. RIVIN: OBJECTION, YOUR HONOR. THE WITNESS
16 JUST TESTIFIED TO AN OPINION WHEN HE WASN'T ASKED FOR AN
17 OPINION. AND THIS IS HAPPENING -- THIS IS HAPPENING OVER
18 AND OVER AGAIN. I'M WONDERING IF WE JUST TAKE --

19 THE COURT: OBJECTION IS SUSTAINED.

20 MR. RIVIN: SHOULD WE TAKE A BREAK TO GET THIS
21 INFORMATION ON, ASK THE WITNESS QUESTIONS, THE FOUNDATIONAL
22 QUESTIONS, WITHOUT HAVING TO GO THROUGH THIS WITH THE JURY
23 PRESENT?

24 MR. SHAW: YOUR HONOR, MR. RIVIN MAY NOT LIKE THE
25 ANSWERS, BUT I HAVE A RIGHT TO QUESTION THIS WITNESS ABOUT
26 HIS BACKGROUND.

1 THE COURT: JUST MAKE YOUR OBJECTIONS IN A TIMELY
2 MANNER.

3 BY MR. SHAW: Q ALL RIGHT. LET'S TALK ABOUT THE
4 TRANSFER OF THE MEMBERS. AND I'D LIKE TO USE A VISUAL, IF
5 I CAN, WITH MY DRAWING ON THE BOARD.

6 IF THIS IS A RESORT, AND WE HAVE A RESORT
7 CONTRACT -- AND I'LL DRAW A LITTLE PAPER WITH SOME LINES.
8 AND THEN THE RESORT SELLS THE RECIPROCAL SYSTEM; IS THAT
9 CORRECT? EITHER TO COAST TO COAST OR TO R.P.I.?

10 A IT'S USUALLY -- YES, SELLS IT AT THE
11 POINT -- USUALLY SELLS IT AT POINT OF SALE. IT'S PART OF
12 THE SALE.

13 Q NOW, DOES -- IN YOUR OPINION, THE RECIPROCAL
14 CONTRACT TO EITHER COAST TO COAST OR TO R.P.I., DOES THAT
15 HAVE ANY VALUE?

16 MR. RIVIN: OBJECTION. IMPROPER LEGAL CONCLUSION.
17 LACK OF FOUNDATION. ALSO IRRELEVANT.

18 THE COURT: OBJECTION IS SUSTAINED.

19 BY MR. SHAW: Q LET'S BACK UP AND DEAL WITH
20 ANOTHER AREA, MR. DAWSON. AND WE'LL GET AT IT THIS WAY.

21 EXHIBIT 1644, YOU'RE FAMILIAR WITH THAT
22 EXHIBIT IN THIS CASE -- IT'S IN EVIDENCE.

23 CAN YOU PUT IT UP ON THE BOARD.

24 THIS WAS A ROGER RYMAN/COAST TO COAST
25 DOCUMENT DATED APRIL 14, 1993. AND YOU REVIEWED FOR ME IN
26 PREPARATION OF YOUR TESTIMONY HERE TODAY THE COAST TO COAST

1 DOCUMENTS REGARDING R.P.I.; IS THAT CORRECT?

2 A THAT'S CORRECT.

3 Q AND, MR. O'CONNOR, WOULD YOU PLEASE LOOK AT
4 BATES STAMP 4142.

5 MR. RIVIN: YOUR HONOR, THIS WITNESS DOES NOT HAVE
6 ANY FIRSTHAND KNOWLEDGE OF THIS DOCUMENT. AND TO THE
7 EXTENT HE REVIEWED IT FOR THE PURPOSE OF FORMING AN
8 INADMISSIBLE OPINION, THEN IT IS A DOCUMENT THAT HE
9 SHOULDN'T BE TESTIFYING ABOUT AT ALL.

10 MR. SHAW: IT'S A DOCUMENT IN EVIDENCE THAT HE
11 REVIEWED IN PREPARATION FOR HIS TESTIMONY, YOUR HONOR, AND
12 LAYING A FOUNDATION FOR WHAT MR. RIVIN HAS OBJECTED TO ON
13 TERMS OF RELEVANCE AND ON TERMS OF LACK OF FOUNDATION.

14 I SKIPPED OVER THIS DOCUMENT TO TRY TO MOVE
15 THE JURY -- TO MOVE THE COURT ALONG. I'M NOW GOING TO GO
16 BACK AND LAY THIS -- DO IT THE HARD WAY AND LAY THE
17 FOUNDATION FOR THIS WITNESS'S OPINIONS. AND I HAVE A RIGHT
18 TO BE ABLE TO LAY THE FOUNDATION.

19 MR. RIVIN: YOUR HONOR, THIS WITNESS HAS NO
20 ADMISSIBLE OPINIONS. SO THE FOUNDATION IS IRRELEVANT.

21 THE COURT: LET'S HEAR WHAT HE HAS TO SAY, SUBJECT
22 TO OBJECTIONS.

23 MR. SHAW: THANK YOU, YOUR HONOR.

24 Q OKAY. THIS WAS A DOCUMENT THAT WAS PREPARED
25 BY OR FOR COAST TO COAST; IS THAT CORRECT?

26 MR. RIVIN: LACK OF FOUNDATION.

1 THE WITNESS: THIS IS A DOCUMENT --

2 THE COURT: OVERRULED.

3 THE WITNESS: COAST TO COAST DISTRIBUTED IT IN ONE
4 OF THEIR MEETINGS, THEIR NATIONAL CONFERENCES, TO THE
5 ATTENDEES OF THAT CONFERENCE.

6 BY MR. SHAW: Q AND YOU WERE PRESENT?

7 A I WAS NOT PRESENT.

8 Q DID YOU GET A COPY OF THAT?

9 A I DID.

10 Q AND THAT WAS BACK IN THE 1993 TIME PERIOD?

11 A RIGHT.

12 Q OKAY. NOW, IT TALKS ABOUT THE R.P.I. --
13 WHERE YOU'RE LOCATED, IN LONG BEACH.

14 C.E.O., PRESIDENT, THAT'S YOU, MR. DAWSON?

15 A RIGHT.

16 Q AND YOU MENTIONED THAT MR. KEMP WAS INVOLVED
17 IN THE COMPANY?

18 A RIGHT.

19 Q THAT'S MR. RICHARD KEMP?

20 AND AT THIS POINT IN TIME IN 1993 YOU HAD
21 APPROXIMATELY 20 EMPLOYEES?

22 A CORRECT.

23 Q PROJECTED SALES?

24 A CORRECT.

25 Q AND THEN IT TALKS ABOUT THE 95,000 MEMBERS.
26 IT SAYS, 1991 U.S. TRAILS PURCHASED THE RESORT SERVICES

1 GROUP 276 R.P.I. CAMP RESORTS IN THE UNITED STATES. 42
2 FULL SERVICE CONDOMINIUMS, TIME-SHARE RESORTS IN NACO.

3 IS THIS THE INITIALS FOR NATIONAL AMERICA --

4 A NATIONAL AMERICAN CORPORATION, THAT'S RIGHT.

5 Q IT HAS A TOTAL OF 357. AND THEN 39 THOUSAND
6 TRAIL RESORTS WITH LIMITED BASIS USAGE. AND IT SAYS,
7 "R.P.I. PROVIDES RECIPROCAL SERVICE IN CONJUNCTION WITH
8 MEMBERSHIP IN A HOME RESORT."

9 WHAT DID YOU UNDERSTAND THAT TO MEAN WHEN
10 YOU RECEIVED THIS COAST TO COAST DOCUMENT BACK IN 1993?

11 A THAT THAT'S EXACTLY WHAT WE DO. WE PROVIDE
12 A -- WE PROVIDE SERVICES WITH A HOME RESORT AGREEMENT. AND
13 OUR CONTRACT SO STATES THAT. WE DON'T SAY YOU'RE A MEMBER.
14 WE DON'T SAY ANYTHING. WE SIMPLY ARE A SERVICE COMPANY
15 THAT PROVIDES SERVICES, THE SAME SERVICES THAT COAST TO
16 COAST PROVIDES, BUT WE DO IT IN A COMPLETELY DIFFERENT
17 WAY. BECAUSE IT'S A SERVICE COMPANY. AND YOU HAVE NO
18 VALUE IN THAT MEMBERSHIP, IF YOU WANT TO CALL IT THAT --

19 MR. RIVIN: OBJECTION. THE WITNESS IS GOING --

20 THE COURT: WHICH MEMBERSHIP ARE YOU REFERRING TO?

21 THE WITNESS: IN THE R.P.I. OR COAST TO COAST
22 MEMBERSHIP, HAS NO VALUE TO IT. THEY CAN'T SELL IT.

23 MR. RIVIN: OBJECTION.

24 THE COURT: THE OBJECTION IS SUSTAINED.

25 BY MR. SHAW: Q AND YOU KNOW ABOUT THE -- YOU KNOW
26 ABOUT THE COAST TO COAST MEMBERSHIP, DON'T YOU, SIR?

1 A YES.

2 Q COAST TO COAST MEMBERSHIP IS THE SAME
3 MEMBERSHIP, RECIPROCAL USE, AS R.P.I.?

4 A YES.

5 MR. RIVIN: OBJECTION. LACK OF FOUNDATION.
6 IMPROPER LEGAL OPINION.

7 THE COURT: SUSTAINED.

8 MR. SHAW: WELL, YOUR HONOR, HE HAS ALREADY
9 TESTIFIED THAT HE KNOWS ABOUT THE COAST TO COAST
10 MEMBERSHIP. AND IT'S THE SAME MEMBERSHIP AS R.P.I. I'M
11 JUST LAYING -- I'M JUST ASKING HIM A QUESTION ABOUT THIS
12 PARTICULAR DOCUMENT.

13 MR. RIVIN: THE ISSUE, YOUR HONOR, IS THE OPINIONS --

14 THE COURT: I SUSTAINED THE OBJECTION.

15 MR. RIVIN: THANK YOU.

16 BY MR. SHAW: Q IT SAYS YOU MUST BE A MEMBER OF AN
17 AFFILIATE RESORT BEFORE YOU'RE ELIGIBLE TO JOIN R.P.I.?

18 A CORRECT.

19 Q DO YOU SEE THAT?

20 SO WITHOUT THE RESORT, YOU CAN'T JOIN
21 R.P.I.; CORRECT?

22 A CORRECT.

23 THE COURT: APPROACH, GENTLEMEN.

24 (DISCUSSION OFF THE RECORD.)

25 BY MR. SHAW: Q LET'S STAY WITH THIS DOCUMENT FOR
26 A MINUTE, MR. DAWSON.

1 LET'S LOOK AT PAGE 4145, IF YOU COULD,
2 MR. O'CONNOR, FOR ME. THE NEXT PAGE, IF YOU COULD.

3 THIS, AGAIN, IS EXHIBIT 1644, THE DOCUMENT
4 PREPARED BY COAST TO COAST.

5 DOES THIS BACK IN 1993 ACCURATELY REFLECT TO
6 YOUR KNOWLEDGE THE NUMBER OF R.P.I. RESORTS, CONDOMINIUMS
7 AND SUCH THAT WAS IN YOUR RECIPROCAL USE SYSTEM?

8 A IT CHANGES EVERY DAY. BASICALLY IT WOULD
9 REFLECT IT. WE GOT UP AS HIGH AS 396, BUT IT FLUCTUATES
10 ALL THE TIME. RESORTS COME IN AND OUT.

11 Q AND SO EARLIER ON THE EARLIER PAGE -- AND I
12 WON'T GO BACK TO IT RIGHT NOW -- IT SAID 396, BUT HERE IN
13 COAST TO COAST -- THIS WASN'T A DOCUMENT THAT YOU PREPARED,
14 WAS IT?

15 A NO.

16 Q IT SAYS 318. AND THEN IT SAYS 226 IN COAST
17 TO COAST.

18 DID R.P.I. HAVE RESORTS IN ITS SYSTEM THAT
19 WERE ALSO IN THE COAST TO COAST SYSTEM?

20 A YES. THERE ARE A LOT OF DUAL AFFILIATES.

21 Q AND WHAT DOES THAT MEAN?

22 A THE RESORT BELONGS TO BOTH SYSTEMS.

23 Q SO SOMEONE IF I'M -- IF I'M A MEMBER OF A
24 RESORT, I COULD BELONG TO THE R.P.I. RECIPROCAL USE SYSTEM
25 AND ALSO BELONG TO THE COAST TO COAST SYSTEM?

26 A YES.

1 Q AND IF I BELONGED TO BOTH, THERE WOULD BE
2 226 THAT WERE ALSO COAST TO COAST RESORTS, AND THEN THERE'S
3 ANOTHER -- WHATEVER THE DIFFERENCE IS BETWEEN 226 AND 318,
4 THAT WOULD BE -- THAT DIFFERENCE WOULD BE ONLY R.P.I. AND
5 NOT COAST TO COAST?

6 A CORRECT.

7 MR. RIVIN: YOUR HONOR, I THINK THERE IS A LACK OF
8 FOUNDATION FOR THIS. ALSO THIS GOES BACK TO 1993. SO I
9 DON'T THINK THIS NECESSARILY IS RELEVANT.

10 THE COURT: SUSTAINED ON THAT GROUND. RELEVANCY.

11 BY MR. SHAW: Q NOW, LET'S GO BACK TO THE PAGE,
12 THE FIRST PAGE, IF YOU WOULD. YOU CAN GO DOWN TO WHERE IT
13 SAYS, "R.P.I. PROVIDES RECIPROCAL SERVICE." THANK YOU.

14 ONE OF THE AREAS THAT YOU WERE ASKED TO GIVE
15 AN OPINION IN THIS CASE WAS WHETHER IN YOUR INDUSTRY THE
16 MEMBERS THAT ARE REFERRED TO THERE, THE MEMBERSHIP IN A
17 HOME RESORT, WHETHER OR NOT THAT'S A PROTECTED ASSET. YOU
18 WERE ASKED TO GIVE AN OPINION IN THAT AREA?

19 A YES. AND IT IS A PROTECTED ASSET IN OUR
20 OPINION.

21 MR. RIVIN: YOUR HONOR, MAY WE HAVE A SIDE BAR,
22 YOUR HONOR?

23 THE COURT: YOU MAY.

24 (DISCUSSION OFF THE RECORD.)

25 MR. RIVIN: YOUR HONOR, MOVE TO STRIKE THE
26 WITNESS'S LAST ANSWER ON THE BASIS THAT IT WAS NOT

1 RESPONSIVE TO THE QUESTION.

2 THE COURT: THAT MOTION IS GRANTED.

3 BY MR. SHAW: Q AND YOU ALSO HAVE BEEN ASKED TO
4 FORMULATE AN OPINION AS TO THE EFFECT OF THE ASSIGNMENT OF
5 PLAINTIFFS' MEMBERS TO OTHER COAST TO COAST AFFILIATED
6 RESORTS?

7 AND THAT'S A YES OR NO. YOU'VE BEEN --

8 A YES.

9 Q YOU'VE BEEN ASKED TO FORMULATE AN OPINION IN
10 THAT REGARD?

11 AND HAVE YOU RENDERED -- ARE YOU PREPARED TO
12 GIVE AN OPINION HERE TODAY --

13 A YES.

14 Q -- ON THAT SUBJECT?

15 NOW, I WANT YOU TO WAIT TILL I GET THE
16 QUESTION OUT, AND MR. RIVIN HAS ALREADY INDICATED THAT HE
17 IS GOING TO MAKE AN OBJECTION. SO I'D LIKE YOU TO JUST LET
18 ME GET MY QUESTION OUT, AND THEN MR. RIVIN WILL MAKE HIS
19 OBJECTION BEFORE YOU RESPOND, IF THE COURT ALLOWS IT.

20 WHAT IS YOUR OPINION OF THE EFFECT OF THE
21 ASSIGNMENT OF THE PLAINTIFFS' MEMBERS, THE MASS TRANSFER OF
22 35,000 MEMBERS FROM THE PLAINTIFFS' RESORTS TO OTHER COAST
23 TO COAST AFFILIATED RESORTS?

24 MR. SHERMAN: OBJECTION. LACK OF FOUNDATION.

25 THE COURT: SUSTAINED.

26 BY MR. SHAW: Q I'D LIKE TO LOOK AT SOME TESTIMONY

1 FROM MR. RYMAN WHEN HE WAS HERE ON JUNE 1ST, MR. DAWSON.

2 THE COURT: TELL YOU WHAT, WE'VE GOT TO TAKE A
3 BREAK SOMETIME THIS MORNING. I KNOW WE'VE ONLY WORKED FOR
4 ABOUT AN HOUR. BUT LET'S DO IT NOW. TAKE OUR 20 MINUTES.

5 (RECESS TAKEN.)

6 (THE FOLLOWING PROCEEDINGS WERE HELD IN
7 OPEN COURT OUT OF THE PRESENCE OF THE JURY:)

8 MR. RIVIN: YOUR HONOR, I WOULD LIKE TO AVOID WHAT
9 WE WENT THROUGH SO FAR THIS MORNING. I WOULD IMAGINE YOUR
10 HONOR WOULD, TOO. I HAVE SEVERAL CONCERNS.

11 I THINK THAT MR. SHAW IS ATTEMPTING TO GET
12 EVIDENCE IN OR GET THE WITNESS TO TESTIFY AS TO HIS
13 OPINIONS INDIRECTLY, WHEN THE COURT IS PROHIBITING IT
14 DIRECTLY. AND I DON'T THINK THAT'S APPROPRIATE.

15 ALSO, THE INFORMATION THAT MR. SHAW HAS
16 SHOWN ON THE SCREEN THAT MR. DAWSON SUPPOSEDLY RELIED UPON
17 IS NOT RELEVANT BECAUSE THE OPINIONS OF MR. DAWSON ARE NOT
18 ADMISSIBLE. AND IF THEY'RE -- IF THE OPINIONS ARE NOT
19 ADMISSIBLE, THEN THE FOUNDATIONAL INFORMATION SIMPLY IS NOT
20 RELEVANT.

21 THE OTHER THING, THE OTHER ISSUE THAT I
22 RAISED WITH THE COURT AT SIDEBAR AND THAT I'VE EXPRESSED IN
23 COMMENTS WHILE THE WITNESS IS TESTIFYING, IS THAT THE
24 WITNESS HAS A TENDENCY TO GO BEYOND THE QUESTION IN
25 ANSWERING, ESPECIALLY WHEN IT ALLOWS HIM TO TRY AND SNEAK
26 IN AN OPINION. AND THAT'S INAPPROPRIATE. AND I WOULD ASK

1 THAT THE COURT ADMONISH THE WITNESS AND ALSO ASK MR. SHAW
2 TO STOP TRYING TO GET IN INDIRECTLY WHAT HE CAN'T GET IN.

3 THE COURT: THANK YOU.

4 YOU'RE SO ADMONISHED.

5 THE WITNESS: THANK YOU.

6 MR. SHAW: THANK YOU, YOUR HONOR. WE'RE READY.

7 THE COURT: BRING THE JURY IN.

8 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
9 COURT IN THE PRESENCE OF THE JURY:)

10 THE COURT: FIRE AT WILL.

11 WHO'S WILL, HUH?

12 BY MR. SHAW: Q MR. DAWSON, LET'S TALK ABOUT THE
13 INDUSTRY AND WHO USES THE RECIPROCAL SYSTEM.

14 WHO ARE THE PEOPLE THAT USE THE RECIPROCAL
15 SYSTEM?

16 MR. RIVIN: OBJECTION, YOUR HONOR. THIS IS
17 CUMULATIVE.

18 THE COURT: SUSTAINED.

19 BY MR. SHAW: Q NOT EVERYBODY USES THE SYSTEM FULL
20 TIME, DO THEY?

21 A NO.

22 MR. RIVIN: SAME OBJECTION. WE'VE HEARD ALL THIS
23 FROM MR. MITCHELL.

24 THE COURT: SUSTAINED.

25 BY MR. SHAW: Q LET'S LOOK AT MR. RYMAN'S
26 TESTIMONY ON JUNE 1, 2000, SPECIFICALLY PAGE 2430.

1 MR. RIVIN: YOUR HONOR, I FAIL TO SEE THE RELEVANCE
2 OF THIS WITNESS LOOKING AT MR. RYMAN'S TESTIMONY. I DON'T
3 THINK THAT FOUNDATION --

4 THE COURT: I DON'T KNOW WHAT HE IS REFERRING TO
5 YET.

6 MR. SHAW: 2430.

7 THE COURT: I MEANT TO SAY WAIT UNTIL THE ANSWER IS
8 POSED -- I MEANT TO SAY THE QUESTION IS POSED.

9 BY MR. SHAW: Q LET'S -- IT'S 2430. THAT'S THE
10 WAY IT'S PAGINATED. OKAY. THANK YOU.

11 LET'S START WITH LINE 21 WHERE MR. SHERMAN
12 ASKS MR. RYMAN, "QUESTION: I'D LIKE TO NOW MOVE,
13 MR. RYMAN, TO THE SUBJECT OF ORPHANS. YOU'VE HEARD THAT
14 TERM BEFORE USED IN THE CONTEXT OF THE RECIPROCAL
15 MEMBERSHIP BUSINESS?

16 "ANSWER: I HAVE."

17 THIS IS -- YOU'RE INVOLVED IN THE RECIPROCAL
18 MEMBERSHIP BUSINESS, MR. DAWSON?

19 A YES.

20 Q "QUESTION: WHAT IS AN ORPHAN?

21 "ANSWER: AN ORPHAN'S A SLANG TERM THAT WAS
22 IN THE" --

23 MR. O'CONNOR CAN YOU --

24 THE WITNESS: INDUSTRY.

25 MR. SHAW: "IN THE INDUSTRY WHEN I CAME. AND IT'S
26 ALWAYS REFERRED TO. AND -- AND WHAT IT IS IS A -- A COAST

1 TO COAST MEMBER WHOSE HOME RESORT IS NO LONGER AFFILIATED
2 WITH COAST TO COAST FOR ANY REASON," END OF QUOTES.

3 Q MR. DAWSON, IN YOUR INDUSTRY, THE SAME
4 INDUSTRY AS MR. RYMAN'S, IS THERE SUCH A TERM KNOWN AS
5 "ORPHANS"?

6 MR. RIVIN: OBJECTION. CUMULATIVE. IMPROPER
7 EXPERT OPINION.

8 THE COURT: I'M GOING TO OVERRULE THAT.

9 BY MR. SHAW: Q IS THERE A SLANG TERM KNOWN AS
10 "ORPHANS"?

11 THE COURT: THAT CAN BE ANSWERED YES OR NO.

12 THE WITNESS: YES. THERE'S A SLANG TERM.

13 BY MR. SHAW: Q AND WHAT DOES THAT SLANG TERM
14 MEAN?

15 A THAT MEANS SOMEONE WHO IS NOT PAYING DUES TO
16 A HOME PARK.

17 Q AND WHEN IT SAYS -- IS THERE SOME WAY THAT
18 THE INDUSTRY TREATS -- IS THERE AN INDUSTRY CUSTOM AND
19 PRACTICE FOR TREATING ORPHANS?

20 MR. RIVIN: YOUR HONOR, THIS IS IRRELEVANT. THE
21 ISSUE IS THE -- THE ISSUE IN THIS CASE IS THE COAST ORPHAN
22 PROGRAM, NOT ANY INDUSTRY.

23 THE COURT: I'M GOING TO ALLOW THE ANSWER.

24 GO AHEAD. PROCEED.

25 MR. SHAW: YOUR HONOR, I REALLY OBJECT TO MR. RIVIN
26 MAKING SPEAKING OBJECTIONS. I TRY --

1 THE COURT: ALL RIGHT. PROCEED.

2 MR. SHAW: -- NOT TO MAKE A SPEECH.

3 THE WITNESS: IF A PERSON ISN'T PAYING HIS DUES AND
4 HE IS USING THE SYSTEM, IN ESSENCE HE IS CHEATING. THAT'S
5 AN OPINION, HOWEVER YOU WANT TO SAY IT. HE IS USING THE
6 SYSTEM AND NOT PAYING HOME PARK DUES, AND THAT PENALIZES
7 THE OTHER MEMBERS THAT ARE IN THE SYSTEM USING IT
8 LEGITIMATELY.

9 AND SO, THEREFORE, YOU PLACE THE BURDEN ON
10 THE PEOPLE WHO ARE PAYING THEIR DUES, AND YOU HAVE PEOPLE
11 FLOATING IN THE SYSTEM WHO ARE NOT PAYING DUES. AND SO
12 THESE GUYS -- SOMEBODY HAS TO PAY THE OVERHEAD. SOMEBODY
13 HAS TO PAY THE OPERATING COSTS. AND SO THAT'S WHAT
14 HAPPENS.

15 AND THE ORPHAN IS A NICE WAY OF SAYING IT,
16 BUT IT'S REALLY -- WHAT YOU'RE REALLY DOING IS BURDENING
17 THE GUY WHO IS DOING IT STRAIGHT BECAUSE THIS PARK HAS BEEN
18 CLOSED OR THIS PERSON HAS DROPPED OUT OR HE HAS KEPT HIS
19 COAST TO COAST MEMBERSHIP AND IS JUST FLOATING AROUND IN
20 THE SYSTEM IN THAT.

21 BY MR. SHAW: Q OKAY. SO HE IS GOING -- AND LET'S
22 USE THE TERM -- OR LET'S USE -- YOU'VE GOT 35,000 MEMBERS
23 THAT DON'T HAVE A HOME RESORT. THEY'RE JUST OUT THERE
24 USING THE SYSTEM AS ORPHANS, NOT PAYING DUES TO ANY OF THE
25 PARKS, BUT USING THE PARKS; CORRECT?

26 MR. RIVIN: OBJECTION. LACK OF FOUNDATION.

1 THE COURT: SUSTAINED.

2 BY MR. SHAW: Q LET ME ASK YOU THIS HYPOTHETICAL:
3 BASED ON YOUR ANSWER ABOUT THESE ORPHANS, THESE ARE PEOPLE
4 THAT AREN'T PAYING DUES TO ANY PARK; SO THEY'RE CHEATING
5 THE OTHER MEMBERS BECAUSE THEY'RE NOT PAYING DUES AT A PARK
6 TO BE USED FOR THE UPKEEP AND THE WATER AND ELECTRICITY AND
7 THINGS OF THAT NATURE. THEY'RE JUST OUT THERE, BUT THEY
8 WALK IN AND USE THE PARK ANYWAY, AND THAT PUTS THE BURDEN
9 ON THE REMAINING MEMBERS WHO ARE THERE TRYING TO PAY THE
10 OVERHEAD AND KEEP THE PARK GOING; CORRECT?

11 A CORRECT.

12 Q NOW, WHEN YOU'VE GOT -- MY HYPOTHETICAL IS
13 IF YOU'VE GOT 35,000 ORPHAN MEMBERS WHO AREN'T PAYING DUES
14 TO ANYBODY'S PARKS BUT ARE OUT THERE USING ALL OF THE OTHER
15 PARKS, THAT'S WHAT YOU'RE TALKING ABOUT, AS FAR AS CHEATING
16 THE OTHER MEMBERS; CORRECT?

17 A RIGHT.

18 MR. RIVIN: OBJECTION. LACK OF FOUNDATION.

19 THE WITNESS: CORRECT.

20 MR. RIVIN: IMPROPER HYPOTHETICAL.

21 THE COURT: SUSTAINED.

22 BY MR. SHAW: Q NOW, LET'S GO ON TO MR. RYMAN'S
23 TESTIMONY ON JUNE 1. AND LET'S GO TO PAGE 2442.

24 LINE 17, MR. O'CONNOR.

25 "QUESTION: WELL, LET'S JUST FOCUS NOW ON
26 DEVELOPERS SUCH AS MR. BUTLER WHO TOOK IN SOME ORPHANS.

1 "WHAT KINDS OF ARRANGEMENTS DOES COAST MAKE
2 WITH THOSE DEVELOPERS IN CONNECTION WITH THE ORPHAN
3 PROGRAM?

4 "ANSWER" -- MR. RYMAN'S ANSWER --

5 MR. RIVIN: YOUR HONOR, COULD WE HAVE A QUESTION AS
6 OPPOSED TO MR. SHAW JUST READING TESTIMONY?

7 THE COURT: WHAT WOULD THE QUESTION BE?

8 MR. SHAW: I'M ASKING HIM TO REVIEW THE TESTIMONY.
9 I'M GOING TO ASK HIM SOME QUESTIONS ABOUT MR. RYMAN'S
10 TESTIMONY.

11 THE COURT: OKAY.

12 MR. SHAW: "ANSWER: WE ALWAYS MAKE AN
13 ARRANGEMENT -- AND I'M NOT DOWN AT THE -- IN THE TRENCHES
14 WITH IT. BUT THE REGIONAL DIRECTORS THAT WORK FOR THE
15 VICE-PRESIDENT, THEY -- THEY HAVE DAY-TO-DAY CONTACTS WITH
16 ALL OF THE RESORTS ALL OVER THE COUNTRY. THEY GO TALK TO
17 THE DEVELOPERS, NORMALLY, GENERALLY IN A REGION THERE. AND
18 THEY WILL SAY, 'WILL YOU TAKE SOME? AND IF -- IF THEY COME
19 TO YOU, WE WANT YOU TO GIVE THEM A GOOD DEAL.'

20 "IN SOME CASES IT'S -- MORE AND MORE AS THE
21 INDUSTRY HAS BEEN DECLINING, IT'S COME TO WHERE THEY ARE
22 JUST HAPPY TO HAVE A DUES-PAYING MEMBER, AND THEY WILL BE
23 HAPPY TO TAKE THEM AND HOST THEM AS A COAST TO COAST -- OR
24 AS A HOME RESORT MEMBER, AS WELL.

25 "QUESTION: SO WHEN YOU SAY, THEY ARE JUST
26 HAPPY TO HAVE A DUES-PAYING MEMBER, WHAT HAPPENS TO THE

1 INITIATION FEES AND ALL THOSE HIGH UP-FRONT FEES?

2 "ANSWER: THERE IS NONE AT THAT TIME.

3 "QUESTION: AND THERE'S NONE AT THAT TIME

4 WHY?

5 "ANSWER: BECAUSE WE HAVE MADE ARRANGEMENTS

6 WITH THE DEVELOPER TO DO IT THAT WAY."

7 NOW, IS THERE ANYTHING WRONG WITH TREATING

8 THE ORPHANS IN THAT WAY, AS MR. RYMAN TESTIFIED ON JUNE 1ST?

9 MR. RIVIN: OBJECTION. IMPROPER EXPERT OPINION.

10 LACK OF FOUNDATION.

11 THE COURT: SUSTAINED.

12 MR. SHAW: YOUR HONOR, THIS IS REBUTTAL FOR

13 TESTIMONY THAT WAS GIVEN ON JUNE 1ST.

14 THE COURT: AS AN EXPERT?

15 MR. SHAW: AS AN EXPERT. SOMEONE THAT'S HERE AS AN

16 EXPERT -- THAT TESTIMONY WAS GIVEN ON JUNE 1ST, AND I HAVE

17 AN EXPERT NOW TESTIFYING AS TO WHY IT MAY BE CORRECT OR WHY

18 IT ISN'T CORRECT.

19 MR. RIVIN: THIS IS NOT APPROPRIATE FOR EXPERT

20 TESTIMONY, YOUR HONOR, AND CERTAINLY NOT FOR THIS WITNESS.

21 THE COURT: I'M GOING TO SUSTAIN THE OBJECTION.

22 BY MR. SHAW: Q DOES R.P.I. EVER MAKE DEALS WITH

23 DEVELOPERS NOT TO TAKE ANY FEES JUST SO THEY CAN HAVE A

24 PLACE FOR 35,000 ORPHAN MEMBERS?

25 MR. RIVIN: OBJECTION. IRRELEVANT. ARGUMENTATIVE.

26 THE COURT: SUSTAINED.

1 BY MR. SHAW: Q THE ISSUE THAT YOU TESTIFIED
2 PREVIOUSLY IS THAT WHEN THESE 35,000 MEMBERS THAT ARE
3 ORPHANS DON'T PAY THE KIND OF FEES TO KEEP UP THE PARKS,
4 THERE'S A BURDEN ON THE MEMBERS THAT REMAIN WITH THOSE
5 PARKS; CORRECT?

6 A CORRECT.

7 MR. RIVIN: LACK OF FOUNDATION.

8 THE COURT: IT'S BEEN ASKED AND ANSWERED.

9 BY MR. SHAW: Q AND IS WHAT MR. RYMAN TALKING
10 ABOUT HERE IN THIS TESTIMONY STILL PUTTING A BURDEN ON THE
11 PARKS?

12 MR. RIVIN: OBJECTION.

13 THE WITNESS: THE SAME THING.

14 MR. RIVIN: IMPROPER EXPERT TESTIMONY. MOVE TO
15 STRIKE THE WITNESS'S ANSWER.

16 THE COURT: MOTION GRANTED.

17 BY MR. SHAW: Q IN YOUR OPINION DOES COAST TO
18 COAST HAVE THE RIGHT TO TAKE THE PLAINTIFFS' MEMBERS -- AND
19 IF THEY COME TO YOU, WE WANT TO GIVE THEM A GOOD DEAL; DO
20 THEY HAVE THE RIGHT TO TAKE -- USING MR. RYMAN'S WORDS,
21 TAKE THE PLAINTIFFS' MEMBERS --

22 MR. RIVIN: OBJECTION.

23 BY MR. SHAW: Q -- TRANSFER THEM TO ANOTHER
24 RESORT, AND MAKE A DEAL WITH THAT RESORT TO TAKE THEM FOR
25 NO OR LITTLE FEES?

26 MR. RIVIN: OBJECTION. LACK OF FOUNDATION.

1 THE WITNESS: NO.

2 MR. RIVIN: IMPROPER EXPERT OPINION.

3 THE COURT: WAIT UNTIL I RULE BEFORE YOU ANSWER.

4 THE OBJECTION IS SUSTAINED.

5 MR. RIVIN: COULD WE TAKE -- I DIDN'T REALIZE
6 THERE WAS AN ANSWER. BUT IF THERE WAS ONE, COULD WE GET IT
7 STRICKEN?

8 THE COURT: MOTION GRANTED. THE ANSWER IS STRICKEN.

9 MR. RIVIN: COULD YOUR HONOR ADMONISH THE WITNESS?

10 THE COURT: HE UNDERSTOOD THAT.

11 BY MR. SHAW: Q LET'S LOOK AT EXHIBIT -- I'M
12 SORRY, MR. O'CONNOR. IT'S THE NOVEMBER 5TH, 1997, LETTER,
13 FOR MR. RYMAN.

14 MR. RIVIN: COULD YOU TELL US WHAT EXHIBIT NUMBER
15 IT IS?

16 MR. SHAW: 1563-0153.

17 MR. RIVIN: THANK YOU.

18 BY MR. SHAW: Q MR. DAWSON, I'D LIKE TO TAKE YOU
19 BACK TO THIS TIME PERIOD IN 1997, AND I'D LIKE TO ASK YOU
20 SOME QUESTIONS ABOUT YOUR PERSONAL KNOWLEDGE OF THAT TIME
21 PERIOD.

22 YOU HAD DISCUSSIONS WITH MR. NOVELLI IN OR
23 ABOUT JULY OR AUGUST OF 1997 ABOUT DOING BUSINESS WITH HIS
24 RESORTS IN OFFERING THEM A RECIPROCAL USE SYSTEM?

25 A YES.

26 Q AND THOSE DISCUSSIONS MOVED TO THE POINT

1 WHERE THERE WAS AN ORAL AGREEMENT?

2 A YES.

3 Q AND SO MR. NOVELLI -- YOU WERE GOING TO BE
4 PROVIDING THE SAME RECIPROCAL USE SYSTEMS THAT COAST TO
5 COAST WAS, BUT YOU WERE GOING TO BE PROVIDING THEM FOR SOME
6 OF PLAINTIFFS' RESORTS DURING THAT TIME PERIOD?

7 A YES, WITH RESERVATIONS.

8 Q WHEN YOU SAY, "WITH RESERVATIONS," YOU MEAN
9 WITH THE KIND THAT YOU DIAL THE PHONE AND CALL IN AND SAY,
10 "I WANT TO BE IN DEER RUN PARK ON JULY 4TH"?

11 A RIGHT.

12 Q OKAY.

13 A YOU COULDN'T JUST USE THE SYSTEM WITHOUT A
14 RESERVATION.

15 Q NOW, DURING THIS TIME PERIOD, YOU SAW THIS
16 NOVEMBER 5TH, 1997, LETTER FROM MR. RYMAN?

17 A YES.

18 Q AND IT SAYS -- AND IF -- MR. O'CONNOR, IF
19 YOU COULD GIVE ME THE SECOND TO THE LAST PARAGRAPH.

20 IT SAYS, "ADDITIONALLY, WE BELIEVE IT'S OUR
21 RESPONSIBILITY TO ALERT YOU TO NEWLY FORMED RECIPROCAL
22 NETWORKS THAT MAY BE SOLICITING YOUR PARTICIPATION BUT DO
23 NOT HAVE THE INFRASTRUCTURE TO PROVIDE THE QUALITY OF
24 MEMBER SERVICE YOU REQUIRE AND DESERVE."

25 WHEN YOU READ THIS IN OR ABOUT 1997, DID YOU
26 HAVE ANY UNDERSTANDING AS TO WHO MR. RYMAN WAS TALKING

1 ABOUT WITH THESE NEWLY FORMED RECIPROCAL NETWORKS?

2 MR. RIVIN: OBJECTION. THAT QUESTION CALLS FOR
3 SPECULATION. AND IT'S ALSO IRRELEVANT.

4 THE COURT: SUSTAINED.

5 BY MR. SHAW: Q LET'S GO BACK UP TO THE FIRST --
6 THE LAST SENTENCE OF THE FIRST PARAGRAPH.

7 "WHILE WE CANNOT UNDO THE ACTIONS OF OTHERS,
8 WE ARE PREPARED TO TAKE ACTION TO PRESERVE AND PROTECT THE
9 MEMBERS" -- "THE MEMBERS OF OUR FAMILY.

10 LET ME JUST STOP THERE, MR. DAWSON, AND GIVE
11 US SOME CONTEXT.

12 WE'VE HAD A LOT OF TESTIMONY IN THIS CASE
13 FROM LETTERS, LETTERS FROM MEMBERS DURING THIS TIME PERIOD
14 ABOUT AN ISSUE OF DISSOLUTION, AND THOSE MEMBERS WERE NOT
15 HERE IN THE COURTROOM. BUT THEY SENT SOME LETTERS IN, AND
16 THEY WERE TALKING ABOUT ISSUES HAVING TO DO WITH THIS
17 DISSOLUTION.

18 NOW, YOU RECEIVED THIS LETTER IN 1997.
19 YOU'RE HERE TO TESTIFY ON CROSS-EXAMINATION BY MR. RIVIN.
20 IN YOUR MIND, WHEN YOU RECEIVED THIS IN 1997, INVOLVED IN
21 THE RECIPROCAL USE SYSTEM, WAS THIS LETTER CONFUSING TO
22 YOU?

23 MR. RIVIN: OBJECTION. IMPROPER EXPERT OPINION.
24 AND IRRELEVANT.

25 THE COURT: SUSTAINED.

26 MR. SHAW: YOUR HONOR, IT'S --

1 THE COURT: I RULED, COUNSEL.

2 MR. SHAW: YOUR HONOR, JUST -- I JUST WANT TO MAKE
3 THE RECORD THAT THIS IS A PERCIPIENT WITNESS WHO RECEIVED
4 THE LETTER, AND WE'VE HAD OTHER LETTERS WITHOUT WITNESSES
5 BEING HERE TESTIFYING ABOUT WHAT THEIR -- SO THANK YOU. I
6 APPRECIATE YOU LETTING ME MAKE THAT STATEMENT.

7 Q COULD THIS LETTER IN YOUR MIND BE CONFUSING
8 TO MEMBERS?

9 MR. RIVIN: THE SAME OBJECTIONS. AND ALSO CALLS
10 FOR SPECULATION.

11 THE COURT: SUSTAINED.

12 BY MR. SHAW: Q WOULD R.P.I. EVER WRITE A LETTER
13 LIKE THIS?

14 MR. RIVIN: OBJECTION. IRRELEVANT.

15 THE COURT: SUSTAINED.

16 BY MR. SHAW: Q IN YOUR OPINION, AS THE CHAIRMAN
17 OF A RECIPROCAL USE SYSTEM COMPANY IN THE INDUSTRY, IS THIS
18 KIND OF A LETTER GOOD FOR THE INDUSTRY?

19 MR. RIVIN: OBJECTION. IRRELEVANT. IMMATERIAL.
20 IMPROPER EXPERT OPINION.

21 THE COURT: SUSTAINED.

22 BY MR. SHAW: Q LET'S TAKE MR. RYMAN'S LETTER AND
23 LET'S LOOK AT HIS LETTER --

24 A OKAY.

25 Q -- AND WHAT YOUR PERCIPIENT KNOWLEDGE WAS
26 DURING THAT TIME PERIOD.

1 TO YOUR KNOWLEDGE, WAS THERE ANY DISSOLUTION
2 OF THE ALL SEASONS RESORTS SYSTEM?

3 MR. RIVIN: OBJECTION. IRRELEVANT, YOUR HONOR.

4 THE COURT: SUSTAINED.

5 BY MR. SHAW: Q IT'S TRUE, ISN'T IT, MR. DAWSON,
6 THAT THERE WAS NEVER GOING TO BE ANY DISSOLUTION OF THE ALL
7 SEASONS RESORTS BECAUSE YOUR COMPANY WAS GOING TO BE
8 PROVIDING A RECIPROCAL USE SYSTEM FOR THOSE PARKS? ISN'T
9 THAT CORRECT?

10 MR. RIVIN: OBJECTION. IRRELEVANT. IMMATERIAL.
11 IMPROPER ARGUMENT. LACKS FOUNDATION.

12 MR. SHAW: YOUR HONOR, I HAVE THE RIGHT TO BRING A
13 REBUTTAL WITNESS TO TESTIFY THAT THIS LETTER THAT WAS SENT
14 OUT NOVEMBER 5TH, 1997, WAS FALSE, AND IT WAS SENT TO
15 35,000 MEMBERS AND IT WAS FALSE.

16 HERE IS A WITNESS THAT'S TESTIFYING THAT
17 THERE WAS NO DISSOLUTION OF THESE RESORTS. WE'VE HEARD THE
18 BANKRUPTCY TESTIMONY THAT THERE WAS NO DISSOLUTION. AND
19 NOW HE IS GOING TO TESTIFY THAT THEY WERE THERE OFFERING
20 THE SAME RECIPROCAL USE SYSTEM, BUT FOR THIS LETTER THAT
21 SAID THERE WAS A DISSOLUTION.

22 THE COURT: APPROACH, PLEASE.

23 (DISCUSSION OFF THE RECORD.)

24 BY MR. SHAW: Q ALL RIGHT. MR. DAWSON, LET'S GO
25 BACK TO THIS EXHIBIT 1563-0153, AND YOUR RELATIONSHIP, THE
26 DISCUSSIONS THAT WERE TAKING PLACE REGARDING THE ALL

1 SEASONS RESORTS AND THE MEMBERS, AND THE ISSUE OF -- WHERE
2 YOU WERE WITH THIS DISSOLUTION OF ALL SEASONS RESORTS.

3 DURING THAT TIME PERIOD THERE WERE A
4 SIGNIFICANT NUMBER OF MEMBERS OF THESE ALL SEASONS RESORTS,
5 THE PLAINTIFFS' RESORTS; CORRECT?

6 MR. RIVIN: OBJECTION. LACK OF FOUNDATION.

7 THE COURT: I'LL SUSTAIN IT.

8 BY MR. SHAW: Q WERE YOU AWARE THAT THERE WERE
9 MEMBERS ALL SEASONS RESORT MEMBERS DURING THAT TIME PERIOD?

10 A YES.

11 Q AND HOW WERE YOU AWARE OF THAT?

12 A I KNEW THERE WERE A HUNDRED THOUSAND MEMBERS
13 FROM THEIR MEMBERSHIP ROSTER.

14 Q FROM "THEIR," MEANING THE PLAINTIFFS'
15 MEMBERSHIP ROSTER?

16 A CORRECT.

17 MR. RIVIN: OBJECTION. COULD WE ESTABLISH SOME
18 FOUNDATION FOR THIS? IT'S HEARSAY.

19 THE COURT: LET'S DO THAT. ESTABLISH SOME
20 FOUNDATION, PLEASE.

21 BY MR. SHAW: Q AND YOU HAD DISCUSSIONS WITH
22 MR. NOVELLI?

23 A YES, WE DID.

24 Q ABOUT HIS PULLING THE ALL SEASONS RESORTS
25 MEMBERS OUT OF THE COAST TO COAST SYSTEM AND DOING BUSINESS
26 WITH YOUR COMPANY, R.P.I.; CORRECT?

1 A YES.

2 Q AND AS FAR AS YOU KNOW, THOSE MEMBERS,
3 THEN -- THOSE ALL SEASONS RESORT MEMBERS WERE GOING TO GO
4 INTO YOUR SYSTEM; CORRECT?

5 A CORRECT.

6 Q BUT THEN THIS LETTER, 1563, AND ABOUT 34,999
7 LETTERS LIKE THIS WENT OUT TO ALL SEASONS RESORTS MEMBERS
8 AND OTHER MEMBERS; CORRECT?

9 MR. RIVIN: OBJECTION. ARGUMENTATIVE. LACK OF
10 FOUNDATION. IMPROPER --

11 THE COURT: SUSTAINED.

12 BY MR. SHAW: Q YOU KNEW A LOT OF LETTERS WENT
13 OUT, DIDN'T YOU?

14 A YES.

15 Q AND YOU ENDED UP NOT GETTING THE MEMBERS
16 THAT YOU -- THE NUMBER OF MEMBERS THAT YOU HAD ARRANGED
17 WITH MR. NOVELLI AS A RESULT OF THIS LETTER; CORRECT?

18 MR. RIVIN: OBJECTION. IRRELEVANT.

19 THE COURT: SUSTAINED.

20 MR. SHAW: YOUR HONOR, IT GOES TO THE DAMAGE CLAIM.

21 THE COURT: I'VE SUSTAINED IT.

22 BY MR. SHAW: Q LET ME SEE IF I CAN ASK IT ONE
23 MORE TIME, ANOTHER WAY, OF COURSE.

24 YOU HAD AN ARRANGEMENT AT THIS POINT IN TIME
25 ORALLY WITH MR. NOVELLI; CORRECT?

26 A CORRECT.

1 Q AND AS A RESULT OF THAT ARRANGEMENT, ORAL AT
2 THAT TIME, THAT WAS GOING TO BE REDUCED TO WRITING;
3 CORRECT?

4 A CORRECT.

5 Q AT SOME LATER POINT IN TIME?

6 YOU, R.P.I., WAS GOING TO RECEIVE
7 APPROXIMATELY 35,000 COAST TO COAST MEMBERS THAT WERE GOING
8 TO LEAVE THAT SYSTEM AND GO INTO THE R.P.I. SYSTEM;
9 CORRECT?

10 MR. RIVIN: OBJECTION. LACK OF FOUNDATION.

11 THE COURT: SUSTAINED.

12 BY MR. SHAW: Q YOU KNEW THAT A NUMBER WERE GOING
13 TO LEAVE THE COAST TO COAST SYSTEM BECAUSE MR. NOVELLI MADE
14 YOU AWARE OF THE FACT THAT HE WAS PULLING THEM OUT OF THAT
15 SYSTEM AND WAS GOING TO PUT THEM INTO YOUR SYSTEM; CORRECT?

16 MR. RIVIN: OBJECTION. LACK OF FOUNDATION. ALSO
17 HEARSAY.

18 THE COURT: I'LL ALLOW THAT.

19 THE WITNESS: CORRECT.

20 BY MR. SHAW: Q AND INSTEAD OF THOSE -- A
21 SIGNIFICANT NUMBER OF THOSE MEMBERS GOING INTO YOUR SYSTEM,
22 MR. RYMAN'S LETTER WENT OUT; CORRECT?

23 MR. RIVIN: OBJECTION. IRRELEVANT. LACK OF
24 FOUNDATION.

25 THE COURT: OVERRULED.

26 MR. SHAW: YOUR HONOR, IT GOES TO THE DAMAGE

1 ELEMENT.

2 THE COURT: OVERRULED.

3 BY MR. SHAW: Q THIS LETTER, MR. RYMAN'S LETTER,
4 WENT OUT; CORRECT?

5 A CORRECT.

6 Q AND THE NUMBER OF MEMBERS THAT YOU AND
7 MR. NOVELLI HAD TALKED ABOUT COMING INTO YOUR SYSTEM NEVER
8 GOT THERE, DID THEY?

9 MR. RIVIN: OBJECTION. IRRELEVANT. LACK OF
10 FOUNDATION.

11 THE WITNESS: NO.

12 THE COURT: I'LL ALLOW IT. OVERRULED.

13 BY MR. SHAW: Q THEY NEVER GOT THERE, DID THEY?

14 A NO, THEY DID NOT.

15 Q THAT WAS BECAUSE OF MR. RYMAN'S LETTERS
16 GOING OUT?

17 MR. RIVIN: OBJECTION. LACK OF FOUNDATION.

18 THE COURT: SUSTAINED.

19 BY MR. SHAW: Q NOW, LET'S STAY IN THIS 1997 TIME
20 PERIOD. AND I'D LIKE TO TALK ABOUT THE DIFFERENCES BETWEEN
21 R.P.I. AND COAST TO COAST.

22 WE ALREADY SAW FROM EXHIBIT 1644 THE 1993
23 COAST DOCUMENT THAT A LOT OF R.P.I. RESORTS WERE ALSO IN
24 THE COAST TO COAST SYSTEM?

25 A YES.

26 Q WAS THAT TRUE IN 1997?

1 A YES.

2 Q WHAT OTHER DIFFERENCES WERE THERE BETWEEN
3 THE R.P.I. SYSTEM AND THE COAST TO COAST SYSTEM IN 1997?

4 A YOU HAD TO HAVE RESERVATIONS TO USE THE
5 R.P.I. SYSTEM. COAST TO COAST YOU DIDN'T.

6 Q ANYTHING ELSE?

7 A AND R.P.I., WE JUST HAD A DIFFERENT POLICY
8 ABOUT TRANSFERRING MEMBERS. WE DID NO MEMBER TRANSFER.
9 AND WE VIEWED OURSELVES AS A SERVICE COMPANY AND DIDN'T
10 SELL ADDITIONAL SERVICES MIXED INTO MORE INSURANCE, CREDIT
11 WARDS, WARRANTY, ALL OF THAT. WE FELT THE MEMBERS BELONGED
12 TO THE RESORT, NOT US.

13 Q NOW, I'D LIKE TO TAKE YOU TO ABOUT A YEAR
14 AND A HALF AGO. IT WOULD HAVE BEEN SOMETIME IN 1998, 1999,
15 OR EARLIER IN 1999.

16 WERE YOU PERSONALLY CONTACTED BY SOMEONE
17 FROM THE DEFENDANTS TO MANAGE THEIR COMPANY?

18 A YES.

19 Q WHO CONTACTED YOU?

20 A WE WERE CONTACTED BY JOE MC ADAMS.

21 Q AND WHERE DID THIS -- DID A MEETING TAKE
22 PLACE?

23 MR. SHERMAN: OBJECTION, YOUR HONOR. THIS IS NOT
24 RELEVANT.

25 THE COURT: THE OBJECTION IS SUSTAINED ON THE
26 GROUNDS OF RELEVANCY.

1 MR. SHAW: CAN I DEVELOP IT A LITTLE BIT FURTHER TO
2 SHOW THE RELEVANCE?

3 THE COURT: I'VE SUSTAINED THE OBJECTION. ASK THE
4 NEXT QUESTION.

5 MR. SHAW: THANK YOU.

6 Q DID YOU MEET WITH ANYONE FROM THE AFFINITY
7 GROUP IN OR ABOUT LATE 1998, 1999?

8 MR. RIVIN: THE SAME OBJECTION. RELEVANCY.

9 THE COURT: I'LL ALLOW IT. ANSWER YES OR NO.

10 THE WITNESS: YES.

11 BY MR. SHAW: Q ONE OF THEM WAS MR. MC ADAMS; WAS
12 THERE ANYBODY ELSE PRESENT?

13 A YES.

14 Q WHO ELSE?

15 A TED DONELLY.

16 Q AND DID YOU UNDERSTAND WHAT THE PURPOSE OF
17 THE MEETING WAS FOR?

18 A YES.

19 Q AND WHO TOLD YOU THAT?

20 A MR. MC ADAMS TOLD ME THAT.

21 Q WHAT DID HE SAY TO YOU?

22 THE COURT: APPROACH, WILL YOU PLEASE?

23 (DISCUSSION OFF THE RECORD.)

24 BY MR. SHAW: Q LET'S JUST FINISH OFF THIS
25 MEETING, THEN.

26 YOU HAD THE MEETING WITH THEM.

1 A YES.

2 Q AND YOU'VE HAD A --

3 MR. RIVIN: ALL OF THIS IS IRRELEVANT, YOUR HONOR.

4 THE COURT: WE'LL WAIT UNTIL I HEAR THE QUESTION.

5 BY MR. SHAW: Q AND YOU'VE HAD A GOOD RELATIONSHIP
6 WITH COAST TO COAST OVER THE YEARS IN YOUR MIND?

7 A CORRECT.

8 Q AND YOU'VE MET WITH THEM FROM TIME TO TIME
9 OVER THE YEARS?

10 A CORRECT.

11 Q AND YOU HAVE KNOWLEDGE ABOUT HOW THEY
12 CONDUCT THEIR BUSINESS IN RELATIONSHIP TO HOW YOU CONDUCT
13 YOUR BUSINESS?

14 A YES.

15 MR. SHAW: YOUR HONOR, I DON'T HAVE ANYTHING
16 FURTHER. THANK YOU.

17 THE COURT: THANK YOU.

18 MR. RIVIN: ARE YOU DONE WITH DIRECT?

19 THE COURT: FIVE MINUTES SHOULD DO IT.

20 JUROR 12: I AGREE.

21 MR. RIVIN: I LOVE CHALLENGES.

22 CROSS-EXAMINATION

23 BY MR. RIVIN: Q MR. DAWSON, WHEN MR. SHAW WAS
24 QUESTIONING YOU, HE ASKED YOU ABOUT AN ORAL AGREEMENT THAT
25 YOU ENTERED INTO WITH MR. NOVELLI?

26 A YES.

1 Q WASN'T THERE A LETTER AGREEMENT AS WELL?

2 A THAT FOLLOWED, YES.

3 Q DID YOU SIGN THAT LETTER AGREEMENT?

4 A I CAN'T REMEMBER WHETHER I SIGNED IT OR
5 DICK KEMP SIGNED IT, OR SOMEBODY SIGNED. BUT IT WAS AN
6 AGREEMENT.

7 Q SO YOU HAD REACHED AN ORAL UNDERSTANDING
8 WITH MR. NOVELLI BEFORE YOU SENT THE LETTER PULLING OUT
9 OF -- YOU HAD REACHED AN UNDERSTANDING WITH MR. NOVELLI
10 BEFORE YOU ENTERED INTO A LETTER AGREEMENT WITH HIM;
11 RIGHT? IS THAT RIGHT?

12 A I'M -- IF I CAN HAVE A MINUTE TO THINK THAT
13 THROUGH.

14 THERE WERE THINGS THAT WERE CHANGED, BUT
15 BASICALLY, YES.

16 Q MR. SHAW ASKED YOU IF YOU WERE TALKING WITH
17 MR. NOVELLI IN JULY AND AUGUST OF 1997. IN FACT, YOU WERE
18 TALKING WITH MR. NOVELLI IN JUNE OF 1997, IF NOT EARLIER;
19 IS THAT RIGHT?

20 A I DON'T BELIEVE THAT'S CORRECT. WE TALKED
21 TO BOB THOMPSON.

22 Q YOU WERE DISCUSSING A DEAL WITH TRAVEL
23 AMERICA AS EARLY AS JUNE OF 1997; ISN'T THAT RIGHT?

24 IS THAT RIGHT?

25 A THAT'S NOT RIGHT. IT WAS NOT TRAVEL
26 AMERICA. WE WERE GOING TO CALL IT SOMETHING ELSE.

1 Q AND WHEN YOU USE THE TERM "WE," WHO ARE YOU
2 REFERRING TO?

3 A MYSELF AND MY PARTNER, AND NOVELLI AND
4 THOMPSON.

5 Q WE'RE GOING TO CALL THIS NEW COMPANY
6 SOMETHING OTHER THAN "TRAVEL AMERICA"?

7 A (WITNESS NODDED HEAD).

8 Q WHAT WERE THE THREE OF YOU GOING TO CALL THE
9 COMPANY INITIALLY?

10 A WE TALKED ABOUT "GOLDEN EAGLE." WE TALKED
11 ABOUT EIGHT OR 10 DIFFERENT NAMES.

12 Q AND YOU FINALLY SETTLED ON TRAVEL AMERICA?

13 A CORRECT.

14 Q WHEN DID TRAVEL AMERICA COME INTO EXISTENCE?

15 A I DON'T KNOW THE ANSWER TO THAT, EXACT DATE.

16 Q IT WAS A NEW COMPANY -- WELL, OBVIOUSLY IT
17 WAS A NEW COMPANY. YOU WERE COMING UP WITH A NAME; ISN'T
18 THAT RIGHT?

19 A WE WERE COMING UP WITH A NAME, CORRECT. I
20 DON'T KNOW WHETHER THE -- NEW COMPANY TO THEM OR WHETHER
21 THEY HAD USED TRAVEL AMERICA, BEFORE BUT IT WAS NEW TO US.

22 Q AND THESE DISCUSSIONS STARTED AS EARLY AS,
23 WHAT, MAY OR JUNE? I WANT TO MAKE SURE I'VE GOT THAT
24 DOWN.

25 YOU THINK IT WAS JULY?

26 A DISCUSSIONS ABOUT TRAVEL AMERICA? AND THE

1 SPECIFICS, YES.

2 Q DISCUSSIONS WITH TRAVEL AMERICA, DISCUSSIONS
3 ABOUT R.P.I. BECOMING AN EXCLUSIVE RECIPROCAL PROVIDER FOR
4 MR. NOVELLI'S COMPANIES.

5 A WELL, YOU KNOW, YOU'RE LIMITING MY
6 RESPONSE. AND I WANT TO JUST BE SURE THAT WE'RE STRAIGHT
7 ABOUT EVERYTHING.

8 THE FACT IS THAT WE HAVE AN INDUSTRY THAT'S
9 IN A LOT OF TROUBLE, AND WE'RE TRYING TO COME UP WITH A
10 PRODUCT THAT'S GOING TO WORK IN THAT INDUSTRY.

11 SO WHEN YOU SAY THAT IT'S JUST ABOUT
12 MR. NOVELLI AND JUST ABOUT HIS COMPANIES AND -- WE WERE
13 THINKING LARGER THAN THAT.

14 Q I WOULD LIKE TO KNOW WHEN YOU STARTED
15 TALKING WITH MR. NOVELLI AND MR. THOMPSON ABOUT R.P.I.
16 REPLACING COAST.

17 A I'LL HAVE TO GUESS, BUT -- I DON'T KNOW THE
18 ANSWER TO THAT. BUT I WOULD SAY IN JULY SOMETIME.

19 MR. RIVIN: COULD I HAVE -- I'D LIKE TO REFRESH THE
20 WITNESS'S RECOLLECTION WITH A DOCUMENT, R-1. IT'S IN THE
21 BACK OF THE BOX, PLEASE.

22 Q DO YOU RECOGNIZE THIS DOCUMENT, MR. DAWSON?

23 A YES, I DO.

24 Q DO YOU SEE IT IS A LETTER OF INTENT, A DRAFT
25 OF A LETTER OF INTENT; IS THAT RIGHT?

26 A RIGHT.

1 Q AND THIS IS THE DOCUMENT THAT LED TO THE
2 FINAL VERSION OF THE LETTER AGREEMENT THAT R.P.I. HAD WITH
3 TRAVEL AMERICA; IS THAT RIGHT?

4 A CORRECT.

5 Q THIS IS DATED JUNE 18, THE TOP RIGHT-HAND
6 CORNER?

7 A RIGHT.

8 Q AND ON THE THIRD PAGE OF THE DOCUMENT THE
9 DATE IS BLANK; IT JUST SAYS BLANK DAY OF JUNE, 1997; DO YOU
10 SEE THAT?

11 A YEAH.

12 Q ALL RIGHT. SO AND YOU HAD AN UNDERSTANDING
13 WITH MR. NOVELLI BEFORE YOU EVER REACHED A WRITTEN
14 AGREEMENT.

15 SO WHEN DID YOU HAVE -- WHEN DID YOU REACH
16 THAT UNDERSTANDING WITH MR. NOVELLI?

17 A MR. RIVIN, I'M SORRY. I CAN'T -- I'M NOT
18 EVADING THE QUESTION. I JUST DON'T REMEMBER THE EXACT
19 DATE. WE MENTIONED IT -- WE HAD BEEN IN DISCUSSIONS FOR A
20 LONG TIME ABOUT GOLDEN EAGLE AND THE OTHER PROGRAMS.

21 Q HOW LONG DID IT TAKE YOU AND MR. NOVELLI TO
22 COME UP WITH THE NAME "TRAVEL AMERICA"?

23 A I DON'T KNOW. I BELIEVE -- I'M NOT SURE HE
24 CAME UP WITH IT. SOMEBODY JUST CAME UP WITH IT, AND WE
25 USED IT.

26 Q AND HOW LONG DID IT TAKE YOU -- DID IT TAKE

1 A MONTH, TWO MONTHS?

2 HOW LONG WERE YOU WORKING ON THE PROJECT OF
3 COMING UP WITH A NEW NAME FOR THE NEW COMPANY?

4 A I DON'T KNOW IF WE WORKED ON IT ANY LONGER
5 THAN A DAY OR TWO. JUST LIKE YOU HAVE A MEETING, AND
6 SOMEBODY COMES UP WITH A NAME THAT WORKS. YOU USE THAT
7 NAME. EVERYBODY SAYS, "YEAH, THAT'S A GOOD NAME." IT WAS
8 BETTER THAN THE OTHER ONES WE HAD.

9 Q YOU WERE WORKING WITH MR. NOVELLI ON
10 SETTING UP TRAVEL AMERICA AND THE RELATIONSHIP WITH R.P.I.
11 LONG BEFORE MR. NOVELLI SENT COAST THE LETTER TO PULL
12 OUT OF -- PULLING HIS RESORTS OUT OF COAST; ISN'T THAT
13 RIGHT?

14 A WE DISCUSSED THAT, HIS PULLING HIS RESORTS
15 OUT OF COAST.

16 Q RIGHT.

17 AND YOU MET WITH MR. NOVELLI SEVERAL TIMES
18 BEFORE HE ACTUALLY PULLED THE RESORTS OUT OF COAST; ISN'T
19 THAT RIGHT?

20 A YES.

21 Q YOU WORKED HIM ON THE STRATEGY FOR
22 WITHDRAWING HIS PARKS FROM COAST?

23 A I DON'T KNOW WHETHER IT WAS STRATEGY. MY
24 ONLY DISCUSSION WITH HIM WAS THAT OUR EXPERIENCE AT NACO
25 HAD BEEN THAT YOU NEEDED TO FOLLOW THE RULE EXACTLY TO THE
26 LETTER IF IT WAS 90 DAYS.

1 Q AND YOU GAVE HIM ADVICE ON WHAT TO DO?

2 A I GAVE HIM THAT ADVICE.

3 Q AND YOU GAVE HIM ADVICE ON WHAT DATES TO
4 SEND -- WHAT DATE OR DATES TO SEND THE COAST LETTERS
5 WITHDRAWING HIS PARKS; ISN'T THAT RIGHT?

6 A THAT'S NOT RIGHT. HE WAS -- HE HAD TO
7 FIGURE OUT THE DATES. I JUST TOLD HIM WHAT THE COAST
8 REGULATIONS WERE.

9 Q ISN'T IT TRUE THAT PER YOUR ADVICE
10 MR. NOVELLI WAS TO NOTIFY COAST OF ITS DECISION TO PULL THE
11 PARKS OUT OF COAST BEFORE SEPTEMBER 1, 1997?

12 A IF THAT WAS THE DEADLINE DATE FOR COAST. I
13 DON'T KNOW WHAT THAT DEADLINE DATE IS, BUT I THINK THAT'S
14 RIGHT.

15 Q AND IT WASN'T JUST THE NOVELLI PARKS THAT
16 WERE BEING PULLED OUT OF COAST. IT WAS THE VOPNFORD PARKS,
17 THOUSAND ADVENTURES; IS THAT RIGHT?

18 A IT WAS ALL THE PARKS THAT HE HAD UNDER HIS
19 CONTROL AT THAT TIME WHICH WAS TRAVEL AMERICA, VOPNFORD AND
20 NOVELLI, AND THERE WAS I THINK SOME OTHER PRESIDENT'S CLUB
21 PARKS THAT WANTED TO DO IT AS WELL.

22 Q SO ALL OF THOSE PARKS -- ALL OF THOSE PARKS
23 WERE BEING PULLED OUT OF COAST AT THAT TIME; IS THAT
24 RIGHT?

25 THAT INCLUDES ALL OF THE ALL SEASONS PARKS,
26 THE FIRST NATIONWIDE PARKS, AND THE THOUSAND ADVENTURES

1 PARKS; IS THAT RIGHT?

2 A I WOULD GUESS THAT'S RIGHT.

3 Q THAT WAS YOUR UNDERSTANDING BASED UPON YOUR
4 DISCUSSIONS WITH MR. NOVELLI?

5 A I THINK SO, YEAH.

6 Q AND MR. NOVELLI WAS TO -- MR. NOVELLI AND
7 MR. VOPNFORD WERE TO NOTIFY COAST OF THEIR DECISION TO PULL
8 ALL THEIR PARKS OUT NO LATER THAN SEPTEMBER 1, 1997; THAT
9 WAS PURSUANT TO YOUR CONVERSATIONS WITH MR. NOVELLI?

10 A NO -- WELL, MY CONVERSATIONS -- THE ONLY
11 PERSON I TALKED TO WAS MR. NOVELLI, AND THAT'S WHAT WE
12 TALKED ABOUT, HIM HONORING THE LETTER OF THE CONTRACT WITH
13 COAST TO COAST SO THAT THEY WOULD HAVE NO EXCUSE FOR MOVING
14 HIS MEMBERS.

15 Q YOU KNEW THAT MR. VOPNFORD WAS INVOLVED?

16 A I KNEW HE WAS INVOLVED, YES.

17 Q AND YOU KNEW HE WAS GOING TO BE A DIRECTOR
18 OF THIS NEW COMPANY?

19 A NO.

20 MR. RIVIN: I'D LIKE TO REFRESH THE WITNESS'S
21 RECOLLECTION OR TO USE AS IMPEACHMENT DOCUMENTS RR 2
22 THROUGH RR 5.

23 MR. DAWSON, LET ME KNOW WHEN YOU'VE HAD A
24 CHANCE TO LOOK THIS THOSE FOUR DOCUMENTS.

25 A I SEE MR. VOPNFORD'S NAME ON HERE,
26 MR. RIVIN. I DON'T RECALL THIS, BUT --

1 Q THESE DOCUMENTS ARE FOUR LETTERS OF INTENT,
2 DRAFT LETTERS OF INTENT --

3 A CORRECT.

4 Q -- BETWEEN YOUR ORGANIZATION AND TRAVEL
5 AMERICA?

6 A THAT'S RIGHT.

7 Q ALL RIGHT. AND THE FIRST ONE IS JUNE 19.
8 THE NEXT ONE IS JUNE 20TH. AND THERE'S ANOTHER ONE DATED
9 JUNE 20TH. AND ANOTHER ONE DATED JUNE 30TH?

10 A RIGHT.

11 Q SEE THAT?

12 A I SEE IT.

13 Q AND EACH OF THESE LETTERS OF INTENT HAS A
14 SPOT FOR YOUR SIGNATURE?

15 A CORRECT.

16 Q AND EACH OF THOSE LETTERS OF INTENT ALSO HAS
17 A SIGNATURE FOR RAY NOVELLI --

18 A RIGHT.

19 Q -- AS A BOARD MEMBER OF TRAVEL AMERICA?

20 A UH-HUH.

21 Q AND FOR DAVE VOPNFORD, AS A BOARD MEMBER OF
22 TRAVEL AMERICA?

23 A RIGHT.

24 Q DOES THIS REFRESH YOUR RECOLLECTION,
25 MR. DAWSON, THAT IN FACT YOU UNDERSTOOD AND KNEW THAT
26 MR. VOPNFORD WAS GOING TO BE A DIRECTOR OF TRAVEL AMERICA?

1 A NO. I MEAN, I'VE NEVER MET DAVE VOPNFORD.

2 SO IF HE WAS ON THERE, AND I SIGNED IT, THEN THAT'S NOT

3 TOTALLY UNUSUAL. BUT I'M NOT -- I DON'T KNOW

4 DAVE VOPNFORD. I NEVER HAD A MEETING WITH HIM. I NEVER

5 TALKED TO HIM. I KNEW THAT HE WAS INVOLVED WITH

6 RAY NOVELLI. I KNEW THAT HE HAD THE RESORTS.

7 Q AND YOU KNEW THAT HIS RESORTS WERE GOING TO

8 BE TAKEN AND PULLED INTO TRAVEL AMERICA?

9 A TO MY KNOWLEDGE THEY WERE ALREADY IN TRAVEL

10 AMERICA, RIGHT.

11 Q AND ALL THE MEMBERS, VOPNFORD'S MEMBERS,

12 WERE GOING TO BE Poured INTO TRAVEL AMERICA?

13 A AS FAR AS I KNEW.

14 Q WHEN YOU WERE COMING UP WITH THE NAME

15 "TRAVEL AMERICA," DID THE COMPANY HAVE MEMBERS?

16 A WELL, I WOULD ASSUME IT HAD -- THE COMPANIES

17 HAD MEMBERS, BUT I DON'T KNOW WHETHER TRAVEL AMERICA AS

18 SUCH HAD MEMBERS UNLESS SOMEBODY ELSE WAS USING IT. I

19 DON'T KNOW WHETHER DAVE VOPNFORD WAS USING THAT NAME OR

20 NOT.

21 Q ASSUMING NOBODY WAS USING THE NAME "TRAVEL

22 AMERICA" -- YOU CAME UP WITH THE NAME "TRAVEL AMERICA"; AS

23 FAR AS YOU KNEW, IT WAS A NEW COMPANY; RIGHT?

24 A YEAH. WE ACCEPTED THE NAME "TRAVEL AMERICA"

25 WHEN THEY RECOMMENDED IT, PRIMARILY BECAUSE WE HE HAD ENJOY

26 AMERICA, THAT THAT WAS OUR PUBLIC COMPANY. WE THOUGHT THAT

1 WAS A GREAT NAME.

2 Q AND IT HAD NO MEMBERS AT THAT TIME. IT WAS
3 A NEWLY FORMED COMPANY; IT HAD NO MEMBERS.

4 A IT -- YOU'RE TELLING ME THAT. I DON'T KNOW.

5 Q DID YOU HAVE AN UNDERSTANDING ONE WAY OR THE
6 OTHER?

7 A I JUST -- I JUST KNEW THAT WE WERE GOING TO
8 GET ALL THE MEMBERS. WHETHER THEY WERE -- IT'S A TECHNICAL
9 REASON WHETHER THEY WERE IN TRAVEL AMERICA OR WEREN'T IN
10 TRAVEL AMERICA. I DON'T KNOW THE ANSWER TO THAT. BUT --

11 Q MR. NOVELLI TOLD YOU YOU WERE GOING TO
12 GET -- TRAVEL AMERICA WAS GOING TO GET ALL THE MEMBERS?

13 A WE WERE GOING TO GET THE MEMBERS.

14 Q DID HE TELL YOU HOW HE WAS GOING TO GET THE
15 MEMBERS?

16 A WE TALKED ABOUT DOING THE MAILINGS TOGETHER,
17 WHICH WE DID.

18 Q DID YOU TALK ABOUT THE FACT THAT THESE
19 COMPANIES WERE IN BANKRUPTCY OR AS ALL SEASONS, WHEN YOU
20 STARTED TALKING, WAS CONTROLLED BY A RECEIVER; DID YOU
21 DISCUSS HOW THOSE MEMBERS -- TRAVEL AMERICA SOMEHOW WAS
22 GOING TO BE ABLE TO TAKE THOSE MEMBERS?

23 A NOT THAT I RECALL THERE WAS ANY ISSUE ABOUT
24 US TAKING THOSE MEMBERS OUT OF BANKRUPTCY.

25 THE COURT: LET'S PICK UP AT THIS POINT AT 1:30.

26 MR. RIVIN: THANK YOU.

1 THE COURT: SEE YOU ALL AT 1:30, LADIES AND
2 GENTLEMEN.

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

5 MR. SHERMAN: YOUR HONOR, VERY BRIEF HOUSEKEEPING
6 ITEM.

7 EARLIER IN CHAMBERS WE WERE ASKED ABOUT
8 PATRICK ROBINSON'S AVAILABILITY. I DO NOT HAVE THE LETTER
9 MEMORIZED OR IN FRONT OF ME, BUT I DO KNOW THAT IT HAS BEEN
10 OUR PRACTICE NOW FOR APPROXIMATELY THE LAST SIX WEEKS, IF
11 NOT LONGER, TO ADVISE THE PLAINTIFFS OF DIFFERENT COAST
12 WITNESSES' TRAVEL OR UNAVAILABILITY SCHEDULES.

13 MR. ROBINSON WAS THE SUBJECT OF A LETTER
14 SOME WEEKS AGO, AND MR. ROBINSON IS LEAVING TOMORROW FOR A
15 LONG PLANNED VACATION. AND PLAINTIFFS WERE MADE AWARE OF
16 THAT.

17 THE COURT: ALL RIGHT. WHO ARE WE GOING TO HAVE
18 THIS AFTERNOON?

19 MR. SHERMAN: WE'VE GOT ABOUT ANOTHER 10 MINUTES
20 WITH BILL DAWSON, AND THEN I'M SURE WE'RE GOING TO PROBABLY
21 WANT TO LET THE JURY GO HOME BECAUSE WE DON'T BELIEVE THAT
22 LARRY HAYNES HAS ANYTHING IMPORTANT OR RELEVANT TO SAY.

23 THE COURT: LET'S WAIT UNTIL WE GET HIM ON.

24 MR. MOSHENKO: YOUR HONOR, I CAN TELL THE COURT
25 THAT IF IT GOES FAST AS IT APPEARS TO BE DOING, THEN WE
26 EXPECT WE CAN MOVE ON TO MR. EVERETT. HE IS HERE IN THE

1 COURTROOM.

2 THE COURT: GOOD.

3 MR. MOSHENKO: SO WE WON'T WASTE TIME, YOUR HONOR.

4 THE COURT: SEE YOU AT 1:30.

5 (WHEREUPON THE COURT WAS IN RECESS UNTIL

6 1:30 P.M. OF THE SAME DAY.)

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1 WESTMINSTER, CALIFORNIA - MONDAY, JUNE 19, 2000

2 AFTERNOON SESSION

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

5 THE COURT: GOOD AFTERNOON, LADIES AND GENTLEMEN.

6 THE JURY: GOOD AFTERNOON.

7 THE COURT: PROCEED, COUNSEL.

8 MR. RIVIN: THANK YOU.

9 Q MR. DAWSON, BEFORE LUNCH WE TALKED ABOUT A
10 LETTER AGREEMENT THAT WAS ENTERED INTO BETWEEN TRAVEL
11 AMERICA AND R.P.I., YOUR COMPANY. AND I'D LIKE TO SHOW YOU
12 A COPY OF THAT, IF I COULD. THIS IS EXHIBIT NUMBER 6.

13 THIS IS THE LETTER AGREEMENT, IS IT NOT?

14 MR. DAWSON, THIS IS THE LETTER AGREEMENT?

15 A THIS IS THE ONE THAT WAS SIGNED.

16 Q RIGHT.

17 A AND DURING LUNCH I LOOKED, AND I DON'T HAVE
18 A COPY THAT YOU HAD OF THIS DRAFT OR THING THAT HAD
19 VOPNFORD'S NAME ON IT. I HAVE THIS LETTER WHICH IS DATED
20 IN MID-JULY.

21 Q YOU'RE SAYING THAT YOU COULD NOT FIND THE
22 COPIES THAT HAVE -- THAT HAD MR. VOPNFORD'S NAME ON IT, THE
23 DRAFTS?

24 A IN MY FILE I JUST HAVE THE SIGNED LETTER,
25 THE ONLY ONE THAT'S SIGNED BY THE FOUR INDIVIDUALS, SIGNED
26 BY KEMP, DAWSON, CLOUD AND THOMPSON.

1 Q DO YOU REMEMBER HAVING YOUR DEPOSITION TAKEN
2 IN THIS CASE?

3 YES?

4 A I REMEMBER HAVING MY DEPOSITION TAKEN, SURE.

5 Q DO YOU REMEMBER THAT YOU PRODUCED SOME
6 DOCUMENTS AT YOUR DEPOSITION?

7 DO YOU RECALL THAT YOU PRODUCED THE DRAFTS,
8 THOSE FIVE DRAFTS THAT I SHOWED YOU THIS MORNING?

9 A I DON'T RECALL I PRODUCED THOSE FIVE DRAFTS.
10 IF YOU RECALL, I JUST GAVE YOU A LARGE BOX THAT HAD ALL THE
11 THINGS IN IT.

12 Q THAT SOMEBODY PULLED TOGETHER FOR YOU?

13 A RIGHT.

14 Q SOMEBODY AT YOUR OFFICE?

15 A RIGHT.

16 Q ALL RIGHT. AND IN THAT BOX -- IN THAT BOX
17 WERE THE FIVE DRAFTS THAT I SHOWED YOU THIS MORNING. AND
18 IN ADDITION, EXHIBIT 6.

19 I'D LIKE TO MOVE EXHIBIT 6 INTO EVIDENCE.

20 MR. SHAW: YOUR HONOR, BASED ON THE OBJECTIONS THIS
21 MORNING, I JUST DON'T -- OBJECTION. RELEVANCE. I DON'T
22 UNDERSTAND THE RELEVANCE BASED ON WHAT WE TALKED ABOUT THIS
23 MORNING.

24 THE COURT: LET ME SEE EXHIBIT 6.

25 IT'S RELEVANT AS TO THE DATE AND THE
26 SIGNATURES. IT WILL BE RECEIVED.

1 (WHEREUPON, EXHIBIT NO. 6, LETTER AGREEMENT
2 BETWEEN TRAVEL AMERICA AND R.P.I. DATED JULY 18, 1997, WAS
3 RECEIVED IN EVIDENCE.)

4 MR. RIVIN: MIKE, IF YOU COULD PUT THE FIRST PAGE
5 OF EXHIBIT 6 UP, PLEASE.

6 Q THIS IS THE LETTER AGREEMENT. IT IS FOUR
7 PAGES LONG. AND THEN THE LAST PAGE IS A FAX -- IS A FAX;
8 DO YOU SEE THAT, MR. DAWSON? IT'S A FAX COVER SHEET?

9 A UH-HUH.

10 Q THIS LETTER AGREEMENT BETWEEN TRAVEL AMERICA
11 AND R.P.I. IS -- WAS ENTERED INTO IN JULY 1997. AND, IN
12 FACT, IF WE GO BACK TO THE FIRST PAGE, THE DATE OF THIS
13 AGREEMENT IS JULY 18, 1997; IS THAT CORRECT?

14 A CORRECT.

15 Q AND THAT'S MORE THAN A MONTH, MORE THAN A
16 MONTH BEFORE MR. VOPNFORD AND MR. NOVELLI PULLED THEIR
17 PARKS OUT OF COAST.

18 UNDER THIS AGREEMENT R.P.I. WAS GOING TO BE
19 TRAVEL AMERICA'S RECIPROCAL USE PROVIDER; IS THAT RIGHT?

20 A YES.

21 Q AND R.P.I. WAS GOING TO BE TRAVEL AMERICA'S
22 EXCLUSIVE RECIPROCAL USE PROVIDER?

23 A YES.

24 Q AND ALL OF THE NOVELLI AND VOPNFORD PARKS
25 WOULD NEED TO PULL OUT OF COAST UNDER YOUR AGREEMENT?

26 A YES.

1 Q AND THEY WOULD NEED TO PULL OUT IMMEDIATELY?

2 A WHERE DO YOU SEE THAT?

3 Q PARAGRAPH 2.2. "TRAVEL AMERICA FURTHER
4 AGREES TO DISAFFILIATE IMMEDIATELY FROM ANY OTHER
5 RECIPROCAL USE SYSTEMS, INCLUDING COAST TO COAST"?

6 A THOSE -- THAT'S NOT EFFECTIVE UNTIL THE
7 LETTERS GO IN. AND THE LETTERS WERE DATED WHEN?

8 Q THE LETTERS --

9 A IN ORDER TO DISAFFILIATE FROM COAST TO
10 COAST, YOU HAVE TO HAVE A LETTER FROM VOPNFORD AND A LETTER
11 FROM NOVELLI, AND THOSE LETTERS WERE DATED --

12 Q AUGUST 27. RIGHT?

13 A RIGHT.

14 Q SO BUT UNDER YOUR AGREEMENT, THEY WERE GOING
15 TO PULL OUT IMMEDIATELY ALL THEIR PARKS; THEY WERE GOING TO
16 PULL OUT ALL THEIR PARKS IMMEDIATELY. AND THAT HAPPENED
17 ABOUT A LITTLE OVER A MONTH LATER; RIGHT?

18 A THAT HAPPENED WHEN THEY SENT IN THE LETTER.
19 I CAN'T DISAFFILIATE THEIR PARKS. THEIR PARKS, OBVIOUSLY.

20 Q RIGHT.

21 THIS -- I SHOWED YOU THE DRAFTS THAT WERE
22 MARKED RR 2 THROUGH 5, AND THEY ALL HAD A PLACE FOR A
23 SIGNATURE BY MR. VOPNFORD AND A PLACE FOR SIGNATURE BY
24 MR. NOVELLI; DO YOU REMEMBER THAT?

25 A I HAD -- YEAH, I LOOKED AT THOSE COPIES AT
26 LUNCH.

1 Q WHO SIGNED THE FINAL LETTER AGREEMENT ON
2 BEHALF OF TRAVEL AMERICA?

3 A WELL, THERE'S ONLY FOUR SIGNATURES ON HERE
4 THAT I SAW, AND THIS IS THE ONLY ONE THAT I SAW THAT WAS
5 SIGNED.

6 Q I UNDERSTAND.

7 THE DRAFTS HAD SPACES FOR SIGNATURES BY
8 MR. VOPNFORD AND MR. NOVELLI.

9 WHEN IT CAME DOWN TO PREPARING THE FINAL
10 LETTER AGREEMENT, WHO SIGNED IT ON BEHALF OF TRAVEL
11 AMERICA?

12 LET'S JUST GO TO THE FOURTH PAGE.

13 A IT SAYS, "TRAVEL AMERICA, INC." IT WAS
14 JOHN CLOUD.

15 Q JOHN T. CLOUD, PRESIDENT --

16 A UH-HUH.

17 Q -- OF TRAVEL AMERICA. AND

18 ROBERT W. THOMPSON, VICE PRESIDENT?

19 A RIGHT.

20 Q SO MR. NOVELLI'S SIGNATURE BLOCK WAS --

21 SIGNATURE LINE WAS TAKEN OFF AND SO WAS MR. VOPNFORD'S?

22 AND ISN'T THAT BECAUSE THERE WAS SOME SENSITIVITY TO

23 HAVING -- TO SHOWING MR. NOVELLI OR MR. VOPNFORD BEING PART

24 OF TRAVEL AMERICA?

25 A I DON'T KNOW ABOUT THAT. I MEAN, WE JUST --

26 WE MADE THE DEAL WITH MR. NOVELLI. AND WHY HIS SIGNATURE

1 ISN'T ON THERE IS HIS REASON IT MUST BE SOMETHING
2 INTERNALLY WITH HIM. IT WASN'T WITH US. AND I'M SURE THAT
3 FROM THE PAST LETTERS THAT YOU HAD -- WALTER JACCARD IS OUR
4 IN-HOUSE COUNSEL, AND HE LOOKED AT IT. SO HE MUST HAVE
5 GONE THROUGH. I DON'T KNOW WHETHER HE MADE ANY CHANGES IN
6 THAT OR NOT.

7 Q BUT YOUR NEGOTIATIONS WERE WITH MR. NOVELLI,
8 AND ULTIMATELY MR. CLOUD AND MR. THOMPSON SIGNED IT?

9 A THAT'S TRUE. WELL, WE ALSO NEGOTIATED WITH
10 BOB THOMPSON. I'VE NEVER MEANT JOHN CLOUD, SO --

11 Q AND YOU DIDN'T KNOW ONE WAY OR THE OTHER
12 WHETHER HE WAS PRESIDENT OF TRAVEL AMERICA?

13 A NO.

14 Q YOU JUST DIDN'T KNOW?

15 A NO, HUH-UH. I MEAN, WE HAD BEEN THROUGH
16 FOUR OR FIVE DRAFTS OF THE AGREEMENT. SOMEBODY HANDED ME
17 AN AGREEMENT AND I SIGNED IT. THAT'S PROBABLY MY MISTAKE.
18 BUT, BE THAT AS IT MAY, IT'S DONE.

19 Q I WANT TO ASK YOU ABOUT YOUR STANDARD POLICY
20 OF ACQUIRING PAYMENT BY PARKS TO JOIN R.P.I.

21 YOUR POLICY IS THAT PARKS, RESORTS -- OR
22 RESORTS THAT JOIN R.P.I. MUST MAKE A PAYMENT TO R.P.I. IN
23 ORDER TO BECOME AFFILIATED WITH YOUR NETWORK; IS THAT
24 RIGHT?

25 A THAT'S A POLICY. BUT I DON'T THINK WE'VE
26 HAD A PAYMENT FROM A PARK IN EIGHT OR NINE YEARS.

1 Q DO YOU RECOGNIZE THE BOOK THAT I'M HOLDING
2 UP?

3 A RIGHT.

4 Q THIS IS THE R.P.I.'S RESORT PARKS
5 INTERNATIONAL 16TH EDITION RESORT GUIDE.

6 THIS IS YOUR 1999 EDITION?

7 COULD I APPROACH?

8 THE COURT: YOU MAY.

9 BY MR. RIVIN: Q MR. DAWSON, PAGE 9 OF THE
10 DIRECTORY -- THIS IS THE 1999 DIRECTORY?

11 A UH-HUH.

12 Q -- HAS A LIST OF QUESTIONS AND ANSWERS --

13 A RIGHT.

14 Q -- FOR R.P.I. MEMBERS WHO READ THE
15 DIRECTORY; IS THAT RIGHT?

16 A RIGHT.

17 Q CAN YOU READ THE FIRST -- THE FIRST QUESTION
18 AND ANSWER?

19 A WHO MAY JOIN R.P.I. THE GENERAL -- WHO MAY.
20 THE GENERAL PUBLIC CANNOT JOIN R.P.I. ONLY MEMBERS OF
21 RESORTS THAT ARE AFFILIATED WITH R.P.I. MAY JOIN. THESE
22 RESORTS PAY A SUBSTANTIAL AFFILIATION FEE FOR THE R.P.I.
23 SERVICE.

24 Q AND SO THAT'S -- AS OF 1999 THAT WAS
25 UNTRUE? IS IT YOUR TESTIMONY THAT --

26 A IT'S MY TESTIMONY THAT WE HAVEN'T RECEIVED A

1 FEE BECAUSE IN --

2 Q FOR EIGHT YEARS?

3 A IT'S BEEN A LENGTHY PERIOD OF TIME.

4 SOMETHING LIKE THAT.

5 Q COULD I GET THAT BACK, PLEASE?

6 A SURE.

7 Q AFTER R.P.I. AND TRAVEL AMERICA REACHED THE

8 AGREEMENT WE'VE JUST SEEN, YOUR COMPANIES DID A JOINT

9 MAILING; ISN'T THAT RIGHT?

10 A UH-HUH.

11 THE COURT: YOU HAVE TO SAY YES OR NO FOR THE

12 REPORTER.

13 THE WITNESS: YES. I'M SORRY. YES.

14 BY MR. RIVIN: Q AND THAT MAILING WENT OUT TO

15 THOUSANDS OF PEOPLE?

16 A IT WAS DONE IN TWO WAVES, AS I RECALL.

17 Q IT WENT OUT TO THOUSANDS OF PEOPLE?

18 A RIGHT.

19 Q AND R.P.I. ASSISTED IN THIS MAILING; RIGHT?

20 A WE ASSISTED -- WE PAID POSTAGE.

21 Q AND REVIEWED THE MAILERS BEFORE THEY WENT

22 OUT?

23 A I DIDN'T REVIEW THEM. I'M SURE WE DID LOOK

24 AT THEM.

25 Q YOUR COMPANY DID; RIGHT?

26 A AS FAR AS I KNOW WE DID, YES. I HOPE WE

1 DID. MAYBE I HOPE WE DON'T --

2 Q IN YOUR DEPOSITION YOU SAID THAT THE MAILING
3 WENT OUT IN MID-OCTOBER, 1997, BUT THAT'S NOT CORRECT, IS
4 IT? THE MAILING WENT OUT IN -- STARTED GOING OUT IN AUGUST
5 AT THE TIME OF THE PULL-OUT; IS THAT CORRECT?

6 A THE DATE SHOULD BE ON HERE. I MEAN, IT
7 SHOULDN'T BE WITH QUESTION. JUST FIND THE MAILING.

8 MR. RIVIN: I'D LIKE TO SHOW THE WITNESS EXHIBIT
9 848.

10 THE WITNESS: MINE SAYS MARCH 20TH.

11 BY MR. RIVIN: Q EXHIBIT 848, MR. DAWSON, IS A
12 ONE-PAGE LETTER FROM TRAVEL AMERICA TO YOU WITH A COPY TO
13 DICK KEMP --

14 A UH-HUH.

15 Q -- SENT BY BOB THOMPSON; DO YOU SEE THAT?

16 A RIGHT.

17 Q THIS IS SOMETHING YOU PRODUCED DURING YOUR
18 DEPOSITION?

19 A I TAKE YOUR WORD FOR THAT, YEAH.

20 MR. RIVIN: ALL RIGHT. I'D LIKE TO MOVE EXHIBIT
21 848 INTO EVIDENCE.

22 THE COURT: NO OBJECTION?

23 MR. SHAW: WELL, YOUR HONOR, BASED ON THIS
24 MORNING'S OBJECTIONS, SINCE THE SUSTAINED OBJECTIONS, I
25 JUST OBJECT ON THE GROUNDS OF RELEVANCE.

26 THE COURT: IT WILL BE RECEIVED IN EVIDENCE.

1 (WHEREUPON, EXHIBIT NO. 848, ONE-PAGE LETTER
2 FROM TRAVEL AMERICA TO WILLIAM DAWSON, WAS RECEIVED IN
3 EVIDENCE.)

4 MR. RIVIN: COULD YOU SHOW -- MIKE, COULD YOU
5 HIGHLIGHT THE FAX LINE AT THE BOTTOM, PLEASE.

6 Q THIS WAS SENT JULY 25, 1997. SO THIS WAS
7 ONE WEEK AFTER R.P.I. AND TRAVEL AMERICA ENTERED INTO THE
8 LETTER AGREEMENT.

9 AND IF WE GO BACK TO THE FULL DOCUMENT NOW,
10 PLEASE, THE FOURTH OR FIFTH LINE. IT SAYS, PER OUR
11 DISCUSSION, WEDNESDAY, ATTACHED ARE THE FOLLOWING: SAMPLE
12 MAILERS, SAMPLE MAILER WITH CARDS, FRONT, ONE PAGE.
13 ACTUALLY ONE DOCUMENT SAMPLE, MAY LETTER WITH CARDS, BACK
14 ONE PAGE.

15 SO AS OF JULY 25, 1997, MR. THOMPSON WAS
16 SENDING YOU THE PROPOSED MAILERS.

17 AND IF YOU TAKE A LOOK AT THE REMAINING
18 PAGES OF EXHIBIT 848, MR. DAWSON, YOU WILL SEE THAT'S
19 WHAT'S ATTACHED TO THIS LETTER.

20 A RIGHT.

21 Q AND IF WE CAN GO TO PAGE 6.

22 THIS IS -- IF WE CAN HIGHLIGHT THE FIRST
23 PARAGRAPH, THE FIRST THREE LINES.

24 IT SAYS, "WE ARE PROUD TO ANNOUNCE A STOCK
25 MERGER BETWEEN THOUSAND ADVENTURES, ALL SEASONS, FIRST
26 NATIONWIDE AND CUTTY'S RESORTS. PART OF THE MERGER WILL

1 RESULT IN A NEW RESORT SYSTEM WHICH WE HAVE NAMED 'TRAVEL
2 AMERICA.' YOU'RE AUTOMATICALLY ENROLLED AS A MEMBER."

3 WAS THAT YOUR UNDERSTANDING, BASED ON YOUR
4 CONVERSATION WITH MR. NOVELLI, THAT THERE WAS GOING TO BE A
5 STOCK MERGER BETWEEN THOUSAND ADVENTURES, ALL SEASONS,
6 FIRST NATIONWIDE AND CUTTY'S?

7 A I HAVE NO -- I MEAN --

8 Q YOU DIDN'T KNOW?

9 A NO, I DIDN'T KNOW WHAT THE SPECIFICS OF IT
10 WERE. BUT I JUST KNOW THEY WERE GOING TO GET TOGETHER. I
11 MEAN, I DON'T KNOW THE SIGNIFICANCE OF THE STOCK MERGER.
12 IF THAT'S SOME IMPORTANT THING, I DON'T KNOW. BUT I KNEW
13 THEY WERE GOING TO GET TOGETHER, YES.

14 MR. RIVIN: LET'S GO TO EXHIBIT 845, PLEASE. I'D
15 LIKE TO SHOW THAT TO THE WITNESS.

16 Q MR. DAWSON, DO YOU RECOGNIZE THE FIRST PAGE
17 OF EXHIBIT 845 AS A MEMO DATED SEPTEMBER 12, 1997, FROM
18 BOB THOMPSON AND TRAVEL AMERICA TO DICK KEMP?

19 A UH-HUH. THAT'S WHAT IT SAID. 24,000.
20 YEAH.

21 Q DO YOU REMEMBER PRODUCING THIS AT YOUR
22 DEPOSITION?

23 A NO. IT WAS IN THE BOX THOUGH, I GUESS.

24 MR. RIVIN: ALL RIGHT. I WOULD LIKE TO MOVE
25 EXHIBIT 845 INTO EVIDENCE.

26 MR. SHAW: YOUR HONOR, I'M SORRY. SAME OBJECTION.

1 RELEVANCE.

2 THE COURT: IT WILL BE RECEIVED.

3 (WHEREUPON, EXHIBIT NO. 845, MEMO DATED
4 SEPTEMBER 12, 1997 FROM BOB THOMPSON TO DICK KEMP, WAS
5 RECEIVED IN EVIDENCE.)

6 MR. RIVIN: LIKE TO SHOW THE FIRST PAGE, PLEASE.

7 CAN WE HIGHLIGHT THE -- JUST THE FIRST HALF,
8 PLEASE.

9 Q THIS IS A STATUS REPORT FROM BOB THOMPSON ON
10 SEPTEMBER 12TH?

11 A UH-HUH.

12 Q IF YOU WILL LOOK DOWN AT THE FIRST FULL
13 PARAGRAPH WHERE IT SAYS, "ENCLOSURE NUMBER TWO." IT SAYS,
14 "24,691 MEMBERS HAVE BEEN MAILED AS OF THIS DATE"?

15 A UH-HUH.

16 Q WE ARE GOING TO SLOW THE MAIL BECAUSE OF THE
17 VOLUME OF CALLS WE ARE GETTING. WE WILL SEND MISSISSIPPI
18 PINES, COUNTRY CREEK, OKLAHOMA RIVER AND SCENIC TRAILS NEXT
19 THURSDAY, 14,882 PIECES.

20 ISN'T IT YOUR RECOLLECTION THAT
21 APPROXIMATELY 40,000 MAILINGS -- 40,000 MAILERS WENT OUT,
22 MR. DAWSON? DO YOU REMEMBER THAT?

23 A I DON'T REMEMBER THE NUMBER, BUT IT WAS A
24 NUMBER -- I THINK IT WAS MORE THAN THAT.

25 Q DIDN'T YOU SAY YOU DO REMEMBER SAYING IN
26 YOUR DEPOSITION IT WAS IN THE RANGE OF 40- OR 45,000?

1 A I DO. BUT I DON'T KNOW THE NUMBER. BUT IT
2 WAS IN THAT RANGE.

3 Q AND LET'S GO TO THE LAST PARAGRAPH, PLEASE,
4 OF THE FIRST PAGE.

5 AND LAST PARAGRAPH SAYS, "LAST, THANKS AGAIN
6 FOR THE HELP ON THE IDENTIFICATION OF EXISTING R.P.I.
7 MEMBERS. FROM WHAT I HAVE BEEN TOLD, IT IS GOING VERY WELL
8 AND WILL BE TOTALLY COMPLETE THIS NEXT WEEK WITH YOUR
9 CONTINUED HELP, OF COURSE."

10 SO THE INITIAL MAILING WENT OUT IN AUGUST
11 AND SEPTEMBER; IS THAT NOW YOUR RECOLLECTION OF WHEN THE
12 MAILING WENT OUT?

13 A I DON'T KNOW WHAT THIS DELAY WAS. WE'D HAVE
14 TO CHECK. BUT WE CAN FIND OUT. HE SAYS HE IS GOING TO
15 DELAY THIS MAILING.

16 Q THE SECOND PART.

17 A RIGHT.

18 Q WE'RE GOING TO GO OUT THE NEXT WEEK. HE
19 JUST WASN'T MAILING THEM THEN AT THAT TIME; THEY WERE GOING
20 TO BE MAILED THE NEXT WEEK?

21 A IF MY MEMORY SERVES ME RIGHT, WE WERE LATER
22 THAN THAT. I KNOW WHAT THE LETTER SAYS.

23 Q DO YOU HAVE ANY REASON TO BELIEVE THAT
24 24,691 MEMBERS HAD NOT BEEN MAILED AS OF SEPTEMBER 12TH?

25 A NO, I DON'T.

26 Q LET'S TAKE A LOOK AT THE LETTER EXHIBIT

1 2150-334. THIS IS A DOCUMENT WE LOOKED AT TWO OR THREE
2 TIMES. I'M NOT SURE WHETHER IT'S IN EVIDENCE.

3 DO YOU RECOGNIZE THIS DOCUMENT AS THE MAILER
4 THAT WENT OUT, MR. DAWSON, IF YOU COULD LOOK UP ON THE
5 SCREEN?

6 A UH-HUH.

7 MR. SHAW: I'M SORRY. WHAT EXHIBIT NUMBER IS IT?

8 MR. RIVIN: 2150. PAGE 334. I HOPE THAT'S WHAT I
9 SAID.

10 MR. SHAW: THANK YOU.

11 BY MR. RIVIN: Q DO YOU RECOGNIZE THIS AS ONE OF
12 THE MAILINGS THAT WENT OUT, MR. DAWSON?

13 A YES.

14 Q AND THIS WENT OUT ON AUGUST 27, 1997?

15 A UH-HUH.

16 Q AND LET'S TAKE A LOOK AT EXHIBIT 1703, WHICH
17 IS ONE OF DEFENDANTS' EXHIBITS. I DON'T THINK I NEED
18 COPIES OF THAT. IT'S ANOTHER COPY OF THIS LETTER.

19 IF COUNSEL HAS NO OBJECTION, I'D LIKE TO
20 JUST PUT IT UP ON THE SCREEN. JUST THE SAME LETTER TO
21 ANOTHER PERSON.

22 MR. SHAW: NO OBJECTION.

23 BY MR. RIVIN: Q THAT'S DATED AUGUST 29, 1997,
24 ANOTHER LETTER THAT WENT OUT AT THE SAME TIME. I'D LIKE
25 TO -- THIS IS ONLY THE FRONT SIDE. REMEMBER THERE WERE TWO
26 SIDES TO THIS DOCUMENT?

1 A UH-HUH.

2 Q LET'S SEE THE REVERSE SIDE, EXHIBIT 1888,
3 PAGES 5 AND 6, IF WE CAN GO TO THE OTHER SIDE. SECOND
4 PAGE. DO YOU RECOGNIZE THE SECOND PAGE OF THE MAILING,
5 MR. DAWSON?

6 A UH-HUH, YES, I DO.

7 Q COULD YOU READ FOR ME THE FIRST TWO
8 SENTENCES OF THAT FIRST?

9 A "YOUR TRAVEL AMERICA MEMBERSHIP CARD IS
10 ENCLOSED, AND THERE IS NO NEW MEMBERSHIP REQUIRED FOR YOU
11 TO PURCHASE."

12 Q AND THEN THE NEXT SENTENCE?

13 A "ALSO ENCLOSED IS A COMPLIMENTARY SIX-MONTH
14 FREE MEMBERSHIP IN RESORT PARKS INTERNATIONAL WITH YOUR
15 R.P.I. MEMBERSHIP CARD."

16 Q THANK YOU.

17 UNDER R.P.I.'S AGREEMENT WITH TRAVEL
18 AMERICA, TRAVEL AMERICA WAS TO RECEIVE MONEY FOR EACH
19 MEMBER OF TRAVEL AMERICA WHO JOINED R.P.I.; IS THAT RIGHT?

20 A THEY RECEIVED \$5 THE FIRST YEAR I BELIEVE IT
21 IS.

22 Q AND THEN \$10 FOR EACH SUCCEEDING YEAR?

23 A RIGHT.

24 Q SO IF, LET'S SAY, 10,000 PEOPLE -- 10,000
25 PEOPLE JOINED R.P.I., TRAVEL AMERICA WOULD RECEIVE \$50,000
26 THE FIRST YEAR. AND IF THOSE PEOPLE CONTINUED WITH R.P.I.

1 THE NEXT YEAR, THEY WOULD RECEIVE \$100,000?

2 A RIGHT.

3 Q SO TRAVEL AMERICA STOOD TO MAKE SOME MONEY
4 OFF THIS?

5 A CORRECT.

6 Q LET'S TAKE A LOOK AT THE PAYMENTS THAT WERE
7 MADE BY R.P.I. TO TRAVEL AMERICA -- OR I BELIEVE TO TRAVEL
8 AMERICA UNDER THE AGREEMENT.

9 I'D LIKE TO SHOW THE WITNESS EXHIBIT 850.

10 CAN YOU DESCRIBE THIS DOCUMENT, MR. DAWSON?

11 A THIS IS THE SUMMARY OF THE MONEY SPENT ON
12 THIS PROGRAM, I BELIEVE.

13 Q THIS WAS A SUMMARY PREPARED BY R.P.I.?

14 A UH-HUH.

15 Q YES?

16 A YES. AS FAR AS I KNOW.

17 MR. RIVIN: I'D LIKE TO MOVE EXHIBIT 850 INTO
18 EVIDENCE.

19 MR. SHAW: I JUST OBJECT TO THE FOUNDATION, AS FAR
20 AS HE KNOWS. I'M NOT SURE A SUFFICIENT FOUNDATION HAS BEEN
21 LAID.

22 THE COURT: OBJECTION IS OVERRULED. IT WILL BE
23 ADMITTED.

24 (WHEREUPON, EXHIBIT NO. 850, SUMMARY, WAS
25 RECEIVED IN EVIDENCE.).

26 MR. RIVIN: COULD WE PUT UP THE FIRST PAGE, PLEASE.

1 Q MR. DAWSON, YOU INDICATED EARLIER THAT
2 R.P.I. SHARED IN THE MAILING EXPENSE OF THE MAILER THAT
3 WENT OUT TO THE 40,000 PEOPLE, HOWEVER MANY PEOPLE WERE --
4 RECEIVED THE MAILING. AND R.P.I.'S SHARE OF THE MAILING
5 COSTS IS REFLECTED ON THIS DOCUMENT; IS THAT RIGHT?

6 A YES, IT SHOULD BE.

7 Q WOULDN'T THOSE -- ARE THOSE PAYMENTS TO
8 GUARDIAN PUBLISHING?

9 A NO. PART OF IT'S PROBABLY GUARDIAN
10 PUBLISHING. I'M LOOKING FOR THE POSTAGE.

11 HERE IS THE POSTAGE ON THE SECOND PAGE
12 BECAUSE I KNOW WE PAID THE POSTAGE.

13 Q FOR THE MAILING?

14 A UH-HUH. AND THEN THERE'S AN OFFSET BECAUSE
15 WE ADVANCED MONEY, IF I REMEMBER CORRECTLY.

16 Q LET'S TAKE A LOOK AT THE PAYMENTS MADE TO
17 TRAVEL TIMES -- BY THE WAY, ON THIS SHEET THERE ARE NO
18 PAYMENTS TO TRAVEL AMERICA, AND THERE ARE NO PAYMENTS ON
19 THE SECOND PAGE TO TRAVEL AMERICA EITHER; IS THAT RIGHT?

20 A RIGHT. THAT'S RIGHT.

21 Q BUT THERE ARE A LITTLE OVER \$100,000 IN
22 PAYMENTS TO TRAVEL TIMES, INC., WHICH IS -- AS WE'VE SEEN
23 IS A COMPANY THAT CUT SOME CHECKS TO MR. MALPASS.

24 DO YOU KNOW WHY THESE -- STRIKE THAT.

25 WERE THESE -- THESE WERE PAYMENTS MADE UNDER
26 THE R.P.I./TRAVEL AMERICA AGREEMENT; ISN'T THAT RIGHT?

1 A THEY WERE. YES, THEY WERE. I DON'T KNOW
2 WHY THE CHECKS WERE MADE OUT THAT WAY. AND THAT WAS -- WE
3 JUST MADE OUT THE CHECKS THE WAY WE WERE REQUESTED TO MAKE
4 THEM OUT.

5 Q TO THE BEST OF YOUR RECOLLECTION?

6 A YEAH.

7 Q MR. NOVELLI OR SOMEBODY IN HIS COMPANY ASKED
8 YOU TO MAKE THE CHECKS TO TRAVEL TIMES, INC., INSTEAD OF
9 TRAVEL AMERICA?

10 A WELL, MAYBE -- IT MAY BE THAT WAY IN THE
11 AGREEMENT. I DON'T KNOW. I CAN LOOK IT UP. BECAUSE IT'S
12 BEEN A WHILE, I'D HAVE TO LOOK IT UP TO SEE WHY. BUT
13 THERE'S AN EXPLANATION OF SOME KIND FOR IT.

14 Q BUT YOU DON'T KNOW WHAT IT IS AS YOU SIT
15 THERE NOW?

16 A NO. AND YOU HAVE -- UNDER THE COMMISSIONS
17 AND T.A. RENEWALS, YOU HAD THE DEFERRED REVENUE, THE
18 "DEFERRED R." DO YOU SEE THAT?

19 Q I DO SEE THAT.

20 A YEAH. I DON'T KNOW WHAT THAT MEANS.

21 Q RIGHT.

22 BUT YOU'VE GOT \$100,000 IN PAYMENTS THAT ARE
23 MADE TO TRAVEL TIMES UNDER THE R.P.I. --

24 A THAT'S OVER '98, '99 AND 2000. RIGHT, THREE
25 YEARS.

26 Q DO YOU KNOW WHAT THE CLUB 33 PAYMENT -- IF

1 YOU COULD PULL BACK, MIKE -- THE CLUB 33 PAYMENT TO
2 MARLIES NOVELLI WAS FOR?

3 A MARLIES NOVELLI HAS A CLUB 33 MEMBERSHIP
4 THAT WE USE AND WE SPLIT WITH HER.

5 Q I SEE.

6 A IT'S A DISNEY CLUB MEMBERSHIP.

7 Q LET ME -- ONCE AGAIN, LET ME SHOW YOU THE
8 R.P.I. MANUAL AGAIN, AND THE SAME PAGE, PAGE 9. THIS IS
9 THE R.P.I. DIRECTORY.

10 MR. DAWSON, CAN YOU APPROXIMATE HOW MANY
11 TIMES ON THAT PAGE R.P.I. REFERS TO MEMBERSHIPS, R.P.I.
12 MEMBERSHIPS?

13 A YEAH. A LOT. BUT I DON'T KNOW HOW MANY.

14 Q AND IS IT STILL YOUR TESTIMONY THAT R.P.I.
15 HAS NO MEMBERS?

16 A THAT WASN'T THE QUESTION. THE QUESTION WAS
17 DO YOU HAVE MEMBERSHIPS, DO YOU HAVE MEMBERS, DO YOU OWN
18 THE MEMBERS, AND THE ANSWER TO THAT IS NO. THERE'S NO
19 VALUE IN THE MEMBERSHIP. THE MEMBERSHIP IS WORTHLESS.

20 THE COURT: DON'T VOLUNTEER ANYTHING.

21 THE WITNESS: OKAY.

22 MR. RIVIN: MOVE TO STRIKE THE ANSWER.

23 THE COURT: MOTION GRANTED.

24 BY MR. RIVIN: Q IS IT YOUR TESTIMONY THAT R.P.I.
25 HAS NO MEMBERS?

26 A WE HAVE NO MEMBERSHIP. DIFFERENCE.

1 THE COURT: THEN YOU HAVE NO MEMBERS IF YOU HAVE NO
2 MEMBERSHIP; RIGHT?

3 THE WITNESS: YEAH.

4 BY MR. RIVIN: Q YOU HAVE NO MEMBERS; IS THAT
5 RIGHT?

6 A WE HAVE A LOT OF MEMBERSHIP CARDS, BUT
7 THERE'S NO MEMBER. THERE'S NO VALUE IN THE MEMBERSHIP. SO
8 TAKE -- I DON'T WANT TO PLAY SEMANTICS, BUT MY STATEMENT
9 EARLIER WAS IN REFERENCE TO THE VALUE OF THE MEMBERSHIP.
10 THERE IS NO VALUE TO IT.

11 MR. RIVIN: MOVE TO STRIKE THE ANSWER.

12 THE COURT: MOTION GRANTED.

13 THE WITNESS: SORRY.

14 MR. RIVIN: I HAVE NO FURTHER QUESTIONS.

15 THE COURT: THANK YOU.

16 REDIRECT EXAMINATION

17 BY MR. SHAW: Q I WILL COME BACK TO THE ISSUE OF
18 MEMBERSHIPS, MR. DAWSON, SINCE MR. RIVIN ASKED YOU ABOUT
19 IT. BUT I'D LIKE TO FIRST GO TO THE EXHIBIT 6.

20 A I HAVE A LOT OF EXHIBITS HERE. WHICH ONE IS
21 THAT, COUNSEL?

22 HERE. I GOT IT. OKAY. THE CONTRACT. I'M
23 SORRY.

24 Q THE CONTRACT.

25 A UH-HUH.

26 Q DO YOU HAVE IT?

1 A YEAH, I DO.

2 Q AND LET'S TURN TO PAGE 2.

3 AND, MR. O'CONNOR, CAN YOU BLOW UP THIS
4 SECOND PARAGRAPH FOR ME.

5 IT SAYS, "T.A. AGREES TO AFFILIATE ALL OF
6 ITS PRIVATE MEMBERSHIP RESORTS WITH R.P.I.'S RECIPROCAL USE
7 PROGRAM, AND TO EXECUTE R.P.I.'S STANDARD RESORT
8 AFFILIATION AGREEMENT IN THE FORM ATTACHED HERETO AS
9 EXHIBIT C FOR EACH RESORT. R.P.I. AGREES TO WAIVE ITS
10 USUAL RESORT AFFILIATION FEE," IN PARENS, "RANGING FROM
11 \$1500 TO \$3,000 PER RESORT FOR ALL T.A. RESORTS THAT
12 AFFILIATE WITH R.P.I. EACH AFFILIATION IS SUBJECT TO
13 R.P.I.'S APPROVAL BASED ON ITS EXISTING RULES, PROCEDURES,
14 AND QUALITY STANDARDS FOR RESORT AFFILIATION."

15 DID YOU HAVE AN UNDERSTANDING AS OR ABOUT
16 THIS TIME IN JULY, 1997, AS TO HOW MANY RESORTS WERE BEING
17 DISCUSSED AS PART OF TRAVEL AMERICA?

18 MR. RIVIN: OBJECTION. I BELIEVE THIS GOES BEYOND
19 THE SCOPE OF THE CROSS.

20 THE COURT: I BELIEVE SO.

21 MR. SHAW: YOUR HONOR, HE ASKED THE QUESTION
22 REGARDING THIS LETTER, AND I'M NOW ASKING HIM ABOUT THIS
23 LETTER, THIS LETTER OF AGREEMENT.

24 MR. RIVIN: IT'S NOT ABOUT THE LETTER AGREEMENT,
25 YOUR HONOR. IT GOES BEYOND THE LETTER AGREEMENT. IT'S
26 USING THE LETTER AGREEMENT TO TRY AND GET INTO ANOTHER

1 AREA.

2 THE COURT: THE OBJECTION IS SUSTAINED.

3 BY MR. SHAW: Q LET'S GO TO 2.4.

4 CAN YOU GO DOWN TO THE BOTTOM FOR ME,
5 PLEASE, MR. O'CONNOR.

6 AND SPECIFICALLY WHERE IT SAYS, "R.P.I. MAY
7 UTILIZE THESE LISTS FOR THE PURPOSES OF FULFILLING ITS
8 OBLIGATIONS UNDER PARAGRAPHS 1.1 AND 1.2 ABOVE ONLY.
9 R.P.I. WILL GUARANTEE THAT NO OTHER FORM OF SOLICITATION OF
10 T.A.'S MEMBERS WILL OCCUR WITHOUT T.A.'S APPROVAL, AND THAT
11 THE LIST OF T.A. MEMBER, WHETHER THEY ARE MEMBERS OF R.P.I.
12 AND T.A. OR ONLY T.A., WILL BE HELD IN THE STRICTEST OF
13 CONFIDENCE. R.P.I. AGREES THAT THESE LISTS ARE THE
14 PROPERTY OF T.A., AND THAT R.P.I. WILL KEEP THE LISTS
15 CONFIDENTIAL WITHOUT LIMITATION TO INCLUDE R.P.I.'S PARENT
16 COMPANY, SISTER AND/OR RELATED COMPANIES."

17 THIS IS A LETTER THAT MR. RIVIN ASKED YOU
18 ABOUT; IT'S IN EVIDENCE OVER MY OBJECTION REGARDING
19 RELEVANCE.

20 WHY DID R.P.I. ENTER INTO THIS AGREEMENT
21 WITH TRAVEL AMERICA REGARDING KEEPING THE TRAVEL AMERICA OR
22 R.P.I. AND TRAVEL AMERICA MEMBERSHIPS IN THE STRICTEST
23 CONFIDENCE?

24 MR. RIVIN: I THINK THAT QUESTION CALLS FOR
25 TESTIMONY THAT IS NOT RELEVANT TO THIS ACTION, AND I THINK
26 IT GOES BEYOND THE SCOPE OF THE CROSS.

1 THE COURT: IT'S BEYOND THE SCOPE. SUSTAINED.

2 MR. SHAW: YOUR HONOR, I NEED SOME DIRECTION. MAY
3 WE BE SEEN AT THE SIDEBAR?

4 THE COURT: YOU MAY.

5 (DISCUSSION OFF THE RECORD.)

6 BY MR. SHAW: Q MR. DAWSON, CAN YOU SEE THIS UP
7 HERE?

8 A YES.

9 Q OKAY. LET'S TALK ABOUT THE -- AND NOW I
10 WANT TO SAY, YOU SIGNED THE DOCUMENT; RIGHT? CORRECT?

11 A CORRECT.

12 Q I WANTED TO STAY ON WHAT YOU UNDERSTOOD WHEN
13 YOU SIGNED THIS EXHIBIT 6, IN TERMS OF KEEPING THE --
14 GUARANTEEING -- THAT R.P.I. WILL GUARANTEE THAT NO OTHER
15 FORM OF SOLICITATION WILL OCCUR, AND THAT THE MEMBERSHIP
16 WILL BE KEPT IN THE STRICTEST CONFIDENCE, AND THAT R.P.I.
17 WILL KEEP THE LIST CONFIDENTIAL WITHOUT LIMITATION.

18 MR. RIVIN: OBJECTION. THIS WITNESS'S
19 UNDERSTANDING IS IRRELEVANT. ALSO GOES BEYOND THE SCOPE OF
20 THE CROSS.

21 THE COURT: SUSTAINED.

22 BY MR. SHAW: Q BUT THAT'S THE DOCUMENT THAT YOU
23 SIGNED?

24 A YES, IT IS.

25 Q AND THOSE ARE THE TERMS AND CONDITIONS OF
26 THE SIGNATURE -- I MEAN -- EXCUSE ME -- OF THE DOCUMENT?

1 THE DOCUMENT, WE'VE HEARD IT SAID A FEW
2 TIMES, IT SPEAKS FOR ITSELF.

3 A CORRECT.

4 Q ALL RIGHT. WAS THAT AN ORDINARY PROVISION
5 IN THE DOCUMENTS THAT YOU AT R.P.I. HAD WITH RESORT OWNERS?

6 A YES.

7 MR. RIVIN: OBJECTION.

8 THE WITNESS: SORRY.

9 MR. RIVIN: OBJECTION. IRRELEVANT. LACK OF
10 FOUNDATION.

11 THE COURT: I'LL ALLOW THE ANSWER. THE ANSWER IS
12 YES.

13 THE WITNESS: YES, SIR.

14 BY MR. SHAW: Q AND WHY DID YOU HAVE THESE
15 PROVISIONS IN DOCUMENTS WITH THE RESORT OWNERS?

16 MR. RIVIN: THE SAME OBJECTIONS. IRRELEVANT.

17 THE COURT: SUSTAINED.

18 BY MR. SHAW: Q LET'S LOOK AT EXHIBIT -- LET'S
19 START WITH EXHIBIT -- LET'S GO WITH 1703.

20 CAN YOU DO 1703 FOR ME, MR. O CONNER. CAN
21 YOU BLOW UP THAT FIRST PARAGRAPH FOR ME.

22 "WE ARE PROUD TO ANNOUNCE THAT THE
23 RECIPROCAL AGREEMENT BETWEEN THOUSAND ADVENTURES, ALL
24 SEASONS, FIRST NATIONWIDE AND CUTTY'S IS NOW IN PLACE.
25 THIS WILL RESULT IN A NEW RECIPROCAL RESORT SYSTEM NAMED
26 'TRAVEL AMERICA.'"

1 NOW, MR. RIVIN ASKED YOU A QUESTION ABOUT
2 WHETHER YOU HAD DISCUSSIONS WITH MR. NOVELLI ABOUT THE --
3 ABOUT FIRST NATIONWIDE. LET'S TAKE THAT ONE SPECIFICALLY.

4 DID YOU HAVE DISCUSSIONS WITH MR. NOVELLI
5 ABOUT HIM, MR. NOVELLI, AND HIS COMPANY, FIRST NATIONWIDE,
6 WITHDRAWING OR TRANSFERRING RECIPROCAL SYSTEMS FROM COAST
7 TO COAST TO R.P.I.?

8 MR. RIVIN: OBJECTION. I THINK THIS GOES BEYOND
9 THE SCOPE OF THE CROSS.

10 THE COURT: WE'VE ALREADY HEARD THIS, ALSO.

11 MR. SHAW: WELL, YOUR HONOR, HE ASKED HIM QUESTIONS
12 ABOUT IT. I'M JUST TRYING TO PROBE A LITTLE FURTHER ABOUT
13 THESE MEETINGS THAT THEY HAD PRIOR TO THIS DOCUMENT. I
14 BELIEVE IT WAS OPENED ON REDIRECT.

15 THE COURT: I THINK WE'RE GOING BEYOND THE SCOPE.

16 BY MR. SHAW: Q LET ME SHOW YOU EXHIBIT 39,
17 SPECIFICALLY ABOUT FIRST NATIONWIDE.

18 MR. RIVIN: THIS IS BEYOND THE SCOPE OF THE CROSS.
19 THIS IS A LETTER THAT I DID NOT USE ON CROSS AND I DON'T
20 THINK WE SAW ON DIRECT.

21 MR. SHAW: YOUR HONOR, MR. RIVIN ASKED HIM IF HE
22 KNEW THAT LETTERS WERE BEING SENT WITHDRAWING COAST TO
23 COAST FROM THE SYSTEM AND CHANGING TO R.P.I. I'M JUST
24 GOING YOU ASK HIM ABOUT THE VERY LETTER THAT MR. RIVIN
25 TALKED ABOUT.

26 THE COURT: I'LL ALLOW IT.

1 BY MR. SHAW: Q NOW, THIS IS THE AUGUST 27TH
2 LETTER FROM MR. NOVELLI AND SIGNED BY HANS SCHULZ TO COAST
3 TO COAST ON AUGUST 27.

4 AND WE SAW THE DATE ON -- THE DATE ON THE
5 DOCUMENT THAT WAS 1703, THE LETTER THAT WENT OUT THAT
6 SHOWED THESE FOUR COMPANIES WERE COMING TOGETHER UNDER
7 TRAVEL AMERICA. THAT ALSO WAS AUGUST 27 --

8 A RIGHT.

9 Q -- 1997?

10 SO WE'VE GOT THAT -- THAT DATE. AND IT
11 SAYS -- NOW, DID YOU DISCUSS THIS LETTER WITH MR. NOVELLI?

12 MR. RIVIN: OBJECTION. BEYOND THE SCOPE OF THE
13 CROSS.

14 MR. SHAW: I'LL WITHDRAW THE QUESTION --

15 THE COURT: SUSTAINED.

16 MR. SHAW: -- AND START AGAIN.

17 THE COURT: SUSTAINED.

18 YOUR QUESTION WAS HAD HE SEEN THESE LETTERS;
19 IS THAT RIGHT?

20 MR. SHAW: THIS PARTICULAR LETTER.

21 THE COURT: YEAH.

22 THE WITNESS: NO.

23 MR. SHAW: THAT WAS THE QUESTION.

24 THE WITNESS: THE ANSWER TO THAT WAS NO.

25 THE COURT: THE ANSWER IS NO?

26 THE WITNESS: NO, I DID NOT SEE THAT LETTER BEFORE

1 IT WAS SENT.

2 MR. SHAW: I'M SORRY. I THOUGHT THERE WAS AN
3 OBJECTION BEYOND THE SCOPE, AND I WITHDREW IT.

4 Q DID YOU HAVE ANY DISCUSSIONS WITH
5 MR. NOVELLI THAT -- WELL, LET ME WITHDRAW THAT AND START
6 AGAIN.

7 IN RESPONSE TO MR. RIVIN'S QUESTION ABOUT
8 HAVING DISCUSSIONS WITH MR. NOVELLI ABOUT HAVING A
9 PARTICULAR TIME WHEN YOU HAD TO SEND -- HE HAD TO SEND THE
10 LETTERS OUT PURSUANT TO THE CONTRACT --

11 A YES.

12 Q -- WHAT CONTRACTS WERE YOU -- WHEN YOU
13 RESPONDED TO MR. RIVIN'S QUESTIONS, WHAT CONTRACTS WERE YOU
14 TALKING ABOUT?

15 A CONTRACTS WITH COAST TO COAST CALL FOR A
16 CERTAIN --

17 MR. RIVIN: OBJECTION. LACK OF FOUNDATION. GOES
18 BEYOND THE SCOPE OF THE CROSS. I DID NOT ASK ABOUT THE
19 CONTRACTS.

20 THE COURT: SUSTAINED.

21 BY MR. SHAW: Q MR. RIVIN ASKED YOU ABOUT WHAT
22 DATE THE LETTERS HAD TO BE SENT? CORRECT?

23 A CORRECT.

24 Q AND YOU UNDERSTOOD THAT THE DATE -- HAD TO
25 BE SENT BY A CERTAIN DATE?

26 A CORRECT, YES.

1 Q AND THAT DATE, I BELIEVE MR. RIVIN ASKED
2 YOU, WAS SEPTEMBER 1?

3 A YES.

4 Q AND WE'VE GOT A DATE OF AUGUST 27, 1997?

5 A CORRECT.

6 Q AND YOUR TESTIMONY WAS THAT THEY HAD TO SEND
7 THE LETTER BY THAT DATE, OR ELSE COAST TO COAST WOULD START
8 CONTACTING THEIR MEMBERS; THAT WAS YOUR RESPONSE; CORRECT?

9 MR. RIVIN: OBJECTION. GOES BEYOND THE SCOPE OF
10 THE CROSS. THE QUESTION IS ARGUMENTATIVE.

11 THE COURT: THE OBJECTION IS SUSTAINED.

12 BY MR. SHAW: Q ISN'T IT TRUE THAT THE CONCERN BY
13 YOU AND MR. NOVELLI AT THAT TIME IN SENDING THIS LETTER
14 BEFORE SEPTEMBER 21 IS THAT COAST TO COAST WOULD VIOLATE
15 THE CONFIDENTIALITY OF FIRST NATIONWIDE'S RESORT MANAGERS'
16 MEMBERSHIP LIST AND TRANSFER FIRST NATIONWIDE RESORT
17 MEMBERS?

18 MR. RIVIN: THE SAME OBJECTIONS, YOUR HONOR.
19 BEYOND THE SCOPE OF THE CROSS. LACK OF FOUNDATION. ALSO
20 THIS IS ARGUMENT.

21 THE COURT: SUSTAINED.

22 BY MR. SHAW: Q YOU HAD DISCUSSIONS WITH
23 MR. NOVELLI AT THAT TIME PERIOD ABOUT HOW TO WITHDRAW FROM
24 THE COAST TO COAST SYSTEM?

25 MR. RIVIN: THE SAME OBJECTIONS, YOUR HONOR.
26 AGAIN, THIS IS GOING BEYOND THE SCOPE OF THE

1 CROSS-EXAMINATION.

2 THE COURT: SUSTAINED.

3 BY MR. SHAW: Q MR. RIVIN ASKED YOU SOME QUESTIONS
4 ABOUT YOUR ROLE IN WITHDRAWING FROM THE COAST TO COAST
5 SYSTEM ON -- WITH THE PLAINTIFFS?

6 A YES.

7 Q CORRECT?

8 AND AS FAR AS YOU KNEW, AS OF THE TIME THAT
9 MR. RIVIN WAS -- ASKED YOU THESE QUESTIONS, AT THIS TIME
10 WHEN YOU WERE DISCUSSING WITH MR. NOVELLI, THERE WAS NO
11 DISSOLUTION OF THE ALL SEASONS RESORTS SYSTEM; CORRECT?

12 MR. RIVIN: OBJECTION. IRRELEVANT.

13 THE COURT: COUNSEL, THAT'S BEEN ASKED AND
14 ANSWERED, AND I'VE RULED ON IT.

15 BY MR. SHAW: Q LET'S SHOW THE DOCUMENT THAT
16 MR. RIVIN MARKED AS 1703 AGAIN, AND AGAIN THAT FIRST
17 SENTENCE.

18 AS OF AUGUST 27, 1997, YOUR UNDERSTANDING
19 WAS THAT YOU HAD A LETTER OF INTENT THAT TRANSFERRED --
20 THAT WAS THE RECIPROCAL AGREEMENT THAT IS BEING REFERRED TO
21 IN THIS EXHIBIT 1703; CORRECT?

22 MR. RIVIN: IT'S BEEN ASKED AND ANSWERED.

23 THE COURT: IT HAS BEEN ASKED AND ANSWERED,
24 COUNSEL. SUSTAINED.

25 BY MR. SHAW: Q IS IT YOUR UNDERSTANDING -- AND
26 ONE MORE QUESTION, YOUR HONOR -- THAT THE RECIPROCAL

1 AGREEMENT BEING REFERRED TO IN 1703 IS THE LETTER OF INTENT
2 THAT WAS EXHIBIT 6?

3 A THE RECIPROCAL -- THAT'S NOT -- THE TWO
4 RECIPROCAL AGREEMENTS -- I'M SORRY TO BELABOR THE POINT --

5 Q WHICH TWO -- WHICH ONE IS THIS ONE REFERRING
6 TO?

7 A THE ONE -- THE WAY I READ THE LETTER, HE IS
8 TALKING ABOUT THE RECIPROCAL AGREEMENT THAT ALL OF THOSE
9 RESORTS PUT TOGETHER MAKE UP A RESORT SYSTEM, AND ALL OF
10 THOSE RESORTS ARE HOME RESORTS AND CAN BE USED AT ANY TIME
11 YOU WISH. OUR RECIPROCAL AGREEMENT IS SOMETHING SEPARATE
12 FROM THAT.

13 Q THANK YOU FOR CLEARING THAT UP.

14 AND THE RECIPROCAL AGREEMENT THAT YOU SIGNED
15 INVOLVED -- I THINK MR. RIVIN ASKED YOU -- BETWEEN 40- AND
16 45,000 MEMBERS THAT WERE BEING SENT -- LETTERS THAT WERE
17 BEING SENT OUT TO THOSE MEMBERS?

18 A THAT WAS MY ESTIMATE OF THE NUMBER WHEN HE
19 ASKED ME AND GIVEN MY DEPOSITION.

20 Q AND THOSE MEMBERS WERE THE THOUSAND
21 ADVENTURES, ALL SEASONS, FIRST NATIONWIDE AND CUTTY'S --

22 A CORRECT.

23 Q -- MEMBERS?

24 MR. RIVIN: OBJECTION, YOUR HONOR. THERE'S A LACK
25 OF FOUNDATION FOR THAT QUESTION. I ASKED THE WITNESS HOW
26 MANY LETTERS WERE SENT OUT. THERE IS NO FOUNDATION FOR

1 THIS WITNESS TO TESTIFY AS TO THE NUMBER OF MEMBERS THAT
2 TRAVEL AMERICA PURPORTEDLY HAD.

3 MR. SHAW: YOUR HONOR, HE IS TESTIFYING ABOUT HIS
4 UNDERSTANDING. HE IS THERE. HE SENT OUT THE LETTERS.

5 THE COURT: I'LL ALLOW IT. THE NEXT QUESTION. HE
6 HAS ALREADY ANSWERED THAT ONE.

7 BY MR. SHAW: Q LET'S LOOK AT EXHIBIT 1563-0153.

8 AND YOUR UNDERSTANDING, MR. DAWSON, IS THAT
9 SOME OF THOSE LETTERS THAT -- IF YOU CAN BLOW UP THIS FIRST
10 PARAGRAPH FOR ME, MR. O'CONNOR.

11 MR. RIVIN: YOUR HONOR, THIS IS BEYOND THE SCOPE OF
12 THE CROSS. THIS LETTER DID NOT COME UP IN CROSS. WE DID
13 NOT DISCUSS IT. THIS IS INAPPROPRIATE.

14 THE COURT: IT IS. SUSTAINED.

15 BY MR. SHAW: Q THE ALL SEASONS RESORTS WERE PART
16 OF THAT TRAVEL AMERICA RECIPROCAL SYSTEM THAT YOU SENT
17 LETTERS TO?

18 A YES.

19 Q LET'S LOOK AT EXHIBIT 845.

20 I'D LIKE TO ASK A QUESTION ABOUT THIS
21 PARAGRAPH.

22 IF, MR. O'CONNOR, YOU CAN BLOW UP THE SECOND
23 TO THE LAST PARAGRAPH AND THE THIRD FROM THE LAST
24 PARAGRAPH.

25 IT SAYS, "WITH REFERENCE TO COMMONLY ASKED
26 QUESTIONS FOR LINDA." WHO IS LINDA?

1 A LINDA STOCKWELL, I THINK.

2 Q AND THAT'S IN YOUR OFFICE?

3 A RIGHT.

4 Q AND THEN, "AS CALLS FORWARDED TO US BY
5 R.P.I., MARC AND WENDY WANTED YOU TO KNOW THAT THE MEMBERS
6 HAVE BEEN CONTACTED AND THEIR PROBLEMS RESOLVED."

7 DO YOU KNOW WHO MARC AND WENDY ARE?

8 A MARK AND WENDY WORK FOR TRAVEL AMERICA.

9 Q DO YOU KNOW IF THAT'S WENDY ARCHIBALD --

10 A RIGHT.

11 Q -- THAT WORKS --

12 A I THINK SO.

13 Q AND DO YOU KNOW WHY SHE WAS INVOLVED? DO
14 YOU KNOW WHAT HER POSITION WAS --

15 A MARKETING --

16 MR. RIVIN: OBJECTION. BEYOND THE SCOPE OF CROSS.

17 THE COURT: SUSTAINED.

18 BY MR. SHAW: Q LET'S LOOK AT EXHIBIT 848.

19 NOW, MR. RIVIN ASKED YOU ABOUT -- THIS WAS A
20 MEMO FROM BOB TO BILL DAWSON. AND THERE'S A FAX LEGEND ON
21 THIS OF JULY 25, 1997. AND IT TALKS ABOUT THROUGH T.A.I.'S
22 STOCK MERGER WITH ALL SEASONS RESORTS AND FIRST NATIONWIDE
23 RESORTS, MEMBERS WILL ACTUALLY HAVE THE BEST OF THE RESORT
24 WORLDS. THIS NEW AND CONSOLIDATED SYSTEM WILL ADD
25 RECREATIONAL BENEFITS WITH NO NEW MEMBERSHIP FOR YOU TO
26 PURCHASE.

1 AND THEN IF YOU CAN JUST GO DOWN,
2 MR. O'CONNOR, TO THE NEXT PARAGRAPH.

3 AND IT TALKS ABOUT FOLLOWING THE EXAMPLES
4 SET BY SO MANY SUCCESSFUL BUSINESSES, THOUSAND ADVENTURES,
5 ALL SEASONS RESORTS AND FIRST NATIONWIDE ARE IN THE PROCESS
6 OF IMPLEMENTING A STOCK MERGER WHICH IS DESIGNED TO
7 ACCOMPLISH THE FOLLOWING GOALS.

8 AFTER ALL THESE -- LET ME WITHDRAW THAT AND
9 START AGAIN.

10 IT'S TRUE THAT R.P.I. THEN WORKED WITH
11 TRAVEL AMERICA AFTER THOUSAND ADVENTURES, ALL SEASONS
12 RESORTS, FIRST NATIONWIDE CAME TOGETHER; HOWEVER, THEY CAME
13 TOGETHER AND PROVIDED THAT COMPANY WITH A RECIPROCAL USE
14 SYSTEM; CORRECT?

15 A YES.

16 MR. RIVIN: BEYOND THE SCOPE OF CROSS.

17 THE COURT: SUSTAINED.

18 BY MR. SHAW: Q LET'S GO TO THE NEXT PAGE,
19 PLEASE. LET'S GO TO THE RESORT LISTINGS, IF YOU COULD, THE
20 PARAGRAPH BEFORE THAT.

21 MR. RIVIN: YOUR HONOR, ALL OF THIS IS BEYOND THE
22 SCOPE OF THE CROSS.

23 THE COURT: IT IS, COUNSEL.

24 MR. RIVIN: OBJECTION FOR THAT REASON.

25 MR. SHAW: YOUR HONOR, I'M READING A DOCUMENT THAT
26 WAS INTRODUCED INTO EVIDENCE OVER AN OBJECTION.

1 THE COURT: THAT DOESN'T MAKE IT NOT BEYOND THE
2 SCOPE. THIS IS -- YOU'RE GOING BEYOND THE SCOPE. YOU
3 DIDN'T ASK HIM.

4 MR. SHAW: ONE LAST QUESTION. IF WE CAN GET PAST
5 AN OBJECTION, I'LL CLOSE.

6 THESE ARE -- THESE ARE THE RESORTS THAT WERE
7 PART OF TRAVEL AMERICA THAT R.P.I. OFFERED, THE RECIPROCAL
8 USE SYSTEM?

9 MR. RIVIN: OBJECTION. LACK OF FOUNDATION. ALSO
10 BEYOND THE SCOPE OF THE CROSS.

11 THE COURT: I'M GOING TO LET HIM ANSWER THAT
12 BECAUSE HE SAID IT WAS THE LAST QUESTION.

13 THE WITNESS: IT IS.

14 THE COURT: THE ANSWER WAS YES.

15 THE WITNESS: YES.

16 MR. SHAW: I'M AFRAID I SHOULD HAVE STARTED WITH
17 THAT A LOT EARLIER. IT WOULD HAVE GONE A LOT QUICKER.

18 THANK YOU, YOUR HONOR. AND THANK YOU,
19 MR. RIVIN. I HAVE NOTHING FURTHER.

20 THE COURT: MAY THE WITNESS BE EXCUSED?

21 MR. RIVIN: THERE'S A POSSIBILITY THAT IN THE
22 PRESENTATION OF OUR CASE WE MAY HAVE SOME QUESTIONS FOR THE
23 WITNESS, AND WE HAVE NO FURTHER QUESTIONS AT THIS TIME.

24 THE COURT: THANK YOU. YOU MAY STEP DOWN.

25 MR. MOSHENKO: YOUR HONOR'S PLEASURE?

26 THE COURT: WELL, BEFORE WE START ANOTHER WITNESS,

1 LET'S TAKE OUR AFTERNOON BREAK.

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

4 THE COURT: WHO IS THE NEXT WITNESS?

5 MR. MOSHENKO: MR. EVERETT. I THINK I HEARD HIM
6 SAY HE IS GOING TO BE WORKING WITH HIM IN THE MORNING AS
7 WELL.

8 THE COURT: WHAT'S YOUR DIRECT?

9 MR. MOSHENKO: MAYBE THROUGH THE AFTERNOON, YOUR
10 HONOR.

11 MR. RIVIN: COULD WE ASK WHO THE NEXT WITNESS WILL
12 BE AFTER MR. EVERETT?

13 THE COURT: WHO ARE YOU CALLING AFTER MR. EVERETT?

14 MR. MOSHENKO: WELL, YOUR HONOR, I THINK THAT WE'RE
15 GOING TO MOVE ON TO -- WE WANTED TO MOVE ON TO
16 MR. ROBINSON, WHO IS NOW AN UNAVAILABLE WITNESS. AND I WAS
17 ASKING COUNSEL THIS MORNING, AND I BELIEVE THE COURT
18 DIRECTED THEM TO TELL US WHAT OF THEIR WITNESSES ARE
19 AVAILABLE THIS WEEK SO WE CAN MAKE THE DETERMINATION OF
20 WHICH ONE WE'RE GOING TO USE AND WHEN.

21 MR. SHERMAN: YOUR HONOR, I COULD TELL MR. MOSHENKO
22 FOR THE THIRD TIME, BUT I HAVE TOLD HIM TWICE, BOTH IN THE
23 PRESENCE OF YOUR HONOR.

24 MR. MOSHENKO: WELL, I KNOW MR. ADAMS IS GONE TILL
25 JULY 10, AND I KNOW THAT MR. ROBINSON IS ON VACATION. I
26 HAVEN'T HEARD ANYTHING ABOUT MR. SCHNEIDER. I HEARD

1 MR. BOGGESS. THEY WANT TO BRING HIM IN ON FRIDAY. BUT I
2 HAVEN'T HEARD WHETHER HE IS UNAVAILABLE ON TUESDAY,
3 WEDNESDAY, THURSDAY. I HAVEN'T HEARD ABOUT MR. BLOCK. I
4 DIDN'T HEAR IT THE FIRST TWO TIMES.

5 MR. SHERMAN: HE STILL IS RECOVERING FROM OPEN
6 HEART SURGERY.

7 MR. MOSHENKO: WELL, MR. BLOCK HAS OPEN HEART
8 SURGERY. I RECALL THAT NOW. SO MR. SCHNEIDER'S
9 AVAILABILITY -- I THINK I SAW HIM SITTING --

10 THE COURT: MY QUESTION TO YOU MR. MOSHENKO, IS WHO
11 WILL YOUR WITNESS BE TOMORROW?

12 MR. MOSHENKO: MR. SCHNEIDER TOMORROW.

13 MR. SHERMAN: MR. SCHNEIDER IS NOT HERE TOMORROW.
14 HE IS TRAVELING.

15 MR. MOSHENKO: HE IS STANDING IN THE COURTROOM
16 RIGHT NOW.

17 MR. SHERMAN: RIGHT. AND A WITNESS CAN BE HERE
18 TODAY AND BE TRAVELING TOMORROW. AND IF 72 HOURS WAS TO
19 MEAN ANYTHING, WE WOULD HAVE HEARD SOMETHING ABOUT IT. IF
20 24 --

21 THE COURT: WHY DON'T WE PUT MR. SCHNEIDER ON NOW,
22 SINCE HE IS HERE.

23 MR. SHERMAN: YOUR HONOR, THAT WOULD BE FINE. I
24 WOULD LIKE TO JUST SUGGEST ONE THING, AND THAT IS, THE --
25 I'LL MAKE AN OFFER OF PROOF. THAT MR. SCHNEIDER WAS
26 UNAWARE OF THE LETTERS FROM COAST TO COAST BEING SENT WHEN

1 THEY WERE SENT; THAT MR. SCHNEIDER HAS SOME INSIGHT IN
2 FACTS WITH RESPECT TO THE RELATIONSHIP BETWEEN AFFINITY
3 GROUP, INC., AND ITS WHOLLY OWNED SUBSIDIARY, CAMP COAST TO
4 COAST. AND MR. SCHNEIDER, AMONG OTHER THINGS, IS GENERAL
5 COUNSEL OF AFFINITY GROUP, INC. AND, THEREFORE, THOSE
6 KINDS OF QUESTIONS WOULD CLEARLY BE INAPPROPRIATE AS
7 INVASIVE OF THE ATTORNEY-CLIENT PRIVILEGE.

8 BUT I GUESS THE MORE IMPORTANT ISSUE IS
9 THIS: WE'VE GOT 17 PEOPLE SITTING THERE GIVING UP THEIR
10 TIME FOR THIS SO THAT THEY CAN HEAR ALTER EGO ISSUES? I
11 DON'T THINK SO. I DON'T THINK SO, YOUR HONOR. AND IF
12 MR. SCHNEIDER AND MR. BOGGESS ARE GOING TO BE THE
13 DIFFERENCE HERE, THEN I'M SURE THAT YOUR HONOR WOULD
14 ACCOMMODATE US SO WE CAN DO THIS OUTSIDE OF THE PRESENCE OF
15 THE JURY. THIS IS GOING TOO FAR.

16 THE COURT: WE'LL DO THAT OUTSIDE THE PRESENCE OF
17 THE JURY.

18 MR. SHERMAN: THANK YOU.

19 WE'LL MAKE MR. SCHNEIDER AVAILABLE. WE'LL
20 MAKE MR. BOGGESS AVAILABLE. WHY DON'T WE TALK ABOUT UNFAIR
21 COMPETITION AND ISSUES THAT HAVE TO DO WITH PLAINTIFFS'
22 CLAIM IN THE LAW THAT THIS JURY OUGHT TO BE HEARING ABOUT.
23 WE'VE YET TO HEAR FROM ANY -- ANY WITNESS WHO REPRESENTS
24 THE PLAINTIFFS IN THIS CASE.

25 THE COURT: LET'S DO THAT.

26 MR. MOSHENKO: SO WE'LL GO WITH MR. EVERETT THIS

1 AFTERNOON, YOUR HONOR. AND I'LL PREPARE MR. SCHNEIDER.
2 AND I'D LIKE TO THEN GIVE A PRESENTATION TO THE COURT OF
3 THE EVIDENCE I BELIEVE THAT WE OFFERED THROUGH
4 MR. SCHNEIDER AND MR. BOGGESS, WHICH IS NOT SOLELY ALTER
5 EGO, FOR THE COURT TO CONSIDER WHETHER IT SHOULD BE ALLOWED
6 TO BE PRESENTED TO THE JURY.

7 MR. SHERMAN: AS YOUR HONOR WISHES.

8 THE COURT: OKAY. IT STILL DOESN'T HELP ME. I
9 WANT TO KNOW WHO IS GOING TO FOLLOW MR. -- WHO IS COMING
10 UP.

11 MR. SHERMAN: YOUR HONOR GETS THE SAME ANSWERS THAT
12 WE GET WHEN WE ASK MR. MOSHENKO QUESTIONS.

13 MR. MOSHENKO: AS OF THIS MORNING, WE HAD AN ORDER
14 OF WITNESSES, AND WE HAD TO CHANGE IT SINCE THIS MORNING.

15 THE COURT: I KNOW WHAT WE HAD THIS MORNING.

16 MR. MOSHENKO: I HEARD THIS MORNING THESE PEOPLE
17 ARE NOT AVAILABLE.

18 THE COURT: I'M ASKING YOU NOW, MR. MOSHENKO, WHO
19 ARE YOU GOING TO HAVE TOMORROW?

20 MR. MOSHENKO: WE HAVE A -- MR. HAYNES IS HERE. HE
21 FLEW IN THIS AFTERNOON. WE WANT TO PRESENT MR. ROBINSON'S
22 TESTIMONY TOMORROW AFTER MR. EVERETT.

23 THE COURT: SO BE IT.

24 MR. SHERMAN: WE NOW KNOW.

25 (RECESS TAKEN.)

26 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN

1 COURT IN THE PRESENCE OF THE JURY:)

2 THE COURT: CALL YOUR NEXT WITNESS, PLEASE,

3 MR. MOSHENKO.

4 MR. MOSHENKO: GENE EVERETT, YOUR HONOR.

5 THE COURT: PLEASE STAND RIGHT THERE. RAISE YOUR

6 RIGHT HAND.

7 GENE EVERETT,

8 CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFFS UNDER

9 EVIDENCE CODE SECTION 776, HAVING BEEN FIRST DULY SWORN,

10 WAS EXAMINED AND TESTIFIED AS FOLLOWS:

11 THE COURT: TAKE A SEAT IN THE WITNESS STAND,

12 PLEASE.

13 PLEASE STATE YOUR FULL NAME AND SPELL YOUR

14 LAST FOR THE RECORD.

15 THE WITNESS: GENE JOSEPH EVERETT, E-V-E-R-E-T-T.

16 CROSS-EXAMINATION

17 BY MR. MOSHENKO: Q GOOD AFTERNOON, MR. EVERETT.

18 A GOOD MORNING.

19 Q MR. EVERETT, YOU'RE THE CURRENT PRESIDENT OF

20 CAMP COAST TO COAST; CORRECT?

21 A THAT'S CORRECT.

22 Q YOU'VE BEEN WITH COAST TO COAST SINCE 1986?

23 A THAT'S CORRECT.

24 Q YOU STARTED OUT AS A REGIONAL DIRECTOR; IS

25 THAT CORRECT?

26 A YES.

1 Q A REGIONAL DIRECTOR IS ONE OF THREE PERSONS
2 WHO HAS RESPONSIBILITIES DEALING WITH RESORTS ACROSS THE
3 COUNTRY; IS THAT CORRECT?

4 A IT'S NOT NECESSARILY ONE OF THREE, BUT THE
5 NUMBERS HAVE CHANGED FROM YEAR TO YEAR, TIME TO TIME.

6 Q WHILE YOU WERE REGIONAL DIRECTOR, YOU
7 REPORTED TO THE DIRECTOR OF RESORT SERVICES?

8 A I BELIEVE I DID, YES.

9 Q AND YOUR EXPERIENCE WAS THEN THE DIRECTOR OF
10 RESORT SERVICES REPORTED TO THE VICE PRESIDENT OF COAST TO
11 COAST?

12 A THAT'S CORRECT.

13 Q AND, NOW, YOU BECAME THE DIRECTOR OF RESORT
14 SERVICES. HAVE I GOT THAT RIGHT?

15 A YES.

16 Q WHEN WAS THAT?

17 A THAT WAS IN 1991.

18 Q AND I ALSO SHOW THAT YOU -- AND WHILE
19 DIRECTOR OF RESORT SERVICES, YOU WERE ALSO A VICE PRESIDENT
20 OF COAST TO COAST?

21 A I BECAME VICE PRESIDENT AFTER I WAS DIRECTOR
22 OF RESORT SERVICES.

23 Q WHEN DID YOU BECOME A VICE PRESIDENT?

24 A IT WAS APPROXIMATELY 1994.

25 Q OKAY. AND WHILE DIRECTOR OF RESORT
26 SERVICES, YOU REPORTED DIRECTLY TO THE PRESIDENT,

1 ROGER RYMAN?

2 A CORRECT.

3 Q AND MR. RYMAN, WHILE YOU WERE REPORTING TO
4 HIM, REPORTED TO MIKE SCHNEIDER, WHO WAS A VICE PRESIDENT
5 OF AFFINITY GROUP; CORRECT?

6 A THAT'S CORRECT.

7 Q NOW, I HAVE YOU AS HAVING MR. SCHNEIDER WAS
8 THE CHIEF OPERATING OFFICER OF AFFINITY GROUP AT THE TIME
9 THAT HE -- MR. RYMAN WAS REPORTING TO HIM; RIGHT?

10 A I BELIEVE SO, YES.

11 Q NOW, I HAVE YOU AS THE -- BECOMING A
12 DIRECTOR OF RESORT OPERATIONS. IS THAT THE SAME AS
13 DIRECTOR OF RESORT SERVICES?

14 A YOU HAVE ME BEING DIRECTOR OF RESORT
15 OPERATIONS?

16 Q YES. THAT'S WHAT I'VE GOT WRITTEN DOWN. IS
17 THAT THE SAME AS DIRECTOR OF RESORT SERVICES?

18 A NO, IT'S NOT. AND I NEVER WAS DIRECTOR OF
19 RESORT OPERATIONS.

20 Q OKAY. ALL RIGHT. NOW, THE REGIONAL
21 DIRECTOR'S DUTIES ARE THE MANAGEMENT OF RESORT RELATIONS
22 WITH THE AFFILIATED RESORTS ACROSS THE COUNTRY; CORRECT?

23 A CORRECT.

24 Q THEIR JOB IS TO INSURE THAT THE RESORTS WHO
25 ARE AFFILIATED WITH CAMP COAST TO COAST ARE IN COMPLIANCE
26 WITH THE COAST TO COAST RULES AND REGULATIONS AND SERVICE

1 RESPONSIBILITIES?

2 A THAT'S ONE OF THE RESPONSIBILITIES THEY
3 HAVE, YES.

4 Q AND ANOTHER ONE IS THAT THEY COMMUNICATE TO
5 RESORT OWNERS ANY INFORMATION WHICH IS PERTINENT OR
6 RELEVANT TO COAST TO COAST'S AND THE RESORTS' INTERACTION
7 IN THE RECIPROCAL SYSTEM?

8 A THEY COMMUNICATE SOME INFORMATION, NOT
9 NECESSARILY ALL INFORMATION THAT YOU JUST REFERRED TO.

10 Q ALL RIGHT. OTHER METHODS THAT COAST TO
11 COAST COMMUNICATES ITS RULES AND REGULATIONS TO THE RESORT
12 DEVELOPERS ARE THROUGH THE AGREEMENT, THE AFFILIATION
13 AGREEMENT THEY HAVE WITH THE RESORT OWNERS, AND THE OTHER
14 PUBLICATIONS THAT COAST TO COAST PUBLISHES AND HANDS OUT,
15 LIKE THE LICENSE MANUAL?

16 A PRIMARILY THE LICENSEE MANUAL, YES.

17 Q AND ANOTHER METHOD OF COMMUNICATING RULES
18 AND REGULATIONS AS WE'VE SEEN IN THIS TRIAL IS INSIDE NEWS
19 PUBLICATIONS REPORTING POLICIES AND REGULATIONS?

20 A THAT'S CORRECT.

21 Q NOW, YOU BECAME PRESIDENT OF CAMP COAST TO
22 COAST IN JANUARY OF 1998, JUST A FEW MONTHS AFTER THE
23 EVENTS THAT FORMED THE BACKGROUND OF THIS ACTION; RIGHT?

24 A CORRECT.

25 Q AS PRESIDENT YOU REPORTED TO A MAN NAMED
26 DAVID BLOCK, WHO WAS THE SENIOR VICE PRESIDENT OF THE

1 AFFINITY GROUP; CORRECT?

2 A I STILL REPORT TO HIM, YES.

3 Q AND YOU STILL REPORT TO HIM.

4 AND MR. BLOCK REPORTS TO MR. SCHNEIDER, THE
5 CHIEF OPERATING OFFICER OF AFFINITY GROUP; RIGHT?

6 A I BELIEVE SO.

7 Q YOU HAVE NOT HAD ANY DEALINGS AS PRESIDENT
8 OF CAMP COAST TO COAST WITH A BOARD OF DIRECTORS FOR COAST
9 TO COAST, BECAUSE THERE IS NO BOARD OF DIRECTORS?

10 A IT'S MY UNDERSTANDING THAT THERE IS A BOARD
11 OF DIRECTORS.

12 Q THERE IS?

13 A YES.

14 MR. MOSHENKO: I'D LIKE TO READ FROM THE WITNESS'S
15 DEPOSITION, YOUR HONOR. IT WOULD BE PAGE 23 AND PAGE 24.
16 BUT I'LL GET THE EXACT LINE.

17 MR. SHERMAN: IF I COULD JUST HAVE ONE MOMENT. I'M
18 IN THE PROCESS OF GETTING THE DEPOSITIONS.

19 MR. MOSHENKO: ALL RIGHT. IT'S PAGE 24, YOUR
20 HONOR, LINE 3 THROUGH 8.

21 THE COURT: HOLD UP JUST A MINUTE, COUNSEL.

22 MR. MOSHENKO: I DIDN'T HEAR WHAT YOU SAID.

23 THE COURT: I SAID HOLD UP JUST A MINUTE.

24 MR. SHERMAN: YOUR HONOR, SO THAT THE TESTIMONY MAY
25 BE UNDERSTOOD IN CONTEXT, I'D LIKE THE DEPOSITION TO BE
26 READ THROUGH LINE 18.

1 MR. MOSHENKO: THROUGH LINE 18? I WOULD AGREE WITH
2 THAT, YOUR HONOR.

3 I WOULD LIKE TO SUGGEST THAT WE GO TO LINE
4 24 TO PICK UP THE CONTEXT OF LINE -- THROUGH LINE 18.

5 MR. SHERMAN: THAT'S FINE.

6 THE COURT: PROCEED.

7 MR. MOSHENKO: NOW, CAN WE GET IT UP THERE ON THE
8 SCREEN? THIS IS PAGE 24, LINE 3.

9 NOW, WE HAVE THE POINTER. COMMENCING UP
10 HERE AT LINE 3.

11 Q NOW, YOUR DEPOSITION WAS TAKEN ON SEVERAL
12 OCCASIONS.

13 DO YOU RECALL BEING PUT UNDER OATH AND ASKED
14 TO ANSWER QUESTIONS? RIGHT?

15 A I DO.

16 Q OKAY.

17 "QUESTION: IS IT CORRECT THAT YOU WERE
18 APPOINTED PRESIDENT OF COAST TO COAST BY THE BOARD OF
19 DIRECTORS OF COAST TO COAST?

20 "MR. HEIMBOLD: LACKS FOUNDATION.

21 "ANSWER: THERE IS NO BOARD OF DIRECTORS PER
22 SE OF COAST TO COAST.

23 "BY MR. MOSHENKO: IS THERE A SUBSTITUTE FOR
24 THE BOARD OF -- IS THERE SOMETHING ELSE THAT FULFILLS THE
25 FUNCTION THAT IS NORMALLY FULFILLED BY BOARDS OF DIRECTORS
26 IN COAST TO COAST?

1 "MR. HEIMBOLD: CALLS FOR A LEGAL
2 CONCLUSION.

3 "ANSWER: FROM A BUSINESS OPERATING
4 STANDPOINT, THE SENIOR MANAGEMENT OF AFFINITY IS THE
5 REPORTING STRUCTURE FOR COAST TO COAST.

6 "QUESTION: WHAT'S 'REPORTING STRUCTURE'
7 MEAN AS YOU USE THAT TERM?

8 "ANSWER: TO THE DEGREE THAT THEY MONITOR
9 THE ACTIVITIES -- BUSINESS ACTIVITIES OF COAST TO COAST AS
10 A BOARD MIGHT, THAT MONITORING IS DONE BY SENIOR AFFINITY
11 MANAGEMENT."

12 SO WHILE YOU WERE PRESIDENT OF COAST TO
13 COAST AND IN FACT -- STRIKE THAT.

14 WHILE YOU WERE PRESIDENT OF COAST TO COAST,
15 ANY BOARD OF DIRECTORS TYPE MONITORING OF ACTIVITIES OF
16 COAST TO COAST IS HANDLED BY SENIOR MANAGEMENT AT AFFINITY
17 GROUP?

18 A CORRECT.

19 Q AND THAT MANAGEMENT INCLUDES OR INCLUDED,
20 DURING YOUR PRESIDENCY, DAVID BLOCK AS A SENIOR VICE
21 PRESIDENT; CORRECT?

22 A CORRECT.

23 Q MARK BOGGESS AS A CHIEF FINANCIAL OFFICER;
24 CORRECT?

25 A CORRECT.

26 Q MIKE SCHNEIDER AS THE CHIEF OPERATING

1 OFFICER; CORRECT?

2 A YES.

3 Q AND EVEN JOE MC ADAMS, THE CHIEF EXECUTIVE
4 OFFICER OF AFFINITY GROUP, INCORPORATED?

5 A I BELIEVE SO.

6 Q NOW, AFFINITY GROUP, INCORPORATED, ALSO HAS
7 A MANAGEMENT -- I'M SORRY -- A MARKETING DIVISION, WHICH IS
8 RUN BY MURRAY COKER, WHO IS A SENIOR VICE PRESIDENT OF
9 AFFINITY GROUP, ISN'T IT?

10 A YES.

11 Q AND HE IS A PART OF THAT MANAGEMENT GROUP
12 THAT MONITORS ACTIVITIES OF CAMP COAST TO COAST; CORRECT?

13 A YES, HE IS.

14 Q AND MR. COKER'S RESPONSIBILITIES INCLUDE THE
15 MARKETING OF MEMBERSHIPS IN THE VARIOUS ADAMS-OWNED
16 COMPANIES; CORRECT?

17 A THAT'S THE RESPONSIBILITY OF THE MARKETING
18 DIVISION, YES, ONE OF THE RESPONSIBILITIES.

19 Q HE ALSO IS THE PRIMARY -- THE -- I'M
20 SORRY -- THE EXECUTIVE IN THE ADAMS-OWNED ORGANIZATION THAT
21 HAS THE PRIMARY RESPONSIBILITY FOR RETENTION OF CAMP COAST
22 TO COAST EXISTING MEMBERS; ISN'T THAT CORRECT?

23 MR. SHERMAN: OBJECTION. THIS IS VAGUE AS TO TIME.

24 THE COURT: REPHRASE, PLEASE.

25 BY MR. MOSHENKO: Q AT ANY TIME HAS MR. COKER BEEN
26 THE PERSON IN THE ADAMS GROUP OF ADAMS-OWNED COMPANIES THAT

1 HAD THE PRIMARY RESPONSIBILITY FOR RETENTION OF COAST TO
2 COAST'S EXISTING MEMBERS?

3 A THE DIVISION WHICH MR. COKER HEADS, WHICH IS
4 THE MARKETING DIVISION OF AFFINITY GROUP, IS RESPONSIBLE
5 FOR THE RETENTION OF COAST TO COAST MEMBERS, THAT'S CORRECT.

6 Q ALL RIGHT. IF THE ISSUE RELATES TO
7 RETENTION OF EXISTING COAST TO COAST MEMBERS, THAT'S
8 MR. COKER'S -- ONE OF HIS PRIMARY RESPONSIBILITIES;
9 CORRECT?

10 MR. SHERMAN: OBJECTION. VAGUE AS TO TIME.

11 THE COURT: CAN YOU RELATE THAT TO A SPECIFIC TIME?

12 MR. MOSHENKO: SURE.

13 Q WHEN DID MR. COKER BECOME THE VICE
14 PRESIDENT, SENIOR VICE PRESIDENT IN CHARGE OF MEMBERSHIP
15 ACTIVITIES OF COAST TO COAST?

16 A I'M NOT CERTAIN.

17 Q WELL, HE WAS THAT DURING YOUR PRESIDENCY;
18 CORRECT?

19 A I BELIEVE THAT HE ASSUMED THAT POSITION
20 DURING MY PRESIDENCY, YES.

21 Q OKAY. AND SO AT THAT TIME PERIOD, IF IT
22 RELATED TO ISSUES RELATING TO RETENTION OF EXISTING COAST
23 TO COAST MEMBERS, THAT WAS ONE OF MR. COKER'S PRIMARY
24 RESPONSIBILITIES; CORRECT?

25 MR. SHERMAN: OBJECTION. THIS IS NOT RELEVANT.

26 THE COURT: OVERRULED. I'LL ALLOW IT.

1 THE WITNESS: AGAIN, IT IS A RESPONSIBILITY OF THE
2 MARKETING DIVISION TO RETAIN COAST TO COAST MEMBERS.

3 BY MR. MOSHENKO: Q SO, IN JANUARY AND FEBRUARY
4 AND MARCH OF 1998, WHILE YOU WERE PRESIDENT AND WHILE COAST
5 TO COAST WAS SENDING LETTERS TO ALL SEASONS RESORTS
6 MEMBERS -- THE PURPOSE OF WHICH WAS TO ENABLE THEM TO
7 RETAIN THEIR COAST TO COAST MEMBERSHIPS -- THAT WOULD HAVE
8 BEEN SOMETHING -- AN ACTIVITY THAT FELL WITHIN MR. COKER'S
9 PRIMARY RESPONSIBILITY?

10 A INCORRECT.

11 Q WELL, I GUESS I WANT TO SAY, WHAT IS
12 INCORRECT?

13 IS IT INCORRECT TO STATE THAT COAST TO COAST
14 WAS SENDING LETTERS TO ALL SEASON RESORTS' MEMBERS IN
15 JANUARY, FEBRUARY AND MARCH OF 1998?

16 A I DON'T KNOW THAT WE WERE FOR SURE.

17 Q ALL RIGHT. NOW, COAST RELIES ON RESORT
18 DEVELOPERS TO BRING TO IT NEW COAST TO COAST MEMBERS; IS
19 THAT CORRECT?

20 A THAT'S CORRECT.

21 Q COAST CONSIDERS THE DEVELOPERS WHO DO SO TO
22 BE COAST'S AGENTS, BUSINESS AGENTS, WHEN THEY DEAL WITH
23 MEMBERS AND REPRESENT COAST'S SERVICES AND PRODUCTS?

24 A THAT'S CORRECT.

25 Q COAST CONSIDERS RESORT DEVELOPERS TO BE
26 REPRESENTATIVES OF COAST TO COAST IN DEALING WITH COAST TO

1 COAST MEMBERSHIP ISSUES; CORRECT?

2 A NOT NECESSARILY.

3 MR. MOSHENKO: I'D LIKE TO READ FROM THE WITNESS'S
4 DEPOSITION.

5 ALL RIGHT, PAGE 27, LINE 20, THROUGH 29,
6 LINE 1.

7 MR. SHERMAN: SO THAT THIS MAY BE UNDERSTOOD IN
8 CONTEXT, I WOULD REQUEST THAT INSTEAD OF STARTING IN THE
9 MIDDLE OF A QUESTION, WHICH IS THE CASE ON LINE 20, THAT WE
10 BEGIN ON LINE 11, PAGE 27.

11 MR. MOSHENKO: LINE 11 ON WHAT PAGE?

12 MR. SHERMAN: 27.

13 MR. MOSHENKO: I HAVE NO OBJECTION TO THAT. MY
14 LINE 20 IS THE BEGINNING OF A SENTENCE.

15 THE COURT: ALL RIGHT.

16 MR. MOSHENKO: OKAY: START HERE. OKAY.

17 "QUESTION: HAVE YOU EVER HEARD IT SAID AT
18 COAST TO COAST THAT THE AFFILIATED RESORTS ARE CONSIDERED
19 AGENTS OF CAMP COAST TO COAST?

20 "ANSWER: YES.

21 "QUESTION: IN WHAT SENSE ARE THEY
22 CONSIDERED AGENTS?

23 "MR. HEIMBOLD: CALLS FOR A LEGAL
24 CONCLUSION.

25 "MR. MOSHENKO: I'LL STRIKE THAT.

26 "QUESTION: DO YOU CONSIDER THEM TO BE

1 AGENTS OF CAMP COAST TO COAST?

2 "MR. HEIMBOLD: OBJECTION.

3 "ANSWER: I CAN -- I CAN PUT THEM IN THE" --

4 MAYBE SOMETHING IS CUT OFF THE BOTTOM OF THE PAGE.

5 LINE 1 IS MISSING. SO I'LL READ IT

6 STARTING WITH LINE 25.

7 "I CAN -- I CAN PUT THEM IN THE CONTEXT OF

8 BUSINESS AGENTS IN THAT THEY REPRESENT OUR PRODUCTS AND

9 SERVICES IN THE SALES PROCESS.

10 "QUESTION BY MR. MOSHENKO: AND THE PRODUCTS

11 AND SERVICES THAT THEY REPRESENT ARE WHAT?

12 "ANSWER: PRIMARILY THE RECIPROCAL NETWORK

13 OF RESORTS.

14 "QUESTION: DON'T YOU MEAN MEMBERSHIP IN THE

15 RECIPROCAL NETWORK?

16 "ANSWER: CORRECT.

17 "QUESTION: OKAY. AND THAT'S ANOTHER WAY OF

18 REFERRING TO WHAT WE CALL CAMP COAST TO COAST MEMBERSHIPS?

19 "ANSWER: CORRECT. THE ANSWER IS CORRECT.

20 "QUESTION: AND WHAT DO YOU MEAN BY THE

21 PHRASE 'REPRESENT OUR PRODUCTS'?

22 "ANSWER: WHEN THEY ARE PRESENTING THE

23 BENEFITS OF A HOME RESORT MEMBERSHIP TO A PROSPECTIVE

24 MEMBER, OFTENTIMES THEY WILL ALSO PRESENT THE COAST TO

25 COAST PROGRAM AS AN ANCILLARY BENEFIT OF MEMBERSHIP IN THE

26 HOME RESORT.

1 "QUESTION: DOES COAST TO COAST -- OR HAS
2 COAST TO COAST OVER THE YEARS THAT YOU HAVE BEEN WITH IT --
3 STRIKE THAT.

4 "HOW LONG HAVE THE RESORT DEVELOPERS
5 REPRESENTED CAMP COAST TO COAST PRODUCTS IN THE MANNER
6 YOU'VE JUST DESCRIBED" --

7 YOUR HONOR, I HAVE TO CONTINUE TO PICK UP
8 THE ANSWER ON LINE 9.

9 OBJECTION BY MR. HEIMBOLD.

10 "QUESTION: IT'S A TIME QUESTION. OVER WHAT
11 PERIOD OF TIME HAS THAT BEEN THE CASE?

12 "ANSWER: SINCE THE INCEPTION OF COAST TO
13 COAST."

14 Q ALL RIGHT. NOW, MR. EVERETT, COAST -- TO
15 ENABLE THE RESORT DEVELOPERS TO REPRESENT COAST'S PRODUCTS,
16 COAST PROVIDES DEVELOPERS WITH A DEVELOPERS KIT, WHICH
17 INCLUDES HOW TO REPRESENT COAST TO COAST, INFORMATION WHICH
18 COAST WANTS THE DEVELOPER TO COMPLY WITH?

19 A CORRECT.

20 Q THEY ALSO PROVIDE DEVELOPERS WITH
21 FACE-TO-FACE COMMUNICATIONS AND DIRECTIONS GIVEN THROUGH
22 THE REGIONAL DIRECTORS AS TO HOW TO REPRESENT COAST TO
23 COAST AND ITS PRODUCTS; CORRECT?

24 A CORRECT.

25 Q AND THERE IS ALSO DIRECT COMMUNICATION ALONG
26 THESE LINES FROM PERSONS IN THE DENVER OFFICES OF COAST TO

1 COAST TO THE RESORT OWNERS?

2 A THAT'S CORRECT.

3 Q NOW, WE'VE ALREADY BEEN TOLD THAT THE
4 DEVELOPERS ARE THE ONES THAT SIGN UP THE MEMBERSHIPS AND
5 THEN SEND CONTRACTS TO COAST FOR COAST'S CONSIDERATION AND
6 SIGNING.

7 DO YOU RECALL THAT TESTIMONY? YOU WERE
8 HERE?

9 A YES.

10 Q OKAY. ONCE THAT DATA IS RECEIVED, COAST
11 THEN ADDS IT TO THE AFFINITY GROUP DATABASE THAT IS KEPT IN
12 THE AFFINITY GROUP I.T. DEPARTMENT AT DENVER, COLORADO;
13 CORRECT?

14 A THOSE NAMES GO INTO A COAST DATABASE.

15 Q ISN'T THERE A DATA BASE KEPT IN THE AFFINITY
16 GROUP I.T. DEPARTMENT IN DENVER, COLORADO, WHICH INCLUDES
17 THE NAMES OF THE COAST TO COAST MEMBERS?

18 A THERE IS A -- SUCH A LIST. WHETHER OR NOT
19 IT ABSOLUTELY INCLUDES THE NAMES OF THE COAST TO COAST
20 MEMBERS, I COULDN'T SAY FOR SURE.

21 Q DID YOU HEAR MR. RANDALL TESTIFY TO THE
22 EFFECT THAT HE WENT TO THE I.T. DEPARTMENT TO OBTAIN THE
23 LISTS OF MEMBERS TO WHOM THE LETTERS WERE SENT TO IN THE
24 FALL OF 1997?

25 A I DID.

26 Q YOU UNDERSTAND THAT THE I.T. DEPARTMENT IS

1 ON PREMISES OWNED BY AFFINITY GROUP; CORRECT?

2 A CORRECT.

3 Q AND IT IS MANNED WITH PERSONNEL WHO ARE
4 EMPLOYED BY AFFINITY GROUP; CORRECT?

5 A CORRECT.

6 Q AND IT IS HOUSED IN HOUSES -- HOUSES
7 EQUIPMENT THAT IS OWNED BY AFFINITY GROUP; CORRECT?

8 A CORRECT.

9 MR. SHERMAN: YOUR HONOR, OBJECTION TO THIS LINE OF
10 QUESTIONING AS TO VAGUE AS TO TIME. IF COUNSEL IS
11 REFERRING TO THE PRESENT, WE'LL SO STIPULATE THAT IT'S AT
12 THE PRESENT TIME.

13 MR. MOSHENKO: WELL, I'LL GET A TIME OUT.

14 THE COURT: ALL RIGHT.

15 BY MR. MOSHENKO: Q ISN'T THAT THE CIRCUMSTANCE AS
16 OF THE FALL OF 1997?

17 A WHAT ARE YOU REFERRING TO? WHAT
18 CIRCUMSTANCE?

19 Q THAT THE I.T. DEPARTMENT WAS ON PREMISES
20 OWNED BY AFFINITY GROUP.

21 A THAT'S CORRECT.

22 Q THAT THE DATA WAS HOUSED IN COMPUTER
23 EQUIPMENT THAT WAS OWNED BY AFFINITY GROUP?

24 A ARE YOU SPEAKING OF COAST TO COAST
25 MEMBERSHIP DATA?

26 Q AMONG OTHER, YES.

1 A YES.

2 Q OKAY. AND THAT DATA, IN THE I.T.
3 DEPARTMENT -- STRIKE THAT.

4 THAT THE EQUIPMENT IN THE I.T. DEPARTMENT
5 WAS OPERATED BY EMPLOYEES WHO WERE EMPLOYEES OF AFFINITY
6 GROUP?

7 A THAT'S CORRECT.

8 Q AND, IN FACT, THE DATABASE THERE IS
9 CONSIDERED BY AFFINITY GROUP TO BE AN ASSET OF AFFINITY
10 GROUP, IS IT NOT?

11 A CERTAINLY.

12 Q ALL RIGHT. NOW, YOU HEARD THE TESTIMONY TO
13 THE EFFECT THAT PEOPLE WHO APPLY FOR MEMBERSHIPS IN COAST
14 TO COAST MUST FIRST BE MEMBERS OF A RESORT AS THE PRIMARY
15 PRODUCT; CORRECT?

16 A THAT'S CORRECT.

17 Q AND THAT ONE CANNOT BE A MEMBER OF COAST
18 UNLESS THEY FIRST HAVE A HOME RESORT MEMBERSHIP; CORRECT?

19 A CORRECT.

20 Q NOW, THROUGHOUT YOUR TENURE WITH COAST TO
21 COAST, BEFORE AND AFTER YOU BECAME PRESIDENT, YOU'VE ALWAYS
22 BEEN AWARE THAT RESORT MEMBERSHIPS ARE ACQUIRED BY A MEMBER
23 OF THE PUBLIC ENTERING INTO A MEMBERSHIP CONTRACT WITH A
24 RESORT OWNER WITH PRICES THAT RANGE UP TO \$10,000 PER
25 MEMBERSHIP; CORRECT?

26 A YES.

1 Q AND YOU'VE ALWAYS BEEN AWARE THAT IN ORDER
2 TO OBTAIN THOSE MEMBERSHIP CONTRACTS, DEVELOPERS WHO
3 MARKETED MEMBERSHIPS TO THE PUBLIC INCURRED EXPENSES OF
4 MARKETING THE MEMBERSHIPS UP TO 50 OR 70 PERCENT OF THE
5 COST OF THE MEMBERSHIPS; CORRECT?

6 MR. SHERMAN: OBJECTION. IT IS NOT RELEVANT.

7 THE COURT: I DON'T SEE THE RELEVANCE.

8 MR. MOSHENKO: MAY I APPROACH AND TALK ABOUT IT,
9 YOUR HONOR?

10 THE COURT: YES, YOU MAY.

11 (DISCUSSION OFF THE RECORD.)

12 THE COURT: OBJECTION IS OVERRULED.

13 DO YOU WANT THE QUESTION READ BACK?

14 MR. MOSHENKO: COULD I PLEASE ASK THE REPORTER TO
15 READ IT BACK.

16 (THE FOLLOWING TESTIMONY WAS READ BACK:

17 "AND YOU'VE ALWAYS BEEN AWARE THAT IN ORDER TO OBTAIN THOSE
18 MEMBERSHIP CONTRACTS, DEVELOPERS WHO MARKETED MEMBERSHIPS
19 TO THE PUBLIC INCURRED EXPENSES OF MARKETING THE
20 MEMBERSHIPS UP TO 50 OR 70 PERCENT OF THE COST OF THE
21 MEMBERSHIPS; CORRECT?"

22 THE WITNESS: THAT'S CORRECT.

23 BY MR. MOSHENKO: Q YOU AS PRESIDENT OF COAST TO
24 COAST -- AND THEN AS PRESIDENT OF COAST TO COAST ALSO WERE
25 AWARE THAT THE MEMBERSHIP CONTRACTS THAT WERE SOLD TO
26 MEMBERS OF THE PUBLIC WERE OFTEN FINANCED; CORRECT?

1 A YES.

2 Q WITH LEAVING BALANCES DUE AND OWING ON THE
3 CONTRACTS THAT WERE FINANCED?

4 A YES, SIR.

5 Q AND YOU ALSO WERE AWARE THAT MEMBERS OF
6 RESORT -- MEMBERSHIP RESORTS ALSO PAID ANNUAL FEES OR DUES
7 AS A PART OF THEIR MEMBERSHIPS?

8 A YES.

9 Q I WANT TO DEAL FOR A MOMENT, MR. EVERETT,
10 WITH THE CONFIDENTIALITY ISSUES.

11 NOW, WHILE YOU WERE VICE PRESIDENT OF
12 RESORT -- RESORT SERVICES FOR CAMP COAST TO COAST, ONE OF
13 THE THINGS THAT YOUR RESPONSIBILITY INCLUDED WAS DEALING
14 WITH ISSUES RELATING TO CONFIDENTIALITY OF THE MEMBER
15 LISTS; CORRECT?

16 A NOT EXPLICITLY, NO.

17 Q WELL, AS VICE PRESIDENT OF RESORT SERVICES,
18 DIDN'T YOUR RESORT SERVICES SECTION SEND TO RESORT
19 DEVELOPERS LISTS OF PERSONS WHO WERE MEMBERS OF THE RESORTS
20 AND MEMBERS OF COAST TO COAST ON AN ANNUAL OR A
21 TWICE-ANNUAL BASIS?

22 A YES, WE DID.

23 Q OKAY. AND WITH THOSE LISTS, DIDN'T YOU OR
24 PERSONS WHO WERE RESPONSIBLE TO COAST TO COAST RESORT
25 SERVICES DEPARTMENT WARN THOSE DEVELOPERS WHO RECEIVED
26 THOSE LISTS FROM TIME TO TIME THAT THOSE LISTS WERE

1 CONFIDENTIAL?

2 A I BELIEVE THAT WE DID, YES.

3 Q OKAY. AND ALSO PART OF YOUR RESPONSIBILITY
4 OR YOUR -- MAYBE NOT PERSONAL, BUT YOUR DEPARTMENT'S
5 RESPONSIBILITY INCLUDED WARNINGS THAT THE LISTS WERE
6 PRIMARY -- PROPRIETARY ASSETS OF RESORTS?

7 A I DON'T EVER RECALL ISSUING A WARNING OF
8 THAT NATURE.

9 Q DO YOU RECALL THAT ROGER RYMAN PUBLISHED A
10 STATEMENT TO THAT EFFECT IN INSIDE NEWS IN 1990?

11 A THROUGH THIS CASE I HAVE, YES.

12 Q OKAY. SO YOU CAN CONFIRM THAT THROUGHOUT
13 THE TIME THAT YOU WERE VICE PRESIDENT OF RESORT SERVICES,
14 COAST CONSIDERED THE LISTS THAT WE'RE TALKING ABOUT TO BE,
15 AND THEY WERE, CONFIDENTIAL?

16 A COAST CONSIDERED THE LISTS OF COAST MEMBERS
17 TO BE CONFIDENTIAL, CORRECT.

18 Q AND THAT'S WITHOUT EXCEPTION?

19 A WITHOUT EXCEPTION.

20 Q ALL RIGHT. NOW, IN 1997, AUGUST 27TH OR
21 THEREABOUTS, WHILE YOU WERE VICE PRESIDENT, YOU AND OTHERS
22 HEARD OF MR. NOVELLI'S DECISION TO WITHDRAW SEVERAL RESORTS
23 FROM THE COAST TO COAST SYSTEM; CORRECT?

24 A WE SAW A LETTER TO THAT EFFECT, YES.

25 Q AND YOU ALSO HEARD OF THE THOUSAND
26 ADVENTURES WITHDRAWAL LETTER; CORRECT?

1 A YES.

2 Q AND YOU AND OTHERS MET TO DECIDE WHAT TO DO?

3 A OUR MANAGEMENT GROUP WOULD HAVE MET TO --
4 MET TO DECIDE WHAT TO DO, YES.

5 Q AND YOUR MANAGEMENT GROUP CONSISTED OF WHOM?

6 A MYSELF, MR. RYMAN, MR. RANDALL, THE REGIONAL
7 DIRECTORS.

8 Q NOW, WE'VE SEEN THIS MORNING SOME OTHER
9 MAILINGS THAT WENT TO MEMBERS OF MR. NOVELLI'S ALL SEASONS
10 RESORTS TALKING ABOUT THE ANNOUNCEMENT OF A NEW RECIPROCAL
11 OR WORDS TO THAT EFFECT?

12 A RIGHT.

13 Q DO YOU RECALL THOSE?

14 A YES.

15 Q YOU AND THE OTHERS WERE AWARE OF THOSE
16 MAILINGS IN OR ABOUT THE FALL OF 1997; CORRECT?

17 A I BELIEVE THAT WE WERE.

18 Q OKAY. AND CAN YOU TELL ME SPECIFICALLY WHEN
19 YOU BECAME AWARE OF THOSE MAILINGS?

20 A I CANNOT.

21 Q WITH RESPECT TO THE LETTERS FROM THOUSAND
22 ADVENTURES AND MR. NOVELLI, YOU AND THE OTHERS WERE AWARE
23 THAT MR. NOVELLI AND THOUSAND ADVENTURES HAD WARNED, IN
24 EFFECT, THAT THE LISTS WERE CONFIDENTIAL AND DO NOT CONTACT
25 THE MEMBERS; CORRECT?

26 MR. SHERMAN: OBJECTION. EXHIBIT 39 AND EXHIBIT 40

1 SPEAK FOR THEMSELVES.

2 MR. MOSHENKO: WE CAN TAKE THE TIME TO PUT THEM UP,
3 YOUR HONOR, IF THEY WANT.

4 THE COURT: OVERRULED.

5 MR. SHERMAN: THEY SPEAK FOR THEMSELVES.

6 THE COURT: OVERRULED.

7 GO AHEAD.

8 BY MR. MOSHENKO: Q THE ANSWER TO THE QUESTION?

9 A I'M AWARE THAT THEY ISSUED SUCH A WARNING IN
10 THE CONTEXT OF THE LETTER, YES.

11 Q BUT COAST TO COAST DID NOT CONCERN ITSELF IN
12 DECIDING WHAT TO DO ABOUT THE LETTERS WITH ISSUES OF
13 CONFIDENTIALITY, DID IT?

14 MR. SHERMAN: OBJECTION. ARGUMENTATIVE.

15 THE COURT: SUSTAINED.

16 BY MR. MOSHENKO: Q DID COAST TO COAST -- THIS IS
17 UNDER 776. I'M SORRY, YOUR HONOR. I DIDN'T MAKE IT CLEAR
18 TO THE COURT. SO IT'S AS THOUGH UNDER CROSS-EXAMINATION.

19 THE COURT: YOU DID.

20 BY MR. MOSHENKO: Q DID COAST TO COAST DISCUSS OR
21 CONCERN ITSELF WITH ISSUES OF CONFIDENTIALITY IN DEALING
22 WITH THE RESPONSE TO THE AUGUST 27 LETTERS?

23 A I BELIEVE THAT WE DID, YES.

24 MR. MOSHENKO: I'D LIKE TO READ FROM THE WITNESS'S
25 DEPOSITION, PAGE 237, LINES 2 THROUGH LINES 12.

26 MR. SHERMAN: YOUR HONOR, BECAUSE OF THE NOTICE OF

1 MR. EVERETT'S EXAMINATION THAT WE RECEIVED LATE THIS
2 MORNING, I DO NOT HAVE THAT VOLUME. IF I COULD LOOK ON
3 WITH MR. MOSHENKO.

4 MR. MOSHENKO: SURE. COULD -- MR. SHERMAN, COME ON
5 OVER HERE. PAGE -- IT'S NOT IN -- I GUESS WE DON'T HAVE IT
6 IN THE COMPUTER EITHER, YOUR HONOR.

7 THERE ARE COPIES OVER THERE, MR. SHERMAN.
8 I'M SO INFORMED, ANYWAY.

9 MR. SHERMAN: IF YOUR HONOR WOULD BEAR WITH ME FOR
10 A MOMENT.

11 THE COURT: OFF THE RECORD.

12 (DISCUSSION OFF THE RECORD.)

13 MR. SHERMAN: AGAIN, YOUR HONOR, FOR THE SAKE OF
14 COMPLETENESS, SO IT COULD BE UNDERSTOOD IN CONTEXT, WE ASK
15 THAT THE TESTIMONY THROUGH LINE 2 ON PAGE 238 BE READ.

16 MR. MOSHENKO: PAGE 238, WHICH LINE NUMBER?

17 WHATEVER YOU SAY, MR. SHERMAN.

18 COULD I ASK THAT THE QUESTION BE READ BACK
19 THAT WAS RESPONDED TO FOR THE CONTENTION OF THE READING,
20 YOUR HONOR?

21 THE COURT: ALL RIGHT.

22 (THE FOLLOWING TESTIMONY WAS READ BACK:

23 "QUESTION: DID COAST TO COAST DISCUSS OR
24 CONCERN ITSELF WITH ISSUES OF CONFIDENTIALITY IN DEALING
25 WITH THE RESPONSE TO THE AUGUST 27 LETTERS?

26 "ANSWER: I BELIEVE THAT WE DID, YES.")

1 MR. MOSHENKO: AND, YOUR HONOR, THIS READING IS
2 FROM THE DEPOSITION THAT WAS TAKEN ON --

3 MR. SHERMAN: YOUR HONOR, I STILL REQUEST THAT UP
4 THROUGH PAGE 238, LINE --

5 THE COURT: HE SAID HE WOULD DO THAT.

6 MR. SHERMAN: THANK YOU.

7 MR. MOSHENKO: -- FEBRUARY 18, 2000.

8 "QUESTION BY MR. MOSHENKO: DID COAST TO
9 COAST DO ANYTHING PARTICULAR BECAUSE OF THE FACT THAT
10 MR. NOVELLI GAVE YOU THAT WARNING?

11 "ANSWER: NOT TO MY KNOWLEDGE.

12 "QUESTION: DID COAST TO COAST DISCUSS THE
13 ISSUE OF CONFIDENTIALITY, THE WARNING, AMONG ITS MANAGEMENT
14 TEAM?

15 "ANSWER: I DON'T RECALL THAT WE DID.

16 "QUESTION: OKAY. DO YOU AGREE THAT THOSE
17 RECORDS WERE CONFIDENTIAL?

18 "ANSWER: YES, I DO.

19 "QUESTION: WHY DID YOU RELEASE THEM? IT
20 SEEMS TO ME THAT THAT POSITION IS INCONSISTENT WITH THE
21 CONDUCT THAT COAST TOOK IN RELEASING THE RECORDS.

22 "ANSWER: FOR ONE THING, THIS IS CERTAINLY
23 EXTRAORDINARY CIRCUMSTANCES. AND IN MY MIND, AT LEAST, OUR
24 ACTIONS DID NOT BREACH ANY CONFIDENTIALITY OF THOSE LISTS.
25 THESE LISTS WERE NOT DISSEMINATED ON THE STREET OR TO ANY
26 OUTSIDE PARTIES OUT OF THE COAST TO COAST SYSTEM OR

1 NETWORK.

2 "QUESTION: INHERENT IN THE ANSWER IS THE
3 POSITION THAT THE OTHER RESORT DEVELOPERS WHO RECEIVED THE
4 LISTS ARE WITHIN THE COAST TO COAST SYSTEM?

5 "ANSWER: CORRECT.

6 Q IS THAT ANSWER CORRECT BECAUSE COAST
7 CONSIDERED THIRD-PARTY DEVELOPERS TO BE AGENTS OF COAST IN
8 DEALING WITH MEMBERSHIPS?

9 A CAN YOU REPEAT THE QUESTION, PLEASE? I'M
10 SORRY.

11 MR. MOSHENKO: COULD THE COURT REPORTER PLEASE READ
12 IT BACK.

13 (THE FOLLOWING TESTIMONY WAS READ BACK:

14 "IS THAT ANSWER CORRECT BECAUSE COAST CONSIDERED
15 THIRD-PARTY DEVELOPERS TO BE AGENTS OF COAST IN DEALING
16 WITH MEMBERSHIPS?"

17 MR. SHERMAN: I'M GOING TO OBJECT TO THE QUESTION.
18 I BELIEVE IT'S VAGUE AND AMBIGUOUS.

19 THE COURT: OVERRULED.

20 YOU MAY ANSWER IF YOU UNDERSTAND THE
21 QUESTION.

22 THE WITNESS: WHAT ANSWER ARE YOU REFERRING TO,
23 MR. MOSHENKO?

24 BY MR. MOSHENKO: Q I APOLOGIZE. I READ FROM YOUR
25 DEPOSITION THE FOLLOWING QUESTION AND ANSWER AT LINE 23 AT
26 PAGE 237:

1 "QUESTION: INHERENT IN THAT ANSWER IS THE
2 POSITION THAT THE OTHER RESORT DEVELOPERS WHO RECEIVED THE
3 LISTS ARE WITHIN THE COAST TO COAST SYSTEM?

4 "ANSWER: CORRECT."

5 AND SO MY QUESTION WAS, YOU ANSWERED,
6 "CORRECT." AND IS THAT ANSWER, QUOTE, CORRECT, CLOSE QUOTE,
7 BECAUSE COAST CONSIDERS THE OTHER RESORT DEVELOPERS TO BE
8 COAST TO COAST AGENTS IN DEALING WITH MEMBERSHIPS?

9 A I'M STILL NOT TRACKING YOUR QUESTION, SIR.

10 Q WHAT IS IT ABOUT THE APPARENT STATUS OF A
11 THIRD-PARTY RESORT DEVELOPER THAT CAUSES YOU AS COAST'S
12 PRESIDENT TO BELIEVE THAT IT IS NOT A BREACH OF THE
13 CONFIDENTIALITY OF THE LISTS TO HAND THE LISTS OF THE
14 PLAINTIFFS' MEMBERS WHO ARE COAST TO COAST MEMBERS TO
15 THIRD-PARTY COMPETITOR RESORT OWNERS?

16 MR. SHERMAN: OBJECTION. SEEKS A LEGAL CONCLUSION
17 OF THE WITNESS. IT'S VAGUE AND AMBIGUOUS.

18 MR. MOSHENKO: SEEKS WHAT IT IS IN HIS MIND THAT
19 CAUSES HIM TO BELIEVE THAT, YOUR HONOR.

20 THE COURT: I'LL ALLOW THE QUESTION.

21 DO YOU UNDERSTAND IT?

22 THE WITNESS: I THINK I DO.

23 I THINK WHAT YOU'RE ASKING ME IS IF WE
24 BELIEVE THESE LISTS WERE CONFIDENTIAL, WHY DID WE THEN
25 DISTRIBUTE THEM TO OTHER DEVELOPERS IN THE COAST NETWORK;
26 IS THAT THE QUESTION?

1 BY MR. MOSHENKO: Q NOT EXACTLY. BUT I'LL LET YOU
2 ANSWER THAT. AND THEN I'LL ASK YOU TO ANSWER THE QUESTION
3 THAT I THOUGHT I ASKED.

4 A I'LL ANSWER IT THE SAME WAY I DID IN
5 DEPOSITION. THIS IS AN EXTRAORDINARY CIRCUMSTANCE. THESE
6 RESORTS HAD BECOME DISAFFILIATED. MR. NOVELLI'S SHIP HAD
7 ALREADY HIT THE ICEBERG. IT WAS GOING DOWN. WE ARE NOT
8 GOING TO STAND BY AND LET OUR MEMBERS LOSE THE PRODUCT THAT
9 THEY PURCHASED. YOU CANNOT SHACKLE MEMBERS TO A SINKING
10 SHIP, SIR.

11 Q ALL RIGHT. SO CONFIDENTIAL -- I THOUGHT YOU
12 TESTIFIED EARLIER TODAY CONFIDENTIALITY HAS, QUOTE, NO
13 EXCEPTIONS, CLOSE QUOTE.

14 A THAT'S NOT AN EXCEPTION AS FAR AS I'M
15 CONCERNED.

16 Q OF COURSE THE TESTIMONY YOU JUST GAVE US
17 ABOUT THE SHIP SINKING, OR WHATEVER THE ANALOGY WAS, IS
18 YOUR VERSION OF WHAT YOU PERCEIVED TO BE HAPPENING;
19 CORRECT?

20 A THAT'S CORRECT.

21 Q AND YOU DIDN'T UNDERSTAND THAT TRAVEL
22 AMERICA WAS A SINKING SHIP AT THE TIME YOU WROTE -- ALLOWED
23 THE LETTERS TO BE WRITTEN, DID YOU?

24 A I WASN'T REFERRING TO TRAVEL AMERICA, NO,
25 SIR.

26 Q WELL, DIDN'T YOU UNDERSTAND THAT MEMBERS

1 WERE GOING TO AN ORGANIZATION CALLED "TRAVEL AMERICA,"
2 ASSUMING MR. NOVELLI'S PLAN WAS CARRIED OUT?

3 A THAT'S CORRECT.

4 Q SO WHAT IS IT ABOUT THAT UNDERSTANDING THAT
5 ALLOWS YOU TO CONCLUDE THAT THAT MEANT THE MEMBERS WERE ON
6 A SHIP THAT WAS SINKING?

7 A IT WAS APPARENT OVER THE PREVIOUS COUPLE OF
8 YEARS THAT THE RESORTS THAT WERE IN THE CONTROL OF
9 MR. NOVELLI HAD HAD MANY PROBLEMS. THERE WERE CLOSURES.
10 WE HAD GOTTEN MANY LETTERS OF COMPLAINT FROM MEMBERS. AND
11 IT APPEARED TO US THAT THIS WAS AN ACT OF DESPERATION,
12 SO--TO--SPEAK.

13 Q THE FORMATION OF TRAVEL AMERICA WAS AN ACT
14 OF DESPERATION?

15 A THAT'S CORRECT.

16 Q ALL RIGHT. YOU'VE HEARD SOME TESTIMONY
17 REGARDING THE FACT THAT THE LETTERS THAT WENT OUT USED THE
18 PHRASE "COAST TO COAST HOME RESORT MEMBERSHIP." DO YOU
19 RECALL THAT?

20 A RIGHT.

21 Q NOW, IN YOUR VIEW AS PRESIDENT OF COAST TO
22 COAST, THE PHRASE COAST TO COAST FORMED -- STRIKE THAT.
23 I'LL START OVER.

24 YOU KNOW THAT "HOME RESORT MEMBERSHIP"
25 REFERS TO A MEMBER'S MEMBERSHIP IN A RESORT; CORRECT?

26 A CORRECT.

1 Q AND IN YOUR VIEW THE PHRASE "COAST TO COAST
2 HOME RESORT MEMBERSHIP" IS A REFERENCE TO A MEMBER'S
3 MEMBERSHIP IN THE COAST-AFFILIATED HOME RESORT?

4 A IT'S A REFERENCE TO THE COAST TO COAST HOME
5 RESORT OF RECORD.

6 Q THE PHRASE "HOME RESORT OF RECORD" TO YOU IS
7 NO DIFFERENT FROM THE PHRASE "HOME RESORT MEMBERSHIP";
8 ISN'T THAT TRUE?

9 A IT IS DIFFERENT.

10 MR. MOSHENKO: I'D LIKE TO READ FROM THE WITNESS'S
11 DEPOSITION, PAGE 125. THIS ONE WE DO HAVE, I THINK.

12 THAT'S NOT THE PLACE I'M LOOKING FOR, YOUR
13 HONOR. I'LL HAVE TO PASS ON THE READING, YOUR HONOR.
14 SINCE WE ARE ALLOWED TO READ FROM A DEFENDANTS' DEPOSITION
15 AT ANY TIME, I'D LIKE THE RIGHT TO -- RESERVE THE RIGHT TO
16 READ A SHORT SECTION AT A LATER TIME.

17 Q ALL RIGHT. NOW, COAST IN THE FALL OF 1997
18 USED THE LIST OF MEMBERS THAT IT CONSIDERED CONFIDENTIAL TO
19 ENCOURAGE AND FACILITATE THE TRANSFERS OF HOME RESORTS'
20 MEMBERSHIPS OF CERTAIN OF THE PLAINTIFFS' MEMBERS FROM ONE
21 RESORT TO ANOTHER; CORRECT?

22 A WE USED THOSE LISTS TO ALLOW THE MEMBERS TO
23 RETAIN -- TO HAVE THE POTENTIAL FOR OR THE OPPORTUNITY TO
24 RETAIN THEIR COAST TO COAST MEMBERSHIP.

25 Q AND TO DO THAT, YOU SOUGHT TO ENCOURAGE AND
26 FACILITATE THE TRANSFERS OF HOME RESORT MEMBERSHIPS FROM

1 CERTAIN OF PLAINTIFFS' RESORTS TO OTHER RESORTS THAT COAST
2 CONSIDERED AFFILIATED RESORTS?

3 A WE SOUGHT TO ENCOURAGE THE TRANSFER OF THE
4 COAST TO COAST HOME RESORT OF RECORD.

5 Q YOU ARE AWARE OF THE LETTER SAYS, "WE HAVE
6 MADE ARRANGEMENTS TO TRANSFER YOUR COAST TO COAST HOME
7 RESORT MEMBERSHIP," NOT, QUOTE, "COAST TO COAST HOME RESORT
8 MEMBERSHIP OF RECORD," CLOSE QUOTE?

9 MR. SHERMAN: OBJECTION. THE DOCUMENTS SPEAK FOR
10 THEMSELVES.

11 THE COURT: OVERRULED.

12 MR. MOSHENKO: WE CAN PUT IT UP.

13 THE WITNESS: IF YOU SAY SO, YES, SIR.

14 BY MR. MOSHENKO: Q NOW, YOU WERE A PART OF THE
15 PLANNING PROCESS THAT CARRIED OUT THAT PLAN; RIGHT?

16 A YES, I WAS.

17 Q AND COAST INTENDED BY THE LETTERS IT SENT TO
18 CAUSE THE TRANSFERS THAT WERE REFERRED TO IN THE LETTERS TO
19 TAKE PLACE?

20 A YOU'RE IN -- OUR INTENTION WAS TO, AGAIN,
21 GIVE THE MEMBERS THE OPPORTUNITY TO TRANSFER THE COAST TO
22 COAST HOME RESORT OF RECORD AND CONTINUE THEIR COAST TO
23 COAST MEMBERSHIP.

24 MR. MOSHENKO: WASN'T YOUR -- I'D LIKE TO READ FROM
25 THE WITNESS'S DEPOSITION, YOUR HONOR, PAGE 80, LINE 20,
26 THROUGH PAGE 81, LINE 16.

1 THEN, IF I MAY, YOUR HONOR, CONTINUE ON PAGE
2 82, LINE 10, THROUGH PAGE 83, LINE 2.

3 MR. SHERMAN: NO OBJECTION.

4 THE COURT: THANK YOU.

5 MR. MOSHENKO: OKAY. QUESTION -- LET'S PUT IT UP,
6 PAGE 80.

7 OKAY. I'M GOING TO TAKE MY SHEET BECAUSE
8 I'M TOLD A LINE IS CUT OFF ON THE SCREEN STARTING HERE.

9 "QUESTION BY MR. MOSHENKO: ALL RIGHT. WHAT
10 ROLE, IF ANY, DID YOU PLAY IN THE PROCESS WHEREBY, QUOTE,
11 ARRANGEMENTS WERE MADE TO HAVE THESE COAST TO COAST HOME
12 RESORT MEMBERSHIPS TRANSFERRED?

13 "ANSWER: I WOULD HAVE BEEN INVOLVED IN THE
14 DISCUSSION THAT THIS IS WHAT WE INTENDED TO DO, AND THAT
15 THERE WAS AN AGREEMENT THAT THAT'S WHAT WE INTENDED TO DO.
16 AND IT MOST LIKELY WAS --

17 "MR. HEIMBOLD: DON'T ANSWER 'MOST LIKELY'
18 OR 'I WOULD HAVE.' YOUR TESTIMONY IS BASED ON YOUR
19 KNOWLEDGE TODAY.

20 "QUESTION BY MR. MOSHENKO: WHEN YOU SAY YOU
21 WOULD HAVE BEEN INVOLVED, DO YOU MEAN YOU WERE INVOLVED?

22 "ANSWER: I BELIEVE I WAS.

23 "QUESTION: OKAY. AND WERE YOU A PART --

24 "ANSWER: WELL --

25 "QUESTION: -- OF THE DECISION-MAKING
26 PROCESS WHEREBY THE INTENT TO DO THE THINGS JUST AS YOU

1 TESTIFIED TO WAS REACHED?

2 "ANSWER: I WAS.

3 "QUESTION: WHY DID COAST TO COAST DECIDE TO
4 DO THAT?

5 "MR. HEIMBOLD: VAGUE AND AMBIGUOUS WITH
6 REGARD TO THAT" --

7 I'M SORRY. THAT'S WHERE I ASKED TO STOP,
8 YOUR HONOR, AND PICK UP ON A DIFFERENT PAGE. SO I'LL
9 DELETE THAT AND GO TO PAGE 82, LINE 10.

10 RIGHT HERE.

11 "QUESTION: THAT'S WHAT I WAS REFERRING TO
12 WHEN I SAID, QUOTE, WHY DID COAST TO COAST DECIDE TO DO
13 WHAT YOU SAID THEY INTENDED TO DO, CLOSE QUOTE.

14 "ANSWER: IF YOU'RE ASKING ME WHY DID COAST
15 TO COAST INTEND TO TRANSFER THESE COAST TO COAST
16 MEMBERS --

17 "QUESTION: YES.

18 "ANSWER: -- IF THAT'S THE QUESTION, BECAUSE
19 OUR POLICY IS TO TAKE THAT KIND OF ACTION AS IS NECESSARY
20 TO PRESERVE THE VALUE AND THE INTEGRITY OF THE MEMBERSHIP
21 THAT THESE PEOPLE ORIGINALLY PURCHASED BY GIVING THEM THE
22 OPPORTUNITY TO MAINTAIN THEIR COAST TO COAST MEMBERSHIP.

23 "QUESTION: HOW LONG HAS THAT BEEN COAST TO
24 COAST'S POLICY?

25 "ANSWER: FOR SEVERAL YEARS."

26 NEXT PAGE, PLEASE. LINE 1 SAYS, "QUESTION:

1 INTO THE EARLY '90'S. IT'S NOT ON HERE.

2 "ANSWER: I WOULD SAY INTO THE EARLY
3 '90'S."

4 COULD WE GO BACK ONE PAGE, PLEASE.

5 NOW, MR. EVERETT, THIS PHRASE HERE, "IF
6 YOU'RE ASKING ME WHY DID COAST TO COAST INTEND TO TRANSFER
7 THESE COAST TO COAST MEMBERS, IF THAT'S THE QUESTION,
8 BECAUSE OUR POLICY IS TO TAKE THAT KIND OF ACTION AS IS
9 NECESSARY TO PRESERVE THE VALUE AND INTEGRITY OF THE
10 MEMBERSHIP THAT THESE PEOPLE ORIGINALLY PURCHASED BY GIVING
11 THEM THE OPPORTUNITY TO MAINTAIN THEIR COAST TO COAST
12 MEMBERSHIP," THE MEMBERSHIP THAT THESE PEOPLE ORIGINALLY
13 PURCHASED THAT'S REFERRED TO IN YOUR ANSWER IS NOT THE
14 MEMBERSHIP IN THE HOME RESORT, IS IT?

15 MR. SHERMAN: OBJECTION. THAT'S ARGUMENTATIVE. IT
16 MISSTATES THE DEPOSITION TESTIMONY.

17 THE COURT: OVERRULED.

18 COUNSEL.

19 THE WITNESS: PLEASE REPEAT THE QUESTION.

20 BY MR. MOSHENKO: Q THIS PHRASE, "ACTION AS IS
21 NECESSARY TO PRESERVE THE VALUE AND THE INTEGRITY OF THE
22 MEMBERSHIP THAT THESE PEOPLE ORIGINALLY PURCHASED," THAT IS
23 NOT A REFERENCE TO THE MEMBERSHIP IN THE ORIGINAL HOME
24 RESORT, IS IT?

25 A IT'S A REFERENCE TO THE MEMBERSHIP PACKAGE
26 THAT THE PEOPLE ORIGINALLY PURCHASED.

1 MR. MOSHENKO: OBJECTION. NONRESPONSIVE.

2 THE COURT: OVERRULED.

3 BY MR. MOSHENKO: Q THE MEMBERSHIP PACKAGE, AS YOU
4 USED THE PHRASE, IS THE COAST TO COAST MEMBERSHIP; CORRECT?

5 A NO. IT'S THE COMBINATION OF THE HOME RESORT
6 MEMBERSHIP AND COAST TO COAST.

7 Q HOW CAN TRANSFERRING MEMBERS FROM THEIR HOME
8 RESORT PRESERVE THE INTEGRITY OF THE MEMBERSHIP IN THE HOME
9 RESORT, ALONG WITH THE COAST TO COAST MEMBERSHIP?

10 MR. SHERMAN: OBJECTION. MISSTATES THE TESTIMONY
11 IN THE DEPOSITION AND IS ARGUMENTATIVE.

12 THE COURT: OVERRULED.

13 THE WITNESS: WHEN THESE PEOPLE FIRST PURCHASED
14 THEIR MEMBERSHIP, COAST TO COAST WAS A BIG PART OF THEIR
15 PURCHASE DECISION. IT WAS ARBITRARILY SNATCHED AWAY FROM
16 THEM. WE WERE GOING TO GIVE THEM THE OPPORTUNITY TO KEEP
17 WHAT THEY HAD PURCHASED.

18 I'M NOT GOING TO SIT HERE AND TELL YOU THAT
19 COAST TO COAST IS A PURELY ALTRUISTIC ORGANIZATION. WE ARE
20 NOT. WE ARE A FOR-PROFIT COMPANY. BUT WE BELIEVE THAT OUR
21 PROFITS WILL COME THROUGH TAKING CARE OF OUR MEMBERS AND
22 PRESERVING WHAT THEY ORIGINALLY BOUGHT AND NOT HAVING IT
23 ARBITRARILY TAKEN AWAY FROM THEM.

24 BY MR. MOSHENKO: Q YOU KNEW THAT IN SENDING THE
25 LETTERS, THERE WAS A POTENTIAL THAT THE VALUE AND INTEGRITY
26 OF THE MEMBERS OF THE HOME RESORT WOULD BE HARMED BY

1 CAUSING MEMBERS TO TRANSFER TO A DIFFERENT HOME RESORT,
2 DIDN'T YOU?

3 A NOT NECESSARILY.

4 Q COAST WAS MORE CONCERNED WITH THE \$60 COAST
5 MEMBERSHIP THAN IT WAS WITH THE UP TO \$10,000 HOME RESORT
6 MEMBERSHIP, WASN'T IT?

7 A WE ARE CONCERNED ABOUT KEEPING OUR MEMBERS
8 WITH US, AND WE ARE CONCERNED ABOUT THE REVENUE THAT WE GET
9 FROM THE MEMBERS, ABSOLUTELY.

10 Q NOW, WHEN COAST DECIDED TO TRANSFER 35,000
11 MEMBERS OR APPROXIMATELY 35,000 MEMBERS, IT SET UP A
12 PROGRAM TO CARRY THAT TRANSFER OUT; CORRECT?

13 A CORRECT.

14 Q THEY CALLED IT A MASS TRANSFER, DIDN'T THEY?

15 A CORRECT.

16 Q AND YOU DON'T HAVE TO REPEAT THE DETAILS OF
17 HOW LETTERS WERE SENT TO ALL THE PLAINTIFFS' MEMBERS. BUT
18 THAT'S YOUR UNDERSTANDING; CORRECT?

19 A YES.

20 Q ALL RIGHT. AND COAST TAKES THE POSITION
21 THAT IN EVERY INSTANCE WHERE A RESORT OWNER CHOOSES TO
22 DISAFFILIATE FROM COAST TO COAST, THAT COAST TO COAST IS
23 THEN JUSTIFIED IN DECLARING THOSE PERSONS TO BE SO-CALLED
24 ORPHANS AND THEN COMMUNICATE WITH THEM TO ENCOURAGE THEM TO
25 TRANSFER THEIR HOME RESORT MEMBERSHIPS TO OTHER COMPETITOR
26 RESORTS; CORRECT?

1 A ANSWER TO THE FIRST PART OF YOUR QUESTION IS
2 YES. THE SECOND PART OF YOUR QUESTION IS WE ENCOURAGE THEM
3 TO TRANSFER THEIR COAST TO COAST HOME RESORT OF RECORD TO
4 ANOTHER RESORT SO THEY MAY CONTINUE THEIR COAST TO COAST
5 AFFILIATION AND BENEFITS.

6 Q NOW, THE FIRST PART THAT YOU SAID IS
7 CORRECT, WHICH IS THAT COAST IN EVERY INSTANCE DECIDES
8 WHERE A RESORT OWNER CHOOSES TO DISAFFILIATE, THAT THAT PER
9 SE CREATES A BUNCH OF ORPHANS -- THAT'S WHAT I'M REFERRING
10 TO; RIGHT?

11 A YES.

12 Q NOW, YOU KNOW THAT MEMBER -- AFFILIATED
13 RESORTS HAVE THE RIGHT TO DISAFFILIATE AT WILL JUST BY
14 GIVING NOTICE TO COAST; CORRECT?

15 A THAT'S CORRECT.

16 Q NOW, COAST KNOWS WHEN RESORT OWNERS ARE
17 AFFILIATING, THAT IN THE EVENT THEY CHOOSE TO DISAFFILIATE
18 AT SOME POINT IN TIME, THAT COAST IS GOING TO DECLARE THEIR
19 MEMBERS TO BE ORPHANS AND ACT TO COMMUNICATE WITH THEM TO
20 ENCOURAGE THEM TO TRANSFER THEIR COAST TO COAST HOME RESORT
21 MEMBERSHIPS TO A DIFFERENT RESORT?

22 A YES.

23 Q BUT COAST TO COAST DOES NOT TELL THAT TO ANY
24 OF THE RESORT DEVELOPERS WHO ARE AFFILIATING WITH COAST TO
25 COAST, DOES IT?

26 A IT DOES NOT COME UP IN A NORMAL

1 CONVERSATION. NO, SIR, IT DOES NOT.

2 Q AND, IN FACT, DOESN'T COAST TO COAST'S
3 REGIONAL DIRECTORS SPECIFICALLY CHOOSE NOT TO TALK ABOUT
4 THAT BECAUSE OF A PERCEPTION THAT IF THEY DID, IT WOULD
5 DISCOURAGE -- IT WOULD BE A NEGATIVE AND DISCOURAGE RESORT
6 DEVELOPERS FROM AFFILIATING WITH COAST?

7 A THAT'S ABSOLUTELY INCORRECT. THERE IS
8 LANGUAGE IN THE LICENSE AGREEMENT.

9 MR. MOSHENKO: OBJECTION. NONRESPONSIVE AFTER
10 "ABSOLUTELY INCORRECT," YOUR HONOR.

11 THE COURT: SUSTAINED. THE NEXT QUESTION.

12 BY MR. MOSHENKO: Q DOES COAST TO COAST ALLOW
13 THEIR MEMBERS TO SELL THEIR COAST TO COAST MEMBERSHIPS TO
14 THIRD PERSONS?

15 A NO.

16 Q DOES COAST TO COAST ALLOW THEIR MEMBERS TO
17 TRANSFER THEIR MEMBERSHIPS TO THEIR FAMILY MEMBERS?

18 A NO.

19 Q COAST RECOGNIZES THAT MEMBERS CAN TRANSFER
20 THEIR HOME RESORT MEMBERSHIPS TO OTHER RESORTS; CORRECT?

21 A WOULD YOU REPEAT THAT, PLEASE.

22 Q COAST RECOGNIZES THAT MEMBERS CAN TRANSFER
23 THEIR HOME RESORT MEMBERSHIPS FROM RESORT A TO RESORT B?

24 A THERE ARE CIRCUMSTANCES WHERE A MEMBER CAN
25 TRANSFER THEIR COAST TO COAST HOME RESORT OF RECORD, YES.

26 Q BUT MEMBERS CANNOT TRANSFER THEIR COAST TO

1 COAST MEMBERSHIPS TO ANYBODY, CAN THEY?

2 A ARE YOU REFERRING TO OTHER INDIVIDUALS,
3 TRANSFER THEIR MEMBERSHIP TO OTHER INDIVIDUALS?

4 Q YES.

5 A THAT'S CORRECT.

6 Q ALL RIGHT. NOW, WITH SPECIFIC REFERENCE TO
7 THE DECISIONS THAT WERE MADE TO TRANSFER OR TO SEND THE
8 LETTERS, WE CALL THE TRANSFER LETTERS IN THE FALL OF 1997,
9 YOU AS DIRECTOR OF RESORT SERVICES WERE RESPONSIBLE FOR THE
10 CONDUCT OF THE REGIONAL DEVELOPERS WHO WENT OUT AND
11 COMMUNICATED WITH RESORTS ON A ROUTINE BASIS; RIGHT?

12 A I GUESS YOU COULD SAY THAT I HAD ULTIMATE
13 RESPONSIBILITY FOR THE COMMUNICATION THEY WERE HAVING WITH
14 OTHER RESORT DEVELOPERS.

15 Q AND WE SAW SOME TESTIMONY, I BELIEVE, THIS
16 MORNING AND BEFORE WITH MR. RYMAN TO THE EFFECT THAT THESE
17 REGIONAL DEVELOPERS ARE IN TOUCH WITH RESORT DEVELOPERS --
18 SORRY. I MISSTATED.

19 TESTIMONY TO THE EFFECT THAT THESE REGIONAL
20 DIRECTORS ARE IN TOUCH WITH RESORT DEVELOPERS ON A
21 DAY-TO-DAY BASIS; RIGHT?

22 A THEY'RE IN TOUCH WITH THEM ON A VERY REGULAR
23 BASIS, YES.

24 Q AND THE REGIONAL DIRECTORS WERE INSTRUCTED
25 TO CONTACT THE RESORT OWNERS AND ENCOURAGE THEM TO AGREE TO
26 COOPERATE WITH COAST'S PLAN TO HAVE 35,000 PEOPLE TRANSFER

1 THEIR COAST TO COAST HOME RESORT MEMBERSHIPS?

2 A THEY WERE INSTRUCTED TO CONTACT RESORT
3 DEVELOPERS TO SEE IF THEY WOULD HAVE AN INTEREST IN
4 PARTICIPATING IN THIS PROGRAM.

5 Q AND ASSUMING THEY DID, TO THEN COOPERATE
6 WITH COAST'S PLAN TO CARRY OUT THE TRANSFERS; RIGHT?

7 A CORRECT.

8 Q AND TO DO THAT, COAST EVEN TOLD THE RESORT
9 MEMBERS -- THE RESORT OWNERS THEY HAD TO GIVE, IN EFFECT,
10 FREE RESORT MEMBERSHIPS AWAY?

11 A I DON'T BELIEVE IT -- I DON'T BELIEVE IT WAS
12 STATED THAT WAY.

13 Q THAT'S WHY I SAID "IN EFFECT," MR. EVERETT,
14 BECAUSE THESE RESORT OWNERS WERE TOLD THEY WERE NOT ABLE TO
15 CHARGE MEMBERSHIP FEES FOR PEOPLE TO BECOME MEMBERS OF
16 THEIR RESORTS, WEREN'T THEY?

17 A I DON'T THINK THEY WERE TOLD UNEQUIVOCALLY
18 THAT THEY COULD NOT CHARGE. I THINK THE UNDERSTANDING WAS
19 THAT THERE WOULD BE A REASONABLE TRANSFER FEE, IF ANY AT
20 ALL, SO THAT THESE PEOPLE DID NOT HAVE TO REPURCHASE A
21 MEMBERSHIP FOR MULTIPLE THOUSANDS OF DOLLARS.

22 Q ALL RIGHT. AND THE RESORTS TO WHOM THE
23 MEMBERS WERE BEING TRANSFERRED -- FIRST OF ALL, THEY WERE
24 BLOCK TRANSFERS; CORRECT?

25 A IF I INTERPRET YOUR WORK "BLOCK" CORRECTLY,
26 YES.

1 Q THAT MEANS ENTIRE MEMBERSHIP GROUPS OF
2 ENTIRE RESORTS WERE IN SOME INSTANCES TRANSFERRED TO OTHER
3 RESORTS --

4 A YES.

5 Q -- AS A BLOCK; CORRECT?

6 A CORRECT, UH-HUH.

7 Q AND AS DIRECTOR OF RESORT SERVICES, DID YOU
8 INSTRUCT YOUR REGIONAL DIRECTORS TO SEEK TO ACCOMPLISH
9 TRANSFERS TO OTHER RESORTS THAT WERE IN CLOSE PROXIMITY TO
10 THE RESORTS FROM WHICH THE MEMBERS WERE BEING TRANSFERRED?

11 A THAT WOULD HAVE BEEN ONE OF THE CRITERIA
12 THAT WOULD HAVE BEEN USED, YES.

13 Q DO YOU HAVE ANY EXPLANATION WHY HUNDREDS OF
14 MEMBERS FROM DELTA ISLE WERE TRANSFERRED TO MEXICO WHEN
15 QUALITY RESORTS WAS, IN EFFECT, ACROSS THE FENCE FROM THE
16 DELTA ISLE RESORT?

17 A I CAN ONLY SAY THAT WHATEVER THE
18 CIRCUMSTANCES WERE THAT PRECLUDED THE TRANSFER OF THOSE
19 PEOPLE TO QUALITY RESORTS MUST HAVE EXISTED.

20 Q DO YOU HAVE ANY EXPLANATION WHY MEMBERS FROM
21 FLORIDA RESORTS WERE TRANSFERRED TO MICHIGAN AND NEW
22 JERSEY? THOSE ARE THE TWO I REMEMBER THAT WERE TESTIFIED
23 TO HERE IN OPEN COURT.

24 A AGAIN, ALL I CAN ANSWER THAT BY SAYING ONCE
25 WE HAD RUN THROUGH THE LIST OF RESORTS THAT WERE IN
26 PROXIMITY, AND THOSE DID NOT PROVE TO BE VIABLE OR WHATEVER

1 REASON, THAT THAT RADIUS MAY HAVE BEEN EXTENDED.

2 Q SO COAST ESSENTIALLY DID NOT CONSIDER ITSELF
3 BOUND BY ANY PROXIMITY ISSUES, DID IT?

4 A NOT NECESSARILY, NO.

5 Q OKAY. NOW, ALSO IN 1997 COAST DOCUMENTED
6 THE SO-CALLED NEW MEMBERSHIPS IN NEW RESORTS AS THOUGH THEY
7 EXISTED EVEN WHEN THEY DIDN'T EXIST?

8 A THAT'S CORRECT.

9 Q AND COAST ENCOURAGED ITS AGENTS, THE RESORT
10 DEVELOPERS, TO CONTACT THE MEMBERS THAT COAST HAD
11 TRANSFERRED TO ENCOURAGE THEM, THE MEMBERS, TO COMPLETE THE
12 TRANSFERS?

13 A THAT WOULD HAVE BEEN UNDERSTOOD, YES.

14 Q AND COAST PROVIDED THEM WITH THE LISTS WHICH
15 WERE THE VEHICLE BY WHICH THEY WERE SUPPOSED TO DO THAT?

16 A YES.

17 Q DID COAST INSTRUCT THEM WHAT THEY SHOULD SAY
18 OR DO TO ACCOMPLISH THESE TRANSFERS?

19 A NOT TO MY KNOWLEDGE.

20 Q AND, IN FACT, COAST MADE NO EFFORT TO LEARN
21 OR KNOW WHAT THESE RESORTS WERE GOING TO SAY TO THE MEMBERS
22 TO EFFECTUATE THE TRANSFERS?

23 A THAT'S CORRECT.

24 Q IT WAS JUST, WHATEVER HAPPENS, IT'S NOT A
25 COAST CONCERN, WAS IT?

26 A CERTAINLY IT'S A COAST CONCERN.

1 Q WHY DIDN'T COAST THEN MAKE SOME EFFORT TO
2 LEARN OR KNOW WHAT THESE AGENTS WERE GOING TO BE SAYING TO
3 THE MEMBERS?

4 A I THINK WE HAD A GENERAL UNDERSTANDING OF
5 WHAT THEY WOULD BE SAYING TO THEM.

6 Q WELL, DID YOU UNDERSTAND THEY WERE GOING TO
7 BE SAYING THAT RESORTS WERE CLOSED AND OUT OF BUSINESS,
8 THINGS LIKE THAT?

9 MR. SHERMAN: OBJECTION. LACKS FOUNDATION. IT'S
10 ALSO HEARSAY.

11 THE COURT: SUSTAINED.

12 BY MR. MOSHENKO: Q COAST DID NOT EVEN CONSIDER
13 ITSELF WITH THE POSSIBILITY THAT THESE AGENTS MIGHT
14 MISREPRESENT THE FACTS RELATING TO THE EVENTS OF THE
15 TRANSFERS, DID IT?

16 A THERE WAS ALSO -- ALWAYS THE POSSIBILITY OF
17 A MISREPRESENTATION OF FACTS, MR. MOSHENKO.

18 Q I RECOGNIZE THAT THERE IS ALWAYS THAT
19 POSSIBILITY.

20 MY QUESTION, SIR, WAS, COAST DID NOT CONCERN
21 ITSELF WITH THAT WHEN IT GAVE THE MEMBER LISTS TO THE OTHER
22 COMPETITOR RESORT OWNERS AND ENCOURAGED THEM TO CAUSE THE
23 TRANSFERS TO OCCUR, DID IT?

24 A I WOULD ANSWER THAT BY SAYING NO.

25 Q THAT'S MY --

26 A I'M NOT SURE I GAVE YOU THE RIGHT ANSWER.

1 Q IS THAT A NO, COAST DID CONCERN ITSELF --

2 A PLEASE ASK ME THE QUESTION AGAIN.

3 THE COURT: WAIT A MINUTE.

4 BY MR. MOSHENKO: Q DID COAST CONCERN ITSELF WITH
5 THE POSSIBILITY THAT THESE RESORT OWNERS MIGHT MISREPRESENT
6 THE FACTS AND IN -- ENCOURAGING THE PLAINTIFFS' MEMBERS TO
7 CHANGE RESORTS?

8 A NO MORE THAN IN THE NORMAL DUE COURSE OF
9 BUSINESS AND HAVING RESORTS AS AGENTS REPRESENTING COAST TO
10 COAST.

11 Q WELL, WHAT IN THE NORMAL DUE COURSE OF
12 BUSINESS DOES COAST DO TO INSURE THAT RESORT DEVELOPERS WHO
13 ARE ACTING AS ITS AGENTS DON'T MISREPRESENT THE FACTS?

14 A WHEN WE HAVE SITUATIONS WHERE IT'S
15 COMMUNICATED TO US THAT PERHAPS THERE HAS BEEN SOME
16 MISREPRESENTATION OF THE COAST PRODUCT OR THE FACTS, WE
17 WILL COMMUNICATE WITH THAT RESORT TO STRAIGHTEN THE
18 SITUATION OUT.

19 MR. MOSHENKO: WELL, YOUR HONOR, I'D LIKE TO READ
20 FROM THE DEPOSITION, PAGE 117 THROUGH 125. AND WITH THE
21 COURT'S PERMISSION, THERE'S A COLLOQUY IN THE MIDDLE TO THE
22 EFFECT OF READING THE QUESTION BACK, AND IT'S REREAD. I'D
23 LIKE TO DELETE THAT.

24 MR. SHERMAN: YOUR HONOR, WE'VE GOT EIGHT PAGES.
25 WE'VE NEVER BEEN GIVEN A DESIGNATION.

26 THE COURT: WHY DON'T WE DO THIS IN THE MORNING.

1 MR. MOSHENKO: YOU MEAN STOP NOW?

2 THE COURT: YES.

3 MR. MOSHENKO: WHATEVER YOU WISH, YOUR HONOR.

4 THAT'S FINE WITH ME.

5 THE COURT: SEE YOU AT 9:00, LADIES AND GENTLEMEN.

6 (WHEREUPON THE COURT WAS IN RECESS UNTIL
7 TUESDAY, JUNE 20, 2000, 9:00 A.M.)

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