

JUSTICE CENTER SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE, WEST

CORPORATION, ET AL.,)
DEPARTMENT W7TRAVEL AMERICA, INC., A DELAWARE)
)
PLAINTIFFS,)
)
VS.) CASE NO. 789743
)
CAMP COAST TO COAST, INC., A DELAWARE) CORPORATION, ET AL.,
)
)
DEFENDANTS.)
)
)

THE HONORABLE JOHN H. SMITH, JR., JUDGE PRESIDING
REPORTER'S TRANSCRIPT
MAY 17, 2000

APPEARANCES:

FOR THE PLAINTIFFS: GERALD M. SHAW
ATTORNEY AT LAW
TERRY M. MOSHENKO
ATTORNEY AT LAW
FOR THE DEFENDANTS: ALSCHULER, GROSSMAN, STEIN & KAHAN
BY: MICHAEL A. SHERMAN, ESQ.
MELISSA E. MILLER, ESQ.
CRAIG RUTENBERG, ESQ.
RUTAN & TUCKER
BY: IRA G. RIVIN, ESQ.
RICHARD D. ARKO, ESQ.

HEIDI K. STEWART, CSR #6058
OFFICIAL COURT REPORTER

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WITNESSES FOR THE PLAINTIFFS:
DIRECT CROSS REDIRECT RECROSS
ROBERT FRANK MITCHELL
BY MR. SHAW: 1129

MORNING SESSION
(THE FOLLOWING PROCEEDINGS WERE HELD IN

CHAMBERS:)

MR. RIVIN: I'M THE ONE THAT REQUESTED WE HAVE THE SESSION THIS MORNING. I SPENT A LOT OF TIME LAST NIGHT THINKING ABOUT MR. MITCHELL AND HIS TESTIMONY AND HOW THAT'S GOING TO PLAY AND THE HUNDREDS OF OPINIONS THAT MR. MITCHELL IS GOING TO EXPRESS, AND OUR POSITION OF HAVING TO OBJECT REPEATEDLY, OR IF WE DON'T WANT TO LOOK BAD IN FRONT OF THE JURY, TO WAIVE OUR OBJECTIONS OR WAIVE WHATEVER OBJECTIONS WE HAVE BY NOT SAYING ANYTHING.

I REALLY BELIEVE THIS IS A SITUATION WHERE MR. MITCHELL'S TESTIMONY NEEDS TO BE PUT ON OUTSIDE OF THE PRESENCE OF THE JURY IN FRONT OF YOUR HONOR, WHERE WE CAN MAKE APPROPRIATE OBJECTIONS, WHERE YOUR HONOR CAN RULE ON WHAT'S APPROPRIATE AND WHAT'S NOT APPROPRIATE, AND TO GO THROUGH MR. MITCHELL'S QUESTIONING AND MAKE A DETERMINATION OF WHAT SHOULD COME IN AND WHAT SHOULD NOT COME IN.

MR. MITCHELL TESTIFIED YESTERDAY BRIEFLY ON MEMBERS TRANSFERRED, DAMAGES ISSUES, THINGS THAT, AS YOUR HONOR NOTED IN ASKING MR. MITCHELL, DO YOU HAVE ANY ACCOUNTING BACKGROUND, HE INDICATED HE HAS GOT NO ACCOUNTING BACKGROUND. HE IS GOING TO TESTIFY OR TRY TO TESTIFY ABOUT EVERYTHING.

MR. SHAW MAY HAVE A DIFFERENT OPINION AND MAY SAY THAT'S NOT THE CASE; BUT IF THAT'S TRUE, LET'S PUT IT ON IN FRONT OF YOUR HONOR. AND AFTER YOUR HONOR MAKES A DETERMINATION OF WHAT SHOULD COME IN, WHAT'S APPROPRIATE AND WHAT'S NOT APPROPRIATE, THEN WE CAN BRING THE JURY BACK AND PUT MR. MITCHELL ON BEFORE THE JURY.

HE IS A VERY IMPORTANT WITNESS. IT'S THE BEGINNING OF THE CASE. I THINK THIS IS THE TYPE OF FOUNDATIONAL ISSUE THAT NEEDS TO BE ADDRESSED. I THINK THE JURY WILL UNDERSTAND THAT, IF THEY'RE EXCUSED FOR A DAY. EVEN IF IT TAKES A DAY OR IT TAKES A DAY AND A HALF FOR THAT DETERMINATION TO BE MADE, IN THE GRAND SCHEME OF THINGS, THAT IS NOT A SIGNIFICANT AMOUNT OF TIME IN THIS TRIAL. AND I THINK IT IS ONLY FAIR AND APPROPRIATE THAT GIVEN WHAT WE'VE SEEN IN MR. MITCHELL'S DEPOSITION, THE NUMBER OF OPINIONS HE IS PREPARED TO EXPRESS, THE NUMBER OF MATTERS THAT ARE REALLY NOT OPINIONS, THAT ARE PERCIPIENT WITNESS TESTIMONY THAT MAY BE RELEVANT OR MAY BE BASED UPON INAPPROPRIATE AND INADMISSIBLE HEARSAY, WE NEED TO HAVE THAT DETERMINATION MADE BY THE COURT BEFORE THE JURY HEARS IT.

MR. MITCHELL IS TOO IMPORTANT A WITNESS FOR THE PLAINTIFFS, TOO IMPORTANT A WITNESS FOR THE DEFENDANTS NOT TO GO THROUGH THAT PROCESS. I NORMALLY DON'T THINK IN MOST CASES IT'S NECESSARY IF YOU DO AN 802 HEARING. IT CAN BE A VERY SIMPLE -- A VERY SIMPLE HEARING. THAT'S MORE THE CASE WITH MR. MITCHELL. THAT'S WHAT WE TRIED TO DO YESTERDAY AFTERNOON. WE TRIED TO -- I THINK WE TALKED ABOUT IT. I INTRODUCED YOUR HONOR TO THE ISSUE. WE ALLOTTED OURSELVES AN HOUR OR TWO TO TRY AND MAKE THE DETERMINATION OF WHETHER OR NOT MR. MITCHELL'S TESTIMONY SHOULD COME IN. AND AS I REALIZED LAST NIGHT, THERE IS NO WAY TO MAKE THAT DETERMINATION IN AN HOUR OR TWO.

I THINK YOUR HONOR NEEDS TO HEAR THE

TESTIMONY AND MAKE DECISIONS ON WHAT COMES IN AND WHAT DOESN'T COME IN BEFORE THE JURY IS EXPOSED TO MR. MITCHELL'S TESTIMONY. AND I WOULD ASK THAT YOUR HONOR PLEASE ISSUE SUCH AN ORDER.

THE COURT: RESPONSE?

MR. SHAW: WE VEHEMENTLY OBJECT. WE WENT THROUGH THIS ALL DAY YESTERDAY. WE TALKED ABOUT IT. THERE'S A RULING. AND NOW WE'RE COMING BACK TO REVISIT IT. WE'RE GUIDED BY 2034 OF THE CODE OF CIVIL PROCEDURE REGARDING EXPERTS. WE'RE GUIDED BY THE EVIDENCE CODE. WITNESSES TAKE THE STAND. HE CAN OBJECT. THEY CAN DO WHATEVER THEY WANT IN THE FORMAT OF 2034 AND THE EVIDENCE CODE SECTIONS. THAT'S OUR GUIDELINE.

WHAT MR. RIVIN WANTS IS TO KNOW OUR WORK PRODUCT BEFORE A WITNESS GOES ON. THERE'S NO PRECEDENT FOR THAT. HIGHLY UNUSUAL. THIS SHOULD BE CONDUCTED AS EVERY OTHER TRIAL, AND DECISIONS ARE MADE REGARDING THE EVIDENCE WHEN THE INDIVIDUAL TESTIFIES. THAT HASN'T EVEN HAPPENED YET. WE'RE AGAIN ASKING FOR PREJUDGMENT OF WHAT'S GOING TO TAKE PLACE RATHER THAN LETTING IT TAKE PLACE AND LETTING THE EVIDENCE CODE GUIDE WHAT COMES IN OR WHAT DOESN'T COME IN. SO WE OBJECT.

MR. RIVIN: PLAINTIFFS' COUNSEL USES BUZZ WORDS THAT THEY THINK ARE GOING TO BE PERSUASIVE, PREJUDGING THE EVIDENCE. THIS EVIDENCE NEEDS TO BE JUDGED. THAT'S EXACTLY WHAT WE'RE ASKING THE COURT TO DO, IS JUDGE THE EVIDENCE. IT'S TIME FOR THE EVIDENCE TO BE JUDGED OUTSIDE OF THE PRESENCE OF THE JURY, BEFORE THE EVIDENCE CAN COME ON. THIS IS NOT -- EXCUSE ME -- BEFORE THE EVIDENCE CAN BE PRESENTED TO THE JURY.

THIS IS NOT A SECTION 2034 ISSUE. THAT'S NOT WHAT WE'RE TALKING ABOUT. WE'RE NOT TRYING TO FIND OUT WHAT THEIR CASE IS ABOUT. WE'RE NOT TRYING TO FIND OUT WHAT THIS TESTIMONY IS GOING TO BE. I TOOK HIS DEPOSITION FOR PORTIONS OF FIVE DAYS. I KNOW WHAT HE IS PREPARED TO OPINE ON. AND THAT'S IT. AND IT'S 300, POTENTIALLY 300 ISSUES. WE'RE NOT TRYING TO DO ANYTHING IMPROPER. WE'RE NOT TRYING TO GET ANY TACTICAL ADVANTAGE OVER THE PLAINTIFFS. IT'S BECAUSE OF THIS WITNESS'S UNIQUE SITUATION THAT WE'RE ENTITLED TO THE COURT TO MAKE THE DETERMINATION, IN ADVANCE, OUTSIDE OF THE PRESENCE OF THE JURY, WHETHER THIS TESTIMONY COMES IN OR WHETHER IT DOESN'T COME IN, WHICH TESTIMONY COMES IN AND WHICH DOESN'T COME IN.

YOUR HONOR IS GOING TO HAVE TO DO THAT ANYWAY DURING THE COURSE OF HIS TESTIMONY IN FRONT OF THE JURY, AND THE DEFENDANTS WILL BE PLACED IN THE INCREDIBLY DIFFICULT POSITION OF EITHER STANDING UP REPEATEDLY AND OBJECTING, OR NOT OBJECTING, AND BECAUSE OF THE APPEARANCE TO THE JURY, AND WAIVING OUR OBJECTIONS.

THIS IS EXACTLY THE TYPE OF SITUATION THAT REQUIRES A COURT HEARING PRIOR TO THE TESTIMONY BY THE WITNESS IN FRONT OF THE JURY. IT'S THE PERFECT SITUATION FOR THAT.

THE COURT: WELL, I RESPECTFULLY DISAGREE. I THINK THAT TO HAVE TO GO THROUGH IT TWICE IS TOO TIME-CONSUMING, UNNECESSARY.

I WILL EXPLAIN TO THE JURY, IF NECESSARY,

THE RIGHT THAT BOTH SIDES HAVE TO OBJECT TO EVIDENCE BASED UPON THE EVIDENCE CODE. AND WHEN YOU OBJECT, ALL YOU HAVE TO DO IS SAY "OBJECTION, YOUR HONOR," AND STATE THE GROUNDS, AND I'LL RULE.

MR. RIVIN: BUT IN MANY CASES, YOUR HONOR, YOU WILL NOT HAVE THE OPPORTUNITY TO HAVE THE BACKGROUND INFORMATION TO ALLOW YOUR HONOR TO RULE.

THE COURT: SURE I WILL.

MR. RIVIN: YOU WON'T, YOUR HONOR. IN MANY -- IF WE PUT THIS EVIDENCE ON OUTSIDE THE PRESENCE OF THE JURY, WHAT WILL HAPPEN IS THAT A QUESTION WILL BE ASKED OF MR. MITCHELL. IF IT'S APPROPRIATE, FINE. IF IT'S NOT, AND WE HAVE AN OBJECTION, THE COURT MAY NEED TO ENTERTAIN SOME FURTHER QUESTIONING FROM THE WITNESS IN ORDER TO MAKE A DETERMINATION OF WHETHER THERE'S A PROPER FOUNDATION, OF WHETHER IT'S HEARSAY, OF WHETHER IT'S APPROPRIATE FOR EXPERT WITNESS TESTIMONY.

THERE ARE BACKGROUND -- THERE ARE BACKGROUND QUESTIONS, FOUNDATIONAL QUESTIONS, THAT MAY NEED TO BE ASKED. AND TO DO THAT IN FRONT OF THE JURY IS INAPPROPRIATE AND UNFAIR.

THE COURT: WELL, IT DOESN'T HAVE TO BE DONE IN FRONT OF THE JURY. YOU CAN HAVE AN OCCASIONAL SIDEBAR, BUT NOT ON EVERY OBJECTION.

MR. RIVIN: BUT IT'S NOT EVEN THE SIDEBAR, YOUR HONOR. THE QUESTIONS WILL BE -- WILL NEED TO BE PUT TO MR. MITCHELL. THERE WILL NEED TO BE SOME CLARIFICATION TESTIMONY OR FOUNDATIONAL TESTIMONY FROM MR. MITCHELL.

THE COURT: I SEE NO DIFFERENCE IN THIS CASE THAN ANY OTHER CASE THAT I'VE TRIED. LET'S GO AHEAD AND PLAY BY THE RULES AND GET ON WITH IT.

HOW LONG IS HE GOING TO TAKE FOR YOUR OPENING STATEMENT?

MR. MOSHENKO: YOUR HONOR, I'D SAY BETWEEN 45 MINUTES TO AN HOUR.

THE COURT: MR. SHERMAN?

MR. SHERMAN: I'D SAY APPROXIMATELY AN HOUR AND THREE-QUARTERS.

THE COURT: THAT LONG.

MR. SHERMAN: I CUT IT DOWN SIGNIFICANTLY LAST NIGHT.

THE COURT: OKAY. FAMILY HERE TODAY.

MR. SHERMAN: MY WIFE SHOULD BE ARRIVING REAL SOON WITH MY SON. HE IS TAKING THE DAY OFF OF SCHOOL.

THE COURT: OKAY. LET'S HIT IT.

MR. SHAW: THANK YOU.

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

THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

THE JURY: GOOD MORNING.

THE COURT: IN THE MATTER OF TRAVEL AMERICA, ET AL., VERSUS CAMP COAST TO COAST.

BOTH SIDES READY TO PROCEED?

MR. SHAW: YES.

MR. MOSHENKO: PLAINTIFF IS, YOUR HONOR.

MR. SHERMAN: READY FOR THE DEFENDANTS, YOUR HONOR.

THE COURT: TIME FOR THE OPENING STATEMENT.

MR. MOSHENKO: I DO.

THE COURT: PROCEED, MR. MOSHENKO.

MR. MOSHENKO: GOOD MORNING, LADIES AND GENTLEMEN.

THE JURY: GOOD MORNING.

MR. MOSHENKO: LADIES AND GENTLEMEN, YOUR HONOR, AND MADAME CLERK, AND MR. BAILIFF, FIRST I WANT TO SAY I'M SURE THAT ALL OF MY COLLEAGUES, ALL OF THE PARTIES AND THE COURT IS EXTREMELY GRATEFUL TO THE SACRIFICES THAT YOU AND EACH OF YOU WOULD BE MAKING IN REGARD TO HELPING US WITH THIS CASE. WE APPRECIATE IT. THANK YOU.

LADIES AND GENTLEMEN, THE OPENING STATEMENT IS A STATEMENT OF WHAT EACH SIDE EXPECTS THE EVIDENCE TO SHOW. IT'S A STATEMENT ABOUT WHAT THE CASE IS ABOUT.

IN THIS CASE THE EVIDENCE WILL SHOW THAT THIS IS A CASE ABOUT MISAPPROPRIATION OF TRADE SECRETS. IT'S ABOUT WHETHER THE DEFENDANTS ENGAGED IN UNFAIR COMPETITION ISSUES, BREACHES OF AGREEMENTS, ACTS OF DEFAMATION AND ACTS OF FRAUD. THOSE ARE THE LEGAL ISSUES.

WHEN WE STOP TALKING LAWYER MUMBO-JUMBO, WE CAN SAY IT'S ABOUT ACTS OF A GROUP OF DEFENDANTS WHO ARE PART OF A CONGLOMERATE OF CORPORATIONS WHO TRY TO DESTROY AND PUT OTHER WEAKER BUSINESSES OUT OF BUSINESS BY TAKING THEIR PROPERTY AND ALMOST SUCCEEDED IN DOING IT.

THE EVIDENCE WILL SHOW THAT THE MEMBERSHIP CAMPGROUND PLAINTIFFS SPENT MILLIONS OF DOLLARS CREATING A BUSINESS AND BUILDING A LIST OF CUSTOMERS THEY CALLED THEIR MEMBERS. THE MEMBERS WERE THE PLAINTIFFS' FAMILY. THE PLAINTIFFS TOOK THEIR MEMBERS TO THE DEFENDANTS, WHO WERE PART OF A GROUP OF PUBLISHING CORPORATIONS THAT ALSO OFFERED A SORT OF GLORIFIED TRAVEL AGENCY SERVICE CALLED "RECIPROCAL USE." AND PLAINTIFF SAID, "HERE ARE OUR MEMBERS, OUR FAMILY. WE ARE GOING TO ENTRUST THEM TO YOU SO THAT YOU CAN CORRESPOND WITH THEM AND PROVIDE THEM WITH YOUR REFERRAL OR RESERVATION OR RECIPROCAL SERVICE. YOU CAN ALSO USE THE INFORMATION TO ENHANCE OUR MEMBERS' BENEFITS, BUT THAT'S IT."

THE PLAINTIFFS ASKED, "NOW WHAT HAPPENS IF WE SHOULD DECIDE TO STOP USING YOUR RECIPROCAL USE SERVICE?"

THE ANSWER WAS, "NO PROBLEM. GIVE US 90 DAYS' NOTICE, AND YOU CAN BE ON YOUR WAY. THEY ARE YOUR MEMBERS."

BUT THE EVIDENCE WILL SHOW THAT'S NOT WHAT HAPPENED. WHEN THE PLAINTIFFS SAID TO THE DEFENDANTS, "WE ARE LEAVING," THE DEFENDANTS SAID, "YOU CAN GO, BUT NOT WITH YOUR MEMBERS, NOT WITH YOUR FAMILY. YOU'VE GOT TO LEAVE THEM HERE."

AND, IN FACT, THEY DIDN'T EVEN SAY IT. THEY JUST WROTE TO THE MEMBERS SAYING, IN EFFECT, "YOUR PARENTS ARE DEAD, BUT WE'VE MADE ARRANGEMENTS TO HAVE A NEW HOME WITH NEW PARENTS. WE TRANSFERRED YOU FROM YOUR OLD RESORT TO A NEW RESORT."

THE DEFENDANTS EVEN CALL THESE MEMBERS THAT THEY TRANSFERRED "ORPHANS." AND THE SO-CALLED ORPHANS THAT THEY TRANSFERRED DIDN'T KNOW THE TRUTH AND DIDN'T KNOW THEIR PARENTS WERE LIVING. AND THEN THE MEMBERS LEFT BECAUSE THE DEFENDANTS TRANSFERRED THEM.

THE DEFENDANTS TRANSFERRED 34,000 OF THE PLAINTIFFS' RESORTS MEMBERS. AND THE EVIDENCE WILL SHOW IT

ESSENTIALLY DESTROYED THE PLAINTIFFS' BUSINESS, OR AT LEAST COST THEM MILLIONS AND MILLIONS OF DOLLARS. THAT'S WHAT THIS CASE IS ABOUT.

BECAUSE OF THESE FACTS, THE PLAINTIFFS HAVE COME BEFORE YOU AND ASKED YOU TO HEAR AND CONSIDER THIS CASE AND MAKE A DECISION AS TO WHAT APPROPRIATELY SHOULD BE DONE TO RECTIFY THE SITUATION.

WHO ARE THE PLAINTIFFS? WELL, THE PLAINTIFFS ARE CAMPGROUND OWNERS AND OPERATORS, BUSINESS ENTITIES HEADQUARTERED RIGHT HERE IN ORANGE COUNTY. BUT BEHIND THE ENTITIES, THE EVIDENCE WILL SHOW, THERE ARE PEOPLE, INDIVIDUALS, RESORT MANAGERS, RESORT OWNERS, EMPLOYEES, GROUNDSKEEPERS, WHAT I CALL THE WORKER BEES OF THE RESORT INDUSTRY.

AND ALSO PART OF THESE ENTITIES ARE THE TENS OF THOUSANDS OF MEMBERS, ORDINARY PEOPLE, WHO GO INTO THEIR BANK ACCOUNTS AND SAVINGS AND CHOOSE TO BUY MEMBERSHIPS IN A PARTICULAR RESORT, THE PLAINTIFFS' RESORT, IN THE FIRST PLACE. THE PLAINTIFFS AND THE PEOPLE THAT WORK FOR THEM ARE THE PEOPLE THAT SPEND THEIR DAYS DEALING WITH THE ROUTINE CHORES OF RUNNING CAMPGROUND RESORTS. SOMETIMES YOU'LL FIND THEM OUT IN THE RESORTS FLIPPING HAMBURGERS WITH THE RESORT MEMBERS, BUT USUALLY YOU'LL FIND THEM RIGHT HERE IN SANTA ANA, CALIFORNIA.

REGARDING THESE PEOPLE, THE NAMES YOU WILL HEAR THE MOST WILL BE RAYMOND NOVELLI, HIS WIFE, MARLIES, HANS SCHULZ, WHO IS MARLIES'S BROTHER, AND A MAN NAMED JAMES JOSEPH. RAYMOND IS AND HAS BEEN FOR OVER A DECADE THE GENERAL MANAGER OVER EACH OF THE PLAINTIFFS' RESORTS. HANS SCHULZ, RAY'S BROTHER-IN-LAW, IS A TRUSTEE OF THE HANS SCHULZ FAMILY TRUST, AN OWNER OF RESORTS. IT'S A FAMILY TRUST WHICH HOLDS THE FAMILY ASSETS FOR THE NOVELLI FAMILY MEMBERS AND OTHERS.

RAY'S WIFE, MARLIES, IS THE DIRECTOR OF RESORT SERVICES, IN THE OFFICE EVERY DAY, WORKING, RESPONSIBLE FOR MANAGING THE SITE. THE RESORT MANAGERS ON SITE.

AND JAMES JOSEPH IS AN ATTORNEY WHO, TO MY KNOWLEDGE, DOESN'T PRACTICE LAW, BECAUSE HE SPENDS HIS TIME ACTING AS A BANKRUPTCY TRUSTEE. HE WORKS FOR THE COURT. HE WORKS FOR THE CREDITORS. HE WORKS FOR THE PARTIES. HE SPENDS HIS TIME HOLDING AND MANAGING THE BUSINESS AFFAIRS OF DOZENS OF COMPANIES THAT ARE UNDER THE CONTROL AND THE PROTECTION OF THE BANKRUPTCY COURTS AND JUDGES.

MR. JOSEPH HAS OVER THE YEARS ACTED AS A KIND OF A TEMPORARY OWNER OF COMPANIES THAT HAVE COME UNDER HIS JURISDICTION, BECAUSE THEY HAVE BEEN FORCED TO FILE A BANKRUPTCY, USUALLY A CHAPTER 11 REORGANIZATION-TYPE BANKRUPTCY, WHICH IS FILED TO PRESERVE AND PROTECT THE COMPANY AND ITS ASSETS AND TO PROTECT THE INTEREST OF ALL OF THOSE INVOLVED, INCLUDING THE CREDITORS, I MIGHT ADD, UNTIL ARRANGEMENTS CAN BE MADE TO GET THE BILLS PAID.

MR. JOSEPH HAS BEEN A TRUSTEE FOR DECADES AND HAS HANDLED SEVERAL RESORT CAMPGROUND MEMBERSHIP RESORTS THAT HAVE FILED BANKRUPTCY OVER THE YEARS.

WITH REGARDS TO THE PLAINTIFF, WHILE MR. NOVELLI WAS AROUND, DATING BACK TO 1993, SIX OF 11 SEPARATE PLAINTIFFS HAVE HAD CHAPTER 11 REORGANIZATION

BANKRUPTCY FILINGS DONE TO ALLOW THE COMPANIES TO REORGANIZE, TO REMAIN IN BUSINESS, TO GET THE CREDITORS PAID AND, MOST IMPORTANTLY, TO SAVE THE RESORTS AND THE MEMBERS.

IN EACH INSTANCE WHERE THERE HAVE BEEN PLAINTIFFS' BANKRUPTCIES HANDLED BY MR. JOSEPH, MR. JOSEPH HAS UNIVERSALLY ASKED RAYMOND NOVELLI TO ACT AS HIS OPERATIONS MANAGER AND RUN THE RESORTS. HE TRUSTS RAY NOVELLI.

THE EVIDENCE WILL SHOW, LADIES AND GENTLEMEN, THAT RAY NOVELLI HAS BEEN INVOLVED IN THE MEMBERSHIP RESORT BUSINESS SINCE 1986. HE IS A VERY INTERESTING MAN. YOU'LL HEAR MUCH ABOUT HIM IN THIS CASE. IN FACT, HE STARTED HIS WORKING CAREER AS A CARPENTER. EVENTUALLY HE BECAME AN OWNER OF A CONSTRUCTION COMPANY. AFTER THAT HE BECAME A BANKER, AND AT ONE POINT WAS THE OWNER OF SIX BANKS. AFTER THAT HE GOT INTO THE MEMBERSHIP CAMPGROUND INDUSTRY.

RAY NOVELLI IS MARRIED. HE HAS FIVE CHILDREN. HE LIVES RIGHT HERE IN ORANGE COUNTY. HE LIKES TO R.V. AND TO BOAT AND TO FISH. IN SHORT, HE LIKES THE GOOD LIFE, AND HE WORKS VERY HARD TO ACHIEVE IT.

TO DATE, HE HAS MANAGED BETWEEN 10 AND 50 RESORTS CONTINUALLY FOR NEARLY 15 YEARS. THE EVIDENCE WILL SHOW HE ALSO MANAGES APOLLO MOTOR COACH AND REVCON MOTOR COACH COMPANIES. THESE ARE BOTH R.V.'ING MANUFACTURING COMPANIES THAT MAKE SPECIALTY R.V.'S THAT ARE SOLD TO, AMONG OTHERS, THE EXECUTIVE BRANCH OF THE UNITED STATES GOVERNMENT FOR USE BY THE PRESIDENT, THE SECRET SERVICE, WHITE HOUSE STAFF, AND MOST RECENTLY FOR USE BY THE UNITED STATES NAVY.

HE IS A CAPABLE AND AGGRESSIVE BUSINESSMAN. AT TIMES, THOUGH, YOU WILL FIND HIM AT HIS RESORTS AT A BARBECUE WITH HIS MEMBERS, HIS OTHER FAMILY. OR YOU'LL FIND HIM AT THE PLAINTIFFS' PONDEROSA RESORT, WHICH IS THE -- FEATURES THE SUMMER HOME OF COUNTRY MUSIC FEATURING GARTH BROOKS, CLINT BLACK, WILLIE NELSON AND LORETTA LYNN.

IN FACT, THE MEMBERS OF THE PLAINTIFFS RESORTS REFER TO RAY NOVELLI AS "GOOD TIMES RAY." I ALSO SAID, THOUGH HE IS AN AGGRESSIVE BUSINESSMAN BECAUSE OF HIS BACKGROUND HE BRINGS TO HIS JOB, THE EVIDENCE WILL SHOW A HIGHLY SPECIALIZED SKILL. NOT TOO MANY PEOPLE UNDERSTAND IT AND ARE CAPABLE OF DOING IT. HE IS A SPECIALIST IN WHAT'S CALLED WORKING OUT DISTRESSED COMPANIES. SOMETIMES CALLED A WORKOUT SPECIALIST. IF A COMPANY IS DISTRESSED AND IN FINANCIAL TROUBLE, THE CREDITORS COME TO RAY NOVELLI. THE OWNERS COME TO RAY NOVELLI. AND THEY ASK HIM TO USE HIS SPECIAL SKILLS TO STEP IN TO SAVE OR REVIVE OR PROTECT THE COMPANY THAT'S IN FINANCIAL DIFFICULTY.

IN HIS 13 YEARS IN THE CAMPGROUND INDUSTRY, HE HAS DONE THIS MANY TIMES FOR MANY PEOPLE WITH MANY COMPANIES. AND, YES, HE DOES USE BANKRUPTCIES AS A BUSINESS TOOL.

NOW, WHO ARE THE DEFENDANTS? WELL, LADIES AND GENTLEMEN, THE EVIDENCE WILL SHOW THAT THE DEFENDANTS, EXCEPT FOR TWO, ARE CORPORATE ENTITIES WHO ARE PART OF A PUBLISHING EMPIRE OF A MAN NAMED STEVEN ADAMS.

DEFENDANT CAMP COAST TO COAST, A DELAWARE

CORPORATION, COMES HERE FROM DENVER, COLORADO. ANOTHER DEFENDANT, AFFINITY GROUP, INCORPORATED, ALSO OPERATES IN DENVER, COLORADO AND TODAY SHARES OFFICES WITH OTHER ADAMS COMPANIES IN VENTURA, CALIFORNIA.

MR. ADAMS IS A SHREWD, INTELLIGENT BUSINESSMAN WHO HAS HAD THE SKILL AND THE WEALTH TO SURROUND HIMSELF WITH MANY OTHER INTELLIGENT, SMOOTH, SHREWD BUSINESSMEN. YOU WILL SEE THEM IN THIS TRIAL. YOU WILL BE IMPRESSED BY THEIR PRESENTATIONS. TOGETHER THEY OPERATE A CONGLOMERATE OF INTERLOCKING CORPORATIONS IN THE PUBLISHING BUSINESS.

IN THE LATE 1980'S THEY GOT INTO THE CAMPGROUND RECIPROCAL-USE BUSINESS. AND IN THE DECADE OF THE 90'S, THEY GOT INTO THE MARKETING OF GOODS AND SERVICES BUSINESS, ALL FOCUSING ON THE R.V. INDUSTRY. THEY CALL THEMSELVES "THE AFFINITY GROUP."

THE AFFINITY GROUP TELLS US IT'S MADE UP OF APPROXIMATELY 21 CORPORATIONS, TOO NUMEROUS TO NAME HERE. ALL ARE UNDER WHAT'S CALLED "THE AFFINITY GROUP OF UMBRELLA COMPANIES." WE'VE BEEN TOLD THE CORPORATION KNOWN AS "AFFINITY GROUP, INCORPORATED," IS HELD BY ANOTHER CORPORATION, A HOLDING COMPANY CALLED AFFINITY GROUP HOLDING CORP. AND THE AFFINITY GROUP HOLDING CORP HOLDING COMPANY IS ITSELF HELD BY ANOTHER HOLDING COMPANY CALLED "AFFINITY GROUP HOLDING COMPANY, INCORPORATED." AND THE AFFINITY GROUP HOLDING COMPANY, INCORPORATED, IS OWNED 99 PERCENT BY THE DEFENDANT, STEVE ADAMS.

IN OTHER WORDS, IF YOU GO DOWN THROUGH THE CHAIN, FROM TOP TO BOTTOM, AFFINITY GROUP IS STEVE ADAMS.

NOW, THIS CONGLOMERATE OF INTERLOCKING CORPORATIONS HAS, THE EVIDENCE WILL SHOW, MADE ITSELF THE MOST POWERFUL FORCE THERE IS IN THE R.V. RESORT CAMPGROUND INDUSTRY TODAY. BY PUBLISHING BASICALLY 90 PERCENT OF THE R.V. SPECIALTY MAGAZINES IN THE INDUSTRY, THEY HAVE SUCCEEDED IN CREATING FOR THEMSELVES A VIRTUAL PUBLICITY MONOPOLY IN THE INDUSTRY.

BY USING THAT PUBLICITY MONOPOLY, MR. ADAMS HAS SUCCESSFULLY COLLECTED FOR HIMSELF A DATABASE WHICH THE AFFINITY GROUP PUBLISHES, INCLUDES NEARLY 4 MILLION NAMES, INCLUDING A HUGE NUMBER OF R.V.'ERS, WHICH AFFINITY GROUP INDICATES IS A LIST OF PEOPLE THAT CAN BE MINED LIKE A GOLD MINER TAPPED FOR MARKETING SALES PURPOSES AT ANY TIME.

WHERE DID THEY GET THE NAMES ON THIS DATABASE? WELL, SOME OF THEM AFFINITY DEVELOPED THEMSELVES. THEREFORE, AFFINITY, APPROPRIATELY, JEALOUSLY GUARDS THAT INFORMATION AS A VALID, VALUABLE PROPRIETARY ASSET OF THE BUSINESS DEVELOPED BY THEM.

BUT THERE ARE ALSO SEVERAL HUNDRED THOUSAND NAMES THAT FOUND THEIR WAY TO THAT DATABASE THAT DON'T BELONG TO MR. ADAMS AND AFFINITY, BECAUSE THEY TOOK THAT DATA FROM INDIVIDUAL, TINY ENTERPRISES COMPARED TO AFFINITY, ENTERPRISES WHO, LIKE AFFINITY, DEVELOPED THEIR OWN LIST OF INFORMATION OF CUSTOMERS THROUGH THEIR OWN GREAT EXPENSE AND THEIR OWN HARD WORK AND YEARS OF EFFORT. THAT IS A REFERENCE TO THE MEMBER INFORMATION THAT AFFINITY GROUP TOOK FROM RESORTS. THEY TOOK IT, AND THEY PROMISED ONLY TO USE IT TO SERVICE AND BENEFIT THE RESORTS AND THEIR MEMBERS' INTERESTS, NOT TO USE IT TO STEAL THE PLAINTIFFS'

BUSINESS.

AND THOSE LISTS, LADIES AND GENTLEMEN, THE EVIDENCE WILL SHOW, DO NOT BELONG TO MR. ADAMS OR HIS AFFINITY GROUP. THOSE LISTS WERE ONLY ENTRUSTED TO MR. ADAMS AND AFFINITY FOR LIMITED USES, WITH CLEAR UNDERSTANDINGS THAT THEY WOULD REMAIN CONFIDENTIAL AND BE PROTECTED.

FURTHERMORE, THE CONTRACTS BETWEEN THE PARTIES SAY AFFINITY GROUP WILL ONLY USE THE LIST OF INFORMATION TO ENHANCE -- ENHANCE AS IN IMPROVE THE BENEFITS OF THE PLAINTIFFS' MEMBERS, NOT TO TAKE THE MEMBERS FROM THE PLAINTIFFS.

WHEN YOU HEAR THE WORDS IN THIS CASE -- AND YOU'LL HEAR THEM A LOT -- "ENHANCEMENT" OR "ENHANCE MEMBERS' BENEFITS," YOU WILL KNOW THAT IS A REFERENCE TO THE WORDING IN THE CONTRACT BETWEEN THE PARTIES, AND YOU WILL KNOW THAT ENHANCEMENT OF MEMBER BENEFITS WAS THE ONLY THING THE AGREEMENTS BETWEEN THE PARTIES ALLOWED THE PLAINTIFFS' MEMBERS LISTS TO BE USED FOR.

SO, LADIES AND GENTLEMEN, THE EVIDENCE WILL SHOW THAT THE PEOPLE WHO GAVE THEIR CUSTOMERS AND THEIR LISTS TO AFFINITY DID SO BECAUSE THEY TRUSTED AFFINITY. THEY TRUSTED COAST. THEY TRUSTED STEVE ADAMS, ALL OF THEM, TO HONOR THEIR PROMISES AND REPRESENTATIONS, TO FOLLOW THE SAME MORAL, ETHICAL AND LEGAL STANDARDS REGARDING PROPERTY RIGHTS AS -- AND REGARDING THE PLAINTIFFS' CUSTOMERS, THE SAME STANDARDS AS THE DEFENDANT WOULD DEMAND OF ANYONE ELSE.

WE WANT EQUAL TREATMENT. THIS IS NOT A ONE-SIDED WORLD. BUSINESSES DO NOT GIVE AWAY VALUABLE CUSTOMER LISTS, UNDERSTANDING THAT THE OTHER SIDE CAN, QUOTE, DO WHATEVER THEY CHOOSE TO WITH THEM, OR STEAL THEM.

SO, LADIES AND GENTLEMEN, THE EVIDENCE WILL SHOW THAT AS IMPRESSIVE AS MR. ADAMS AND HIS PEOPLE ARE, WHEN IT CAME TO ETHICS AND KEEPING THEIR PROMISES, THEY COULD NOT BE TRUSTED. WHEN PRESENTED WITH THE CHOICE OF ETHICS AND MORALITY VERSUS CORPORATE OPPORTUNITY, THEY CHOSE TO BE OPPORTUNISTS TO THE ENTH DEGREE.

AND WHEN IT CAME TO COMPETITION, THEY WERE UNSCRUPULOUS. WHEN IT CAME TO THE RISK THAT OTHERS MIGHT COMPETE, THEY BECAME RUTHLESS.

THE EVIDENCE WILL ALSO SHOW THAT THIS IS A CASE ABOUT WHAT THE DEFENDANTS DID IN AND AFTER 1997, SEPTEMBER. THEY TRIED TO DESTROY THESE PLAINTIFFS' BUSINESSES. THEY DID SO BECAUSE THE PLAINTIFFS' CONDUCT WAS PERCEIVED BY AFFINITY AS A COMPETITIVE THREAT TO THEIR INTERESTS, SIMPLY BECAUSE THE PLAINTIFFS PURSUED A RIGHT GUARANTEED TO THEM UNDER THEIR AGREEMENTS WITH THE DEFENDANTS TO SAY, "AT ANY TIME, FOR ANY REASON, OR NO REASON AT ALL, YOU KNOW, WE JUST DON'T WANT TO DO BUSINESS WITH YOU ANYMORE. WE'D JUST LIKE TO BE ON OUR WAY."

THE EVIDENCE WILL SHOW THAT THE PLAINTIFFS SAID THIS TO THE DEFENDANTS, AND THE DEFENDANTS SAID, "WE CAN'T LET THIS HAPPEN. IT WILL HURT OUR BUSINESS."

THE DEFENDANTS DECIDED THE PLAINTIFFS HAD BECOME COMPETITION AND NEEDED TO BE DESTROYED BEFORE THEY COULD GET STRONG ENOUGH TO COMPETE EFFECTIVELY. THE EVIDENCE WILL SHOW THE DEFENDANTS DECIDED TO DESTROY THE

PLAINTIFFS BY TAKING THEIR MEMBERS. AND WHEN THEY DID SO, THEY WERE -- THEY DID SO BECAUSE THEY PERCEIVED THE PLAINTIFFS AS A THREAT TO THE DEFENDANTS' MONOPOLY.

SO NOW, YOUR HONOR, AND LADIES AND GENTLEMEN, THIS CASE HAS BECOME A CASE ABOUT WHETHER MR. ADAMS AND HIS BUSINESSES, THE PEOPLE FROM THE DENVER-BASED EMPIRE, NEED TO BE CALLED TO TASK FOR THE THINGS THEY WILL ADMIT THEY DID.

ON TO THE FACTS, THE SPECIFIC FACTS OF WHAT THE EVIDENCE WILL SHOW.

IN LATE AUGUST 1997, THE DEFENDANTS IN THIS ACTION RECEIVED TWO CERTIFIED LETTERS IN THE MAIL. ONE WAS SENT BY A MAN NAMED DAVID VOPNFORD. MR. VOPNFORD WAS KNOWN BY THE DEFENDANTS AS A MAN BEHIND A GROUP OF WHAT -- OF ABOUT 50 MEMBERSHIP RESORTS CALLED "THOUSAND ADVENTURES." MR. VOPNFORD WAS A SOURCE OF MILLIONS OF DOLLARS OF REVENUE TO THE DEFENDANTS OVER THE YEARS.

THE OTHER LETTER WAS SIGNED BY RAYMOND NOVELLI AND HANS SCHULZ, ACTING FOR ANOTHER SEPARATE GROUP OF RESORTS, WHICH WE CALL IN THIS CASE "THE PLAINTIFFS' RESORTS." MR. NOVELLI TOO HAD BEEN THE SOURCE OF MILLIONS OF DOLLARS OF REVENUES TO THE DEFENDANTS OVER THE YEARS.

THESE LETTERS, LADIES AND GENTLEMEN, WERE NOTIFICATION THAT 71 RESORTS CONTROLLED BY NOVELLI AND VOPNFORD WERE QUITTING COAST AND TAKING THEIR 35- TO 40,000 MEMBERS WITH THEM, WITH THE UNDERSTANDING THAT, COAST SOON REALIZED, SO WENT THE INCOME THAT WOULD COME FROM THOSE 35- TO 40,000 MEMBERS. AN AMOUNT WOULD EXCEED \$3 MILLION PER YEAR EACH AND EVERY YEAR THEY WERE GONE.

THE HIGHEST LEVEL OF THE DEFENDANTS' COMPANY, MANAGEMENT, CAME TOGETHER IN EMERGENCY MEETINGS TO DECIDE WHAT TO DO. THE DEFENDANTS KNEW THAT UNDER THEIR CONTRACTS, THE PLAINTIFFS HAD EVERY RIGHT TO LEAVE THE RECIPROCAL-USE SYSTEM AT ANY TIME THEY CHOSE, FOR NO REASON. DEFENDANTS ALSO KNEW THAT A CORNERSTONE CONDITION OF THEIR AGREEMENTS WAS THAT IF A RESORT LEFT, THEY COULD TAKE THEIR MEMBERS WITH THEM, AND COAST HAD TO RELEASE THEM.

REGARDLESS OF THE COST TO COAST, THE DEFENDANTS WOULD HAVE TO REMOVE THE MEMBERS FROM THEIR ROSTER LIST BY THE END OF THE CALENDAR YEAR. THE DEFENDANTS, ADAMS, AFFINITY, AND COAST, ALSO KNEW THAT THE LOSS OF 34,000 MEMBERS REPRESENTED 20 PERCENT OF THE ENTIRE CUSTOMER BASE OF AFFINITY, COAST, AND THE LOSS OF OVER \$3 MILLION OF INCOME PER YEAR, WHICH INCOME, I MIGHT ADD, THE DEFENDANTS KNEW WOULD END UP IN THE ONLY POTENTIALLY MAJOR COMPETITOR TO COAST, A COMPANY CALLED R.P.I., OR RESORTS -- RESORT PARKS INTERNATIONAL.

R.P.I. HAD ITS OWN RECIPROCAL-USE SYSTEM, AND WAS OFFERING THE SAME OR BETTER BENEFITS TO RESORT MEMBERS WHO WENT WITH R.P.I. AS COAST. THEY HAD LITERALLY HUNDREDS OF RESORTS UNDER R.P.I.'S SYSTEM.

WELL, THE THREAT OF LOSING THE INCOME AND LOSING THE MEMBERS AND SEEING THE COMPETITION GROW WAS TOO MUCH. THE DEFENDANTS KNEW THEY HAD TO ACT FAST. WHETHER WHAT THEY WERE GOING TO DO WAS RIGHT OR WRONG WAS NOT A CONCERN.

THE EVIDENCE WILL SHOW THAT A DECISION WAS MADE TO DO SOMETHING THAT WAS UNHEARD OF IN THE HISTORY OF THE INDUSTRY. THE DEFENDANTS WOULD ACT TO TAKE THE PLAINTIFFS' MEMBERS FROM THEM AND DESTROY THE PLAINTIFFS' BUSINESSES AND PREVENT THEIR MAIN COMPETITOR, R.P.I., FROM HAVING THE 34,000 MEMBERS BY INSTIGATING WHAT THE DEFENDANTS THEMSELVES REFERRED TO AS A MASS TRANSFERRING OF THE PLAINTIFFS' CUSTOMER BASE FROM THE PLAINTIFFS' RESORTS TO THE PLAINTIFFS' COMPETITORS' RESORTS. IT WAS DRAMATIC. IT WAS A PREEMPTIVE STRIKE AGAINST THE PLAINTIFFS THAT HAD TO BE TAKEN QUICKLY BEFORE THE PLAINTIFFS HAD A CHANCE TO EVEN COMMUNICATE WHAT WAS HAPPENING TO THEIR OWN MEMBERS, AND TO EXPLAIN TO THEM WHAT WAS HAPPENING AND WHY.

THE EVIDENCE WILL SHOW THAT THE DEFENDANTS ACCOMPLISHED THIS BY ILLEGALLY USING THE CONFIDENTIAL TRADE SECRET MEMBERSHIP LISTS THAT THE PLAINTIFFS HAD ENTRUSTED TO THE DEFENDANTS AND TO USE THOSE LISTS TO CORRESPOND WITH EACH AND EVERY ONE OF THE PLAINTIFFS' MEMBERS THAT WERE USING THE COAST RECIPROCAL SERVICE, TO LITERALLY STEAL THE MEMBERS AWAY FROM THE PLAINTIFFS.

THE DEFENDANTS KNEW THAT WHAT THEY DID OR WERE PLANNING TO DO COULD DESTROY THE PLAINTIFFS, BUT THAT WAS NOT A CONCERN. IT WAS NECESSARY. LETTERS WERE THEN CAREFULLY DRAFTED TO HAVE THE INTENDED EFFECT OF DECEIVING THE PLAINTIFFS' MEMBERS AND TRICKING THEM INTO BELIEVING THAT THE PLAINTIFFS WERE GOING OUT OF BUSINESS; AND THAT THEY, THE MEMBERS, WERE SURELY GOING TO LOSE THEIR ABILITY TO TRAVEL ON THE NATIONWIDE RECIPROCAL-USE NETWORK THAT WAS EXISTING IN THE UNITED STATES, AND TO VISIT RESORTS ACROSS THE COUNTRY. IT WAS ALL FALSE. BUT IT DIDN'T MATTER. THEY SENT IT ANYWAY.

THE LETTERS WERE WRITTEN TO HAVE THE EFFECT OF TRANSFERRING THE MEMBERSHIPS OF EVERYONE OF THE PLAINTIFFS' CUSTOMERS IN THE RECIPROCAL SYSTEM FROM THE PLAINTIFFS TO COMPETITORS WHO WERE ALLIES OF THE DEFENDANTS. THE PLAINTIFFS' MEMBERS WERE TOLD THAT THE DEFENDANTS HAD TRANSFERRED THEIR HOME RESORT MEMBERSHIPS TO OTHER RESORTS. SPECIFICALLY, THE MEMBERS WERE TOLD, "YOU'LL BE CONTACTED BY THAT NEW RESORT TO ACTIVATE YOUR NEW MEMBERSHIP IN THAT RESORT."

OVER 34,000 LETTERS WERE QUICKLY SENT. THE DEFENDANTS THEN PRINTED OUT COMPUTER LISTS FROM THAT DATABASE OF ALL OF THE PLAINTIFFS' MEMBERS ON A RESORT-BY-RESORT BASIS. THEN THEY DELIVERED THOSE LISTS TO PLAINTIFFS' COMPETITORS FOR THEIR USE IN ASSISTING THE DEFENDANTS IN TAKING THE PLAINTIFFS' MEMBERS FROM THEM.

COAST EVEN DISPATCHED ITS REGIONAL DIRECTORS AROUND THE COUNTRY TO CONTACT THE COMPETITOR RESORT OWNERS TO PRESSURE THEM TO TAKE THE ACTS THAT COAST WANTED THEM TO TAKE AND TAKE THE MEMBERS AWAY, AND TO TELL THEM HOW TO DO IT. AS I SAID, THEY CALLED IT A MASS TRANSFER OF THE PLAINTIFFS' MEMBERS.

THEY THEN SENT UP A SPECIAL PHONE BANK WITH SPECIALLY ASSIGNED PHONE NUMBERS TO FIELD CALLS AND QUESTIONS FROM PLAINTIFFS' MEMBERS SO THAT THEY COULD MANAGE THIS MASS TRANSFER AND CONTROL THE INFORMATION THAT WAS BEING PROVIDED TO THE PLAINTIFFS' MEMBERS. NO MISTAKE WOULD BE MADE. THEY ACTED TO TAKE EVERY CUSTOMER ON THE

LIST AND TO DESTROY THE PLAINTIFFS' BUSINESS BEFORE THE PLAINTIFFS COULD EVEN KNOW IT WAS HAPPENING. WHATEVER IT TOOK TO ACCOMPLISH, THE DEFENDANTS WERE GOING TO DO IT.

BUT WHAT ABOUT THE CONTRAST BETWEEN THE PARTIES? TOO BAD ABOUT THE CONTRAST. BUT WHAT ABOUT THE TRADE SECRET CUSTOMER LIST? WHAT ABOUT THEM? IT'S A GOOD THING WE CAN USE THEM.

WHAT ABOUT THE FACT THAT THE PLAINTIFFS HAVE THESE MEMBERS, THEIR PLAINTIFFS' MEMBERS? HOW CAN WE TELL THEM WE TRANSFERRED THEM TO ANOTHER RESORT? RESPONSE: WE HAVE TO DO IT. BUT THEY'LL THINK WE HAVE TAKEN THEM OUT OF THE OLD RESORT. AND EVEN IF THEY DON'T THINK THAT, ONCE THEY KNOW THEY HAVE BEEN TRANSFERRED, THEY'LL JUST QUIT THE OLD RESORT AND STOP PAYING THEIR DUES AT THE OLD RESORT. NONE OF THEM WILL WANT TO PAY DUES AT TWO RESORTS. WE CAN'T WORRY ABOUT THAT.

WHAT ABOUT INTERFERENCE WITH THE PLAINTIFFS' BUSINESS RELATIONSHIPS? WHAT ABOUT IT?

ALL THESE WORDS AND CONSEQUENCES HAD TO HAVE BEEN CONSIDERED BY THE DEFENDANTS BECAUSE THE EVIDENCE WILL SHOW THAT THESE THINGS WERE ALL OBVIOUS, CERTAIN CONSEQUENCES OF THE DEFENDANTS' PLAN TO TAKE THE PLAINTIFFS' MEMBERS AWAY, AND TO DESTROY THE PLAINTIFFS' BUSINESSES. BUT NONE OF THAT SEEMED TO MATTER, BECAUSE IN THE EYES OF THE DEFENDANTS, THIS WAS NOT A TIME FOR ETHICS OR MORALITY. IT WAS A TIME FOR COMPETITION.

LADIES AND GENTLEMEN, THE EVIDENCE WILL SHOW THAT THE RESPONSE BY THE PLAINTIFFS' MEMBERS TO THE COAST LETTERS WAS SWIFT AND DEADLY. THEY HAD BEEN TRICKED. AND OVER THE NEXT SEVERAL MONTHS, THEY WERE -- FROM NEARLY 35,000 MEMBERS, PLAINTIFF LOST NEARLY 23,000 MEMBERS. I'M NOT A MATH WHIZ. MY QUICK MATH GETS ME CLOSE TO 75 PERCENT. AND IT COST THE PLAINTIFFS HOW MUCH? I WON'T ADD IT UP FOR YOU, BUT I'LL GIVE YOU THE PIECES.

THE EVIDENCE WILL SHOW THAT UNIVERSALLY IN THE INDUSTRY, A CAMPGROUND MEMBER HAS AN ACCEPTED WORTH OF AT LEAST A THOUSAND DOLLARS, BUT APPROXIMATELY 3300 PER MEMBER TO A CAMPGROUND OPERATOR. THIS MEANS THAT LOSSES OF MEMBERS EQUATED TO A DAMAGE TO THE PLAINTIFFS OF UP TO \$73 MILLION.

ALSO, LADIES AND GENTLEMEN, MEMBERS CONTRACTED BY MEMBERSHIPS OFTEN ON TIME AND UNDER WRITTEN CONTRACTS WHERE THEY PAY OVER TIME AND THERE ARE BALANCES DUE ON THOSE CONTRACTS, AS A RESULT OF THE DEFENDANTS' INTERFERING WITH THE PLAINTIFFS' CONTRACTS BY TRANSFERRING THE PLAINTIFFS' MEMBERS, MEMBERS STOPPED PAYING ON THEIR CONTRACTS. THAT TRANSLATED INTO APPROXIMATELY A \$15 MILLION LOSS IN UNPAID MEMBERSHIP CONTRACTS, WHEN YOU LOSE A MEMBER, BECAUSE MEMBERS PAY DUES, TO LOSE THE DUES THAT THE MEMBER WOULD PAY. LOSS IN DUES INCOME CAME TO APPROXIMATELY \$38 MILLION.

AND THERE WAS AN APPROXIMATE \$36 MILLION LOST IN WHAT THE EVIDENCE WILL REFER TO AS "LOST MEMBERSHIP ENHANCEMENT INCOME." AND FINALLY AS A CONSEQUENCE OF THE DESTRUCTION OF THE PLAINTIFFS' MEMBER BASE, RESORTS WERE FORCED TO CLOSE. AND THERE WAS A LOSS OF RESORTS VALUED AT AN ESTIMATED \$25 MILLION.

THAT'S WHAT HAPPENED. THAT'S WHAT THE

DEFENDANTS DID. THOSE WERE THE CONSEQUENCES. AND THAT'S WHY WE'RE HERE TODAY ASKING YOU TO HELP US FIGURE IT OUT.

THIS BRINGS ME TO WHAT YOU WERE BEING ASKED TO DECIDE. WE NEED YOU TO LISTEN TO THE EVIDENCE AND DECIDE, BASED ON THE EVIDENCE, IF THE DEFENDANTS' CONDUCT WAS A FACTOR THAT CAUSED THE PLAINTIFF TO LOSE MEMBERS. WE SAY THE EVIDENCE WILL SHOW IT DID, AND CAUSED THEM TO BE DAMAGED. THE EVIDENCE WILL SHOW THAT IT DID.

IT WILL NOT BE DISPUTED THAT THE DEFENDANTS SENT THE 34,000 LETTERS TO THE PLAINTIFFS' MEMBERS TELLING THEM THAT THEY WERE TRANSFERRED TO THE FRIENDS OF COAST. THE DEFENDANTS WILL CLAIM, INCREDIBLY, THAT THEY HAD THE RIGHT TO SEND THOSE LETTERS AND TAKE THE PLAINTIFFS' MEMBERS.

PLAINTIFFS SAY THE CONTRACTS BETWEEN THE PARTIES LIMITED THE THINGS THAT THAT INFORMATION COULD BE USED FOR, TO ENHANCE THE MEMBER BENEFITS. AND THAT TAKING OF THE PLAINTIFFS' MEMBERS WAS NOT AN AGREED UPON, ALLOWED RIGHT OR USE THAT COAST ACQUIRED. YOU WILL DECIDE WHO IS RIGHT.

NEXT, IT WILL NOT BE DISPUTED IN THE EVIDENCE THAT THE WAY THE DEFENDANTS WERE ABLE TO TELL THE PLAINTIFFS' MEMBERS THEY HAD BEEN TRANSFERRED WAS BY USE OF THE SECRET LIST. THESE WERE PROPRIETARY CUSTOMER LISTS, AND THEY WERE ENTRUSTED TO THE DEFENDANTS. THE DEFENDANTS WILL CLAIM THEY HAD THE RIGHT TO USE THOSE LISTS FOR WHATEVER REASONS THEY WANTED. PLAINTIFFS SAY THAT'S RIDICULOUS. YOU WILL HAVE TO DECIDE IF THE PLAINTIFFS AGREED THAT THE DEFENDANTS COULD USE THE PLAINTIFFS' LISTS FOR WHATEVER PURPOSES THE DEFENDANTS CHOSE, AND MORE SPECIFICALLY, WHETHER THE PLAINTIFFS AND COAST AGREED THAT COAST COULD USE THOSE LISTS TO MASS-TRANSFER AND TAKE AWAY THE PLAINTIFFS' MEMBERS.

THIRDLY, IT WILL NOT BE DISPUTED THAT THE DEFENDANTS PRINTED AND GAVE PRINTOUT -- COMPUTER PRINTOUT COPIES OF THE PLAINTIFFS' MEMBER LISTS TO COMPETITOR RESORTS AND TOLD THOSE COMPETITOR RESORTS TO USE THOSE LISTS TO GET THE PLAINTIFFS' MEMBERS INTO THE COMPETITORS' RESORTS. WAS THAT A BREACH OF AN AGREEMENT, THAT THE LISTS WERE PROPRIETARY AND CONFIDENTIAL TO THE PLAINTIFFS? THE DEFENDANTS WILL ADMIT, THEY WILL TESTIFY THE LISTS WERE CONFIDENTIAL. BUT THEY CONTEND THEY HAD THE RIGHT TO GIVE THEM TO THE PLAINTIFFS' COMPETITION.

DID THE DEFENDANTS BREACH AN AGREEMENT OF CONFIDENTIALITY AND COMMIT UNFAIR COMPETITION BY RELEASING THE LISTS AND URGING THE COMPETITION TO USE THEM TO GO AFTER THE PLAINTIFFS MEMBERS? YOU WILL DECIDE.

YOU WILL SEE THE LANGUAGE OF THE LETTERS THAT WERE SENT TO TRANSFER THE PLAINTIFFS' MEMBERS. YOU WILL BE ASKED TO DECIDE IF THE DEFENDANTS WERE BEING TRUTHFUL OR BEING FALSE IN THOSE LETTERS. WERE THEY BEING MANIPULATIVE AND MISLEADING, AND DEFAMATORY BY WHAT THEY SAID? THE PLAINTIFFS SAY IT WILL BE OBVIOUS, BUT YOU WILL DECIDE.

ALL RIGHT. I'LL GIVE YOU MORE INFORMATION AS TO WHAT FACTS THE EVIDENCE WILL GIVE YOU TO HELP YOU DECIDE THESE THINGS NOW.

WELL, WHAT IS A RECIPROCAL-USE SYSTEM? I

CALLED IT A GLORIFIED TRAVEL AGENCY TYPE BUSINESS. BUT IT DOES PROVIDE A SERVICE. IT ARRANGES FOR DISCOUNTS, RESERVATIONS AND RECIPROCAL-USE SERVICES TO MEMBERS OF RESORTS -- NOT THE DEFENDANTS, BUT MEMBERS OF RESORTS, WHO PAY SIGNIFICANT SUMS OF MONEY FOR THEIR MEMBERSHIPS IN THOSE RESORTS. RECIPROCAL USE IS AN ARRANGEMENT THAT ALLOWS MEMBERS OF ONE CAMPGROUND TO MAKE USE OF ANOTHER CAMPGROUND, EVEN THOUGH THEY'RE NOT A MEMBER OF THAT OTHER CAMPGROUND, SO LONG AS THE CAMPGROUNDS INVOLVED ARE HOSTING EACH OTHER'S MEMBERS AS GUESTS AND RECIPROCATE WITH EACH OTHER BY HOSTING EACH OTHER'S GUESTS.

WHAT DOES COAST DO? COAST SELLS THE RIGHT TO PARTICIPATE IN THE ARRANGEMENT TO BOTH THE RESORTS AND THE RESORTS MEMBERS. IT'S CALLED A RECIPROCAL SYSTEM. BUT COAST IS, IN EFFECT, SELLING ARRANGEMENTS FOR THE USE OF SOMEBODY'S RESORT, WHEN COAST NEVER HAS TO AND NEVER HAD TO OWN OR OPERATE A SINGLE CAMPGROUND SITE ITSELF. IT COSTS THE PLAINTIFFS' MEMBERS APPROXIMATELY \$49, 49 OR 69 A YEAR DEPENDING ON WHICH YEAR YOU LOOK AT, PER YEAR, TO HAVE USE OF THE RECIPROCAL-USE SERVICES.

THE EVIDENCE WILL SHOW, HOWEVER, THAT IN ORDER TO GET THE RESORTS INVOLVED TO PAY THE -- AS MUCH AS \$5,000 TO BECOME INVOLVED IN THE RECIPROCAL SYSTEM THAT RESORTS WERE ASKED TO PAY, THE DEFENDANTS HAD TO ENTER INTO AGREEMENTS AND MAKE PROMISES AND CONCESSIONS TO THE RESORT OWNERS. ONE PROMISE WAS, IF YOU BRING US YOUR MEMBERS, WE WILL CONSIDER THEM TO BE YOUR MEMBERS, AND OUR INTEREST IN THEM IS AGREED TO BE SECONDARY. YOURS IS PRIMARY.

ANOTHER PROMISE WAS, IF YOU GIVE US INFORMATION ABOUT YOUR MEMBERS, WE WILL CONSIDER IT CONFIDENTIAL AND PROTECT THAT INFORMATION FROM YOUR COMPETITORS.

ANOTHER PROMISE THE EVIDENCE WILL SHOW WAS MADE IS COAST PROMISED THERE WOULD BE AN ANTI-RAIDING RULE, RAIDING RULE THAT PREVENTS OTHER RESORT OWNERS FROM RAIDING OR TRYING TO STEAL YOUR MEMBERS. IT WAS AGREED THAT MEMBERS FIRST HAD TO JOIN A MEMBERSHIP CAMPGROUND. EVERYONE HAD TO BE A MEMBER OF A MEMBERSHIP CAMPGROUND. THAT CAMPGROUND WOULD BE THEIR, QUOTE, HOME RESORT, CLOSE QUOTE. AND IF THEY DIDN'T, THEY COULDN'T USE THE RECIPROCAL SYSTEM.

THE RESORTS REQUIRED THIS SO THEY WOULDN'T END UP HOSTING PEOPLE WHO WEREN'T MEMBERS OF AT LEAST ONE MEMBERSHIP CAMPGROUND. OTHERWISE, THERE WOULD BE NO INCENTIVE FOR PEOPLE TO BECOME MEMBERS OF A PARTICULAR RESORT.

NOW, THE DEFENDANTS PROMISED A MEMBER WOULD NOT BE TRANSFERRED FROM HIS OR HER HOME RESORT WITHOUT THE HOME RESORT'S WRITTEN PERMISSION. THAT WAS IN THE AGREEMENT, TOO. THE DEFENDANTS AGREED RESORTS COULD LEAVE THE SYSTEM AT ANY TIME THEY CHOSE WITHOUT A PENALTY. JUST GIVE US 90 DAYS WRITTEN NOTICE. WHEN YOU GIVE US NOTICE, THERE WILL BE NO INTERFERENCE BY COAST. THE MEMBERS ARE YOURS. YOU TAKE THEM WITH YOU. YOUR MEMBERS' STATUS IN COAST WILL LAST UNTIL THE END OF THE CALENDAR YEAR AND WILL BE OVER.

IT WAS A GOOD DEAL AS LONG AS EVERYBODY PLAYED BY THE RULES. IT WAS AN ESPECIALLY GOOD DEAL FOR

AFFINITY. YOU SEE, AFFINITY COULD CHARGE MEMBERS A FEE FOR USING OTHER PEOPLE'S RESORTS. THEY HAD NO RESORTS THEMSELVES, NO ELECTRIC BILLS, NO PLUMBING, NO JANITORS, NO SECURITY, NO MANAGER, NO PROBLEM KEEPING THE SWIMMING POOLS CLEAN, NO SEPTIC TANK SYSTEMS, PROBLEMS, NO CUTTING OF LAWNS. EVERYTHING WAS DONE BY SOMEBODY ELSE. AFFINITY SOLD ACCESS, THE RIGHT TO COME IN AND USE SOMEONE ELSE'S RESORT AT A DISCOUNT. THEY HAD NO RESORT EXPENSES BECAUSE THE RESORTS COVERED IT ALL.

IN ADDITION, AS I MENTIONED EARLIER, THEY WENT TO THE RESORT OWNERS AND THEY SAID, "IF YOU WANT TO BE IN THIS PROGRAM OR SYSTEM, YOU HAVE TO PAY US, TOO." THEY COLLECTED AS MUCH AS \$5,000 FROM A RESORT OWNER TO BE A PART OF THE SYSTEM, EVEN THOUGH THE RESORTS, NOT THE DEFENDANTS, WERE INCURRING ALL OF THE EXPENSES OF HOSTING THE MEMBERS.

BUT, LADIES AND GENTLEMEN, EVEN THOUGH COAST COULD SIT IN THE MIDDLE BETWEEN THE RESORT OWNER AND THE RESORT MEMBER AND EXTRACT MONEY FROM BOTH SIDES, IT WASN'T SUPPOSED TO BE JUST A BENEFIT FOR COAST.

FURTHERMORE, ALL SALES TO ALL MEMBERS WERE DONE BY THE RESORT OWNERS. THAT MEANS THERE WERE NO MARKETING HEADACHES OR EXPENSES THAT THE DEFENDANTS HAD TO INCUR TO GET MEMBERS IN. IN FACT, COAST DIDN'T -- HAD NO CONTACT WITH THESE MEMBERS OTHER THAN DOCUMENTING THEIR OBLIGATIONS TO PAY MONEY TO COAST, PROVIDING FOR THEIR SERVICES, AND THEN MAKING SURE THE MEMBER PAID COAST, AND THEN, OF COURSE, MAKING SURE THAT THE MEMBER, ONCE THE MEMBER GOT IN, DIDN'T GET AWAY.

TO MR. ADAMS AND AFFINITY AND COAST, THE EVIDENCE WILL SHOW IT WAS JUST A CASH-COW OPPORTUNITY WITH VIRTUALLY NO OR LITTLE OVERHEAD, VIRTUALLY NO COMPETITION. AND AS A RESULT, THEY HAD A VIRTUAL PUBLISHING RECIPROCAL-USE MONOPOLY IN THE SYSTEM, IN THE INDUSTRY.

I MENTIONED, BY 1990 THE DEFENDANTS EVEN EXPANDED THEIR TECHNIQUES FOR EXTRACTING MONEY FOR PROFITS FROM OUR MEMBERS TO INCLUDE THE DIRECT SALES OF PRODUCTS TO THE MEMBERS. THE DEFENDANTS EVEN, THROUGH THEIR AFFINITY PUBLICATIONS AND THROUGH AFFINITY MAILINGS, TRIED TO SELL OUR MEMBERS THINGS LIKE INSURANCE, CREDIT CARDS, R.V. EQUIPMENT, TELEPHONE CARDS AND SERVICES, EVEN BURIAL PLOTS. AND, I MIGHT ADD, WHEN THEY DID THAT, THEY DIDN'T HAVE THE RIGHT TO DO THAT, AND THEY DIDN'T ASK FOR THE RIGHT TO DO THAT. THEY JUST DID IT.

AND THIS POINT RELATES TO THE ISSUE OF CONFIDENTIALITY AND OWNERSHIP OF MEMBER LISTS, BECAUSE THE COAST PRACTICES AND AFFINITY'S PRACTICES OF MARKETING PRODUCTS BY USING MY CLIENTS' MEMBER LISTS BECAME A SUBJECT OF SEVERAL CONVERSATIONS, ARGUMENTS AND DISAGREEMENTS BETWEEN THE PARTIES. NOTHING SERIOUS, BECAUSE IN THE END COAST CONCEDED MY CLIENTS' POSITIONS.

BUT THE PLAINTIFFS' WITNESS WILL TESTIFY THAT DURING SEVERAL DISCUSSIONS BETWEEN PLAINTIFFS' REPRESENTATIVES AND COAST'S FORMER PRESIDENT, ROGER RYMAN, IN THE EARLY 1990'S, MR. RYMAN AGREED THAT THESE MEMBERSHIP LISTS WERE CONFIDENTIAL, AND THEY WERE PROPRIETARY TO THE PLAINTIFFS. AND THEY WOULD NOT BE USED FOR MARKETING OF MEMBERS.

IN SHORT, THE DEFENDANTS AGREED THE LISTS HAD TO BE PROTECTED, AND THEIR RIGHT TO USE THEM WAS LIMITED.

SO WHAT DO WE HAVE? WE HAVE A RECIPROCAL-USE SYSTEM THAT DOES NOT SELL MEMBERSHIPS, NOT EVEN ONE. WE HAVE A RESORT OWNER THAT SELLS MEMBERSHIPS. WE HAVE A RESORT MARKETING COST FOR EACH MEMBERSHIP THAT CAN BE AS MUCH AS \$3300. AND WE HAVE A DEFENDANT WITH NO MARKETING COSTS. AND, IN FACT, THE RESORTS USUALLY PAY THE \$49 INITIATION FEE FOR THEIR OWN MEMBERS.

WE HAVE DEFENDANTS WHO DO NOT OWN OR OPERATE PARKS OR PROVIDE PARK BENEFITS. THE RESORT OWNERS DO. ALL COAST DOES IS ARRANGE FOR DISCOUNTED RECIPROCAL-USE PRIVILEGES OF RESORTS THEY DON'T EVEN OWN. AND UNDER THESE CIRCUMSTANCES, THE DEFENDANTS WILL CONTEND THE RESORT OWNERS GAVE THE MEMBER LIST TO COAST WITH THE UNDERSTANDING THEY COULD TAKE THEM WHENEVER THEY WANTED TO AND USE THEM FOR WHATEVER THEY CHOSE.

THE EVIDENCE WILL SHOW THAT NO RESORT OWNER EVER INTENDED OR WOULD AGREE UNDER THESE CIRCUMSTANCES TO TURN OVER HIS CUSTOMER LISTS AND GIVE COAST THE RIGHT TO TRANSFER HIS MEMBERS AWAY FROM HIM WHENEVER THEY CHOSE.

NOW, I EXPECT MUCH WILL BE SAID ABOUT THIS, THE STATUS OF THE PLAINTIFFS' RESORTS BEFORE 1997. REMEMBER, THIS STARTED IN AUGUST, SEPTEMBER 1997 WHEN THE TWO LETTERS ARRIVED. WE BASICALLY FEEL THAT WHAT HAPPENED BEFORE 1997 IS IRRELEVANT, AND THE REAL ISSUE IS WHAT HAPPENED, DID THE -- WHAT DID THE DEFENDANTS DO IN AND AFTER 1997 AND WHY DID THEY DO IT. BUT I WILL TALK ABOUT THOSE EARLY YEARS ANYWAY BECAUSE IT RELATES TO A CONTENTION THAT THE DEFENDANTS ARE MAKING IN THIS CASE.

SPECIFICALLY, THE DEFENDANTS IN THEIR EVIDENCE WILL CLAIM THAT THE LETTERS TO THE MEMBERSHIP DID NOT CAUSE MEMBERS TO QUIT THE PLAINTIFFS' RESORTS. THEY WILL TELL YOU BANKRUPTCY FILINGS DID IT. WELL, THE EVIDENCE WILL PROVE THEY WERE WRONG -- THAT THEY ARE WRONG. BANKRUPTCIES DON'T CAUSE MEMBERS TO QUIT RESORTS, PERIOD.

BY WAY OF AN EXAMPLE, IN 1986 THERE WAS A COMPANY CALLED "ALL SEASONS RESORTS" CONSISTING OF 12 RESORTS. NOW, ALL SEASONS IS NOT A PLAINTIFF. IT'S CALLED -- WE CALL A PREDECESSOR TO THE PLAINTIFFS BECAUSE SEVERAL OF ITS RESORTS ARE NOW OWNED BY THE PLAINTIFFS.

IN 1986, ALL SEASONS, AS I SAID, HAD 12 RESORTS, AND IT HAD APPROXIMATELY 13,000 MEMBERS. DID I SAY '86 OR '96?

IN 1986 ALL SEASONS HAD APPROXIMATELY 13,000 MEMBERS IN 12 RESORTS. AT THAT TIME MR. NOVELLI WAS ASKED BY LENDERS -- MR. NOVELLI WAS NOT INVOLVED AT THAT POINT IN TIME, BUT ALL SEASONS WAS UNDERGOING FINANCIAL DIFFICULTIES. AND HE WAS ASKED BY THE LENDERS RELATING TO ALL SEASONS TO AGREE TO ACCEPT MANAGEMENT RESPONSIBILITY FOR ALL SEASONS RESORTS BECAUSE IT WAS ABOUT TO GO UNDER. IT HAD DEBTS OF OVER \$40 MILLION, OVER \$30 MILLION OF WHICH WERE OUTSTANDING LOANS BY INSTITUTIONAL LENDERS.

THESE LENDERS FEARED THAT IF ALL SEASONS WENT OUT OF BUSINESS, THEIR LOANS WOULD NEVER BE PAID. SO THEY APPROACHED THE WORKOUT SPECIALIST, RAYMOND NOVELLI. AND THIS IS HOW HE FIRST GOT INTO THE RESORT INDUSTRY.

A BIGGER PROBLEM REGARDING THE A.S.R. DEBT WAS THAT THERE WAS DEBT HELD BY OR INTERESTS HELD BY 13,000 MEMBERS OF ALL SEASONS RESORTS. ORDINARY PEOPLE. THESE PEOPLE HAD OVER A HUNDRED MILLION DOLLARS INVESTED IN ALL SEASONS RESORTS IN THEIR MEMBERSHIPS. IF ALL SEASONS RESORTS DISAPPEARED, THE 12 RESORTS WOULD DISAPPEAR, AND THE MEMBERSHIPS WOULD BECOME WORTHLESS. AND THE 13,000 PEOPLE WOULD HAVE LOST THEIR INVESTMENTS.

RAYMOND NOVELLI WAS ASKED TO COME IN TO SAVE THE RESORTS, TO SAVE THE MEMBERS, AND TO SAVE, THEREFORE, THE CREDITORS IN THAT REGARD. IF YOU COULD DO THE FIRST, WHICH IS SAVE ALL SEASONS RESORTS AND SAVE THE RESORTS, YOU COULD SAVE THE MEMBERS' INVESTMENTS, AND YOU COULD SAVE THE CREDITORS' INVESTMENTS, AND EVERYBODY COULD BE PAID.

ALL RIGHT. AS I INDICATED, MR. NOVA AGREED TO ASSUME THE ENTIRE DEBT OF OVER \$40 MILLION. THEN HE DID WHAT HE HAD TO DO. HE FIRST NEEDED TO STOP THE CREDITORS WHO WEREN'T COOPERATING FROM TAKING THE ASSETS. YOU KNOW, SOME WOULD SAY, "I'M GOING TO GET THERE FIRST. BECAUSE IF I DON'T GET THERE FIRST, THEN THERE'S GOING TO BE NOTHING LEFT FOR ME."

MR. NOVELLI FILED A CHAPTER 11 REORGANIZATION BANKRUPTCY PROCEEDING TO PROTECT THE RESORTS AND THE MEMBERS AND TO STOP THE CREDITORS FROM A POTENTIAL FEEDING FRENZY THAT COULD DESTROY THE COMPANY.

THE EVIDENCE WILL SHOW THAT A CHAPTER 11 REORGANIZATION BANKRUPTCY PROCEEDING IS NOT AN ATTEMPT TO EVADE YOUR DEBTS. IT IS NOT AN ATTEMPT TO AVOID OR EVADE PAYING ANYBODY. IN FACT, BY LAW, CORPORATIONS CANNOT DISCHARGE THEIR DEBTS IN A CHAPTER 11 BANKRUPTCY PROCEEDING. IT'S A PROCEDURE WHICH BASICALLY BUYS TIME, BUYS BREATHING ROOM, AND TRIES TO ESTABLISH A REASONABLE APPROACH THAT CONSIDERS THE INTEREST OF VIRTUALLY EVERYBODY, THE OWNERS, THE CREDITORS, AND THE MEMBERS.

LADIES AND GENTLEMEN, THE EVIDENCE WILL SHOW YOU THAT RAYMOND NOVELLI HAS NEVER -- NEVER FILED A CHAPTER 7 DISCHARGE BANKRUPTCY. HE DOES USE BANKRUPTCIES AS A BUSINESS TOOL. BUT WHENEVER A BANKRUPTCY WAS FILED BY HIM, IT WAS TO REORGANIZE AND PROTECT THE COMPANY FOR THE PURPOSE OF GAINING TIME, BREATHING ROOM, AND FOR THE PURPOSE OF PLANNING TO GET THE CREDITORS PAID.

NOW, THE DEFENDANTS WILL SAY IT DOESN'T MATTER. JUST THE BANKRUPTCY BY ITSELF CAUSES MEMBERS TO LEAVE RESORTS. I THINK THE EVIDENCE WILL SHOW YOU THAT WHAT IS HAPPENING HERE IS THE DEFENDANTS NEED TO SAY THIS TO TRY TO EVADE THE FACT THAT IT WAS THEIR CONDUCT THAT CAUSED THE MEMBERS TO LEAVE. THE PLAINTIFFS SAY YOU'RE WRONG. IT'S JUST THE OPPOSITE.

AND THE FACTS ARE, THE EVIDENCE SHOWS, THAT WHEN MR. NOVELLI WAS INVOLVED IN ALL SEASONS RESORTS AND WHEN HE FILED THAT REORGANIZATION TRYING TO SAVE THE RESORTS FOR THE MEMBERS, IT WORKED. THE BANKRUPTCY WAS IN THE LATE 80'S, AND ALL SEASONS MEMBERS WERE HAPPY. AND THE ONLY EFFECT THAT BANKRUPTCIES HAVE ON MEMBERS WAS POSITIVE. IT SAVED THE RESORTS.

MORE IMPORTANTLY, BECAUSE OF ALL SEASONS' REORGANIZATION, OVER A HUNDRED MILLION DOLLARS' WORTH OF MEMBERS' INVESTMENTS WERE SAVED. MR. NOVELLI PROVED BY

THAT EXPERIENCE THAT YOU COULD SUCCESSFULLY USE THE BANKRUPTCY COURTS AS A BUSINESS TOOL TO SAVE THE RESORTS, TO SAVE HIS FAMILY, THE MEMBERS, AND TO SAVE THE ABILITY TO HAVE THE CREDITORS REPAYED.

UNDER MR. NOVELLI'S MANAGEMENT SKILLS BETWEEN 1986 WHEN HE FIRST CAME IN AND 1995, EVEN WHILE ALL SEASONS WAS IN BANKRUPTCY REORGANIZING, ALL SEASONS GREW IN STATURE AND MEMBERSHIP AND IN RESORTS, INSTEAD OF DECLINING. WITH MR. NOVELLI AT THE HELM, THE PLAINTIFFS' RESORTS CONTINUED TO GROW AND CAME TO INCLUDE SEVERAL RESORTS OWNED BY PLAINTIFF, FIRST NATIONWIDE RESORTS MANAGEMENT, ANOTHER COMPANY.

BY 1995, PLAINTIFFS' RESORTS HAD GROWN FROM 12 RESORTS WITH 13,000 MEMBERS TO NEARLY 40 RESORTS, TO INCLUDE -- I'VE FORGOTTEN. I THINK 90,000 MEMBERS. HERE IT IS. TO INCLUDE APPROXIMATELY 42,000 MEMBERS, FROM 13,000 MEMBERS TO 42 THOUSAND MEMBERS. DOES THAT SOUND LIKE THE MEMBERS WERE JUMPING OFF THE BANKRUPTCY SHIP, SINKING SHIP?

THE GROWTH IN THE PLAINTIFFS' RESORTS WAS ALSO REMARKABLE, LADIES AND GENTLEMEN, BECAUSE THE EVIDENCE WILL SHOW IT RAN AGAINST A TREND. IT CAME AT A TIME AND DURING YEARS WHEN, GENERALLY SPEAKING, THE ENTIRE MEMBERSHIP RESORT INDUSTRY WAS IN A DECLINE. BY SEPTEMBER OF 1997 WHEN THE MELTDOWN EVENT OF THIS ACTION OCCURRED, THERE WERE APPROXIMATELY 50 PLAINTIFFS' RESORTS WITH APPROXIMATELY A HUNDRED THOUSAND MEMBERS WHICH 35,000 WERE PARTICIPATIONS -- PARTICIPANTS IN A RECIPROCAL SYSTEM. THEN THE DEFENDANTS ACTED TO DESTROY MY CLIENTS' BUSINESS. AND TODAY, WHAT IN SEPTEMBER OF 1997 WAS 50 RESORTS, IS ONLY 20 PLAINTIFFS' RESORTS. IN WHAT USED TO BE A HUNDRED THOUSAND PLAINTIFFS MEMBERS IS NOW LESS THAN 35,000 PLAINTIFFS' MEMBERS.

THE EVIDENCE WILL SHOW THAT WHAT THE DEFENDANTS INTENDED AND SET OUT TO DO, THEY HAD DONE.

NOW, I WANT TO SAY A FEW THINGS ABOUT WHAT WE EXPECT WILL BE AFFINITY'S DEFENSES.

FIRST, LADIES AND GENTLEMEN, THE EVIDENCE WILL SHOW YOU THAT THE DEFENDANTS HAVE NO VIABLE DEFENSE FOR WHAT THEY DID. SO THEY'LL BE ENGAGING IN DIVERSION. THEY WILL BASICALLY ADMIT THE FACTS, BUT TELL YOU THAT THE JURY SHOULD STILL FIND AGAINST THE PLAINTIFFS FOR OTHER REASONS.

FOR EXAMPLE, THE DEFENDANTS WILL TELL YOU THAT WHEN THEY SENT THE 34,000 LETTERS, THEY WERE ACTING TO SAVE THE MEMBERS FROM MR. NOVELLI. THEY WILL SAY HE DOESN'T CARE ABOUT MEMBERS. WELL, THE EVIDENCE WILL SHOW OTHERWISE.

YOU RECALL THE EVENTS IN 1987 WHEN THE LENDERS ASKED MR. NOVELLI TO SAVE ALL SEASONS AND ITS MEMBERS AND HE DID SO? IN FACT, IT HAPPENED AGAIN IN 1997. REMEMBER THE THOUSAND ADVENTURES RESORT THAT WAS MENTIONED? IN 1997, THIS TIME THE LENDERS -- IT WAS NOT A NOVELLI COMPANY AT THE TIME. IT WAS THE DAVID VOPNFORD COMPANY. IN 1997, THE LENDERS THIS TIME WERE AFRAID OF LOSING ALMOST A HUNDRED MILLION DOLLARS IN OUTSTANDING LOANS. IN THIS TIME THE STAKES WERE MUCH HIGHER. THE MEMBERS STOOD TO LOSE AS MUCH AS A HALF A BILLION DOLLARS

IN MEMBERSHIP INVESTMENTS.

MR. NOVELLI WAS ASKED TO COME IN AS A WORKOUT SPECIALIST, AND HE AGREED TO STEP IN TO ACCEPT RESPONSIBILITY FOR PAYING THE HUNDRED MILLIONS OF DOLLARS OF DEBT, TO TRY TO SAVE THOUSAND ADVENTURES MEMBERS FROM A NEAR CERTAIN LOSS OF THEIR MEMBERS' HALF A BILLION DOLLAR INVESTMENTS.

THE PLAN HE DEVELOPED WAS TO PUT ALL OF THE PLAINTIFFS' RESORTS INTO ONE COMPANY, WITH THE THOUSAND ADVENTURES RESORTS IN THAT COMPANY, AND CALL IT "TRAVEL AMERICA," TO SAVE THE MEMBERS' INVESTMENTS AGAIN, ALONG WITH THE RESORTS. A BANKRUPTCY COURT JUDGE EVEN APPROVED THE TRANSFERRING OF THOUSAND ADVENTURES' MEMBERS TO TRAVEL AMERICA.

BUT BEFORE HE COULD ACT, COAST AND AFFINITY ACTED TO DESTROY TRAVEL AMERICA, ALONG WITH THE REST OF THE PLAINTIFFS' RESORTS. AND THE DEFENDANTS' ACTION PREVENTED HIM FROM BEING ABLE TO DO THAT. AND THEY -- POTENTIAL HALF BILLION DOLLARS OF PLAINTIFFS' MEMBERS' INVESTMENTS ARE BEYOND THE REACH OF MR. NOVELLI DOING ANYTHING TO HELP THEM. THESE WERE THE SAME MEMBERS THAT MR. ADAMS AND AFFINITY CLAIMS THEY WERE TRYING TO SAVE FROM MR. NOVELLI. THEY CLAIM THEY WERE ACTING TO PROTECT THESE MEMBERS.

BUT IN THE END, YOUR HONOR, AND LADIES AND GENTLEMEN, THE EVIDENCE WILL SHOW THAT COAST'S TAKING OF THESE MEMBERS EFFECTIVELY STOPPED MR. NOVELLI FROM SAVING THESE SAME MEMBERS' INVESTMENTS, BECAUSE THE DEFENDANTS WERE NOT INTERESTED IN PROTECTING THE MEMBERS' INVESTMENTS. THEY WERE JUST INTERESTED IN STOPPING THE COMPETITION.

AS THE EVIDENCE IS PRESENTED, LADIES AND GENTLEMEN, THE DEFENDANTS WILL SAY THERE WERE NO DAMAGES EXPERIENCED BY THE DEFENDANTS. THEY WILL SAY THE PLAINTIFFS CAN'T PROVE THERE WERE ANY DAMAGES.

THE EVIDENCE WILL DEMONSTRATE THAT THERE WERE DAMAGES. AND IT WILL DEMONSTRATE THAT THE DEFENDANTS' CONDUCT WAS THE ONLY CONCEIVABLE CAUSE OF THE KIND AND EXTENT OF DAMAGE THAT RESULTED.

YOU SEE, PLAINTIFFS WILL PRESENT EXPERTS WHO WILL EXPLAIN HOW THEY CALCULATED AND DETERMINE CAUSATION AND DAMAGES IN THIS CASE. THE DAMAGES WERE CAUSED BY THE LOSS OF MEMBERS. THE GROWTH OR SHRINKAGE OF PLAINTIFFS' MEMBER BASE WAS A KNOWN FACTOR THAT COULD BE CHARTED. THE STATISTICS AND THE CHARTS AND THE SCIENTIFIC PROOF AND ANALYSIS OF STATISTICIANS, EXPERTS IN THE FIELD, WILL SHOW THAT AFTER THE LETTERS WERE SENT TO THE PLAINTIFFS' MEMBERS, THERE WAS A NEVER-BEFORE-SEEN, SUDDEN, DRAMATIC LOSS OF APPROXIMATELY 22,000 MEMBERS FROM THE PLAINTIFFS' RESORTS IN 1997 AND 1998. IT WAS CAUSED BY THE DEFENDANTS' CONDUCT.

THEN, LADIES AND GENTLEMEN, AFTER THE DEFENDANTS HAVE TOLD YOU THERE WERE NO DAMAGES, THEY WILL COVER THE OTHER SIDE OF THE COIN, AND THEY WILL TELL YOU THAT THERE WERE DAMAGES. BUT THEN THEY WILL SAY THOSE DAMAGES WERE CAUSED BY OTHER FACTORS, NOT THEM.

THE PLAINTIFFS' EVIDENCE WILL DEMONSTRATE THAT WHILE IT IS POSSIBLE THAT OTHER FACTORS COULD HAVE CONTRIBUTED, THE EXISTENCE OF MORE THAN ONE CAUSE OF THE DAMAGES IS IMMATERIAL. THERE CAN BE MORE THAN ONE CAUSE OF

DAMAGES, BECAUSE THE DEFENDANTS' CONDUCT WAS THE SUBSTANTIAL CONTRIBUTING FACTOR THAT CAUSED THE DAMAGE, NO MATTER HOW MANY OTHER FACTORS THERE COULD HAVE BEEN.

FINALLY, LADIES AND GENTLEMEN, THE DEFENDANTS WILL TELL YOU THE PLAINTIFFS AND MR. NOVELLI ARE OR HAVE BEEN INVOLVED IN A LOT OF BANKRUPTCY AND A LOT OF LAWSUITS, AND I GUESS YOU GOT THE POINT. THAT'S WHY THE MEMBERS LEFT. WELL, I'VE ALREADY TOLD YOU, YES, IN 13 YEARS THERE HAVE BEEN BANKRUPTCIES, REORGANIZATION PROCEEDINGS. NEVER A LIQUIDATION PROCEEDING FILED BY MR. NOVELLI. I'VE EXPLAINED THAT.

AND, YES, THERE HAS BEEN LITIGATION IN 13 YEARS WHERE THE ACTIONS -- A GREAT MAJORITY OF THE LITIGATION WAS ACTIONS -- WERE ACTIONS WHICH WERE INHERITED OR WHICH WERE THE RESULT OF OTHER PERSONS' CONDUCT. AND THE PLAINTIFFS' INVOLVEMENT IN LITIGATION WAS DUE TO HIS TAKING -- MR. NOVELLI'S AGREEMENTS TO TAKE OVER TROUBLED COMPANIES ALREADY IN TROUBLE AND ALREADY IN LITIGATION. AND THE ATTEMPTS TO SAVE THE RESORTS FOR THE MEMBERS AND PROTECT THE INTEREST OF THE MEMBERS, LADIES AND GENTLEMEN, WERE CHOICES THAT WERE MADE THROUGHOUT THE 13-YEAR HISTORY.

WHEN YOU CHOOSE TO SAVE MEMBERS, WHICH WE SAY THE EVIDENCE SHOWS IS A MOST IMPORTANT PART OF THIS CASE, YOU'RE BOUND TO BE CHOOSING NOT TO PUT SOMEONE ELSE OTHER THAN MEMBERS FIRST. AND WHEN YOU DO THAT, THERE ARE BOUND TO BE SOME UNHAPPY PEOPLE.

BUT RECALL THE HISTORY OF THE PLAINTIFFS' MEMBERS' REACTIONS. THIS IS ABOUT LOSS OF MEMBERS. AND RECALL THE DEFENSE WILL SAY THE LOSS OF MEMBERS WAS NOT DUE TO US; IT WAS DUE TO THESE LITIGATIONS AND THESE BANKRUPTCIES. REMEMBER THE HISTORY OF THE PLAINTIFFS' MEMBERSHIPS' REACTIONS TO BANKRUPTCY AND LAWSUITS HAS NOT BEEN WHAT THE DEFENDANTS CLAIM. IT IS THE REVERSE. REMEMBER THE ALL SEASONS EXPERIENCE. RATHER THAN RESORTS LOSING MEMBERS, THE RESORTS GAINED MEMBERS.

THE DAMAGES -- MAYBE ANOTHER FIVE MINUTES, LADIES AND GENTLEMEN. I KNOW YOUR TIME IS VALUABLE.

THIS IS WHAT THE PLAINTIFFS BELIEVE THE EVIDENCE WILL SHOW, AS FAR AS DAMAGES ARE CONCERNED.

THE LETTERS SENT BY COAST TO THE MEMBERS AND THE OTHER ACTIONS TAKEN BY COAST IN RESPONSE TO THE PLAINTIFFS' ATTEMPTS TO LEAVE COAST CAUSED LOSSES. I THINK I ALREADY INDICATED, FROM THE NEARLY 35,000 LETTERS THAT WERE SENT, PLAINTIFFS LOST AN ESTIMATED 22,000 MEMBERS. AND I WON'T ADD IT UP FOR YOU, BUT I'LL GIVE YOU THE PIECES AGAIN.

A CAMPGROUND MEMBER HAS A UNIVERSALLY ACCEPTED, AGREED-UPON WORTH OF A MINIMUM OF A THOUSAND, AND APPROXIMATELY 3300 EACH TO A CAMPGROUND OWNER. THIS MEANS A LOSS OF MEMBERS OF UP TO \$73 MILLION. MEMBERS CONTRACTED BY MEMBERSHIPS OFTEN ON TIME, AND BALANCES ARE DUE ON THOSE CONTRACTS. AS A RESULT OF THE DEFENDANTS' INTERFERENCE, MEMBERS STOPPED PAYING ON THEIR CONTRACTS, RESULTING IN A LOSS OF APPROXIMATELY \$15 MILLION TO THE PLAINTIFFS.

WHEN YOU LOSE A MEMBER, YOU LOSE DUES INCOME. THAT DAMAGED THE PLAINTIFF BY APPROXIMATELY \$38 MILLION IN DUES, RECEIPTS LOST.

AND THERE WAS APPROXIMATELY \$36 MILLION LOSS IN MEMBERSHIP ENHANCEMENT INCOME. AND AS A CONSEQUENCE OF THE DESTRUCTION OF THE PLAINTIFFS' MEMBERS BASE, RESORTS HAD TO CLOSE. THERE WAS A LOSS OF RESORTS VALUED AT APPROXIMATELY 25 MILLION. YOU WILL HEAR THIS EVIDENCE, AND YOU WILL DO THE ADDITION YOURSELF. THANK YOU.

THE COURT: THANK YOU, MR. MOSHENKO. LADIES AND GENTLEMEN, WE'LL TAKE OUR MORNING BREAK. PLEASE REPORT BACK IN 20 MINUTES, AND I MUST REMIND YOU THAT YOU'RE NOT TO DISCUSS THIS CASE AMONGST YOURSELVES OR ANYONE ELSE PENDING YOUR RETURN TO THE COURTROOM. MAY THAT ADMONISHMENT BE WAIVED IN THE FUTURE?

MR. SHAW: YES, YOUR HONOR.

MR. SHERMAN: YES.

THE COURT: THANK YOU.

(RECESS TAKEN.)

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

THE COURT: LADIES AND GENTLEMEN, YOU WILL NOW HEAR THE OPENING STATEMENT OF THE DEFENSE BY MR. SHERMAN. AND IT MAY RUN A LITTLE BIT INTO THE LUNCH HOUR, BUT WE'LL ACCOMMODATE YOU BY EXTENDING THE LUNCHTIME.

SO YOU MAY PROCEED, MR. SHERMAN.

OH, AND ALSO, WHEN WE START TAKING EVIDENCE, YOU'LL BE GIVEN NOTEBOOKS AND PENS.

PROCEED.

MR. SHERMAN: GOOD MORNING, LADIES AND GENTLEMEN OF THE JURY.

AS YOU KNOW, MY NAME IS MICHAEL SHERMAN. I REPRESENT CAMP COAST TO COAST, INCORPORATED, AFFINITY GROUP, STEVEN ADAMS, AND PAT BUTLER.

WITH ME AT COUNSEL TABLE IS MR. GENE EVERETT, THE PRESIDENT OF CAMP COAST TO COAST. MY CO-COUNSEL, IRA RIVIN, FROM THE COSTA MESA LAW FIRM OF RUTAN & TUCKER WILL BE JOINING A LITTLE LATER TODAY.

I'D ALSO LIKE TO INTRODUCE MELISSA MILLER OF MY OFFICE, AND MR. CRAIG RUTENBERG OF MY OFFICE, AS WELL AS MR. ARKO, AN ATTORNEY IN THE RUTAN OFFICE, AND LA SHAUNA HALE-JOHNSON, A TRIAL PARALEGAL WHO WILL BE ASSISTING US FROM THE RUTAN OFFICE.

ALSO IN THE COURTROOM IS MR. JAMES RANDALL, WHO HEADED COAST'S OPERATIONS FOR ABOUT THE PAST 10 YEARS.

CAMP COAST TO COAST IS A SERVICE ORGANIZATION, WHICH LINKS TOGETHER A NETWORK OF OVER 350 R.V. RESORT CAMPGROUNDS IN NORTH AMERICA, PLUS ABOUT ANOTHER 630 OPEN-TO-THE-PUBLIC CAMPGROUNDS THAT ARE CALLED "GOOD NEIGHBOR PARKS." COAST HAS BEEN IN OPERATION SINCE 1972 AND TODAY HAS NEARLY A QUARTER OF A MILLION MEMBERS.

COAST PROVIDES ITS MEMBERS THE OPPORTUNITY TO TRAVEL THE UNITED STATES, CANADA AND MEXICO AND STAY AT ANY OF ITS AFFILIATED PARKS. COAST KEEPS IN REGULAR TOUCH WITH ITS MEMBERS AND PROVIDES ITS MEMBERS WITH CURRENT INFORMATION ABOUT CAMPGROUNDS, SERVICES, TRAVEL TIPS GEARED SPECIFICALLY TO THE R.V.'ERS.

AND BECAUSE COAST TO COAST IS THE NETWORK LINK, LINKING THE DIFFERENT CAMPGROUND RESORTS, IT DOESN'T OWN OR OPERATE ANY CAMPGROUND PARKS. CAMPGROUND PARKS ARE OWNED AND OPERATED BY PRIVATE DEVELOPERS.

THE PLAINTIFFS IN THIS CASE, PRIVATE DEVELOPERS, ARE OR HAVE BEEN OWNERS OR OPERATORS OF CAMPGROUND PARKS.

WHO ARE COAST'S MEMBERS? COAST MEMBERS ARE R.V. ENTHUSIASTS OF ALL AGES WHO LIKE TO TRAVEL. COAST MEMBERS ARE INDIVIDUALS, COUPLES, FAMILIES WITH CHILDREN, AND RETIREES, HARD-WORKING MEN AND WOMEN WHO ENJOY A RECREATIONAL LIFESTYLE IN THIS COUNTRY, WHICH IS UNPRECEDENTED. THEY CAN VISIT VIRTUALLY ANY PART OF THE COUNTRY FROM COAST TO COAST AND STAY IN PARKS WHICH ARE LINKED IN THE COAST TO COAST NETWORK. WE REFER TO THESE PARKS THAT ARE LINKED TOGETHER AS "COAST AFFILIATED PARKS," OR "COAST AFFILIATES." AND THE EVIDENCE WILL SHOW THAT FOR MANY OF THESE R.V. ENTHUSIASTS WHO TREASURE THE FREEDOM OF THE ROAD, COAST MEMBERSHIP IS A WAY OF LIFE.

NOW, THE CORE OF PLAINTIFFS' CASE BOILS DOWN TO TWO CLAIMS: THAT COAST IMPROPERLY COMMUNICATED WITH MEMBERS AND -- IN LATE 1997, AND THAT COAST'S COMMUNICATION WITH ITS MEMBERS DAMAGED THE PLAINTIFFS. NOTHING COULD BE FURTHER FROM THE TRUTH.

THE EVIDENCE WILL PROVE THAT THE PEOPLE WHO WE SENT LETTERS TO IN LATE 1997 AND 1998 WERE COAST MEMBERS, AS WELL AS MEMBERS OF SOME OF THE PLAINTIFFS. THE CONTRACTS BETWEEN COAST AND THE PLAINTIFFS MAKE CLEAR THAT COAST HAS EVERY RIGHT TO COMMUNICATE WITH ITS OWN MEMBERS FOR ANY PURPOSE. YOU WILL SEE THESE CONTRACTS RIGHT OUT OF PLAINTIFFS' FILES.

THE COMMUNICATIONS COAST HAD WITH ITS OWN MEMBERS IN LATE 1997 AND 1998 IS NOT WHAT HARMED PLAINTIFFS. THE EVIDENCE WILL SHOW THAT PLAINTIFFS HAD ALREADY CRIPPLED THEIR OWN COMPANIES. AND WHAT I MEAN BY THAT IS THE FOLLOWING.

IN THE YEARS AND THE MONTHS BEFORE THE FALL OF 1997, LETTERS THAT COAST SENT TO ITS MEMBERS, THE COMPANIES THAT MAKE UP THE PLAINTIFF PARKS HAD FILED NUMEROUS BANKRUPTCIES. MEMBERS WOULD SHOW UP AND ON OCCASION FIND THEIR CAMPGROUNDS CLOSED. THE MEMBERS OF THE PLAINTIFF PARKS HAD REPEATEDLY EXPRESSED INTENSE FRUSTRATION AND DISAPPOINTMENT WITH THE MANAGEMENT AND THE OPERATION OF THE PARKS, FRUSTRATION RISING TO THE LEVEL OF COMPLAINTS TO CONSUMER FRAUD DIVISIONS OF STATE ATTORNEY GENERAL OFFICES.

THE INTERNAL REVENUE SERVICE HAD FILED TAX LIENS AGAINST PLAINTIFF PARKS EXCEEDING MILLIONS OF DOLLARS, ALONG WITH OTHER JUDGMENT CREDITORS SEEKING MILLIONS OF DOLLARS AGAINST THE PLAINTIFF PARKS. ALL OF THIS AND MUCH MORE HAPPENED BEFORE MR. NOVELLI AND THE PLAINTIFF PARKS WITHDREW FROM THE COAST NETWORK. AND COAST THEN BEGAN SENDING LETTERS TO COAST MEMBERS IN THE FALL OF 1997. AND DURING THE SAME TIME FRAME AS COAST'S LETTERS WERE BEING SENT, BUT COMPLETELY UNRELATED TO COAST'S SENDING OF THE LETTERS, A FEDERAL BANKRUPTCY TRUSTEE ASKED THE BANKRUPTCY COURT TO CANCEL 18,000 MEMBERSHIP CONTRACTS AT NOVELLI-OPERATED PARKS AS PART OF THOSE BANKRUPTCY PROCEEDINGS, AND THAT REQUEST WAS GRANTED.

IF ANYONE DAMAGED THE PLAINTIFFS, IT WAS THE PLAINTIFFS THEMSELVES BECAUSE OF THE WAY THEY MISTREATED AND ABUSED R.V. OWNERS THROUGHOUT THE COUNTRY. I'LL TELL

YOU MORE ABOUT THIS LATER.

NOW, THE MAN BEHIND THE PLAINTIFF PARKS AND THIS LAWSUIT IS RAYMOND G. NOVELLI. MR. NOVELLI CONTROLS COMPANIES WHICH DON'T PAY THEIR DEBTS, DON'T PAY THEIR BUSINESS TAXES, AND HAVE REPEATEDLY ISSUED EMPLOYEE PAYROLL CHECKS WHICH BOUNCED. THE EVIDENCE WILL SHOW THAT AT THE SAME TIME ELECTRICITY WAS BEING SHUT OFF AT CERTAIN PARKS BECAUSE OF NONPAYMENT, AND SEWAGE WAS BACKING UP AT CERTAIN PARKS BECAUSE THEY COULDN'T FIX THE PUMPS, MR. NOVELLI WAS USING FUNDS OUT OF THOSE PARKS FOR PURPOSES TOTALLY UNRELATED TO MAINTAINING PARKS.

ONE OF MR. NOVELLI'S CLOSEST BUSINESS ASSOCIATES WILL DESCRIBE MR. NOVELLI AS A MAN WHO IS NOT OF HIS WORD AND WHOSE SIGNATURE MEANS NOTHING. THE FORMER HEAD OF MARKETING AND SALES OF THE ENTIRE NOVELLI ORGANIZATION, PATRICIA WALTMAN, ONE OF THE THREE MOST SENIOR PEOPLE IN THAT ORGANIZATION FOR YEARS, WILL TESTIFY THAT DURING THE LAWSUIT THAT MR. NOVELLI WAS INVOLVED IN, THE ISSUE CAME UP ABOUT MR. NOVELLI'S SIGNATURE ON A CONTRACT. AND MRS. WALTMAN TOLD MR. NOVELLI, "WELL, REMEMBER, RAY, YOU SIGNED IT." AND MRS. WALTMAN WOULD GO ON TO TESTIFY THAT THAT'S WHEN SHE REMEMBERS MR. NOVELLI SAYING, "I DON'T GIVE A DAMN. MY SIGNATURE DOESN'T MEAN ANYTHING."

THIS CASE IS STRAIGHTFORWARD. ULTIMATELY THERE WILL ONLY BE TWO GENERAL QUESTIONS YOU'LL BE ASKED TO DECIDE. LET ME PUT THESE UP ON THE BLACKBOARD, IF I MAY.

DID COAST BREACH ITS CONTRACT WITH PLAINTIFFS?

SECOND, DID COAST CAUSE PLAINTIFFS' LOSSES? TWO ISSUES.

AS TO THE FIRST ISSUE, THAT I'D LIKE TO TURN. THE WRITTEN CONTRACT BETWEEN COAST AND THE NOVELLI PARKS MADE CLEAR THAT MR. NOVELLI'S RESORTS HAD MEMBERS, BUT SO DID COAST HAVE ITS OWN MEMBERS, TOO. THAT'S WHAT THE WRITTEN CONTRACTS MADE CLEAR. BECAUSE WHEN PEOPLE JOIN A HOME RESORT AND THEN SEPARATELY CHOOSE TO SIGN UP WITH COAST TO COAST, THEY THEN HAVE TWO SEPARATE MEMBERSHIP TIES. THEY HAVE ONE TIE TO THEIR HOME RESORT; THAT WOULD BE THEIR MEMBERSHIP IN THE NOVELLI ORGANIZATION. AND THEN THEY HAVE A SEPARATE TIE TO COAST TO COAST.

AND THE EVIDENCE WILL SHOW TWO SEPARATE MEMBERSHIP LISTS, ONE LIST THAT THE PLAINTIFFS PARK KEEP, AND A DIFFERENT LIST THAT COAST MAINTAINS OF ITS OWN MEMBERS.

NOW, PLAINTIFFS' LAWYER GLOSSED OVER SOME OF THE VERY IMPORTANT TERMS OF THESE CONTRACTS. THE CONTRACT, THE FIRST CONTRACT, THAT WAS SIGNED BY MR. NOVELLI IN 1988, IF YOU RECALL HEARING PLAINTIFFS' LAWYER TALKING ABOUT ALL SEASONS RESORT AFTER MR. NOVELLI TOOK IT OVER IN THE '86-'87 TIME FRAME, THE FIRST CONTRACT THAT WAS SIGNED BY MR. NOVELLI PROVIDED -- I'LL PUT SOME OF THESE TERMS UP ON THE BOARD -- THAT LISTS OF MEMBERS OF COAST COMPILED BY COAST FROM SUCH APPLICATIONS ARE THE SOLE PROPERTY OF COAST FOR ALL PURPOSES AND MAY BE USED BY COAST AND BY OTHERS WITH COAST'S PERMISSION FOR ANY PURPOSES. THAT'S WHAT THE CONTRACT LANGUAGE SAID, LADIES AND GENTLEMEN.

LET ME JUST PUT UP A COUPLE OF TERMS. I

WON'T WRITE THEM ALL DOWN.

LISTS OF MEMBERS OF COAST COMPILED BY COAST FROM SUCH APPLICATIONS ARE THE SOLE PROPERTY OF COAST.

IT'S A GOOD THING I WASN'T A SCHOOL TEACHER.

THESE AGREED-TO TERMS APPEARED IN THE 1988 CONTRACT BETWEEN TRAVEL AMERICA'S DIRECT PREDECESSOR, AS PLAINTIFFS' LAWYER CHARACTERIZED IT, ALL SEASONS RESORTS, IN ITS CONTRACT WITH COAST TO COAST. AND THE CONTRACT WAS A TYPEWRITTEN, 10-PAGE CONTRACT COVERING ALL MATERIAL ASPECTS OF THE PARTIES' DEALINGS.

EACH OPERATIVE CONTRACT BETWEEN THE PARTIES WILL BE A TRIAL EXHIBIT. AND YOU CAN REVIEW THEM DURING YOUR DELIBERATIONS IN THIS CASE. YOU WILL SEE THAT EVERY OPERATIVE CONTRACT IN THIS CASE HAD THE IDENTICAL OR SIMILAR LANGUAGE WITH REGARD TO COAST'S OWNERSHIP OF COAST'S MEMBERSHIP LISTS AND COAST'S RIGHT TO CONTACT COAST'S MEMBERS.

AND IN 1994 AND '95, AGREEMENT BETWEEN COAST AND ANOTHER PLAINTIFF IN THIS CASE, FIRST NATIONWIDE RESORTS, HAD THE SAME BASIC MEMBERSHIP LANGUAGE. LISTS OF MEMBERS OF COAST COMPILED BY COAST FROM SUCH APPLICATIONS ARE THE PROPERTY OF COAST FOR ALL PURPOSES. THEY MAY BE USED BY COAST IN ITS DISCRETION FOR ENHANCEMENT OF THE COAST MEMBERSHIP.

NOW, MR. NOVELLI'S LAWYER TOLD YOU THAT "ENHANCEMENT" HAS SOME SPECIAL OR RESTRICTIVE MEANING. THERE ARE NO SPECIAL DEFINITIONS OF THE WORD "ENHANCEMENT" IN ANY OF THESE CONTRACTS, AS NONE WAS NEEDED. THE LANGUAGE WAS STRAIGHTFORWARD. LISTS OF MEMBERS OF COAST COMPILED BY COAST FROM SUCH APPLICATIONS ARE THE PROPERTY OF COAST FOR ALL PURPOSES AND MAY BE USED BY COAST IN ITS DISCRETION FOR ENHANCEMENT OF THE COAST MEMBERSHIP.

SO, IN OTHER WORDS, COAST AND THE NOVELLI PARKS HAD CAREFULLY STRUCTURED WRITTEN AGREEMENTS WHICH COVERED EVERY SINGLE ASPECT OF THE MATERIAL TERMS OF THE NOVELLI PARKS' AFFILIATION WITH COAST. AND THE SIGNED WRITTEN CONTRACTS DIRECTLY AND IN PLAIN ENGLISH GIVE TO COAST OWNERSHIP OF COAST'S MEMBERSHIP LISTS AND THE RIGHT TO CONTACT COAST'S OWN MEMBERS. SO WHY ARE WE EVEN HERE?

THE EVIDENCE WILL SHOW THAT WHEN MR. NOVELLI'S COMPANIES FAILED, HE BLAMES OTHERS. AND BECAUSE THE TERMS OF THE CONTRACTS ARE SO CLEAR AND SO DIRECT, MR. NOVELLI AND HIS LAWYERS TRY TWO APPROACHES TO GET AROUND THE CONTRACTS. YOU HEARD THEM TALK ABOUT THIS IN OPENING STATEMENT.

FIRST, THEY SAY THAT THE WRITTEN, SIGNED CONTRACTS ARE OVERRIDDEN BY AN ORAL PROMISE AT A MEETING. NEXT THEY SAY THE WRITTEN, SIGNED CONTRACTS DON'T MEAN WHAT THEY SAY THEY MEAN BECAUSE COAST ON OCCASION DID NOT ENFORCE ITS OPERATIONAL RULES AND REGULATIONS.

LET'S LOOK AT THE FIRST WAY THEY TRY TO GET AROUND THE WRITTEN SIGNED CONTRACTS, THEIR CLAIM ABOUT AN ORAL PROMISE.

MR. NOVELLI CLAIMS THAT STEVEN ADAMS, THE HEAD OF COAST'S PARENT CORPORATION, AFFINITY GROUP, PROMISED MR. NOVELLI IN A MEETING THAT COAST WOULD NOT USE COAST'S OWN MEMBERSHIP LISTS IN WAYS THAT MR. NOVELLI MIGHT

DISAPPROVE OF.

BUT THE EVIDENCE WILL CONTRADICT MR. NOVELLI'S CLAIM, BECAUSE THERE WERE SEVERAL OTHER PEOPLE AT THIS MEETING, A MEETING WHICH OCCURRED ON MARCH 11 OF 1993. THERE'S SEVERAL OTHER PEOPLE AT THIS MEETING WHO DISAGREE WITH MR. NOVELLI'S STORY, INCLUDING PATRICIA WALDMAN, WHO WAS THEN HEAD OF MARKETING AND SALES OF THE NOVELLI ORGANIZATION. THERE WERE SEVERAL OTHER PEOPLE WHO WILL DISAGREE, AS WELL. NOT EVEN MR. NOVELLI'S OWN BROTHER-IN-LAW, HANS SCHULZ, WHO WAS AT THE MEETING, RECALLS EVENTS OF THE MEETING THE WAY MR. NOVELLI WILL NOW CLAIM.

PATRICIA WALDMAN AND OTHERS WILL TESTIFY THAT A HUGE DISPUTE BROKE OUT AT THIS MEETING IN MARCH '93 OVER THE ISSUE OF MEMBERSHIP; THAT A BUDDY OF MR. NOVELLI'S NAMED GUS, WHO WAS AT THE MEETING, GOT EXTREMELY AGITATED, STARTED BANGING THE TABLE AND SCREAMING PROFANITIES. BUT THE COAST PEOPLE DIDN'T BACK DOWN FROM THEIR POSITION THAT THE MEMBERS WERE COAST'S MEMBERS, TOO. NO PROMISE WAS MADE TO MR. NOVELLI ALONG THE LINES THAT HE NOW CLAIMS.

NOW, THERE'S FURTHER COMPELLING EVIDENCE THAT DEMONSTRATES THAT MR. NOVELLI'S STORY ABOUT WHAT HAPPENED AT THIS MEETING JUST IS NOT CREDIBLE. BECAUSE IN THE YEARS FOLLOWING THE MEETING, MR. NOVELLI AND HIS BROTHER-IN-LAW, HANS SCHULZ, REPEATEDLY SIGNED AND RESIGNED CONTRACTS THAT REAFFIRMED THE CONTRACT MEMBERSHIP LANGUAGE THAT COAST OWNED ITS OWN MEMBERSHIP LISTS. LET ME PUT THIS UP ON THE BOARD REAL QUICK, IF I MAY.

HERE IN THE 1988 ALL SEASONS RESORT CONTRACT THAT I TOLD YOU WAS SIGNED WITH THIS LANGUAGE. THEN WE HAVE THE MEETING IN '93. "M" FOR MEETING. "C" FOR CONTRACT.

AFTER THE MARCH 1993 MEETING WHERE THAT BIG DISPUTE AROSE AND WHEN COAST WOULD NOT BACK DOWN, WHAT HAPPENED THEN WAS THAT IN 1994, MR. NOVELLI'S BROTHER-IN-LAW, HANS SCHULZ, SIGNED A CONTRACT WITH ALMOST THE IDENTICAL LANGUAGE. IT'S A CONTRACT. THEN IN 1995 MR. NOVELLI'S BROTHER-IN-LAW, ALSO ON BEHALF OF FIRST NATIONWIDE RESORTS, SIGNED ANOTHER CONTRACT, SIMILAR LANGUAGE.

THEN IN 1996, THE "CC" THERE IS TWO CONTRACTS, BECAUSE MR. NOVELLI, FROM THE SUMMER OF 1996, SIGNED ON BEHALF OF FIRST NATIONWIDE AND ALL SEASONS, AGREEING TO THE SAME MEMBERSHIP TERMS THAT COAST HAD ITS MEMBER LISTS. AND IT WAS AFTER THAT MEETING.

NOW, YOU KNOW WHAT ELSE MR. NOVELLI AND COAST INCLUDED IN THEIR WRITTEN AGREEMENTS? A CONTRACT TERM THAT SAYS THAT THIS DOCUMENT AND THE MATERIALS REFERRED TO IN THIS DOCUMENT CONTAIN THE ENTIRE AGREEMENT OF THE PARTIES, AND THAT THIS CONTRACT SUPERSEDES ORAL OR WRITTEN REPRESENTATIONS, STATEMENTS, INDUCEMENTS OR PROMISES NOT CONTAINED HEREIN, IN THE CONTRACT. AND SO THE PURPOSE OF THESE CLAUSES IN WRITTEN CONTRACTS, THE CLAUSES THAT MAKE CLEAR THAT A WRITTEN CONTRACT SUPERSEDES, IT TRUMPS ANY PRIOR ORAL AGREEMENT. IT'S TO PREVENT SOMEONE FROM COMING INTO COURT YEARS LATER AND TALKING ABOUT SOME SO-CALLED SIDE DEAL. BECAUSE IF THERE WAS TO BE ANOTHER CONTRACT, IT SHOULD HAVE BEEN IN THE WRITTEN CONTRACTS,

THE ONES SIGNED IN '94, '95, AND THE TWO IN '96. NO ONE, NOT FROM COAST'S SIDE, OR FROM NOVELLI'S SIDE, EVER MODIFIED THE WRITTEN CONTRACTS BY SIGNING NEW WRITTEN CONTRACTS OR BY MAKING WRITTEN CHANGES TO THE EXISTING AGREEMENTS.

AND NOW YOU'LL SEE PLAINTIFFS COME FORWARD WITH AN UNDATED COPY OF A CONTRACT. AND THIS UNDATED CONTRACT WILL HAVE THAT MEMBERSHIP LANGUAGE THAT I READ TO YOU EARLIER, THAT I TOLD YOU ABOUT EARLIER, CROSSED OUT. AND YOU KNOW WHAT? THIS DOCUMENT WAS ONLY SIGNED BY RAYMOND NOVELLI. IT WAS NOT SIGNED BY COAST. MR. NOVELLI HAS PREVIOUSLY CLAIMED UNDER OATH THAT HE HAS A COPY OF THIS MODIFIED CONTRACT WITH SIGNATURES IN HIS FILES FROM COAST, BUT NO SUCH COUNTERSIGNED CONTRACT WAS EVER PRODUCED IN THIS CASE. AND YOU WON'T BE SEEING ONE, BECAUSE IT DOESN'T EXIST, AND IT'S NEVER SIGNED BY COAST.

SO PLAINTIFFS TRY A SECOND WAY TO GET AROUND THE TERMS OF THE WRITTEN CONTRACTS. THEY CLAIM THAT BECAUSE COAST EXERCISED JUDGMENT AND FLEXIBILITY IN RUNNING A LARGE RECIPROCAL SYSTEM ACROSS THE COUNTRY, THAT SOMEHOW THAT THAT PROVES THAT THE TERMS OF THE WRITTEN, SIGNED CONTRACTS DON'T MEAN WHAT THEY SAY, BECAUSE COAST SOMETIMES EXERCISED JUDGMENT FLEXIBILITY.

FOR EXAMPLE, PLAINTIFFS CLAIM THAT COAST DID NOT UNIFORMLY ENFORCE SOME -- WHAT PLAINTIFFS' LAWYER REFERRED TO AS AN ANTI-RAIDING RULE WHICH REALLY HAD TO DO WITH HOW DIFFERENT RESORT DEVELOPERS DEALT WITH ONE ANOTHER, OR A RULE THAT PROSPECTIVE MEMBERS MUST VISIT A HOME RESORT BEFORE SIGNING UP.

YOU'LL EVEN BE HEARING FROM A SO-CALLED EXPERT FOR THE PLAINTIFFS, ROBERT MITCHELL, WHO WILL TELL YOU ABOUT LOTS OF RULES THAT HAVE NOTHING TO DO WITH COAST'S RIGHTS TO CONTACT COAST'S OWN MEMBERS.

THE EVIDENCE WILL SHOW THAT MR. MITCHELL WILL HAVE SOMETHING TO SAY ABOUT MANY ASPECTS OF COAST'S DEALINGS WITH THE NOVELLI PARKS, EVEN THOUGH MR. MITCHELL HAS NEVER WORKED A DAY IN HIS LIFE FOR THE COAST ORGANIZATION.

AND ANOTHER THING ABOUT MR. MITCHELL. THE EVIDENCE WILL SHOW THAT HE IS NOT WHO HE PURPORTS TO BE. HE WILL CLAIM TO BE AN OBJECTIVE PROTECTOR OF THE CAMPGROUND INDUSTRY AND A CONSUMER ADVOCATE. BUT THE REALITY IS, AS YOU WILL ULTIMATELY LEARN, THAT OVER THE YEARS, SOME OF MR. MITCHELL'S MOST SIGNIFICANT ACTIVITIES HAVE BEEN AS A MIDDLEMAN, BROKERING LUCRATIVE DEALS BETWEEN MR. NOVELLI AND FINANCE COMPANIES, AND CHASING DOWN CAMPGROUND MEMBERS' DEBTS AS A BILL COLLECTOR.

THE EVIDENCE AND COMMON SENSE MAKE IT CLEAR THAT BOTH COAST AND ITS AFFILIATED PARKS RECOGNIZE THAT THERE ARE TIMES WHEN OPERATING A LARGE NETWORK REQUIRES FLEXIBILITY AND JUDGMENT. AND THAT'S WHY THE COAST LICENSEE MANUAL, THAT'S LIKE AN OPERATING GUIDE FOR RESORT DEVELOPERS, THAT ALL RESORT DEVELOPERS ARE GIVEN, THAT'S WHY THIS LICENSEE MANUAL BEGINS ON THE VERY FIRST PAGE OF THE RULES SPELLING OUT IN BOLD CAPITAL LETTERS, "COAST TO COAST RESERVES THE RIGHT TO AMEND, MODIFY, OR ADD TO THE RULES AND REGULATIONS AT ANY TIME." YOU'LL SEE THE LICENSEE MANUAL, AND YOU WILL SEE THIS PROVISION ON THE

VERY FIRST PAGE WHERE THE RULES START.

AND THE EVIDENCE WILL SHOW THAT GOOD BUSINESS SENSE REQUIRES THAT SPECIFIC RULES NOT BE APPLIED BLINDLY, BUT THAT JUDGMENT BE USED. FOR EXAMPLE, WHAT MIGHT MAKE SENSE FOR A SMALL RESORT PARK UP IN THE MOUNTAINS IN THEIR BUSINESS OPERATIONS AND THEIR INTERACTION WITH OTHER PARKS MAY NOT MAKE THE SAME SENSE AS A LARGE REGIONAL OPERATOR SPREAD ACROSS, SAY, THE SOUTHEASTERN UNITED STATES WITH 15 OR 20 PARKS.

USING DISCRETION AND APPLYING RULES AND REGULATIONS OF OPERATION IS NOT THE SAME THING AS ALTERING WRITTEN CONTRACTS. IT'S NOT THE SAME THING AS MODIFYING THE MATERIAL TERMS OF THE CONTRACT, WHICH GOVERN THE RELATIONSHIP BETWEEN COAST AND THE NOVELLI PARKS.

PLAINTIFFS HAVE SUED COAST TO COAST FOR BREACH OF CONTRACT. AND YOU WILL SEE MULTIPLE SIGNED WRITTEN CONTRACTS WHICH GOVERN THEIR RELATIONSHIP. AND THE TERMS OF THE SIGNED WRITTEN CONTRACTS MAKE IT CLEAR THAT COAST OWNED ITS OWN MEMBERSHIP LISTS. AND NONE OF PLAINTIFFS' EMPLOYEES TODAY CAN GET AROUND THE PLAIN MEANING OF THESE WRITTEN SIGNED AGREEMENTS CHANGING THOSE FACTS.

NOW, I WANT TO MOVE ON TO ANOTHER TOPIC, THE CONTRACTS AND CONTACTS THAT COAST HAS WITH ITS OWN MEMBERS. BECAUSE WHEN RESORT MEMBERS CHOOSE TO SIGN UP WITH COAST TO COAST, THE RESORT GIVES THEM A COAST APPLICATION. AND YOU WILL SEE THAT COAST MEMBERSHIP APPLICATION THAT COAST MEMBERS RECEIVE.

WHEN RESORT MEMBERS SIGNED UP FOR COAST TO COAST, THE INDIVIDUAL R.V.'ER COMPLETES THE MEMBERSHIP APPLICATION, AND THE APPLICATION IS THEN SENT ALONG TO COAST. A STAFF PERSON IN COAST'S MEMBERSHIP DEPARTMENT THEN RECEIVES AND ENTERS THIS INFORMATION, AND IT IS USED TO PREPARE A LIST OF COAST MEMBERS FROM THE MEMBERSHIP APPLICATION. AND EACH YEAR COAST SENT TO COAST'S -- TO THE HOME RESORT A LIST OF CURRENT MEMBERS, CURRENT COAST MEMBERS FROM THAT HOME RESORT. IT DIDN'T WORK THE OTHER WAY AROUND. THE HOME RESORT DIDN'T SEND A LIST OF ITS MEMBERS TO COAST.

NOW, THE WRITTEN AGREEMENTS BETWEEN COAST AND THE NOVELLI PARKS ALSO TALK ABOUT THESE MEMBERSHIP APPLICATIONS THAT THE INDIVIDUAL R.V.'ER SIGNS UP -- FILLS OUT WHEN SIGNING UP. AND YOU WILL SEE IN THE WRITTEN AGREEMENTS BETWEEN THE NOVELLI PARKS AND COAST PROVISIONS ON THE VERY FIRST PAGE OF THE CONTRACTS. AND THESE PROVISIONS PROVIDE THAT THE OWNER, THE RESORT DEVELOPER, SHALL HAVE THE RIGHT TO OFFER TO EACH PURCHASER OF A MEMBERSHIP IN A RESORT, THE RESORT DEVELOPER'S RESORT, THE PRIVILEGE OF AN ADDITIONAL AND SEPARATE MEMBERSHIP IN A COAST PROGRAM. AN ADDITIONAL AND SEPARATE MEMBERSHIP IN A COAST PROGRAM. THAT'S WHAT MR. NOVELLI'S PARKS AGREED TO. AND WENT ON TO AGREE THAT THE RELATIONSHIP BETWEEN COAST AND THE COAST MEMBER SHALL BE SEPARATE, APART, AND DISTINCT FROM ANY RELATIONSHIP BETWEEN THE RESORT AND SUCH MEMBER.

LET ME GO BACK TO THE MEMBERSHIP APPLICATION I TALKED ABOUT A MOMENT AGO THAT THE INDIVIDUAL R.V.'ER FILLS OUT WHEN HE OR SHE WANTS TO JOIN, SIGN UP WITH COAST. BECAUSE THE MEMBERSHIP APPLICATION ALSO CONTAINS

TERMS OF THE INDIVIDUAL'S MEMBERSHIP WITH COAST. AND ABOUT 10 YEARS AGO COAST ADDED LANGUAGE TO THE MEMBERSHIP APPLICATION. AND THE MEMBERSHIP APPLICATION PROVIDES -- PROVIDED THEN, PROVIDES NOW, IF YOUR HOME RESORT CEASES TO BE A COAST TO COAST AFFILIATED RESORT FOR ANY REASON, YOUR COAST TO COAST MEMBERSHIP WILL REMAIN IN EFFECT FOR THE REMAINDER OF THAT CALENDAR YEAR, THEREBY ALLOWING YOU A REASONABLE PERIOD OF TIME TO BECOME A MEMBER OF ANOTHER COAST TO COAST AFFILIATED RESORT, WITHOUT INTERRUPTING YOUR BENEFITS. THAT'S THE LANGUAGE IN THE MEMBERSHIP APPLICATION.

AND COAST INFORMS ITS MEMBERS UP FRONT THAT IF THEIR HOME RESORT CEASES TO BE AFFILIATED WITH COAST FOR ANY REASON, AND THE MEMBER WISHES TO KEEP THEIR COAST BENEFITS, THEN THE MEMBER HAS TIME TO JOIN A NEW COAST AFFILIATED RESORT, IF THAT'S WHAT THE MEMBER WANTS TO DO. AND EVERY YEAR MEMBERS ARE SENT A MEMBERSHIP RENEWAL FORM, BECAUSE THE COAST MEMBERSHIP IS A YEARLY MEMBERSHIP. AND THAT SAME LANGUAGE I READ TO YOU JUST A MOMENT AGO ABOUT HAVING THE REASONABLE TIME TO GET ANOTHER COAST RESORT IF THAT'S WHAT YOU WANT TO DO, THAT SAME LANGUAGE IS IN THE RENEWAL FORM THAT COAST'S MEMBERS RECEIVE EVERY YEAR.

AND THE NOVELLI ORGANIZATION KNEW FULL WELL WHAT THE TERMS WERE IN THE MEMBERSHIP APPLICATION AND WHAT THE TERMS WERE IN THE RENEWAL FORMS. IN FACT, IT WAS THE NOVELLI ORGANIZATION THAT ACTUALLY HANDED OUT THE MEMBERSHIP APPLICATIONS TO THE PEOPLE WHEN THEY WERE THINKING ABOUT JOINING COAST.

SO WHEN PLAINTIFFS' LAWYER TALKS ABOUT COAST DISTRIBUTING MEMBER LISTS TO OTHER DEVELOPERS IN THE FALL OF 1997 FOLLOWING PLAINTIFFS' DECISION TO PULL OUT FROM COAST, PLAINTIFFS' LAWYER DOES NOT BOTHER TO CLEARLY DESCRIBE JUST WHAT COAST SENT TO OTHER DEVELOPERS.

IN FACT, THE EVIDENCE WILL PROVE THAT COAST SENT THE COAST LIST OF COAST'S MEMBERS TO OTHER DEVELOPERS. COAST DIDN'T EVEN HAVE PLAINTIFFS' LIST OF PLAINTIFFS'S MEMBERS TO SEND OUT.

NOW, I'VE ALREADY TALKED ABOUT HOW COAST PROVIDES R.V.'ERS WITH ACCESS TO PARKS ACROSS THE UNITED STATES. IN ADDITION TO THAT, JUST WHAT OTHER BENEFITS DOES A COAST MEMBER GET IN EXCHANGE FOR THEIR YEARLY PAYMENT OF DUES, WHICH NOW IS \$69.95 A YEAR?

COAST PROVIDES R.V.'ERS WITH UP-TO-DATE INFORMATION AND HOW-TO ADVICE WHICH HELPS ITS MEMBERS GET THE MOST OUT OF THEIR R.V. LIFESTYLE. EACH YEAR COAST SENDS TO ITS MEMBERS A NEW DIRECTORY OF ALL AFFILIATED RESORTS. IN SOME RESPECTS, THIS DIRECTORY IS SIMILAR TO WHAT YOU MIGHT GET FROM AAA, EXCEPT THERE'S A LOT MORE INFORMATION IN IT. THERE'S COLOR PICTURES OF THE DIFFERENT RESORTS. THERE'S DIRECTIONS ON HOW TO GET THERE, AMENITIES, AND ALL SORTS OF OTHER HELPFUL INFORMATION.

EIGHT TIMES A YEAR COAST SENDS ITS MEMBERS A TRAVEL MAGAZINE, SPECIFICALLY GEARED TO PEOPLE WHO ARE INTO R.V.'ING. THE MAGAZINE INCLUDES TRAVEL ARTICLES, WHAT'S NEW WITH MOTOR HOME EQUIPMENT, SAFETY AND DRIVING TIPS, AND UP-TO-DATE NEWS ABOUT THE DIFFERENT PARKS IN THE COAST NETWORK.

COAST OPERATES A WEB SITE. YOU CAN FIND THE

COAST WEB SITE, WWW.COASTRESORTS.COM. THAT WEB SITE IS UPDATED REGULARLY. IT'S YET ANOTHER SOURCE OF INFORMATION ABOUT PARKS, CAMP RESORT DESTINATIONS, AND TOPICS OF INTEREST FOR THE R.V.'ER.

AND ONCE A YEAR COAST SPONSORS A RALLY FOR ITS MEMBERS, A RALLY THAT IS ATTENDED BY THOUSANDS OF R.V. ENTHUSIASTS DRAWN THROUGHOUT THE COUNTRY. THE 1997 RALLY WAS HELD AT THE RACETRACK IN OLD DEL MAR, WHICH JIMMY DURANTEE MADE FAMOUS WITH THE LINE ABOUT WHERE THE SURF MEETS THE TURF. ABOUT 2500 R.V.'ERS THERE. THE NEXT RALLY IS THIS SUMMER IN WYOMING. IT'S SOLD OUT WITH A WAITING LIST OF OVER 500 NAMES.

NOW, YOU'RE GOING TO HEAR PLAINTIFFS' SO-CALLED EXPERT, MR. MITCHELL, BE CRITICAL OF COAST, BECAUSE COAST HAS A BUSINESS MOTIVE TO EARN A PROFIT, AND COAST IS A FOR-PROFIT BUSINESS. AND THE EVIDENCE WILL SHOW THAT COAST IS A SUCCESSFUL BUSINESS, BECAUSE COAST PUTS ITS MEMBERS FIRST.

THE EVIDENCE WILL SHOW, LADIES AND GENTLEMEN, THAT THAT IS NOT UNFAIR COMPETITION. THAT IS JUST GOOD BUSINESS.

PLAINTIFFS' LAWYER TOLD YOU ABOUT OTHER LANGUAGE FROM AFFILIATION AGREEMENTS TALKING ABOUT PRIMARY MEMBERSHIP AND COAST BEING A SECONDARY MEMBERSHIP. AND THERE IS NO DISPUTE ABOUT THIS. THE HOME RESORT MEMBERSHIP COSTS THOUSANDS OF DOLLARS FOR SOMEONE TO JOIN UP, PLUS HUNDREDS OF DOLLARS A YEAR THEREAFTER IN ANNUAL MAINTENANCE FEES AND DUES. THE COAST MEMBERSHIP IS JUST A FRACTION OF THAT. IT'S \$69.95 A YEAR.

AND MR. RANDALL AND THE FORMER PRESIDENT OF COAST, ROGER RYMAN, WILL TESTIFY THAT PRIMARY AND SECONDARY LANGUAGE WAS ADDED BY COAST FOR TWO REASONS: FIRST, TO PROTECT COAST FROM LIABILITY IF A HOME RESORT OPERATOR MADE FALSE REPRESENTATIONS OR RAN THE RESORTS IN A NEGLIGENT MANNER. SO IT'S CLEAR THAT THE RESORT ITSELF IS RESPONSIBLE FOR ITS OWN ACTIONS.

SECOND, COAST WANTED TO MAKE IT CLEAR TO EVERYONE, MEMBERS AND RESORT OPERATORS, EACH RESORT MUST STAND ON ITS OWN. IN OTHER WORDS, A RECIPROCAL-USE SYSTEM, A RECIPROCAL-USE NETWORK IS ONLY AS STRONG AS EACH OF THE INDIVIDUAL RESORTS THAT MAKE UP THE NETWORK. EACH RESORT NEEDED TO REMAIN AN APPEALING, AN ATTRACTIVE VACATION DESTINATION IN ITS OWN RIGHT. AND THAT'S WHY COAST ADDED LANGUAGE ABOUT PRIMARY AND SECONDARY MEMBERSHIPS, BOTH IN THE MEMBERSHIP APPLICATION AND IN THE AFFILIATION AGREEMENT.

THE EVIDENCE WILL SHOW THAT THE COAST TO COAST RESORT NETWORK IS SO IMPORTANT TO R.V.'ERS, THAT IN MANY CASES IT IS THE AVAILABILITY OF COAST MEMBERSHIP THAT DRIVES THE SALE OF THE HOME RESORT PARK IN THE FIRST PLACE. IT IS IMPORTANT TO KEEP IN MIND, AS PLAINTIFFS' LAWYER SAID, COAST MEMBERSHIP IS NOT MARKETED DIRECTLY BY COAST TO INDIVIDUAL R.V.'ERS. COAST MEMBERSHIP IS OFFERED BY THE HOME RESORT DEVELOPMENT. IT IS OFFERED AS AN INCENTIVE BY HOME RESORT OPERATORS TO HELP THEM SELL THEIR OWN MEMBERSHIPS. AND FORMER NOVELLI PARK SALES EMPLOYEES WILL TESTIFY THAT THE AVAILABILITY OF COAST MEMBERSHIP WAS A PRIMARY FACTOR IN DRIVING SALES IN THE NOVELLI

ORGANIZATION.

PLAINTIFFS HAVE TOLD YOU THAT THEY HAVE INCURRED SIGNIFICANT EXPENSES IN ACQUIRING MEMBERS, MARKETING COSTS. WELL, WHAT THEY FAILED TO TELL YOU, THOUGH, IS THAT IT IS THE COAST NAME AND THE COAST PRODUCT THAT HELPS DRIVE THE SALE WITH ADVERTISING, LOGOS, NAME RECOGNITION, EXPENSES FOR THESE NATIONWIDE RALLIES, AND DEVELOPER NEEDS. THESE ARE COAST EXPENSES, AND THEY ARE SIGNIFICANT ONES.

SO IN AUGUST 1997, WITHOUT ANY WARNING OR ADVANCE NOTICE TO ITS MEMBERS, MR. NOVELLI SENT A LETTER TO COAST TO COAST PULLING ALL OF HIS PARKS OUT OF COAST. AND ON THE SAME DAY, MR. DAVID VOPNFORD, MR. NOVELLI'S BUSINESS VENTURER, SENT AN IDENTICAL LETTER PULLING ALL OF HIS THOUSAND ADVENTURE PARKS OUT OF COAST TO COAST.

THE EVIDENCE WILL SHOW THAT THE REASON MR. NOVELLI ORCHESTRATED THE PULL-OUT FROM COAST WAS BECAUSE HE WANTED TO COMPETE DIRECTLY WITH COAST. MR. NOVELLI WANTED TO PUT TOGETHER HIS OWN NETWORK OF PARKS THROUGH A NEW ENTITY TO BE CALLED "TRAVEL AMERICA" AND TO OFFER TO HIS MEMBERS UPGRADE BENEFITS, HE HAD COME TO CALL OVER THE YEARS "PRESIDENT'S TRAVEL CLUB BENEFITS."

NOW, IN THE R.V. INDUSTRY, SELLING EXISTING CAMPGROUND MEMBERS NEW SERVICES, LIKE THE PRESIDENT'S TRAVEL CLUB UPGRADE, IT'S CALLED RELOADING. RELOADING. AND WE EXPECT THE TESTIMONY TO SHOW THAT BY AUGUST 1997, THE WELL HAD RUN DRY IN MR. NOVELLI'S OWN PARKS FOR SELLING HIS EXISTING MEMBERS THIS PRESIDENT'S TRAVEL CLUB RELOAD. BUT WHEN MR. NOVELLI TOOK OVER THE THOUSAND ADVENTURE PARKS AND ACQUIRED CONTROL OVER A NEW MEMBERSHIP BASE IN THE SUMMER OF 1997, MR. NOVELLI SAW A CHANCE TO SELL A LOT OF NEW PRESIDENT'S TRAVEL CLUB MEMBERSHIPS. AND BY PULLING OUT OF COAST, HE THOUGHT HE COULD CREATE, GENERATE A GREATER DEMAND FOR THESE PRESIDENT'S TRAVEL CLUB MEMBERSHIPS.

AND AS A SUBSTITUTE FOR COAST TO COAST, MR. NOVELLI OFFERED A TEMPORARY MEMBERSHIP IN ANOTHER R.V. CAMPGROUND NETWORK SIMILAR TO COAST CALLED R.P.I., NOT TO BE CONFUSED WITH R.C.I. NOTHING TO DO WITH ONE ANOTHER.

AND YOU'LL HEAR EVIDENCE THAT MANY COAST MEMBERS DID NOT BELIEVE THAT MR. NOVELLI'S OFFER OF A TRIAL MEMBERSHIP IN R.P.I., THROUGH HIS NEW SYSTEM CALLED TRAVEL AMERICA, WAS COMPARABLE TO THE COAST MEMBERSHIP. YOU'LL HEAR MEMBERS TELL YOU THAT R.P.I. WAS NOT AN ADEQUATE SUBSTITUTE. YOU'LL HEAR A MEMBER TESTIFY ABOUT DRIVING UP TO THE GATE THAT SAID, "TRAVEL AMERICA, R.P.I." AND SHE WAS TOLD THAT THE PARK DIDN'T HONOR TRAVEL AMERICA R.P.I. ANY LONGER.

MR. NOVELLI TOOK IT UPON HIMSELF TO DECIDE FOR HIS MEMBERS, AND DID NOT POLL HIS MEMBERS, WITH PULLING OUT OF COAST TO COAST, OR EVEN WARN HIS MEMBERS, DESPITE THE FACT THAT MANY OF HIS MEMBERS HAD JOINED HIS PARKS BECAUSE OF A COAST TO COAST AFFILIATION MEMBERSHIP.

WHEN COAST RECEIVED THE LETTERS, THE SAME DAY FROM MR. VOPNFORD AND MR. NOVELLI PULLING THEIR PARKS OUT OF COAST, COAST'S RESPONSE WAS SIMPLE. COAST SENT LETTERS TO COAST'S MEMBERS. YET, THIS IS WHAT THIS LAWSUIT IS ALL ABOUT. PLAINTIFFS CLAIM COAST'S LETTERS SHOULD NOT

HAVE BEEN SENT AND THAT THESE LETTERS FROM COAST, TO COAST'S MEMBERS, CAUSED PLAINTIFFS' LOSSES.

AND YOU'LL GET TO HEAR MR. JIM RANDALL WHO SIGNED THOSE LETTERS TESTIFY ABOUT THE LETTERS. AND THE LETTERS FROM COAST ADDRESS TWO ISSUES. FIRST, THE FACT THAT THE NOVELLI PARKS ARE NO LONGER IN THE COAST NETWORK. IT'S TRUE. THEY WERE NO LONGER IN THE COAST NETWORK.

AND SECOND, HOW MEMBERS COULD KEEP THEIR COAST TO COAST MEMBERSHIP AND BENEFITS, IF THAT'S WHAT THEY WANTED TO DO.

IMPORTANTLY THE LETTERS THAT COAST SENT OUT TO COAST'S MEMBERS SPELLED OUT THAT THE MEMBERS WERE NOT OBLIGATED TO GO AND KEEP THEIR COAST MEMBERSHIP. IN FACT, THE COAST LETTERS SAID THAT WHILE COAST BELIEVED IT WOULD BE AN EXCELLENT OPTION FOR THE MEMBER TO CONTINUE THEIR COAST BENEFITS, COAST WENT ON IN THE LETTER, "YOU'RE NOT OBLIGATED TO ACCEPT THE TRANSFER." THAT'S WHAT THE LETTER SAID. "YOU'RE NOT OBLIGATED TO ACCEPT THIS TRANSFER, NOR DOES THIS TRANSFER RELIEVE YOU OF ANY OTHER CONTRACTUAL OBLIGATIONS YOU MAY HAVE."

SO THE LETTER SAID, "YOU'RE NOT OBLIGATED TO ACCEPT IT, AND IT DOESN'T RELIEVE YOU OF ANY OTHER OBLIGATIONS YOU MAY HAVE. IF YOU WANT TO CONTINUE YOUR COAST MEMBERSHIP, HERE IS THE WAY TO DO IT." THE LETTERS WERE ACCURATE. THE LETTERS WERE FACTUAL. AND THE LETTERS WERE APPROPRIATE.

NOW, YOU'LL HEAR LETTERS FROM THE MEMBERS, STACKS, STACKS OF LETTERS FROM THE MEMBERS THEMSELVES PRODUCED RIGHT OUT OF PLAINTIFFS' FILES, WHICH MAKE IT CLEAR THAT THE MEMBERS WANTED TO STAY WITH COAST, BECAUSE THEY WANTED COAST, AND BECAUSE THEY WERE SO FRUSTRATED WITH THE CONSTANT PROBLEMS AND INSTABILITY AT THE NOVELLI PARKS. THE ABSENCE OF COAST WAS THE FINAL STRAW FOR MANY OF THEM. AND YOU'LL HEAR WHAT THE MEMBERS THEMSELVES WROTE BACK TO PLAINTIFFS WHEN PLAINTIFFS STARTED TO BILL THEM FOR THIS NEW COMPANY CALLED "TRAVEL AMERICA, INC.," AND STARTED TO SEND DUES STATEMENTS TO THEM TO TRY TO COLLECT MORE MONEY.

FOR EXAMPLE, YOU'LL HEAR FROM A MEMBER WHO SENT A LETTER TO ONE OF THE PLAINTIFFS IN THIS CASE, DEER RUN PARK. IT'S ONE OF THE PLAINTIFFS PARKS. YOU'LL HEAR THIS MEMBER SAY, "I ONLY JOINED YOUR PARK TO PARTICIPATE IN THE COAST TO COAST R.V. PROGRAM. MEMBERSHIP IN YOUR PARK IS OF NO USE TO ME. I NOTE THAT JUST LAST MONTH I PAID YOUR ANNUAL DUES BECAUSE NO ONE NOTIFIED ME THAT YOU WERE NO LONGER A COAST TO COAST MEMBER PARK."

YOU'LL HEAR FROM OTHER MEMBERS WHO WROTE BACK TO PLAINTIFFS IN RESPONSE TO PLAINTIFFS' EFFORTS TO BILL THEM FOR MORE MONEY. YOU'LL HEAR FROM A MEMBER WHO WROTE TO ANOTHER ONE OF THE PLAINTIFFS IN THIS CASE, DELTA ISLE PARK -- THEY'RE ONE OF THE PLAINTIFFS IN THIS CASE -- SAYING TO DELTA ISLE PARK THAT THEY HAVE BEEN NOTIFIED THAT COAST IS NO LONGER AFFILIATED WITH -- THAT THE DELTA ISLE HAD PULLED OUT. AND THE PERSON WENT ON TO SAY THAT "MY ENTIRE EXPERIENCE WITH YOUR FACILITY" -- THIS IS PLAINTIFFS' DELTA ISLE. "MY ENTIRE EXPERIENCE WITH YOUR FACILITY HAS BEEN AWFUL. I FEEL LIKE I HAVE BEEN CHEATED AND LIED TO. DO NOT SEND ME ANYMORE INVOICES FOR

MEMBERSHIPS, BECAUSE YOU REPRESENTED YOURSELVES AS A COAST TO COAST MEMBER, AND YOU HAVE LOST THAT PRIVILEGE DUE TO YOUR OWN ACTIONS."

YOU'LL HEAR FROM OTHERS WHO WROTE TO TRAVEL AMERICA IN RESPONSE TO TRAVEL AMERICA'S DUES. THEY SAY, "YOU INHERITED OUR MEMBERSHIP AS A RESULT OF THE THOUSAND ADVENTURES BREAKUP." REMEMBER PLAINTIFFS' LAWYER TALKING ABOUT THOUSAND ADVENTURES AND MR. VOPNFORD AND HOW ALL THE MEMBERS WERE PUT INTO TRAVEL AMERICA? SO YOU'LL HEAR MEMBERS WRITE THAT "YOU INHERITED OUR MEMBERSHIP AS A RESULT OF THE THOUSAND ADVENTURES BREAKUP. WITHOUT GOING INTO DETAIL, I CAN ASSURE YOU THAT THE PAST YEAR OR SO HAS BEEN AN EXTREMELY FRUSTRATING ONE FOR US. OUR MAIN CONCERN HAS BEEN RETAINING OUR COAST TO COAST ELIGIBILITY."

MEMBERS LEFT BECAUSE THEY WANTED COAST AFFILIATION. AND AT THE CONCLUSION OF THIS CASE, WHEN YOU GET TO REVIEW AS MANY OF THE TRIAL EXHIBITS AS YOU'D LIKE AT YOUR LEISURE, I INVITE YOU TO READ THROUGH THE LETTERS THAT MEMBERS SENT. READ THROUGH THOSE LETTERS. THEY TELL QUITE A STORY OF BETRAYAL OF THE MEMBERS BY THE NOVELLI PARKS.

WHAT THE EVIDENCE WILL SHOW IS THAT THE VAST MAJORITY OF THE MEMBER LETTERS DO NOT EXPRESS ANY CONFUSION, DISAPPOINTMENTS BY COAST HAVING SENT COAST'S LETTER TO COAST'S MEMBERS. NO. ON THE CONTRARY, WHAT THESE LETTERS EXPRESS IS THE DESIRE OF MEMBERS TO STAY WITH COAST. BECAUSE THAT IS WHAT THEY MOST WANTED. AND IN SOME CASES, THESE MEMBERS WERE FED UP BY THE BANKRUPTCIES, BY THE TRANSFERS, BY THE HARASSMENT OF THE NOVELLI PARKS. SOME MEMBERS WERE SO UPSET BY NOVELLI'S PULLING OUT OF COAST TO COAST THAT MEMBERS WROTE TO THEIR OWN STATE ATTORNEYS GENERAL TO COMPLAIN THAT THEIR CONTRACTS WITH THEIR HOME PARKS HAD BEEN VIOLATED, BECAUSE THE COAST AFFILIATION HAD BEEN PROMISED IN THOSE CONTRACTS, HAD BEEN TAKEN AWAY FROM THEM.

YOU'LL SEE LETTERS WHERE MEMBERS COMPLAINED TO THEIR STATE ATTORNEYS GENERAL. FOR EXAMPLE, YOU'LL HAVE ONE MEMBER WRITING FROM FLORIDA TO THE ATTORNEY GENERAL'S OFFICE, CONSUMER PROTECTION DIVISION, ABOUT PLAINTIFF DEER RUN, TELLING THE ATTORNEY GENERAL THAT HE BELIEVED THAT THE WITHDRAWAL FROM COAST TO COAST VIOLATED HIS CONTRACTS WITH THEM.

YOU'LL SEE ANOTHER MEMBER COMPLAINT, AND MANY OTHER MEMBER COMPLAINTS, BUT YOU'LL SEE ONE MEMBER COMPLAINT WRITTEN TO THE CONSUMER PROTECTION DIVISION OF THE STATE OF ARKANSAS WRITTEN WITH RESPECT TO PLAINTIFF DEER RUN PARK. "WE BOUGHT INTO DEER RUN PARK BECAUSE THEY WERE PART OF COAST TO COAST. WE DIDN'T BUY IN FOR THE PARK, BECAUSE THE PARK ISN'T MUCH. BUT WHEN WE RETIRE, WE PLAN ON USING OTHER PARKS IN THE COAST TO COAST SYSTEM."

PLAINTIFFS' LAWYER SAYS THAT PLAINTIFFS CAN PROVE CAUSE AND EFFECT AND LOSSES BY SIMPLY LOOKING AT THE NUMBER OF COAST MEMBERS WHO MAINTAINED THEIR COAST MEMBERSHIP AFTER RECEIVING COAST'S LETTERS. PLAINTIFFS' LAWYER TOLD YOU ABOUT HOW THEY'RE GOING TO USE STATISTICIANS TO DO THIS. AND PLAINTIFFS AND THEIR EXPERTS ARE GOING TO COME IN AND TELL YOU THAT COAST'S OWN LIST PROVES THEIR CASE. THE EVIDENCE WILL SHOW THAT THIS IS

WRONG. IT IS WRONG, BECAUSE PLAINTIFFS IGNORE THE STACKS AND STACKS OF LETTERS AND COMPLAINTS FROM THE MEMBERS THEMSELVES.

THE EVIDENCE, LADIES AND GENTLEMEN, WILL BE WHAT REAL PEOPLE SAY, NOT A COUPLE OF SO-CALLED EXPERTS WHO HAVE DONE BUSINESS WITH MR. NOVELLI AND HIS CRONIES GOING BACK TO THE MID '80'S. REAL PEOPLE. REAL PEOPLE WHO TRANSFERRED THEIR COAST MEMBERSHIPS TO OTHER COAST-AFFILIATED HOME RESORTS, BECAUSE THEY WANTED TO MAINTAIN THEIR COAST MEMBERSHIP BENEFITS AND AFFILIATION.

AND FOR PLAINTIFFS TO SAY THAT THERE IS SOMETHING WRONG WITH PEOPLE DOING THAT, IT'S GOING TO BE SHOWN TO BE CONTRARY TO THE WRITTEN CONTRACTS, TO THE EVIDENCE, AND TO COMMON SENSE.

NOW, I'D LIKE TO TURN TO QUESTION NUMBER TWO. DID COAST CAUSE PLAINTIFFS' LOSSES? NOW, ONE WAY OF ILLUSTRATING THIS POINT IS TO JUST USE A SIMPLE TIME LINE.

FALL '97. COAST LETTERS WERE SENT OUT TO COAST MEMBERS. THESE LETTERS FROM COAST WERE SENT FOLLOWING THE NOVELLI PARKS' DECISION TO PULL OUT OF COAST TO COAST. THE EVIDENCE WILL SHOW THAT BEFORE THE FALL OF '97 WHEN THE LETTERS WERE SENT, BEFORE SEPTEMBER AND OCTOBER 1997, THE PLAINTIFFS HAD HAD A STRING, A HISTORY OF BUSINESS LOSSES AND BANKRUPTCIES, A HISTORY OF LOSING MONEY, AND MEMBERS, AND A BUSINESS OPERATION THAT WAS RIDDLED WITH PROBLEMS AND MISMANAGEMENT.

MR. NOVELLI'S PARKS WERE LOSING SUBSTANTIAL SUMS OF MONEY YEAR IN AND YEAR OUT FOR SEVEN OR EIGHT OR NINE YEARS PRIOR TO THE FALL OF 1997. AND THERE'S NO EVIDENCE THAT THESE NOVELLI PARKS, WHICH HAD BEEN OPERATING IN THE RED FOR YEARS, WHICH HAD BEEN IN AND OUT OF THE BANKRUPTCY COURT NUMEROUS TIMES, WERE SUDDENLY GOING TO START TURNING ANY PROFITS AT ALL, LET ALONE THE KINDS OF WINDFALL PROFITS THAT PLAINTIFFS CLAIM.

AND BEFORE MR. NOVELLI STARTED TRYING TO BUILD A LAWSUIT AGAINST COAST, HE HAD ADMITTED TIME AFTER TIME THAT HIS COMPANIES HAD POSTED HUGE LOSSES BEFORE THE FALL OF 1997.

MR. NOVELLI ADMITTED TO HIS OWN MEMBERS IN A NEWSLETTER THAT HE SENT IN LATE '97, EARLY '98, THAT HE HAD BEEN STRUGGLING WITH HIS PARKS SINCE 1986, AND THAT HIS COMPANIES ALONG WITH THOSE OF HIS NEW BUSINESS PARTNER, NEW BUSINESS VENTURER, DAVID VOPNFORD, HAD BEEN LOSING \$7 MILLION A YEAR BETWEEN THEM FOR YEARS. THAT'S WHAT MR. NOVELLI WROTE, AND THAT'S WHAT YOU'LL GET TO SEE.

WHAT ABOUT MEMBERSHIP? THE EVIDENCE WILL SHOW THAT DURING THIS SAME TIME PERIOD, THE YEARS BEFORE THE FALL OF 1997 WHEN COAST SENT ITS LETTERS FOLLOWING THE NOVELLI PULL-OUT, MEMBERS WERE LEAVING ALL SEASONS RESORTS AND OTHER OF THE NOVELLI PARKS IN DROVES. THEY WERE JUMPING SHIP, BECAUSE MR. NOVELLI WAS STEERING HIS PARKS TOWARDS AN ICEBERG.

THE PLAINTIFFS HAVE COME INTO COURT CLAIMING LOSSES. AND THESE PARKS DO HAVE A HISTORY OF LOSSES. AND SO THE QUESTION THEN I THINK THAT NATURALLY ARISES IS, OKAY, WELL, WHAT ARE THE CAUSES OF THE LOSSES? THE EVIDENCE WILL SHOW THREE REASONS FOR THE LOSSES. LET ME PUT THEM UP ON THE BOARD. ACTUALLY, TO HAVE SOME ROOM

HERE, I THINK I'LL HAVE TO TAKE THIS OFF.

THREE REASONS FOR LOSSES. THERE WAS SEVERE FINANCIAL AND OPERATIONAL UPHEAVAL AT THE NOVELLI PARKS. SO FINANCIAL AND OPERATIONAL UPHEAVAL, THAT'S ONE.

SECOND, MEMBERS OF THE NOVELLI PARKS WERE RECEIVING CONFLICTING AND CONFUSING INSTRUCTIONS AND NOTICES. THE MEMBERS OF THE PARKS FOR QUITE SOME TIME, AS I'LL EXPLAIN, WERE RECEIVING ALL SORTS OF CONFLICTING INSTRUCTIONS AND NOTICES.

AND THIRD, THE THIRD CAUSE OF THE LOSSES IS, THE PHYSICAL DETERIORATION OF THE PARKS THEMSELVES.

LET ME TELL YOU ABOUT THESE THREE REASONS.

WHAT DO I MEAN BY FINANCIAL AND OPERATIONAL UPHEAVALS? YOU HEARD PLAINTIFFS' LAWYER REFER TO MR. NOVELLI A COUPLE OF TIMES AS A WORKOUT ARTIST. YOU MAY HEAR MR. NOVELLI REFERRED TO AS LEE IACOCA. THE EVIDENCE IS NOT GOING TO BEAR THAT OUT.

MR. NOVELLI'S BUSINESS M.O., HIS MODUS OPERANDI, HIS WAY OF DOING BUSINESS, WAS TO FILE REPEATED BANKRUPTCIES OF HIS VARIOUS COMPANIES. HE WOULD PURCHASE A RESORT, WHICH ALREADY HAD A MEMBERSHIP BASE OF DUES-PAYING MEMBERS. HE WOULD BUY THAT RESORT ON CREDIT WITH A PROMISE TO PAY. HE THEN MOVED THE MEMBERS TO ANOTHER RESORT. AND THEN HE PUT THE RESORT THAT HE BOUGHT INTO BANKRUPTCY.

NOW, THIS WOULD PERMIT HIM TO MAINTAIN A STEADY STREAM OF MEMBERSHIP DUES, BUT DEPRIVE THE CREDITORS OF WHAT THEY WERE RIGHTFULLY DUE. AND IN THE YEARS PRIOR TO THE TIME THAT THE COAST LETTERS WERE SENT IN THE FALL OF 1997, THE EVIDENCE WILL SHOW NUMEROUS BANKRUPTCY FILINGS ENGINEERED BY MR. NOVELLI OR HIS BUSINESS VENTURER, DAVID VOPNFORD, OF VARIOUS COMPANIES THEY OWNED OR CONTROLLED.

YOU'LL HEAR MR. NOVELLI'S OWN EXPERT. YOU'LL HEAR PLAINTIFFS THEMSELVES TALK ABOUT HOW MR. NOVELLI WILLINGLY EMBRACED BANKRUPTCY AS A BUSINESS TOOL.

BANKRUPTCY IS A TOPIC THAT WILL BE THE SUBJECT OF A LOT OF TESTIMONY IN THIS CASE. YOU'LL HEAR THERE'S NOTHING INHERENTLY WRONG WITH BANKRUPTCY; THAT THE FEDERAL BANKRUPTCY LAWS WERE ESTABLISHED TO HELP INDIVIDUALS OR BUSINESSES WHO, FOR WHATEVER REASONS, FIND THEMSELVES IN FINANCIAL TROUBLE, THAT BANKRUPTCY PROVIDES A MEANS OF GIVING AN INDIVIDUAL OR A BUSINESS A FRESH START, A SECOND CHANCE. BUT YOU WILL HEAR THAT THIS IS NOT HOW MR. NOVELLI USED BANKRUPTCY.

MR. NOVELLI DIDN'T USE BANKRUPTCY ONCE OR TWICE FOR A SECOND CHANCE. THE EVIDENCE WILL SHOW HE USED BANKRUPTCY ROUTINELY. IT WAS HIS BUSINESS M.O. BUY A COMPANY, REMOVE THE ASSETS, WHICH IN THIS CASE WOULD BE THE DUES-PAYING MEMBERSHIP BASE, THE CONTRACTS, AND THEN USE BANKRUPTCY TO DEPRIVE THE CREDITORS OR THE SELLERS OF THE MONEY THAT THEY WERE RIGHTFULLY DUE.

PEOPLE GOT HURT BY THESE BANKRUPTCIES, AND YOU WILL GET TO MEET SOME OF THE VICTIMS. LET'S TAKE A COUPLE OF MOMENTS, TAKE A CLOSER LOOK AT THE COMPANIES THAT ACTUALLY MAKE UP THE PLAINTIFFS.

MR. NOVELLI, HIS WIFE, MARLIES NOVELLI, AND HIS BROTHER-IN-LAW, HANS SCHULZ, OWN ALL OF THE 11

PLAINTIFF COMPANIES. AND MR. NOVELLI CONTROLS EVERY ONE OF THEM. PLAINTIFFS ARE TRAVEL AMERICA, FIRST NATIONWIDE RESORT MANAGEMENT, AMERICAN HOLIDAYS RESORT, REVCOR MOTOR COACH, HANS SCHULZ AS TRUSTEE FOR THE SCHULZ FAMILY TRUST, DBA DELTA ISLE. I KNOW THAT'S A MOUTHFUL. HIDDEN SPRINGS, PONDEROSA PARK RESORTS, ADVENTURE RESORTS OF AMERICA, THE APOLLO GROUP, THOUSAND ADVENTURES OF OHIO, AND THOUSAND ADVENTURES OF ALABAMA. THESE ARE THE NOVELLI COMPANIES THAT HAVE ASSERTED A CLAIM AGAINST COAST FOR COMMUNICATING WITH COAST'S OWN MEMBERS. THESE ARE THE NOVELLI COMPANIES THAT CLAIM THAT THEY HAVE LOST MONEY, BEEN DEPRIVED OF PROFITS, AS A RESULT OF COAST'S COMMUNICATING WITH ITS OWN MEMBERS.

LET ME PUT SOME TIME LINES UP ON THE BOARD. THE LEAD PLAINTIFF IS TRAVEL AMERICA. YOU HEARD PLAINTIFFS' LAWYER REFER TO THERE BEING 71 RESORTS AT ONE POINT THAT MADE IT UP. AND THE EVIDENCE WILL PROVE THAT TRAVEL AMERICA WAS FORMED IN THE SPRING OR SUMMER OF 1997 OUT OF THE ASHES OF THREE COMPANIES: ALL SEASONS RESORTS, FIRST NATIONWIDE RESORT MANAGEMENT, AND THOUSAND ADVENTURES, INC. THESE COMPANIES, IN EFFECT, MADE UP THE THREE-LEGGED STOOL THAT BECAME TRAVEL AMERICA, INC.

ALL SEASONS RESORTS WAS A NOVELLI-OPERATED COMPANY. PLAINTIFFS' LAWYER REFERRED TO IT A LITTLE BIT. IT HAD FILED THREE BANKRUPTCIES; ONE IN THE LATE 80'S, '87 TIME FRAME. ONE IN '90, AND ONE IN '97. LET ME PUT SOME DATES IN HERE.

SO WE'VE GOT BANKRUPTCY, BANKRUPTCY, BANKRUPTCY. AND THE LAST ALL SEASONS RESORT BANKRUPTCY WAS FILED SEVERAL MONTHS BEFORE COAST SENT COAST LETTERS TO MEMBERS. AND AT THE TIME, ALL SEASONS RESORTS FILED ITS THIRD AND WHAT WOULD PROVE TO BE LAST BANKRUPTCY, BEFORE IT HAD ALL OF ITS ASSETS LIQUIDATED AND SOLD OFF. AT THE TIME IT FILED THAT BANKRUPTCY, WHAT WAS REPRESENTED TO THE BANKRUPTCY COURT WAS THAT ALL SEASONS RESORTS HAD \$6.8 MILLION IN ASSETS, AND \$93 MILLION IN DEBTS AND LIABILITIES. \$6.8 MILLION ASSETS, \$93 MILLION IN DEBT OR LIABILITIES.

COAST DID NOT CAUSE THE REPEATED FAILURES OF ALL SEASONS RESORTS. NOT THEN, NOT THEN, AND CERTAINLY NOT THEN.

ALL SEASONS HAD GASPED ITS LAST BREATH BEFORE COAST SENT ITSELF HERE. I TOLD YOU THERE WERE THREE LEGS OF THE STOOL. THE SECOND LEG IS FIRST NATIONWIDE RESORT MANAGEMENT. THAT IS ANOTHER NOVELLI COMPANY THAT HAD DROVE ITSELF INTO BANKRUPTCY IN MAY 1996. THE FIRST NATIONWIDE RESORT NEVER EMERGED FROM BANKRUPTCY. COAST HAD NOTHING TO DO WITH THE FAILURE OF FIRST NATIONWIDE RESORT. FIRST NATIONWIDE FAILED OF ITS OWN ACCORD OVER A YEAR BEFORE MR. NOVELLI CHOSE TO PULL OUT OF COAST AND COAST SENT ITS LETTERS TO ITS MEMBERS.

NOW, THE THIRD LEG OF THE TRAVEL AMERICA STOOL IS THOUSAND ADVENTURES, THE THOUSAND ADVENTURES R.V. PARK CHAIN. THAT COMPANY HAD BEEN OWNED AND OPERATED BY DAVID VOPNFORD BEFORE THOUSAND ADVENTURES WAS THROWN INTO BANKRUPTCY, AGAINST ITS WILL, AND IN AN INVOLUNTARY BANKRUPTCY, IN AUGUST OF 1997.

NOW, THAT INVOLUNTARY BANKRUPTCY THAT WAS

FILED AGAINST THOUSAND ADVENTURES FOLLOWED ABOUT THREE OR FOUR WEEKS AFTER A CLASS-ACTION JUDGMENT ON BEHALF OF THE MEMBERS IN THE THOUSAND ADVENTURES CHAIN, A CLASS-ACTION JUDGMENT FOR CONSUMER FRAUD HAD BEEN ENTERED AGAINST THOUSAND ADVENTURES.

SO WE'VE GOT THE THOUSAND ADVENTURES BANKRUPTCY, AND WE'VE GOT THE JUDGMENT. I'LL HAVE "J" FOR JUDGMENT. "BK" FOR BANKRUPTCY, "J" FOR JUDGMENT.

COAST TO COAST HAD NOTHING TO DO AND DID NOT CAUSE IN ANY WAY A JUDGMENT OF THOUSAND ADVENTURES MEMBERS AGAINST IT FOR CONSUMER FRAUD, AND COAST TO COAST HAD NOTHING TO DO WITH THE DECISION OF THOUSAND ADVENTURES TO ENTER INTO BANKRUPTCY A COUPLE OF WEEKS AFTER THAT.

THE EVIDENCE WILL SHOW THAT MR. NOVELLI AND MR. VOPNFORD WORKED TOGETHER IN COMING UP WITH THE IDEA OF TRAVEL AMERICA. RIGHT AFTER THEY FORMED TRAVEL AMERICA, THEY EVEN PUBLISHED A PHOTO OF THEMSELVES THAT THEY SENT TO ALL THEIR MEMBERS, THOUSAND ADVENTURES, ALL SEASONS, FIRST NATIONWIDE, EVERYTHING THAT HAD COME TOGETHER. THEY PUBLISHED A PHOTO SITTING TOGETHER FOR MEMBERS OF THEIR ORGANIZATIONS. AND YOU'LL GET TO SEE THE PHOTO OF THE TWO OF THEM SEATED TOGETHER TELLING ALL THE MEMBERS THAT THEY WERE WORKING TOGETHER THROUGH TRAVEL AMERICA. THERE'S NO DISTANCE BETWEEN THEM.

WHAT ABOUT THE PLAINTIFFS OTHER THAN TRAVEL AMERICA? I TOLD YOU ABOUT FIRST NATIONWIDE WITH ITS BANKRUPTCY FILING IN MAY OF 1996. LET ME BRIEFLY MENTION SOME OF THE OTHER PLAINTIFFS.

AMERICAN HOLIDAYS RESORT IS A PLAINTIFF. NOW, AMERICAN HOLIDAYS RESORT WAS A SUBSIDIARY CORPORATION OWNED BY, PART OF FIRST NATIONWIDE. SO WHEN FIRST NATIONWIDE FILED ITS BANKRUPTCY IN MAY '96, THERE WAS AMERICAN HOLIDAYS IN BANKRUPTCY, ALSO.

REVCON MOTOR COACH IS A PLAINTIFF. REVCON MOTOR COACH WENT THROUGH TWO BANKRUPTCIES PRIOR TO COAST'S LETTERS BEING SENT OUT. THEY WENT THROUGH THE FIRST NATIONWIDE BANKRUPTCY BECAUSE THEY WERE ALSO A SUBSIDIARY OF FIRST NATIONWIDE. AND THEN THEY FILED THEIR OWN BANKRUPTCY IN SEPTEMBER 1996. WE HAVE ANOTHER REVCON BANKRUPTCY THERE.

DELTA ISLE IS A PLAINTIFF AND A NAME YOU'LL HEAR, THE DBA FOR THE SCHULZ TRUST. AND DELTA ISLE WAS ALSO PART OF FIRST NATIONWIDE. SO DELTA ISLE WAS PART OF THE FIRST NATIONWIDE MAY '96 BANKRUPTCY. BUT IN ADDITION TO THAT ONE, DELTA ISLE FILED TWO OTHER BANKRUPTCIES OF ITS OWN, ONE IN '93 AND ANOTHER IN '96. AND COAST HAD NOTHING TO DO WITH ANY OF THOSE BANKRUPTCIES.

NOW, PONDEROSA PARK IS ALSO A NAMED PLAINTIFF IN THIS CASE, AND PONDEROSA PARK WENT THROUGH AT LEAST TWO BANKRUPTCIES PRIOR TO THE TIME THAT MR. NOVELLI DECIDED TO PULL OUT OF COAST AND COAST SENT ITS LETTERS TO THE MEMBERS. THEY WENT THROUGH THE FIRST NATIONWIDE BANKRUPTCY BECAUSE THEY WERE ALSO PART OF FIRST NATIONWIDE FOR A TIME. AND THEY FILED THEIR OWN BANKRUPTCY IN APRIL OF '97. COAST HAD NOTHING TO DO WITH THOSE BANKRUPTCIES.

ADVENTURE RESORTS OF AMERICA IS A PLAINTIFF. ADVENTURE RESORTS OF AMERICA HAS HAD A LONG HISTORY OF BANKRUPTCY FILINGS AND FINANCIAL FAILURES,

INCLUDING A MARCH 1993 BANKRUPTCY, AS WELL AS A JUDGMENT. ADVENTURE RESORTS OF AMERICA AND MR. NOVELLI PERSONALLY HAD JUDGMENTS ENTERED AGAINST THEM BY THE PEOPLE WHO SOLD THE PARK FOR ADVENTURE RESORTS OF AMERICA TO THEM. THERE WAS A \$4.6 MILLION JUDGMENT ENTERED BY A FLORIDA COURT AGAINST MR. NOVELLI AND ADVENTURE RESORTS OF AMERICA IN JULY 1997, AND COAST TO COAST HAD NOTHING TO DO WITH THAT. WE HAVE ANOTHER "J" FOR JUDGMENT.

YOU HAD ADVENTURE RESORTS OF AMERICA SHOWING UP AS A PLAINTIFF HERE DEMANDING LOST PROFITS BECAUSE OF ACTIONS THAT MY CLIENT SUPPOSEDLY DAMAGED THEM BY.

NOW, THOUSAND ADVENTURES OF OHIO AND THOUSAND ADVENTURES OF ALABAMA ARE ALSO BOTH PLAINTIFFS IN THIS CASE. AND THEY EACH FILED THEIR OWN BANKRUPTCIES. ALABAMA, JANUARY '97. OHIO, MAY '97, MONTHS BEFORE COAST LETTERS WERE SENT. COAST HAD NOTHING TO DO WITH THOSE BANKRUPTCY FILINGS. AND ALL THESE BANKRUPTCY FILINGS AND ALL THESE JUDGMENTS CAME BEFORE MR. NOVELLI DECIDED TO PULL OUT FROM COAST TO COAST AND BEFORE COAST SENT ITS LETTERS TO ITS MEMBERS. COAST HAD NOTHING TO DO WITH THESE PROBLEMS.

NOW, YOU DIDN'T HEAR ME MENTION THE PLAINTIFF APOLLO GROUP ON THAT TIME LINE. APOLLO GROUP IS A COMPANY THAT MR. NOVELLI HAS CONTROLLED. AND WHAT'S INTERESTING ABOUT THIS COMPANY, APOLLO GROUP, IS THAT ABOUT FOUR, FIVE MONTHS AFTER THE ALL SEASONS RESORT'S THIRD AND FINAL BANKRUPTCY, APOLLO GROUP BOUGHT SIX OF ALL SEASONS PARKS AT A BANKRUPTCY AUCTION SALE. AND THEN A FEW MONTHS AFTER BUYING THE PARKS, BANKRUPTCY. THAT BANKRUPTCY, THOUGH, WAS FILED -- EVEN THOUGH APOLLO DOES BUSINESS IN IRVINE -- THE PLAINTIFFS' LAWYER TOLD YOU THEY DID BUSINESS IN IRVINE. THAT ONE WAS FILED IN MICHIGAN, THE DETROIT AREA. THE DETROIT BANKRUPTCY JUDGE THREW THAT BANKRUPTCY OUT. THE DETROIT BANKRUPTCY JUDGE SAID THAT THE BANKRUPTCY THAT THEY HAD FILED WAS FILED IN BAD FAITH AND THREW IT OUT.

YET, HERE IS APOLLO LISTED AS A PLAINTIFF, SUING COAST FOR LOST PROFITS. COAST HAD NOTHING TO DO WITH THE DECISIONS OF THE PEOPLE WHO RAN APOLLO TO FILE BAD FAITH BANKRUPTCIES.

THERE WAS ALL THESE BANKRUPTCIES AND FINANCIAL PROBLEMS THAT CAUSED MEMBERS TO LEAVE THE NOVELLI PARKS. AND YOU'RE GOING TO SEE MEMBER LETTER AFTER MEMBER LETTER. THESE MEMBER LETTERS WILL SHOW YOU HOW THE MEMBERS FELT ABOUT BEING RIPPED OFF BY THESE BANKRUPTCY SHENANIGANS.

FOR EXAMPLE, YOU'LL SEE MEMBER LETTERS ABOUT PLAINTIFF DELTA ISLE SAYING THAT MONEY WAS ALWAYS A CONSTANT PROBLEM AT DELTA ISLE. THE FACT THAT THE RESORT WAS IN FINANCIAL STRAIGHTS WHEN THEY BOUGHT SHOULD HAVE BEEN DISCLOSED. PEOPLE SAY THAT THEY EMPATHIZED WITH DELTA ISLE HAVING MONEY PROBLEMS, BUT THEY'D LIKE TO BE AFFILIATED WITH RESORTS LOCATED IN AN AREA THAT THEY VISIT THAT ARE FREE FROM THESE CONSTANT LEGAL PROBLEMS.

AND YOU'LL HEAR FROM MEMBERS WHO WROTE IN WANTING TO CHANGE FROM ALL SEASONS TO OTHER RESORTS, BECAUSE THEY DIDN'T LIKE WHAT WAS HAPPENING TO ALL SEASONS WITH ALL THE BANKRUPTCIES. AND YOU'LL HEAR ABOUT A

RECEIVERSHIP AS WELL. AND THERE'S A FEDERAL COURT RECEIVER PUT IN CHARGE OF ALL SEASONS. PEOPLE WOULD WRITE IN, "MY HOME PARK AND THREE OTHER PARKS HAVE BEEN CLOSED DUE TO FORECLOSURES, AND THE FUTURE LOOKS SHAKY. THEY ARE NOW UNDER RECEIVERSHIP."

AND YOU'LL SEE MEMBER LETTERS. YOU'LL HEAR ABOUT MEMBER LETTERS WRITTEN CONCERNING DEER RUN PARK, ONE OF THE PLAINTIFFS, WHEREIN "WE'RE UNHAPPY WITH DEER RUN PARK AS A HOME PARK. THEY'RE IN CHAPTER 11 AND HAVE NO ONE RUNNING ACTIVITIES. EVERYTHING WAS CLOSED AT THE PARK IN SEPTEMBER WHEN WE VISITED THE PARK."

AND A FORMER EMPLOYEE OF THE NOVELLI ORGANIZATION WILL TESTIFY THAT IN HER BUSINESS DEALINGS WITH PARK MEMBERS, THE MEMBERS SAW MR. NOVELLI'S BANKRUPTCY PRACTICES AS SHAMEFUL; THAT IT WAS AN ABUSE OF THE BANKRUPTCY SYSTEM. OFTEN WHEN MR. NOVELLI PUT HIS PARKS IN BANKRUPTCY OR SHUT THEM DOWN HE, MOVED THE MEMBERS OF THAT HOME PARK TO ANOTHER HOME PARK, A PARK WHICH HAPPENED TO BE SOLVENT AT THE MOMENT.

SO, FOR EXAMPLE, THERE WERE PEOPLE WHO HAD THEIR HOME PARKS IN MISSOURI, IN TENNESSEE, IN ILLINOIS AND IN OKLAHOMA. THOSE PEOPLE HAD THEIR HOME PARKS SHUT DOWN, AND THOSE PEOPLE WERE TOLD -- THEY WERE TOLD THAT THEIR HOME PARK WAS NOW GOING TO BE IN ARKANSAS. THERE WERE PEOPLE IN KENTUCKY WHO HAD SELECTED A HOME PARK THERE WHO WERE TOLD THAT THEY WERE BEING MOVED, THEIR HOME PARK WAS BEING MOVED TO OHIO. THERE WERE PEOPLE WHO HAD THEIR HOME PARKS IN INDIANA AND NORTH CAROLINA WHO WERE TOLD THAT THEY WERE BEING MOVED, HAVE THEIR HOME PARK MOVED TO MICHIGAN.

YOU'LL EVEN SEE A LETTER FROM A FORMER ALL SEASONS MEMBER TO COAST IN AUGUST 1998, A YEAR AFTER ALL THIS HAPPENED, AFTER THE FORMATION OF TRAVEL AMERICA, SAYING SHE HAD NO INTEREST IN STAYING ON WITH TRAVEL AMERICA BECAUSE, AS SHE PUT IT, WITH ALL SEASONS RESORTS WE'VE BEEN BOUNCED AROUND LIKE A BEACH BALL WITH TRAVEL AMERICA AS THE FINAL DESTINATION.

AND WHEN MR. NOVELLI TRANSFERRED MEMBERS FROM PARK TO PARK, THEY TYPICALLY WERE NOT GIVEN ANY OPTIONS OR ANY SAY-SO IN THE MATTER. THE EVIDENCE WILL PROVE IT WOULD BE AS IF YOU WERE TO BUY A HOME, SAY, ON A NICE, SHADY STREET, ELM STREET IN IRVINE, IN AN AREA YOU WANTED TO LIVE IN, AND YOU TOOK OUT A MORTGAGE WITH THE ABC FINANCE COMPANY. AND YOU COME HOME SOME DAY, AND THE HOME IS BOARDED UP. AND YOU GOT A NOTICE ON THE DOOR FROM ABC FINANCE COMPANY SAYING, "WE DON'T LIKE THE RATES IN IRVINE ANYMORE. SO WE'VE DECIDED TO MOVE YOU AND YOUR FAMILY AND DOG TO LOS ANGELES." YOU DON'T WANT TO LIVE IN LOS ANGELES. YOU BOUGHT YOUR HOME ON ELM STREET IN IRVINE.

MR. SHAW: YOUR HONOR, I OBJECT. THIS IS GETTING INTO ARGUMENT.

THE COURT: SUSTAINED.

MR. SHERMAN: YOU MAY BE THINKING, HOW IS THIS MOVING PEOPLE AROUND ANY DIFFERENT FROM WHAT COAST DID? THERE ARE A LOT OF DIFFERENCES. THE EVIDENCE WILL SHOW THAT COAST TRANSFERS WERE CONDITIONED ON THE MEMBER'S APPROVAL, BECAUSE WITHOUT THE MEMBER'S APPROVAL, NOTHING HAPPENED.

THE LETTER THAT I READ YOU EARLIER THAT

MR. RANDALL HAD SIGNED ON BEHALF OF COAST, WITHOUT THE MEMBER'S APPROVAL, NOTHING HAPPENED.

THE COAST TRANSFERS OCCURRED IN ORDER TO LET MEMBERS KEEP THEIR COAST BENEFITS THAT MR. NOVELLI HAD ABRUPTLY TAKEN AWAY FROM THE MEMBERS. IT WAS VERY SIMPLE. PEOPLE SIGNED UP WITH COAST BECAUSE THEY WANTED COAST BENEFITS. AND COAST UNDERSTOOD IT. YOU'LL SEE LETTERS FROM MEMBERS THANKING COAST FOR HELPING THEM. THE COAST TRANSFERS DID NOT TAKE AWAY THEIR MEMBERSHIP IN THEIR HOME PARK. MEMBERS HAD THE OPTION OF KEEPING THEIR MEMBERSHIPS IN THE NOVELLI PARK AND LEAVING COAST ALTOGETHER, IF THAT'S WHAT THEY WISHED.

THE KEY IS, MEMBERS GOT TO DECIDE. AND IT WAS NOVELLI'S DECISION TO PULL OUT, NOT COAST'S LETTERS, WHICH TRIGGERED THE TRANSFERS. AND COAST DIDN'T TRANSFER PEOPLE BECAUSE COAST HAD TOSSED THE PARK INTO BANKRUPTCY AND CLOSED THE GATES. UNLIKE THE COAST TRANSFERS, WHICH WERE DONE TO ASSIST THE MEMBERS, IN KEEPING THEIR COAST BENEFITS, THE NOVELLI AND VOPNFORD PARKS TRANSFERRED MEMBERS BECAUSE IT WAS IN MR. NOVELLI'S AND MR. VOPNFORD'S ECONOMIC INTEREST TO DO SO. AND THESE TRANSFERS WERE VERY DISRUPTIVE TO MEMBERS.

NOW, ONE MORE NOTE ABOUT BANKRUPTCIES BEFORE I LEAVE THAT. WHAT HAPPENS IN BANKRUPTCY IS THAT THE PERSON OR THE COMPANY THAT FILES BANKRUPTCY, THEY MAKE THEIR BOOKS OR RECORDS AND FINANCIAL FILES OPEN TO THE PUBLIC. THEY BECOME PART OF THE COURT FILE AVAILABLE FOR ANYONE'S INSPECTION.

NOW, PLAINTIFFS LAWYER USED SOME WORDS IN DESCRIBING THE MEMBERSHIP LIST AS SECRET AND PROPRIETARY. BUT IN MANY OF THESE BANKRUPTCIES, THE PARKS' MEMBERSHIP CONTRACTS WERE PART OF ITS FINANCIAL ASSETS. AND SO THE MEMBERSHIP LISTS AND THE NAMES AND THE ADDRESSES WERE MADE PUBLIC.

FOR EXAMPLE, IN ALL SEASONS' BANKRUPTCY FILING, WHEN THEY FILED THEIR PAPERS WITH THE COURT IN OCTOBER 1997, THAT WAS AFTER THE JULY '97 FILING, ALL 18,000 NAMES OF ALL SEASONS MEMBERSHIP LISTS WAS MADE PUBLICLY AVAILABLE TO EVERY RESORT DEVELOPER IN THE COUNTRY, BECAUSE THOSE NAMES BECAME PART OF THE PUBLIC RECORD.

NOW, THERE ALSO HAVE BEEN CLASS-ACTION LAWSUITS ON BEHALF OF PLAINTIFFS' MEMBERS FILED AGAINST VARIOUS COMPANIES IN THE NOVELLI ORGANIZATION FOR FRAUD, FOR HIGH-PRESSURE SALES TACTICS AND FOR ABUSIVE DEBT COLLECTION PRACTICES. AND BY "CLASS-ACTION" I MEAN A LAWSUIT BROUGHT NOT JUST ON BEHALF OF ONE OR TWO PEOPLE, MEMBERS, BUT RATHER ON BEHALF OF ALL PARK MEMBERS. ONE SUCH CLASS ACTION LAWSUIT WAS FILED IN 1996 AGAINST THOUSAND ADVENTURES OF ALABAMA. THOUSAND ADVENTURES OF ALABAMA IS ONE OF THE PLAINTIFFS IN THIS CASE. SO CLASS-ACTION LAWSUIT WAS FILED IN SEPTEMBER '96. WE'LL USE "L" TO DESCRIBE CLASS-ACTION LAWSUIT.

THAT CLASS-ACTION LAWSUIT WAS BROUGHT AGAINST THOUSAND ADVENTURES ALABAMA FOR FRAUD AND MISLEADING SALES PRACTICES. AND IN ITS BANKRUPTCY FILING, IN THE THOUSAND ADVENTURES ALABAMA BANKRUPTCY FILING, THOUSAND ADVENTURES OF ALABAMA ADMITTED THAT THE

CLASS-ACTION LAWSUIT HAD CAUSED MEMBERS TO STOP PAYING DUES. THEN THERE ARE THE CONTINUING LAWSUITS THAT HAVE BEEN BROUGHT OVER THE YEARS BY VARIOUS STATE ATTORNEYS GENERAL OFFICES.

FOR EXAMPLE, THERE HAVE BEEN A SERIES OF ATTORNEY GENERAL LAWSUITS IN OHIO AGAINST THOUSAND ADVENTURES OF OHIO, A PLAINTIFF IN THIS LAWSUIT. WHAT THESE LAWSUITS SHOW IS THAT GOVERNMENT OFFICIALS ARE HIP TO THE CONSUMER FRAUD, PREYING ON SENIOR CITIZENS IN ABUSIVE DEBT COLLECTION PRACTICES. IN OCTOBER 1996, THE OHIO ATTORNEY GENERAL'S OFFICE ACTUALLY SHUT DOWN ALL SALES AND MARKETING ACTIVITIES OF THOUSAND ADVENTURES OF OHIO. "A.G.," AS IN ATTORNEY GENERAL, SHUT DOWN ALL SALES ACTIVITY OF THOUSAND ADVENTURES OF OHIO BASED ON REPEATED VIOLATIONS OF THE CONSUMER FRAUD LAWS. AND THOUSAND ADVENTURES OF OHIO IS ONE OF THE PLAINTIFFS IN THIS CASE COMING INTO COURT CLAIMING LOSSES OF WINDFALL LEVELS OF PROFITS BECAUSE OF COAST'S LETTERS.

AND THEN THERE ARE THE MASSIVE TAX LIENS. IN THE 1996-1997 TIME PERIOD, PRIOR TO THE TIME THAT COAST'S LETTERS WERE SENT, THE IRS CLOSED DOWN MR. NOVELLI'S ORLANDO PARK. THE IRS PADLOCKED THE PARK AND PUT UP IRS TAPE AND SIGNS ALL AROUND IT. AND YOU CAN BET THAT FOR THOSE MEMBERS WHO ARRIVED IN THEIR R.V. AT THE ORLANDO PARK FOR A DISNEY WORLD VACATION, BEING GREETED BY A PADLOCKED, DESERTED PARK COVERED WITH IRS TAPE AND SIGNS WAS A DISRUPTIVE EXPERIENCE.

AND IT WASN'T JUST THE ORLANDO PARK THAT HAD TAX PROBLEMS. THE EVIDENCE WILL PROVE THAT MANY PARKS IN THE NOVELLI ORGANIZATION HAD DELINQUENT PROPERTY TAX BILLS OWED RUNNING INTO THE MILLIONS, ALL PRIOR TO COAST'S LETTERS BEING SENT OUT. INCREDIBLY, MR. NOVELLI WITHHELD PAYROLL TAXES FROM HIS EMPLOYEES TOTALING \$5.7 MILLION OVER A NUMBER OF YEARS. BUT HE DIDN'T PAY THAT MONEY TO THE GOVERNMENT AS HE WAS SUPPOSED TO DO. AND IN OCTOBER 1996, THE PERSON WHO WAS IN CHARGE OF ALL SEASONS RESORTS AT THE TIME, BECAUSE A COURT RECEIVER WAS PUT IN PLACE, THE RECEIVER GOT A TAX LIEN FOR \$5.7 MILLION IN OCTOBER 1996. WE'LL USE "T.L." FOR TAX LIEN.

THE FINANCIAL AND OPERATIONAL PROBLEMS IN THE NOVELLI PARKS CREATED A NIGHTMARE BEFORE THE FALL 1997 -- THE LETTERS FROM COAST WERE SENT OUT. THE EVIDENCE IS CLEAR, THAT THESE PROBLEMS HAD A MAJOR IMPACT ON THE PARK'S ABILITIES TO ATTRACT AND TO RETAIN MEMBERS.

NOW, DURING THIS CASE YOU'RE GOING TO HEAR A LOT ABOUT VARIOUS THOUSAND ADVENTURES PARKS. MR. NOVELLI'S LAWYER TRIES TO BUILD A WALL BETWEEN THOUSAND ADVENTURES PARKS AND MR. NOVELLI, SINCE MR. VOPNFORD WAS THE OPERATOR OF THE THOUSAND ADVENTURE PARKS UNTIL SOMETIME IN ABOUT THE MIDDLE OF '97. BUT THOUSAND ADVENTURES OF OHIO AND THOUSAND ADVENTURES OF ALABAMA ARE BOTH PLAINTIFFS IN THIS CASE. BOTH PARKS ARE SEEKING DAMAGES FROM COAST FOR THE LOSS OF MEMBERS AND REVENUE AFTER THE COAST LETTERS WERE SENT.

MOREOVER, THE EVIDENCE WILL ALSO SHOW THAT MR. NOVELLI'S NEW COMPANY, TRAVEL AMERICA, JUST STARTED SENDING OUT INVOICES TO NEARLY THE ENTIRE MEMBERSHIP BASE OF ALL OF THOUSAND ADVENTURES. AFTER THAT THREE-LEGGED

STOOL GOT FORMED, ALL THE MEMBERS WERE POURED IN. AND MR. NOVELLI IS SEEKING DAMAGES FOR THE THOUSAND ADVENTURES MEMBERS WHO CHOSE NOT TO PAY TRAVEL AMERICA, EVEN THOUGH THEY HAD NO OBLIGATION TO PAY THOSE INVOICES.

IT'S CRITICAL TO UNDERSTAND THE EVIDENCE ABOUT WHAT THE THOUSAND ADVENTURES MEMBERS EXPERIENCED AS THEIR PARK SLID INTO BANKRUPTCY. AND I HAVEN'T PUT ALL THE THOUSAND ADVENTURES BANKRUPTCY UP THERE ON THE TIME LINE. I DON'T HAVE THE SPACE THERE.

THE EXPERIENCES OF THE THOUSAND ADVENTURES MEMBERS SHED LIGHT ON WHY THESE MEMBERS WOULD HAVE ONLY BEEN TOO HAPPY TO LEAVE THOUSAND ADVENTURES, NOW THE TRAVEL AMERICA SYSTEM.

YOU'LL HEAR THE TESTIMONY OF THE OHIO ASSISTANT ATTORNEY GENERAL, ROBERT HART. HE WILL TESTIFY THAT THE OHIO ATTORNEY GENERAL'S OFFICE RECEIVED NUMEROUS COMPLAINTS ABOUT DETERIORATING FACILITIES, AND ABOUT A LOT OF ANXIETY ON THE PART OF CONSUMERS ABOUT WHETHER OR NOT THEIR CAMPGROUND WAS GOING TO REMAIN OPEN.

LET'S GO TO REASON NUMBER TWO, THE CONFLICTING NOTICES. PLAINTIFFS CLAIM THAT COAST'S LETTERS CONFUSED PEOPLE, CONFUSED MEMBERS, AND THAT CONFUSION RESULTED IN LOSSES. THE EVIDENCE WILL SHOW THAT IF MEMBERS WERE CONFUSED, IT WAS CONFUSION CAUSED BY THE NOVELLI AND DAVE VOPNFORD ORGANIZATIONS, NOT CAMP COAST TO COAST.

BESIDES THE STRING OF BANKRUPTCIES AND OTHER LAWSUITS, MEMBERS OF THE NOVELLI PARKS RECEIVED CONFUSING AND CONTRADICTORY COMMUNICATIONS FROM THE NOVELLI ORGANIZATION. DURING THIS TRIAL YOU'LL ACTUALLY HAVE AN OPPORTUNITY TO SEE SOME OF THE MAIL THAT PLAINTIFFS' PARK MEMBERS RECEIVED BEFORE COAST'S LETTERS TO ITS MEMBERS WAS SENT. THE EVIDENCE WILL SHOW THAT THE MEMBERS OF THESE PARKS WERE SENT AROUND IN CIRCLES.

BACK IN SEPTEMBER 1996, ABOUT A YEAR BEFORE THE COAST LETTERS WERE SENT, ALL ALL SEASONS RESORTS MEMBERS RECEIVED A LETTER FROM JEFFREY KEIM. MR. KEIM HAD BEEN PROPERLY APPOINTED AS THE COURT RECEIVER IN CHARGE OF ALL SEASONS RESORTS, INSTEAD OF MR. NOVELLI. AND MR. KEIM WROTE TELLING THEM THAT THE UNITED STATES DISTRICT COURT HAD PUT HIM IN CHARGE, HAD PUT HIM IN CONTROL. AND IN THIS LETTER MR. KEIM TOLD ALL THE MEMBERS OF ALL SEASONS RESORTS TO NOT SEND PAYMENTS TO THE ALL SEASONS RESORTS OFFICE IN IRVINE, BUT INSTEAD TO SEND ALL PAYMENTS TO HIM, BECAUSE HE WAS IN CHARGE, AND AN ADDRESS IN FLORIDA WHERE HE DID HIS BUSINESS OUT OF.

THIS WAS CONFUSING TO MEMBERS, MEMBERS WHO HAD NO EXPERIENCE OR FAMILIARITY WITH COURT RECEIVERSHIP PROCEEDINGS. AND ABOUT A YEAR LATER, ABOUT A YEAR AFTER THAT -- ACTUALLY IN JULY '97. SO IT WAS AT THE TIME ALL SEASONS RESORTS FILED ITS BANKRUPTCY -- TWO MORE LETTERS WERE SENT TO ALL SEASONS RESORTS MEMBERS, ONE FOR MR. NOVELLI -- FROM MR. NOVELLI PERSONALLY, AND ONE FROM MR. NOVELLI'S LAWYER, EDWARD MALPASS. SOME OF THE MEMBERS HAD NEVER HEARD OF HIM BEFORE. TELLING MEMBERS TO DO JUST THE OPPOSITE. DON'T SEND DUES TO MR. KEIM. INSTEAD SEND DUES DIRECTLY TO ALL SEASONS AND MR. NOVELLI AT THE IRVINE ADDRESS. MORE CONFUSION AS MEMBERS NEEDED TO FIGURE OUT THE DIFFERENCE BETWEEN RECEIVERSHIP AND BANKRUPTCY, BECAUSE

MR. MALPASS IN HIS LETTER, AS YOU'LL SEE, IS QUOTING TO MEMBERS PROVISIONS OF THE UNITED STATES BANKRUPTCY CODE AS IF THE MEMBERS WERE SUPPOSED TO UNDERSTAND AND REACT TO ALL OF THAT.

AND ABOUT A MONTH AFTER THAT, THE FALL OF '97, ALL SEASONS RESORTS MEMBERS RECEIVED YET ANOTHER LETTER FROM A NEW NAME, THIS TIME THE COURT-APPOINTED BANKRUPTCY TRUSTEE OF ALL SEASONS RESORTS. HIS NAME IS CHARLES DAFF. THE LETTER FROM MR. DAFF TOLD MEMBERS TO IGNORE THE EARLIER LETTERS THEY HAD RECEIVED AND TOLD MEMBERS TO PAY DUES TO MR. DAFF, AT HIS ADDRESS, BECAUSE HE WAS THE BANKRUPTCY TRUSTEE. THIS LETTER FROM MR. DAFF, BY THE WAY, TOLD MEMBERS THAT ALL SEASONS WAS IN BANKRUPTCY, AND THAT ALL THEIR MEMBERSHIP CONTRACTS WOULD LIKELY BE CANCELLED BY THE END OF NOVEMBER. AND SHORTLY AFTERWARDS, MEMBERS DID IN FACT RECEIVE NOTICE FROM THE BANKRUPTCY TRUSTEE TELLING THEM, "YOUR MEMBERSHIPS IN ALL SEASONS RESORTS ARE OVER."

NOW, THESE CONTRADICTORY NOTICES AND INSTRUCTIONS WERE DIZZYING, EVEN TO SOMEONE WITH A LEGAL BACKGROUND. AND THEY CAUSED MEMBERS TO LEAVE THE NOVELLI PARKS DAZED, CONFUSED, AND A LITTLE BIT POORER.

MR. SHAW: YOUR HONOR, I'M JUST GOING TO OBJECT. FURTHER ARGUMENT.

THE COURT: SUSTAINED.

MR. SHERMAN: THERE WERE OTHER SOURCES OF CONFUSION. WHEN MR. NOVELLI AND MR. VOPNFORD GOT TOGETHER IN 1997 AFTER ALL SEASONS RESORTS AND FIRST NATIONWIDE MANAGEMENT AND THOUSAND ADVENTURES HAD CRUMBLED, THEY DECIDED TO PUT ALL DUES-PAYING MEMBERS INTO A NEW ORGANIZATION CALLED "TRAVEL AMERICA, INC.," ABBREVIATIONS T.A.I. THEY DIDN'T ASK THEIR MEMBERS PERMISSION OR GIVE THEM AN OPTION. THEY JUST STARTED SENDING OUT DUES STATEMENTS UNDER THE NAME "TRAVEL AMERICA, INC." OR "T.A.I."

YOU WILL HEAR THE TESTIMONY OF MR. ERIC LAM, THE BANKRUPTCY TRUSTEE APPOINTED BY THE COURT IN IOWA OVER THOUSAND ADVENTURES, INC., THE PARENT COMPANY, ONE OF THE LEGS OF THE THREE-LEGGED STOOL, IN WHICH MR. LAM WILL TESTIFY THAT MEMBERS WERE SO CONFUSED, THAT THEY DIDN'T KNOW WHY THEY WERE PAYING, WHAT THEY WERE PAYING FOR, TO WHOM THE MONIES WERE BEING PAID, WHO WAS OPERATING THE CAMPGROUNDS, OR WHERE THEY COULD GO. THAT THEY WERE CONFUSED. AND THE WITNESSES WILL TESTIFY THAT COAST HAD NOTHING TO DO WITH THE CONFUSION CAUSED BY THE CHOICE OF THE DECEPTIVE AND MISLEADING INITIALS, T.A.I.; T.A.I., TRAVEL AMERICA, INC., THOUSAND ADVENTURES, INC.

NOW, THE THIRD REASON FOR THE LOSSES THAT THE PLAINTIFFS HAVE EXPERIENCED IS THAT THE CONDITION OF THE PARKS WAS STEADILY ERODING. YOU'LL HEAR TESTIMONY FROM MEMBERS, AS WELL AS FORMER EMPLOYEES, ABOUT UTILITY SERVICES BEING CUT OFF AT PARKS FOR NONPAYMENT, ABOUT BASIC MAINTENANCE BEING IGNORED, BECAUSE THERE WAS NO MONEY TO PAY WORKERS' SALARIES, AND ABOUT AMENITIES, SUCH AS POOLS AND CLUBHOUSES FALLING APART.

YOU'LL HEAR THE TESTIMONY OF ANOTHER FORMER DELTA ISLE MEMBER, A PLAINTIFF IN THIS CASE. HE WILL TESTIFY THAT WHEN HE FIRST JOINED DELTA ISLE, THE BOAT

DOCKS WERE IN WONDERFUL SHAPE, AND THAT HE COULD TIE HIS BOAT UP AT THE DOCK. BUT DURING THE MID 1990'S, THE PARK STARTED GOING DOWNHILL. AND THE DOCK WASN'T BEING MAINTAINED. AND PIECES OF THE DOCK WOULD FLOAT AWAY. AND THEN THE SEWAGE BACKED UP, AND HE WOULD HAVE TO STAY IN HIS TRAILER TO KEEP AWAY FROM THE FLIES AND THE ODOR CAUSED BY THE BACKED UP SEWAGE.

DELTA ISLE IS A PLAINTIFF IN THIS CASE CLAIMING THAT COAST DAMAGED IT, AND THE EVIDENCE WILL SHOW THAT THESE DELTA ISLE MEMBERS WERE ONLY TOO RELIEVED TO BE ABLE TO ESCAPE FROM DELTA ISLE AND TRANSFER THEIR COAST MEMBERSHIP ELSEWHERE.

AND THE EVIDENCE WILL SHOW THAT THE PRIMARY CAUSE OF THE DETERIORATION OF THE PARKS WAS SIMPLE. THE PARKS DIDN'T HAVE ANY CASH BECAUSE MR. NOVELLI WAS TAKING OUT MONEY FOR HIS OWN BENEFIT. AND YOU WILL HEAR THAT SAME POINT REPEATED OVER AND OVER FROM A VARIETY OF FORMER NOVELLI EMPLOYEES, AS WELL AS FROM COURT-APPOINTED OFFICERS. THEY WILL TESTIFY THAT MR. NOVELLI TOOK MONEY OUT OF THE PARKS TO SUPPORT HIS LAVISH LIFESTYLE. THEY WILL TESTIFY THAT THE PARKS WERE HURTING FOR MONEY TO PAY THE BASIC AND BARE NECESSITIES.

YOU WILL HEAR TESTIMONY IN THIS CASE FROM THE FORMER HEAD OF SALES IN FLORIDA OF THE NOVELLI ORGANIZATION, A MAN BY THE NAME OF KEN HOLT. MR. HOLT WILL TESTIFY THAT MR. NOVELLI USED TO WEAR A RING. MR. HOLT LOOKED AT THE RING, AND HE SAID TO MR. NOVELLI, "WHAT DOES 'P.Y.F.' STAND FOR?"

AND MR. NOVELLI SAID BACK TO HIM, "STANDS FOR PAY YOURSELF FIRST." AND THAT'S HIS LIFE'S MOTTO.

THE COURT: MR. SHERMAN, HOW MUCH MORE TIME DO YOU NEED?

MR. SHERMAN: I NEED SEVEN MINUTES. SIX MINUTES.

THE COURT: OKAY.

MR. MOSHENKO: WOULD YOU GO FOR FIVE?

MR. SHERMAN: THANK YOU, YOUR HONOR.

MEMBERS WHO BUY A HOME PARK MEMBERSHIP PAY A YEARLY MAINTENANCE FEE. THAT'S WHAT IT'S CALLED, AND IT'S SUPPOSED TO BE USED FOR MAINTAINING THE PARKS. THE EVIDENCE WILL PROVE THAT IT DIDN'T WORK THAT WAY AND THAT MR. NOVELLI PAID HIMSELF FIRST. AND YOU WILL HEAR EVIDENCE THAT WHILE THE PARKS WERE DETERIORATING AND WORKERS WEREN'T BEING PAID, THAT MR. NOVELLI DROVE A BENTLY, FLEW AROUND IN A PRIVATE JET, OWNED AT LEAST ONE YACHT AND A POSH VACATION VILLA IN MEXICO TO GO ALONG WITH HIS NEWPORT BEACH HOME.

AND BECAUSE OF THE CASH DRAIN, THE PARKS NOT ONLY DETERIORATED PHYSICALLY, MORALE AMONG THE EMPLOYEES PLUMMETED AS PAYCHECKS KEPT BOUNCING. A NUMBER OF FORMER EMPLOYEES OF THE NOVELLI ORGANIZATION WILL TESTIFY THAT ON MORE THAN ONE OCCASION, THEIR PAYCHECKS BOUNCED. IT HAPPENED AT EVERY LEVEL WITHIN THE NOVELLI ORGANIZATION, TOP MANAGEMENT, OFFICE STAFF, MAINTENANCE WORKERS.

ONE OF MR. NOVELLI'S SALESMEN WILL TESTIFY SOME OF THE HOURLY EMPLOYEES WHO LIVE PAYCHECK-TO-PAYCHECK WERE OVERWHELMED WHEN THEIR PAYCHECKS BOUNCED, AND THAT THEY COULDN'T MAKE GOOD ON THEIR OWN EXPENSES.

FORMER EMPLOYEES WILL TESTIFY THAT THIS DECLINE IN MORALE AMONG THE EMPLOYEES HAD A SIGNIFICANT

IMPACT ON THE MEMBERSHIP. EMPLOYEES WERE WALKING OFF THE JOB.

AND AS FAR AS SAVING 10,000 JOBS OR WORKING FOR A DOLLAR A YEAR, THE EVIDENCE WILL SHOW THAT RAYMOND NOVELLI IS NO LEE IACOCA. AND COAST LETTERS TO ITS MEMBERS STARTING IN THE FALL OF 1997 DID NOT CAUSE THOSE BOUNCED PAYCHECKS, DETERIORATING PARKS, OR EMPLOYEES WHO WERE WALKING OFF THE JOB.

EACH AND EVERY ONE OF THESE THREE REASONS, THE FINANCIAL AND OPERATIONAL UPHEAVALS, THE CONFLICTING NOTICES, AND THE PHYSICAL DETERIORATION, NOT COAST'S LETTERS TO COAST'S MEMBERS, NOT BECAUSE SOME CLAIMED RULE VIOLATION IN THE LATE 1980'S OR EARLY 1990'S BY COAST CONTRIBUTED TO THE LOSS OF MEMBERS AND THE INABILITY TO GET NEW MEMBERS TO SIGN UP.

AND THE EVIDENCE WILL SHOW THAT MR. NOVELLI'S APPROACH TO RUNNING RESORTS WAS LIKE THE CAPTAIN OF THE TITANIC. STEERING THE BOAT TOWARDS DISASTER. THE EVIDENCE WILL PROVE THAT COAST'S LETTERS TO ITS MEMBERS WERE, TO MANY MEMBERS, LIFEBOATS. THE EVIDENCE WILL SHOW THAT THE ULTIMATE IRONY IN THIS CASE WILL BE THAT MR. NOVELLI, THE CAPTAIN OF THE SHIP, WILL BE COMING FORWARD NOW TO BLAME THE LIFEBOATS AS THE REASON WHY THE MEMBERS ABANDONED THE SINKING SHIP.

AND IN WRAPPING UP MY COMMENTS IN OPENING STATEMENT, I'D LIKE TO TOUCH ON A COUPLE OF ISSUES RELATED TO PLAINTIFFS' CLAIMED DAMAGES.

THE EVIDENCE WILL SUPPORT A DETERMINATION BY YOU THAT MR. NOVELLI AND HIS COMPANIES ARE NOT ENTITLED TO ANYTHING, NOT ONE NICKEL, NOT ONE PENNY.

AND YOU SHOULD KNOW A COUPLE OF THINGS ABOUT DAMAGES. THE FINANCIAL RECORDS OF THE NOVELLI ORGANIZATION HAVE NO INTEGRITY. YOU ARE NOT GOING TO SEE ANY BELIEVABLE SCHEDULES OR CHARTS OR FINANCIAL STATEMENTS. FORMER TOP-LEVEL EMPLOYEES IN THE NOVELLI ORGANIZATION WILL TESTIFY THAT MR. NOVELLI FABRICATED NUMBERS ON COMPANY FINANCIAL STATEMENTS. THAT IF MR. NOVELLI WAS APPLYING FOR A LOAN, THAT HE WOULD CREATE FINANCIAL STATEMENTS TO SHOW THAT HE WAS DOING WELL. BUT IF MR. NOVELLI NEEDED A FINANCIAL STATEMENT TO SHOW A COURT AUDITOR, HE WOULD CREATE A FINANCIAL REPORT THAT SHOWED DIFFERENT NUMBERS.

SO THE LACK OF INTEGRITY OF PLAINTIFFS' FINANCIAL DOCUMENTS EXTENDS TO THEIR MEMBERSHIP RECORDS. PLAINTIFFS ARE COMING INTO COURT ASKING YOU, THE MEMBERS OF THE JURY, TO BELIEVE THAT THEY LOST MEMBERS AS A RESULT OF COAST'S LETTERS SENT IN THE FALL OF 1997, AND YOU WILL GET TO SEE THEIR SO-CALLED MEMBERSHIP RECORDS, WHICH PURPORT TO SHOW MEMBERS WHO QUIT THEIR NOVELLI PARK RESORT OR HAD THEIR MEMBERSHIP DEACTIVATED BY THE NOVELLI ORGANIZATION FOR NONPAYMENT IN 1998, WHEN IN FACT THE BACKUP INFORMATION SHOWS THAT MANY OF THESE MEMBERS HAD DROPPED OUT OF THE NOVELLI SYSTEM YEARS EARLIER, YEARS BEFORE COAST LETTERS IN THE FALL OF '97 WERE SENT.

THAT IS WHAT THIS CASE IS ALL ABOUT, LADIES AND GENTLEMEN. COAST DIDN'T BREAK ITS WORD TO MR. NOVELLI OR HIS ORGANIZATION. COAST DIDN'T FORCE MR. NOVELLI OR HIS ORGANIZATION TO SIGN STANDARD WRITTEN CONTRACTS TIME AND TIME AGAIN, CONTRACTS THAT CLEARLY STATE THAT THE

MEMBERSHIP LISTS WERE COAST'S PROPERTY. COAST DIDN'T CAUSE THE NOVELLI ORGANIZATION TO FILE REPEATED BANKRUPTCIES OR CAUSE THE FLOOD OF COMPLAINT AND MEMBER DISSATISFACTION. NO. THE EVIDENCE WILL SHOW A RESPONSIBILITY FOR MISMANAGEMENT OF THE NOVELLI PARKS RESTS SOLELY WITH MR. NOVELLI. THE EVIDENCE WILL PROVE THAT THE RESPONSIBILITY FOR ABUSING, MISTREATING AND CONFUSING MEMBERS RESTS SOLELY WITH MR. NOVELLI.

AND THE EVIDENCE WILL PROVE THE RESPONSIBILITY FOR THE SHIPWRECK OF THE NOVELLI PARKS RESTS SOLELY WITH MR. NOVELLI.

THANK YOU FOR YOUR ATTENTION AND PATIENCE.
THE COURT: THANK YOU, MR. SHERMAN.

LADIES AND GENTLEMEN, WE'LL BE IN RECESS UNTIL 10 MINUTES TILL 2:00 TODAY. SO PLEASE REPORT BACK PROMPTLY AT THAT TIME.

(WHEREUPON THE COURT WAS IN RECESS UNTIL 1:50 P.M. OF THE SAME DAY.)

WESTMINSTER, CALIFORNIA - WEDNESDAY, MAY 17, 2000
AFTERNOON SESSION

THE COURT: REMEMBER I ADMONISHED YOU. YOU'RE NOT TO DISCUSS THE CASE AMONGST YOURSELVES OR WITH ANYONE ELSE. AND I ALSO HAVE ONE OTHER WARNING TO GIVE YOU. THERE WAS MENTION OF A WEB SITE MADE THIS MORNING. SOME OF YOU WHO ARE COMPUTER LITERATE PROBABLY HAVE COMPUTERS. STAY OFF IT. DON'T GO TO THAT WEB SITE. UNDERSTOOD? I DON'T EVEN KNOW HOW TO TURN A COMPUTER ON.

CALL YOUR FIRST WITNESS FOR THE PLAINTIFF.
MR. SHAW: YES. THANK YOU. MAY IT PLEASE THE COURT.

THE PLAINTIFF WOULD CALL AS THE FIRST WITNESS AN EXPERT IN THE CAMPGROUND RESORT INDUSTRY, MR. ROBERT MITCHELL.

MR. MITCHELL.
ROBERT FRANK MITCHELL,
CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFFS, HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

THE CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: ROBERT FRANK MITCHELL.

THE COURT: PROCEED, COUNSEL.

DIRECT EXAMINATION

BY MR. SHAW: Q MR. MITCHELL, WHAT IS YOUR OCCUPATION?

A I'M A GENERAL BUSINESS CONSULTANT. AND THE LAST 20 YEARS I'VE SPENT MOST OF MY INVOLVEMENT IN THE HOSPITALITY AND RECREATION FACILITY, PREDOMINANTLY WITH CAMP RESORTS.

Q WHAT DO YOU DO AS A CONSULTANT OVER THE LAST

20 YEARS FOR CAMPGROUND RESORTS?

A I PROVIDED INFORMATION ON THOSE WHO WANTED TO GET INVOLVED IN THE INDUSTRY AND HOW THEY WOULD DO THAT, AND DO IT SUCCESSFULLY. AND IN A LARGER SCALE I'VE WORKED IN AREAS WHERE PEOPLE HAVE HAD PROBLEMS WITH THEIR RESORTS AND DIFFICULTIES.

AND I'VE WORKED WITH CAMP RESORTS WHO ARE PEOPLE WHO ARE INITIALLY GETTING INVOLVED IN THE INDUSTRY, TO HELP THEM STRUCTURE THEIR BUSINESSES SO THEY'LL FUNCTION PROPERLY AND NOT RUN INTO ADVERSITY. AND WHERE THERE HAS BEEN ADVERSITY, I'VE BEEN CALLED TO ANALYZE THOSE SITUATIONS AND TRY TO DEVELOP SOME METHODOLOGIES THAT WOULD CORRECT THOSE PROBLEMS AND BRING THEM TO HEALTHINESS.

Q WELL, IN A FEW MINUTES WE'RE GOING TO TALK ABOUT YOUR 20 YEARS OF BACKGROUND AND EXPERIENCE.

BUT FIRST, YOU WERE HERE THIS MORNING FOR MR. SHERMAN AND MR. MOSHENKO'S OPENING STATEMENTS?

A YES, SIR.

Q DID YOU HEAR MR. SHERMAN SAY THAT YOU HAVE WORKED, BEEN EMPLOYED BY RAY NOVELLI?

A YES, SIR.

Q IS THAT TRUE?

A NO, SIR.

Q HAVE YOU HAD ANY RELATIONSHIP WITH THE DEFENDANTS IN THIS CASE, CAMP COAST TO COAST?

A OH, YES, SIR.

Q AND WHAT RELATIONSHIP IS THAT?

A WELL, I'VE HAD VARYING RELATIONSHIPS WITH THEM. I'VE BEEN A LICENSEE OF THEIRS. I'VE OPERATED FACILITIES THAT WERE LICENSEES, AND FOR -- SINCE 1985 I'VE SPOKE AT EVERY ONE OF THEIR CONVENTIONS FROM 1985 TO -- 1985 TO 1998.

Q NOW, WHEN YOU SPEAK AT THEIR CONVENTIONS IN 1985 TO 1998 -- I DON'T WANT TO DO THE MATH ON THAT. DON'T FORCE ME --

A ABOUT 13 YEARS.

Q -- TO DO IT.

BUT IN WHAT CAPACITY ARE YOU SPEAKING AT THEIR CONVENTIONS?

A I'VE BEEN INVITED TO SPEAK, AND I SPEAK IN VARYING SUBJECTS. OVER THE YEARS I'VE ADDRESSED VIRTUALLY EVERY SUBJECT OF THE INDUSTRY, PROBABLY SAVE MAINTENANCE AND OPERATIONS; ALTHOUGH, I'VE BEEN ON SOME PANELS THAT HAVE DISCUSSED THAT.

Q ALL RIGHT. SO IT'S FAIR TO SAY THAT YOU WERE ASKED TO SPEAK AT THEIR CONVENTIONS AS AN EXPERT?

A OH, YES. THEY HAVE INTRODUCED ME AS SUCH.

Q AND YOU'VE DONE THAT FOR CAMP COAST TO COAST, THE DEFENDANTS IN THIS CASE?

A YES.

Q YOU UNDERSTAND YOU'RE BEING CALLED AS AN EXPERT HERE TODAY FOR THE PLAINTIFFS IN THIS CASE; IS THAT CORRECT?

A WELL, I'M BEING PAID BY THE PLAINTIFFS. BUT MY UNDERSTANDING IS THAT I'M CALLED HERE TO GIVE OPINIONS FROM BOTH SIDES, WHOEVER I'M BEING PAID FOR -- BY.

Q REGARDLESS OF WHAT YOU'RE BEING PAID FOR --

A YEAH.

Q -- YOU'RE GOING TO TELL THE TRUTH --
A IT DOESN'T MATTER.
Q -- AS TO WHAT -- THE ISSUES WE'RE GOING TO TALK ABOUT; IS THAT CORRECT?
A CORRECT. THAT'S MY UNDERSTANDING.
Q BEFORE I GET INTO YOUR SPECIAL SKILL, KNOWLEDGE, EXPERTISE AND TRAINING IN THE CAMPGROUND RESORT INDUSTRY, I WANT TO TALK ABOUT YOUR EMPLOYMENT BACKGROUND AND WHAT I'LL CALL YOUR OTHER LIFE OR PRIOR LIFE BECAUSE YOU SAID 20 YEARS.
SOME OF US IN THIS COURTROOM ARE GETTING OLD ENOUGH, AND I'LL SPECIFICALLY POINT TO MYSELF, THAT WE WERE DOING THINGS IN THE PROFESSION PRIOR TO 20 YEARS AGO.
A YES, SIR.
Q WHEN DID YOU GRADUATE FROM HIGH SCHOOL?
A 1961, I THINK IT WAS.
Q AND WHERE DID YOU GRADUATE FROM HIGH SCHOOL?
A CLEVELAND HIGH SCHOOL. SEATTLE, WASHINGTON.
Q YOU DIDN'T GO TO COLLEGE?
A NO. I HAD A HEARST JOURNALISM SCHOLARSHIP WHEN I GRADUATED. BUT I WAS WORKING AT THE TIME, AND I REALLY COULDN'T AFFORD TO TAKE THE LOSS TO GO TO COLLEGE.
Q LET'S TALK ABOUT WHERE YOU WERE WORKING. YOUR FIRST EMPLOYMENT IN OR AROUND 1960 WAS WITH KING RECORDS; IS THAT CORRECT?
A KING RECORDS, RIGHT.
Q WHAT DID YOU DO FOR KING RECORDS?
A WELL, IT WAS OVER A PERIOD OF A COUPLE THREE YEARS. INITIALLY I STARTED OUT IN -- I WAS ORIENTED IN VARYING AREAS, AND MY FIRST JOB WAS -- I HAD A LITTLE RUBBER STAMP THAT HAD AN "A" AND A "B" ON IT. AND I WOULD LISTEN TO RECORDS ALL DAY, AND I WOULD DECIDE WHICH SIDE WAS GOING TO BE THE "A" SIDE AND WHICH SIDE WAS GOING TO BE THE "B" SIDE. SO IF I PUT MY LITTLE RUBBER STAMP AND IT SAID "A" ON IT, THAT MEANT IT GOT AIRPLAY AND SOMEBODY MIGHT BE FAMOUS.
Q WHO ARE SOME OF THE ARTISTS THAT YOU LISTENED TO THEIR RECORDS WHO WERE PART OF KING RECORDS?
A JAMES BROWN, HANK BELL AND THE MIDNIGHTERS, LITTLE JOHN -- JAMES BROWN, HANK BELL AND THE MIDNIGHTERS, LITTLE WILLIE JOHN, ARETHA FRANKLIN, EDDIE JAMES, COWBOY COPUS, HAWK SHAW HAWKINS, THAT LADY WITH THE THING THAT HANGS OFF HER HAT, MINNIE PEARL, AND GOSPEL GROUPS AND PREEMINENT JAZZ GROUPS.
KING RECORDS' VENUE WAS PREDOMINATNLY R & B, RHYTHM AND BLUES, GOSPEL, JAZZ AND COUNTRY AND WESTERN.
Q WHEN DID YOU LEAVE THE EMPLOY OF KING RECORDS?
A THAT WAS THREE YEARS. SO IT WOULD HAVE BEEN ABOUT 1963.
Q AND WHY DID YOU LEAVE KING RECORDS?
A THE BEATLES. THERE'S -- BEATLES, ESSENTIALLY, THE BRITISH GROUPS HAD BEEN LISTENING TO R & B MUSIC FOR YEARS. AND OSTENSIBLY WHAT THEY BROUGHT TO THE UNITED STATES WAS A CLASSIC BLACK R & B MUSIC. THEY WERE -- KIND OF BEEN HOMOGENIZED, IF YOU WILL, AND IT WAS -- OBVIOUSLY TO ME THAT I DIDN'T FIT IN THE MUSIC BUSINESS. SOMETHING YOU HAVE TO HAVE A FEEL FOR. IF YOU

DON'T HAVE A SYMPATHICA FOR IT, IT'S JUST NOT GOING TO WORK.

Q THEN WHAT WAS YOUR NEXT EMPLOYMENT AFTER THIS TIME PERIOD IN OR ABOUT 1963?

A THEN I WORKED FOR -- FROM '63, THEN I WORKED WITH TEMPLE AIRWAYS.

Q THAT WAS TEMPLE AIRWAYS?

A TEMPLE AIR WAS A COMPANY FUNDED BY THE MORMON CHURCH. AND AT THE TIME, MORMON CHURCH HAD ONE OR TWO TEMPLES IN THE UNITED STATES. AND IN THE MORMON RELIGION, THERE IS AN ESCALATING PROGRAM THAT ONE GOES THROUGH, AND YOU REACH A CERTAIN POINT AND YOU HAVE TO GO TO THE TEMPLE. AND THERE WERE AN AWFUL LOT OF MORMONS THAT TRAVEL AROUND THE COUNTRY. BUT GETTING PHYSICAL ACCESS TO SALT LAKE CITY WAS AN ECONOMIC AND PERHAPS A TIME PROBLEM FOR THEM.

THE CHURCH HAD A 25-YEAR PLAN TO BUILD TEMPLES ALL OVER THE UNITED STATES, WHICH SUBSEQUENTLY HAS OCCURRED. BUT AT THAT POINT IN TIME, THEY NEEDED TO DEAL WITH THIS ISSUE. SO SOME PEOPLE I WAS INVOLVED WITH DISCUSSED IT, AND WE DETERMINED THAT THE WAY TO DO THAT WAS TO START AN AIRLINE SO WE COULD FLY THEM TO SALT LAKE CITY.

Q AND HOW LONG WERE YOU AT TEMPLE AIRWAYS?

A '63 TO '65.

Q AND THEN IN 1965 WHAT WAS YOUR NEXT EMPLOYMENT?

A I WORKED WITH NEW METHOD ENTERPRISES.

Q WHAT WAS NEW METHOD ENTERPRISES; WHAT KIND OF A COMPANY WAS THAT?

A WELL, THEY WERE HEADQUARTERED OUT OF SALT LAKE CITY, AND I WORKED FOR THEM IN SEATTLE, WASHINGTON. AND THEY WERE IN THE BUSINESS OF DEVELOPING VARYING KINDS OF HOME PRODUCTS AND ALSO HAVING THEM PRIVATE-LABELED. SOMEWHAT LIKE IF YOU GO TO SEARS AND YOU BUY A WASHING MACHINE, THE SEARS WASHING MACHINE IS ACTUALLY A MAYTAG WASHING MACHINE, AND THERE MAY BE 40 OTHER NAMES OF WASHING MACHINES THAT ARE ALSO MAYTAG. SO THEY HAD THEM PRIVATE-LABELED. AND I GOT INVOLVED WITH THEM BECAUSE OF MY SUGGESTION TO DEVELOP A CONCEPT WHERE FAMILIES, PARTICULARLY YOUNG FAMILIES WITH FINANCIAL ISSUES, COULD ACQUIRE THOSE KINDS OF THINGS THEY NEEDED WITH REGARD TO THEIR FAMILIES WHICH WERE, THOSE DAYS, EXPENSIVE THINGS. YOU KNOW, \$300 PURCHASE WAS A LOT OF MONEY IN THOSE DAYS.

AND THE IDEA WAS A CONCEPT CALLED "PACKAGING MARKETING." IF YOU GO TO A STORE TO BUY SOMETHING, THERE'S A MARKUP ON THAT. THE STORE PUTS A MARKUP ON IT FOR THE LIGHTS, AND THE EMPLOYEES, AND ALL THESE THINGS. AND SO EACH TIME YOU BUY A PRODUCT AT THE STORE, THEY HAVE ADDED ALL THESE COSTS ON.

SO MY IDEA WAS, WHY DON'T WE ALLOW PEOPLE A WAY TO BUY SOME OF THESE THINGS THAT THEY NEED TO GET ALL AT ONCE, AND ONLY PUT ONE MARKUP ON THERE SO THEY DON'T HAVE TO KEEP PAYING ALL THESE MARKUPS? THE NET RESULT IS THE FAMILIES WERE ABLE TO BUY, IN THOSE DAYS, ABOUT A THOUSAND DOLLARS' WORTH OF THINGS THEY NEEDED FOR THEIR HOMES FOR ABOUT \$300. BECAUSE WE TOOK ALL THE MARKUP COSTS OUT. AND I DID THAT UNTIL 196 -- OH, ABOUT '68 I THINK IT WAS.

Q IN 1968 WHAT WAS YOUR NEXT EMPLOYMENT?

A 1968 I DID SOME CONSULTING WORK FOR A COMPANY IN OHIO FOR A BRIEF PERIOD OF TIME. AND A FEW MONTHS THERE LATER, I WENT TO WORK AT TRANSNATIONAL CREDIT CORPORATION.

Q AND YOU WENT TO THAT COMPANY AS THE PRESIDENT; IS THAT CORRECT?

A THAT'S CORRECT. I HAD BEEN DOING SOME ANALYSIS OF THE ACCOUNTS RECEIVABLE INDUSTRY; AND IN THE COURSE OF DOING THAT AND FROM SOME -- QUITE FRANKLY, SOME PERSONAL EXPERIENCES AS A CHILD IN MY LIFE, I ANALYZED THE WAY THE COLLECTION AGENCIES WORKED.

Q LET ME STOP FOR A MOMENT.
THIS IS NOW TRANSNATIONAL CREDIT?

A RIGHT.

Q AND NOW TELL US -- I JUST WANT TO MAKE SURE WE STOP THERE. AND WE'RE TALKING ABOUT 1968 WITH TRANSNATIONAL CREDIT. YOU'RE THE PRESIDENT OF THE COMPANY. WHAT DID YOU DO AS THE PRESIDENT?

A WELL, I DID WHAT ALL CHIEF EXECUTIVE OFFICERS DO. THE BUCK STOPS HERE. I WAS RESPONSIBLE FOR EVERYTHING THAT HAPPENED IN THE COMPANY.

Q AND WHAT DID THE COMPANY DO; WHAT KIND OF BUSINESS WAS THE COMPANY IN?

A THE COMPANY WAS IN THE ACCOUNTS RECEIVABLE MANAGEMENT BUSINESS, CONSULTING BUSINESS, AND THE CORE PHILOSOPHY WHICH I HAD DEVELOPED WAS THAT THE BUSINESSMAN, THE PERSON WHO ENGAGES THE CONSUMER, HAS DUTIES. AND MY OPINION IS THAT THEY HAVE HIGHER DUTIES THAN THE CONSUMER HAS.

THERE WAS THE ISSUE, CLASSIC REALITY, WHOEVER HAS THE GREATEST KNOWLEDGE HAS THE GREATEST DUTY. AND SO WE ANALYZED THE WAY THAT COMPANIES WERE HANDLING THEIR CUSTOMERS, AND IN THEIR COLLECTIONS, AND DEVELOPED A DIFFERENT CONCEPT OF DEALING WITH CUSTOMERS WHEREBY THE BUSINESSMAN HAD TO ACCEPT HIS RESPONSIBILITIES OF GRANTING CREDIT PROPERLY, NOT GIVING PEOPLE CREDIT WHERE THEY COULD USE PELL-MELL AND GET THEMSELVES IN DEBT AND THEN START COLLECTING AGAINST THEM AND THAT KIND OF THING.

SO WE DEVELOPED A CONCEPT THAT WORKED BEFORE A COLLECTION AGENCY. SO THE IDEA WAS THAT WE DIDN'T WANT PEOPLE TO GET IN THAT UGLY EXPERIENCE. AND IT WASN'T GOOD FOR THE CONSUMER, AND IT WASN'T GOOD FOR THE BUSINESSMAN.

BECAUSE, GENERALLY SPEAKING, WHEN THE THING HAD DETERIORATED TO THAT POINT, THE CONSUMER WAS NOT ONLY NOT PAYING, BUT HE WAS USUALLY BUYING SOMEPLACE ELSE. SO EVERYONE LOST.

SO THE CONCEPT WAS TO TRY TO CAUSE THE BUSINESSMAN TO ACCEPT RESPONSIBILITY FOR HIS ROLE IN THIS SITUATION, AND THEN AT THE SAME TIME SET UP A METHOD OF COMMUNICATIONS BETWEEN THE BUSINESS AND THE CONSUMER, IF THE SITUATION BROKE DOWN, SO WE COULD RESTORE THESE PEOPLE. WE WANTED THE CUSTOMER BACK. IT COSTS A LOT OF MONEY TO DEVELOP CUSTOMERS. AND WHEN THINGS GET UGLY, YOU LOSE THE MONEY. BUT THAT'S JUST THE TIP OF THE ICEBERG. YOU LOSE THE CUSTOMER. THEY'RE DOING BUSINESS AT THE STORE DOWN THE STREET, BECAUSE THEY'RE EITHER EMBARRASSED OR UNHAPPY, AND APPROPRIATELY SO.

SO OUR IDEA WAS, IS LET'S NOT LET THIS THING GET UGLY. WHY DON'T WE TRY AND FIND A WAY TO LOOK AND SEE WHAT'S HAPPENING HERE AND DEVELOP AN APPROACH.

ALSO, AT THAT TIME, COLLECTION AGENCIES, THERE WERE NO LAWS REALLY GOVERNING MUCH OF THEIR ACTIVITIES. THEY CAN SEND GUYS OUT TO YOUR HOUSE WITH GUNS AND CLUBS AND CALL YOU ON THE TELEPHONE IN THE MIDDLE OF THE NIGHT AND DO ALL KINDS OF UGLY STUFF TO YOU. AND IN MY OPINION, THAT SERVED NO ONE. SO TRANSNATIONAL CREDIT CORPORATION GREW VERY FAST AND BECAME VERY FAMOUS BECAUSE OF THIS METHODOLOGY THAT WE HAD DEVELOPED TO. WE LOOKED AT IT AS A CONFLICT. LET'S RESOLVE THE CONFLICT AND RESTORE THESE PEOPLE.

Q BEFORE YOU MOVE ON TO YOUR NEXT POINT, WHO WERE THE CLIENTS OF TRANSNATIONAL CREDIT?

WHAT DID YOU -- WHO DID THAT COMPANY THAT YOU WERE THE PRESIDENT OF WORK FOR?

A WELL, I WORKED WITH A LOT OF PEOPLE. I WORKED FOR ABOUT 80 PERCENT OF THE FORTUNE 500 COMPANIES IN THE WORLD. THEY WORKED FOR THE STATE OF NEW JERSEY, THE STATE OF PENNSYLVANIA, DELAWARE. STATE OF DELAWARE. THEY DID WORK FOR VARIOUS MUNICIPALITIES. THE CITY OF NEW YORK CITY. THE CATHOLIC CHURCH. A WIDE VARIETY OF CLIENTS RANGING FROM BUSINESS AND INDUSTRY AND COMMUNITY SERVICE ORGANIZATIONS.

AGAIN, THE IDEA, EVERYWHERE WHERE THERE'S AN ACCOUNTS RECEIVABLE MANAGEMENT ISSUE, SOME UNITED FUND, THAT TYPE OF THING, IT WAS RATHER BROAD STRETCH TO MAINSTREAM MERCHANTS, THE ONE WHO HAD THE TRANSMISSION SHOP ON THE CORNER, THE LOCAL GROCERY STORE, OR WHATEVER.

Q LET'S STOP AND TAKE THE STATE OF NEW YORK, FOR EXAMPLE, JUST OUT OF ONE OF YOUR CLIENTS.

WHAT KIND OF WORK WOULD YOU BE DOING FOR -- WITH YOUR COMPANY, TRANSCREDIT NATIONAL CREDIT -- TRANSNATIONAL CREDIT? EXCUSE ME.

A TRANSNATIONAL CREDIT.

Q WHAT DID YOU DO IN THE STATE OF NEW YORK?

THE COURT: WE CANNOT OVERSPEAK. SHE CAN ONLY TAKE ONE SPEAKER AT A TIME.

THE WITNESS: I APOLOGIZE.

THE COURT: WAIT UNTIL THE QUESTION IS POSED BEFORE YOU TRY TO ANSWER.

THE WITNESS: OKAY. I'M A LITTLE NERVOUS. I APOLOGIZE.

THE COURT: DON'T BE NERVOUS.

BY MR. SHAW: Q I APOLOGIZE. MY QUESTION WASN'T VERY ARTFUL.

WHAT DID YOUR COMPANY -- YOU WERE THE PRESIDENT OF TRANSNATIONAL CREDIT -- DO FOR THE STATE OF NEW YORK, FOR EXAMPLE? LET'S TAKE THAT CLIENT.

A IN STATE APPLICATIONS WE DEVELOPED SYSTEMS FOR MANAGEMENT OF ACCOUNTS RECEIVABLE AND STATE-FUNDED HOSPITALS, BOTH MEDICAL AND PSYCHIATRIC FACILITIES, AND NUMEROUS OTHER AREAS, WHEREVER THERE WAS A SITUATION WHERE THERE WAS A CREDITOR RELATIONSHIP THAT EXISTED BETWEEN THE -- BETWEEN THE STATE AND SOMEONE ELSE. IN SOME CASES I MAY HAVE BEEN AGAINST INDIVIDUALS WHO WENT IN THE HOSPITAL AND USED THE STATE HOSPITAL AND DIDN'T PAY THE BILL. OR IT

MAY HAVE BEEN OTHER COMPANIES.

GREAT DEAL OF OUR WORK WAS RELATED TO RELATIONSHIPS THAT HAD ALSO EXISTED BETWEEN BUSINESSES AS WELL AS BETWEEN GRANTORS OF CREDIT IN ANY FORM, WHETHER IT BE A HOSPITAL OR A BUSINESS OR CHARITABLE ORGANIZATION AND CONSUMERS.

Q NOW, LET ME MOVE OVER, THEN, TO THE PRIVATE SECTOR, IF I CAN.

WE TALKED ABOUT THE GOVERNMENT, STATE OF NEW YORK. YOU SAID YOU HAD CLIENTS -- 80 PERCENT OF THE FORTUNE 500 COMPANIES.

80 PERCENT OF 500, IF I'M CORRECT, IS ABOUT 400.

A YEAH, AT THAT TIME. WHOEVER THEY WERE AT THAT TIME, THAT WAS MY RECOLLECTION OF IT. I REMEMBER READING A COMPANY BROCHURE THAT SAID THAT.

Q AND WHAT WORK WAS BEING DONE -- DID YOUR COMPANY DO FOR THE PRIVATE SECTOR?

A IN THE PRIVATE SECTOR WE WOULD GO IN AND ANALYZE THE WAY THAT THEY ENGAGED THE RELATIONSHIP WITH THEIR CUSTOMERS, WHAT DID THEY DO. DID THEY SAY, "HI, HELLO. COME ON IN HERE AND SPEND YOUR MONEY, AND THEN I'LL SEND AN UGLY GUY TO COLLECT IT LATER," OR DID THEY ENGAGE IN ANY OF THE APPROPRIATE AND RESPONSIBLE DISCIPLINES THAT A CREDIT MATTER SHOULD ENGAGE.

FOR EXAMPLE, WHEN SOMEONE COMES TO YOUR PLACE OF BUSINESS AND THEN WANTS CREDIT FROM YOU, OBVIOUSLY YOU HAVE THE DUTY TO TAKE A CREDIT APPLICATION TO SEE WHETHER OR NOT THEY'RE CREDITWORTHY. BUT MORE IMPORTANTLY, YOUR DUTY IN TAKING A CREDIT APPLICATION IS NOT SO MUCH TO CALL UP T.R.W. AND CHECK AND FIND OUT STUFF. IT'S TO LOOK AT THAT AND TALK. UNFORTUNATELY WE DON'T DO THIS TODAY. IT'S ALL COMPUTERS.

IN THE OLD DAYS WE HAD HUMAN BEINGS. AND WHAT WOULD HAPPEN IS YOU WOULD GO INTO A BUSINESS. YOU WENT INTO J.C. PENNY 30 YEARS AGO, AND YOU WANTED TO OPEN UP AN ACCOUNT AT J.C. PENNY. YOU TALKED TO A HUMAN BEING. AND THEY WOULD -- YOU FILL OUT A CREDIT APPLICATION. THE HUMAN BEING WOULD SIT DOWN AND TALK AND LOOK AT THAT. "OKAY. I SEE HOW MUCH MONEY YOU'RE MAKING AND WHAT YOUR BILLS ARE. AND WHAT YOU WANT TO DO, TO WHAT DO YOU WANT TO BUY FROM US, AND WHAT DO YOU THINK YOU WANT TO BUY, WELL, THAT LOOKS LIKE THAT'S GOING TO COST ABOUT \$100 A MONTH." AND THEY'D SAY, "CAN YOU AFFORD THAT? IS THAT GOING TO BE OKAY? IT'S NOT GOING TO GET YOU IN TROUBLE, NOT GOING TO BE A PROBLEM HERE," AND THEY COME TO KIND OF AGREEMENT ABOUT THAT; THAT THIS WAS GOING TO BE OKAY FOR BOTH OF THEM.

UNFORTUNATELY WE'VE TAKEN THE HUMAN BEINGS OUT OF THAT. THE SYSTEM HAS CHANGED A LOT. AND NOW WE HAVE SYSTEMS. UNFORTUNATELY, FOR EXAMPLE, I'M SURE WE'VE ALL BEEN SUFFERABLE TO THE GREAT POINT ANALYSIS SYSTEM OF YOUR CREDIT AND WHO WE ARE, WHICH IS THE UGLIEST THING THAT EVER HAPPENED IN THE WORLD.

BUT THE POINT WAS IS THAT OUR PHILOSOPHY AND OUR CORE PHILOSOPHY WAS IT'S A HUMAN RELATIONSHIP. THIS IS SOMETHING THAT EXISTS BETWEEN PEOPLE, HUMAN BEINGS. EVERYONE HAS GOT A DUTY. SO THE CREDITOR WOULD SIT DOWN

AND LOOK AND SAY, "WELL, IS THIS GOING TO WORK?" AND THAT WAY, LESS PEOPLE -- THAT'S WHY WE HAD LESS DELINQUENCIES YEARS AGO THAN WE DO TODAY, BECAUSE RELATIONSHIP STARTED RIGHT.

THEN ONCE THAT -- THAT WAS THE BEGINNING OF IT, TO DETERMINE WHAT WOULD WORK HERE, WHAT WAS NOT GOING TO PUT THE CONSUMER, THE PURCHASER SIX MONTHS FROM NOW IN A PLACE WHERE HE IS BURDENSOME. AND I WAS ONLY GOING TO GIVE HIM A BANK CARD AND SAY, GO OUT AND HAVE A GOOD TIME, AND WE'LL CHARGE YOU 21 PERCENT INTEREST. AND THEN IF YOU" -- A FEW MONTHS LATER WE'LL COME BY AND START MAKING YOU CRAZY WITH COLLECTORS.

THE IDEA WAS, IS LET'S UNDERSTAND WHAT OUGHT TO BE GOING ON HERE FROM THE BEGINNING. THIS IS A TWO-WAY STREET. AND THEN IN THE EVENT THAT THERE WERE OBVIOUSLY OTHER DISCIPLINES THAT HAD TO BE ENGAGED -- AND I WON'T BORE YOU WITH THEM ALL. BUT, IN THE EVENT THAT SOMETHING DID BREAK DOWN -- AND GENERALLY OUR RULE OF THUMB WAS A 60-DAY ISSUE. IN OTHER WORDS, IF A CONSUMER HAS NOT PAID A BUSINESS OR ANYONE IN 60 DAYS, OBVIOUSLY THERE'S A PROBLEM. IF THEY HAVE INTERCOMMUNICATED -- AND ALSO WE HAD SYSTEMS IN SO THAT IT WOULD ENABLE THE CONSUMER TO COMMUNICATE FREELY, SO THEY DIDN'T FEEL LIKE THEY WERE GOING TO BE TREATED POORLY IF THEY CALLED UP AND SAID, "YOU KNOW, GOSH, I DON'T HAVE THE MONEY THIS MONTH."

THE COURT: EXCUSE ME, SIR.

THE WITNESS: YES, SIR.

THE COURT: PERHAPS YOU CAN ASK SPECIFIC QUESTIONS. WE'RE GETTING INTO --

MR. SHAW: I WILL.

THE WITNESS: OKAY.

BY MR. SHAW: Q SIR, BEFORE I KNOW YOU WERE WITH TRANSNATIONAL CREDIT. YOU ALSO INTERFACED WITH SOME LEGISLATIVE ANALYSIS AS FAR AS SOME NEW REGULATIONS IN THE CREDIT INDUSTRY; IS THAT CORRECT?

A WELL, YES. IN THE EARLY 70'S SENATOR PROXMIRE TOOK ON THE APPROPRIATE TASK OF EXAMINING REG Z, THE FEDERAL REGULATION SOMETIMES CALLED "TRUTH IN LENDING ACT."

Q AND WHAT WAS YOUR INVOLVEMENT IN ASSISTING THAT LEGISLATION?

A WELL, I WAS PRESIDENT OF TRANSNATIONAL CREDIT CORPORATION, WHICH WAS A FORMIDABLE COMPANY IN THE INDUSTRY. WE REPRESENTED AN AWFUL LOT OF BUSINESSES. I WAS ALSO PRESIDENT OF A TRADE ASSOCIATION THAT INVOLVED CREDIT GRANTORS AND PEOPLE OF THIS NATURE.

SO WHEN SENATOR PROXMIRE ENGAGED THE TASK OF UPDATING REGULATION Z IN DEALING WITH WHAT NEEDED TO BE DEALT WITH, I PROVIDED AS MY ROLE IN THE TRADE ASSOCIATION, AND MY ROLE AS PRESIDENT OF THE COMPANY, INPUT IN THE LEGISLATION WHICH THEN REMODELED REG Z. IN PARTICULAR, THE FAIR CREDIT REPORTING ACT, WHICH ENABLED CONSUMERS TO HAVE ACCESS TO THEIR CREDIT REPORT, WHICH THERETOFORE HAD NEVER BEEN AVAILABLE, AND ALSO WE USED TO CALL THE WOMEN'S RIGHTS CREDIT ACT, BUT IN ESSENCE WHAT IT DID IS IT GAVE MARRIED WOMEN AN OPPORTUNITY TO ESTABLISH AN INDIVIDUAL IDENTITY FOR THEMSELVES WITHIN THE COMMUNITY OF THE MARRIAGE. SO IF THEIR HUSBAND PERHAPS WAS NOT A REAL GOOD

FINANCIAL MANAGER OR VICE VERSA, IF THE WIFE WASN'T, BOTH PARTIES COULD SUSTAIN AN INDIVIDUAL CREDIT IDENTITY THAT WAS NOT OFFENDED BY THE OTHER. SO IF THE HUSBAND DIDN'T PAY THE BILLS, THE WIFE DIDN'T GET HURT. BEFORE THAT, VERY OFTEN, YOU KNOW, THERE WOULD BE DIVORCES, AND WOMEN WOULD BE SADDLED WITH THOUSANDS OF DOLLARS' WORTH OF BILLS THAT WERE ACCUMULATED BY THEIR HUSBANDS. SO NOW, OF COURSE, AS I'M SURE THE JURY KNOWS, EVERYONE, EVEN IF YOU'RE MARRIED, YOU CAN HAVE TWO DIFFERENT CREDIT IDENTITIES.

Q NOW, YOU ALSO, THEN, MOVED UP THE CORPORATE LADDER WITHIN THE COMPANY FRAMEWORK OF TRANSNATIONAL CREDIT, AND YOU BECAME THE CHIEF EXECUTIVE OFFICER OF THE HOLDING COMPANY?

A YES. WELL, I HELD TWO POSITIONS. I WAS PRESIDENT OF TRANSNATIONAL CREDIT IN 1974. I BECAME CHAIRMAN OF THE BOARD OF TRANSNATIONAL COMPANIES.

Q SO YOU STARTED THERE IN '68. AND IN 1974, YOU BECAME THE CHIEF EXECUTIVE OFFICER OF THE HOLDING COMPANY?

A I WAS THE CHAIRMAN OF THE BOARD.

Q CHAIRMAN OF THE BOARD. I'M SORRY. I MISSPOKE.

A I WAS NOT THE CHIEF EXECUTIVE OFFICER.

Q AND WHAT WERE YOUR DUTIES AS CHAIRMAN OF THE BOARD?

A AS THE POSITION DEFINES, THE BOARD HAS A DUTY TO OVERSIGHT THE DAILY MANAGEMENT OF THE COMPANY BY THE OPERATING OFFICERS. YOU GOT THE BOARD, AND THEN YOU'VE GOT THE PRESIDENT, VICE-PRESIDENT AND THOSE KINDS OF DIFFERENCES BETWEEN WHO IS OPERATING THE COMPANY AND WHO IS RUNNING THE COMPANY. THE BOARD OF DIRECTORS OR THE STOCKHOLDER IN REALITY RUN THE COMPANY.

Q WAS IT A PUBLIC --

A THE OFFICERS OPERATE IT.

Q WAS IT A PUBLICLY TRADED COMPANY?

A NO, I DON'T THINK IT WAS. IT MAY HAVE BEEN AFTER I LEFT, BUT IT WASN'T DURING MY TERM.

Q IT WAS PRIVATELY HELD?

A YES.

Q OKAY. NOW, YOU WERE THERE THROUGH WHAT YEAR AS CHAIRMAN OF THE BOARD?

A FROM '74 TO '76.

Q WHAT WERE SOME OF THE OTHER COMPANIES THAT WERE WITHIN THAT HOLDING GROUP FOR WHICH YOU WERE CHAIRMAN OF THE BOARD?

A IT WAS TRANSNATIONAL -- WELL, TRANSNATIONAL CREDIT CORPORATION, TRANSNATIONAL COMPUTER CORPORATION, WHICH WAS THE -- IF NOT THE LARGEST, ONE OF THE LARGEST COMPUTER SERVICE -- IN THOSE DAYS WE CALLED IT COMPUTER SERVICE BUREAU, IN THE UNITED STATES, OUTSIDE OF THE GOVERNMENT'S FACILITY IN ALEXANDRIA. AND THAT ORGANIZATION ENGAGED IN VARIOUS ACTIVITIES THAT MANAGED THINGS FOR DIFFERENT STATES. THE ILGW, THE INTERNATIONAL LADIES GARMENT WORKERS UNION.

AND, OH, PURDUE CHICKENS, WHICH WAS KIND OF FUN, BECAUSE THEY DEVELOPED A COMPUTERIZED MANAGEMENT SYSTEM WHICH I WOULDN'T WANT TO WORK UNDER, WHERE THEY DETERMINED WHETHER I WAS THE CHICKEN OR THE ROOSTER WHO

DIDN'T DO HIS JOB IN PRODUCING THE EGGS. AND SOME OF US EVERY DAY HAVE SOME CAMPBELL'S ROOSTER SOUP BECAUSE OF THAT. TOUGH WORK THERE, I'D SAY.

Q NOW, IN 19 -- WHEN DID YOU LEAVE TRANSNATIONAL?

A OH, DID YOU WANT THE REST OF THE COMPANIES?

Q I'M SORRY. GO AHEAD.

A TRANSNATIONAL CONSTRUCTION COMPANY WHICH WAS AN INTERNATIONAL COMPANY INVOLVED IN ELECTRICAL CONTRACTING; CREATIVE RESTAURANTS CORPORATION, WHICH HELD RESTAURANTS; VIDEOTAPE SPECIALISTS, WHICH WAS INVOLVED IN BRINGING -- AS A MATTER OF FACT, THEY PUT FORTH THE CONGRESSIONAL LEGISLATION THAT ALLOWED FOR VIDEOTAPED DEPOSITIONS IN THE FEDERAL PROCESS. THEY HELD SOME TELEVISION STATIONS. AND I APOLOGIZE. NUMEROUS OTHER ENTITIES.

Q AND YOU WERE CHAIRMAN OF THE BOARD THROUGH WHAT TIME PERIOD?

A UNTIL 1976 I WAS CHAIRMAN OF THE BOARD.

Q AND THEN WHEN DID YOU LEAVE TRANSNATIONAL?

A MID 1976.

Q AND WHAT DID YOU DO; WHAT WAS YOUR NEXT EMPLOYMENT?

A WELL, I DID -- FOR A SHORT PERIOD OF TIME, MAYBE 30 TO 60 DAYS, I DID SOME LECTURING. I DID ONE SERIES OF LECTURES IN 40 CITIES AROUND THE COUNTRY.

Q AND AFTER YOUR LECTURE CIRCUIT, WHAT WAS YOUR NEXT EMPLOYMENT?

A I TOOK A VACATION FOR ABOUT A YEAR, YEAR AND A HALF. AND THEN I CAME TO CALIFORNIA IN 1978.

Q AND WHAT DID YOU DO IN 1978?

A 1978 I WAS DOING -- DID A LITTLE CONSULTING WORK FOR MONEX INTERNATIONAL. I --

Q DURING THIS TIME PERIOD YOU WENT TO LAW SCHOOL?

A YEAH. 1980. 1979 TO 1980 I ENROLLED IN LAW SCHOOL IN CALIFORNIA, BECAUSE I WASN'T WORKING, AND I WAS INTERESTED. AND I STUDIED THE SUBJECT BEFORE PERSONALLY.

Q HOW DID YOU DO THAT WITHOUT GOING TO COLLEGE?

A WELL, THAT WAS A LITTLE PROBLEM. I WENT TO LAW SCHOOL, AND I TALKED TO THE PEOPLE. AND THEY OFFERED THAT UP ALSO. AND THEN THEY TOLD ME THAT APPARENTLY I HAD QUITE A SUBSTANTIAL AMOUNT OF LIFE EXPERIENCE. AND IF I TOOK A TEST, THAT -- AND DID SUFFICIENTLY ON IT, THEY WOULD GIVE ME A COLLEGE -- THE EQUIVALENT OF A COLLEGE RATING FOR THE TEST I TOOK. AND THEN IT ALSO REQUIRED ME TO PASS THE LSAT.

Q LAW SCHOOL ADMISSIONS TEST?

A YEAH. THE LAW SCHOOL ADMISSIONS TEST AT A SUBSTANTIAL HIGHER RATE THAN THEY WOULD HAVE ADMITTED OTHER STUDENTS. IT WAS KIND OF A WAY OF -- I THINK A BALANCING ACT THEY DID TO LET YOU IN WITHOUT THIS, BUT YOU'RE GOING TO HAVE TO DO A LITTLE BETTER.

Q AND DID YOU TAKE THOSE TWO TESTS?

A YES, SIR.

Q AND DID YOU PERFORM SUFFICIENTLY TO BE ADMITTED TO THE LAW SCHOOL?

A YEAH. I WAS ENROLLED AS A FULL-TIME

STUDENT.

Q AND WHAT LAW SCHOOL WAS THAT?

A WESTERN STATES.

Q WESTERN STATE?

A WESTERN STATES IN FULLERTON, CALIFORNIA.

Q NOW, YOU DIDN'T FINISH THE FIRST YEAR THERE, DID YOU?

A NO, SIR.

Q WHY DIDN'T YOU FINISH THE FIRST YEAR?

A DURING THE COURSE OF THAT TIME I WAS ASKED TO TAKE ON THE POSITION AS PRESIDENT OF A TRADE ASSOCIATION.

Q AND WHAT DECISION DID YOU MAKE WHEN YOU WERE ASKED TO DO THAT?

A I TOOK IT ON BECAUSE IT WAS A NEW TRADE ASSOCIATION THAT WAS FORMING. THERE WAS A LOT OF ACTIVITY IN THE INVESTMENT WORLD AT THAT TIME.

YOU MAY RECALL THAT IN 1978 WE HAD THE HIGHEST INFLATION IN THIS COUNTRY, AND IN THE WORLD THEY WE HAD EVER HAD. INFLATION, IT WAS RUNNING 18 TO 20 PERCENT IN THOSE DAYS. IF YOU WANTED TO GET A MORTGAGE, IT COULD RUN 20 PERCENT, A FIRST MORTGAGE. AND THERE WAS A LOT OF ACTIVITY GOING ON WITH PEOPLE TRYING TO, YOU KNOW, DEAL WITH THIS PROBLEM, EVEN AVERAGE CITIZENS LOOKING FOR DIFFERENT INVESTMENT VEHICLES.

ONE OF THOSE INVESTMENT VEHICLES, WHICH IT HAD BEEN KNOWN IN EUROPE FOR 50 YEARS, WERE WHAT THEY CALLED "INVESTMENT QUALITY DIAMONDS." AND AS A RESULT OF THIS, SOME VERY SMART ENTREPRENEURS IN THE UNITED STATES SAW AN ADVANTAGE HERE. AND SO THEY STARTED SELLING PEOPLE OVER THE PHONE DIAMONDS, WHICH IS A REAL NEAT TRICK TO SELL THEM. YOU CAN'T SEE A DIAMOND OVER THE PHONE, BUT THEY WERE SUCCESSFUL AT IT. SO THE LEGITIMATE DIAMOND MERCHANTS WANTED TO DEAL WITH THIS PROBLEM. THE GOVERNMENT WAS NOT DEALING WITH IT AND WASN'T PREPARED TO DEAL WITH IT.

SO THEY THOUGHT BY FORMING A TRADE ASSOCIATION WHICH COULD FOCUS ON THE CONSUMER ISSUES AND GET SOME PUBLICITY OUT THERE TO HELP CONSUMERS SO THEY WOULDN'T BE RIPPED OFF, THIS WOULD BE A GOOD THING. AND THEY KNEW THAT I HAD -- ENTIRE CORE OF MY CAREER WAS BASED UPON MY PHILOSOPHY THAT IF IT'S GOOD FOR THE CUSTOMER, IT'S GOOD FOR THE BUSINESS. AND WE NEED TO WORK BACKWARDS. TAKE CARE OF THE CUSTOMER FIRST. THEY THOUGHT THAT I WOULD BE AN APPROPRIATE CANDIDATE FOR THIS. AND I HAD ALSO HAD EXPERIENCE IN OTHER TRADE ASSOCIATIONS.

Q NOW, HOW LONG WERE YOU THE PRESIDENT OF THAT PARTICULAR TRADE ASSOCIATION?

A I WAS THE PRESIDENT OF THAT TRADE ASSOCIATION FOR ABOUT SIX MONTHS, AND THEN IT WAS MERGED INTO ANOTHER LONGSTANDING INDUSTRY TRADE ASSOCIATION THAT EXISTED IN NEW YORK CALLED "THE AMERICAN ASSOCIATION OF DIAMOND MERCHANTS." AND I WAS CO-PRESIDENT FOR ABOUT THREE MONTHS. AND THEN THEY HAD AN ELECTION, AND THEN I WAS PRESIDENT OF THAT ASSOCIATION FOR ABOUT A YEAR UNTIL I -- MY TERM WAS UP.

Q NOW, THIS TAKES US TO ABOUT THE 1980 TIME PERIOD. I KNOW THE INITIAL QUESTIONS, YOU SAID YOU WERE IN THE CAMPGROUND RESORT BUSINESS FOR ABOUT 20 YEARS. SO THIS NOW GETS TO THAT THRESHOLD.

A YES, SIR.

Q I'D LIKE TO NOW CHANGE OUR FOCUS FROM YOUR OTHER LIFE, BEFORE CAMPGROUND RESORT EXPERTISE --

A BEFORE AND AFTER DEATH.

Q -- AND TALK ABOUT HOW YOU DEVELOPED YOUR SPECIAL SKILL, KNOWLEDGE, EXPERTISE AND TRAINING IN THE CAMPGROUND RESORT AREA.

HOW DID THAT BEGIN IN 1980?

A ACTUALLY IT BEGAN -- WAS A RESULT -- I WAS DOING SOME CONSULTING WORK FOR CHRIS DAVIS OF TRAVELERS CORPORATION.

Q STOP THERE.

WHAT IS TRAVELERS CORPORATION?

A TRAVELERS CORPORATION WAS A COMPANY THAT WAS STARTED IN THE EARLY '60'S INITIALLY AS THE FUNDING SOURCE FOR TRAVEL CLUBS, NOT THE KIND OF TRAVEL CLUBS WE HAVE TODAY. BUT IN THE EARLY '60'S IT WAS QUITE A THING THAT HAPPENED. VERY SMART GENTLEMAN FROM MINNESOTA FOUND THAT THERE WAS A LITTLE NICHE IN PART 151 OF THE FAA REGULATIONS WHICH GOVERNED THE ACTIVITY AND THE MANAGEMENT OF AIRLINES. AND, ESSENTIALLY, IN THIS COUNTRY YOU CAN OPERATE AN AIRLINE UNDER A COMMERCIAL LICENSE, LIKE ALASKA AIRLINES OR TWA. YOU CAN OPERATE AN AIRLINE WITH A SUPPLEMENTAL AIR CARRIER'S LICENSE, AND THERE HAVEN'T BEEN ANY OF THOSE ISSUED SINCE WORLD WAR II. AND THERE'S ONLY 25 OF THEM, THE FLYING TIGERS AIRLINE PEOPLE, FOR EXAMPLE, ARE SUPPLEMENT AIR CARRIERS.

BUT THERE'S -- THE LITTLE FLAW IN THAT REGULATION SAYS IF YOU'RE A MEMBER OF A COMMON GROUP, LIKE A CHURCH OR THE KIWANIS CLUB OR THE ELKS OR V.F.W., YOU CAN OPERATE AN AIRLINE WITHOUT BEING SUFFERABLE TO ALL THOSE REGULATIONS. AND THE PRIMARY CONCERN AT THAT POINT WAS, IF I WAS OPERATING AN AIRLINE, AND I WANTED TO FLY, LET'S SAY, FROM SANTA ANA TO NEW YORK, AND EVEN IF I COULD GET A NEW COMMERCIAL AIRLINE LICENSE, THAT DIDN'T MEAN I COULD FLY THERE IF I WANTED, BECAUSE THE OTHER GUYS WERE ALREADY FLYING THERE. IF I REALLY WANTED TO FLY THERE, THEY SAY YOU CAN FLY THERE IF YOU STOP IN MASULA, MONTANA AND MINNESOTA, AND LIBERTY, TEXAS IN ORDER -- I HAD TO STOP ABOUT NINE PLACES BETWEEN HERE AND NEW YORK. AND THAT COSTS A LOT OF MONEY. SO IT DOESN'T WORK. SO THEY FOUND OUT THIS LITTLE THING, AND TRAVEL CLUBS FORMED ALL OVER THE COUNTRY.

AND TRAVELERS HAD A -- THE PEOPLE HAD A THING CALLED "JET-SET TRAVEL CLUB." AND WHEN I WAS WITH TEMPLE AIRWAYS, THE MORMONS, THEY PUT TOGETHER A DEAL CALLED "WORLD TRAVEL CLUB." SO I MET MR. DAVIS AND THESE PEOPLE SOME YEARS EARLIER. AND SO I SAID HELLO TO THEM AGAIN IN 1980. AND THEY ASKED ME TO DO SOME CONSULTING WORK FOR THEM. AND AS PART AND PARCEL TO THAT, I GOT INTO THE CAMP RESORT INDUSTRY.

Q LET'S STOP THERE FOR A MOMENT AND TALK ABOUT WHAT YOU DID FOR TRAVELERS, IN TERMS OF THE CAMPGROUND RESORT INDUSTRY.

A MY FIRST -- OR NOT MY FIRST ENGAGEMENT. BUT MY FIRST ENGAGEMENT WITH REGARD SPECIFICALLY TO A CAMP RESORT INVOLVED A CAMP RESORT IN ORANGE, CALIFORNIA, AND A CORPORATION CALLED "NATIONAL HERITAGE RESORTS." THAT WAS A

MEMBER OF THE COAST TO COAST SYSTEM. AND THEY HAD A PARK IN -- ALSO IN ARIZONA CALLED "HAWKEYE," IN SEDONA, ARIZONA. THE GENTLEMAN WHO HAD THAT COMPANY, ALAN JONES, WAS -- HAD BORROWED HALF A MILLION DOLLARS FROM TRAVELERS AND SECURED IT BY THE MEMBERSHIP CONTRACTS FROM HIS MEMBERS. AND THINGS WERE NOT GOING SO WELL, AND TRAVELERS WAS CONCERNED.

SO I DID AN INVESTIGATION OF HIS BUSINESS AND AN ANALYSIS, AND I DETERMINED THAT THIS CHAPTER WAS NOT BEHAVING PROPERLY. AND I REPORTED THIS FOR -- TO TRAVELERS, AND THEY ASKED ME TO -- ALSO PART AND PARCEL TO MY ANALYSIS TO PERHAPS DEVELOP A -- SOME APPROACH THAT MIGHT WORK TO DEAL WITH THE PROBLEM --

Q AND DID YOU --

A -- WHICH I IN FACT DID, AND I WAS APPOINTED TRUSTEE OF THE COMPANY.

THE COURT: EXCUSE ME JUST A MINUTE. YES, SIR?

MR. RIVIN: MAY WE APPROACH?

THE COURT: YOU MAY. COUNSEL APPROACH.

(DISCUSSION HELD OFF THE RECORD OUT OF THE PRESENCE OF THE JURY.)

BY MR. SHAW: Q MR. MITCHELL, YOU BECAME TRUSTEE OF THE COMPANY, NATIONAL HERITAGE RESORT?

A THAT'S CORRECT.

Q WHAT DID YOU DO AS TRUSTEE?

A AS TRUSTEE I RAN THE ENTIRE COMPANY. THE OWNER WAS REQUIRED TO LEAVE AND TURN IT OVER TO ME TO RUN.

Q AND HOW LONG DID YOU RUN THAT COMPANY?

A OH, UNTIL IT GOT ON ITS FEET AND IT WAS -- AND SOLD.

Q AND WHEN WAS IT SOLD?

A ABOUT A YEAR TO A YEAR AND A HALF LATER, I SUSPECT.

Q NOW, AS TRUSTEE, YOU RAN THE VARIOUS PARKS FOR THAT, THAT WERE PART OF THAT NATIONAL HERITAGE RESORT SYSTEM?

A THAT'S CORRECT.

Q AND WHAT DID IT INVOLVE IN RUNNING THOSE PARKS?

A WELL, IT INVOLVED THE SAME THING I WOULD DO AS IF I WERE PRESIDENT OF THE COMPANY. I HAD TO MAKE SURE THAT THESE PROPERTIES WERE BEING OPERATED TO THE BENEFIT OF THE MEMBERS, THE BILLS WERE BEING PAID, AND THAT THE BUSINESS WAS ON A SOLID STEP AND MOVING FORWARD, AND THERE WASN'T ANYTHING BEING DONE ILLEGALLY, IMMORAL OR FATTENING.

Q AND THAT WAS THE FIRST EXPERIENCE YOU HAD IN THE CAMPGROUND RESORT BUSINESS, IN RUNNING RESORTS?

A YES.

Q NOW, THAT WAS IN THIS 1980 TIME PERIOD?

A EARLY '80'S, YES, SIR.

Q HOW LONG WERE YOU WITH -- WERE YOU STILL DOING CONSULTING WORK FOR THE COMPANY --

A TRAVELERS CORPORATION.

Q -- TRAVELERS CORPORATION?

A YES. I'VE DONE WORK WITH THEM CONTINUOUSLY, UP UNTIL SIX MONTHS AGO, WHEN THE CORPORATION WAS SOLD.

Q OKAY. NOW, LET ME STAY IN THAT EARLY 1980

TIME PERIOD. WAS THERE A TIME WHEN YOU WERE INVOLVED WITH ANOTHER TRADE ASSOCIATION CALLED "RESORT DEVELOPERS ASSOCIATION"?

A YES. THAT WOULD BE ABOUT 1995.

Q OKAY. THAT WAS LATER IN TIME, THEN?

A YES, SIR.

Q LET ME STAY IN THE EARLY 1980 TIME PERIOD, THEN. WHAT WAS YOUR NEXT INVOLVEMENT IN THE CAMPGROUND RESORT AREA?

A AS A RESULT OF MY EXPERIENCE IN OPERATING THE FLYING B RANCH AND NATIONAL HERITAGE RESORTS, QUITE FRANKLY I BECAME VERY FASCINATED WITH IT, AND I FORMED A COMPANY WITH OTHERS CALLED "NATIONAL RESORTS."

Q WHAT YEAR WAS THAT?

A OH, LATE '83, '84, IN THAT RANGE, I THINK.

Q AND WHAT WAS THAT COMPANY?

A THAT COMPANY WAS DESIGNED TO ENGAGE IN TURNAROUND, IN OTHER WORDS, TO DEAL WITH PROBLEM RESORTS, AND TO MANAGE RESORT PROPERTIES.

Q AND HOW LONG WERE YOU WITH THAT COMPANY?

A UNTIL I THINK ABOUT '86 OR '87, IN THAT RANGE.

Q WHAT DOES A "TURNAROUND" MEAN? WHAT DO YOU DO IN TERMS OF A TURNAROUND?

A WELL, HOPEFULLY YOU'RE GOING IN A BAD DIRECTION, AND WE OUGHT TO TURN AROUND AND GO IN A GOOD DIRECTION. THAT'S I THINK THE COMMON TERM THESE DAYS MAYBE, WORKOUT. IN THOSE DAYS WE CALLED THEM TURNAROUND. AND OUR JOB WOULD BE TO GO IN AND LOOK AT THE SITUATION AND FIX IT, TAKE SOMETHING THAT WASN'T HEALTHY AND MAKE IT HEALTHY.

Q AND THE THINGS THAT WOULDN'T BE HEALTHY WOULD BE THINGS LIKE LAWSUITS OR TAX LIENS OR PENDING BANKRUPTCIES; THOSE WOULD BE THE KIND OF THINGS THAT WOULD BE NOT GOING SO WELL?

A THAT CERTAINLY COULD BE PART OF IT, OR LESSER. IN OTHER WORDS, IT MAY NOT HAVE RISEN TO THAT LEVEL OF GRAVITY. BUT IF THE PROBLEMS WERE NOT ADDRESSED, IT WOULD SHORTLY BE AT THAT LEVEL.

Q OKAY. NOW I'D LIKE TO TURN TO THE SUBJECT OF CONSULTING. WE STARTED THE AFTERNOON WITH YOUR BEING A CONSULTANT TO THE -- PRIMARILY TO THE CAMPGROUND RESORT AREA.

WHAT RESORTS HAVE YOU PROVIDED CONSULTING SERVICES FOR IN YOUR 20 YEARS' EXPERIENCE?

LET'S TALK ABOUT THE HAWKEYE AND THE FLYING B, THE ONES THAT YOU JUST TALKED ABOUT THAT.

NOW, THAT WAS THROUGH THE NATIONAL HERITAGE RESORTS WHERE YOU WERE TRUSTEE?

A YES.

Q THOSE TWO?

A YES. I WAS TRUSTEE OF NATIONAL HERITAGE RESORTS. I WAS APPOINTED BY THE ATTORNEY FOR MR. JONES, AS OPPOSED TO MR. JONES PERHAPS SUFFERING UGLY CONSEQUENCES.

Q LET'S TURN TO THE BEECHWOOD RESORT. WERE YOU INVOLVED IN THAT PARTICULAR -- CONSULTING FOR THAT RESORT?

A YES.

Q WHAT DID YOU DO FOR THAT RESORT?

A WELL, IT BEGAN AS A CONSULTING ASSIGNMENT. THE RESORT WAS OWNED BY ELING HALVORSON FROM SEATTLE, A WONDERFUL MAN, WHO BROUGHT THE SUN OF SUN EXHIBIT TO THE UNITED STATES, THE FAMOUS CHINESE TERRA-COTTA THINGS, THE HUMANITARIAN GUY. AND THE RESORT, HE HAD GOTTEN IT BECAUSE OF -- HE HELPED A FRIEND OUT, AND IT WENT INTO BANKRUPTCY. IT HAD A COUPLE HUNDRED OWNERS. THE PROPERTY WAS NOT FUNCTIONING. THE OWNERS WERE NOT GETTING WHAT THEY PAID FOR AND HAD BEEN AFOUL FOR A FEW YEARS. SO I WAS CALLED IN TO ANALYZE THE SITUATION AND MAKE RECOMMENDATIONS.

AND THEN SUBSEQUENT TO THOSE RECOMMENDATIONS, NATIONAL RESORTS WAS RETAINED TO OPERATE THE BUSINESS.

Q NATIONAL RESORTS WAS YOUR COMPANY?

A THE COMPANY I WAS -- YES, SIR.

Q OKAY. LET'S TALK ABOUT THE AMERICAN TRAILS RESORTS.

DID YOU DO ANY CONSULTING WORK FOR THOSE RESORTS?

A YES. AMERICAN TRAILS IN THE EARLY '80'S WAS ONE OF THE MAJOR COMPANIES, AND THEN ONE ON THE LIST OF COMPANIES WHICH IN THE 1985 COAST TO COAST CONVENTION I HAD PREDICTED FAILURE FOR. AND THEY HAD 11 RESORTS TO MY RECOLLECTION AND 15- OR 20,000 MEMBERS, SOMETHING IN THAT RANGE.

Q AND WHAT WORK DID YOU DO ON THEIR BEHALF?

A THE COMPANY HAD GOT INTO SERIOUS FINANCIAL DIFFICULTY. THEY WERE UNABLE TO WORK THEIR WAY OUT OF IT. I WAS CALLED IN TO ANALYZE THE SITUATION AND TRY TO FIGURE OUT A WAY TO FIX IT. WE DEVELOPED A PLAN TO FIX IT. HOWEVER, THE BOARD OF DIRECTORS DIDN'T THINK THEY WANTED TO GO THROUGH THE HASSLE OF FIXING IT.

SO THEY ASKED US TO LOOK AT ALTERNATIVES. AND SO WE DEVELOPED A PLAN TO GET THE CREDITORS PAID, AND THE MEMBERS PAID BACK THEIR MONEY. AND THE MEMBERS TRANSFERRED SO THEY WOULD HAVE A PLACE TO USE SERVICES. AND IT CREATED AN ENORMOUS LOSS, WHICH THEN I WAS ABLE TO TAKE OVER AND SELL TO A COMPANY CALLED WOOLCO, WHICH IS HEADQUARTERED HERE IN ORANGE COUNTY, WHICH IS THE WORLD'S LARGEST MANUFACTURER OF CLEANING BRUSHES FOR COAL-DRIVEN ELECTRICAL PLANTS. AND THEY BOUGHT IT STRICTLY FROM A BUSINESS STANDPOINT BECAUSE THEY COULD USE THE WRITEOFFS.

SO THE MONEY I GOT FROM THEM I WAS ABLE TO USE TO PAY PEOPLE AND TAKE CARE OF THE MEMBERS. AND THE COMPANY ULTIMATELY WAS DISSOLVED.

Q LET ME SHIFT SUBJECTS TO THE ELITE RESORTS AND THE PURCHASE OF THOSE RESORTS BY THE LEISURE TIME RESORTS, MR. ALBERTSON. WELL, LET ME STOP AND TALK ABOUT ELITE RESORTS.

WHAT WORK DID YOU DO FOR THEM?

A WELL, ELITE RESORTS WAS FORMED BY BUDDY MC KAY'S BROTHER, THE GOVERNOR OF FLORIDA, GEORGE MC KAY. HAD OWNED A RESORT IN FLORIDA, A SMALL FACILITY. IT'S BEEN A MEMBER OF COAST FROM TIME TO TIME. AND A GENTLEMAN BY THE NAME OF EDWARD MAYER FROM CANADA, WHO IS WORTH HUNDREDS OF MILLIONS OF DOLLARS AND BECAME QUITE FAMOUS IN THE TELEPHONE COMMUNICATIONS INDUSTRY, THEY

TOOK GEORGE'S RESORT AND BOUGHT THREE OF OUR PROPERTIES IN FLORIDA, AND THEY WERE LOOKING -- MR. MAYER WAS LOOKING TO DO A ROLL-UP. HE FELT THAT THE CAMP RESORT INDUSTRY HAD BEEN THROUGH 20 YEARS OF NATURAL REALITIES OF ENTREPRENEUR INDUSTRY. THE ENTREPRENEUR INDUSTRY DID HAVE ABOUT A 25-YEAR MATURATION PERIOD.

THIS IS TO SAY THAT THEY MOVE -- FROM THE TIME THE GUYS THAT START THEM, YOU KNOW, KIND OF THE SALES GUYS THAT GO IN AND DO EVERYTHING AND SO ON TO WHERE THEY GO THROUGH THE SHAKE-OUT, THERE'S ALWAYS PROBLEMS. AND THERE HAD BEEN PROBLEMS OF COURSE IN THE CAMP RESORT INDUSTRY WITH HIGH-PRESSURE SALE TACTICS AND SO ON. SO THEY FELT THE TIMING WAS RIGHT. THE TIME SHARE INDUSTRY, NOW KNOWN AS THE VACATION OWNERSHIP INDUSTRY, HAD GONE THROUGH THE SAME 25-YEAR DEVELOPMENT PERIOD AND WAS LEGITIMIZED BY THE HOTELS NOW, DISNEY AND HILTON AND SO ON. SO THEY WANTED TO DO THE SAME THING WITH THE CAMP RESORT INDUSTRY. THEY RETAINED ME TO PROVIDE THEM COUNSEL ON HOW TO DO THAT, AND THEN ALSO TO MAKE RECOMMENDATIONS TO THEM ON RESORT PROPERTIES THAT THEY MIGHT BUY INTO. THEY WANTED TO GET A HUNDRED RESORTS TOGETHER SO THEY COULD HAVE THE EFFICIENCIES AND ECONOMIES OF VOLUME.

THE FIRST RESORT OR ONE OF THE FIRST FIVE PROPERTIES I RECOMMENDED TO THEM WAS LEISURE TIME RESORTS, THE BERNIE ALBERTSON RESORT GROUP, AND I NEGOTIATED A PURCHASE OF THAT COMPANY. AND MR. MAYER PUT DOWN A HALF A MILLION DOLLAR NOTE OF SINCERITY AND ENGAGED THAT PROCESS OF DUE DILIGENCE.

Q I'M GOING TO MOVE THIS ON TO A DIFFERENT.
MR. RIVIN: YOUR HONOR, EXCUSE ME. I THINK THE WITNESS IS GOING WAY BEYOND THE COMPANY. THE QUESTION THAT WAS JUST ANSWERED, WHAT WORK DID YOU DO FOR THEM, I'D ASK THAT THE WITNESS TRY TO ANSWER THE QUESTION A LITTLE MORE DIRECTLY.

THE COURT: ALL RIGHT. THANK YOU.

THE WITNESS: YES, SIR.

BY MR. SHAW: Q MR. MITCHELL, LET'S -- SUFFICE IT TO SAY, LET ME TRY TO BRING THIS PORTION OF THE QUESTIONING TO A POINT OF YOU'VE DONE CONSULTING WORK FOR A NUMBER OF RESORTS OVER THE LAST 20 YEARS; IS THAT CORRECT?

A YES, SIR.

Q AND WE'VE TALKED ABOUT SEVERAL IN THE LAST 15, 20 MINUTES.

YOU'VE DONE WORK FOR 20 OR 30 OTHER RESORTS. SPECIFICALLY, I'M JUST TALKING ABOUT THE PHYSICAL RESORT THEMSELVES, AND I'LL GET INTO THE OTHER CONSULTING THAT YOU'VE DONE.

BUT WHERE YOU'VE GONE IN AND ROLLED UP YOUR SLEEVES, AS IT WERE, AND GONE IN AND DEALT WITH PLUGGED-UP TOILETS --

A I'VE CLEANED THE TOILETS, YES, SIR.

Q -- AND THE FLY SWATTERS AND ALL THE REST OF THE STUFF, THAT'S PART OF WHAT YOU'VE BEEN DOING THE LAST 20 YEARS?

A IT WASN'T WHAT I WAS HIRED TO DO, BUT I'VE DONE IT, YES.

Q AND YOU'VE DONE THAT AS AN OWNER FOR THE NATIONAL HERITAGE RESORTS, AS A TRUSTEE, AND YOU'VE DONE IT

AS A CONSULTANT, AND YOU'VE BEEN INVOLVED IN EVERY PHASE OF THE CAMPGROUND RESORT INDUSTRY; IS THAT CORRECT?

A YES, SIR.

Q AS FAR AS THE RESORTS ARE CONCERNED -- LET ME STOP THERE, AND LET'S DEFINE THE RESORT.

WHAT IS THE RESORT? WE'VE TALKED ABOUT IT IN THE LAST 45 MINUTES. WHAT IS IT?

A WELL, THE RESORT IS THE PHYSICAL PLANT, PROPERTY, AND ALL OF THE PHYSICAL IMPROVEMENTS ON THAT PROPERTY WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, SWIMMING POOLS, JACUZZIS, CLUBHOUSES, IN SOME CASES GOLF COURSES, TENNIS COURTS. EACH ONE OF THESE PROPERTIES WILL VARY IN SIZE AND IN SCOPE TO THEIR AMENITIES.

AT THE MINIMUM AND WHEN THIS INDUSTRY STARTED OUT THESE THINGS, THE FIRST RESORT IN THE BUSINESS WAS 640 ACRES OF RAW LAND. IT HAD NOTHING ON IT AT ALL. AND THE MAN WHO STARTED THAT SOLD MEMBERSHIPS TO IT FOR PEOPLE TO USE TRAIL BIKES. AND THAT COMPANY WAS CALLED "THOUSAND TRAILS." AND THAT'S WHY IT'S CALLED THOUSAND TRAILS, BECAUSE BOTH PEOPLE WHO WORKED AT BOEING HAD TRAIL BIKES. AND THOSE DAYS THEY WERE NOISY AND COULDN'T USE THEM ANYWHERE. AND THIS MAN SOLD MEMBERSHIPS FOR LIKE A HUNDRED BUCKS A YEAR, AND THEN THEY WOULD SAY, "GEEZ, WE'D LIKE A TOILET, AND THEN WE MIGHT LIKE, YOU KNOW, SOMETHING ELSE." AND THE INDUSTRY EVOLVED AS A CONSEQUENCE OF THAT.

Q OKAY. NOW, THAT'S -- WE CALL THAT A RESORT, A CAMPGROUND RESORT.

WE'VE HEARD THE TERM "PARK" BEING USED THROUGHOUT THE MORNING IN THE OPENING STATEMENTS. WHAT'S A PARK, AND HOW DOES THAT RELATE TO THE DEFINITION OF RESORT?

A WELL, HERE I WILL GIVE YOU THE CHRONOLOGY OF EVENTS. THEY STARTED OUT AS CAMPGROUNDS, AND THEN THEY GOT A TOILET. AND THEY GOT A -- MAYBE AN ELECTRICAL HOOKUP FOR YOUR CAMPER. AND MAYBE THEY GOT SEWAGE AND WATER. AND THEN THEY BECAME A PARK. AND THEN THEY GOT A SWIMMING POOL AND A TENNIS COURT AND OTHER AMENITIES, AND THEY BECAME A RESORT.

AND IN THE CASE OF COAST TO COAST, FOR EXAMPLE, THEY WERE FIRST CAMP -- CAMPGROUNDS. THEN THEY WERE PARKS. AND IN RECENT INCARNATION, IT'S COAST TO COAST RESORTS. AND IT'S NOT JUST A NAME. MAINLY PROPERTIES AND THE AMENITIES HAVE IMPROVED ALSO.

Q NOW, I'M NOT GOING TO MAKE US ALL GO THROUGH THE EXERCISE OF GOING THROUGH EACH RESORT. YOU AND I HAVE PREPARED 21. YOU'VE DEALT WITH A LOT MORE THAN 21. I'M GOING TO STOP IT HERE, BUT I'M GOING TO ASK YOU THE QUESTION, THOUGH.

THE OTHER SIDE OF THE COIN, THESE RESORTS THAT YOU'VE CONSULTED WITH OR OWNED OR WAS THE TRUSTEE FOR THE NATIONAL HERITAGE RESORT, WERE THEY IN -- ANY OF THOSE IN THE COAST TO COAST SYSTEM?

A YES. AND IF THEY WEREN'T, I PUT THEM IN.

Q OKAY. NOW, TELL ME HOW -- YOU'VE TOLD US IT STARTED THROUGH THE CAMPGROUND. AND IF THERE'S A TOILET AND SOME OTHER AMENITIES, YOU HAVE A PARK. AND THEN YOU HAVE A RESORT, KIND OF GOING UP THE SCALE.

IS THERE A POINT IN TIME IN THAT EVOLUTION WHERE IT'S RIGHT TO PUT IT INTO THE COAST TO COAST SYSTEM,

OR --

A I DON'T KNOW IF I CAN DEAL WITH "RIGHT." THE RIGHTEOUSNESS IS NOT AN ISSUE. THE ISSUE IS, WOULD IT BE BENEFICIAL TO THE OWNERS OF THAT RESORT FROM AN ECONOMIC STANDPOINT? WOULD IT PROVIDE A BENEFIT TO THE MEMBER TO HAVE THE BENEFITS OF A RECIPROCAL SYSTEM?

IF YOU'RE MARKETING RESORT MEMBERSHIPS TO CLASSICALLY PROFILE R.V.'ERS -- AND ORIGINALLY THIS CONCEPT WAS DEVELOPED AS AN EMPTY -- WHAT WE CALL AN EMPTY-NESTER CONCEPT. BOEING WAS LAYING OFF THOUSANDS AND THOUSANDS OF WORKERS IN THEIR EARLY RETIREMENT. THEY HAD A LITTLE CUTBACK. AND SO THESE PEOPLE -- IN THOSE DAYS WE DIDN'T HAVE ALL THESE FANCY CAMPERS AND TRAILERS AND STUFF. A CAMPER WAS A CAMPER. IT WAS A GUY, SOMETHING THAT THE GUY FROM BOEING HAD MADE IN HIS GARAGE AND STUCK ON THE BACK OF HIS TRUCK.

Q NOW, YOU SAY "THOSE DAYS." WHAT DAYS ARE WE TALKING ABOUT?

A IN THE LATE 70'S, EARLY 80'S.

Q OKAY. NOW, TELL ME WHAT COAST TO COAST IS AND HOW IT FITS INTO YOUR INVOLVEMENT WITH THESE PARKS AND RESORTS.

A WELL, COAST TO COAST IS THE RECIPROCAL SYSTEM. THEY HAVE BEEN THE RECIPROCAL SYSTEM SINCE -- THEY INVENTED THE IDEA IN 1972, '73, ACE AND DENY BROWN.

Q WHAT DOES "RECIPROCAL" MEAN; WHAT IS THAT?

A WELL, WE DEAL WITH THAT KIND OF THING ALL THE TIME IN OUR LIVES. IT'S WHERE, YOU KNOW, A GROUP OF NONRELATED BUSINESSES OWNED BY A WHOLE BUNCH OF DIFFERENT PEOPLE FOR WHATEVER REASON GET TOGETHER AND SAY, "WELL, I'M GOING TO LET MY CUSTOMERS -- CAN MY CUSTOMERS USE YOUR STUFF? AND CAN YOUR CUSTOMERS USE MY STUFF?"

SO COAST TO COAST ORIGINALLY STARTED AS A DIRECTORY PUBLISHING. WHAT THEY DID, THEY GOT TOGETHER AND SAID, "WELL, THERE'S A FEW CAMPGROUNDS AROUND HERE. WE'LL PUBLISH A DIRECTORY OF THEM, AND FOR A FEE YOU CAMPER FOLKS CAN GET -- KNOW WHERE THEY'RE ALL AT, AND GO, BE ABLE TO VISIT THEM. AND THEY'LL LET YOU IN, AND THEY'LL LET YOU IN FOR A BUCK." SO THE IDEA WAS, SEE THE U.S.A. ON A DOLLAR A DAY. THAT'S THE ORIGINAL CONCEPT. SO THEIR RECIPROCAL SYSTEM -- AND COAST HAS FOR, SINCE -- I SAY SINCE '72, YOU KNOW, WELL OVER 25 YEARS, BEEN THE RECIPROCAL SYSTEM. AND IF NOT A MONOPOLY, A VIRTUAL MONOPOLY.

Q NOW, I WANT TO MOVE AWAY FROM THE RESORTS FOR A MOMENT.

YOUR CONSULTING, WE'VE DEALT WITH THAT ISSUE. DURING THIS SAME 20-YEAR PERIOD, YOU WERE STILL CONSULTING FOR LENDERS; IS THAT CORRECT?

A YES, SIR.

Q AND WHAT LENDERS WERE YOU CONSULTING WITH OVER THIS 20-YEAR PERIOD?

A WELL, MANY. PREDOMINANTLY TRAVELERS CORPORATION AND CONRAD CREDIT CORPORATION, GREAT AMERICAN BANK I DID SOME WORK WITH. BUT PREDOMINANTLY TRAVELERS AND CONRAD, THEY WERE -- PARTICULARLY TRAVELERS WAS THE PREEMINENT SECONDARY LENDER IN THE BUSINESS.

Q WHAT'S A SECONDARY LENDER MEAN?

A THEY ARE AN END LENDER. THEY LEND MONEY ON

THE MEMBERSHIP CONTRACTS. THE PRIMARY LENDER WOULD BE THE MORTGAGE LENDER. THAT WOULD BE PROVIDING FUNDING TO THE RESORT FOR UNDERLYING -- SECONDARY LENDER IS LENDING MONEY ON THE CONTRACTS.

Q OKAY. FOR MY PURPOSES, TAKE ME BACK REAL BASIC.

WHAT'S A MEMBERSHIP CONTRACT?

A WHEN PEOPLE GO TO THESE RESORTS TO BUY A MEMBERSHIP, HISTORICALLY ON AVERAGE UP UNTIL THE LAST FEW YEARS THE AVERAGE CASH OR DOWN PAYMENT THAT WAS PAID -- LET'S SAY THE MEMBERSHIP WAS \$5,000. THE AVERAGE CASH THAT WAS PAID DOWN WAS USUALLY 10 PERCENT AT THE TABLE, AND WITHIN A FEW DAYS THE AVERAGE WAS ABOUT 22 PERCENT CASH. WELL, THE COST TO MARKET THE PRODUCT RAN FROM 50 TO 70 PERCENT. SO AS A RESULT, FOR THE BUSINESS TO STAY IN BUSINESS, THEY HAD TO HAVE MONEY. THE ONLY WAY THEY COULD GET MONEY WOULD BE TO SELL THE CONTRACTS TO A SECONDARY LENDER, AND THEN THEY WOULD GET ENOUGH MONEY TO CONTINUE THEIR OPERATION. WITHOUT THAT, THEY DIDN'T GENERATE ENOUGH CASH. BECAUSE WHEN THE MEMBERSHIP WAS SIGNED UP, THE PEOPLE PUT DOWN 20 PERCENT; THE REST WAS GOING TO BE ON PAYMENTS.

SO A RETAIL INSTALLMENT CONTRACT WOULD HAVE BEEN WRITTEN, GENERALLY SPEAKING, FOR ANYWHERE FROM 12 TO, SAY, 60 MONTHS. AND THIS ENABLED THE CONSUMER TO ACCESS WHAT HE WANTED WITHOUT COMING UP WITH A BUNCH OF CASH. AND THE IDEA WAS TO KEEP A LOW, EASY MONTHLY PAYMENT, 75 TO \$100.

MR. RIVIN: YOUR HONOR, MAY WE APPROACH AGAIN?

THE COURT: VERY BRIEFLY. WE'RE GOING TO -- WE'RE GOING TO ADJOURN IN CHAMBERS IN A MINUTE.

MR. RIVIN: OKAY.

THE COURT: HANG IN THERE.

BY MR. SHAW: Q OKAY. LET'S CHANGE SUBJECTS TO THE STATE TRADE ASSOCIATIONS THAT YOU'VE BEEN INVOLVED IN IN THE LAST 20 YEARS.

CAN YOU TELL US ABOUT THE STATE TRADE ASSOCIATIONS THAT YOU'VE BEEN INVOLVED IN?

A WELL, I WAS INVOLVED IN THE TRADE ASSOCIATION FOR THE CAMP RESORT OPERATORS OF THE STATE OF CALIFORNIA AND THE DEVELOPMENT OF THAT, WHICH OCCURRED AS A RESULT OF ACTIONS BY THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA. BECAUSE THE ATTORNEY GENERAL FELT, JUSTIFIABLY, THAT MANY OF THESE BUSINESSES WERE OPERATING AND ENGAGING IN FRAUDULENT MISREPRESENTATIONS OF THE PRODUCT THEY WERE SELLING. AND THE ATTORNEY GENERAL BROUGHT ACTIONS AGAINST SOME OF THEM. BUT THAT IMPACTED UPON THE WHOLE INDUSTRY. SO THE GOOD GUYS WOULD BE HURT, TOO. SO THEY FORMED A TRADE ASSOCIATION, AND I WAS INVOLVED IN THE FORMING OF THAT. I WAS ALSO INVOLVED IN --

Q WHAT STATES?

A THE FORMING OF THE WASHINGTON STATE ASSOCIATION, WHERE I WORKED -- I WAS INVOLVED IN THE -- FORMING THE CALIFORNIA ONE, BUT THEN I TURNED IT OVER TO STEVE LAM. AND IN WASHINGTON I WORKED MORE INTIMATELY, AND I SPENT ABOUT A YEAR WORKING WITH JOHN PEG FROM THE ATTORNEY GENERAL'S OFFICE. THE STATE OF WASHINGTON IS THE BELL WEATHER STATE. ALL LEGISLATION THAT EXISTS IN THE

UNITED STATES COMES FROM THE STATE OF WASHINGTON. BECAUSE THIS IS WHERE THE INDUSTRY STARTED. AND THE ORDER OF CONSUMERISM AND PROTECTIONS -- AND I THINK THOSE ARE IMPORTANT -- THEY START IN WASHINGTON, AND THEN THEY MOVE TO FLORIDA, CALIFORNIA, AND THEN AROUND THE COUNTRY.

Q AND YOU'VE ALSO BEEN INVOLVED IN CONSUMER PROTECTION, AND YOU FORMED A CONSUMER PROTECTION ASSOCIATION; IS THAT CORRECT? ASIDE FROM THESE TWO STATE TRADE ASSOCIATIONS THAT YOU FORMED?

A YES. THAT'S AN OUTGROWTH OF -- I PUBLISHED A CONSUMER ADVOCACY SORT OF NEWSPAPER, AND -- WELL, A LITTLE FICTITIOUS CHARACTER CALLED "THE DEADLY AVENGER" WHO WHEN PEOPLE GOT IN A PROBLEM, THEY COULD WRITE THE NEWSPAPER, AND HE WOULD GO HELP THEM. AND IN 1996, '97, I DECIDED THAT CONDITIONS IN THE WORLD WERE SUCH -- BECAUSE I'VE BEEN WORKING WITH ATTORNEY GENERALS, AND THEY DON'T HAVE THE MONEY OR THE TIME TO OPERATE EFFECTIVELY. THEY HAVE TO BE ON BIG CASES. SO LITTLE INDIVIDUAL SITUATIONS PEOPLE GET INTO EVERY DAY JUST DON'T GET ADDRESSED.

SO IF -- I DEVELOPED A CONCEPT CALLED "CONSUMER PROTECTION ASSOCIATION" WHICH WOULD ENABLE CONSUMERS TO HAVE AN ADVOCATE THAT THEY COULD ACCESS INEXPENSIVELY AND AN EFFECTIVE ADVOCATE TO HELP THEM WHEN THEY WERE ABUSED BY BUSINESSES.

Q AND WHAT'S THE ASSOCIATION CALLED?

A CONSUMER PROTECTION ASSOCIATION.

THE COURT: EXCUSE ME, GENTLEMEN. WE'RE GOING TO TAKE OUR AFTERNOON RECESS.

LADIES AND GENTLEMEN, WE'LL SEE YOU BACK IN 20 MINUTES.

I'LL SEE COUNSEL IN CHAMBERS.

(THE FOLLOWING PROCEEDINGS WERE HELD IN CHAMBERS:)

THE COURT: EVERYBODY IS REPRESENTED HERE.

MR. SHERMAN: YOUR HONOR, I JUST HAD A VERY QUICK AND I'M SURE VERY EASY MATTER TO TAKE CARE OF.

I WAS IN THE HALLWAY RETURNING FROM THE BREAK. AND THE WITNESS, MR. MITCHELL, IS ENGAGED IN A ANIMATED CONVERSATION WITH A JUROR. I UNDERSTAND MAYBE IT HAS TO DO WITH HIS SWOLLEN, HURT -- OR HER SWOLLEN FEET, AND HE CLAIMS SHE APPROACHED HIM. I DIDN'T HEAR THE CONVERSATION. I DIDN'T CARE WHAT THE CONVERSATION WAS. IT'S TOTALLY IMPROPER, AND I WOULD ASK THAT --

THE COURT: I'LL ADMONISH EVERYBODY. I'LL REMIND THEM. I ADMONISHED THEM A LONG TIME AGO.

MR. SHERMAN: I ALSO UNDERSTAND THAT IT WOULD BE APPROPRIATE WE AS COUNSEL JUST AGREE BETWEEN OURSELVES -- AND I'M NOT TRYING TO, YOU KNOW, RATTLE YOU, JERRY. I JUST THINK IT WOULD BE APPROPRIATE THAT WE BETWEEN OURSELVES AGREE WE'RE GOING TO SPEAK WITH OUR OWN WITNESSES AND TELL THEM, STAY AWAY FROM THE JURY.

THE COURT: OH, YEAH.

MR. SHERMAN: THAT'S ALL.

MR. SHAW: I THINK THAT'S MORE THAN FAIR.

FOR THE RECORD, LET HE RECITE -- I CAME BACK. I WAS SPEAKING WITH MR. MITCHELL AS THE COURT ASKED ME TO DO, TO CREATE SOME CONTROL. DISCUSSED THE MATTER WITH HIM, WAS IN THE HALLWAY, AROUND THE CORNER, OUT OF THE

EARSHOT OF THE JURORS. I THEN CAME BACK INTO THE COURTROOM AND LEFT MR. MITCHELL OUT THERE. WHEN I WALKED BACK IN, MR. SHERMAN AND MR. RIVIN CAME UP TO ME AND SAID THAT YOU'VE GOT A WITNESS THAT'S TALKING TO JURORS, MR. MITCHELL. I IMMEDIATELY LEFT TO HEAD FOR THE DOOR. MR. MITCHELL WAS COMING IN, AND I TOLD HIM, "YOU CAN'T BE TALKING TO JURORS." HE THEN SAID TO ME ONE OF THE LADIES CAME UP TO HIM AND SAID, "I HOPE YOUR FEET AREN'T SWELLING LIKE MINE ARE," SOMETHING TO THAT EFFECT. THAT'S EXACTLY WHAT I HEARD. AND THEN I SAID TO MR. RIVIN AND MR. SHERMAN, "I NEED AS AN OFFICER OF THE COURT TO COME RIGHT INTO JUDGE SMITH AND PUT THIS ON THE RECORD SO THAT IT BECOMES A MATTER OF RECORD." SO HERE WE ARE.

THE COURT: GOOD.

MR. RIVIN: ONE OTHER ISSUE I WANTED TO TAKE UP. WITH THE WAY MR. MITCHELL GOES ON AND ON, I'M AFRAID SOMETHING IS GOING TO SLIP OUT THAT IS CLEARLY INAPPROPRIATE. AND I'M AFRAID THAT ONE OF THE THINGS HE MAY TRY TO TALK ABOUT IS A LAWSUIT BETWEEN CAMP COAST TO COAST AND ONE OF ITS COMPETITORS, R.P.I., BACK IN 1988 OR 1989. WE DON'T WANT IT TO COME IN AS -- I MEAN, HE IS -- OBVIOUSLY IT IS NOT PERMISSIBLE FOR HIM TO TESTIFY TO IT. IT'S HEARSAY. BUT WE DON'T WANT IT TO SLIP OUT OF HIS MOUTH.

IF THEY HAVE A CERTIFIED COPY OF IT, FINE. IF THEY CAN SHOW THAT IT'S RELEVANT, FINE. BUT WE DON'T WANT IT TO COME IN THROUGH MR. MITCHELL'S RANTINGS AND JUST HIS --

MR. SHAW: I CERTAINLY AM NOT ASKING HIM ABOUT IT.

THE COURT: YOU MUST CAUTION HIM ABOUT THAT.

MR. SHERMAN: THANK YOU.

(RECESS TAKEN.)

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

THE COURT: PROCEED, MR. SHAW.

MR. SHAW: THANK YOU, YOUR HONOR.

YOUR HONOR, MR. RIVIN HAS ASKED ME TO CONFER WITH MR. MITCHELL ON THAT LAST SUBJECT THAT WE TALKED ABOUT IN CHAMBERS. CAN I JUST APPROACH MR. MITCHELL QUIETLY?

THE COURT: YOU MAY, YES. AND I WOULD LIKE TO REMIND ALL JURORS. PLEASE DO NOT APPROACH ANY WITNESSES OR PARTIES TO THE ACTION DURING THE COURSE OF THE TRIAL. DON'T EVEN PASS THE TIME OF DAY.

PROCEED, MR. SHAW.

MR. SHAW: THANK YOU, YOUR HONOR.

Q MR. MITCHELL, BEFORE WE BROKE WE WERE TALKING ABOUT YOUR CONSUMER PROTECTION ASSOCIATION. I'D NOW LIKE TO TURN TO THE SUBJECT OF THE FACT THAT YOU WERE ASKED TO COME AS AN EXPERT AND SPEAK AT THE COAST TO COAST CONVENTION FROM 1985 TO 1998.

WHAT SUBJECT MATTER WERE YOU ASKED TO TALK ABOUT AT THOSE CONVENTIONS AS AN EXPERT?

A THE FIRST PRESENTATION THAT I GAVE IN 1985 WAS FROM THE DIAS. IT WAS A SPEECH AS OPPOSED TO A LECTURE EDUCATION PROGRAM. AND THE SUBJECT OF THAT PRESENTATION WAS THE FLAWS IN THE INDUSTRY AND MY OPINION THAT MOST OF THE MAJOR COMPANIES WOULD FAIL IN THE NEXT 24 MONTHS BECAUSE OF THEIR OPERATING BEHAVIORS.

Q SO YOU TALKED ABOUT THE -- YOU'VE TALKED ABOUT -- OVER THE LAST 13 YEARS YOU'VE TALKED ABOUT YOUR -- YOU'VE TALKED AS AN EXPERT?

A STARTED WITH THAT. AND THEN I'VE GIVEN SEMINARS ON ACCOUNTS RECEIVABLE MANAGEMENT, ON MARKETING, ON COMMUNITY INTERFACING, ON PROACTIVE CONSUMERISM AND THE BENEFITS OF THAT. AND I'VE TALKED ABOUT DESIGN, AND I'VE TALKED ABOUT REFERRAL PROGRAMS.

Q AND YOU'VE TALKED ABOUT THE RECIPROCAL SYSTEM, COAST TO COAST?

A WELL, YES, BECAUSE OBVIOUSLY COAST IS A RECIPROCAL, AND I'VE TALKED ABOUT THE RECIPROCAL SYSTEMS AVAILABLE.

I'VE TALKED ABOUT HOW TO PROVIDE ADDITIONAL BENEFITS TO THE MEMBERS IN THE FORM OF RECIPROCAL SYSTEM, TRAVEL SERVICES, VARIOUS AND SUNDRY THINGS, SUPPORT FOR THEIR PROGRAMS THAT THEY MAY PERSONALLY BE INVOLVED IN, THE KIWANIS, BOYS CLUBS, GIRLS CLUBS, CHURCH ORGANIZATIONS, HOW IT IS A GOOD IDEA FOR THE RESORTS TO SUPPORT THOSE.

I'VE TALKED ABOUT THE FACT THAT IN MANY CASES THESE RESORTS ARE IN RURAL COMMUNITIES AND THAT THEY MAY ALSO FUNCTION AS A -- KIND OF A REGIONAL REC CENTER AND PROVIDE SUPPORT MECHANISMS FOR YOUTH PROGRAMS AND THINGS OF THAT NATURE.

Q SO COAST TO COAST HAS ASKED YOU TO COME TO THEIR CONVENTIONS AS AN EXPERT AND TALK ABOUT THOSE AREAS?

A YES. I'VE -- THAT'S CORRECT. I'VE DONE THAT FOR 13 YEARS.

Q YEAH.
AND YOU ARE AN EXPERT IN THOSE AREAS; IS THAT CORRECT?

A YES, SIR.

Q AND YOU ARE ALSO AN EXPERT ON THE COAST TO COAST RECIPROCAL PROGRAMS?

A YES, SIR. I WAS INVOLVED IN COAST TO COAST FOR A LONG TIME BEFORE THE PRESENT PEOPLE OWN IT.

Q NOW, YOU ALSO -- ASIDE FROM COMING AS AN EXPERT TO THEIR CONVENTIONS AND PRESENTING INFORMATION ON YOUR EXPERTISE, YOU'VE ALSO CONSULTED WITH COAST PRESIDENTS IN AREAS OF YOUR EXPERTISE?

A OVER THE YEARS, FROM TIME TO TIME, THEY HAVE REQUESTED INFORMATION FROM ME. AND I HAVE VOLUNTEERED A LOT OF IT.

Q OKAY. AND IN WHAT PARTICULAR AREAS HAVE YOU GIVEN YOUR EXPERT OPINION TO THEM?

A ISSUES REGARDING MARKETING AND THE BEHAVIOR OF THEIR LICENSEES, ISSUES REGARDING COAST RULES THAT WERE BEING BROKEN BY LICENSEES, ISSUES ON HOW -- ON THE WAY THAT THE INDIVIDUAL LICENSEES MARKET, ISSUES ON THE WAY COAST MARKETS. LET ME THINK OF WHAT ELSE.

Q AND --

A PREDOMINANTLY THOSE AREAS. IN THE RELATIONSHIP BETWEEN COAST AND ITS LICENSEES, HOW COAST COULD IMPROVE THE BUSINESS, HOW THE LICENSEES COULD IMPROVE THEIR BUSINESS, WHAT WAS CRUCIAL. IT WAS A TIME WHEN COAST HAD TO MAKE SOME BUSINESS DECISIONS ON HOW THEY DEVELOPED THEIR REVENUE WHERE THEY CONTINUED THROUGH LICENSEES OR ENGAGED IN DIRECT MARKETING, THINGS OF THAT NATURE.

Q IT WAS YOUR UNDERSTANDING THAT THEY WOULD NOT BE ASKING YOU FOR YOUR EXPERT OPINION UNLESS THEY CONSIDERED YOU AN EXPERT IN THOSE AREAS?

A I GUESS. BUT THEY MAY HAVE JUST WANTED TO USE ME AS A SOUNDING BOARD.

Q BUT YOU ARE AN EXPERT IN THOSE AREAS?

A YES, SIR.

Q LET ME TALK ABOUT THE PUBLISHING.

YOU MENTIONED THAT YOU PUBLISHED A DEVELOPMENT MAGAZINE. DO YOU PUBLISH OTHER NEWSPAPERS?

A I DID NOT PUBLISH A DEVELOPMENT MAGAZINE. I PUBLISHED THE PLAIN SPEAKER NEWSPAPER, THE SAN MARCOS COMMUNITY NEWSPAPER.

Q AND WHAT WAS THE PLAIN SPEAKER NEWSPAPER?

A THE PLAIN SPEAKER NEWSPAPER WAS AN IRREVERENT ADVOCACY NEWSPAPER THAT CHAMPIONED THE CAUSES OF THE AVERAGE CITIZEN RANGING FROM SAN DIEGO COUNTY DRAINING A LAKE TO PEOPLE ATTEMPTING TO DUMP GARBAGE ON INDIAN RESERVATIONS TO AVOID THE FEDERAL E.P.A. RULES.

Q AND YOU ALSO HAVE BEEN INVOLVED IN STARTING A GROUP CALLED "THE STAR AND SHIELD"; IS THAT CORRECT?

A YEAH. MY FRIEND JOHN DUFFY. JOHN DUFFY WAS THE SHERIFF OF SAN DIEGO COUNTY, VERY PROMINENT AND WELL-KNOWN LAW ENFORCEMENT OFFICER. AND WHEN HE RETIRED, HE WANTED TO PUT TOGETHER A RECREATIONAL PROGRAM FOR POLICE OFFICERS AND RETIRED LAW ENFORCEMENT PEOPLE. AND I PROVIDED HIM COUNSEL ON HOW TO DO THAT AND SET THE BOARD UP AND WITH THE PROGRAMS AND SO ON.

Q NOW, ASIDE FROM THE AREAS THAT COAST TO COAST HAS ASKED YOU TO COVER AT THEIR CONVENTIONS AND TALK ABOUT AS AN EXPERT, WHAT AREAS OF EXPERTISE WILL YOU BE TESTIFYING ABOUT AT TRIAL IN THIS CASE?

A I'VE BEEN ASKED TO TESTIFY ABOUT THE RECIPROCAL ORGANIZATIONS OF WHICH COAST IS, OF COURSE, THE PREEMINENT, THEIR MARKETING PROGRAMS, THEIR RELATIONSHIPS WITH THEIR LICENSEES, THE MARKETING PROGRAMS AND SALES PRACTICES OF THEIR INDIVIDUAL LICENSEES, THE FINANCIAL REALITIES INVOLVING THOSE LICENSEES, THE RELATIONSHIPS BETWEEN COAST AND THEIR LICENSEES, THE RELATIONSHIP BETWEEN THEIR LICENSEES AND EACH OTHER, AND THE INDUSTRY IN GENERAL.

AFTER 20 YEARS I HAVE A HIGH DEGREE OF KNOWLEDGE WITH REGARD TO THE INDUSTRY AND THE PARTICIPANTS.

Q OKAY. NOW, YOU USED THE TERM OF -- SEVERAL TIMES "LICENSEES." COULD YOU DEFINE THAT FOR US, WHAT YOU MEAN BY "LICENSEES"?

A YES. A COAST LICENSEE WOULD BE AN INDIVIDUAL RESORT OPERATOR/DEVELOPER WHO MAKES AN ARRANGEMENT WITH COAST TO COAST TO USE THE PRODUCT THAT THEY SELL, WHICH IS THEIR RECIPROCAL PROGRAM.

Q NOW, WHAT ASSIGNMENT HAVE YOU BEEN GIVEN, SPECIFIC ASSIGNMENT HAVE YOU BEEN GIVEN, IN THIS CASE TO FORM AN OPINION ON?

A I WAS ASKED TO FORM AN OPINION ON WHETHER OR NOT THE ACTIONS AND CONDUCT OF COAST WERE A DETRIMENT TO THE -- AND CAUSED DAMAGES TO THE DEFENDANTS, YOUR CLIENTS.

Q AND HAVE YOU FORMED SUCH AN OPINION?

A YES, SIR.

Q AND WHAT IS YOUR OPINION?

MR. RIVIN: YOUR HONOR, I'D LIKE TO OBJECT ON THE -- OBJECT ON THE BASIS OF LACK OF FOUNDATION.

THE COURT: APPROACH, PLEASE.

(DISCUSSION OFF THE RECORD OUT OF THE PRESENCE OF THE JURY.)

BY MR. SHAW: Q MR. MITCHELL, WITH YOUR SPECIAL TRAINING, KNOWLEDGE, SKILL AND EXPERTISE, WHAT OPINION HAVE YOU FORMED IN THIS CASE?

A IT IS MY OPINION THAT THE ACTIONS AND CONDUCT OF THE DEFENDANTS CAUSED DAMAGE TO YOUR CLIENTS, THE PLAINTIFFS.

Q NOW, WHAT -- LET'S TURN TO WHAT IS THE BASIS FOR YOUR OPINIONS.

GENERALLY WHAT DID YOU INVESTIGATE AND ANALYZE TO FORMULATE THAT OPINION THAT THE DEFENDANTS CAUSED DAMAGE TO THE PLAINTIFFS IN THIS CASE?

A THAT WOULD BE MY DIRECT PERSONAL EXPERIENCE AS A COAST TO COAST LICENSEE AND AN OPERATOR OF COAST TO COAST LICENSED PARKS THE 20 YEARS I'VE BEEN INTERFACING WITH THESE PEOPLE, FROM THAT DIRECT PERSONAL EXPERIENCE, FROM INFORMATION THAT I ANALYZED BOTH OVER THOSE YEARS AND THE RECENT TIMES ON THE INDUSTRY, WHICH INCLUDES VARYING KINDS OF STUDIES, EXTERNAL STUDIES, THE RAGGED STUDY, ALAN REPORT, VARIOUS AND SUNDRY THINGS, AS WELL AS COAST DOCUMENTS WHICH WERE PRODUCED FOR THIS TRIAL, AND COMMUNICATIONS AND ACTIONS OF COAST TO COAST THAT I WAS PERSONALLY INVOLVED WITH OVER A PERIOD OF 20 YEARS.

Q NOW, I'D LIKE TO NOW GO THROUGH YOUR PERSONAL KNOWLEDGE OF CERTAIN FACTS AND CIRCUMSTANCES THAT ARE THE BASIS FOR YOUR OPINION, AND I'D LIKE TO START WITH A -- YOU'VE DEFINED SOME TERMS FOR ME.

YOU'VE DEFINED THE TERM RESORTS -- THE CAMPGROUND, THE PARK, AND THE RESORTS. COULD YOU TELL US -- GIVE US SOME HISTORY OF THE INDUSTRY OF YOUR OWN PERSONAL KNOWLEDGE OF CAMP COAST TO COAST AND HOW THEY STARTED AND HOW THEY DEVELOPED, THAT HAS LED YOU TO YOUR CONCLUSION?

MR. RIVIN: THAT'S AWFULLY OPEN-ENDED AND COMPOUND, YOUR HONOR.

MR. SHAW: I'LL REPHRASE THE QUESTION.

THE COURT: REPHRASE IT PLEASE.

MR. SHAW: THANK YOU.

Q WHEN DID THE -- WHEN DID RECIPROCAL USE PROGRAMS BEGIN?

A APPROXIMATELY 1972, THE COAST TO COAST SYSTEM WAS DEVELOPED BY ACE AND DENY BROWN WHO WERE INVOLVED IN A TRADE ASSOCIATION CALLED ALDA, A-L-D-A, THE AMERICAN LAND DEVELOPMENT ASSOCIATION, WHICH OVER THE YEARS HAS EVOLVED ITS NAME. AND CURRENTLY IT'S KNOWN AS ARDA, THE AMERICAN RESORT DEVELOPERS ASSOCIATION. AND INITIALLY IT WAS OPERATED THROUGH THAT NONPROFIT ORGANIZATION. AND INITIALLY IT WAS A PUBLISHING, IF YOU WILL, OF A DIRECTORY LIKE AN AAA GUIDE, WHICH LISTED APPROXIMATELY, OH, 25 TO 45 CAMPGROUNDS THAT WERE INDIVIDUALLY OWNED BY DIFFERENT OPERATORS, AND WHO THEN COULD BE PART OF THIS PROGRAM.

AND COAST PUBLISHED A BOOK. AND SO PEOPLE WHO WERE OUT CAMPING, THEY COULD BE PART OF THIS, IF THEY

JOINED UP WITH THE INDIVIDUAL CAMPGROUND AND THEY GET THE BOOK. AND IT WOULD TELL THEM WHERE THEY COULD GO TO OTHER PLACES THAT WERE PART OF THIS RECIPROCAL PROGRAM. OR IT WAS ORIGINALLY CALLED AN EXCHANGE PROGRAM WHERE IT'S EVOLVED OVER THE YEARS. SO THEY COULD USE THE DIFFERENT FACILITIES.

AND CAMP COAST TO COAST AT THAT TIME SOLD THE DIRECTORY, AND FOR ABOUT \$16. AND THEY ALSO SOLD THINGS CALLED BLUE CARDS FOR A DOLLAR. SO THE CONSUMER WOULD BUY THESE BLUE CARDS, AND THEY COULD TRADE THESE CARDS IN WHEN THEY WENT TO A DIFFERENT RESORT AS A FORM OF PAYMENT FOR THEIR NIGHT'S STAY.

THEN THE -- SHORTLY THEREAFTER IT WAS -- BROKE OFF FROM THE TRADE ASSOCIATION AS A PROFIT-MAKING BUSINESS AND OPERATED BY ACE AND DENY BROWN, UNTIL PURCHASED BY THE AMERICAN BAKING COMPANY. AND THEN SUBSEQUENT TO THAT IT WAS -- AND OF COURSE THE SYSTEM GREW. THERE BECAME MORE RESORTS IN THE SYSTEM, AND BASICALLY OPERATED PRETTY MUCH THE SAME. PEOPLE GOT A DIRECTORY, AND THEY GOT THESE BLUE CARDS TO USE.

AND WHEN AMERICAN BAKING PURCHASED THE COMPANY AND THEY BROUGHT IN PAT BUTLER, WHO WAS MUCH MORE SOPHISTICATED AND HAD EXPERIENCE IN THE HOSPITALITY INDUSTRY WITH MARRIOTT AND SO ON, HE BEGAN TO SOPHISTICATE THE PROGRAM AND THE RELATIONSHIPS BETWEEN THE CAMPGROUNDS AND COAST TO COAST AND FIRM UP THE DIFFERENT RELATIONSHIPS THEY HAD. HE ALSO EXPANDED THE PROFITABILITY OF THE COMPANY BY OFFERING THESE PEOPLE ADDITIONAL PRODUCTS AND SERVICES ALONG THE WAY.

THEN THE COMPANY WAS PURCHASED BY THE PRESENT OWNER, AFFINITY GROUP, FROM AMERICAN BAKING. MR. BUTLER STAYED ON FOR A PERIOD OF TIME AND THEN LEFT. AND HIS VICE-PRESIDENT ADJUTANT, WAS ROGER RYMAN, WHO I KNEW AS VICE PRESIDENT, AND THEN SUBSEQUENTLY AS PRESIDENT. MR. GENE EVERETT, THE CURRENT PRESIDENT, WAS VICE-PRESIDENT AT THAT TIME. WHEN MR. RYMAN LEFT, HE BECAME PRESIDENT.

Q NOW, YOU TESTIFIED THAT WHEN YOU WERE INVOLVED WITH RESORTS, YOU HAD AGREEMENTS WITH COAST TO COAST?

A YES, SIR.

Q AND WOULD THOSE BE SIGNED, EXECUTED DOCUMENTS, CONTRACTS?

A NOT NECESSARILY. IN OTHER WORDS, IN SOME CASES THEY WERE, AND SOME CASES WE ALL NEVER GOT AROUND TO IT.

Q LET'S TALK ABOUT THE SOME CASES WHERE YOU HAD WRITTEN CONTRACTS.

A UH-HUH.

Q LET'S FOCUS ON THAT AREA FOR A MOMENT. THE CERTAIN MEMBERS OF YOUR PARTICULAR RESORT -- LET'S TAKE ONE. LET'S ISOLATE ON A RESORT. WAS IT FLYING B; IS THAT ONE?

A FLYING B RANCH.

Q DID YOU HAVE A WRITTEN AGREEMENT WITH COAST TO COAST ON THAT RESORT?

A I'M NOT CERTAIN. THE FLYING B RANCH WAS PURCHASED FROM THE NATIONAL HERITAGE RESORT CORPORATION AS

PART OF MY RESPONSIBILITIES AS A TRUSTEE. AND WE INHERITED THE RELATIONSHIP THAT EXISTED WITH COAST TO COAST. AND I DO NOT RECALL EVER SEEING A SIGNED LICENSE AGREEMENT BY AL JONES; ALTHOUGH, THERE MAY HAVE BEEN ONE. AND IT MIGHT HAVE BEEN LOST AND WAS NOT GIVEN TO THE NEW CORPORATION. WE JUST INHERITED THAT, AND I DON'T RECALL EXECUTING -- ALTHOUGH MY PARTNER MIGHT. DAVID WEISS, THE ATTORNEY, MAY HAVE EXECUTED ONE. NOT TO MY RECOLLECTION.

Q YOU CALLED IT A LICENSE AGREEMENT. IS IT CALLED ANY -- HAVE YOU SEEN THE AGREEMENT BETWEEN THE RESORT AND COAST TO COAST CALLED THIS AN AFFILIATION AGREEMENT?

A YES. YES, I HAVE. AFFILIATION AGREEMENT. I MAY BE USING THE TERMS INTERCHANGING. AND I'VE SEEN VARIOUS INCARNATIONS OF THAT AFFILIATION AGREEMENT WHICH I CALLED THE LICENSE AGREEMENT.

Q IN YOUR PERSONAL EXPERIENCE, HOW ARE THE MEMBERS THAT RELATE TO THAT AFFILIATION AGREEMENT OR LICENSE AGREEMENT -- ARE THEY TREATED WITH CONFIDENTIALITY?

MR. RIVIN: OBJECTION. THE QUESTION IS VAGUE, AMBIGUOUS.

THE COURT: REPHRASE, PLEASE.

MR. SHAW: OKAY.

Q I NOW WANT TO STAY WITH YOUR PERSONAL KNOWLEDGE.

A YES, SIR.

Q YOU'VE BEEN INVOLVED WITH THESE CONTRACTS BETWEEN THE RESORTS AND COAST TO COAST ON MORE THAN ONE OCCASION?

A YES, SIR.

Q IS THERE A GENERAL CUSTOM AND USAGE AS THE WAY MEMBERSHIPS ARE TREATED WITH CONFIDENTIALITY IN REGARDS TO THE RESORT AND COAST?

MR. RIVIN: THE SAME OBJECTIONS, YOUR HONOR. LACK OF FOUNDATION.

THE COURT: I'LL ALLOW THE QUESTION. OVERRULED.

THE WITNESS: I'M SORRY. COULD YOU REPEAT YOUR QUESTION, SIR.

(THE FOLLOWING QUESTION WAS REREAD BY THE REPORTER: "IS THERE A GENERAL CUSTOM AND USAGE AS THE WAY MEMBERSHIPS ARE TREATED WITH CONFIDENTIALITY IN REGARDS TO THE RESORT AND COAST?")

THE WITNESS: YES.

BY MR. SHAW: Q AND HOW ARE THEY TREATED?

A IT'S ALWAYS BEEN ABSOLUTELY UNDERSTOOD THAT THE MEMBERS WERE THE RESORT, THE MEMBERS COST THE -- PAID THE COST TO DEVELOP THEM. IT WAS HIGHLY CONFIDENTIAL. THIS IS AN EXTREMELY COMPETITIVE INDUSTRY. VERY OFTEN, FOR EXAMPLE, HYPOTHETICALLY, SAY, I'M OPERATING A RESORT, AND I TERMINATE A SALESPERSON FOR SOME REASON. HE MAY GO DOWN THE ROAD AND GO TO WORK FOR SOMEONE ELSE AND THEN TRY TO STEAL THE MEMBERS OF MY RESORT. SO IT IS PROBABLY ONE OF THE TWO MOST SENSITIVE ISSUES THAT HAVE EXISTED IN THE RELATIONSHIP BETWEEN COAST TO COAST AND THE RESORT OPERATORS.

Q OKAY. NOW, I WANT TO STAY WITH YOUR OWN PERSONAL KNOWLEDGE.

HAVE YOU EVER HAD ANY CONVERSATIONS, YOU

PERSONALLY, WITH ANYONE FROM COAST TO COAST WHERE YOU DISCUSS THAT SUBJECT OF THE CONFIDENTIALITY OF THE MEMBERSHIPS?

A WELL, THERE HAVE BEEN CONVERSATIONS THAT I'VE HAD PERSONALLY WITH ALL OF THE PEOPLE AT COAST TO COAST AND WITH THEIR OTHER LICENSEES IN ROUND-TABLE MEETINGS AND AT VARIOUS CONVENTIONS. AND, IN PARTICULAR, I REMEMBER BEECHWOOD RESORT WAS CLEAR AND DEFINED. MR. HALVORSON, WHO WAS A VERY PROMINENT MAN, HAD A LOT OF LAWYERS LIKE YOU, AND THEY WERE CAREFUL AT DOTTING I'S AND CROSSING T'S.

Q WE WON'T HOLD THAT AGAINST HIM. OKAY.

A OKAY. PROPERLY NOT. BUT THERE WAS NEVER A QUESTION ABOUT WHO BELONGED THE MEMBERS. THE TWO ISSUES, THE MEMBERS BELONGED TO THE RESORT, AND THEY SOLD THE MEMBERSHIPS. AND COAST TO COAST WOULD NOT GET IN THE RESORT BUSINESS AND SELL MEMBERSHIPS.

MR. RIVIN: I HATE TO DO THIS. I'M GOING TO MOVE TO STRIKE ON THE BASIS IT WAS NOT RESPONSIVE TO THE QUESTION. I BELIEVE THE QUESTION WAS WHO DID YOU SPEAK WITH FROM COAST.

THE COURT: SUSTAINED.

BY MR. SHAW: Q LET'S GO BACK, AND LET'S LAY A FOUNDATION, MR. MITCHELL.

A YES, SIR.

Q I'D LIKE YOU TO ISOLATE NOW -- MY QUESTION WAS PROBABLY TOO GENERAL.

I ASKED YOU IF YOU HAD A CONVERSATION WITH ANYONE FROM COAST TO COAST ABOUT THE SUBJECT OF CONFIDENTIALITY, AND YOU SAID YOU DID. YOU THEN RELATED IT TO THE BEECHWOOD RESORT; IS THAT CORRECT?

A I SPOKE TO THAT, YES, SIR.

Q OKAY. WHO DID YOU TALK TO FROM COAST TO COAST SPECIFICALLY REGARDING THE ISSUE OF CONFIDENTIALITY OF THE MEMBERS AT THE BEECHWOOD RESORT?

A THIS IS NEARLY 20 YEARS AGO. MY RECOLLECTION, I THINK IT MIGHT HAVE BEEN STEVE VINCENT.

Q OKAY. I'M GOING TO TAKE YOU THROUGH SOME CONVERSATIONS THAT HAPPENED WITH COAST TO COAST AT A LATER POINT IN TIME IN A MOMENT, BUT LET ME STAY WITH THE CONTRACT ISSUE ITSELF.

THE -- WELL LET ME WITHDRAW THAT QUESTION AND START AGAIN.

IS THERE A CONCEPT IN THE INDUSTRY CALLED "THE ORPHAN PROGRAM"?

A YES, SIR, THERE'S A CONCEPT IN THE INDUSTRY.

Q COULD YOU DEFINE THAT FOR ME; WHAT DOES THAT MEAN, THE ORPHAN PROGRAM?

A WELL, IT KIND OF EVOLVED, BUT THE ORPHAN PROGRAM GOES SOMETHING LIKE THIS: LET'S SUPPOSE THAT SOMEBODY OPENS UP A CAMP RESORT, AND THEY AFFILIATE WITH COAST TO COAST. AND THEN FOR WHATEVER REASON, THEY CLOSE THAT RESORT AND GO OUT OF BUSINESS. THEN COAST WOULD IDENTIFY THESE MEMBERS AS ORPHANS. AND THE PROGRAM WOULD BE -- AND I RECEIVED LETTERS OVER THE YEARS FROM COAST TO COAST. YOU WOULD -- COAST WOULD THEN SEND A LETTER OUT TO RESORTS IN THE IMMEDIATE PROXIMITY OF THE RESORT THAT CLOSED -- BECAUSE YOU WANT TO MAKE IT GOOD FOR THE

CONSUMER. AND THEY WOULD SEND A LETTER SAYING, DEAR MEMBER, AS YOU KNOW, YOUR RESORT IS CLOSED, AND YOU CAN GET A MEMBERSHIP, AND YOU CAN CONTINUE TO BE INVOLVED WITH US BY GETTING A MEMBERSHIP AT ANOTHER RESORT. AND HERE ARE THREE RESORTS IN YOUR AREA THAT YOU MIGHT WANT TO GO TAKE A LOOK AT; AND THAT, YOU KNOW, YOU NEED TO GET SOME SORT OF AN AFFILIATION. IT'S YOUR JOB TO DO THAT BEFORE THE END OF THE YEAR, BECAUSE THEN YOUR MEMBERSHIP RUNS OUT. AND IF YOU WANT TO KEEP YOUR MEMBERSHIP AND NOT BE AN ORPHAN, THEN YOU HAVE TO GO GET AN AFFILIATION WITH SOME OTHER RESORT.

SO, OSTENSIBLY THE IDEA WAS IS THAT THEY WERE ORPHANS BECAUSE THEIR RESORT CLOSED. AND COAST WOULD TRY TO HELP THEM BY SAYING, HERE IS THREE RESORTS YOU CAN TAKE A LOOK AT. IT WAS THEIR JOB TO GO OUT AND GET, FIND A WAY TO ACCESS COAST'S SERVICES, AND COAST HELPED BY RECOMMENDING THREE POSSIBILITIES IN THEIR AREA.

Q OKAY.

A OR IF THERE WERE TWO, THEY WOULD RECOMMEND TWO.

Q WAS THERE ANY -- NOW I'M BACK TO THE CONTRACTS WITH COAST, THESE LICENSE AGREEMENTS OR AFFILIATION AGREEMENTS BETWEEN THE RESORT AND COAST.

WAS THERE ANY LANGUAGE IN THOSE CONTRACTS TO YOUR PERSONAL KNOWLEDGE ABOUT THE PROXIMITY OF TRANSFERRING A MEMBER FROM ONE PARK TO THE OTHER?

WAS THERE A 125-MILE RULE OR SOME PARTICULAR PHRASE THAT LIMITED THE AREA WITHIN WHICH SOMEONE COULD BE TRANSFERRED?

A YEAH. THERE'S A -- THE RULE HAS CHANGED OVER THE YEARS. BUT WHEN THE RULE WAS INITIALLY IMPLEMENTED, THERE WAS A 125-MILE RULE WHICH DEALT WITH HOW FAR FROM THE RESORT A MEMBER COULD LIVE. IF THEY WERE -- LIVED OVER 125 MILES AWAY, THEN THEY COULDN'T AFFILIATE WITH YOUR RESORT, OR YOU COULDN'T SELL THEM. THAT WAS WHAT IT WAS.

AND OVER THE YEARS THAT HAS EVOLVED AND CHANGED FROM TIME TO TIME. AND SOMETIMES THERE'S BEEN TWO RULES, DEPENDING UPON WHAT THE SITUATION WAS, THAT COAST NEEDED TO DEAL WITH.

Q IN THE CONTRACT, WAS THERE DISCUSSION REGARDING A PRIMARY PRODUCT, OR IS THERE SOMETHING CALLED A PRIMARY PRODUCT RULE?

A YES. THIS IS AN EXTREMELY SENSITIVE AREA, AND IT IS THE SYNERGY OF THE WHOLE ISSUE OF WHAT'S CALLED UNFAIR MARKETING PRACTICES IN THE RELATIONSHIP OF COAST TO COAST, THEIR LICENSEES -- PARDON ME. I'M SORRY. THE AFFILIATES AND THE OTHER AFFILIATES.

AS I SAID, THESE GUYS WERE VERY COMPETITIVE, AND IT WAS AN INCESTUOUS INDUSTRY. VERY OFTEN THE GUY IN THIS RESORT WORKED AT THE OTHER RESORT AND WORKED AT THE OTHER RESORT. SO THEY HAD THE -- THESE RULES TO LIMIT THIS UNFAIR COMPETITION.

Q AND WHAT RULES WERE THOSE?

A WELL, THE PRIMARY PRODUCT RULE DEALT WITH THIS, AND IT SAID THAT YOU HAD TO SELL YOUR RESORT. YOU COULDN'T USE COAST. YOU COULDN'T SELL COAST TO COAST. YOU COULDN'T, FOR EXAMPLE, ADVERTISE AND SAY, "I HAVE COAST TO COAST MEMBERSHIPS FOR SALE."

YOU COULDN'T SELL COAST TO COAST. YOU HAD TO SELL YOUR RESORT. THE PEOPLE WHO CAME IN HAD TO COME AND LOOK AT YOUR RESORT. THEY HAD TO ACTUALLY PHYSICALLY GO THERE AND LOOK AT IT. THAT WAS A RULE. THEY HAD TO SAY, "YES, I LIKE YOUR RESORT. I WANT TO BUY YOUR RESORT." THEN IN THE COURSE OF THE SALES PRESENTATION, YOU COULD SAY, "IN ADDITION TO OUR RESORT, YOU CAN ALSO GET THE COAST TO COAST AND OUR TRAVEL PACKAGE" AND WHATEVER OTHER STUFF THAT YOU HAD.

SO THE RULE WAS THAT YOU HAD TO SELL COAST TO COAST -- THIS BECAME -- AND THIS EVOLVED AND BECAME A BIG ISSUE BECAUSE WHEN THE INDUSTRY WAS GETTING DOWN AND THERE WAS -- THE SALES WERE NOT AS GOOD AS THEY WERE, AND COAST WASN'T GETTING AS MANY NUMEROUS PEOPLE TO USE THEIR SERVICES BECAUSE THE LICENSEES WEREN'T SELLING -- OR PARDON ME -- THE AFFILIATES WEREN'T SELLING AS MANY MEMBERSHIPS, SOME OF THE COAST AFFILIATES DECIDED TO GET ARTFUL AND BREAK THE RULE, BREAK THE 125-MILE RULE AND START SELLING MEMBERSHIPS ALL OVER THE PLACE, AND ALSO SELLING THE COAST MEMBERSHIP AS OPPOSED TO THEIR OWN RESORT.

SO, FOR EXAMPLE, LET'S SAY THE AVERAGE RESORT WOULD SELL A MEMBERSHIP FOR \$5,000. BECAUSE YOU HAVE TO HAVE THE MONEY TO BUILD THE RESORT. IT DOESN'T COME OUT OF THE AIR. SO IT'S KIND OF LIKE A CO-OP APPROACH, IF YOU WILL. BUT SOME PEOPLE BOUGHT CHEAP PRODUCTS, WHAT WE CALL R.V. GHETTOS, OLD K.O.A.'S AND SO ON THAT THEY HAD VERY LITTLE COST IN, AND THEY SOLD THE COAST PRODUCT. AND THEY WOULD ADVERTISE IT ALL OVER THE PLACE, AND THEY SOLD IT REAL CHEAP. INSTEAD OF SELLING FOR \$5,000, THEY SOLD IT ANYWHERE FROM GIVE IT AWAY FREE TO A FEW HUNDRED DOLLARS. BECAUSE THEY KNEW THE PERSON BUYING THAT FROM THEM WAS NEVER GOING TO COME TO THEIR RESORT, AND THEY DIDN'T HAVE ANY COSTS. AND THOSE PEOPLE INSTEAD WOULD USE ALL OF THE OTHER GOOD RESORTS, BECAUSE THEY WANTED TO GO TO THE GOOD PLACES WHERE THE PEOPLE HAD TO PUT UP A LOT OF MONEY TO BUILD THOSE RESORTS.

SO THE PEOPLE WHO PUT UP THE MONEY TO BUILD REAL RESORTS AS OPPOSED TO THE R.V. GHETTOS, THEY GOT MAD AT COAST AND SAID, "HEY, THAT'S NOT FAIR. I MEAN, WE'VE GOT TO PUT UP MONEY TO BUILD THESE PLACES. WE HAVE TO ACTUALLY MAINTAIN THESE MEMBERS' TENNIS COURT AND ACTIVITY DIRECTOR AND LIFEGUARD. AND THIS GUY OVER HERE HAS 150 R.V. SITES, AND HALF OF THEM DON'T HAVE ELECTRICITY OR SEWAGE. AND IT'S 10 ACRES OF UGLY DIRT, AND HE IS ABLE TO ENJOY THIS BENEFIT. IT'S NOT FAIR."

SO THAT'S WHY COAST SAYS YOU'VE GOT TO SELL YOUR RESORT FIRST. PRIMARY PRODUCT RULE.

MR. RIVIN: YOUR HONOR, MAY WE APPROACH?

THE COURT: YOU MAY.

(DISCUSSION OFF THE RECORD.)

BY MR. SHAW: Q ALL RIGHT. WE TALKED ABOUT THE 125-MILE RULE. WE TALKED ABOUT THE PRIMARY PRODUCT RULE. WE'VE TALKED ABOUT THIS ORPHAN POLICY. LET'S TALK ABOUT -- LET'S FOCUS ON THE ORPHAN POLICY FOR A MOMENT.

WAS THE ORPHAN POLICY REFERENCED IN THE WRITTEN CONTRACTS THAT YOU HAVE PERSONAL KNOWLEDGE OF?

A NO, SIR.

Q OKAY. WAS THE ORPHAN POLICY DESCRIBED AT

ALL WHEN THE MEMBERSHIP, THE COAST MEMBERSHIPS, WERE BEING SOLD, TO YOUR KNOWLEDGE?

A YOU MEAN WHEN COAST WOULD SELL ME A MEMBERSHIP IN THEIR PROGRAM AS A DEVELOPER?

Q CORRECT.

A OR WHEN I WOULD SELL MY MEMBERS COAST SERVICES?

Q LET'S TAKE THE FIRST WAY, THE FIRST WAY, COAST TO COAST, WHEN IT WAS TRYING TO SELL ITS MEMBERSHIPS TO YOU AS A RESORT OWNER.

A NO. THERE'S NOTHING IN WRITING. I MEAN, IT MAY OR MAY NOT HAVE BEEN DISCUSSED. BUT I CAN'T RECALL, NO, SEEING NOTHING IN WRITING REGARDING -- AND THERE WAS NOTHING IN ANY AFFILIATION AGREEMENT I EVER SAW REGARDING THE ORPHAN PROGRAM. IT WAS JUST KIND OF A THING THAT WAS OUT THERE. IT EVOLVED. IT WAS ON CONDITIONS, AND THERE WAS NOTHING EVER IN WRITING ABOUT IT TO MY KNOWLEDGE.

Q WITH YOUR BACKGROUND AND EXPERIENCE, WOULD YOU CALL THAT A CUSTOM AND PRACTICE IN THE INDUSTRY?

A CERTAINLY. YEAH. THAT'S EXACTLY WHAT IT WAS. IT WASN'T WRITTEN IN ANY AGREEMENT. IT WAS A CUSTOM AND PRACTICE.

Q AND ARE THERE -- WELL LET ME WITHDRAW THAT AND START AGAIN.

LET ME TALK ABOUT THE MARKETING AND SALE OF THE MEMBERSHIPS.

YOU JUST POINTED OUT HOW THE RESORT SELLS MEMBERSHIPS. COULD YOU DESCRIBE FOR ME HOW THAT HAPPENS?

A I'M SORRY. I DON'T UNDERSTAND.

Q YOU AS A RESORT OWNER WANT TO SELL MEMBERSHIPS TO YOUR RESORT.

A YES, SIR.

Q HOW DO YOU GO ABOUT DOING THAT?

A OH, OKAY. OBVIOUSLY, THE FIRST THING YOU HAVE TO DO IS GET SOMEBODY TO COME TO VISIT YOU BECAUSE THEY HAVE TO SEE THE PROPERTY AND SEE WHAT'S GOING ON.

NOW, THE METHODS USED TO GET PEOPLE TO COME AND VISIT YOU CAN BE BROAD, FROM -- CLASSICALLY USED IN THIS INDUSTRY UP UNTIL, OH, I'D SAY THE LATE 80'S, THE MOST PREDOMINANT APPROACH USED WAS DIRECT MAIL AND THEN, OF COURSE, AND TO OFFER THE CONSUMER SOME SORT OF A GIFT OR PREMIUM. AND THAT COULD GET EXTREMELY CREATIVE. I LOVE THE TWO-MAN BOAT GIFT WHICH WAS FAMOUS, WHICH -- MOTORIZED TWO-MAN BOAT WHICH TURNED OUT TO BE A BLOWUP RAFT WITH A BATTERY MOTOR. THAT -- WE'D ENGAGED IN DIRECT MAIL PROGRAMS AND OFFERED PREMIUMS AND PRICES TO GET THE CONSUMER TO COME TO THE PROPERTY AND LISTEN TO WHAT I THINK WE'VE ALL HEARD NOW -- WHAT'S CALLED THE 90-MINUTE PRESENTATION OF THEIR SERVICES.

THEN ANOTHER APPROACH WOULD BE TO ENGAGE MEMBER REFERRALS, WHICH IS ONE I LIKED, WHERE YOU HAD A MEMBER, AND HE WAS PLEASED. AND HE WOULD INVITE A FRIEND OR SOMEONE TO COME AND LOOK AT THE FACILITIES. I FELT THAT'S ONE OF THE BETTER APPROACHES.

THEY MAY -- SOME HAVE USED TELEVISION ADVERTISING. SOME HAVE USED A -- CROSS-COLLATERALIZED MARKETING APPROACHES. THEY DIDN'T CALL THEM THAT IN THOSE DAYS. THERE'S A NEW TERM OF ART. YOU SEE IT TODAY WHEN

YOU BUY A BURGER AT THE BURGER RESTAURANT, AND YOU GET A STAR WARS TOY OR SOMETHING. AND THEN WHEN YOU SEE A STAR WARS COMMERCIAL, YOU SEE BURGER KING. SO THEY WOULD ENGAGE IN AGREEMENTS WITH OTHER COMPANIES TO TRY TO -- CROSS-COLLATERALIZED THEIR MARKETING APPROACHES.

SO PREDOMINANTLY DIRECT MAIL, MEMBER REFERRAL, CROSS-COLLATERALIZED, VERY LIMITED USE OF TELEVISION. IT'S NOT A VERY SOPHISTICATED INDUSTRY. SO NOT MUCH TELEVISION OR RADIO OR MAGAZINES. OR OCCASIONALLY SOME NEWSPAPER BLIND AD KIND OF DEAL.

ALSO OCCASIONALLY THEY WOULD RUN WHAT THEY CALL TWO-STEP PROGRAMS WHERE THEY WOULD INVITE PEOPLE INTO -- IN THE CITY. LET'S SAY WE LIVE HERE, AND THE RESORT IS OUT IN THE COUNTRY SOMEWHERE. SO THEY WOULD INVITE YOU INTO A DINNER PROGRAM AND PUT ON A PRESENTATION. AND THEN THEY WOULD KIND OF LIKE PRE-SELL YOU, AND THEN YOU WOULD SUBSEQUENTLY GO OUT TO THE RESORT.

SO THOSE ARE THE FOUR MAJOR METHODS: DIRECT MAIL, MEMBER REFERRAL, TWO-STEP PROGRAMS, AND THEN THE FOURTH AREA WOULD BE ALL OF THESE OTHER TYPES OF PROGRAMS THAT MAY HAVE BEEN USED IN A VERY LIMITED FASHION.

Q AND THERE'S A COST RELATED TO DOING THAT?

A OH, YES, SIR.

Q AND HOW MUCH DOES SOMETHING LIKE THAT COST?

A TODAY, IN THE HOSPITALITY RESORT RECREATION INDUSTRY, THE COST TO DEVELOP A TOURING IS RUNNING ANYWHERE FROM A LOW OF \$110 TO A HIGH OF COUPLE HUNDRED DOLLARS. AND THAT TRANSLATES OUT TO A COST OF PRODUCT. FOR EXAMPLE, IF YOUR PRODUCT SELLS FOR \$5,000 --

Q THE PRODUCT BEING THE MEMBERSHIP?

A THE MEMBERSHIP, CORRECT, SIR.

IF THE PRODUCT SELLS FOR \$5,000 -- AND LET'S HYPOTHETICALLY SAY THAT YOU HAVE TO -- YOU HAVE A 10-PERCENT CLOSING RATIO. THAT MEANS THAT, IF YOU INVITE 100 PEOPLE TO YOUR RESORT, 10 PERCENT OF THEM BUY YOUR PRODUCT. SO IF YOU PAID 100 -- LET'S -- FOR SIMPLE PURPOSES LET'S SAY 100. SO YOU INVITED 10 PEOPLE THERE. ONE BUYS. SO THAT MEANS YOU HAVE A THOUSAND DOLLARS IN COST BECAUSE NINE DIDN'T BUY, JUST TO GET THE PEOPLE THERE. SO JUST TO GET THE PEOPLE TO COME VISIT YOU COSTS YOU A THOUSAND DOLLARS FOR THAT \$5,000 SALE YOU MADE.

THEN YOU HAVE OTHER COLLATERAL COSTS IN THAT. YOU HAVE SALES COMMISSIONS. YOU HAVE THE COST OF MANAGING THAT SALE SYSTEM AND SO ON.

GENERALLY SPEAKING, OVER THE YEARS, THE INDUSTRY STARTED OUT IN THE EARLY 70'S. AND IT IS -- THE REASON THAT IT WAS SUCH AN AGGRESSIVE ENTREPRENEURIAL INDUSTRY IS BECAUSE THE MARKETING COSTS WERE VERY LOW BECAUSE PEOPLE DIDN'T KNOW ABOUT THE IDEA YET. SO YOU DIDN'T HAVE TO GIVE THEM SO MUCH WHEN IT FIRST STARTED OUT. THEY GIVE THEM A SLEEPING BAG, AND THAT WAS ABOUT IT. SO THE COSTS WERE LOWER.

THE COSTS -- THE INDUSTRY STARTED OUT -- UP UNTIL THE 80'S WAS PROBABLY RUNNING 25 TO 30 PERCENT OF THE GROSS SALE. SO IN THE CASE OF A \$5,000 SALE, YOU'RE TALKING ABOUT A MARKETING COST THAT WOULD REPRESENT \$1500 PLUS, GIVE OR TAKE A FEW CENTS, OKAY, OF THE PRODUCT. BY THE '80'S THE MARKETING COSTS WAS GOING UP. BY THE

MID-80'S THE MARKETING COSTS HAD GOTTEN TO THE POINT WHERE IT WAS RUNNING 55 TO 70 PERCENT OF THE COST OF THE PRODUCT. SO THAT MEANT IF YOU SOLD A \$5,000 PRODUCT, IT WAS COSTING YOU ANYWHERE FROM \$25- TO \$3500 DOLLARS OF THAT 5,000 TO SELL THE PRODUCT. SO THE PROFIT FOR SELLING IT WAS \$1500. AND THAT MONEY OF COURSE IS SUPPOSED TO GO TO DEVELOP THE RESORT, PAY FOR WHAT HAS BEEN DEVELOPED TO THAT POINT, AND THEN ALSO PAY FOR WHATEVER YOU PROMISED PEOPLE IT WAS GOING TO SHOW UP TOMORROW. BECAUSE VERY OFTEN THESE PEOPLE PROMISE PEOPLE THAT SOMETHING IS GOING TO HAPPEN TOMORROW.

Q NOW, YOU TALKED ABOUT HOW YOU DEVELOP A MEMBER FROM THE RESORT STANDPOINT, AND THE FOUR WAYS YOU GO ABOUT DOING IT AND THE COST. LET'S NOW SHIFT THE SUBJECTS OF WHAT IT COSTS COAST TO COAST, THE DEFENDANTS, TO DEVELOP A MEMBER.

HOW DO THEY SELL THEIR MEMBERSHIPS TO YOU AS THE RESORT OWNER?

MR. RIVIN: OBJECTION, YOUR HONOR. LACK OF FOUNDATION. SPECULATION.

THE COURT: SUSTAINED.

BY MR. SHAW: Q WHAT -- AS A RESORT OWNER, YOUR OWN PERSONAL KNOWLEDGE, WHAT -- WOULD COAST TO COAST COME TO YOU, AND HOW WOULD THEY GO ABOUT SELLING THEIR MEMBERSHIP TO YOU AS A RESORT OWNER?

A WELL, THEY USED TO HAVE REGIONAL MANAGERS. I THINK THAT THEY MAY HAVE HAD AS MANY AS FIVE REGIONS AT ONE TIME, MAYBE FOUR. BUSINESS GOT BAD. THEY GOT TWO NOW. BUT THE REGIONAL MANAGERS, PART OF HIS JOB WAS PRIMARILY -- HIS PRIMARY PURPOSE, REALLY, WAS TO GO OUT AND GET RESORTS TO AFFILIATE WITH COAST TO COAST BECAUSE COAST DOESN'T SELL MEMBERSHIPS. THEY DON'T HAVE ANY SALES METHODS. THEY DON'T HAVE ANYTHING. THE ONLY WAY THEY CAN GET ANYBODY IS IF THEY HAVE AN AFFILIATE THAT SELLS THE HOME PARK MEMBERSHIP FIRST.

Q THAT IS, YOU, THE RESORT OWNER, YOU'RE THE AFFILIATES?

A RIGHT. I'M THE AFFILIATE, THE RESORT OWNER. SO THE REGIONAL MANAGER WOULD COME TO YOU AND SAY, LISTEN, YOU CAN REALLY BE BENEFITED BY BEING PART OF THIS COAST TO COAST PROGRAM. AND YOU SHOULD JOIN US AND SELL OUR PRODUCT, WHICH IS COAST TO COAST, ALONG WITH YOUR MEMBERSHIP. AND DEPENDING ON THE CONDITIONS AND THE TIME, THAT IS, MEANING OVER A PERIOD OF YEARS, WHAT TIME IT WAS, THEY HAD AFFILIATION FEES. IN THE EARLY DAYS, ZERO. AND THE LAST OF MY RECOLLECTION WAS AS HIGH AS \$5,000. AND THEY WOULD CHARGE ME A FEE OF \$5,000 TO JOIN US FOR THE RIGHT TO SELL -- TO PROVIDE MY MEMBERS THEIR PROGRAM.

HOWEVER, YOU KNOW, THEY DIDN'T -- YOU KNOW, IF YOU ARGUED WITH THEM A LITTLE BIT, YOU COULD GET THAT FEE DOWN OR NOT PAY IT AT ALL. IF YOU DIDN'T KNOW ANYTHING ABOUT WHAT YOU WERE DOING, YOU WERE NEW IN THE BUSINESS, YOU WERE GOING TO PAY.

SO I WOULD PAY THEM THE \$5,000. AND NOW I HAD THE RIGHT TO BE ABLE TO SELL THEIR PRODUCT, WHICH WAS THE EXCHANGE PROGRAM OR WHAT WE NOW CALL A RECIPROCAL PROGRAM. THE SAME THING, THEY CALL "EXCHANGED" IN THOSE DAYS. SO THEN I WOULD BE SELLING THEIR PRODUCT.

AND THAT'S -- COAST DOESN'T SELL

MEMBERSHIPS. THERE'S BEEN MAYBE ONE OR TWO OCCASIONS WHEN THEY HAVE ATTEMPTED TO GO AROUND THEIR LICENSEES AND DO IT, BUT THEY'RE NOT IN THE MEMBERSHIP SELLING BUSINESS.

Q I'M GOING TO CHANGE SUBJECTS NOW, MR. MITCHELL, AND FINISH THE DAY IN THE NEXT 25 MINUTES, 20, 25 MINUTES OF TALKING ABOUT WHEN YOU FIRST MET MR. NOVELLI.

WHEN DID YOU FIRST MEET HIM?

A OH, I THINK ABOUT 1995.

Q AND WHAT WERE THE CIRCUMSTANCES?

A AS I MENTIONED EARLIER, I HAVE BEEN -- PROVIDE COUNSEL TO TRAVELERS CORPORATION FOR 20 YEARS. TRAVELERS CORPORATION HAD LENT HALF A MILLION DOLLARS. THEY PURCHASED CONTRACTS, MEMBERSHIP CONTRACTS, FROM A GROUP OF RESORT DEVELOPERS IN THE TEHACHAPIS THAT WERE DEVELOPING A RESORT FOR THE EXCLUSIVE USE OF MEMBERS OF THE PHILIPPINES COMMUNITY. AND THESE PEOPLE ENGAGED IN SOME QUESTIONABLE BUSINESS PRACTICES AND BECAME SUBJECT TO PURVIEW BY THE DEPARTMENT OF CORPORATIONS OF THE STATE OF CALIFORNIA, WHO SHUT THEM DOWN. AND THERE WERE ABOUT 800 MEMBERS THERE. AND THESE MEMBERS HAD CONTRACTS. THOSE CONTRACTS HAD BEEN FINANCED BY TRAVELERS.

I WAS ASKED TO REVIEW THE SITUATION AND -- AS I HAD BEEN IN PREVIOUS CASES, AND SEE IF THERE WASN'T A WAY TO SAVE THESE MEMBERS, SAVE THE RESORT AND, THEREBY, SAVE THE CONTRACTS WITH TRAVELERS. BECAUSE IF -- THE FUNDER HAS NOTHING UNLESS THE PEOPLE ARE GETTING WHAT THEY WANTED.

SO I LOOKED AT THE SITUATION, AND IT WAS A VERY DIFFICULT SITUATION. THE DEPARTMENT OF CORPORATIONS HAD PUT A STAY ON THESE PEOPLE SO THEY COULD NOT ENGAGE IN BUSINESS. THERE WAS A LOT OF MONEY OWED. THERE WAS, I THINK, \$20 OR \$30 MILLION MORTGAGE ON THE PROPERTY. PAYMENTS HADN'T BEEN MADE. I LOOKED AT IT, AND I HAD REMEMBERED THAT MY EXPERIENCE IN THE INDUSTRY AND MY KNOWLEDGE OF MR. NOVELLI GOT IN THE INDUSTRY BY TAKING ON DISTRESSED PROPERTIES AND HAD DONE OTHERS. SO I SAID, WELL, LET'S GIVE THIS NOVELLI A TRY. SO I CONTACTED MR. NOVELLI.

Q BEFORE YOU GO ON, IS THERE A TERM OR CONCEPT IN THE INDUSTRY CALLED A "WORKOUT SPECIALIST"?

A YES, SIR.

Q WHAT IS A WORKOUT SPECIALIST?

A WELL, A WORKOUT SPECIALIST IS SOMEBODY WHO HAS BOTH THE EXPERIENCE, CAPACITY AND NERVE, FOOLISHNESS SOMETIMES MIGHT BE ADDED, TO TAKE ON SITUATIONS THAT ARE A BIG MESS, AND THEY'RE IN A DISTRESS. AND WE SEE THIS EVERY DAY IN THE PAPER. BIG COMPANIES, MACY'S, TWA, THESE GUYS GET IN TROUBLE, AND THEY BRING IN A DIFFERENT CORPORATE EXECUTIVE, NOT THE GUY THAT RUNS THE COMPANY, MAY BE DIFFERENT THAN THE WORKOUT GUY. AND NOVELLI WAS A WORKOUT GUY, AND HE HAD BEEN VERY SUCCESSFUL IN WORKING OUT FOR AND SAVING THE MEMBERS OF ALL SEASONS. SO I THOUGHT THIS MIGHT BE AN OPPORTUNITY.

IT TOOK NUMEROUS CONTACTS TO GET THROUGH TO HIM. HE IS A DIFFICULT GUY TO GET AHOLD OF. HE WON'T TALK TO NOBODY. AT LEAST HE DIDN'T TALK TO ME. AFTER A WHILE I GOT AHOLD OF HIM, AND I TOLD HIM THAT THERE WAS A

MEMBERSHIP RESORT. IT WAS BIG PROPERTY. I TOLD HIM I FELT THERE WAS AN EXTREME INTERESTING OPPORTUNITY HERE BECAUSE OF THE AFFINITY GROUP, OF THE PHILIPPINE COMMUNITY. THERE ARE QUARTER OF A MILLION PHILIPPINE PEOPLE THAT LIVE IN SOUTHERN CALIFORNIA. IT'S A PATRIARCHAL COMMUNITY. THEY ARE VERY FINE PEOPLE, VERY FAMILY-ORIENTED. AND IF YOU COULD MAKE THEM HAPPY AND PROVIDE THEM A GOOD PRODUCT, THEY WOULD BUY FROM YOU, AND THEY WOULD DO IT IN SUCH A WAY THAT WOULD DRAMATICALLY REDUCE THOSE MARKETING COSTS YOU TALKED ABOUT. BECAUSE YOU WOULDN'T HAVE TO GIVE THEM GIFTS AND PUT ADS IN THE PAPER AND SEND DIRECT MAIL BECAUSE IT'S KIND OF A WORD-OF-MOUTH THING.

SO I CONVINCED MR. NOVELLI THAT THIS WOULD BE A GOOD THING FOR HIM TO DO.

Q DID HE DO IT?

A YES, SIR.

Q AND WHAT HAPPENED?

A HE MET WITH MR. DAVIS AND TRAVELERS GROUP, AND HE GAVE THEM -- THEY HAD -- TRAVELERS HAD \$500,000 WORTH OF WORTHLESS CONTRACTS BECAUSE THERE WAS NO RESORT.

Q I JUST WANT TO BE CLEAR. THIS IS OF YOUR OWN PERSONAL KNOWLEDGE. YOU WERE PRESENT WHEN THESE TRANSACTIONS WERE TAKING PLACE?

A OH, YES, SIR.

Q OKAY.

A YEAH.

Q YOU WERE PHYSICALLY PRESENT IN THE CONFERENCE ROOM WITH MR. DAVIS AND MR. NOVELLI WHEN THIS WAS TAKING PLACE?

A YES, SIR.

Q ALL RIGHT. GO AHEAD.

A OKAY. SO THE AGREEMENT WAS THAT MR. NOVELLI WOULD GIVE MR. DAVIS, TRAVELERS CORPORATION, 500,000 WORTH OF GOOD CONTRACTS. AND GOOD CONTRACTS MEANS PEOPLE THAT WERE HAPPY AND WERE PAYING AND EVERYTHING WAS GREAT, FOR THE 500,000 WORTH OF WORTHLESS CONTRACTS. AND HE WOULD ALSO GIVE THE OWNERS OF THE RESORT, THE PEOPLE WHO CAUSED THE PROBLEM, APPROXIMATELY ANOTHER \$500,000. AND THAT MONEY I HAD BUDGETED FOR PAYMENTS TO THE DEPARTMENT OF CORPORATIONS AND THEIR ATTORNEYS FOR THEIR COSTS INVOLVED IN THIS THING, THE STATE OF CALIFORNIA, FOR OTHER CREDITORS. AND I ALSO FACILITATED WITH THE BANK A NEW MORTGAGE FOR \$30 MILLION.

AND SO MR. DAVIS GOT NEW, GOOD CONTRACTS, OR IN ESSENCE HE GOT HIS \$500,000. MR. NOVELLI GOT THESE PHILIPPINE FIESTA RESORT CONTRACTS THAT WERE WORTHLESS, UNLESS OF COURSE HE REHABILITATED THE RESORT, AND THEN THEY WOULD BE WORTH SOMETHING.

SO THAT'S ESSENTIALLY WHAT HAPPENED.

Q OKAY. NOW, YOU HAD ANOTHER EXPERIENCE WITH MR. NOVELLI AND MR. DAVIS IN A MATTER CALLED "THE THOUSAND ADVENTURES," WHERE YOU DISCUSSED A MATTER A COUPLE YEARS LATER IN 1997 WITH MR. NOVELLI?

A YES, SIR. YEAH, THAT WAS THE -- I THINK, OH, MAYBE JUNE OR JULY OF '97.

Q OKAY. NOW, WHAT HAPPENED IN THAT CIRCUMSTANCE?

A WELL, THOUSAND ADVENTURES, WHICH WAS A

COMPANY DEVELOPED BY A GUY BY THE NAME OF DAVE VOPNFORD, AND PROBABLY THE BIGGEST, UGLY SCAR ON THE INDUSTRY, HE HAD ABOUT -- MY RECOLLECTION IS MAYBE 50 RESORTS AND POSSIBLY 60-, 70,000, 100,000 MEMBERS MAYBE. BUT THE SALES PRACTICE OF MR. VOPNFORD ENGAGED IN WERE GROSS AND FRAUDULENT AND MISREPRESENTATIVE AND HAD BEEN IDENTIFIED SO BY ATTORNEY GENERALS ACROSS THE COUNTRY.

AND MR. VOPNFORD GOT IN BIG TROUBLE. HE HAD A HUNDRED MILLION DOLLARS' WORTH OF LOANS. AND BECAUSE OF HIS SHABBY BUSINESS PRACTICES, THE BANKS AND LENDERS WERE NOT GOING TO RENEW HIS LOANS.

Q HIS HUNDRED MILLION DOLLARS' WORTH OF LOANS?

A CORRECT.

Q AND THEN --

A CORRECT. THEY DIDN'T DO THEIR HOMEWORK.

THEY SAID THEY WOULDN'T RENEW THE LOANS. THAT IS THAT. THE LAWYERS SAID, "IF YOU DON'T RENEW THE LOANS AND THE RESORTS GO AWAY, THEN THOSE MEMBERS DON'T HAVE SERVICES. AND IF THE MEMBERS DON'T HAVE SERVICE, THEY DON'T HAVE TO PAY THE CONTRACTS. AND THEY SHOULDN'T HAVE TO IF THEY DON'T HAVE SERVICES. WHY SHOULD THEY HAVE TO PAY?"

SO THEY FIGURED OUT THAT, BOOM, THEY COULDN'T JUST TELL MR. VOPNFORD TO GO TAKE A FLYING LEAP AND GO TO JAIL. SO THEY GOT MR. DAVIS'S COMPANY, ANOTHER DIVISION OF MR. DAVIS'S COMPANY, WHICH ENGAGES WHAT'S CALLED CONTRACT SERVICING. AND THAT --

Q THIS IS THE TRANSAMERICA COMPANY?

A THAT'S CORRECT. AND -- TRAVELERS.

Q EXCUSE ME. TRAVELERS. I'M SORRY.

A CONTRACT SERVICING IS WHERE IF YOU'VE GOT SOME CONTRACTS, YOU GIVE THEM TO A COMPANY, AND THEY SEND THE STATEMENTS AND KEEP THE ACCOUNTING ON THEM AND SEND THEM A BILL AND THOSE KIND OF THINGS. SO MR. DAVIS KNEW THESE LENDERS, AND THEY CAME TO HIM AND ASKED HIM FOR ADVICE. HE CAME TO ME AND ARTICULATED THE SITUATION AND ASKED ME TO HANDLE IT AND LOOK AT IT, SEE IF I COULD DEVELOP A WAY TO ADDRESS THIS PROBLEM WITH A HUNDRED MILLION DOLLARS, THE 60,000 MEMBERS, THE 25 RESORTS, THE WHOLE BIG MESS.

SO I SPENT ABOUT A MONTH LOOKING AT IT, INVESTIGATING IT, INVESTIGATING WHAT WAS GOING ON, MR. VOPNFORD AND HIS RESORTS AND THE LENDERS AND SO ON. AND IN THE PROCESS OF THIS, A LITTLE BELL WENT OFF, AND I REMEMBERED MR. NOVELLI AND THE FACT THAT WE HAD BEEN SUCCESSFUL IN THIS WORKOUT SITUATION WITH HIM WITH PHILIPPINE FIESTA, AND I ALSO KNEW THERE WAS NOBODY IN THE INDUSTRY THAT WOULD TOUCH THIS WITH A 10-FOOT POLE. THIS WAS AN UGLY MESS. THERE WERE LAWSUITS, CLASS-ACTION LAWSUITS, ATTORNEY GENERAL ACTIONS, \$100 MILLION WORTH OF DEBT TO PRIMARY LENDERS, MAYBE ANOTHER 50 MILLION TO SECONDARY GROUPS.

Q TRY TO STOP YOU RIGHT THERE BEFORE YOU GO ON.

YOU WERE HERE FOR MR. SHERMAN'S OPENING STATEMENT THIS MORNING?

A YES, SIR.

Q AND YOU HEARD HIM TALK ABOUT THE BANKRUPTCIES AND LAWSUITS AND JUDGMENTS IN THIS 1996 --

A I DIDN'T SEE THAT BLACKBOARD.

Q -- TIME PERIOD?

A YES, I HEARD HIM TALK ABOUT IT. I KNOW HE WAS WRITING SOMETHING. I COULDN'T SEE.

Q NOW, THE LAWSUITS, HE HAS AN "L" FOR IT?

A IF YOU JUST TURN IT A LITTLE BIT, I THINK I CAN SEE IT OKAY. CAN YOU JUST PUSH THAT -- YEAH, I CAN SEE IT NOW. THANK YOU.

Q ON HIS TIME LINE, THIS -- WHEN DID YOU -- WHEN YOU DID ARRANGE TO MEET WITH MR. NOVELLI, YOU HAD KNOWN WITH HIM FROM THE PHILIPPINE FIESTA SITUATION IN 1995?

A CORRECT.

Q SOMETIME IN JUNE YOU SAID?

A IT MIGHT HAVE BEEN '84. IN ANY CASE, I KNEW ABOUT IT, YES, SIR.

Q BUT SOMETIME AROUND 1997; IS THAT CORRECT?

A WELL, IT WAS IN -- YEAH, I THINK I STARTED CONTACTING HIM IN MAYBE MIDDLE OR -- OF JUNE, FIRST OF JULY. IT TOOK ME ABOUT A MONTH TO GET THROUGH TO HIM.

Q OKAY. NOW, THESE BANKRUPTCIES THAT MR. SHERMAN WAS REFERRING TO AND LAWSUITS AND JUDGMENTS, YOU'RE PERSONALLY FAMILIAR WITH WHAT THOSE BANKRUPTCIES AND LAWSUITS AND JUDGMENTS WERE IN THIS 1996 TIME PERIOD BECAUSE OF YOUR INVESTIGATION BY -- FOR TRAVELERS?

A OH, YES. IN OTHER WORDS, I HAD TO INVESTIGATE ALL MR. VOPNFORD'S OPERATIONS AND ALL OF THOSE LAWSUITS FROM 1997 BACK. EVERYTHING FROM MY INVESTIGATION WAS IN JUNE OF 1997. SO I BECAME PRIVY TO ALL THOSE LAWSUITS, CLASS-ACTION SUITS, BANKRUPTCIES ACTIONS, ATTORNEY GENERAL ACTIONS, AND I TALKED TO -- DIALOGUE WITH A MR. HOPPER, WHO WAS REPRESENTING MEMBERS. I GAVE HIM SOME COUNSEL ON HOW HE MIGHT APPROACH THAT. HE WANTED TO MAKE A LAWSUIT AGAINST PEOPLE. I DON'T KNOW IF HE EVER DID OR NOT. YEAH, I KNOW ABOUT ALL OF THOSE.

Q SO THIS WAS THE STATE OF THE COMPANY BY VOPNFORD BEFORE YOU EVER CONTACTED MR. NOVELLI IN JUNE OF 1997, TO COME RESCUE OR SAVE OR BE THE WORKOUT SPECIALIST FOR THIS COMPANY?

A OH, YEAH. THAT HAS NOTHING TO DO WITH NOVELLI. THAT WAS ALL MR. VOPNFORD. THAT'S THE REASON THAT WE WERE HAVING THE PROBLEMS. THAT'S THE REASON I CONTACTED -- NOT ALL THE REASON, BUT IT WAS PART OF IT, OBVIOUSLY, BECAUSE IF HE HADN'T HAD GOTTEN IN ALL THOSE LAWSUITS, AND THE ATTORNEY GENERALS IN THE CASE, THE BANKERS WOULD HAVE GIVEN HIM THE MONEY, AND WE WOULD HAVE NOTHING TO DISCUSS.

Q AND THESE BANKRUPTCIES, LAWSUITS, ATTORNEY GENERALS, ALL THIS, 1996, THIS IS THE REASON WHY NOBODY IN THE INDUSTRY WOULD TOUCH IT WITH A 10-FOOT POLE?

A OF COURSE NOT.

MR. RIVIN: OBJECTION. LACK OF FOUNDATION.

THE COURT: SUSTAINED.

THE WITNESS: I MEAN, YOU'RE TALKING ABOUT THE UGLIEST --

THE COURT: THE OBJECTION IS SUSTAINED.

THE WITNESS: EXCUSE ME, SIR.

BY MR. SHAW: Q BUT MR. NOVELLI WASN'T INVOLVED IN

ANY OF THIS AS FAR AS YOUR OWN PERSONAL KNOWLEDGE OF INVESTIGATING IT FOR TRAVELERS?

A ABSOLUTELY NOT.

MR. RIVIN: OBJECTION LACK OF FOUNDATION.

THE COURT: SUSTAINED.

BY MR. SHAW: Q LET'S LAY THE FOUNDATION.

YOU WERE INVESTIGATING THESE BANKRUPTCIES, THESE LAWSUITS, THESE ATTORNEY GENERAL OPINIONS ON BEHALF OF WHOM?

A ON BEHALF OF TRAVELERS CORPORATION.

Q AND WHAT DID YOU DO TO INVESTIGATE THESE BANKRUPTCIES, THESE LAWSUITS, THESE ATTORNEY GENERAL OPINIONS?

MR. RIVIN: YOUR HONOR, IF I MAY, I WAS NOT HERE THIS MORNING FOR OPENING. MY UNDERSTANDING IS THAT THE BANKRUPTCIES THAT WERE BEING REFERRED TO THIS MORNING WERE NOT ONLY THOUSAND ADVENTURES BANKRUPTCIES BUT ALSO BANKRUPTCIES INVOLVING THE PLAINTIFFS. AND WHAT MR. SHAW IS POINTING AT ARE -- AS I UNDERSTAND, ARE BANKRUPTCIES THAT INVOLVE THE PLAINTIFFS AND THOUSAND ADVENTURES BOTH.

IF MR. SHAW WANTS TO ASK QUESTIONS ABOUT THOUSAND ADVENTURES, THAT'S FINE. BUT MY CONCERN IS HE MAY BE TRYING TO MISCHARACTERIZE. HE MAY BE MISCHARACTERIZING WHAT MR. SHERMAN WAS TALKING ABOUT THIS MORNING.

MR. SHAW: YOUR HONOR, WE'RE TALKING ABOUT BANKRUPTCIES HAVING TO DO WITH THOUSAND ADVENTURES IN THE 1996 TIME PERIOD, ATTORNEY GENERALS OPINIONS IN THE 1996 TIME PERIOD, BEFORE MR. NOVELLI, BEFORE MR. MITCHELL MADE THE CONTACT TO HAVE MR. NOVELLI. THIS WAS NOT EVIDENCE THIS MORNING. I AGREE WITH MR. RIVIN. IT'S NOT EVIDENCE. I'M TALKING ABOUT THESE THOUSAND ADVENTURE BANKRUPTCIES AND ATTORNEY GENERALS OPINIONS.

I HEARD WHAT HAPPENED THIS MORNING. THE JURY HEARD WHAT THE STATEMENTS WERE THIS MORNING. AND I BELIEVE IT'S VERY CLEAR. AND I BELIEVE I HAVE A RIGHT TO ASK MR. MITCHELL ABOUT HIS TESTIMONY.

THE COURT: ALL RIGHT. PROCEED.

THE WITNESS: WELL, YEAH. MR. SHERMAN WAS TALKING ABOUT THE -- NOT THE PLAINTIFFS. HE WAS TALKING ABOUT THE ACQUISITIONS THAT THE PLAINTIFFS MADE, OR THAT BECAME THE PLAINTIFFS. ALL OF THAT THAT OCCURRED FROM 19 -- WELL, LET ME SPEAK TO MY DIRECT KNOWLEDGE.

ANYTHING THAT OCCURRED WITH REGARD TO LITIGATION, BE IT ATTORNEY GENERAL, BANKRUPTCY, CLASS-ACTION SUIT, ANY KIND OF LITIGATION THAT OCCURRED THEREFROM PRIOR TO JUNE OF 1997 WITH REGARD TO THESE RESORTS AND T.A. OF OHIO AND T.A. OF FLORIDA AND T.A. OF WHATEVER, WERE THE PROBLEM. THAT WAS MR. VOPNFORD, AND THAT WAS -- MR. VOPNFORD CREATED THOSE PROBLEMS AND PROBLEMS THAT I HAD -- WAS FULLY KNOWLEDGEABLE OF AND HAD DIALOGUE WITH REGARDING COAST TO COAST YEARS BEFORE.

THIS BEGAN -- MR. VOPNFORD BEGAN HAVING ATTORNEY GENERAL AND B.K. AND LITIGATION PROBLEMS FIVE YEARS BEFORE THAT.

Q OKAY. SO IN --

A SO THAT HAD NOTHING TO DO WITH MR. NOVELLI SAVE THE FACT THAT WHEN HE FINALLY AGREED TO TAKE ON THE PROBLEM AND WORK IT OUT, HE INHERITED THAT CRAP. BUT HE

DIDN'T CAUSE IT. HAD NOTHING TO DO WITH IT.

THE COURT: MR. SHAW, LET'S PICK UP AT THIS POINT IN THE MORNING. I THINK WE WORKED THESE JURORS HARD ENOUGH.

THE WITNESS: THANK YOU.

THE COURT: LADIES AND GENTLEMEN, WE'LL SEE YOU ALL AT 9:00 TOMORROW MORNING, PLEASE.

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

MR. SHAW: I'D LIKE TO LEAVE THE BLACKBOARD IN THE STATE THAT IT IS NOW BECAUSE I'M GOING TO CONTINUE WITH MY EVIDENCE OF MR. MITCHELL TOMORROW MORNING. SO I'D JUST LIKE IT TO STAY THERE THE WAY IT IS. THANK YOU.

MR. SHERMAN: THAT'S FINE. I HAVE NO PROBLEM WITH THAT. HOWEVER -- AND WE DO HAVE A TRANSCRIPT OF MY REMARKS EARLIER TODAY. WITH THE EXCEPTION OF TWO MARKS, B.K. THERE, THE RECORD WILL REFLECT IN MY OPENING STATEMENT -- EXCUSE ME. THREE B.K. MARKS, AUGUST '97, JANUARY '97 AND MAY '97, EVERY OTHER B.K. MARK THERE WAS A B.K. MARK OF A PLAINTIFF PARK.

THE COURT: ALL RIGHT.

MR. SHERMAN: NOVELLI PARK.

THE COURT: THANK YOU. SEE YOU ALL TOMORROW.

MR. MOSHENKO: YOUR HONOR, ON THE RECORD, WE WOULD DISPUTE THAT.

(WHEREUPON THE COURT WAS IN RECESS UNTIL THURSDAY, MAY 18, 2000, 9:00 A.M.)