

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, WEST JUSTICE CENTER
DEPARTMENT W7

TRAVEL AMERICA, INC., A DELAWARE)
CORPORATION, ET AL.,)
)
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

JUNE 14, 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.
CRAIG S. RUTENBERG, ESQ.

RUTAN & TUCKER
BY: IRA G. RIVIN, ESQ.

HEIDI K. STEWART, CSR #6058
OFFICIAL COURT REPORTER

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1 WESTMINSTER, CALIFORNIA - WEDNESDAY, JUNE 14, 2000

2 MORNING SESSION

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

5 THE COURT: THIS MOTION IS A DEFENDANTS' MOTION IN
6 LIMINE NUMBER 5, ACTUALLY, AND YOU'RE ASKING FOR AN ORDER
7 EXCLUDING EVIDENCE OF THE ALLEGED CONTRACT BREACHES PRIOR
8 TO THE STATUTE OF LIMITATIONS CUTOFF DATES.

9 AND DID I SEE SOME OPPOSITION HERE? YEAH, I
10 DID. YEAH.

11 SO DO YOU WANT TO BE HEARD?

12 MR. SHERMAN: YEAH, I WOULD LIKE TO BE HEARD, AND I
13 WOULD LIKE TO -- JUST A LITTLE -- IN A LITTLE WAY RECAST
14 WHAT IT IS YOUR HONOR JUST REFERENCED. BECAUSE AS FAR AS
15 CONTRACT BREACHES PRIOR TO THE STATUTE OF LIMITATIONS
16 CUTOFF DATE, I WOULD CONCEDE TWO POINTS.

17 FIRST, MANY OF THOSE ISSUES ARE ALREADY OUT
18 OF THE BAG, IN TERMS OF CUSTOM AND PRACTICE AND RULES AND
19 THINGS LIKE THAT. AND WHILE I DON'T THINK IT SHOULD HAVE
20 COME IN, IT HAS COME IN. BUT, YOU KNOW, ANY CONTRACT
21 BREACH IS NOT WHAT OUR FOCUS IS ON THIS MORNING. OUR FOCUS
22 THIS MORNING, IN THIS MOTION, IN THE THREE PAGES THAT WE
23 FILED WITH THE COURT YESTERDAY, ONLY RELATES TO THIS: WHAT
24 I'LL CHARACTERIZE AS A FROLIC IN DETOUR OF AMERICAN
25 ADVENTURE, INC., A NONPARTY, NEVER BEEN A PARTY.

26 AND THE FACT THAT AT ONE POINT MR. NOVELLI

1 WANTED TO BE INVOLVED WITH IT, AND AT ONE POINT COAST DID
2 HAVE SOME INVOLVEMENT IN IT, THE FEDERAL BANKRUPTCY COURT
3 ISSUES, ULTIMATELY -- AND I TRIED TO LAY OUT THE FACTS IN
4 OUR SHORT FILING OF YESTERDAY. ULTIMATELY WHEN THE DUST
5 SETTLES ON THAT, I THINK NOT ONLY WILL YOUR HONOR BE
6 SCRATCHING YOUR HEAD AND SAYING, YOU KNOW, WHERE DOES --
7 HOW DOES THIS ADVANCE THE BALL? WHAT DOES THIS HAVE TO DO
8 WITH WHETHER THE LISTS ARE CONFIDENTIAL OR AREN'T
9 CONFIDENTIAL? WHAT DOES THIS HAVE TO DO WITH WHETHER COAST
10 SENT OUT LETTERS IT SHOULDN'T HAVE SENT OUT OR WAS
11 PRIVILEGED TO SEND OUT, YOU KNOW, WITH THE CONSEQUENCES OF
12 THE LETTERS, SIX YEARS LATER, SEVEN YEARS LATER, EIGHT
13 YEARS LATER?

14 SO REALLY THE QUESTION IS NOT SO MUCH
15 CONTRACT BREACHES IN THE ABSTRACT, BUT AMERICAN ADVENTURE
16 AND THE CONSEQUENCES OF THAT. BECAUSE WE DO HAVE, I THINK,
17 A CHALLENGE RIGHT NOW, JUNE 14, THAT I DON'T KNOW WHEN THIS
18 CASE IS GOING TO END. AND I CAN ASSURE YOUR HONOR THAT
19 WHEN AMERICAN ADVENTURE COMES IN, WE WILL NEED ONE WEEK TO
20 HAVE ALL THE DUST SETTLE ON THOSE ISSUES. AND FOR WHAT
21 END? THAT'S THE ONLY ISSUE. FOR WHAT END?

22 AND I INVITE, AND I'D ASK THE COURT TO ASK
23 MR. MOSHENKO -- LET'S SAY YOU PROVE EVERYTHING THE WAY YOU
24 THINKS IT'S GOING TO BE PROVED. WHAT DOES THAT HAVE TO DO
25 WITH WHETHER COAST HAD THE RIGHT TO CONTACT ITS MEMBERS
26 SEVEN YEARS LATER? THAT'S THE QUESTION.

1 THE COURT: MR. MOSHENKO?

2 MR. MOSHENKO: WELL, YOUR HONOR, THIS IS AN ISSUE
3 EXCLUSION MOTION, AS WELL AS AN EVIDENCE EXCLUSION MOTION.
4 AND IT SEEKS, BEFORE THE COURT HEARS OR UNDERSTANDS ANY OF
5 THE EVIDENCE, WHAT IT MAY CONSIST OF AND/OR HOW IT IS
6 RELEVANT, TO EXCLUDE BASICALLY ANY TESTIMONY, ARGUMENT AND
7 EXAMINATION REGARDING AMERICAN ADVENTURES.

8 NOW, IF I HAD THIS MOTION, YOUR HONOR, I
9 WOULD SAY GRANT IT, IF I WERE YOU, THE WAY IT'S WRITTEN.
10 BUT THE WAY IT'S WRITTEN IS I THINK NOT THE REALITY OF THE
11 SITUATION. THE PLAINTIFF IS NOT ASSERTING CLAIMS OF BREACH
12 OF CONTRACT OR TORT BASED ON EVENTS THAT OCCURRED IN 1993
13 INVOLVING THE AMERICAN ADVENTURE EVENTS.

14 WE'RE NOT -- IT MAY BE TRUE, AS THE LETTER
15 ATTACHED SENT IN 1992, THAT THERE WAS A CAUSE OF ACTION
16 BACK THEN, BUT WE'RE TRYING A 1997 CASE. I AGREE WE'RE NOT
17 TRYING A 1992 AND A 1993 CASE. BUT THAT IS NOT TO SAY THAT
18 ANY REFERENCE TO AMERICAN ADVENTURE SHOULD NOT BE ALLOWED
19 OR MAY NOT BE IMPORTANT OR RELEVANT TO OTHER ISSUES, ISSUES
20 LIKE COAST'S KNOWLEDGE AND AWARENESS, COAST'S PRACTICES.

21 TO USE YOUR HONOR'S PHRASE, THERE'S
22 HISTORICAL BACKGROUND THAT IS RELEVANT TO UNDERSTAND THE
23 EVENTS OF 1997, ISSUES LIKE THE CREDIBILITY OF THE
24 WITNESSES.

25 I'LL GIVE YOU AN ANALOGY SO THAT YOU CAN
26 UNDERSTAND WHAT I'M SUGGESTING HERE. WE'RE ALL FAMILIAR

1 WITH THE DIAMOND LETTERS, THE JIM JOSEPH/DIAMOND LETTERS,
2 THE EXCHANGE BETWEEN RYMAN AND DIAMOND WHERE CONVERSATIONS
3 WERE -- WHERE THE LETTERS TALKED ABOUT WHAT COULD BE
4 CHARACTERIZED AS AN ACCUSATION OF A BREACH BY COAST THAT
5 OCCURRED BACK IN 19 -- WAS IT '94? OKAY. 1992. AND HAD
6 THE -- THIS MOTION BEEN BROUGHT IN THE NAME AMERICAN
7 ADVENTURES REMOVED, AND THE NAME ALL SEASONS RESORTS,
8 EVENTS INVOLVING -- WHICH OCCURRED IN 1992 AND HAD THE
9 COURT GRANTED SUCH A MOTION, THOSE OBVIOUSLY RELEVANT AND
10 MATERIAL PIECES OF EVIDENCE COULD NEVER HAVE SEEN THE LIGHT
11 OF DAY. AND THE JURY WOULDN'T UNDERSTAND THAT COAST TALKS
12 OUT OF BOTH SIDES OF ITS MOUTH, DEPENDING ON THE
13 CIRCUMSTANCE, DEPENDING ON THEIR OWN ECONOMIC AND FINANCIAL
14 MOTIVATIONS.

15 AMERICAN ADVENTURE IS NOT -- I ALSO NOTED IT
16 SAID IT'S GOING TO TAKE A FULL WEEK TO TALK ABOUT IT.
17 WELL, CERTAINLY ISN'T GOING TO TAKE A FULL WEEK BY THE
18 PLAINTIFF. IF THE PLAINTIFF MENTIONS AMERICAN ADVENTURE IN
19 PASSING AT THIS STAGE OF THE TRIAL, IN TWO OR THREE
20 QUESTIONS, AND IF IT CONSUMES 10 MINUTES, I'D BE
21 SURPRISED. BECAUSE WE'RE NOT GOING TO, QUOTE, TELL THE
22 FULL AMERICAN ADVENTURES STORY. BUT WE DO WISH AND FEEL WE
23 SHOULD HAVE THE RIGHT TO NOT HAVE ALL REFERENCES EXCLUDED
24 BECAUSE A STRAW MAN IS SET UP, A STRAW MAN -- WELL, A FULL
25 WEEK OF TESTIMONY, CHOCKFUL OF DETAILS AND FACTS AND
26 NUANCES. I DON'T WANT TO GO THROUGH ALL THOSE FACTS AND

1 NUANCES.

2 I DO WANT TO ASK MR. BUTLER A COUPLE OF
3 QUESTIONS RELATING TO AMERICAN ADVENTURE, AND I DON'T THINK
4 THE COURT SHOULD PREJUDGE THE RELEVANCE OR ADMISSIBILITY OF
5 THOSE COUPLE OF QUESTIONS. BECAUSE THEY DEAL WITH HIS
6 STATE OF MIND THEN AND COAST'S PRACTICES TODAY.

7 MR. SHERMAN: YOUR HONOR, IF I COULD JUST ADD ONE
8 POINT IN REPLY.

9 MR. MOSHENKO HAS NOT SHARED WITH THE COURT
10 NOR WITH US THE AREA WHERE HE THINKS THE BEEF IS, WHERE THE
11 ISSUE IS. AND BASED ON THE RECITATION, THE TENDER OR
12 PROFFER OF EVIDENCE THAT I MADE IN THE MOVING PAPERS, I AM
13 CONFIDENT THAT IF THE DUST HAS TO SETTLE ON THIS ISSUE,
14 THERE WILL BE SOME VERY COLORFUL AND VERY VIVID ACCOUNTS BY
15 STEWART ALLEN, WHO WAS THE ATTORNEY FOR THE COMPANY,
16 AMERICAN ADVENTURES, BACK IN THE '90'S WHO WE HAVE SPOKEN
17 WITH AND HAS AGREED TO FLY DOWN FROM WASHINGTON STATE TO
18 TESTIFY.

19 THERE WILL BE COLORFUL VIVID ACCOUNTING BY
20 STAN GOLDISH, AN ATTORNEY IN LOS ANGELES, WHO REPRESENTED
21 THE COMMITTEE IN THE CASE FOR MR. DURKIN, A TRUSTEE
22 REPRESENTATIVE. AND FOR WHAT PURPOSE? I JUST WANT TO
23 KNOW, FOR WHAT PURPOSE?

24 I REALIZE MR. MOSHENKO SAYS HE HAS GOT TWO
25 OR THREE QUESTIONS, AND I'M NO CLOSER TO UNDERSTANDING THE
26 RELEVANCE NOW THAN I WAS WHEN WE PREPARED THIS MOTION.

1 THE COURT: WELL, I'M TOTALLY IN THE DARK,
2 GENTLEMEN. WITHOUT KNOWING WHAT THE QUESTIONS ARE, I CAN'T
3 RULE.

4 MR. MOSHENKO: AND I WOULD SUGGEST, YOUR HONOR,
5 THAT YOU SHOULDN'T RULE THAT ANY REFERENCE TO AMERICAN
6 ADVENTURES IS EXCLUDED JUST BECAUSE MR. SHERMAN SUGGESTS
7 THAT HE WANTS TO BRING IN THREE OR FOUR WITNESSES ON THE
8 ISSUE. I DON'T WANT TO BRING IN THREE OR FOUR WITNESSES.
9 I WANT TO ASK MR. RANDALL A COUPLE OF QUESTIONS THAT
10 DIRECTLY QUOTE MR. RANDALL.

11 THE COURT: I THOUGHT RANDALL --

12 MR. MOSHENKO: I'M SORRY. MR. BUTLER. I WANT TO
13 ASK MR. BUTLER A COUPLE OF QUESTIONS THAT DIRECTLY QUOTE
14 MR. BUTLER IN THE PAST TO SHOW THAT WHEN MR. BUTLER SAYS
15 "A" TODAY, HE IS COMPLETELY AT ODDS WITH "B" THAT HE SAID
16 YESTERDAY. IT'S A CREDIBILITY QUESTION. IT'S A CUSTOM AND
17 PRACTICE EVIDENCE QUESTION. IT PROVES COAST'S KNOWLEDGE
18 AND PRACTICES IN THE PAST. IT'S EQUIVALENT TO A DIAMOND
19 LETTER.

20 THE COURT: YOU SAY YOU'VE GOT THREE QUESTIONS.

21 MR. MOSHENKO: I'D SAY ABOUT THREE QUESTIONS.

22 MR. SHERMAN: IT'S LIKE A ONE-HOUR EXAMINATION.

23 MR. MOSHENKO: I DON'T SEE HOW WE CAN TURN IT INTO
24 A WEEK'S JAUNT.

25 MR. SHERMAN: WHY DON'T YOU TELL WITH US WHAT THE
26 QUESTIONS ARE.

1 MR. MOSHENKO: AFTER I FINISH WITH MR. BUTLER -- I
2 WILL FINISH BEFORE THE END OF THE DAY, EVEN WITH THE --
3 EXPECTING THAT MR. SHAW WILL COME BACK THIS AFTERNOON AND
4 FINISH WITH MR. MALPASS TODAY, TOO.

5 MR. SHERMAN: SEE, MR. MOSHENKO CONTINUES TO TALK
6 ABOUT CUSTOM AND PRACTICE, AND MY CONTINUED QUERY IS CUSTOM
7 AND PRACTICE OF WHAT?

8 AND IF THE ISSUE IS ONE OF SO-CALLED
9 IMPEACHMENT, THE COURT HAS REALLY WIDE DISCRETION WHEN
10 WE'RE TALKING ABOUT IMPEACHMENT OF WHAT ACCORDING TO
11 MR. MOSHENKO AS CONCEDED BY MR. MOSHENKO IS A COLLATERAL
12 MATTER.

13 I MEAN, I'LL BET MR. BUTLER, LIKE EVERYONE
14 IN THIS ROOM, HAS DONE SOMETHING IN THEIR PAST A LONG TIME
15 AGO THAT, YOU KNOW, THEY WOULDN'T WANT PRINTED IN THE
16 NEWSPAPER OR RECORDED ON VIDEO.

17 THE COURT: NOT ME.

18 MR. MOSHENKO: WITH THE EXCEPTION OF YOUR HONOR.
19 AND TO SUGGEST THAT THIS IS GOING TO BE SOME RIVETING,
20 RELEVANT, NONCOLLATERAL IMPEACHMENT, I FEEL LIKE THE LITTLE
21 OLD LADY ON THE WENDY'S COMMERCIAL. WHERE'S THE BEEF?

22 SO I UNDERSTAND HE HAS ONLY GOT THREE
23 QUESTIONS; BUT ONCE THAT ISSUE IS PLACED BEFORE THE JURY --
24 AND I WILL PUT MY CARDS ON THE TABLE. I WANT THE JURY TO
25 KNOW, FOR EXAMPLE, IN THE AMERICAN ADVENTURES CASE, THAT
26 MR. NOVELLI INVITED A BUNCH OF RETIREES WHO WERE ON THE

1 MEMBERS COMMITTEE OF AMERICAN ADVENTURES OUT TO IRVINE TO
2 VISIT HIS OFFICES TO TRY TO GARNER THEIR SUPPORT FOR THE
3 REORGANIZATION PROCEEDINGS OF AMERICAN ADVENTURES IN '91,
4 '92 TIME FRAME. AND WHEN THE RETIREE AND MR. ALLEN WAS
5 THERE REPRESENTING THEM -- OR WITH THEM, AND WHEN THE
6 RETIREE WOULD NOT GO ALONG WITH MR. NOVELLI, HE REFUSED TO
7 GIVE THEM PLANE TICKETS TO RETURN, AND THAT HE BEHAVED,
8 BASICALLY -- THIS IS ON THE RECORD -- HE BEHAVED IN A
9 TOTALLY INAPPROPRIATE MANNER WITH THE AMERICAN ADVENTURES'
10 MEMBERS, I WANT THE JURY TO KNOW THAT; THAT THE GUY WAS A
11 CLOWN WITH THESE PEOPLE AND THAT HE TOTALLY UPSET THEM,
12 USING VERY CAREFUL LANGUAGE, SINCE WE'RE ON THE RECORD.

13 BUT, I MEAN, DOES YOUR HONOR -- WHY DO WE
14 NEED TO GET INTO THIS SIDE SHOW?

15 THE COURT: WELL, WE STARTED OUT -- IF YOU WILL
16 RECALL, I TOLD YOU THERE WAS GOING TO BE A BUSINESS TRIAL
17 AND NOT A TRIAL OF CHARACTER ASSASSINATION. AND FROM WHAT
18 YOU TELL ME, THIS SOUNDS LIKE WE'RE GOING TO BE
19 ASSASSINATING SOMEBODY'S CHARACTER.

20 MR. MOSHENKO: WELL, I WOULD AGREE WITH HIM THAT
21 THAT IS CERTAINLY SOMEWHERE THAT WE HAVE NO BUSINESS
22 GOING. BUT --

23 THE COURT: GIVE ME AN IDEA WHAT YOU WANT TO ASK
24 THIS GUY.

25 MR. MOSHENKO: SURE. I CAN BE VERY SPECIFIC.
26 MR. BUTLER IS EXPECTED TO TESTIFY THAT UNDER CIRCUMSTANCES

1 OF BANKRUPTCIES, THAT IT'S APPROPRIATE FOR COAST TO KICK IN
2 ITS ORPHAN POLICY AND GO -- TRANSFER THE MEMBERS. YET
3 MR. BUTLER IS QUOTED UNDER OATH AS SAYING IN A SITUATION OF
4 A BANKRUPTCY, WHICH HAPPENED TO BE THE AMERICAN ADVENTURE
5 BANKRUPTCY, WE WOULD NEVER TRY TO CONTACT THOSE MEMBERS
6 BECAUSE THOSE MEMBERS ARE IN AN ORGANIZATION THAT'S
7 PROTECTED BY A BANKRUPTCY. IT'S, IN ESSENCE, A QUOTE OF
8 RYMAN'S LETTER TO DIAMOND RELATING ALL SEASONS TO A BUTLER
9 QUOTE RELATING TO AMERICAN ADVENTURES.

10 NOW, WHY IS IT RELEVANT IN ONE INSTANCE AND
11 NOT RELEVANT IN ANOTHER? WHY IS IT SO TIME-CONSUMING IN
12 ONE INSTANCE, AND IS GOING TO TAKE A WEEK TO TALK ABOUT?

13 THE COURT: WELL, I'LL TELL YOU WHAT I'M GOING TO
14 DO. I'M GOING TO TAKE THE EASY WAY OUT AND JUST RESERVE
15 ANY RULING UNTIL I HAVE HEARD THE QUESTION PHRASED --

16 MR. SHERMAN: THAT'S FAIR.

17 THE COURT: -- SUBJECT TO ANY OBJECTIONS.

18 MR. SHERMAN: THAT'S FAIR, AND WE WILL MAKE THE
19 OBJECTION.

20 THE COURT: OKAY.

21 MR. SHERMAN: AND THE RECITATION ABOUT THE
22 DEPOSITION TRANSCRIPT IS -- THE DEPOSITION TRANSCRIPT WILL
23 PROVE IT'S NOT WHAT MR. MOSHENKO SAID IT WAS.

24 THE COURT: WE HAVE ONE OTHER MATTER TO COVER HERE,
25 AND THAT HAS TO DO WITH DAWSON'S TESTIMONY, I BELIEVE,
26 DON'T WE? OR DO WE?

1 MR. MOSHENKO: I WASN'T GIVEN ANOTHER MOTION, YOUR
2 HONOR.

3 MR. SHERMAN: WE GAVE IT TO YOU YESTERDAY.

4 THE COURT: DEFENDANTS' OBJECTIONS TO THE PROPOSED
5 TESTIMONY OF PURPORTED EXPERT WILLIAM DAWSON.

6 MR. MOSHENKO: YOUR HONOR, COULD I ASK THAT THE
7 COURT DEFER DEALING WITH IT? I DIDN'T KNOW IT WAS ON DECK,
8 AND I'VE NEVER SEEN THE MOTION. AND MR. SHAW IS DEALING
9 WITH MR. DAWSON, AND HE WILL BE HERE THIS AFTERNOON. WE
10 CAN COME IN AT 1:15 AND DEAL WITH IT.

11 THE COURT: ALL RIGHT.

12 MR. RIVIN: THAT'S FINE.

13 THE COURT: READY TO HIT IT?

14 MR. SHERMAN: DO WE KNOW WHO -- THE WITNESS
15 SCHEDULING?

16 MR. RIVIN: ONE QUESTION ON SCHEDULING FOR
17 TOMORROW. I TALKED WITH MR. MOSHENKO EARLIER, AND I GUESS
18 THERE'S SOME -- THEY'RE UP IN THE AIR AS TO WHAT'S GOING TO
19 HAPPEN TOMORROW. SO I'D LIKE TO KNOW.

20 MR. MOSHENKO: YOUR HONOR IS AWARE THAT WE HAD THE
21 WEEK MAPPED OUT, AND WE HAD WITNESSES ARRANGED FOR EVERY,
22 FRANKLY, HOUR, EVERY AFTERNOON, EVERY MORNING/AFTERNOON
23 SESSION. WITH THE CHANGE OF THE ORDER OF BUTLER STARTING
24 TODAY INSTEAD OF TOMORROW, AND WITH MR. MALPASS TAKING --
25 GOING INTO THIS AFTERNOON WITH BUTLER, WE CANCELLED
26 MR. CHRIS DAVIS AS THE COURT INSTRUCTED YESTERDAY

1 AFTERNOON. THAT HAS CREATED A PROBLEM BECAUSE I DON'T KNOW
2 IF MR. DAVIS IS AVAILABLE TO COME BACK ON THURSDAY. WE
3 HAVE SUBPOENAED HIM, BUT THAT DOESN'T --

4 THE COURT: TOMORROW IS THURSDAY.

5 MR. MOSHENKO: YES. THAT DOESN'T MEAN THAT WE
6 ALWAYS JUST DICTATE TO WITNESSES WHEN THEY MUST BE HERE.
7 SO OUR NEXT WITNESS WOULD HAVE BEEN MR. DAWSON, EXCEPT AS
8 COUNSEL HAVE BEEN TOLD, MR. SHAW WAS DOING MR. DAWSON. AND
9 MR. SHAW WAS UNAVAILABLE TOMORROW. THAT'S WHY WE WANTED TO
10 PUT BUTLER IN THURSDAY. SO I COULD DO HIM, AND THERE WOULD
11 BE NO PROBLEM WITH WITNESSES. THE BOTTOM LINE IS, YOUR
12 HONOR, I STILL CAN'T TELL THEM IF MR. DAVIS IS AVAILABLE
13 TOMORROW. I TOLD HIM, AND HE HAS COUNSEL INVOLVED.

14 THE COURT: WHERE IS HE?

15 MR. MOSHENKO: HE IS IN SAN DIEGO; THAT WE WANT HIM
16 TO COME TOMORROW, BUT I'M HEARING FROM COUNSEL, "I HAVE
17 COURT APPEARANCES." HE INTENDS TO BRING HIS OWN ATTORNEY
18 TO THE PROCEEDINGS AND HAS TO DO WITH THE FACT THAT THERE'S
19 A --

20 THE COURT: IS HE AN ADVERSE WITNESS?

21 MR. MOSHENKO: NO. THERE IS A LAWSUIT PENDING IN
22 ANOTHER STATE WHICH INVOLVES HIM, AND I THINK HIS ATTORNEY
23 IS CONCERNED, YOU KNOW, THAT SOMETHING HAPPENS HERE.

24 THE COURT: HOW DOES HE FIT INTO THIS CASE?

25 MR. MOSHENKO: HE IS -- WELL, HE ATTENDED THE
26 TOMMY CLOUD MEETING AT THE RANCH AND OVERHEARD AND SAW THE

1 EVENTS THERE. HE HAS HAD A HISTORY OF DEALING WITH COAST
2 THAT GOES BACK MANY, MANY YEARS. AND HE IS FAMILIAR WITH
3 COAST PRACTICES. HE'S EQUIVALENT TO A LENDER; ALTHOUGH, HE
4 IS NOT A -- ACTUALLY A LENDER. HE IS THE HEAD OF A COMPANY
5 THAT MANAGED THE PAPER AND THE COLLECTIONS OF THE
6 OBLIGATIONS FROM THE MEMBERS.

7 AND SO HE HAS TESTIMONY THAT'S RELEVANT TO
8 THE TOMMY CLOUD MEETING, THE AGREEMENT TO TAKE OVER
9 THOUSAND ADVENTURES RESORTS, THE PAST PRACTICES AND
10 PROCEDURES AND DEALINGS WITH COAST, AND THE FINANCING END
11 OF THE INDUSTRY.

12 THE COURT: WELL, DO YOU HAVE A PROBLEM IN GETTING
13 HIM HERE TOMORROW? IS THAT WHAT YOU'RE TELLING --

14 MR. MOSHENKO: YES, THAT'S THE PROBLEM. I HAVEN'T
15 BEEN TOLD YET. WE SPENT PART OF THE -- A GOOD PART OF THE
16 AFTERNOON YESTERDAY TRYING TO TIE IT DOWN, BUT THE LAWYER
17 HAS YET TO TELL ME WHETHER HE WILL BE AVAILABLE.

18 THE COURT: YOU TELL THE LAWYER THAT I SAID THAT
19 THEY WILL BE HERE TOMORROW OR HE WON'T BE ABLE TO TESTIFY.

20 MR. MOSHENKO: WELL, I'LL BE GLAD TO DO THAT
21 BECAUSE YOUR HONOR HAS INSTRUCTED ME. BUT THAT -- ALL THAT
22 DOES IS DAMAGES OUR CASE BECAUSE WE WANT HIM TO TESTIFY.
23 SO I'M SEARCHING FOR AN ALTERNATIVE.

24 AND I CAN TELL COUNSEL THAT RIGHT NOW MY
25 BEST -- IF DAVIS IS UNAVAILABLE, MY BACKUP WITNESS WILL BE
26 WENDY ARCHIBALD.

1 THE COURT: WHO IS WENDY ARCHIBALD?

2 MR. MOSHENKO: SHE IS AN EMPLOYEE OF TRAVEL
3 AMERICA. AND I ALSO WOULD LIKE TO TALK ABOUT BRINGING IN
4 MR. ADAMS, IF HE IS AVAILABLE.

5 MR. SHERMAN: I KNOW THAT MR. ADAMS IS OUT OF TOWN.
6 AND REGARDLESS OF WHAT COUNSEL MAY WANT TO DO ON THIS
7 24-HOUR BUSINESS WITH WITNESSES THAT THEY'RE GOING TO BRING
8 IN, THEY'RE GOING TO HAVE TO GIVE US MORE THAN 24 HOURS
9 WHEN THEY'RE ASKING FOR OUR WITNESSES TO SHOW UP.

10 MR. MOSHENKO: WELL, YOU SEE, MR. DAVIS HAS HAD
11 LESS THAN 24 HOURS' NOTICE OR ABOUT 24 HOURS' NOTICE OF HIS
12 CHANGE OF SCHEDULE, AND HE CAN'T -- I'M TOLD BY COUNSEL SHE
13 CANCELLED EVERYTHING ON WEDNESDAY AND MOVED IT INTO
14 THURSDAY SO THAT HE COULD BE HERE ON WEDNESDAY, AND THEN
15 THIS IS WHAT HAPPENS.

16 THE COURT: I'M GOING TO LEAVE THE SCHEDULING UP TO
17 YOU GUYS. YOU'RE GOING TO HAVE TO WORK IT OUT. BUT, YOU
18 KNOW, WE'RE APPROACHING JULY. YOUR ESTIMATE WAS THROUGH
19 THE MONTH OF AUGUST, I BELIEVE.

20 THE CLERK: INCLUDING DELIBERATIONS.

21 THE COURT: SO, YOU KNOW, YOU'RE -- THAT'S UP TO
22 YOU. YOU'RE LOOKING AT A MISTRIAL.

23 MR. MOSHENKO: OKAY.

24 THE COURT: WE HAVE TO TRY IT OR WE DON'T.

25 MR. SHERMAN: OUR ESTIMATE, YOUR HONOR, AS FAR AS
26 WHEN WE PUT ON OUR CASE, I CAN -- I WILL REPRESENT TO THE

1 COURT THAT WE HAVE INTERNALLY DECIDED RIGHT NOW THAT WE'RE
2 GOING TO BE A LOT QUICKER THAN WE HAD ANTICIPATED, A LOT
3 QUICKER. WHAT -- EXACTLY WHAT THAT MEANS, YOU KNOW, I
4 DON'T KNOW YET OBVIOUSLY.

5 THE COURT: OKAY.

6 MR. SHERMAN: HOWEVER -- HOWEVER, YOU KNOW, THE
7 NOTION THAT TOMORROW COULD BE CHRIS DAVIS OR
8 WENDY ARCHIBALD OR STEVE ADAMS, I WILL SPARE THE COURT MY
9 VIEWS ABOUT THAT RIGHT NOW BECAUSE IT WOULDN'T SERVE A GOOD
10 PURPOSE.

11 MR. MOSHENKO: COULD I GET A TIME ESTIMATE ON THEIR
12 DEALING WITH MR. BUTLER? BECAUSE EACH TIME WE HAVE
13 SCHEDULED WITNESSES, THE DEFENSE HAS TAKEN TWO OR THREE
14 TIMES THE AMOUNT OF TIME WE ANTICIPATED WITH OUR WITNESSES,
15 AND THAT IS CAUSING HAVOC IN THE SCHEDULING.

16 MR. SHERMAN: WELL, WITH RESPECT TO MR. MERRITT,
17 FOR EXAMPLE, HE WAS FINISHED IN A COUPLE OF HOURS, AND
18 THAT'S WHAT I REPRESENTED TO THE COURT. CUT IT DOWN QUITE
19 A BIT, AS THE COURT WILL REMEMBER.

20 WITH MR. RYMAN WE DID HIS EXAMINATION
21 BETWEEN 9:00 AND NOON -- EXCUSE ME -- IT WAS 9:00 AND
22 NOON. WE DID HAVE TWO WITNESSES THAT WENT OVER; THAT WAS
23 MR. MALPASS AND MR. MITCHELL, BOTH, AS THE COURT NOTED,
24 ADVERSE, HOSTILE WITNESSES TO DEFENDANTS. AND SO I DON'T
25 AGREE WITH COUNSEL.

26 BUT ON THE SUBJECT OF MR. BUTLER, IF

1 AMERICAN ADVENTURES IS IN THE CASE, IT WILL BE MUCH
2 LONGER. IF AMERICAN ADVENTURES IS NOT IN THE CASE, AS I
3 THINK IT OUGHT NOT BE, WE'LL PROBABLY HAVE MR. BUTLER ON
4 AND OFF ON OUR END IN AN HOUR AND A HALF TO TWO HOURS.

5 AND I THINK THE COURT OUGHT TO TAKE NOTE OF
6 THE FACT THAT, YOU KNOW, WE'VE BEEN PRETTY EFFICIENT AS FAR
7 AS HANDLING OUR EXHIBITS, GETTING OUR QUESTIONS OUT,
8 GETTING WITNESSES ON AND OFF, EXCEPT IN THOSE SITUATIONS
9 WHERE WE'VE GOT WITNESSES LIKE A MR. MALPASS WHO DOESN'T
10 KNOW THE WORD "REPRESENTATIVE" OR "AFFILIATE" OR
11 "EMPLOYED."

12 MR. MOSHENKO: ANOTHER HELPFUL QUESTION, YOUR
13 HONOR, IS THAT WE, AS YOU KNOW, STOPPED THE RYMAN
14 EXAMINATION BECAUSE MR. RYMAN'S SCHEDULE. COULD WE FIND
15 OUT WHEN MR. RYMAN IS GOING TO BE AVAILABLE AGAIN? BECAUSE
16 WE CAN PICK HIM UP, AND HE IS WHAT I WOULD CALL A GOOD
17 TWO-HOUR FILLER.

18 MR. SHERMAN: MAYBE MR. MOSHENKO OUGHT TO JUST ASK
19 ME. I'LL TELL HIM.

20 THE COURT: OKAY.

21 MR. MOSHENKO: I JUST DID.

22 MR. SHERMAN: YEAH. WE DON'T NEED TO COMMUNICATE
23 ON LOGISTICAL NITS AND BITS THROUGH THE COURT.

24 THE COURT: OKAY. LET'S GO TO WORK.

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

1 THE COURT: MR. MOSHENKO, YOU MAY PROCEED.

2 MR. MOSHENKO: WE CALL PATRICK BUTLER, YOUR HONOR.

3 JAMES PATRICK BUTLER,

4 CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFFS, HAVING

5 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS

6 FOLLOWS:

7 THE CLERK: TAKE A SEAT IN THE WITNESS STAND,

8 PLEASE.

9 STATE YOUR FULL NAME FOR THE RECORD AND

10 SPELL YOUR LAST NAME, PLEASE.

11 THE WITNESS: MY FULL NAME IS JAMES PATRICK BUTLER.

12 B-U-T-L-E-R.

13 DIRECT EXAMINATION

14 BY MR. MOSHENKO: Q MR. BUTLER, YOU ARE A FORMER

15 PRESIDENT OF CAMP COAST TO COAST, INCORPORATED; CORRECT?

16 A THAT'S CORRECT.

17 Q WHAT YEARS WERE YOU THE PRESIDENT OF CAMP

18 COAST TO COAST?

19 A I WAS THERE FROM OCTOBER OF 1985 UNTIL

20 DECEMBER OF 1992.

21 Q ALL RIGHT. AND DURING THAT PERIOD OF TIME,

22 YOU HAD MANAGEMENT AND CONTROL OF THE ENTIRE ORGANIZATION,

23 COAST TO COAST; CORRECT?

24 A THAT'S CORRECT.

25 Q DURING THE PERIOD OF THAT TIME, YOUR

26 EMPLOYER WAS A COMPANY CALLED "AMERICAN BAKERY COMPANY";

1 RIGHT?

2 A AT THE BEGINNING OF MY TENURE IT WAS.

3 Q WHEN WAS THAT THAT AMERICAN BAKERY COMPANY
4 OWNED COAST TO COAST?

5 A AMERICAN BAKERY COMPANY BOUGHT COAST TO
6 COAST AT THE END OF 19 -- THE END OF 1984, AND I BECAME THE
7 COMPANY PRESIDENT IN OCTOBER OF 1985. AND THEY SOLD THE
8 COMPANY IN, I BELIEVE, SOME -- WELL, YEAR END OF 1988.

9 Q WHO DID THEY SELL IT TO?

10 A THEY SOLD IT TO -- THE PRINCIPAL PURCHASER
11 WAS STEVE ADAMS.

12 Q AND MR. ADAMS OR A COMPANY THAT MR. ADAMS
13 OWNS AND CONTROLS HAS OWNED CAMP COAST TO COAST SINCE THEN;
14 IS THAT CORRECT?

15 A TO THE BEST OF MY KNOWLEDGE.

16 Q ALL RIGHT. AND THE REASON YOU SAID THAT IS
17 BECAUSE YOU LEFT CAMP COAST TO COAST AS ITS PRESIDENT IN
18 1992, AND YOU HAVEN'T BEEN BACK IN THE ORGANIZATION SINCE;
19 IS THAT CORRECT?

20 A CORRECT, YES.

21 Q WHAT WAS THE NAME OF THE COMPANY THAT BOUGHT
22 COAST TO COAST IN 1988, END OF 1988?

23 A I WOULDN'T RECALL.

24 Q DID MR. ADAMS ALWAYS USE THE NAME "COAST TO
25 COAST" AS THE NAME OF THE COMPANY?

26 A WHILE I WAS THERE HE DID.

1 Q OKAY. DID -- WAS COAST TO COAST EVER OWNED
2 BY A HOLDING COMPANY THAT WAS CONTROLLED BY MR. ADAMS, TO
3 YOUR KNOWLEDGE?

4 A NOT TO MY -- TO MY KNOWLEDGE. I MEAN, I
5 DON'T KNOW HOW MR. ADAMS HAD HIS OVERALL ORGANIZATION
6 STRUCTURED.

7 Q YOU'RE FAMILIAR WITH A COMPANY CALLED
8 "AFFINITY GROUP," ARE YOU NOT?

9 A TODAY I AM. I'M FAMILIAR WITH AFFINITY
10 GROUP, YES.

11 Q WERE YOU FAMILIAR WITH AFFINITY GROUP BACK
12 IN THE 1990'S WHEN YOU WERE PRESIDENT?

13 A TO THE BEST OF MY KNOWLEDGE THAT NAME CHANGE
14 OCCURRED AFTER I LEFT.

15 Q SO WHOEVER OR WHATEVER -- STRIKE THAT.
16 ALL RIGHT. WHILE YOU WERE PRESIDENT OF
17 COAST TO COAST, WHO WERE YOUR VICE-PRESIDENTS?

18 A WELL, MY FIRST PRINCIPAL VICE-PRESIDENT
19 PERSON WAS ROGER RYMAN. AND I BELIEVE HE WAS MY ONLY
20 VICE-PRESIDENT.

21 Q WHILE YOU WERE PRESIDENT OF COAST TO COAST,
22 WHO DID YOU REPORT TO IN MR. ADAMS'S ORGANIZATION?

23 A I BASICALLY REPORTED TO A COMMITTEE OR BOARD
24 THAT HAD BEEN STRUCTURED BY MR. ADAMS WHICH INCLUDES
25 MR. ADAMS, MR. MC ADAMS AND A FEW OTHER PEOPLE THAT WERE ON
26 THAT BOARD.

1 Q ALL RIGHT. HAVE YOU EVER ATTENDED A MEETING
2 OF THE BOARD OF DIRECTORS OF CAMP COAST TO COAST,
3 INCORPORATED?

4 A WELL, CAMP COAST TO COAST AT THE TIME I WAS
5 THERE NEVER HAD ITS OWN BOARD OF DIRECTORS.

6 Q OKAY. HAVE YOU EVER AT ANY TIME KNOWN THERE
7 TO HAVE BEEN A BOARD OF DIRECTORS OF COAST TO COAST?

8 A NO.

9 Q WHO INFORMED YOU THAT YOU WERE GOING TO BE
10 PRESIDENT OF COAST TO COAST UNDER MR. ADAMS -- WHEN
11 MR. ADAMS OWNED THE COMPANY?

12 A IT WAS PART OF THE NEGOTIATION AT THE TIME
13 OF THE ACQUISITION. IT WAS UNDERSTOOD BY MR. ADAMS AND
14 MYSELF THAT I WOULD CONTINUE TO BE THE PRESIDENT OF COAST
15 TO COAST.

16 Q NOW, YOU ALSO UNDERSTOOD THAT YOU SERVED AT
17 THE WILL OF MR. ADAMS; IS THAT CORRECT?

18 A WELL, THAT'S A CHARACTERIZATION. I WOULD
19 PROBABLY TAKE A DIFFERENCE OF LANGUAGE TO THAT. I WORKED
20 FOR MR. ADAMS'S ORGANIZATION, AND I RAN MY OWN ENTITY.

21 Q IF MR. ADAMS TOLD YOU YOU'RE RELIEVED OF
22 DUTIES, THAT CERTAINLY WOULD RESULT IN YOUR BEING RELIEVED
23 OF DUTIES BACK IN THE EARLY '90'S?

24 A THAT'S CORRECT.

25 Q NOW, THIS REPORTING TO A COMMITTEE OF
26 PERSONS WHICH INCLUDE MC ADAMS AND ADAMS, THOSE WERE THE

1 PERSONS WHOM YOU ALL UNDERSTOOD WERE PART OF AN
2 ADAMS--CONTROLLED COMPANY THAT WAS EXERCISED AND IN CONTROL
3 OVER COAST TO COAST; CORRECT?

4 A MR. MOSHENKO, I WOULD NOT CHARACTERIZE IT
5 THAT WAY.

6 Q WELL --

7 A SO THE ANSWER TO YOUR QUESTION IS NO.

8 Q OKAY. SO WERE ADAMS AND MC ADAMS A PART
9 OF -- LET'S CALL IT THE EMPLOYMENT STRUCTURE OF COAST TO
10 COAST?

11 A NO.

12 Q YOU REPORTED TO THEM?

13 A NO, SIR, THEY WERE NOT.

14 Q THEY WERE OUTSIDE OF THE COAST TO COAST
15 ORGANIZATIONAL STRUCTURE?

16 A YES, SIR.

17 Q WERE THEY WITHIN SOME OTHER ORGANIZATION'S
18 STRUCTURE AS YOU UNDERSTOOD IT?

19 A MR. MOSHENKO, I DON'T KNOW HOW THEY WERE
20 STRUCTURED AND WHAT PARTS AND -- PARTS THEY WERE PART OF,
21 AND WHAT PARTS THEY WEREN'T PART OF. I CAN ONLY SPEAK FOR
22 THE ORGANIZATION AND THE ENTITY THAT I WORKED FOR AND
23 OPERATED WITHIN THAT STRUCTURE.

24 Q WHY DID YOU REPORT TO THESE PEOPLE IF THEY
25 WERE OUTSIDE OF YOUR ORGANIZATION?

26 A MR. MOSHENKO, IN AN ACQUISITION, WHEN A

1 COMPANY GETS ACQUIRED, THERE'S AN ACQUIRING ORGANIZATION
2 THAT ACQUIRES THE COMPANY. WE HAPPENED TO BE -- COAST TO
3 COAST HAPPENED TO BE ONE OF THE ENTITIES OF A NUMBER OF
4 ENTITIES THAT WERE ACQUIRED BY MR. ADAMS FROM AMERICAN
5 BAKERIES CORPORATION IN 1988.

6 Q NOW, YOU KNOW THE HISTORY OF CAMP COAST TO
7 COAST, THAT IS, IT HAVING BEEN FOUNDED BY DENY AND
8 ACE BROWN BACK IN THE '70'S?

9 A I KNOW THE HISTORY OF IT FROM WHEN I WENT IN
10 TO OPERATE IT IN 1985.

11 Q BUT WHILE YOU WERE THERE IN 1985, YOU
12 LEARNED THAT THE COMPANY HAD BEEN AROUND FOR "X" YEARS, AND
13 IT WAS A RECIPROCAL USE ORGANIZATION, THINGS LIKE THAT;
14 RIGHT?

15 A YES. I WAS NOT HIRED BY DENY AND ACE BROWN.
16 I WAS HIRED BY THE CHAIRMAN OF AMERICAN BAKERIES
17 CORPORATION TO GO IN AND RUN THAT COMPANY. BUT I KNEW THE
18 GENERAL HISTORY OF THE COMPANY, YES.

19 Q AND COAST TO COAST -- LET'S JUST TALK ABOUT
20 BEFORE YOUR TENURE AS PRESIDENT -- YOU KNEW WAS A
21 RECIPROCAL USE ORGANIZATION THAT COORDINATED THE ABILITY OF
22 MEMBERS OF MEMBERSHIP RESORTS TO USE OTHER RESORTS'
23 PREMISES; RIGHT?

24 A I DID KNOW THAT, YES.

25 Q AND WHILE YOU WERE PRESIDENT, IT WAS -- IT
26 FUNCTIONED AS A RECIPROCAL USE SERVICE PROVIDER THAT

1 COORDINATED DIFFERENT RESORTS' USES, MEMBERS' USES OF OTHER
2 RESORTS; RIGHT?

3 A WELL, I WOULDN'T QUITE CHARACTERIZE IT IN
4 THOSE REGARDS. AS AN ORGANIZATION THAT -- YOUR TERMINOLOGY
5 WAS THAT COORDINATED?

6 Q THE USES, USAGE BY.

7 A WE HAD A SYSTEMATIC STRUCTURE THAT BASICALLY
8 WAS BASED ON A RECIPROCAL USE PRINCIPLE. AND THAT
9 PRINCIPLE WAS THAT IF YOU AFFILIATED WITH OUR ORGANIZATION
10 AS AN R.V. MEMBERSHIP CAMPGROUND, THEN -- AND AS YOU
11 ACQUIRED NEW MEMBERS AND YOU PUT AN APPLICATION INTO COAST
12 TO COAST, THOSE MEMBERS ALSO BECAME A MEMBER OF COAST TO
13 COAST, WHICH IS SEPARATE FROM THE HOME PARK RELATIONSHIP
14 THEY HAVE. AND BECAUSE THEY WERE COAST TO COAST MEMBERS,
15 THEY THEN HAD PRIVILEGES OF RECIPROCATING OR THE USE RIGHTS
16 OF OTHER AFFILIATED COAST TO COAST PARKS THAT WERE IN GOOD
17 STANDING WITH US. AND IT WAS A SYSTEM.

18 MR. MOSHENKO: MAY I APPROACH THE BOARD?

19 THE COURT: YOU MAY.

20 MR. MOSHENKO: IT TAKES ME BACK TO THE THIRD
21 GRADE.

22 Q ALL RIGHT. NOW, MR. BUTLER, THESE ARE THREE
23 TRIANGLES, AND THEY'RE INTENDED BY ME TO REPRESENT RESORTS
24 SOMEWHERE IN THE UNITED STATES. I'LL TRY TO DRAW A MAP,
25 BUT I'D DO A TERRIBLE JOB.

26 RECIPROCAL USE MEANS THAT THESE ARE

1 MEMBERSHIP RESORTS. EACH OF THESE RESORTS HAS HUNDREDS,
2 THOUSANDS, PERHAPS, OF MEMBERS IN THE RECIPROCAL USE
3 SYSTEM; IS THAT CORRECT?

4 A CORRECT.

5 Q OKAY. AND WHAT RECIPROCAL USE MEANS IS, IF
6 THIS MEMBER OF THIS RESORT WANTS TO USE THE FACILITY OF
7 THIS RESORT, HE CAN DO SO, PROVIDED THAT THIS RESORT AGREES
8 THAT IF THIS MEMBER OF HIS RESORT, THAT HIS MEMBER OF HIS
9 RESORT, GETS TO USE THIS RESORT, AS WELL AS OTHER RESORTS
10 IF THEY CHOOSE TO; RIGHT?

11 A THAT'S THE THEORY.

12 Q THAT'S THE THEORY, RIGHT.

13 A RIGHT.

14 Q SO THESE RESORTS ACHIEVE THE STATUS OF BEING
15 ABLE TO HAVE THEIR MEMBERS MAKE RECIPROCAL USE OF OTHER
16 RESORTS BY JOINING COAST TO COAST, FILLING OUT AN
17 APPLICATION FOR MEMBERSHIP IN COAST TO COAST; RIGHT?

18 A THAT'S CORRECT.

19 Q OKAY. AND ACTUALLY I SAID THAT WRONG. I
20 THINK WE'RE BOTH WRONG.

21 A NO. I'M RIGHT. BUT THAT'S CORRECT.

22 Q I HAD SAID THAT THESE MEMBERS ACHIEVED THE
23 STATUS. BUT BEFORE THESE MEMBERS CAN ACHIEVE THIS STATUS,
24 THIS RESORT HAS TO BE SOMETHING CALLED AN AFFILIATED
25 RESORT; RIGHT?

26 A THEY HAVE TO DO THAT BEFORE THEY CAN EVER

1 SEND ANY MEMBERSHIP APPLICATIONS IN TO COAST TO COAST,
2 THAT'S CORRECT.

3 THE FIRST THING THEY HAVE TO DO IS GO
4 THROUGH AN AFFILIATION PROCESS WHICH INCLUDES DUE DILIGENCE
5 ON THE PART OF BOTH ENTITIES, AND THEN THEY ENTER INTO A
6 CONTRACTUAL ARRANGEMENT. AND THEN AT THAT POINT IN TIME,
7 WHEN THEY AGREE TO THE PRINCIPLES AND THAT CONTRACTUAL
8 ARRANGEMENT, THEN THEY'RE ALLOWED TO PROCESS MEMBERS
9 THROUGH THE COAST TO COAST SYSTEM, THAT'S CORRECT.

10 Q I GUESS -- SO STEP ONE IS YOU NEED A RESORT
11 WITH MEMBERS. STEP TWO IS THAT MUST BECOME AN AFFILIATED
12 RESORT; CORRECT?

13 A WELL, THE RESORT DOESN'T NEED MEMBERS. THEY
14 CAN BE A RESORT ENTITY WITH NO MEMBERS, WHICH IS WHAT MOST
15 OF THE INITIAL ENTRIES IN THE COAST TO COAST ARE. SO IT
16 DOESN'T HAVE TO BE A RESORT WITH MEMBERSHIP.

17 Q UNDER THAT CIRCUMSTANCE, IS IT CONTEMPLATED
18 THAT THAT RESORT WILL SELL MEMBERSHIPS TO MEMBERS?

19 A IT'S THE ONLY REASON THEY WOULD AFFILIATE
20 WITH COAST TO COAST.

21 Q OKAY. SO WHETHER THE RESORT HAS THE MEMBERS
22 AT THE MOMENT IT AFFILIATES OR GAINS THEM LATER FOR THERE
23 TO BE RECIPROCAL PARTICIPATION BY MEMBERS OF RECIPROCAL
24 RESORTS, THEY HAVE TO HAVE MEMBERS?

25 A WELL, AT SOME POINT. THAT -- AGAIN, THAT
26 WOULD BE THE ONLY REASON THEY WOULD JOIN COAST TO COAST IS

1 BECAUSE THEY WERE DESIROUS OF DEVELOPING A MEMBER BASE, AND
2 THE RECIPROCITY PRODUCT WOULD BE AN INTEGRAL PART OF IT,
3 YES.

4 Q IF THIS RESORT HAD NO MEMBERS -- IT HAS AN
5 ASSET, A RESORT, BUT IT HAS NO MEMBER BASE IN ITS BOX OF
6 MEMBERS, IT WOULD BE HOSTING RE- -- OTHER RESORTS' MEMBERS
7 FOR A DISCOUNT, BUT THERE WOULD BE NO BENEFIT TO THIS
8 RESORT BECAUSE IT HAS NO MEMBERS?

9 MR. SHERMAN: OBJECTION. IT'S A COMPOUND QUESTION.

10 THE COURT: REPHRASE IT, PLEASE.

11 BY MR. MOSHENKO: Q IF THIS RESORT HAD NO MEMBERS,
12 AS YOU I THINK JUST SAID, THERE WOULD BE NO REASON FOR THEM
13 TO WANT TO BE A PART OF THE SYSTEM? THEY PLAN TO GET
14 MEMBERS?

15 A YES. I MEAN, IT'S PART OF A BUSINESS
16 STRATEGY THEY WOULD HAVE. BUT AT THE INITIATION OF THAT
17 PROPERTY INTO THE COAST TO COAST SYSTEM, YOU'RE ABSOLUTELY
18 RIGHT; THAT PROPERTY WOULD BECOME A HOSTING PARK TO
19 TRAVELING COAST TO COAST MEMBERSHIP. AND THEY WOULD NOT
20 HAVE THE BENEFIT OF HAVING MEMBERS THAT WOULD BE ABLE TO
21 USE THE RECIPROCITY SYSTEM UNTIL THEY DEVELOPED THEIR
22 MEMBER BASE. THAT'S CORRECT.

23 Q SO YOU START WITH A RESORT, AND THEY EITHER
24 HAVE OR THEY'RE GOING TO GET MEMBERS; RIGHT?

25 A YES.

26 Q AND THEN THAT RESORT AFFILIATES WITH COAST

1 TO COAST; RIGHT?

2 A RIGHT.

3 Q AND THEN ONCE THAT RESORT AFFILIATES WITH
4 COAST TO COAST, IT CAN TAKE APPLICATIONS FROM MEMBERS SO
5 THAT THE MEMBERS CAN MAKE USE OF THE RECIPROCAL SYSTEM?

6 A THAT'S CORRECT.

7 Q OKAY. NOW, YOU UNDERSTAND THAT -- I HEARD
8 YOU USE THE TERM "HOME RESORT."

9 A RIGHT.

10 Q THESE MEMBERS HAVE MEMBERSHIPS IN THEIR
11 RESORTS WHICH IS CALLED BY COAST TO COAST "THE HOME
12 RESORT"?

13 A RIGHT.

14 Q NOW, COAST -- I DREW COAST UP HERE OUT OF
15 THE LOOP BECAUSE COAST REALLY ISN'T AN OWNER OF ANY
16 RESORTS; RIGHT?

17 A AT THE PRESENT TIME, TO THE BEST OF MY
18 KNOWLEDGE THEY'RE NOT, NO.

19 Q OKAY. AND SO WHAT COAST DOES IS IT
20 COORDINATES THE SYSTEM WHERE THESE MEMBERS CAN GO HERE, AND
21 THESE MEMBERS CAN GO HERE, AND THESE MEMBERS CAN GO HERE,
22 ET CETERA.

23 A RIGHT. I MEAN, YES. THAT'S RIGHT.

24 Q AND AS A PART OF DOING THAT, COAST CHARGES
25 THE MEMBERS OF -- WHO ARE MEMBERS OF COAST TO COAST, THE
26 MEMBERS OF PLAINTIFFS' RESORTS, OF THE RESORTS WHO ARE

1 MEMBERS OF COAST, A FEE, AN ANNUAL FEE?

2 A COAST TO COAST BILLS -- THE MEMBERSHIP BASE
3 THAT HAVE AFFILIATED WITH THEM AND BECOME THEIR MEMBERS,
4 THEY DIRECTLY BILL THEM EVERY YEAR. AND THEY CAN HAVE
5 EITHER A SINGLE-YEAR OR MULTIPLE-YEAR MEMBERSHIP, AND THEY
6 DO BILL THEM FOR A FEE, YES.

7 Q ISN'T MEMBERSHIP AN ANNUAL EVENT WHICH IS
8 RENEWED ANNUALLY?

9 A NOT IN ALL CASES. BECAUSE IT'S -- WHEN I
10 WAS THERE, WE HAD A ONE-YEAR, THREE-YEAR AND FIVE-YEAR
11 MEMBERSHIP. WHAT THEY HAVE TODAY, I DON'T KNOW.

12 Q NOW, WHEN YOU STARTED WHERE WAS COAST
13 LOCATED?

14 A WASHINGTON D.C.

15 Q AND WHEN DID IT MOVE TO DENVER?

16 A I MOVED IT TO DENVER IN THE FALL OR LATE
17 SUMMER OF 1990.

18 Q YOU MOVED TO A BUILDING THAT WAS OWNED BY
19 MR. ADAMS OR ANOTHER ONE OF HIS COMPANIES; RIGHT?

20 A THE BUILDING WAS OWNED BY MR. ADAMS, YES.
21 CORRECT.

22 Q OKAY. AND HE PROVIDED THE USE OF THAT
23 BUILDING TO COAST TO COAST FROM THE 1990'S ON, TO YOUR
24 KNOWLEDGE?

25 A COAST TO COAST HAD A LEASE, A TRIPLE NET
26 LEASE ON THAT BUILDING AT A VERY REASONABLE RATE. AND WE

1 HAD A REASONABLY LOW-COST HABITATION IN A
2 60-000-SQUARE-FOOT BUILDING, THAT'S CORRECT.

3 Q WHILE YOU WERE THERE, DID COAST TO COAST,
4 MR. ADAMS OR ANOTHER ONE OF HIS COMPANIES, WRITE A CHECK
5 EVERY MONTH FOR HIS LEASE?

6 A MR. MOSHENKO, I CAN'T ANSWER THAT QUESTION.
7 I DIDN'T RUN MY FINANCE DEPARTMENT. BUT I'M SURE THAT
8 OBVIOUSLY WE HAD A WRITTEN LEASE WITH WHATEVER COMPANY HAD
9 THE PROPERTY TITLE TO THAT BUILDING, AND WE PAID A MONTHLY
10 RENT, YES.

11 Q SO TO YOUR KNOWLEDGE THEY WROTE A CHECK
12 EVERY MONTH?

13 A YES. AND I DON'T BELIEVE IT WAS TO
14 MR. ADAMS. I BELIEVE IT WAS TO WHATEVER COMPANY OWNED THAT
15 BUILDING.

16 Q ALL RIGHT. AND HAVE YOU EVER HEARD OF A
17 SYSTEM WHERE COAST TO COAST SUBMITTED ITS INCOME TO
18 AFFINITY GROUP OR SOME OTHER ADAMS ORGANIZATION, AS THE
19 INCOME CAME IN, WHERE IT WOULD BE PUT IN A CONSOLIDATION
20 ACCOUNT OR SOMETHING TO THAT EFFECT, WHICH WAS CONTROLLED
21 BY AFFINITY?

22 A ABSOLUTELY NOT, NOT IN MY TENURE.

23 Q SO COAST DID NOT TRANSFER ITS CASH FLOW TO
24 MR. ADAMS OR ANY OF HIS COMPANIES WHILE YOU WERE THERE?

25 A WE DID OUR OWN BANKING WHILE I WAS THERE,
26 AND JUST AS WE HAD DONE WHEN WE WERE A SUBSIDIARY OF

1 AMERICAN BAKERIES CORPORATION. AND AFTER -- YOU KNOW,
2 OBVIOUSLY THE STRUCTURE THAT WAS SET UP OWNED 100 PERCENT
3 OR NEAR 100 PERCENT OF COAST TO COAST. AND SO WHEN THEY
4 FILLED OUT TAX RETURNS, I WOULD IMAGINE THAT THEY
5 CONSOLIDATED ALL THE COMPANIES AND EVENTUALLY THAT THE
6 FINANCING OF ALL THE COMPANIES OR THE YEAR-END RESULTS
7 WOULD GET REPORTED IN A CONSOLIDATED REPORT.

8 BUT IF YOU'RE ASKING ME ON A DAY-TO-DAY OR A
9 MONTH-TO-MONTH BASIS DID WE POOL CASH TO MR. ADAMS, THE
10 ANSWER TO THAT QUESTION FROM MY PERSPECTIVE WHEN I WAS
11 THERE WOULD BE NO.

12 Q DID COAST SHARE EMPLOYEES FOR CERTAIN
13 FUNCTIONS WITH OTHER ADAMS COMPANIES?

14 A NO.

15 Q DID COAST MAINTAIN AN I.T. DEPARTMENT,
16 INFORMATION TECHNOLOGY DEPARTMENT, IN DENVER WHILE YOU WERE
17 THERE?

18 A YES, THEY DID.

19 Q DO YOU KNOW WHETHER OR NOT THAT CONTROL --
20 THAT I.T. DEPARTMENT WAS OPERATED BY EMPLOYEES OF COAST OR
21 SOME OTHER ADAMS ORGANIZATION WHILE YOU WERE THERE?

22 A WHILE I WAS THERE, THAT OPERATION -- BECAUSE
23 I WAS VERY INVOLVED IN OVERHAULING THE I.T. DEPARTMENT A
24 COUPLE OF TIMES; NOT DIRECTLY MYSELF BUT DIRECTING THAT
25 ACTIVITY. AS WE GREW, THOSE WERE 100 PERCENT COAST TO
26 COAST EMPLOYEES THAT I TRANSFERRED, THE CORE OF WHICH I

1 TRANSFERRED FROM WASHINGTON D.C. WHEN WE MOVED TO COLORADO.

2 Q AND DID IT REMAIN THAT WAY UNTIL YOU LEFT IN
3 DECEMBER OF 1992?

4 A YES, SIR.

5 Q OKAY. AND DID YOU KNOW WHO OWNED THE
6 COMPUTER EQUIPMENT THAT HOUSED THE DATABASES THAT WERE
7 HOUSED IN THE DENVER FACILITY?

8 A WHEN I RAN THE OPERATION, TO THE BEST OF MY
9 KNOWLEDGE WE WERE STILL WITH DIGITAL EQUIPMENT, AND WE
10 OWNED THAT EQUIPMENT OURSELVES. COAST TO COAST DID.

11 Q THE SAME QUESTIONS. THERE WERE TELEPHONE
12 BANKS IN DENVER AT THE TIME YOU WERE THERE; RIGHT?

13 A YES.

14 Q AND WERE THOSE TELEPHONE BANKS MANNED BY
15 COAST TO COAST EMPLOYEES EXCLUSIVELY, OR WERE THERE OTHER
16 EMPLOYEES FROM OTHER ADAMS COMPANIES THAT WERE HOUSED THERE
17 AND MANNED TELEPHONE BANKS?

18 A NO. THEY WERE 100 PERCENT COAST TO COAST
19 EMPLOYEES. AND WHAT YOU REFER TO AS TELEPHONE BANKS WOULD
20 HAVE BEEN CUSTOMER SERVICE. AND WHEN WE BOUGHT THAT
21 BUILDING OR THE ENTITY BOUGHT THE BUILDING WE OVERHAULED
22 THAT BUILDING AND PUT A NEW TELEPHONE SYSTEM IN IT. AND SO
23 THAT WAS 100-PERCENT INVESTMENT ON THE PART OF COAST TO
24 COAST'S MANAGEMENT ON THE PART OF COAST TO COAST, AND THEY
25 HAD NOTHING TO DO WITH THE OTHER ADAMS COMPANIES.

26 Q WAS IT EVER PROPOSED TO YOU BY THE OTHER

1 ADAMS COMPANIES, MR. ADAMS, MR. MC ADAMS OR ANYONE ELSE
2 FROM THE OTHER ADAMS COMPANIES THAT THE I.T. DEPARTMENT
3 SHOULD BE TURNED OVER TO AFFINITY GROUP OR SOME OTHER
4 ORGANIZATION?

5 MR. SHERMAN: OBJECTION TO THE USE OF THE PHRASE
6 "ADAMS COMPANIES." IT LACKS FOUNDATION.

7 MR. MOSHENKO: THE WITNESS IS USING THE PHRASE
8 ADAMS COMPANIES.

9 THE COURT: OVERRULED.

10 THE WITNESS: DURING MY TENURE -- AT THE VERY END
11 OF MY TENURE THERE WAS SOME DISCUSSION ABOUT POSSIBLE
12 CONSOLIDATION ACTIVITIES OF SOME OF WHAT WE WOULD REFER TO
13 AS BACK-ROOM OPERATIONS, WHERE THINGS SUCH AS CUSTOMER
14 SERVICE AND I.T. TYPE ACTIVITY POSSIBLY WOULD BE
15 CONSOLIDATED. IT DID NOT HAPPEN WHILE I WAS THERE.

16 BY MR. MOSHENKO: Q WHO WERE THOSE DISCUSSIONS
17 WITH?

18 A I -- YOU KNOW, IT WOULD BE SPECULATIVE -- I
19 MEAN, YOU KNOW, WAS I INVOLVED A LITTLE BIT IN THAT
20 DISCUSSION? AS I MENTIONED, IT WAS AT THE END OF MY
21 TENURE; THAT WAS A BUSINESS DECISION THEY WOULD HAVE MADE
22 AFTER I LEFT.

23 Q WHO IS "THEY"?

24 A WELL, THAT GROUP OF PEOPLE THAT I REFERRED
25 TO, MR. MOSHENKO, THAT I REPORTED TO, MR. ADAMS, MC ADAMS
26 AND OTHER PEOPLE THAT WERE DIRECTLY INVOLVED IN THE

1 BUSINESS.

2 AND WHEN I SAY "DIRECTLY INVOLVED IN THE
3 BUSINESS," I SHOULD EXCLUDE MR. ADAMS FROM THAT ACTIVITY.
4 BECAUSE MR. ADAMS WAS NOT VERY INVOLVED IN HIS OWN
5 BUSINESSES, EVEN THOUGH HE OWNED THEM.

6 Q TO YOUR KNOWLEDGE THAT GROUP OF PEOPLE DID
7 NOT MAKE THAT DECISION WHILE YOU WERE THERE?

8 A I DON'T KNOW WHETHER THEY DID OR NOT. I
9 MEAN, THEY COULD HAVE MADE THAT DECISION WHILE I WAS THERE
10 WITHOUT ME KNOWING IT.

11 Q VERY WELL. THAT'S TRUE. OKAY.

12 WHAT -- WHEN YOU WERE SPEAKING TO THAT GROUP
13 OF PEOPLE, WHEN YOU WERE REPORTING TO THAT GROUP OF PEOPLE,
14 WHAT WERE YOUR RESPONSIBILITIES, AS FAR AS YOU UNDERSTOOD
15 IT, IN YOUR DEALINGS WITH THEM?

16 A MY RESPONSIBILITIES WERE THAT WE HAD AN
17 OPERATING BUDGET, AND THAT I WAS EXPECTED TO BE ABLE TO
18 OPERATE THE COMPANY IN SUCH A WAY TO PRETTY MUCH MEET THE
19 BUDGETARY OBJECTIVES AND THE OTHER OBJECTIVES THAT WE WOULD
20 SET FORTH AT THE BEGINNING OF THE YEAR. MY MEETINGS WITH
21 THEM WOULD BE RELATIVELY INFREQUENT. EVERY COUPLE OF
22 MONTHS WE MIGHT MEET. AND THE POINT OF THOSE MEETINGS WERE
23 TO REVIEW PROGRESS OF THE COMPANY.

24 Q HOW -- WHAT WAS THE PROCESS BY WHICH THE
25 BUDGET OBJECTIVES WERE DETERMINED?

26 A IT WAS VERY SIMPLE FORMAT, IN THAT MY

1 OPERATING MANAGERS AND MYSELF WOULD ANALYZE THE BUSINESS
2 FROM THE PREVIOUS YEAR, SIT DOWN BEFORE THE YEAR BEGAN. WE
3 WERE ON A CALENDAR YEAR.

4 SO SOMEWHERE BETWEEN SEPTEMBER AND NOVEMBER
5 WE WOULD DEVELOP A BUDGET AND AN OPERATING PLAN FOR THE
6 COMING YEAR. WE WOULD THEN PRESENT IT TO THAT BOARD AND
7 THEY WOULD ACCEPT THE OPERATING PLAN, AND WE WOULD GO ON
8 OUR WAY.

9 Q WERE THERE INSTANCES WHEN THEY DID NOT PER
10 SE JUST ACCEPT IT BUT MAKE RECOMMENDATIONS OR SUGGESTIONS
11 THAT SOMETHING DIFFERENT SHOULD OCCUR?

12 A IT WOULD BE SPECULATIVE, MR. MOSHENKO. I
13 MEAN, YOU KNOW, DID THEY EVER REJECT OUT-OF-HAND ONE OF MY
14 OPERATING BUDGETS AND OPERATING PLANS, THE ANSWER TO THAT
15 IS NO.

16 Q MR. -- I'M NOT ASKING YOU TO SPECULATE. I'M
17 ASKING OF YOUR PERSONAL KNOWLEDGE.

18 I PRESUME YOU WERE THERE FROM TIME TO TIME
19 WHEN THE BUDGET WAS PRESENTED; RIGHT?

20 A THAT WAS EIGHT YEARS AGO, MY FRIEND.

21 Q OKAY. MY THINKING, SO THAT YOU UNDERSTAND
22 WHERE I'M COMING FROM, IS THAT IF YOU EXPERIENCED IT,
23 THERE'S A BASIS FOR KNOWLEDGE IN YOUR HEAD. WHETHER YOU
24 CAN RECALL IT OR NOT, THAT'S A DIFFERENT THING.

25 A OKAY.

26 Q IF I ASK YOU TO TELL ME SOMETHING THAT

1 HAPPENED WHEN YOU WEREN'T THERE, THAT MIGHT ASK YOU TO
2 SPECULATE. I DON'T WANT YOU TO SPECULATE.

3 YOU UNDERSTAND THE DIFFERENCE?

4 A ALL RIGHT.

5 Q ALL RIGHT. OKAY. SO DURING THE TIME THAT
6 YOU WERE THERE -- I'M NOT ASKING YOU IF THEY, QUOTE,
7 REJECTED IT OUT OF HAND. I'M ASKING YOU, DID -- WAS THERE
8 A GIVE-AND-TAKE PROCESS WHEREBY THE BOARD OR THE GROUP MADE
9 SUGGESTIONS OR RECOMMENDATIONS THAT YOU SHOULD CONSIDER
10 WITH RESPECT TO YOUR BUDGET PROCESS?

11 A YES, THAT WOULD SOMEWHAT CHARACTERIZE THE
12 WAY WE OPERATED. I MEAN, THERE WAS A GIVE-AND-TAKE SESSION
13 AND SOME DISCUSSION ABOUT THE OPERATING PLAN FOR THE YEAR,
14 YES, THAT WOULD HAVE OCCURRED.

15 Q OKAY. NOW, SORT OF THE OTHER SIDE OF THE
16 COIN, FROM A BUDGET OBJECTIVE, IS A PROFIT OBJECTIVE; DO
17 YOU UNDERSTAND WHAT I MEAN?

18 A YES. WE'RE IN BUSINESS FOR PROFIT. WE DO
19 UNDERSTAND THAT WORD.

20 Q AND SO DID YOU COORDINATE WITH THE GROUP OF
21 PEOPLE FROM THAT OTHER COMPANY CONCERNING PROFIT OBJECTIVES
22 FOR CAMP COAST TO COAST?

23 A SURE.

24 Q OKAY. AND YOU CONSIDERED YOURSELF TO BE
25 PRIMARILY RESPONSIBLE TO ACCOMPLISH A PROFIT FOR THE
26 BENEFIT OF THE SHAREHOLDERS OF THAT COMPANY; RIGHT?

1 A FOR THE OVERALL GOOD OF THE COMPANY AND FOR
2 THE COMPANY TO STAY IN BUSINESS AND BE PROGRESSIVE, THE
3 OBJECTIVE WAS TO MAKE MONEY AND -- ABSOLUTELY.

4 Q NOW, THE SOURCE OF PROFIT WAS MEMBER DUES;
5 RIGHT?

6 A THE SOURCE OF PROFIT WAS THE -- OUR OWN
7 MEMBERSHIP BASE AND THE ANNUAL RENEWAL FEES THAT WE WERE
8 PAID BY THAT MEMBER BASE, AND OTHER ANCILLARY PRODUCTS AND
9 SERVICES THAT WERE DEVELOPED BY THE COMPANY. THAT WAS THE
10 PROFIT OR THE REVENUE BASE THAT WE DERIVED PROFIT FROM.

11 Q OKAY. WHEN YOU SAY ANCILLARY PRODUCTS, WHAT
12 IS THAT A REFERENCE TO?

13 A WELL, IN TODAY'S TERMINOLOGY, I GUESS YOU
14 WOULD CALL IT VALUE-ADDED SERVICES. WE HAD A BASIC
15 MEMBERSHIP GROUP OF SERVICES THAT WE PROVIDED OUR CUSTOMERS
16 WITH SUCH AS CUSTOMER SERVICE PUBLICATIONS, THE EXCHANGE
17 NETWORK, RECIPROCAL NETWORK, FIELD SERVICES, RALLIES,
18 NUMEROUS THINGS THAT WERE CORE PARTS OF OUR -- THEIR
19 ACTIVITY AS A COAST TO COAST MEMBER.

20 AND THEN IN ADDITION TO THAT, WE HAD
21 SERVICES, VALUE-ADDED SERVICES THAT WE DEVELOPED FOR THEM,
22 WHICH WOULD BE INSURANCE TYPE PRODUCTS FOR THEIR R.V., AND
23 THAT TYPE OF THING. R.V. FINANCING. AND HAVING A VERY
24 LARGE MEMBER BASE, WE WERE ABLE TO COLLECTIVELY PUT THE
25 BARGAINING POWER TOGETHER TO GET THEM BETTER RATES AT SOME
26 OF THOSE TYPE OF VALUE-ADDED SERVICES THAN THEY COULD

1 OBTAIN ON THEIR OWN.

2 Q WHEN YOU SAY "VALUE-ADDED SERVICES," DO YOU
3 MEAN PRODUCTS THAT WERE MARKETED BY COAST TO COAST?

4 A THEY WOULD HAVE BEEN PRODUCTS AND SERVICES
5 THAT WOULD HAVE BEEN MARKETED THROUGH COAST TO COAST
6 THROUGH OUR OWN MEMBER BASE, THAT'S CORRECT.

7 Q I NOTICE YOU USED THE TERM "THROUGH COAST TO
8 COAST," AND I ASKED THE QUESTION BY COAST TO COAST. WERE
9 SOME OF THESE PRODUCTS MARKETED BY OTHER COMPANIES, ALBEIT
10 THROUGH COAST TO COAST?

11 A THEY WOULD -- YES. SOME OF THEM WERE. YES.

12 Q THEY WERE MARKETED BY THE OTHER COMPANIES
13 THAT WERE -- MR. ADAMS'S COMPANIES; CORRECT?

14 A INCORRECT.

15 Q WHAT OTHER COMPANIES MARKETED THESE OTHER
16 MEMBERS?

17 A MARYLAND NATIONAL BANK CARD DID A CREDIT
18 CARD FOR COAST TO COAST UNDER A CONFIDENTIALITY AND
19 CONTRACTUAL ARRANGEMENT. NATIONAL GENERAL INSURANCE
20 PROVIDED AN INSURANCE POLICY FOR COLLISION DAMAGE,
21 LIABILITY, LIKE AN AUTO INSURANCE POLICY FOR R.V.'S, WHICH
22 HAD NOTHING TO DO WITH MR. ADAMS.

23 BUT THERE WERE THIRD-PARTY COMPANIES THAT
24 WOULD SPECIALIZE IN THEIR AREAS OF BUSINESS THAT WOULD
25 HAPPEN TO BE SERVICES THAT R.V.'ING -- TRAVELLING R.V.'ING
26 OWNER BASE WERE USING OR WERE DESIROUS OF. AND WE WOULD

1 PUT A VALUE-ADDED PRODUCT TOGETHER FOR THEM.

2 Q WHILE YOU WERE THERE, DID COAST TO COAST
3 COORDINATE WITH OTHER ADAMS COMPANIES THAT WERE MARKETING
4 PRODUCTS SO AS TO CREATE THE SYNERGISTIC RESULT OF
5 ASSISTING THOSE OTHER COMPANIES IN MARKETING THEIR PRODUCT?

6 MR. SHERMAN: OBJECTION. COMPOUND.

7 THE COURT: SUSTAINED.

8 REPHRASE, PLEASE.

9 BY MR. MOSHENKO: Q WHILE YOU WERE THERE, DID
10 COAST TO COAST COORDINATE AND COOPERATE WITH OTHER ADAMS
11 COMPANIES THAT WERE MARKETING PRODUCTS?

12 A WELL, MR. MOSHENKO, IF YOU COULD BE SPECIFIC
13 FOR ME, THAT WOULD, YOU KNOW, I'D APPRECIATE THAT. I MEAN --

14 Q WELL, YOU KNOW, I'M NOT ABLE -- I WASN'T
15 THERE -- TO TELL YOU WHAT OTHER PRODUCTS WERE -- COAST
16 COOPERATED WITH OTHER ADAMS COMPANIES TO DO.

17 A MR. MOSHENKO, YOU'VE BEEN WORKING ON THIS
18 CASE, I UNDERSTAND, FOR A COUPLE OF YEARS. SO I WOULD
19 IMAGINE YOU COULD HAVE FOUND OUT MANY THINGS WITHIN A
20 COUPLE OF YEARS.

21 BUT I CAN'T -- YOU KNOW, BE SPECIFIC, IF YOU
22 WOULD, AND I'LL ANSWER YOUR QUESTION.

23 Q WELL, CAN YOU THINK OF ANY INSTANCES WHERE
24 COAST TO COAST COOPERATED WITH OTHER ADAMS COMPANIES THAT
25 WERE MARKETING PRODUCTS RELATING TO THE MARKETING -- THE
26 PRODUCTS THEY WERE MARKETING?

1 A WELL, I'LL TELL YOU.

2 Q I WOULD HOPE SO.

3 A AND I'LL GIVE YOU ONE INCIDENT. AND THERE
4 WERE VERY FEW OF THESE. BUT, FOR EXAMPLE, NATIONAL GENERAL
5 INSURANCE COMPANY -- WHICH WAS IN ST. LOUIS AND HAS NOW, I
6 BELIEVE, BEEN ACQUIRED BY GENERAL MOTORS COMPANY. BUT
7 NATIONAL GENERAL INSURANCE COMPANY WAS PROVIDING AN R.V.
8 INSURANCE PRODUCT, COLLISION DAMAGE PRODUCT, FOR THE GOOD
9 SAM CLUB, AND -- WHICH WAS OWNED BY AMERICAN BAKERIES ALSO
10 ALONG WITH COAST TO COAST. SO, I MEAN, THIS WAS A
11 RELATIONSHIP WE HAD BEFORE MR. ADAMS CAME ALONG.

12 BUT THAT PRODUCT WAS A PRODUCT THAT, BECAUSE
13 OF THE SIZE OF THE GOOD SAM CLUB, HAD VERY ADVANTAGEOUS
14 RATES. I MEAN, THE GOOD SAM CLUB HAD CLOSE TO 800,000
15 MEMBERS OR WHATEVER. AND SO WE WERE ABLE TO, QUOTE
16 UNQUOTE, LEVERAGE OFF OF THAT RELATIONSHIP TO BE ABLE TO
17 PROVIDE THE SAME SERVICE TO THE COAST TO COAST MEMBERS, IF
18 THEY DESIRED TO TAKE ADVANTAGE OF IT. SO THEY WERE ABLE TO
19 GET THOSE DISCOUNTED RATES FOR COLLISION DAMAGE FOR THEIR
20 R.V.

21 SO IF THAT'S THE TYPE OF THING YOU'RE
22 REFERRING TO, IN A COUPLE OF INSTANCES WE DID DO THAT. LET
23 ME MAKE -- ASSURE YOU, THOUGH, FOR EXAMPLE, IN THE EXAMPLE
24 OF THE CREDIT CARD, THE OTHER MC ADAMS -- OR ADAMS
25 COMPANIES DID NOT USE MARYLAND NATIONAL BANK. OKAY. THEY
26 HAD ANOTHER CREDIT CARD PROVIDER, BUT WE DIDN'T -- WE

1 ELECTED NOT TO USE THE SAME CREDIT CARD PROVIDER.

2 Q STAYING WITH THE GOOD SAM CLUB FOR A MINUTE,
3 THAT IS ANOTHER MEMBERSHIP ORGANIZATION THAT MR. ADAMS HAS
4 AN INVOLVEMENT IN?

5 A MR. ADAMS, WHEN HE ACQUIRED FROM AMERICAN
6 BAKERIES THE COAST TO COAST ENTITY, THE TRAILER LIFE
7 ENTERPRISE COMPANY WAS ALSO OWNED BY THE AMERICAN BAKERIES
8 COMPANY. SO WHEN MR. MC ADAMS MADE THAT PURCHASE OR
9 ACQUISITION FROM AMERICAN BAKERIES IN 1988, BOTH OF THOSE
10 COMPANIES WERE PART OF THAT ACQUISITION.

11 Q HAVE YOU EVER HEARD OF THOSE COMPANIES
12 REFERRED TO AS OPERATING DIVISIONS OF AN ADAMS COMPANY,
13 NOT, QUOTE, ADAMS COMPANY, BUT OF ANOTHER COMPANY WHICH WAS
14 OWNED BY MR. ADAMS?

15 A NO. WHEN -- YOU KNOW, AGAIN, TO CLARIFY,
16 WHEN MR. ADAMS BOUGHT THE COMPANIES HE BOUGHT FROM AMERICAN
17 BAKERIES, I RAN COAST TO COAST. AND THE RALPHS FAMILY THAT
18 FOUNDED TRAILER LIFE ENTERPRISE, THE SON, RICK ROUSE, RAN
19 TRAILER LIFE ENTERPRISES; AND WHEN MR. ADAMS ACQUIRED FROM
20 AMERICAN BAKERIES THOSE COMPANIES IN 1988, THAT'S WHAT THAT
21 STRUCTURE WAS, AND THAT'S HOW WE OPERATED THE COMPANIES.
22 MR. ROUSE OPERATED HIS COMPANY IN CALIFORNIA, AND
23 PAT BUTLER OPERATED COAST TO COAST IN EITHER WASHINGTON
24 D.C. OR COLORADO.

25 Q ARE YOU AWARE THAT MR. ADAMS REFERS TO COAST
26 TO COAST AS AN OPERATING DIVISION OF AFFINITY GROUP?

1 A I'M NOT AWARE OF HOW HE REFERS TO COAST TO
2 COAST.

3 Q BACK TO THE QUESTION ABOUT WHERE COAST TO
4 COAST GETS ITS PROFITS.

5 YOU MENTIONED THE VALUE-ADDED SERVICES. AND
6 I ASKED YOU, IS GOOD SAM CLUB ANOTHER MEMBERSHIP
7 ORGANIZATION THAT DIFFERS FROM COAST TO COAST?

8 A YES, IT IS. AND IT'S A MUCH OLDER
9 ORGANIZATION THAN COAST TO COAST.

10 Q AND ARE ALL OF THE MEMBERS OF GOOD SAMS CLUB
11 ALSO MEMBERS OF COAST TO COAST?

12 A TO MY KNOWLEDGE, THE ANSWER TO THAT IS
13 ABSOLUTELY NO.

14 Q ARE ALL OF THE MEMBERS OF COAST TO COAST
15 MEMBERS OF GOOD SAMS CLUB?

16 A NO.

17 Q THEY ARE TWO SEPARATE AND DISTINCT GROUPS OF
18 MEMBERS?

19 A THAT'S CORRECT.

20 Q OKAY. AND DO YOU KNOW WHETHER, WHEN YOU
21 WERE AT DENVER AS PRESIDENT OF COAST TO COAST, THE DATABASE
22 FOR THE GOOD SAMS CLUB WAS KEPT AT THE DENVER LOCATION?

23 A NO, THEY WERE NOT, MR. MOSHENKO. AND I
24 ANSWERED THAT A FEW MINUTES AGO. BECAUSE WE HAD OUR OWN
25 I.T. DEPARTMENT. THEY HAD THEIR OWN I.T. DEPARTMENT. THEY
26 WERE IN CALIFORNIA. WE WERE IN COLORADO. AND THERE WAS

1 NOT EVEN A WIRE CONNECTING THE TWO OF THEM.

2 Q VERY WELL.

3 NOW, YOU MENTIONED THAT INCOME TO COAST CAME
4 FROM PUBLICATIONS. DOES COAST SELL -- OR DID IT WHILE YOU
5 WERE THERE SELL PUBLICATIONS?

6 A WE DIDN'T SELL PUBLICATIONS. WE GAVE
7 PUBLICATIONS AWAY TO OUR MEMBER BASE.

8 Q SO HOW DID COAST ACHIEVE INCOME FROM
9 PUBLICATIONS?

10 A WE HAD ADVERTISERS.

11 Q PEOPLE WOULD COME AND PUT ADS IN THE COAST
12 TO COAST MAGAZINE?

13 A THAT'S CORRECT.

14 Q AND YOU'D COLLECT MONEY FROM THOSE COMPANIES?

15 A YES. THAT'S ADVERTISING, YES.

16 Q YOU'RE AWARE THAT OTHER ADAMS COMPANIES
17 OFFER OTHER PUBLICATIONS?

18 A THAT'S PART OF WHAT HE BOUGHT WHEN HE BOUGHT
19 IT FROM AMERICAN BAKERIES. I MEAN, THAT'S NOT A MR. ADAMS
20 ISSUE. THAT'S PART OF THE STRUCTURE HE BOUGHT WHEN HE
21 BOUGHT TRAILER LIFE ENTERPRISES AND COAST TO COAST. WE
22 BOTH HAD PUBLICATIONS.

23 Q WAS THERE AN INTERRELATIONSHIP BETWEEN THE
24 ADVERTISING MARKETING DEPARTMENTS OF THE TWO -- OF THE
25 COMPANIES, THE ADAMS COMPANIES?

26 DID SOME MARKETING COMPANIES -- MARKETING

1 DEPARTMENTS OF ONE COMPANY COORDINATE, COOPERATE WITH
2 MARKETING DEPARTMENTS OF OTHER COMPANIES?

3 A NOT WHILE I WAS THERE, MR. MOSHENKO.

4 Q SO YOUR MARKETING AND ADVERTISING
5 DEPARTMENT, WHILE YOU WERE THERE, DID NOT COORDINATE AND
6 COOPERATE WITH THE OTHER MARKETING AND ADVERTISING
7 DEPARTMENTS IN OTHER COMPANIES?

8 A NO. WE RAN OUR OWN -- WE HAD OUR OWN
9 MAGAZINE EDITOR. WE HAD OUR OWN DIRECTOR OF ADVERTISING.
10 WE RAN OUR OWN PUBLICATION OUT OF THE COLORADO OFFICE, AND
11 BEFORE THAT OUT OF THE WASHINGTON D.C. OFFICE.

12 Q WHAT PUBLICATIONS DID COAST PUBLISH UNDER
13 YOUR PRESENCE?

14 A WELL, WE HAD A MEMBERSHIP DIRECTORY, TWO OF
15 THEM THAT CAME OUT ANNUALLY, AND WERE INCLUDED AS PART OF
16 THE MEMBER RENEWAL PROGRAM. IN OTHER WORDS, WE WOULD GIVE
17 THEM AN UP-TO-DATE DIRECTORY EVERY YEAR THAT WOULD TELL
18 THEM WHAT PARKS WERE AFFILIATED WITH US AND SO ON AND SO
19 FORTH.

20 AND WE HAD THE MEMBER MAGAZINE THAT WAS
21 PUBLISHED DURING MY TENURE, I BELIEVE, SIX TIMES A YEAR.
22 AND THEN I THINK WE WENT TO EIGHT TIMES A YEAR, WHICH WAS
23 DISTRIBUTED UPON PUBLICATION TO THE MEMBER BASE.

24 AND ALSO A COMPLIMENTARY GROUP OF THOSE
25 MAGAZINES WERE SENT TO OUR PARTICIPATING RESORTS SO THAT
26 THEY HAD THEM ACCESSIBLE IN THE RESORT.

1 AND WE HAD A COUPLE OF INTERNAL
2 PUBLICATIONS. WE HAD ONE CALLED "INSIDE NEWS," WHICH WAS
3 BASICALLY AN INTERNAL PUBLICATION THAT WENT TO OUR
4 DEVELOPER BASE. AND OFF THE TOP OF MY HEAD, THOSE ARE THE
5 ONLY PUBLICATIONS THAT WE WERE INVOLVED IN.

6 Q DID COAST PUBLISH MANUALS FOR USE BY
7 AFFILIATED RESORT OWNERS DESCRIBING THE RULES AND
8 REGULATIONS OF COAST?

9 A WE HAD. I BELIEVE IT WAS REFERRED TO AS A
10 LICENSEE MANUAL, YES. THAT WAS IN PLACE WHEN AMERICAN
11 BAKERIES BOUGHT COAST TO COAST.

12 Q SO, WAS THAT WITHIN WHAT YOU WOULD CALL AN
13 INTERNAL PUBLICATION?

14 A WELL, THAT WOULD -- THAT WOULD HAVE BEEN A
15 PUBLIC -- IT'S NOT A PUBLICATION. I MEAN, IT WAS -- WHEN
16 SOMEBODY WOULD COME TO US AND SEEK AFFILIATION WITH THE
17 ORGANIZATION -- AND WE WERE NOT A FRANCHISE, BUT IT WOULD
18 BE AKIN TO A FRANCHISING OR LICENSING ORGANIZATION -- WE
19 WOULD GIVE THEM MATERIALS TO REVIEW ON THE INDUSTRY AND ON
20 OUR OWN PARTICULAR COMPANY. AND INCLUDED IN THAT GROUP OF
21 MATERIALS WOULD HAVE BEEN ONE OF THE LICENSEE MANUALS AND
22 SAMPLE AFFILIATION CONTRACT, AMONG OTHER THINGS.

23 Q WAS THAT MANUAL CHANGED IN ITS CONTENT FROM
24 TIME TO TIME WHILE YOU WERE COAST'S PRESIDENT?

25 A I'M NOT SURE IF IT WAS CHANGED, HOW OFTEN IT
26 WAS CHANGED. CERTAINLY THOSE MANUALS AND AGREEMENTS WERE

1 UPDATED FROM TIME TO TIME, YES.

2 Q BY "AGREEMENTS" WHAT ARE YOU REFERRING TO?

3 A THE ONLY AGREEMENT THAT I'M REFERRING TO IS
4 THE LICENSING AGREEMENT THAT WE HAD.

5 Q IF I WERE TO USE THE PHRASE AN "AFFILIATION
6 AGREEMENT," ARE WE TALKING ABOUT THE SAME THING?

7 A THAT WOULD WORK, YEAH. IT'S THE SAME THING.

8 Q IT'S THE AGREEMENT BY WHICH RESORTS WOULD
9 BECOME AFFILIATED RESORTS WITH COAST?

10 A THAT'S CORRECT.

11 Q AND THOSE AGREEMENTS WERE CHANGED FROM TIME
12 TO TIME WHILE YOU WERE PRESIDENT?

13 A YES. THEY WERE UPDATED, REVIEWED AND --

14 Q WHAT WAS COAST'S PRACTICE REGARDING HOW TO
15 DEAL WITH AN AFFILIATED RESORT WHEN THE CONTRACT CHANGED?
16 BY THAT, I MEAN, I KNOW IT'S A BROAD QUESTION. SO LET ME
17 NARROW IT DOWN.

18 BY THAT I MEAN WHEN THE CONTRACT CHANGED AND
19 RESORT "A" THAT HAD SIGNED ONE OF THE OLD CONTRACTS WAS
20 UNDER THAT CONTRACT, DID COAST ASK RESORT "A" TO SIGN THE
21 NEW CONTRACT?

22 A YES, WE DID. WE WOULD GO OUT WITH AN
23 EXPLANATION OF THE CHANGES AND THE UPDATED CONTRACT, AND TO
24 THE BEST OF MY MEMORY WE WOULD DISTRIBUTE A NEW AFFILIATION
25 AGREEMENT OR CONTRACT TO THE RESORTS AND ASK THEM TO REVIEW
26 THE CHANGE, SIGN THEM AND SEND THEM BACK IN.

1 Q ARE YOU SUGGESTING YOU ONLY SENT THE CHANGE
2 TO BE REVIEWED? OR YOU'RE SUGGESTING YOU SENT AN ENTIRE
3 NEW DOCUMENT AND ASKED THEM TO REVIEW THE ENTIRE DOCUMENT
4 WITH THE CHANGE?

5 A YES, WE WOULD HAVE SENT AN ENTIRE DOCUMENT.

6 Q OKAY. AND WHAT KIND OF RESPONSE DID COAST
7 GET TO ITS PRACTICE OF ASKING THE RESORT OWNERS TO SIGN NEW
8 CONTRACTS EACH TIME THE CONTRACT CHANGED?

9 A IT WAS VERY, VERY SMOOTH AND SUCCESSFUL. WE
10 HAD VERY FEW PROBLEMS WITH THAT TYPE OF THING. IT WAS
11 RATHER ROUTINE.

12 Q WHO SPECIFICALLY OR WHAT SECTION
13 SPECIFICALLY OF COAST WAS RESPONSIBLE FOR GETTING THESE NEW
14 CONTRACTS REDONE?

15 A UNDER MY ORGANIZATION, MR. RYMAN WAS IN
16 CHARGE OF RESORT OPERATIONS, AND IT WOULD HAVE BEEN DURING
17 MY TENURE MR. RYMAN'S RESPONSIBILITY TO DO THAT.

18 Q ALL RIGHT. NOW, AS REGARDS TO INCOME,
19 AGAIN, BACK TO THAT SUBJECT, YOU INDICATED THAT INCOME
20 RESULTED FROM -- YOU USED THE TERM THE EXCHANGE OR AN
21 EXCHANGE. WHAT WAS THAT A REFERENCE TO?

22 A WELL, IT'S SYNERGISTIC WITH RECIPROCAL USE.
23 I MEAN, WHEN YOU -- AS YOU'RE LITTLE DIAGRAM SHOWS FROM ONE
24 PERSON GOING FROM ONE TRIANGLE TO ANOTHER TRIANGLE, THAT'S
25 AN EXCHANGE. IT'S A TERM THAT'S USED IN THE VACATION
26 OWNERSHIP INDUSTRY IN GENERAL. BUT IT'S THE SAME THING AS

1 A RECIPROCAL USE.

2 Q OKAY. SO WHEN I EXERCISED A RECIPROCAL USE
3 BENEFIT, I'M ENGAGING IN AN EXCHANGE?

4 A SURE. WELL, I MEAN, THE WAY WE THINK OF
5 EXCHANGES, YES.

6 Q SURE.

7 LET'S MAKE SURE THAT THE JURY UNDERSTANDS
8 WHAT YOU MEAN WHEN YOU SAY IT'S SYNERGISTIC.

9 CAN YOU TELL US WHAT YOU MEAN BY THAT?

10 A WELL, IT JUST MEANS THAT THE TERMS ARE
11 SOMEWHAT SYNONYMOUS, THE WAY WE USE THEM, AS EXCHANGE FOR
12 RECIPROCAL USE.

13 Q ALL RIGHT. AND THEN YOU ALSO SAID THE
14 RECIPROCAL -- THEY'RE RECIPROCAL. ARE YOU, IN EFFECT,
15 REPEATING THE EXCHANGE IN ANOTHER TERM WHEN YOU'RE TALKING
16 ABOUT WHERE THE MONEY CAME FROM?

17 A I DON'T WANT TO GET HUNG UP ON THE TERM,
18 MR. MOSHENKO. WHAT WE HAD WAS A RECIPROCAL USE PRIVILEGE.
19 SO LET'S NOT CHARACTERIZE IT ANYTHING OTHER THAN THAT. IT
20 WOULD PROBABLY BE USE.

21 Q YOU'RE SAYING INCOME CAME FROM FIELD
22 SERVICES; WHAT IS THAT A REFERENCE TO?

23 A WELL, I MEAN, I DIDN'T SAY INCOME -- I DON'T
24 BELIEVE I SAID INCOME CAME FROM FIELD SERVICES. WE DID
25 PROVIDE FIELD SERVICES TO OUR AFFILIATED RESORTS THROUGH A
26 NETWORK OF WHAT WE CALL REGIONAL MANAGERS THAT TRAVELED TO

1 THE RESORTS ON A REGULAR BASIS TO VISIT WITH THE AFFILIATES
2 AND, YOU KNOW, PROVIDE ANY KIND OF SERVICE, REASON -- YOU
3 KNOW, I MEAN, SERVICE REQUESTS THAT WERE IN THE NORM OF OUR
4 BUSINESS.

5 Q BUT THOSE FIELD SERVICES WEREN'T CHARGED FOR
6 SO THAT THEY -- THAT RESORT DEVELOPERS HAD TO PAY MONEY; IS
7 THAT RIGHT?

8 A THAT'S CORRECT, YES.

9 Q AND YOU INDICATED -- MY PHRASE IS THE INCOME
10 CAME FROM. I HAD ASKED YOU, REMEMBER, THE OTHER SIDE OF
11 THE COIN IS PROFIT; WHERE DID THE MONEY COME FROM? PROFIT.
12 AND YOU GAVE ME A LIST. SO I'M USING THE TERM "INCOME."

13 A OKAY. OKAY.

14 Q AND YOU SAID THAT MONEY CAME FROM RALLIES;
15 HOW DID MONEY COME TO COAST FROM RALLIES?

16 A WELL, WE DID CHARGE MONEY FOR THE RALLIES
17 BECAUSE IT WAS AN EXPENSIVE EVENT TO PUT ON. AND DURING MY
18 TENURE, WE DID START AN ANNUAL MEMBER RALLY, AND FOR COAST
19 TO COAST MEMBERS. AND THAT PRODUCTION WOULD BE THOUSANDS
20 OF DOLLARS TO RENT A LARGE FACILITY, TO PROVIDE SOME
21 ENTERTAINMENT, AND TO BASICALLY PROVIDE FOOD SERVICE AND
22 THAT TYPE OF THING FOR PARTICIPATING MEMBERS THAT ELECTED
23 TO PARTICIPATE IN THAT RALLY.

24 THEY WOULD PAY US SOME KIND OF A NOMINAL
25 AMOUNT OF MONEY TO OFFSET SOME OF THOSE COSTS. AND I THINK
26 THE FIRST COUPLE YEARS WE DID IT, WE PROBABLY LOST A FAIR

1 AMOUNT OF MONEY.

2 Q ALL RIGHT. WHILE YOU WERE PRESIDENT FOR
3 AMERICAN BAKERIES, WHAT KINDS OF COAST MEMBERSHIPS WERE
4 OFFERED TO THE MEMBERS OF RESORTS?

5 A OKAY. THE WAY THAT CAME OUT, A LITTLE BIT
6 IT SOUNDED LIKE I WAS THE PRESIDENT OF AMERICAN BAKERIES.
7 I WAS NOT THE PRESIDENT OF AMERICAN BAKERIES. BUT I WAS
8 THE PRESIDENT OF COAST TO COAST UNDER AMERICAN BAKERIES.
9 I'M SURE THAT'S WHAT YOU MEANT.

10 Q THAT'S MY FAULT. I APOLOGIZE.

11 A OKAY. BUT THE TWO PRODUCTS THAT WE OFFERED
12 WOULD BE A C.C.C. MEMBERSHIP, WHICH WAS THE COAST TO COAST
13 MEMBERSHIP, WHICH WAS PRIMARILY FOR A PERSON THAT OWNED A
14 RECREATION VEHICLE. AND THAT -- WE DEVELOPED AND HAD A
15 COAST TO COAST RESORT PRODUCT WHERE SOME OF OUR RESORTS
16 ELECTED TO PUT IN PRODUCTS LIKE PARK MODEL TRAILERS OR
17 MOTEL TYPE ACCOMMODATIONS, WHERE A MEMBER WOULDN'T
18 NECESSARILY HAVE TO OWN AN R.V. TO STAY AT THAT OUTDOOR
19 PROPERTY.

20 Q SO, THE C.C.C. MEMBERSHIP WAS THE BASIC
21 MEMBERSHIP; RIGHT?

22 A THAT'S CORRECT.

23 Q AND I HEARD YOU SAY, "WE DEVELOPED THE CCR."
24 WAS THAT A DEVELOPED NEW MEMBERSHIP WHILE YOU WERE
25 PRESIDENT?

26 A THAT MEMBERSHIP PRODUCT WAS ACTUALLY THERE

1 WITH ACE AND DENY BROWN, THE FOUNDERS OF THE COMPANY.

2 Q OKAY. SO ALL RIGHT.

3 A THE OTHER IS C.C.R.

4 Q I'M SORRY. C.C.R.

5 DID COAST FROM TIME TO TIME WHILE YOU WERE
6 ITS PRESIDENT TALK ABOUT ENHANCING THE MEMBERSHIPS AND
7 DEVELOPING OTHER PRODUCTS?

8 A NOT DURING MY TENURE.

9 Q YOU'RE AWARE THAT THERE IS A NEW PRODUCT
10 BEING OFFERED BY COAST TODAY?

11 A I'M -- IN GENERAL I'M AWARE OF IT. I DON'T
12 HAVE ANY REAL SPECIFIC KNOWLEDGE OF IT BECAUSE I DON'T USE
13 THAT PRODUCT, AND THAT PRODUCT WAS DEVELOPED AFTER I LEFT.

14 Q WE'RE TALKING ABOUT COAST DELUXE, ARE WE
15 NOT?

16 A YES, I BELIEVE THAT'S THE NAME OF THE
17 PRODUCT.

18 Q AND DID -- WHILE YOU WERE PRESIDENT, DID YOU
19 EVER RECOMMEND OR ATTEMPT TO DEVELOP ANY OTHER ENHANCEMENTS
20 OR BENEFITS TO THESE TWO BASIC BENEFITS?

21 A NOTHING OTHER THAN I'VE ALREADY MENTIONED,
22 SUCH AS THE VALUE-ADDED SERVICES. BUT CERTAINLY NOT THE
23 COAST DELUXE PRODUCT.

24 Q ALL RIGHT. I WAS GOING TO ASK YOU THAT.
25 WERE THE PRACTICES OF OFFERING VALUE-ADDED
26 SERVICES PRACTICES THAT YOU DEVELOPED, YOU, AS PRESIDENT

1 WERE RESPONSIBLE FOR?

2 A WELL, I WAS -- I DON'T REMEMBER -- I DON'T
3 BELIEVE THEY HAD ANY OF THOSE BEFORE I WAS PRESIDENT. AND
4 SO, YES, I WOULD TAKE RESPONSIBILITY FOR THAT.

5 Q HOW ABOUT THE SOURCE OF INCOME THROUGH
6 PUBLICATIONS; IS THAT SOMETHING THAT YOU SPEARHEADED, OR
7 DID THAT COME FROM MR. ADAMS'S PUBLISHING BACKGROUND?

8 A NO. THAT CAME FROM ME BECAUSE FRANKLY
9 DISTRIBUTING THAT MAGAZINE TO OUR OWNER BASE THAT MANY
10 TIMES A YEAR WAS A VERY EXPENSIVE PROPOSITION. AND WE FELT
11 IT WAS VERY IMPORTANT TO HAVE A VERY COMPLETE COMMUNICATION
12 PIECE TO OUR MEMBER BASE ON A REGULAR BASIS.

13 SO IN ORDER TO HELP OFFSET THE COST OF
14 DISTRIBUTING AND PUBLISHING THAT MAGAZINE, WE DECIDED TO
15 INCLUDE ADVERTISING IN THE MAGAZINE TO HELP DERIVE SOME
16 REVENUE TO OFFSET THE COST. AND THAT HAPPENED UNDER MY
17 TENURE, AND THAT WAS ONE OF MY RESPONSIBILITIES.

18 Q IT'S FAIR TO SAY YOU WERE RESPONSIBLE WHILE
19 YOU WERE PRESIDENT FOR EXPANDING WHAT COAST TO COAST DID
20 OUT OF THE RECIPROCAL USE BUSINESS INTO DEVELOPMENTS OF
21 INCOMES AND PROFITS FROM VALUE-ADDED SERVICES AND
22 PUBLICATIONS?

23 A WELL, YES. THE ANSWER TO THAT WOULD BE
24 YES. AND I WOULD, YOU KNOW --

25 Q IN MAKING THOSE CHANGES, DID YOU COORDINATE
26 WITH ANY OF THE -- WITH MR. MC ADAMS OR ANY OF THE OTHER

1 PERSONS FROM THE OTHER ADAMS COMPANIES?

2 A THE ONLY PERSON THAT I WORKED WITH IN ANY OF
3 THOSE ACTIVITIES INITIALLY -- AND IT WOULD HAVE BEEN VERY,
4 VERY MINIMAL, BECAUSE AT THAT TIME WHEN I WAS THERE WE
5 DIDN'T HAVE A LOT OF, YOU KNOW, INTERFACING OR CROSS-USE OF
6 PRODUCTS AND SERVICES WITH THE ENTITIES.

7 SO THE ONLY PERSON I WOULD HAVE WORKED WITH
8 THERE WOULD HAVE BEEN MR. ROUSE. AND I THINK THE PRODUCT
9 THAT I MENTIONED, THE NATIONAL GENERAL INSURANCE PRODUCT,
10 WAS PROBABLY THE MAIN PRODUCT THAT WE, QUOTE UNQUOTE,
11 PIGGIE-BACKED OFF OF.

12 BUT OTHER THAN THAT, IT WOULD HAVE BEEN, YOU
13 KNOW, THINGS THAT WE WOULD HAVE WORKED OUT INTERNALLY.

14 Q WHAT DO YOU MEAN WHEN YOU USE THE TERM
15 "CROSS-SERVICES"? I THINK THAT WAS WHAT YOU SAID.

16 A WELL, MR. MOSHENKO, I THINK THAT'S WHAT YOU
17 WERE TRYING TO GET AT WHEN YOU WERE TALKING TO ME ABOUT,
18 YOU KNOW, OR ASKING ME DID WE HAVE I.T. DEPARTMENTS THAT
19 WORK TOGETHER, THIS AND THAT. AND I WOULD IMAGINE THOSE
20 WOULD BE CROSS-SERVICES IN SOME WAY. AND THE ANSWER TO
21 THAT, UNDER MY TENURE, WAS BASICALLY NO, THERE WAS NOT VERY
22 MUCH -- ANY OF THAT AT ALL THAT EXISTED OPERATIONALLY.

23 Q ACTUALLY I THOUGHT MAYBE YOU WERE REFERRING
24 TO CROSS-SERVICES WHICH INCLUDED PRODUCTS, CROSS-PRODUCTS;
25 YOU WEREN'T REFERRING TO THAT?

26 A NO. AS I MENTIONED, NATIONAL GENERAL

1 INSURANCE WAS ONE.

2 Q WERE THERE ANY OTHERS?

3 A YOU KNOW, TO THE BEST OF MY MEMORY -- WELL,
4 YES, THERE WAS. EMERGENCY ROAD SERVICE, WHICH IS KIND OF
5 AN AAA SERVICE FOR PEOPLE THAT DRIVE R.V.'S.

6 Q OKAY. AS THE PRESIDENT OF COAST TO COAST,
7 YOU FROM TIME TO TIME CAME INTO CONTACT WITH RESORT
8 DEVELOPERS; IS THAT CORRECT?

9 A THAT'S CORRECT.

10 Q DO YOU KNOW OF A PERSON NAMED DAVID VOPNFORD?

11 A I DO -- I HAVE MET MR. VOPNFORD.

12 Q DO YOU HAVE -- BECAUSE OF YOUR BACKGROUND
13 WITH COAST -- AN UNDERSTANDING OF WHEN MR. VOPNFORD BEGAN
14 TO INTERRELATE AND AFFILIATE WITH CAMP COAST TO COAST?

15 A MR. VOPNFORD WAS ALREADY AN AFFILIATE OF
16 COAST TO COAST WHEN I BECAME PRESIDENT IN 1985. AND SO I
17 DON'T KNOW WHEN HE AFFILIATED WITH COAST TO COAST.

18 Q NOW, YOU ARE ALSO TODAY WHAT WE REFERRED TO
19 IN THIS TRIAL AS A RESORT DEVELOPER; RIGHT?

20 A YES, THAT'S CORRECT. THAT WOULD BE CORRECT.

21 Q OKAY. AND THAT'S BECAUSE YOU OWN TWO
22 DIFFERENT RESORTS IN SAN FELIPE, MEXICO; RIGHT? YOU OR A
23 COMPANY THAT YOU CONTROL?

24 A I OWN A LARGE PIECE OF PROPERTY IN SAN
25 FELIPE, AND -- WHICH IS -- INVOLVED NUMEROUS SUBDIVISIONS.
26 AND WE BASICALLY SELL LAND AND BUILD HOMES. AND ON THOSE

1 -- ON THAT PROPERTY I HAVE TWO R.V. PARKS. SO THEY ARE
2 AFFILIATED WITH COAST TO COAST IN SOME WAY, YES.

3 Q ONE OF THOSE PARKS IS CALLED EL DORADO
4 RANCH; RIGHT?

5 A NO.

6 Q ISN'T ONE OF THE TWO R.V. PARKS, PARK NUMBER
7 822, ALSO 858 IN THE COAST TO COAST CALLED EL DORADO RANCH?

8 A WELL, WHAT I HAVE IS A BEACH AND TENNIS CLUB
9 R.V. PROPERTY, EL DORADO BEACH AND TENNIS CLUB R.V. PARK,
10 AND THEN I HAVE ANOTHER R.V. PARK WHICH IS CALLED
11 "CACHANILLA." AND TO TELL YOU EXACTLY HOW THEY'RE REFERRED
12 TO IN THE DIRECTORY, I'M NOT EXACTLY SURE. THEY MAY BE --
13 I MEAN, I DON'T KNOW. IS IT CALLED EL DORADO R.V. PARK?

14 Q RANCHO EL DORADO.

15 A OKAY. I MEAN, RANCHO --

16 Q ARE YOU FAMILIAR WITH ONE OF YOUR RESORTS
17 BEING REFERRED TO AS "RANCHO EL DORADO"?

18 A WELL, THAT'S FINE THAT THEY CHARACTERIZE --
19 CLASSIFY IT LIKE THAT. IT'S ACTUALLY WHAT WE REFER TO AS
20 OUR BEACH AND TENNIS CLUB PROPERTY, AND THAT'S A GOOD
21 NEIGHBOR PARK.

22 Q CORRECT.

23 AND THEN THERE'S ANOTHER RESORT THAT YOU
24 JUST MENTIONED WHICH IS CALLED "EL CACHANILLA"?

25 A CACHANILLA, YES.

26 Q AND THAT IS NOT A GOOD NEIGHBOR PARK; IT IS

1 AN AFFILIATED RESORT?

2 A THAT'S CORRECT. THAT'S IN MY SUBDIVISION
3 COMMUNITIES, AND IT'S AN AFFILIATED PROPERTY OF THE REGULAR
4 COAST TO COAST SYSTEM.

5 Q HOW LONG HAVE YOU BEEN A RESORT DEVELOPER --
6 I'LL STOP RIGHT THERE.

7 A SINCE MAY OF 1994.

8 Q WHAT WAS THE FIRST RESORT DEVELOPMENT THAT
9 YOU BECAME A DEVELOPER WITH?

10 A THE ONE WE'RE SPEAKING ABOUT, EL DORADO
11 RANCH.

12 Q AND HOW LONG HAS -- HOW LONG HAS
13 LA CACHANILLA BEEN AN AFFILIATED RESORT WITH CAMP COAST TO
14 COAST?

15 A CACHANILLA AFFILIATED WITH COAST TO COAST,
16 YOU KNOW, I -- CERTAINLY THERE'S DOCUMENTATION OUT THERE,
17 BUT PROBABLY FOR THREE YEARS.

18 Q BACK FROM TODAY?

19 A BACK FROM TODAY. SOMEWHERE IN THAT RANGE.

20 Q MAYBE AROUND 1997?

21 A '97, I BELIEVE.

22 Q AND EL CACHANILLA IS A MEMBERSHIP RESORT;
23 CORRECT?

24 A NO. IT'S REALLY A -- IT'S GOT A VERY SMALL
25 MEMBERSHIP BASE TO IT. IT'S PRIMARILY A RENTAL PROPERTY.
26 AND IT'S ALSO A PROPERTY THAT'S THERE FOR MY HOMEOWNERS

1 THAT ALSO OWN R.V.'S. AND IF THEY COME DOWN FOR A
2 SHORT-TERM STAY AND DON'T WANT TO OPEN THEIR WHOLE HOUSE
3 UP, THEY CAN STAY IN THE R.V. PARK.

4 SO IT'S GOT MULTIPLE SERVICES. IT IS NOT
5 STRICTLY A COAST TO COAST PARK BY ANY MEANS. IT'S GOT A
6 VERY SMALL --

7 Q EXCUSE ME?

8 A IT'S GOT A VERY SMALL COAST TO COAST MEMBER
9 BASE IN IT.

10 Q BESIDES THIS COAST TO COAST MEMBER BASE, IT
11 IS A RESORT WITH MEMBERS WHO HAVE MEMBERSHIPS IN THAT
12 RESORT; RIGHT?

13 A THE PRODUCT WE SELL IS -- ACTUALLY WE DO
14 REFER TO IT AS A MEMBERSHIP. IT'S A LAND LEASE.

15 Q OKAY.

16 A IT'S A LAND LEASE IN MEXICO. AND IT'S A
17 30-YEAR LAND LEASE. IT'S NOT AN R.V. LAND LEASE. THESE
18 ARE LOTS. THESE ARE LIKE HOME BUILDING LOTS.

19 Q ALL RIGHT. BUT YOU REFER TO IT -- THE LAND
20 LEASE AS A MEMBERSHIP --

21 A YES.

22 Q -- IN THE EL CACHANILLA RESORT?

23 A NO. NO. NO. I REFER TO OUR OWNER BASE
24 OCCASIONALLY AS A MEMBER BASE, BUT THEY'RE ACTUALLY AN
25 OWNER BASE. THE BASE OF PEOPLE IN CACHANILLA RESORT, THAT
26 IS IN THE MAGNITUDE OF A COUPLE HUNDRED PEOPLE MAXIMUM THAT

1 HAVE ANY -- HAVE A MEMBERSHIP IN CACHANILLA. THE PEOPLE
2 THAT HAVE LEASES WITH ME ARE A COUPLE THOUSAND.

3 Q DID EL CACHANILLA HAVE ANY MEMBERS THAT ARE
4 NOT LANDOWNERS AT YOUR FACILITY?

5 A YES, THEY HAVE A FEW THAT ARE --

6 Q THESE ARE PEOPLE -- I'M SORRY.

7 A NO. THERE ARE A FEW THAT ARE COAST TO COAST
8 MEMBERS AND HAVE A MEMBERSHIP PRODUCT THERE, YES, AND THEY
9 DON'T HAVE A LAND LEASE.

10 Q AND THESE PEOPLE LIVE ELSEWHERE, AND THEIR
11 ONLY CONNECTION WITH EL CACHANILLA IS IT'S THEIR HOME
12 RESORT FOR COAST TO COAST PURPOSES?

13 A CORRECT.

14 Q BY THE WAY, YOU KNOW THE TERM "HOME RESORT,"
15 IT MEANS THE RESORT WHERE THE MEMBER BUYS HIS MEMBERSHIP?

16 A MEANS THE RESORT WHERE THEY -- FOR COAST TO
17 COAST WHAT IT MEANS IS THE RESORT THAT THEY ACQUIRED A
18 MEMBERSHIP AT THAT -- FROM A RESORT THAT'S AFFILIATED WITH
19 COAST TO COAST AND THAT RESORT, ALONG WITH THE MEMBER'S
20 APPROVAL, PROCESSED AN APPLICATION AT COAST TO COAST. AND
21 THEY BECAME A COAST TO COAST MEMBER. THAT'S WHAT WE REFER
22 TO AS A HOME RESORT FOR THAT PARTICULAR MEMBER, YES.

23 Q HAVE YOU EVER MARKETED MEMBERSHIPS AT
24 EL CACHANILLA?

25 A NO. I MEAN, DO WE MARKET THEM NOW? THE
26 ANSWER TO THAT IS NO. AND HAVE WE EVER REALLY -- WHEN YOU

1 SAY "MARKETED," MR. MOSHENKO, I'M ASSUMING THAT YOU MEAN DO
2 WE HAVE AN ACTIVE SALES PROGRAM FOR MEMBERSHIPS FOR
3 CACHANILLA. THE ANSWER TO THAT IS NO.

4 Q ACTUALLY MY QUESTION WAS, HAVE YOU EVER
5 MARKETED, NOT DO YOU HAVE AN ACTIVE MEMBERSHIP MARKETING
6 PROGRAM. HAVE YOU EVER MARKETED?

7 A I'M GOING TO ASK YOU, IF YOU WOULD, TO
8 EXPLAIN THE WORD "MARKETING" TO ME IN THE CONTEXT YOU'RE
9 USING IT.

10 Q WHERE YOU MADE EFFORTS TO ENCOURAGE PEOPLE
11 TO BUY MEMBERSHIP INTEREST WHEN IT COULD INCLUDE THIS LAND
12 OWNERSHIP INTEREST THAT YOU REFERRED TO AS A MEMBERSHIP
13 INTEREST IN THAT RESORT.

14 A NO, I DO NOT HAVE AN ACTIVE MARKETING
15 PROGRAM FOR THAT PRODUCT AT ALL. I HAVE AN ACTIVE
16 MARKETING PROGRAM TO SELL LAND AND BUILD HOMES. IF
17 SOMEBODY HAPPENS TO OWN AN R.V. AND THEY WANT A PLACE TO
18 STORE THE R.V., I'VE GOT A STORAGE YARD THAT STORES BOATS
19 AND R.V.'S AND CARS AND DUNE BUGGIES AND DIFFERENT THINGS
20 THAT WE USE IN THE BAJA.

21 BUT I -- FROM A STANDPOINT OF MARKETING A
22 MEMBERSHIP FOR AN R.V., WE DON'T DO THAT. WE SELL LAND.

23 Q AND NEVER HAVE DONE THAT?

24 A NEVER -- WELL, AGAIN, I'M GOING TO GO BACK
25 TO, YOU KNOW, ASK YOU IF YOU WANT TO BE SPECIFIC WITH ME
26 AND HOW YOU WANT TO USE THE WORD "MARKETING." THEN YOU

1 CAN -- YOU'RE WELCOME TO DO THAT. BUT DO I HAVE AN
2 ACTIVE -- WHEN I TALK ABOUT MARKETING, THAT'S ME
3 PROACTIVELY OUT IN THE COMMUNITIES OF THE WORLD MARKETING
4 OR SELLING, TRYING TO SELL A PRODUCT. AND DO WE HAVE AN
5 ACTIVE MARKETING PROGRAM FOR CACHANILLA, AND THE ANSWER TO
6 THAT IS NO.

7 Q HOW ABOUT FOR THE OTHER RESORT, EL DORADO
8 RANCH RESORT, THAT YOU CALL THE TENNIS --

9 A WHAT I CALL THE BEACH AND TENNIS CLUB R.V.
10 PARK IS STRICTLY AN OPEN-TO-THE-PUBLIC PARK AND AN
11 AFFILIATED GOOD NEIGHBOR PARK.

12 Q AND YOU HAVE NEVER MARKETED MEMBERSHIPS IN
13 THAT ORGANIZATION?

14 A WELL, I DON'T -- WHEN I BOUGHT THAT COMPANY
15 THEY DID MARKET. PREVIOUS TO ME, A FEW, A VERY FEW -- THEY
16 WERE NOT AFFILIATED WITH COAST TO COAST AT THE TIME, BUT
17 THEY DID SELL A PRODUCT WHICH WAS NOT A MEMBERSHIP CAMPING
18 PRODUCT, BUT IT WAS A USE PRODUCT FOR A VERY -- THEY HAD 14
19 SPACES IN AN R.V. PARK. IT WAS VERY, VERY SMALL. AND I
20 BELIEVE THEY HAD, YOU KNOW, LESS THAN 30 OF THOSE TYPE OF
21 MEMBERSHIPS OR WHATEVER. AND WHEN I BOUGHT THE COMPANY, WE
22 SUSPENDED THAT PROGRAM.

23 SO THERE -- YOU KNOW, I MEAN, AGAIN, HAS
24 THAT COMPANY IN THE PAST EVER SOLD SOMETHING THAT WOULD
25 RESEMBLE A MEMBERSHIP R.V. PRODUCT? IT DID TO A VERY
26 MINIMAL DEGREE, AND I STOPPED IT.

1 Q SUSPENDED THAT PROGRAM. DO YOU MEAN THAT
2 YOU STOPPED WHATEVER THE MARKETING WAS, OR DO YOU MEAN THAT
3 THOSE PERSONS THAT HAD MEMBERSHIPS, WHATEVER IT WAS THEY
4 HAD, THAT THEY LOST THOSE MEMBERSHIPS?

5 A NOT AT ALL. WE CONTINUED TO HONOR WHAT THEY
6 BOUGHT, AND SOME OF THEM ARE STILL THERE. THERE ARE, LIKE
7 I SAY, VERY FEW OF THEM.

8 BUT WE STOPPED ACTIVELY SELLING THAT TYPE OF
9 A PRODUCT. I MEAN, OUR BASIC BUSINESS IS SELLING LOTS AND
10 BUILDING HOMES.

11 Q BUT YOU DO NOT CONSIDER THAT RESORT TO BE A
12 MEMBERSHIP RESORT?

13 A NOT AT ALL.

14 Q IT'S AN OPEN-TO-THE-PUBLIC RESORT?

15 A YES.

16 Q OKAY. BUT IT IS ALSO A GOOD NEIGHBOR PARK
17 YOU SAID?

18 A A GOOD NEIGHBOR.

19 Q WHAT DOES THAT MEAN?

20 A A GOOD NEIGHBOR PARK IS A PROPERTY THAT IS
21 OPEN TO THE PUBLIC, AND THE -- IT ALSO OFFERS A DISCOUNTED
22 STAY FOR COAST TO COAST MEMBERS ON A RESERVATION- AND
23 SPACE-AVAILABLE BASIS. SO THEY DO PAY A NIGHTLY FEE. IT'S
24 DISCOUNTED FROM THE PUBLIC RATE. BUT SO IT'S CALLED A GOOD
25 NEIGHBOR PARK.

26 Q AND IS THAT A COAST TO COAST TERM?

1 A IT IS. TO THE BEST OF MY KNOWLEDGE IT'S A
2 COAST TO COAST TERM.

3 Q WAS THAT TERM AROUND WHILE YOU WERE
4 PRESIDENT?

5 A ACTUALLY I BELIEVE IT WAS. I BELIEVE UNDER
6 MY DIRECTION THAT WE DID START THE GOOD NEIGHBOR PARK
7 PROGRAM. SO WE'LL GO BACK AND CORRECT WHAT I SAID BEFORE,
8 IF -- YOU ASKED ME IF I EVER ESTABLISHED ANOTHER PRODUCT
9 WHILE I WAS THERE. I BELIEVE, YOU KNOW, THE GOOD NEIGHBOR
10 PARK PROGRAM WAS ESTABLISHED UNDER MY TENURE.

11 Q ALL RIGHT. NOW, BUT GOOD NEIGHBOR PARKS ARE
12 NOT EQUIVALENT TO AFFILIATED RESORTS, ARE THEY?

13 A THAT'S CORRECT.

14 Q TO BE AN AFFILIATED RESORT YOU HAVE TO HAVE
15 A CONTRACT WITH CAMP COAST TO COAST?

16 A YES.

17 Q ONCE A RESORT HAS A CONTRACT WITH COAST TO
18 COAST AND BECOMES AN AFFILIATED RESORT, COAST THEN
19 PUBLISHES THE NAME OF THAT RESORT IN THE COAST DIRECTORY?

20 A THEY PUBLISH THE NAME OF THE AFFILIATED
21 RESORTS IN THE DIRECTORY AND ALSO THE GOOD NEIGHBOR PARKS
22 IN THE DIRECTORY.

23 Q OKAY. I DIDN'T MEAN TO SAY THEY DON'T
24 PUBLISH GOOD NEIGHBOR PARKS. BUT ALL RIGHT.

25 AND ONCE A RESORT BECOMES AN AFFILIATED
26 RESORT, ITS MEMBERS CAN BECOME MEMBERS OF COAST TO COAST?

1 A THAT'S CORRECT.

2 Q AND THE REASON WHY ITS MEMBERS CAN QUALIFY
3 TO BECOME MEMBERS IS BECAUSE THE AFFILIATED PARK IS THE
4 HOME PARK OR HOME RESORT FOR THAT MEMBER; RIGHT?

5 A THAT'S CORRECT.

6 Q IN ORDER TO BE A MEMBER YOU MUST HAVE A HOME
7 RESORT?

8 A THAT'S CORRECT. THAT'S THE GENERAL RULE.

9 Q AND YOU'RE FAMILIAR WITH THE PRIMARY PRODUCT
10 RULE THAT SAYS THAT THE MEMBERSHIP END OF THE RESORT IS THE
11 PRIMARY PRODUCT?

12 A I AM.

13 Q AND THE MEMBERSHIP IS -- COAST TO COAST IS
14 THE SECONDARY PRODUCT?

15 A THAT'S CORRECT.

16 Q DO YOU HAVE SOME UNDERSTANDING OF WHY THAT
17 RULE IS THERE?

18 A WELL, WHILE UNDER MY TENURE AS PRESIDENT
19 THERE, AND TO THE BEST OF MY MEMORY, THE PURPOSE OF THAT
20 WAS THAT WE WANTED THE CONSUMER TO KNOW THAT THE INITIAL
21 PRODUCT THEY WERE BUYING WAS THEIR HOME PRODUCT, HOME PARK
22 PRODUCT; AND THAT THROUGH THAT HOME PARK AFFILIATION, YES,
23 IF THEY WERE A RESORT IN GOOD STANDING, THEY HAD THE
24 ABILITY TO ALSO BECOME A MEMBER OF COAST TO COAST, UPON THE
25 ELECTION OF BEING PRESENTED THAT BY THE AFFILIATED
26 PROPERTY -- AFFILIATED PARK. AND THAT BECAME THEIR HOME

1 PARK, AND IT WAS THEIR PRIMARY -- THAT'S THE PRIMARY
2 PRODUCT THAT THEY WERE BUYING.

3 THE SECONDARY PRODUCT WOULD BE THE
4 RECIPROCAL USE SYSTEM AND THE BENEFIT TO USE THE OTHER
5 AFFILIATED PARK PROPERTIES IN THE COAST TO COAST SYSTEM.

6 MR. MOSHENKO: MR. DURAN, COULD YOU START MOVING
7 TOWARD EXHIBIT 46, 44 AND 47.

8 Q MR. BUTLER, THE APPLICATION FOR MEMBERSHIP
9 IS THE CONTRACT BETWEEN COAST TO COAST AND THE MEMBERS;
10 CORRECT?

11 A THAT'S CORRECT.

12 Q BUT YOU UNDERSTOOD THAT THAT CONTRACT ALSO
13 PROVIDES SOME OF THE TERMS AND CONDITIONS OF THE
14 CONTRACTUAL RELATIONSHIP BETWEEN THE RESORT DEVELOPERS AND
15 COAST TO COAST; RIGHT?

16 A WITHOUT SEEING THE DOCUMENT AND BEING
17 POINTED TO SPECIFICALLY WHAT YOU'RE REFERRING TO,
18 MR. MOSHENKO, I CAN'T SAY YES OR NO TO THAT.

19 Q I'LL COME BACK TO THAT.

20 A OKAY.

21 Q LET ME SHOW YOU EXHIBIT 44.

22 MY FIRST QUESTION IS, THAT'S AN AFFILIATION
23 AGREEMENT; CORRECT?

24 A YES, IT IS -- IT LOOKS -- YES.

25 Q COULD WE PUT IT UP ON THE SCREEN.

26 IT'S A COAST TO COAST DOCUMENT; RIGHT?

1 A THAT'S CORRECT.

2 MR. SHERMAN: YOUR HONOR, I THINK THERE MAY HAVE
3 BEEN SOME MISSPEAKING. THE DOCUMENT IS ENTITLED WHAT IT IS
4 ENTITLED.

5 MR. MOSHENKO: OH, THERE WAS MISSPEAKING. MY FAULT.

6 Q THAT'S AN APPLICATION FOR MEMBERSHIP IN
7 COAST TO COAST?

8 A I'M SORRY. YES. THIS IS -- WHAT YOU HAVE
9 ME LOOKING AT RIGHT NOW, THIS PARTICULAR EXHIBIT, IS
10 TITLED, "COAST TO COAST RESORTS MEMBERSHIP APPLICATION."

11 Q AND HAVE THERE BEEN DIFFERENT VERSIONS OF
12 THE MEMBERSHIP APPLICATION FROM TIME TO TIME WHILE YOU WERE
13 PRESIDENT?

14 A MR. MOSHENKO, WHILE I WAS PRESIDENT I
15 COULDN'T TELL YOU OFFHAND WHETHER OR NOT THIS APPLICATION
16 FORM HAD BEEN CHANGED. BUT, YES, IT HAS BEEN CHANGED
17 OCCASIONALLY. AND, OF COURSE, WE WOULD PRINT A BATCH OF
18 100,000 OF THESE. AND AT THE END OF THAT 100,000, IT WOULD
19 GO BACK TO REPRINT. AND ANY TIME ANYTHING IN OUR
20 ORGANIZATION WENT BACK TO REPRINT, WE WOULD REVIEW IT TO
21 SEE IF IT NEEDED TO BE UPDATED. SO I WOULD IMAGINE IT HAS
22 BEEN CHANGED FROM TIME TO TIME.

23 Q IS THERE SOME WAY THAT YOU CAN IDENTIFY A
24 DATE OF THE FORM OR VERSION OF THE APPLICATION YOU HAVE IN
25 FRONT OF YOU?

26 A I CAN'T BY LOOKING AT THE APPLICATION. THE

1 ONLY THING I COULD TELL YOU THIS WOULD HAVE BEEN AFTER
2 1990, SINCE OUR ADDRESS WAS COLORADO. AND THAT'S THE YEAR
3 WE MOVED TO COLORADO.

4 Q ALL RIGHT. IF WE COULD GO TO PAGE 2,
5 PLEASE.

6 AND I WOULD LIKE TO BLOW UP THE SECTION ON
7 THE LEFT WHERE IT SAYS "MEMBERSHIP" AT THE TOP.

8 ALL RIGHT. THAT MEMBERSHIP PARAGRAPH IS A
9 DESCRIPTION OF THE FACT THAT COAST TO COAST ADMINISTERS A
10 RECIPROCAL USE CAMP -- A RECIPROCAL PROGRAM; IS THAT
11 CORRECT?

12 MR. SHERMAN: OBJECTION. THE DOCUMENT SPEAKS FOR
13 ITSELF, IF IT CAN BE READ.

14 THE COURT: SUSTAINED.

15 THE WITNESS: WELL, MR. MOSHENKO READ THAT
16 DOCUMENT, AND I CAN'T READ IT HERE.

17 MR. SHERMAN: EXCUSE ME. YOUR HONOR SUSTAINED THE
18 OBJECTION.

19 BY MR. MOSHENKO: Q LET'S TRY TO FIND A MORE
20 LEGIBLE VERSION. I'M SURE I THINK THERE ARE SOME OTHERS
21 HERE.

22 THE COURT: WHILE YOU'RE LOOKING FOR THAT WE'LL
23 TAKE A BREAK. 20 MINUTES, LADIES AND GENTLEMEN.

24 (RECESS TAKEN.)

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

1 THE COURT: PROCEED, COUNSEL.

2 MR. MOSHENKO: YOUR HONOR, I'D LIKE TO GO TO
3 EXHIBIT 46, WHICH IS A MORE LEGIBLE VERSION OF THE COPY OF
4 THE DOCUMENT.

5 Q DO YOU HAVE IT IN FRONT OF YOU, MR. BUTLER?

6 A YES, I DO.

7 Q DOES EXHIBIT 46 APPEAR TO YOU TO BE ANOTHER
8 COPY OF A MEMBERSHIP APPLICATION FOR MEMBERSHIP IN COAST TO
9 COAST?

10 A YES, IT DOES.

11 Q COULD WE PUT IT UP ON THE SCREEN AND GO TO
12 PAGE 2. NOW BLOW UP THE TOP PARAGRAPH, IF WE COULD.

13 OKAY. THE DOCUMENT DOES SPEAK FOR ITSELF.
14 IT STATES, "COAST TO COAST RESORTS ADMINISTERS A RECIPROCAL
15 USE CAMP RESORT SYSTEM FOR THE MEMBERS OF CAMP COAST TO
16 COAST, C.C.C., AND COAST TO COAST RESORTS, C.C.R."

17 THAT IS WHAT COAST DOES; RIGHT?

18 A YES, IT IS.

19 Q COULD YOU GO AND BLOW UP THE PARAGRAPH
20 ENTITLED "HOME RESORT."

21 MR. BUTLER, YOU TOLD US IN ORDER TO HAVE THE
22 COAST TO COAST MEMBERSHIP, YOU MUST HAVE A HOME RESORT
23 MEMBERSHIP?

24 A THAT'S CORRECT.

25 Q AND THIS DOCUMENT SAYS, "YOU MUST BE IN GOOD
26 STANDING WITH YOUR HOME RESORT TO PARTICIPATE IN THE COAST

1 TO COAST SYSTEM. YOU ARE ONLY ENTITLED TO ONE COAST TO
2 COAST MEMBERSHIP."

3 SO IS A COROLLARY TO THE RULE THAT YOU MUST
4 HAVE A HOME RESORT TO BE A COAST TO COAST MEMBER, THAT IF
5 YOU DO NOT HAVE A HOME RESORT, THAT YOU CAN LOSE -- YOU NO
6 LONGER QUALIFY FOR COAST TO COAST MEMBERSHIP?

7 A WELL, THAT'S THE GENERAL RULE, YES, IT IS.
8 BUT THERE WOULD ALWAYS BE EXTENUATING CIRCUMSTANCES. AND,
9 FOR EXAMPLE, THE REASON I SAY THAT IS BECAUSE IF YOU HAVE A
10 MEMBER THAT IS MOVING FROM CALIFORNIA TO FLORIDA, HE MAY BE
11 LEAVING A LONG DISTANCE OF, YOU KNOW, TRAVEL AREA, AND HE
12 MAY ELECT TO FIND ANOTHER HOME RESORT IN FLORIDA. AND SO
13 HE MIGHT NOTIFY COAST TO COAST THAT FOR THE NEXT 12 MONTHS
14 I'M IN THIS MOVE PROCESS, AND I'M GOING TO TRY AND FIND
15 IT. AND IT MAY BE THAT HE HAS AN INTERIM PERIOD OF TIME, A
16 FEW MONTHS, WHERE THROUGH HIS RELOCATION PROCESS HE WOULD
17 STILL BE CONSIDERED A COAST TO COAST MEMBER; AND HE WOULD
18 THEN -- IF HE FOUND A NEW HOME RESORT, HE WOULD NOTIFY
19 COAST TO COAST OF THAT.

20 SO -- BUT THIS IS -- THAT IS THE CASE. I
21 MEAN, HERE, THE WAY YOU'RE TALKING.

22 Q AS A MATTER OF FACT, THE SECOND PARAGRAPH ON
23 THE SCREEN TALKS ABOUT THAT FEW MONTHS, AS YOU SAID, TO
24 FIND ANOTHER COAST TO COAST RESORT. "IF YOUR HOME RESORT
25 CEASES TO BE A COAST TO COAST AFFILIATED RESORT FOR ANY
26 REASON" -- I HAPPEN TO KNOW THERE'S AN "ANY" BEHIND THE

1 DOT -- "YOUR COAST TO COAST MEMBERSHIP WILL REMAIN IN
2 EFFECT FOR THE REMAINDER OF THAT CALENDAR YEAR, THEREBY
3 ALLOWING YOU A REASONABLE PERIOD OF TIME TO BECOME A MEMBER
4 OF ANOTHER COAST TO COAST AFFILIATED RESORT WITHOUT
5 INTERRUPTING YOUR BENEFITS."

6 NOW, WAS THAT IN EFFECT BACK WHEN YOU WERE
7 PRESIDENT?

8 A I BELIEVE IT WAS, YES, TO THE BEST OF MY
9 KNOWLEDGE.

10 Q WHEN A COAST TO COAST MEMBER'S AFFILIATED
11 RESORT CEASES TO BE AFFILIATED, WHILE YOU WERE PRESIDENT,
12 ALLOWED MEMBERSHIPS TO REMAIN IN EFFECT UNTIL THE END OF
13 THE CALENDAR YEAR; CORRECT?

14 A YES. YES.

15 Q AND THAT'S ALWAYS BEEN, AS FAR AS YOU KNOW,
16 COAST'S POLICY; RIGHT?

17 A YES.

18 Q NOW, YOU -- WHILE YOU WERE PRESIDENT, WAS
19 THERE SOMETHING CALLED AN ANTI-RAIDING RULE THAT WAS
20 REFERRED TO FROM TIME TO TIME?

21 A I BELIEVE THERE WAS. I WOULD HAVE TO
22 REFRESH MY MEMORY BECAUSE IT'S BEEN SEVEN OR EIGHT YEARS.
23 I'D PROBABLY HAVE TO LOOK AT SOMETHING, IF YOU HAVE
24 SOMETHING TO SPEAK TO IT.

25 Q ALL RIGHT. WELL, DON'T YOU RECALL THAT
26 BACK -- AS A MATTER OF FACT, THROUGH THE HISTORY OF COAST

1 TO COAST, THAT TO PROTECT RESORT OWNERS FROM HAVING OTHER
2 DEVELOPERS RAID AND TAKE AWAY THEIR MEMBERS, COAST HAD A
3 RULE THAT SAID THAT THE RESORT -- AFFILIATED RESORTS
4 COULDN'T DO THAT?

5 A THAT'S CORRECT. WE DID HAVE THAT RULE.

6 Q OKAY. AND IT WAS TO PROTECT THE RESORT
7 OWNERS FROM HAVING THEIR MEMBERS TAKEN AWAY; CORRECT?

8 A YES, THAT'S RIGHT.

9 Q AND WASN'T IT ALSO TO ENCOURAGE RESORT
10 DEVELOPERS TO AGREE TO BECOME AFFILIATED BY GIVING THEM A
11 COMFORT LEVEL THAT IF THEY SHOULD BECOME AFFILIATED, THEIR
12 MEMBERS WOULD BE PROTECTED?

13 A I DON'T BELIEVE THAT WAS ONE OF THE MAIN
14 THINGS THAT WE TALKED WITH THEM ABOUT AT THE TIME OF THE
15 AFFILIATION. I MEAN, IN OTHER WORDS, I WOULDN'T
16 CHARACTERIZE IT AS A MAIN REASON. BUT CERTAINLY IT WAS A
17 PRACTICE AND, YOU KNOW, A RULE, SO-TO-SPEAK, FOR THE
18 AFFILIATED RESORTS, YES.

19 MR. MOSHENKO: ALL RIGHT. NOW, MR. DURAN, I'M
20 GOING TO GO ON TO THE AFFILIATION AGREEMENTS. WE'RE
21 TALKING ABOUT EXHIBIT 1586, PLEASE.

22 Q BEFORE I GO THERE, MR. BUTLER, THIS MORNING
23 YOU TOLD US THAT -- WELL, THAT YOUR TWO RESORTS -- ONE OF
24 THEM HAD ONLY 16 SITES?

25 A NO. LET ME CORRECT THAT SO THERE'S NOT A
26 MISUNDERSTANDING THERE.

1 WHEN I BOUGHT THE PROPERTY THERE WERE 14
2 R.V. SITES ON THE BEACH AND TENNIS CLUB R.V. PARK, WHICH I
3 THEN EXPANDED TO 100 FULL-SERVICE SITES THAT ARE ON THE
4 BEACH AND TENNIS CLUB FACILITIES.

5 Q AND HOW MANY -- HOW MANY SITES WERE AT THE
6 EL CACHANILLA RESORT?

7 A I BELIEVE THAT PRESENT -- WELL, AT PRESENT I
8 BELIEVE THERE ARE ABOUT 86 OR SOMETHING IN THAT AREA, 75 TO
9 85. BUT I THINK THE NUMBER 86 FOR SOME REASON STICKS IN MY
10 HEAD.

11 Q I'M GOING TO ASK THAT WE LOOK AT EXHIBIT --
12 I BELIEVE IT'S 1586. I'LL TAKE THAT ONE AWAY FROM YOU.

13 DO YOU RECOGNIZE 1586 AS CAMP COAST TO COAST
14 LICENSE AGREEMENT, SOMETIMES REFERRED TO AS AN AFFILIATION
15 AGREEMENT?

16 A IT'S TITLED "LICENSE AGREEMENT, CAMP COAST
17 TO COAST, INC.," YES.

18 Q AND IS THIS A TRUE AND CORRECT COPY OF AN
19 AGREEMENT THAT WAS BEING USED BY CAMP COAST TO COAST TO
20 AFFILIATE RESORTS BACK WHEN COAST TO COAST WAS AT
21 WASHINGTON D.C. IN THE MID-'80'S?

22 MR. SHERMAN: EXCUSE ME. OBJECTION. RELEVANCY.

23 THE COURT: I'M GOING TO SUSTAIN IT.

24 THE WITNESS: I ASSUME --

25 THE COURT: I SUSTAINED THE OBJECTION.

26 MR. SHERMAN: YOUR HONOR, MAY I SUGGEST YOUR HONOR

1 JUST EXPLAIN TO MR. BUTLER -- I SHOULD HAVE DONE THAT. I
2 APOLOGIZE.

3 THE COURT: WELL, WHEN THERE'S AN OBJECTION, WAIT
4 UNTIL I RULE. IF I SAY "OVERRULED," THEN YOU CAN ANSWER.
5 IF I SAY "SUSTAINED," DON'T SAY ANYTHING.

6 THE WITNESS: YES, SIR.

7 BY MR. MOSHENKO: Q WHILE YOU WERE PRESIDENT OF
8 CAMP COAST TO COAST, DID COAST TO COAST MAKE
9 REPRESENTATIONS TO ITS RESORT DEVELOPERS THAT THE TERMS AND
10 CONDITIONS OF ITS AGREEMENTS WOULD INCLUDE THE TERMS AND
11 CONDITIONS OF THE LICENSEE MANUAL?

12 A I'M A LITTLE CONFUSED ON THAT QUESTION. IF
13 YOU CAN RESTATE IT.

14 MR. SHERMAN: YEAH. I OBJECT TO THE QUESTION.
15 SEEKS A LEGAL CONCLUSION AS FAR AS REPRESENTATIONS.

16 THE COURT: SUSTAINED.

17 REPHRASE.

18 BY MR. MOSHENKO: Q I'M SUGGESTING THAT THE COAST
19 AGREEMENT WITH ITS RESORT DEVELOPERS INCLUDED A PROVISION
20 THAT THE LICENSEE'S MANUAL WAS INCORPORATED INTO THE
21 AGREEMENT AS SETTING FORTH SOME OF THE TERMS AND CONDITIONS
22 THAT EXISTED BETWEEN COAST TO COAST AND THE AFFILIATED
23 DEVELOPER.

24 MR. SHERMAN: OBJECTION. THE DOCUMENT SPEAKS FOR
25 ITSELF.

26 THE COURT: SUSTAINED.

1 MR. MOSHENKO: WELL, I'D LIKE TO BRING THE DOCUMENT
2 IN, YOUR HONOR.

3 MR. SHERMAN: I AGREE HE SHOULD BRING IN ANY
4 RELEVANT DOCUMENTS HE WISHES TO BRING IN, BUT NOT
5 IRRELEVANT ONES.

6 BY MR. MOSHENKO: Q DID COAST -- ALL RIGHT.
7 THEN I'M GOING TO ASK THAT EXHIBIT 1586 BE
8 REFERRED TO, YOUR HONOR.

9 MR. SHERMAN: IT'S STILL AN IRRELEVANT DOCUMENT.
10 IT'S A 1985 DOCUMENT, AND I JUST DON'T UNDERSTAND.

11 THE COURT: SUSTAINED.

12 BY MR. MOSHENKO: Q COULD YOU LOOK AT 1591.
13 DID COAST FROM TIME TO TIME CHANGE ITS
14 LICENSE AGREEMENT TO STATE THE TERMS AND CONDITIONS OF WHAT
15 COAST WAS OBLIGATED TO DO REGARDING ESTABLISHING RULES AND
16 REGULATIONS BETWEEN ITSELF AND THE LICENSEE DEVELOPERS?

17 MR. SHERMAN: OBJECTION. THE QUESTION IS COMPOUND.
18 REFERENCE TO 1591 MAKES THIS STILL AN IRRELEVANT QUESTION.
19 THIS IS A 1984 VERSION OF THE DOCUMENT. AND IT SEEKS A
20 LEGAL CONCLUSION OF THE WITNESS.

21 THE COURT: SUSTAINED.

22 MR. MOSHENKO: MAY WE APPROACH, YOUR HONOR?

23 THE COURT: YOU MAY.

24 (DISCUSSION OFF THE RECORD.)

25 BY MR. MOSHENKO: Q MR. BUTLER, YOU HAVE
26 INDICATED THAT MR. VOPNFORD AND SOME OF HIS RESORTS WERE

1 AFFILIATED WITH CAMP COAST TO COAST DATING BACK TO THE
2 MID-'80'S; IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q NOW, IN THIS CASE MR. NOVELLI ACQUIRED, OR
5 SOME OF THE PLAINTIFFS ACQUIRED SOME INTEREST IN SOME OF
6 THE RESORTS THAT MR. VOPNFORD HAD DATING BACK TO THE
7 MID-'80'S.

8 MR. SHERMAN: OKAY. THAT LACKS FOUNDATION AS FAR
9 AS THE METHOD OF ACQUISITION.

10 MR. MOSHENKO: I DIDN'T STATE A METHOD. I JUST
11 STATED THE FACT.

12 THE COURT: OVERRULED.

13 PROCEED.

14 BY MR. MOSHENKO: Q AND SO DID MR. VOPNFORD HAVE
15 TO ENTER INTO AGREEMENTS TO BECOME A COAST TO COAST
16 AFFILIATE BACK IN THE 1980'S?

17 A WELL, LET'S BACK UP ON THAT, PLEASE,
18 MR. MOSHENKO, BECAUSE TO THE BEST OF MY RECOLLECTION,
19 DURING MY TENURE AS PRESIDENT OF COAST TO COAST, I DON'T
20 RECALL MR. NOVELLI BUYING ANY OF MR. VOPNFORD'S
21 PROPERTIES. THAT WAS NOT MADE CLEAR TO ME.

22 Q WELL, MY QUESTION, SIR, WAS, DID
23 MR. VOPNFORD ENTER INTO AGREEMENTS WITH CAMP COAST TO COAST
24 RELATING TO THOUSAND ADVENTURES RESORTS BACK IN THE
25 MID-'80'S?

26 A AND THE ANSWER TO THAT QUESTION, WHICH I

1 ANSWERED, WAS YES.

2 Q SO I WANT YOU TO LOOK AT EXHIBIT 1586. THAT
3 IS A PONDEROSA PARK RESORT AGREEMENT. AND I'M GOING TO
4 REPRESENT TO YOU THAT THIS IS A PARK THAT IS OR AT SOME
5 TIME LATER BECAME A PARK RELEVANT TO THE PLAINTIFFS' CLAIM,
6 ONE OF THE PARKS INCLUDED IN THE PLAINTIFFS' CLAIM.

7 I'D LIKE TO ASK YOU, DOES THIS APPEAR TO BE
8 A TRUE AND CORRECT COPY OF THE COAST TO COAST AGREEMENT
9 THAT WAS BEING USED BY CAMP COAST TO COAST BACK IN 1985?

10 A THIS APPEARS TO BE A COAST TO COAST
11 AFFILIATION AGREEMENT. MR. VOPNFORD, TO THE BEST OF MY
12 KNOWLEDGE, DID NOT OWN PONDEROSA PARK.

13 MR. MOSHENKO: REGARDLESS, I WOULD OFFER EXHIBIT
14 1586 IN, YOUR HONOR. IT TIES TO THE PLAINTIFFS' RESORTS,
15 AND THE EVIDENCE WILL PROVE THAT IT DOES.

16 THE COURT: NO OBJECTION?

17 MR. SHERMAN: NO OBJECTION.

18 THE COURT: IT WILL BE SO RECEIVED.

19 (WHEREUPON, EXHIBIT NO. 1586, COAST TO COAST
20 AFFILIATION AGREEMENT RE PONDEROSA PARK, WAS RECEIVED IN
21 EVIDENCE.)

22 BY MR. MOSHENKO: Q COULD WE PUT 1586 UP, AND THE
23 FIRST PARAGRAPH. DOWN TO THE REFERENCE -- THE FIRST TWO
24 PARAGRAPHS.

25 YOU SEE THIS REFERENCES CAMP COAST TO COAST
26 WHEN IT WAS IN WASHINGTON D.C.?

1 A YES.

2 Q AND PARAGRAPH B IDENTIFIES THE LICENSEE AS
3 PONDEROSA PARK RESORT, INC., A OHIO CORPORATION?

4 A CORRECT.

5 MR. MOSHENKO: COULD WE GO TO THE BACK PAGE,
6 MR. DURAN. THERE'S A SIGNATURE PAGE. COULD YOU BLOW UP
7 THE SIGNATURE ON THE RIGHT-HAND SIDE, STARTING FROM
8 "ACCEPTED."

9 Q THERE, DO YOU RECOGNIZE THE NAME THERE
10 SIGNING FOR CAMP COAST TO COAST?

11 A YES. MR. JACOBS WAS THE PRESIDENT OF COAST
12 TO COAST AT THE TIME AMERICAN BAKERIES BOUGHT THE COMPANY.

13 Q OKAY. AND NOW -- AND SO CAMP COAST TO COAST
14 ENTERED INTO THIS AGREEMENT IN 1995 AS THE DATE INDICATES
15 THERE BY MR. JACOBS?

16 MR. SHERMAN: EXCUSE ME.

17 THE COURT: '85, WASN'T IT?

18 MR. MOSHENKO: YEAH, '85.

19 Q NOW, COULD WE GO TO PAGE 82, PLEASE.

20 ALL RIGHT. AND I WANT TO BLOW UP PARAGRAPH
21 B AT THE TOP.

22 THE QUESTION I HAVE FOR YOU, MR. BUTLER, IS,
23 WHILE YOU WERE PRESIDENT OF COAST TO COAST, DID THE TERMS
24 AND CONDITIONS OF THE CAMP COAST TO COAST AGREEMENTS WITH
25 ITS DEVELOPERS EVOLVE AND CHANGE OVER TIME TO MEET THE
26 CIRCUMSTANCES OF LEGAL AND REGULATORY CONCERNS, THE BEST

1 INTEREST OF THE INDUSTRY, THINGS LIKE THAT?

2 A THAT'S CORRECT.

3 Q AND, AS A MATTER OF FACT, THIS CASE,
4 LICENSEE, THAT'S THE DEVELOPER; RIGHT?

5 A CORRECT.

6 Q "LICENSEE AGREES TO SUBSCRIBE AND ADHERE TO
7 ALL OF THE LICENSOR'S WRITTEN STANDARDS, POLICIES,
8 PROCEDURES AND REQUIREMENTS AT ANY TIME ESTABLISHED OR
9 EXPLAINED IN DOCUMENTS DISSEMINATED BY LICENSOR SO AS TO
10 ACHIEVE THE GOALS OF THE PROGRAM."

11 DO YOU SEE THAT?

12 A YES, I DO.

13 Q SO DOCUMENTS DISSEMINATED BY THE LICENSOR
14 INCLUDED THE LICENSE MANUAL -- THE LICENSEE MANUAL; RIGHT?

15 A IT DOESN'T SPECIFICALLY SAY THAT, AND YOU'RE
16 ASSUMING THAT ASSOCIATION. I MEAN, THAT'S YOUR
17 ASSUMPTION. I DON'T SEE THAT IT SAYS THAT.

18 Q WELL, ISN'T IT A FACT THAT BACK WHEN YOU
19 WERE PRESIDENT, THE LICENSEE MANUAL WAS DISSEMINATED BY THE
20 LICENSOR, COAST TO COAST?

21 A YES, WE DID GIVE A LICENSEE MANUAL TO THE
22 AFFILIATES.

23 Q AND, IN ADDITION, DOCUMENTS DISSEMINATED BY
24 COAST TO COAST INCLUDED THE INSIDE NEWS PUBLICATION; RIGHT?

25 A THAT'S CORRECT.

26 Q AND IT ALSO INCLUDED THE COAST TO COAST

1 MAGAZINE, DIDN'T IT?

2 A WELL, THE COAST TO COAST MAGAZINE WAS REALLY
3 A MEMBER PUBLICATION, BUT OBVIOUSLY THE DEVELOPER GOT
4 COPIES OF IT, YES.

5 Q AND IT WAS DISSEMINATED BY COAST TO COAST?

6 A THAT'S CORRECT.

7 Q AND THE REASON -- ONE OF THE REASONS FOR
8 INSIDE NEWS WAS TO INFORM THE LICENSEE OF THE STANDARDS AND
9 POLICIES AND PROCEDURES WHICH CHANGED FROM TIME TO TIME;
10 CORRECT?

11 A AMONG OTHER THINGS. I MEAN, IT WAS A
12 COMMUNICATION PIECE. BUT, YES, IT DID DO THAT ALSO.

13 Q ALL RIGHT. THIS GOES ON TO SAY, "THE
14 STANDARDS, POLICIES AND PROCEDURES AND REQUIREMENTS OF
15 LICENSOR MAY CHANGE OVER TIME TO REFLECT THE EVOLUTION OF
16 THE PROGRAM."

17 WHAT'S THE EVOLUTION OF THE PROGRAM?

18 MR. SHERMAN: I'M GOING TO OBJECT TO THE QUESTION.
19 IF THE POINT IS THE PROGRAM IS A DEFINED TERM, THEN THE
20 DOCUMENT SPEAKS FOR ITSELF. THE QUESTION IS VAGUE AND
21 AMBIGUOUS.

22 MR. MOSHENKO: I'M NOT.

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

24 BY MR. MOSHENKO: Q JUST THE WORD "PROGRAM."

25 A MR. MOSHENKO, MY DOCUMENT HERE, THIS
26 LICENSEE AGREEMENT, SAYS JULY OF '84. THAT WOULD HAVE BEEN

1 BEFORE AMERICAN BAKERIES BOUGHT THIS COMPANY.

2 WHEN AMERICAN BAKERIES BOUGHT THIS COMPANY,
3 I'M SURE THEY REVIEWED EVERY PIECE OF CONTRACT THROUGH
4 THEIR LEGAL DEPARTMENT, SO ON AND SO FORTH. FOR THIS
5 DOCUMENT TO UNDERGO CHANGE AT THAT TIME, AT THAT TIME OF AN
6 ACQUISITION, CHANGE OF OWNERSHIP OF THE COMPANY, I WOULD
7 VERY MUCH ASSUME THAT THEY DID DO THAT.

8 SO THE -- YOUR INTERPRETATION OF THAT
9 LANGUAGE IS YOUR INTERPRETATION. I WASN'T EVEN HERE WHEN
10 THIS DOCUMENT WAS PRODUCED. SO --

11 Q WHICH DOCUMENT ARE YOU LOOKING AT?

12 A I'M LOOKING AT THIS AGREEMENT, THIS EXHIBIT
13 1586. AND ON THE BOTTOM RIGHT-HAND CORNER OF IT, IT'S
14 DATED 7/84, WHICH PRECEDES THE OWNERSHIP OF COAST TO COAST
15 BY AMERICAN BAKERIES AND -- NO, I'M SORRY. THEY DID BUY IT
16 IN '84. SO THIS WOULD HAVE -- BUT THIS WAS PROBABLY AN
17 ORIGINAL COAST TO COAST DOCUMENT.

18 Q WHEN YOU WERE PRESIDENT OF COAST, YOU
19 REVIEWED THE LICENSE, AFFILIATION AGREEMENTS; CORRECT?

20 A FROM TIME TO TIME I WOULD HAVE REVIEWED IT
21 AND SENT IT TO OUR GENERAL COUNSEL AND ASKED THEM TO REVIEW
22 IT. AND IT WOULD GO, LIKE ANY PRINTED MATERIAL THAT WAS
23 SUBSTANTIVE, THROUGH A LEGAL REVIEW FROM -- ON AN
24 OCCASIONAL BASIS.

25 SO YES, I WOULD HAVE READ IT AND REVIEWED
26 IT.

1 Q ALL RIGHT. COULD WE GO TO EXHIBIT 1653.
2 WHILE SHE IS SEARCHING FOR THAT, MR. BUTLER,
3 THIS LANGUAGE ABOUT -- THAT REFERRED TO COAST DISSEMINATING
4 DOCUMENTS SO AS TO ACHIEVE THE GOALS OF THE PROGRAM, THAT
5 LANGUAGE STAYED IN THE AGREEMENT UNTIL THE 1990 VERSION OF
6 THE CONTRACT, DIDN'T IT?

7 A MR. MOSHENKO, I HAVE NO IDEA. I DON'T HAVE
8 THE DOCUMENT IN FRONT OF ME. I DON'T KNOW IF IT'S THERE OR
9 NOT THERE.

10 Q I TOOK IT AWAY FROM YOU. IT'S BEHIND YOU.

11 A OKAY.

12 MR. SHERMAN: COULD I GET CLARIFICATION AS TO WHAT
13 IS NOW BEING PLACED WITH THE WITNESS?

14 MR. MOSHENKO: EXHIBIT 1653, I PRESUME.

15 LANCE, I'M GOING TO GO BACK TO THAT OTHER
16 CONTRACT THAT YOU JUST TOOK BACK.

17 Q I WANT TO FOCUS ON 1653, WHICH IS AN APRIL
18 6TH, 1989, LETTER ON COAST TO COAST LETTERHEAD; DO YOU HAVE
19 IT THERE?

20 A YES, I DO.

21 Q OKAY, IS THAT YOUR SIGNATURE ON THIS
22 DOCUMENT?

23 A ACTUALLY, THAT'S THE SIGNATURE OF MY OLD
24 SECRETARY.

25 Q SHE SIGNED WITH YOUR AUTHORITY?

26 A YES.

1 Q AND YOU'RE RESPONSIBLE FOR THE CONTENT OF
2 THIS DOCUMENT?

3 A WELL, I HAVEN'T READ THE DOCUMENT, BUT IT'S
4 UNDER MY SUPERVISION.

5 MR. MOSHENKO: OFFER IT INTO EVIDENCE, YOUR HONOR,
6 WHILE HE IS READING IT.

7 THE COURT: NO OBJECTION?

8 MR. SHERMAN: NO OBJECTION.

9 THE COURT: IT WILL BE SO RECEIVED.

10 (WHEREUPON, EXHIBIT NO. 1653, APRIL 6, 1989
11 LETTER ON COAST LETTERHEAD, WAS RECEIVED IN EVIDENCE.)

12 BY MR. MOSHENKO: Q ALL RIGHT. COULD YOU BLOW UP
13 THE FIRST TWO PARAGRAPHS, PLEASE.

14 HAVE YOU HAD A CHANCE TO READ IT,
15 MR. BUTLER?

16 A YES, I HAVE.

17 Q OKAY. IN APRIL OF 1989 COAST MAILED COPIES
18 OF A REVISED LICENSEE MANUAL TO LICENSEES WHICH DESCRIBED
19 THE COAST TO COAST RECIPROCAL SYSTEM, DIDN'T THEY?

20 A YES.

21 Q AND IT INCLUDED REVISIONS WHICH COAST MADE,
22 KIND OF REVISION THAT THEY MADE TO THEIR RULES AND
23 REGULATIONS FROM TIME TO TIME; IS THAT CORRECT?

24 A YES, THAT'S WHAT THIS LETTER SAYS.

25 MR. SHERMAN: YOUR HONOR, MAY WE APPROACH?

26 THE COURT: YOU MAY.

1 (DISCUSSION OFF THE RECORD.)

2 MR. SHERMAN: YOUR HONOR, COAST TO COAST DEFENDANTS
3 STIPULATE THAT BEGINNING IN AT LEAST 1989 COAST DID ON
4 OCCASION SEND OUT TO RESORT DEVELOPERS COPIES OF ITS
5 THEN-CURRENT LICENSEE MANUAL.

6 BEYOND THAT, COAST OBJECTS TO FURTHER
7 INQUIRY ON THIS DOCUMENT OR THESE POINTS WITH THIS WITNESS
8 AS CUMULATIVE. THE DOCUMENTS SAY WHAT THE DOCUMENTS SAY.
9 THEY SPEAK FOR THEMSELVES.

10 MR. MOSHENKO: I'LL STOP DEALING WITH THE DOCUMENT
11 PER SE.

12 Q MR. BUTLER, THE REASON COAST COMMUNICATED
13 CHANGES AND IT DISSEMINATED DOCUMENTS FROM TIME TO TIME WAS
14 TO INFORM THE DEVELOPERS WHAT COAST CONSIDERED TO BE NEW
15 TERMS OF THEIR AGREEMENTS; CORRECT?

16 A YES, THAT WOULD IN GENERAL BE CORRECT.

17 Q NOW, MR. BUTLER, DURING YOUR TENURE, ONE
18 SUCH CHANGE IN THE TERM OF THE AGREEMENT HAD TO DO WITH THE
19 SUBJECT OF CONFIDENTIALITY OF THE LISTS OF MEMBERS THAT
20 WERE CREATED FROM THE INFORMATION SUBMITTED TO COAST IN THE
21 APPLICATIONS THAT THE RESORT DEVELOPERS GAVE COAST;
22 CORRECT?

23 A SIR, YOU'LL HAVE TO PROVIDE ME WITH
24 SOMETHING TO READ, BECAUSE IT'S NOT GENERAL RECALL FOR ME.

25 Q OKAY. EXHIBIT 803.

26 MR. SHERMAN: IN LIGHT OF THE QUESTION THAT WAS

1 EITHER ASKED OR IS PENDING AND THE DESCRIPTION TO 803, CAN
2 I MAKE SURE WE HAVE THE SAME DOCUMENT? BECAUSE I DON'T
3 UNDERSTAND HOW THIS RELATES TO IT. WHAT IS THE 803?

4 MR. MOSHENKO: 803 IS AN AGREEMENT BETWEEN COAST TO
5 COAST AND THE OWNER, AND IT'S DATED 2/21/92. AND IT'S THE
6 FEBRUARY '90 VERSION OF THE AFFILIATION AGREEMENT.

7 MR. SHERMAN: WELL, I OBJECT TO THE PREFATORY OF
8 ONE SUCH CHANGE AS BEING ARGUMENTATIVE AND LACKING IN
9 FOUNDATION, BECAUSE THIS IS OBVIOUSLY -- AS MR. MOSHENKO
10 JUST MENTIONED, IT'S AN AGREEMENT. IT'S NOT A CHANGE BEING
11 COMMUNICATED.

12 THE COURT: THE OBJECTION IS OVERRULED.

13 BY MR. MOSHENKO: Q PLEASE JUST FAMILIARIZE
14 YOURSELF SO I CAN ASK YOU SOME QUESTIONS ABOUT IT.

15 A WOULD YOU LIKE ME TO READ THIS ENTIRE
16 DOCUMENT?

17 Q NO -- WELL, OF COURSE I DON'T WANT TO
18 PREVENT YOU FROM DOING WHAT YOU FEEL YOU NEED TO DO TO BE
19 ABLE TO TESTIFY ABOUT IT. I'M INTERESTED IN CONFIRMING
20 WITH YOU THAT THIS IS A COAST TO COAST AGREEMENT, A FORM OF
21 WHICH WAS USED, AT OR ABOUT THE TIME THAT THE DOCUMENT WAS
22 SIGNED, AND THAT IT APPEARS TO HAVE BEEN SIGNED BY AN
23 AUTHORIZED REPRESENTATIVE OF CAMP COAST TO COAST.

24 A YES, IT DOES LOOK LIKE AN AFFILIATION
25 AGREEMENT FOR COAST TO COAST.

26 MR. MOSHENKO: ALL RIGHT. AND SO THEN I WOULD

1 OFFER IT IN EVIDENCE, YOUR HONOR.

2 THE COURT: NO OBJECTION?

3 MR. SHERMAN: ONE MOMENT, PLEASE, YOUR HONOR.

4 BY MR. MOSHENKO: Q IS THE SIGNATURE ON PAGE 9 BY

5 ROGER RYMAN --

6 MR. SHERMAN: NO OBJECTION.

7 THE COURT: IT'S RECEIVED IN EVIDENCE.

8 (WHEREUPON, EXHIBIT NO. 803, AFFILIATION

9 AGREEMENT DATED 2/21/92, WAS RECEIVED IN EVIDENCE.)

10 THE WITNESS: THAT LOOKS LIKE MR. RYMAN'S

11 SIGNATURE, YES.

12 BY MR. MOSHENKO: Q AND I WANT TO CALL YOUR

13 ATTENTION --

14 MR. DURAN, COULD YOU PUT UP PAGE 3.

15 NOW, COULD YOU BLOW UP THE BOTTOM OF THE

16 DOCUMENT, THAT DATE STAMP OR THAT DATE NOTIFICATION.

17 YOU SEE THAT 2/90 DOWN AT THE BOTTOM?

18 A YES, I DO.

19 Q ISN'T IT TRUE THAT THIS IS A FORM OF

20 AGREEMENT THAT COAST TO COAST ADOPTED USE OF AS OF FEBRUARY

21 OF 1990?

22 A IT APPEARS THAT IT IS.

23 MR. MOSHENKO: OKAY. AND NOW BACK TO THE TOP OF

24 PAGE 3. BLOW UP PARAGRAPH E.

25 Q THE LAST SENTENCE IN THIS -- WHICH THE JURY

26 HAS SEEN BEFORE, BUT I'M NOT SURE IF YOU HAVE, MR. BUTLER.

1 HAVE YOU SEEN THE PHRASE, "LIST OF MEMBERS
2 OF COAST COMPILED BY COAST FROM SUCH APPLICATIONS MAY BE
3 USED BY COAST IN ITS DISCRETION FOR ENHANCEMENT OF THE
4 COAST MEMBERSHIP"?

5 A I MEAN, THAT IS LANGUAGE IN THIS AGREEMENT.
6 SO I WOULD IMAGINE THAT I SAW IT BACK IN 1990, YES.

7 Q OKAY. NOW, WE'RE GOING TO HAVE TO GO TO THE
8 PREVIOUS -- THAT LANGUAGE WAS NOT IN ANY OF THE PRIOR COAST
9 CONTRACTS PRIOR TO FEBRUARY 1990, WAS IT?

10 A I DON'T KNOW. I MEAN, THE CONTRACT CHANGES.
11 I DON'T KNOW THEM OFFHAND.

12 Q NOW, DO YOU RECALL THAT MR. RYMAN PUBLISHED
13 A PUBLICATION IN THE INSIDE NEWS AROUND JANUARY OF 1990
14 RELATING TO CONFIDENTIALITY OF LISTS COMPILED BY COAST?

15 A YOU'D HAVE TO SHOW ME A DOCUMENT, PLEASE.

16 MR. MOSHENKO: COULD I PLEASE ASK THAT MR. RYMAN'S
17 DOCUMENT BE PUT UP. IT'S EXHIBIT 285.

18 Q I'LL SHOW YOU EXHIBIT 285.

19 COULD YOU BLOW UP THE LANGUAGE IN THE
20 MEMBERSHIP LIST PROTECTION MEMO.

21 HAVE YOU SEEN THAT DOCUMENT BEFORE, NOW THAT
22 YOU HAVE IT IN FRONT OF YOU?

23 A DURING MY DEPOSITION I BELIEVE I DID SEE
24 THIS, YES.

25 Q OKAY. NOW, ISN'T IT TRUE THAT IN JANUARY OF
26 1990 ROGER RYMAN PUBLISHED IN INSIDE NEWS AN ARTICLE

1 ENTITLED "MEMBERSHIP LISTS PROTECTION"WHICH INCLUDED THE
2 LANGUAGE THAT'S SHOWN ON THE SCREEN AT THE BOTTOM OF THE
3 SCREEN THERE?

4 A THE DOCUMENT I HAVE IN FRONT OF ME SAYS
5 "INSIDE NEWS MEMBERSHIP LIST PROTECTION" AND HAS THREE
6 PARAGRAPHS. SO YES. I MEAN, I HAVE THE DOCUMENT.

7 Q IN FACT, THIS DOCUMENT SAYS IT'S FROM THE
8 OFFICE OF THE PRESIDENT. THAT'S YOU; RIGHT?

9 A EVERY INSIDE NEWS SAID IT WAS FROM THE
10 OFFICE OF THE PRESIDENT.

11 Q SO YOU AS THE PRESIDENT TOOK RESPONSIBILITY
12 FOR EVERYTHING THAT INSIDE NEWS PUBLISHED?

13 A I WOULD HAVE IN GENERAL KNOWN WHAT WAS GOING
14 TO BE IN ANYTHING MR. RYMAN WOULD HAVE PUBLISHED IN INSIDE
15 NEWS. SO IT DOES SAY, "OFFICE OF THE PRESIDENT."

16 Q OKAY. DO YOU AGREE THAT THE -- THAT COAST
17 TO COAST MADE LISTS OF MEMBERS FROM THE INFORMATION THAT
18 WAS PROVIDED TO THEM FROM THE APPLICATIONS --

19 A WELL --

20 Q -- FOR MEMBERSHIP?

21 A AS IT SAYS IN ITEM E IN THE CONTRACT, THE
22 LICENSING AGREEMENT, THAT IT SAYS THAT COAST TO COAST WILL
23 BE PROVIDED WITH THE MEMBERSHIP APPLICATION, AND THAT IT
24 WILL BE PROMPTLY FORWARDED TO COAST TO COAST. AND LIST OF
25 THOSE MEMBERS WILL BE COMPILED BY COAST AND USED BY COAST
26 IN ITS DISCRETION FOR ENHANCEMENT OF COAST MEMBERSHIP. SO,

1 YOU KNOW, YES.

2 Q OKAY. AND NOW REFERRING TO THE BOTTOM
3 DOCUMENT, IN JANUARY OF 1990, COAST WAS SENDING COPIES OF
4 THOSE LISTS TO ITS RESORTS; RIGHT?

5 A WE'RE MIXING SOME APPLES AND ORANGES HERE.
6 AND IF I COULD JUST EXPLAIN WHAT I BELIEVE THIS MEMBERSHIP
7 LIST PROTECTION REFERS TO IS AS FOLLOWS --

8 Q EXCUSE ME, SIR.
9 I JUST WANT TO KNOW, WAS COAST SENDING
10 COPIES OF THOSE LISTS THAT IT GENERATED FROM THE
11 INFORMATION ON THE APPLICATIONS TO ITS RESORTS?

12 A IT WAS. IT WAS SENDING CERTIFIED MAIL
13 COPIES TO THE RESORTS, YES, IT WAS, DIRECTLY TO THE
14 RESORTS.

15 Q AND IT WAS COAST'S POSITION AS OF JANUARY OF
16 1990 THAT THOSE LISTS WERE CONFIDENTIAL?

17 A THOSE LISTS THAT IT WAS MAILING BACK TO THE
18 RESORTS, WHOM THOSE MEMBERS WERE ALSO HOME RESORT MEMBERS
19 OF, WAS A CONFIDENTIAL LIST. WE SUGGESTED IT SHOULD BE A
20 CONFIDENTIAL LIST TO THAT RESORT, YES.

21 Q IN FACT, BY VIRTUE OF THE DISSEMINATION OF
22 THE INSIDE NEWS, IT WAS INCORPORATED INTO THE CONTRACT, AND
23 IT WAS BY CONTRACT A CONFIDENTIAL LIST, WASN'T IT?

24 A THAT'S YOUR INTERPRETATION. THAT'S NOT
25 NECESSARILY MY INTERPRETATION.

26 Q OKAY. NOW, IN ADDITION TO, THESE LISTS WERE

1 AGREED BY COAST TO BE A PRIMARY ASSET OF THE RESORT FROM
2 WHICH THE MEMBERS CAME?

3 A WE ALWAYS TOLD THE RESORT THAT THEIR MEMBER
4 BASE AND THEIR MEMBER LIST WAS A PRIMARY ASSET OF THE
5 RESORT. YES, WE DID. SO IF THIS --

6 Q AND IT WAS A POLICY OF COAST WHILE YOU WERE
7 PRESIDENT, THE ENTIRE TIME, THAT COAST WOULD NOT LEND,
8 RENT, SELL OR SHARE THE NAMES ON THE RESORTS' LIST OF
9 MEMBERS WITH OTHER PERSONS; CORRECT?

10 A WE DID -- WHAT IS CORRECT IS THAT WITH THE
11 RESORTS' LIST WE DID NOT LEND, RENT, SELL THEIR NAMES,
12 OKAY, OF THEIR MEMBERS. WITH OUR MEMBER LIST, WHICH WAS
13 COMPILED FROM THEIR MEMBER LIST, WHICH WE HAD COMPLETE
14 DISCRETION OVER, WE DID DO AND PROVIDE ANCILLARY
15 VALUE-ADDED BENEFITS FROM TIME TO TIME WITH THIRD PARTIES.

16 Q WASN'T THE DISCRETION YOU HAD FOR USE OF THE
17 LIST LIMITED TO, QUOTE, "FOR ENHANCEMENT OF THE COAST
18 MEMBERSHIP"?

19 MR. SHERMAN: OBJECTION. THAT SEEKS A LEGAL
20 CONCLUSION OF THE WITNESS.

21 THE COURT: OVERRULED.

22 THE WITNESS: THAT'S EXACTLY WHAT WE DID WITH THE
23 COAST TO COAST MEMBERSHIP. WE ADDED VALUE-ADDED SERVICES
24 TO IT.

25 THIS IS NO DIFFERENT THAN BEING AMERICAN
26 EXPRESS WITH A GROUP OF CREDIT CARD HOLDERS TO PUT A DINING

1 PROGRAM TOGETHER FOR OUR CREDIT CARD HOLDING GROUP, OR TO
2 ENHANCE THE MEMBERSHIP OR THE VALUE-ADDED SERVICES OF THAT
3 PARTICULAR MEMBER BASE, WHICH WAS OUR COAST TO COAST MEMBER
4 BASE. AND WE HAD THE ABILITY TO DO THAT, AND WE DID.

5 BY MR. MOSHENKO: Q BECAUSE ADDING VALUE OR
6 BENEFITS TO THE COAST MEMBERSHIP WAS CONSIDERED AN
7 ENHANCEMENT OF THE MEMBERSHIP; RIGHT?

8 A THAT'S CORRECT. AND IT WAS SOMETHING THAT
9 WAS REQUESTED OF US BY OUR DEVELOPERS, ENCOURAGED OF US BY
10 OUR DEVELOPERS AND BY OUR OWN MEMBER BASE. THEY WERE
11 LOOKING FOR VALUE-ADDED ENHANCEMENTS.

12 Q NOW, I'D LIKE TO COMPARE THE ANTI-RAIDING
13 RULE TO ADDING VALUE AND BENEFITS TO A COAST MEMBERSHIP.

14 DOES ENABLING THE RAIDING OF ONE RESORT'S
15 MEMBERSHIP, IN YOUR OPINION, CONSTITUTE ADDING A BENEFIT TO
16 THE BASIC MEMBERSHIP OF COAST?

17 MR. SHERMAN: OBJECTION. IT IS ARGUMENTATIVE, AND
18 ALSO MISSTATES THE TESTIMONY AND LACKS FOUNDATION.

19 THE COURT: SUSTAINED.

20 BY MR. MOSHENKO: Q DOES TRANSFERRING MEMBERS FROM
21 ONE RESORT TO ANOTHER CONSTITUTE A VALUE-ADDED BENEFIT OR
22 SERVICE TO THE MEMBERSHIP?

23 MR. SHERMAN: OBJECT. ARGUMENTATIVE. MISSTATES
24 THE EVIDENCE. LACKS FOUNDATION.

25 THE COURT: OVERRULED.

26 YOU MAY ANSWER THAT.

1 THE WITNESS: TRANSFERRING MEMBERSHIPS HAS NOTHING
2 TO DO WITH VALUE-ADDED SERVICES. I MEAN, I DON'T
3 UNDERSTAND THE QUESTION, FRANKLY. I MEAN, YOU COULD ASK ME
4 ABOUT A TRANSFER OF MEMBERSHIPS, BUT THAT HAS NOTHING TO DO
5 WITH VALUE-ADDED SERVICES.

6 BY MR. MOSHENKO: Q NOW, YOU WERE AWARE THAT
7 THESE LISTS WERE CONFIDENTIAL AND COULD NOT BE
8 DISCRIMINATED TO -- DISTRIBUTED TO OTHER RESORTS FOR
9 TRANSFERS OF MEMBERS IN 1992 WHEN YOU AND MR. RYMAN ENGAGED
10 AN EXCHANGE WITH JAMES JOSEPH AND HIS ATTORNEY,
11 ATTORNEY DIAMOND, CONCERNING THE SUBJECT; CORRECT?

12 A MR. MOSHENKO, I'M SORRY. BUT, YOU KNOW,
13 IT'S A VERY COMPOUNDED QUESTION. AND BELIEVE ME, I'LL
14 COOPERATE WITH YOU. IF YOU PRESENT ME WITH SOMETHING YOU'D
15 LIKE FOR ME TO LOOK AT AND LET ME RESPOND TO, I'D BE HAPPY
16 TO DO THAT.

17 Q OKAY. COULD WE LOOK AT EXHIBIT 1719.

18 NOW, MR. BUTLER, I ASK YOU, IF YOU WILL,
19 LOOK AT THESE NUMBER LETTERS THAT MAKE UP EXHIBIT 1719.

20 THEY ARE ADMITTED INTO EVIDENCE, YOUR HONOR.
21 COULD THEY BE PUT UP ON THE SCREEN?

22 A OKAY.

23 Q ALL RIGHT. DO YOU RECALL THAT IN JANUARY OF
24 1992 A LETTER WAS SENT BY AN ATTORNEY FOR BANKRUPTCY
25 TRUSTEE NAMED JAMES JOSEPH DIRECTED TO YOU?

26 A I DON'T RECALL IT, BUT I SEE THE LETTER

1 HERE. AND I WOULD ASSUME THAT I AT SOME POINT SAW THE
2 LETTER. I NOTICE THAT MR. RYMAN'S RESPONSE -- AND I KNOW
3 WE'RE NOT THERE, BUT HE SAYS HE IS WRITING ON MY BEHALF.

4 Q ALL RIGHT. AND NOW HE WAS AUTHORIZED TO
5 WRITE ON YOUR BEHALF; IS THAT CORRECT?

6 A THAT'S CORRECT. I MEAN, MR. RYMAN WOULD
7 HAVE CONSULTED WITH ME IN MATTERS, BUT IN GENERAL HE HAD
8 AUTHORITY TO --

9 Q ALL RIGHT. IS THIS A LETTER THAT WOULD
10 HAVE -- THAT -- A LETTER TO YOU, A LETTER THAT YOU READ IN
11 THE NORMAL COURSE OF THINGS THAT WOULD COME ACROSS YOUR
12 DESK?

13 A THIS BANKRUPTCY PROCEEDINGS WERE NOT
14 DAY-TO-DAY NORMAL ACTIVITY. BUT FROM TIME TO TIME, YES,
15 THINGS LIKE THIS WOULD COME ACROSS MY DESK. I MEAN, I DO
16 NOTICE THAT THE LETTER IS NOT A CERTIFIED LETTER FROM WHAT
17 I CAN TELL HERE. I MEAN, IT WAS A REGULAR PIECE OF MAIL
18 BUT ADDRESSED TO ME, AND IT WOULD HAVE PROBABLY COME ACROSS
19 MY DESK, YES.

20 MR. MOSHENKO: WELL, DOES MR. -- OKAY. THIS FIRST
21 LETTER, MR. DURAN, IF YOU COULD JUST BLOW UP THE FIRST TWO
22 PARAGRAPHS.

23 Q BRINGS TO YOUR ATTENTION THE CONTENTION
24 THAT THE MEMBER LISTS OF ALL SEASONS RESORTS MEMBERS WHO
25 ARE MEMBERS OF COAST TO COAST CONSTITUTE CONFIDENTIAL AND
26 PROPRIETARY BUSINESS INFORMATION AND THE PROPERTY OF ALL

1 SEASONS RESORTS.

2 DO YOU SEE THAT?

3 A YES.

4 MR. SHERMAN: OBJECTION. EXCUSE ME. IT MISSTATES
5 THE DOCUMENT.

6 MR. MOSHENKO: I WASN'T QUOTING. I WAS SAYING IT
7 CALLS TO HIS ATTENTION, AND THEN I WAS PARAPHRASING, YOUR
8 HONOR.

9 MR. SHERMAN: AGAIN, THE DOCUMENT SAYS WHAT THE
10 DOCUMENT SAYS. AND IF HE WANTS TO DIRECT THE WITNESS TO A
11 SENTENCE OR PARAGRAPH, I THINK HE SHOULD DO THAT.

12 THE COURT: ALL RIGHT.

13 MR. MOSHENKO: IT'S PRELIMINARY, YOUR HONOR.

14 COULD WE GO TO THE SECOND LETTER IN THAT
15 EXHIBIT.

16 Q NOW, DO YOU AGREE WITH THE STATEMENTS MADE
17 BY MR. RYMAN ON YOUR BEHALF AS OF FEBRUARY 7, 1992 --

18 MR. SHERMAN: OBJECTION. WHETHER THE WITNESS TODAY
19 AGREES WITH THE STATEMENTS OR NOT IS NOT RELEVANT. IF THE
20 WITNESS SAW THE LETTER IN 1992 AND AGREED WITH IT THEN,
21 THAT WOULD BE RELEVANT.

22 IF THE WITNESS DISCUSSED IT WITH MR. RYMAN
23 AND AGREED WITH IT, THEN THAT WOULD BE RELEVANT.

24 THE COURT: REPHRASE.

25 MR. SHERMAN: LACKS FOUNDATION.

26 MR. MOSHENKO: REPHRASE.

1 Q DOES THE FEBRUARY 7 RESPONDING LETTER BY
2 MR. RYMAN AS YOUR VICE-PRESIDENT ACCURATELY STATE THE
3 POSITION OF CAMP COAST TO COAST REGARDING THE SUBJECT OF
4 CONFIDENTIALITY OF LISTS AS OF FEBRUARY 7, 1992?

5 MR. SHERMAN: AGAIN, IT LACKS FOUNDATION FOR THE
6 SAME REASONS I'VE JUST SHARED.

7 THE COURT: OVERRULED.

8 THE WITNESS: I WOULD -- THIS IS EIGHT YEARS AGO,
9 MORE OR LESS, AND I WOULD ASSUME AT THE TIME THAT IT
10 REFLECTED OUR COMPANY POSITION AT THE TIME.

11 MR. MOSHENKO: OKAY. COULD WE BLOW UP THE SECOND
12 PARAGRAPH.

13 Q ALL RIGHT. THE FIRST SENTENCE, AS A MATTER
14 OF POLICY, WE HAVE ALWAYS CONSIDERED COAST RESORT
15 MEMBERSHIP LISTS TO BE PROPRIETARY AND, IN FACT, A PRIMARY
16 ASSET OF ANY RESORT.

17 THAT WAS COAST'S POLICY BACK THEN; CORRECT?

18 MR. SHERMAN: OBJECTION. COUNSEL MISREAD THE
19 DOCUMENT. AGAIN, IT DOESN'T ANY COAST RESORT MEMBERSHIP
20 LIST OR COAST MEMBERSHIP LIST. IT SAYS WHAT IT SAYS.

21 THE COURT: SUSTAINED.

22 BY MR. MOSHENKO: Q "AS A MATTER OF POLICY, WE
23 HAVE ALWAYS CONSIDERED RESORT MEMBERSHIP LISTS TO BE
24 PROPRIETARY AND, IN FACT, A PRIMARY ASSET OF ANY RESORT."

25 THAT WAS COAST'S POLICY BACK THEN?

26 A THAT'S NOT NECESSARILY -- I WOULDN'T

1 CHARACTERIZE IT A COAST POLICY. THAT'S A COAST OPINION
2 OF -- THAT ITS MEMBERSHIP LIST OF THE RESORTS IS A VALUABLE
3 ASSET OF THE RESORTS, JUST AS OUR MEMBER LIST IN COAST TO
4 COAST IS A VALUABLE ASSET OF COAST TO COAST.

5 Q SO YOU DISAGREE WITH MR. RYMAN'S STATEMENT
6 AS A MATTER OF POLICY, THAT IN FACT IT IS A MATTER OF
7 POLICY AT COAST?

8 A POLICY CAN BE, YOU KNOW, CONSIDERED -- I
9 MEAN, IF IT'S WRITTEN POLICY OR IF IT'S GENERAL POLICY, I
10 MEAN, I'M NOT GOING TO FIGHT ABOUT THE SEMANTICS OF THE
11 WORD. BUT YES, IT WAS WHAT WE -- WE BELIEVED WOULD BE THE
12 CASE; THAT IT WOULD BE A PRIMARY ASSET OF THE RESORT, AND
13 THAT THAT LIST OF THE RESORT MEMBERS WOULD BE PROPRIETARY
14 TO THEM, JUST AS OUR COAST TO COAST MEMBERSHIP LISTS WOULD
15 BE PROPRIETARY TO US.

16 Q WELL, THAT'S THE REASON WHY I LEFT EXHIBIT
17 285 IN FRONT OF YOU. DO YOU HAVE THAT THERE? THAT'S THE
18 INSIDE NEWS ARTICLE.

19 A YES, I DO.

20 Q AS A MATTER OF FACT, THE PHRASE "THE
21 MEMBERSHIP LIST IS A PRIMARY ASSET OF EVERY RESORT" IS
22 COPIED OR IS APPARENTLY THE SAME PHRASE AS USED IN
23 MR. RYMAN'S 1990 STATEMENT OF MEMBERSHIP LIST PROTECTION
24 POLICY; RIGHT?

25 A THE GENERAL IDEA THAT THE MEMBERSHIP LIST OF
26 THE RESORT WOULD BE A PROPRIETARY AND PRIMARY ASSET OF THE

1 RESORT, YES; WOULD HAVE BEEN -- AND LIKE I SAY, IN GENERAL
2 IF YOU WANT TO REFER TO IT AS A POLICY OR A POLICY THEN,
3 FINE. I MEAN, THAT IS -- LET ME -- NOT TO GET THIS OUT OF
4 CONTEXT, SIMPLY THIS INSIDE NEWS -- IT SAYS "MEMBERSHIP
5 LIST PROTECTION" --

6 MR. MOSHENKO: OBJECTION.

7 THE WITNESS: -- WAS A WRITTEN COMMUNICATION.

8 MR. MOSHENKO: NONRESPONSIVE.

9 THE COURT: HOLD UP JUST A MINUTE, PLEASE.

10 ASK YOUR NEXT QUESTION.

11 MR. MOSHENKO: MR. DURAN, CAN WE GO BACK TO THE
12 DOCUMENT.

13 AND NOW PLEASE BLOW UP THE SECOND AND THIRD
14 PARAGRAPHS.

15 Q AT THE BOTTOM OF THE TOP PARAGRAPH ON THE
16 SCREEN, SIR, IT SAYS, "ADDITIONALLY, IN ACCORDANCE WITH
17 MR. NOVELLI'S REQUEST, WE HAVE SUPPRESSED ALL COAST TO
18 COAST PRODUCT SOLICITATION MAILINGS TO A.S.R. MEMBERS."

19 DO YOU SEE THAT?

20 A YES, I DO.

21 Q WERE YOU AWARE FROM TIME TO TIME THAT THERE
22 WERE REQUESTS BY MR. NOVELLI OR HIS REPRESENTATIVES TO
23 SUPPRESS COAST TO COAST PRODUCT SOLICITATION MAILINGS TO
24 MR. NOVELLI'S RESORTS MEMBERS WHO WERE COAST MEMBERS?

25 A I KNOW OF ONE OCCASION THAT THAT HAPPENED,
26 YES.

1 Q IS THAT IN REFERENCE TO THE OCCASION -- AN
2 OCCASION THAT HAPPENED IN OR ABOUT JANUARY, FEBRUARY OF
3 1992?

4 A I COULDN'T SPEAK TO THE EXACT TIME FRAME OF
5 IT. BUT IN GENERAL --

6 Q IN REFERENCE TO COAST TO COAST PRODUCT
7 SOLICITATION MAILINGS, YOU RECALL YOU TESTIFIED EARLIER
8 THAT YOU -- THAT COAST BEGAN TO EARN MONEY BY VALUE-ADDED
9 SERVICES?

10 A WELL, LET'S NOT SAY NECESSARILY EARN MONEY,
11 BUT DID WE DO -- PROVIDE VALUE ADDED -- VALUE-ADDED
12 PRODUCTS AND SERVICES. YES, WE DID. AND IN YOUR CONTEXT
13 HERE, DID MR. NOVELLI ASK US TO SUPPRESS HIS LIST, YES.

14 Q AS A MATTER OF FACT, DIDN'T MR. NOVELLI AT
15 THE LOCATION -- OCCASION THAT YOU TESTIFIED YOU'RE AWARE OF
16 COMPLAIN THAT COAST TO COAST HAD NO RIGHT TO USE THE LIST
17 OF MEMBERS THAT WERE CREATED FROM ALL SEASONS MEMBERS WHO
18 WERE MEMBERS OF COAST FOR PRODUCT SOLICITATION?

19 A I CAN'T SPEAK FOR MR. NOVELLI. THAT MAY
20 HAVE BEEN HIS OPINION. BUT I HAVE A CONTRACTUAL DOCUMENT
21 WITH ALL MY RESORTS THAT SAYS THAT MY LIST THAT I COMPILE
22 FROM THEIR LIST I HAVE ABSOLUTE DISCRETION OVER. AND AT
23 HIS REQUEST THAT WE SUPPRESS HIS LIST, WE DID SO.

24 Q DO YOU CONSIDER THE PHRASE "MAY BE USED AT
25 COAST'S DISCRETION FOR ENHANCEMENT OF COAST MEMBERSHIPS" TO
26 BE THE EQUIVALENT OF ABSOLUTE DISCRETION FOR ANY REASON?

1 A YES.

2 Q WHAT WAS IT THAT MR. NOVELLI WAS REQUESTING
3 THAT YOU AND COAST DO ON THAT OCCASION YOU INDICATED HE WAS
4 COMPLAINING ABOUT USING LISTS FOR MARKETING OR PRODUCT
5 SOLICITATION?

6 A MY MEMORY OF IT WAS IN GENERAL A REQUEST BY
7 MR. NOVELLI TO NOT MAIL ANY -- IN THIS CASE ALL SEASON
8 MEMBER BASE -- SOLICITATIONS FOR ADDITIONAL SERVICES.

9 Q WAS IT ALSO YOUR MEMORY THAT WHEN HE MADE
10 THAT REQUEST, HE MADE THE CONTENTION THAT THAT WAS A MISUSE
11 OF THE CONFIDENTIAL LISTS?

12 A I DON'T RECALL THAT.

13 Q WAS IT ALSO IN YOUR MEMORY THAT WHEN HE
14 ASKED YOU TO DO THAT, COAST AGREED WITH HIM AND STOPPED
15 USING THE LIST FOR MAILING TO MEMBERS?

16 A I WOULD NOT AGREE WITH WHAT YOU JUST SAID AT
17 ALL. I WOULD AGREE THAT WHAT COAST TO COAST DID WHEN
18 MR. NOVELLI ASKED US TO NOT MAIL HIS LIST, THAT THAT'S WHAT
19 WE DID.

20 Q ALL RIGHT. WHAT IS THE REFERENCE TO WE HAVE
21 SUPPRESSED ALL COAST TO COAST -- WHAT IS THE REFERENCE,
22 QUOTE, WE HAVE SUPPRESSED ALL COAST TO COAST PRODUCT
23 SOLICITATION MAILINGS TO A.S.R. MEMBERS, CLOSE QUOTE, A
24 REFERENCE TO?

25 MR. SHERMAN: OBJECTION. IT'S BEEN ASKED AND
26 ANSWERED.

1 THE COURT: SUSTAINED.

2 BY MR. MOSHENKO: Q ALL RIGHT. NOW, BACK WHEN YOU
3 WERE PRESIDENT AT COAST, YOU HAD A TRANSFER POLICY THAT
4 THEY WOULD NOT, ABSENT UNUSUAL CIRCUMSTANCES, TRANSFER
5 MEMBERS FROM ONE RESORT TO ANOTHER UNLESS THERE WAS A
6 REQUEST FROM THE MEMBER AND ACKNOWLEDGEMENT OF THE
7 MEMBERSHIP BY THE NEW RESORT AND A RELEASE BY THE CURRENT
8 HOME RESORT; ISN'T THAT TRUE?

9 A THAT'S CORRECT. AND THAT'S IN MR. RYMAN'S
10 LETTER BACK TO MR. RICHARD DIAMOND EXPLAINING WHAT OUR
11 POLICY IS ABOUT TRANSFERRING MEMBERS. CORRECT.

12 Q YOU ALSO WERE AWARE -- WE NEED TO GO BACK TO
13 THE FIRST LETTER, MR. DURAN -- BACK IN 1992 THAT WHEN A
14 RESORT IS IN A CHAPTER 11 REORGANIZATION BANKRUPTCY, THAT
15 THAT RESORT'S MEMBERS ARE ESSENTIALLY HANDS-OFF FROM
16 TRANSFERS BY COAST TO COAST; ISN'T THAT CORRECT?

17 A I WOULDN'T CHARACTERIZE THAT THE CASE IN
18 ALL -- IN EVERY SITUATION, BECAUSE THE BANKRUPTCY COURT MAY
19 ASK US TO DO SOMETHING ELSE. I MEAN, IN THE CONTEXT OF
20 WHAT I READ HERE, WE'RE BEING ADVISED BY THE ATTORNEY
21 REPRESENTING THE TRUSTEE IN THIS BANKRUPTCY THAT HE
22 CONSIDERS -- OR THE COURT CONSIDERS IN THIS CASE THAT THE
23 TRANSFER OF THE MEMBERS -- THEY'RE REQUESTING US NOT TO
24 TRANSFER MEMBERS, AND MR. RYMAN WRITES BACK AND SAYS, FINE,
25 WE AGREED TO DO THAT. AND TO THE BEST OF OUR ABILITY IF
26 YOU GIVE US A CONTACT, IF WE SEE ONE OF THOSE TRANSFERS

1 COMING THROUGH, WE'LL NOTIFY YOU. THAT'S WHAT THESE TWO
2 LETTERS SAY.

3 Q WELL, WASN'T IT YOUR POSITION BACK WHEN YOU
4 WERE PRESIDENT OF COAST TO COAST, THAT THE EVENT THERE
5 IS -- ONE MOMENT -- IN THE EVENT A COMPANY IS UNDER A PLAN
6 OF REORGANIZATION REPORTING TO THE FEDERAL BANKRUPTCY COURT
7 AS TO THE DISPOSITION AND STATUS OF THE REORGANIZATION,
8 THAT COAST HAS NO REASON OR RIGHT TO REDISTRIBUTE MEMBERS
9 OF THE COMPANY? THAT WAS IN THE PLAN OF REORGANIZATION?

10 MR. SHERMAN: OBJECTION. THE QUESTION IS
11 COMPOUND. IT'S ALSO VAGUE AND AMBIGUOUS WITH RESPECT TO
12 THE PLAN OF REORGANIZATION.

13 THE COURT: SUSTAINED.

14 BY MR. MOSHENKO: Q I'D LIKE TO READ FROM -- WELL,
15 LET ME ASK A PRELIMINARY QUESTION OR TWO.

16 THIS MORNING I ASKED YOU IF YOU HAD BEEN A
17 DEVELOPER, WHAT WAS YOUR FIRST EXPERIENCE AS A DEVELOPER;
18 DO YOU RECALL THAT?

19 A YES.

20 Q AND YOU INDICATED IT WAS WITH REGARD TO YOUR
21 SAN FELIPE RESORTS?

22 A EL DORADO RANCH, YES.

23 Q CORRECT.

24 ISN'T IT TRUE THAT BEFORE THAT YOU WERE THE
25 OWNER AND PRESIDENT OF A RESORT -- DEVELOPER RESORT
26 ORGANIZATION CALLED "AMERICAN ADVENTURE"?

1 MR. SHERMAN: YOUR HONOR, MAY WE APPROACH?

2 THE COURT: YOU MAY.

3 (DISCUSSION OFF THE RECORD.)

4 THE COURT: I'M HUNGRY. SEE YOU 1:30.

5 MR. MOSHENKO: COULD WE GET AN ANSWER TO THE
6 PENDING QUESTION, SINCE THE COURT HAS RULED ON IT AT THE
7 BENCH?

8 THE COURT: WE CAN DO THAT RIGHT AFTER LUNCH.

9 (WHEREUPON THE COURT WAS IN RECESS UNTIL
10 1:30 P.M. OF THE SAME DAY.)

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1 WESTMINSTER, CALIFORNIA - WEDNESDAY, JUNE 14, 2000

2 AFTERNOON SESSION

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

5 THE COURT: YOU MAY PROCEED.

6 BY MR. MOSHENKO: Q MR. BUTLER, THIS MORNING I
7 ASKED YOU WHEN YOU FIRST BECAME A DEVELOPER IN THIS
8 INDUSTRY, AND YOU SAID IT STARTED WITH YOUR RANCHO
9 EL DORADO PROJECT IN SAN FELIPE, MEXICO. THAT WASN'T AN
10 ACCURATE STATEMENT, WAS IT?

11 A WELL, I BELIEVE IT WAS ACCURATE BECAUSE IF
12 WHERE YOU WANT TO GO IS TO MY INVOLVEMENT WITH AMERICAN
13 ADVENTURE, I WOULD SAY THAT THAT WAS BY DEFAULT. THAT WAS
14 NOT MY CHOICE.

15 Q REGARDLESS, YOU BECAME THE OWNER AND
16 PRESIDENT OF AMERICAN ADVENTURE RESORTS, ANOTHER RESORT
17 DEVELOPER, IN THE EARLIER '90'S BEFORE RANCHO EL DORADO;
18 RIGHT?

19 A I BECAME THE MANAGING DIRECTOR, SO-TO-SPEAK,
20 AFTER MR. KEIM'S DEATH AND AFTER THE CHANGE OF MANAGEMENT
21 CONTRACTS FROM THE R.D.I. CORPORATION TO MY MANAGEMENT
22 COMPANY.

23 Q AND WHEN DID THAT OCCUR?

24 A I'M GOING TO -- YOU KNOW, I DON'T HAVE THE
25 EXACT DATES, MR. MOSHENKO, BUT PROBABLY A YEAR AFTER I LEFT
26 COAST TO COAST.

1 Q HOW LONG AFTER THAT DID RANCHO EL DORADO
2 START UP?

3 A THAT WAS AN ACQUISITION I MADE IN MAY OF
4 1994.

5 Q NOW, COAST HAS WHAT SOMETIMES HAS TALKED
6 ABOUT -- WHAT SOMETIMES IS CALLED AN ORPHAN POLICY, AND
7 YOU'VE REPRESENTED THAT IN YOUR DEPOSITION; IS THAT
8 CORRECT?

9 A YES.

10 Q NOW, CAN YOU TELL ME HOW LONG COAST HAS BEEN
11 APPLYING WHAT IT CONSIDERS TO BE AN ORPHAN POLICY TO
12 MEMBERS OF AFFILIATED RESORTS IN THE INDUSTRY?

13 A WELL, IT'S NOT WHAT COAST IS APPLYING. THE
14 CONCEPT OF ORPHAN MEMBERS HAS BEEN AROUND AS LONG AS I'VE
15 BEEN AROUND IN THE INDUSTRY AND ACTUALLY BEGAN WHEN I CAME
16 IN AS PRESIDENT OF COAST TO COAST WHEN AN ORGANIZATION BY
17 THE NAME OF NACO WAS AFFILIATED WITH COAST TO COAST AND WAS
18 WITHDRAWING ITS AFFILIATION. AND THAT WAS IN PROGRESS WHEN
19 I CAME INTO THE COAST TO COAST ORGANIZATION AS PRESIDENT.

20 SO THE CONCEPT, TO THE BEST OF MY KNOWLEDGE,
21 OF AN ORPHAN PROGRAM -- MEANING PEOPLE THAT ONCE RESORTS
22 WOULD WITHDRAW FROM COAST TO COAST, THEIR MEMBERS NO LONGER
23 HAVE BENEFITS OR COAST TO COAST MEMBERSHIP; THEIR
24 MEMBERSHIP AUTOMATICALLY BECOMES TERMINATED UNLESS THEY
25 REAFFILIATE WITH ANOTHER COAST TO COAST RESORT. THAT'S
26 WHEN THE TERM "ORPHAN MEMBER" CAME INTO BEING, FROM MY

1 MEMORY.

2 Q SO THAT WOULD PLACE IT BACK IN THE 1980'S;
3 CORRECT?

4 A THAT'S CORRECT.

5 Q ALL RIGHT. NOW, IS THE ORPHAN POLICY
6 WRITTEN, TO YOUR KNOWLEDGE, IN ANY OF THE CONTRACTS OR
7 MANUALS OR INSIDE NEWS PUBLICATIONS THAT WERE DISSEMINATED
8 BY COAST OVER THE LAST 15 YEARS?

9 A I DO NOT KNOW.

10 Q YOU DO NOT KNOW OF IT EVER HAVING BEEN
11 PUBLISHED; ISN'T THAT CORRECT?

12 A THAT'S CORRECT.

13 Q OKAY, I'D LIKE TO MOVE TO EXHIBIT 2153.

14 YOU MENTIONED NACO BACK IN THE 1980'S. IN
15 FACT, NACO WAS A COMPANY THAT WAS IN SOME MANNER RELATED TO
16 R.P.I.; IS THAT CORRECT?

17 A I BELIEVE R.P.I. DID COME OUT OF -- I DON'T
18 REMEMBER THE WHOLE HISTORY, BUT I BELIEVE R.P.I. DID HAVE
19 RELATIONSHIP WITH NACO.

20 MR. SHERMAN: YOUR HONOR, MAY WE APPROACH?

21 THE COURT: YOU MAY.

22 (DISCUSSION OFF THE RECORD.)

23 MR. MOSHENKO: MAY I APPROACH, YOUR HONOR?

24 THE COURT: YOU MAY.

25 BY MR. MOSHENKO: Q LET ME SHOW YOU EXHIBIT 2153.

26 ACTUALLY, IF YOU WILL READ IT, PLEASE.

1 A THIS IS DATED APRIL OF 1988.

2 "DEAR NACO MEMBERS" --

3 Q NO. I'M SORRY. I DIDN'T MEAN READ IT
4 ALOUD. I MEANT READ IT TO YOURSELF.

5 A OH.

6 Q ALL RIGHT. IS THAT A LETTER ON COAST TO
7 COAST LETTERHEAD THAT WAS WRITTEN BY YOU AND SIGNED BY YOU
8 IN 1988?

9 A YES.

10 Q RELATING TO THE SAME NACO SITUATION YOU
11 TESTIFIED TO A MOMENT AGO?

12 A YES.

13 MR. MOSHENKO: I'D OFFER IT IN EVIDENCE, YOUR
14 HONOR.

15 MR. SHERMAN: NO OBJECTION.

16 THE COURT: IT WILL BE SO RECEIVED.

17 (WHEREUPON, EXHIBIT NO. 2153, LETTER ON
18 COAST TO COAST LETTERHEAD DATED 1988, WAS RECEIVED IN
19 EVIDENCE.)

20 BY MR. MOSHENKO: Q COULD WE PUT IT UP ON THE
21 SCREEN, PLEASE.

22 NOW, BACK IN THE 1980'S COAST HAD A CERTAIN
23 WAY OF APPROACHING A CIRCUMSTANCE WHERE A RESORT
24 DISAFFILIATED FROM COAST TO COAST AND THE MEMBERS WERE LEFT
25 WITHOUT A RESORT AS A HOME RESORT; IS THAT CORRECT?

26 A YES.

1 Q AND, IN FACT, THAT LETTER SIGNED BY YOU IS
2 AN EXEMPLAR OF HOW COAST APPROACHED WHAT IT WOULD SAY TO
3 MEMBERS WHOSE RESORT HAD DISAPPEARED BASED ON
4 DISAFFILIATION?

5 A DURING MY TENURE THIS WAS THE APPROACH THAT
6 I TOOK FOR THIS SITUATION, YES, OR THE COMPANY TOOK.

7 Q LET'S SEE IF WE CAN GET IT UP.
8 COULD YOU PLEASE BLOW UP THE FIRST TWO
9 PARAGRAPHS.

10 ALL RIGHT. THIS LETTER WAS WRITTEN IN APRIL
11 OF 1988 BY YOU TO DEAR NACO MEMBERS.

12 "IT HAS BEEN OUR PLEASURE OVER THE PAST
13 YEARS TO BE YOUR HOST AT MORE THAN 500 COAST TO COAST
14 RESORTS. UNFORTUNATELY, THIS WILL END AS THE NACO
15 MANAGEMENT HAS RECENTLY ANNOUNCED THAT ALL NACO RESORTS
16 WILL BE WITHDRAWN FROM C.C.C. AT THE END OF 1988."

17 ALL RIGHT. SO YOU WERE FACED WITH A
18 WITHDRAWAL BY NACO, AND THAT'S WHAT CAUSED YOU TO WRITE
19 THIS LETTER; IS THAT CORRECT?

20 A YES, SIR.

21 Q "WE WOULD VERY MUCH LIKE TO CONTINUE THE
22 RELATIONSHIP. BUT AS YOU KNOW, COAST TO COAST PRIVILEGES
23 ARE RECIPROCAL, THEREBY REQUIRING RESORTS TO HOST VISITORS
24 IF VISITING RIGHTS ARE TO BE ENJOYED."

25 NOW, IN 1988 YOU RECEIVED, IN ADVANCE OF
26 SENDING THIS LETTER, MANY CALLS AND LETTERS FROM NACO

1 MEMBERS ASKING ABOUT NACO'S STATUS; RIGHT?

2 A YES.

3 Q LET'S GO DOWN, PLEASE.

4 WHEN IT CAME TO QUESTIONS REGARDING SERVICES
5 AND PRIVILEGES AVAILABLE FROM NACO, YOU DIRECTED THE
6 MEMBERS BACK TO NACO; CORRECT?

7 A IN THIS CASE, YES, THAT'S WHAT WE DID.

8 Q AND THEN YOU PROVIDE, "NACO MEMBERS WHO ARE
9 MEMBERS OF COAST TO COAST WILL BE GRANTED THE FOLLOWING
10 PRIVILEGES.

11 "IF YOU ARE A MEMBER OF ANOTHER COAST TO
12 COAST RESORT, YOU MAY TRANSFER YOUR COAST TO COAST RESORT
13 MEMBERSHIP TO THAT RESORT."

14 NOW, YOU DIDN'T TRANSFER THESE MEMBERS'
15 MEMBERSHIPS FOR THEM, DID YOU?

16 A NO. THE MEMBERS WOULD HAVE TRANSFERRED THE
17 MEMBERSHIP. WE GAVE THEM, I BELIEVE, INSTRUCTIONS ON HOW
18 TO DO THAT.

19 Q ALL RIGHT. COULD WE GO FURTHER DOWN IN THE
20 DOCUMENT. MAYBE THE NEXT PAGE.

21 AND YOU TOLD MEMBERS THAT IF THEY DECIDED
22 NOT TO REMAIN MEMBERS OF COAST AND HAVE MULTIPLE-YEAR
23 MEMBERSHIP ACCOUNTS, THEY COULD RECEIVE REFUND CHECKS LESS
24 A HANDLING FEE; IS THAT CORRECT?

25 A THAT'S CORRECT.

26 Q AND BECAUSE THIS WAS BEFORE THE END OF 1988,

1 YOU ALSO TOLD THEM THAT THEIR MEMBERSHIP PRIVILEGES WERE
2 CONTINUING UNTIL THE END OF 1988, AND THEN WOULD LAPSE,
3 WORDS TO THAT EFFECT; RIGHT?

4 A RIGHT. THERE WOULD BE A PERIOD -- THEY
5 WOULD LAPSE IF THEY DIDN'T HAVE A REAFFILIATION WITH
6 ANOTHER COAST TO COAST AFFILIATED PROPERTY.

7 Q AND THEN YOU SUGGESTED THAT IF THEY SHOULD
8 DECIDE TO PURCHASE ANOTHER RESORT, PURCHASE AN ADDITIONAL
9 RESORT MEMBERSHIP IN A COAST TO COAST AFFILIATED RESORT,
10 THEY COULD CONSULT THE DIRECTORY AND FIND ONE THAT WAS
11 CONVENIENT; CORRECT?

12 A THAT'S CORRECT.

13 Q YOU DIDN'T TRANSFER ANY OF THESE MEMBERS TO
14 MEXICO WITHOUT TALKING TO THEM, DID YOU?

15 A WELL, I THINK THAT'S A LITTLE INAPPROPRIATE,
16 MR. MOSHENKO. IF YOU WANTED TO ASK ME, DID WE TRANSFER THE
17 MEMBERS ANYPLACE, I WOULD TAKE EXCEPTION TO MEXICO.

18 AT THIS POINT IN TIME, NO. THIS INVITES
19 THEM TO GO FIND ANOTHER RESORT ON THEIR OWN WITH THE USER
20 DIRECTORY, AND THAT WAS THE METHODOLOGY THAT WE
21 REDISTRIBUTED THE NACO MEMBERSHIP UNDER.

22 Q MR. BUTLER, YOU ARE AWARE, BECAUSE YOU HAVE
23 TWO RESORTS IN MEXICO, THAT COAST IN 1997 TRANSFERRED
24 HUNDREDS OF MEMBERS TO MEXICO WITHOUT TALKING TO THEM,
25 AREN'T YOU?

26 MR. SHERMAN: OBJECTION. THAT'S ARGUMENTATIVE.

1 THE COURT: OVERRULED.

2 THE WITNESS: I COMPLETELY DISAGREE WITH YOU, SIR.

3 BY MR. MOSHENKO: Q WHICH PART?

4 A LET ME ANSWER, PLEASE.

5 COAST TO COAST MAY HAVE, QUOTE UNQUOTE, IN
6 THEIR WORDS TRANSFERRED MEMBERS TO MY PROPERTY IN MEXICO.
7 BUT, IN FACT -- BUT LIKE THIS LETTER SAYS, UNTIL THAT
8 MEMBER INITIATES A PURCHASE AGREEMENT WITH ME AND I
9 INITIATE AN APPLICATION FORM FOR THEM BACK TO COAST TO
10 COAST, THEY ARE NOT A MEMBER OF THE COAST TO COAST SYSTEM,
11 AND THEY'RE NOT A MEMBER OF MY PROPERTY.

12 SO WHEN YOU WANT TO SAY THEY TRANSFERRED
13 HUNDREDS OF MEMBERS, THE REALITY AND THE ACID TEST TO THAT
14 IS THERE ARE 60 MEMBERS THAT -- OUT OF THE HUNDREDS THAT
15 YOU SPEAK ABOUT -- THAT HAPPENED TO BE AFFILIATED WITH MY
16 PROPERTY RIGHT NOW THAT HAVE ANYTHING TO DO WITH THE
17 PROGRAM YOU'RE REFERRING TO.

18 Q PERHAPS I SHOULD HAVE SAID, YOU ARE AWARE
19 COAST TO COAST TOLD HUNDREDS OF MEMBERS OF THE PLAINTIFFS'
20 RESORTS THAT THEY HAD BEEN -- HAD THEIR COAST TO COAST HOME
21 RESORT MEMBERSHIPS TRANSFERRED TO YOUR RESORT IN MEXICO;
22 YOU'RE AWARE OF THAT?

23 A WELL, LET'S USE THE RIGHT LANGUAGE. TELLING
24 AND DIRECTING OR AFFILIATING ARE TWO DIFFERENT THINGS.

25 MR. MOSHENKO: OBJECTION. NONRESPONSIVE, YOUR
26 HONOR.

1 THE WITNESS: DID I KNOW?

2 THE COURT: OVERRULED.

3 THE WITNESS: DID I KNOW THAT THEY TOLD THEM?

4 THE COURT: OBJECTION IS OVERRULED.

5 BY MR. MOSHENKO: Q YES.

6 YOU'RE AWARE THAT THEY TOLD HUNDREDS OF
7 MEMBERS THAT THEY WERE TRANSFERRING THEM TO THE RANCHO
8 EL DORADO RESORT IN SAN FELIPE, MEXICO?

9 MR. SHERMAN: OBJECTION. THAT MISSTATES THE
10 DOCUMENTS.

11 THE COURT: OVERRULED.

12 YOU MAY ANSWER THAT QUESTION.

13 THE WITNESS: THEY WERE NOT TRANSFERRED TO -- ON MY
14 BOOKS AND RECORDS AS THE DEVELOPER. THEY WERE NOT
15 TRANSFERRED TO MY PROPERTY.

16 MR. MOSHENKO: OBJECTION. MOTION TO STRIKE THE
17 RESPONSE AS NONRESPONSIVE TO THE QUESTION.

18 THE COURT: MOTION DENIED.

19 BY MR. MOSHENKO: Q OKAY. MY QUESTION, SIR, IS
20 NOT WERE THEY AWARE.

21 MY QUESTION IS, ARE YOU -- YOU ARE AWARE
22 THAT COAST TO COAST TOLD HUNDREDS OF MEMBERS THAT THEY HAD
23 TRANSFERRED THEIR COAST TO COAST HOME RESORT MEMBERSHIPS TO
24 MEXICO?

25 MR. SHERMAN: OBJECTION. LACKS FOUNDATION.

26 THE COURT: OVERRULED.

1 THE WITNESS: MR. MOSHENKO, IT WOULD BE A LITTLE
2 EASIER FOR BOTH OF US, I BELIEVE, IF YOU WOULD PRESENT ME
3 WITH A FEW DOCUMENTS.

4 BY MR. MOSHENKO: Q YOU'RE NOT AWARE UNLESS I SHOW
5 YOU THE ACTUAL DOCUMENTS, SIR?

6 A NO, BECAUSE WE'RE DEALING WITH SOME
7 SEMANTICS HERE, AND I DON'T WANT TO BE MISREPRESENTED IN
8 WHAT WAS SAID AND WASN'T SAID.

9 I KNOW THAT IN THE CASE OF MY INITIATING
10 CONTACT BACK WITH THOSE PEOPLE, WE TOLD THEM THAT THEY HAD
11 AN OPPORTUNITY TO CONTINUE THEIR COAST TO COAST MEMBERSHIP,
12 IF THEY SO DESIRED TO BECOME AFFILIATED THROUGH A PURCHASE
13 WITH MY PROPERTY.

14 NOW, THAT'S TOTALLY DIFFERENT THAN ASSIGNING
15 HUNDREDS OF PEOPLE TO MY PROPERTY. THAT'S NOT WHAT
16 HAPPENED.

17 Q WHEN YOU SAY WE TOLD THEM THIS, WHO IS THE
18 "WE"?

19 A THE WE IS ME.

20 Q OKAY. SIR, MY QUESTION RELATED TO WHAT
21 COAST TO COAST TOLD THEM, NOT WHAT YOU TOLD THEM.

22 MR. SHERMAN: AND OBJECTION. THAT LACKS
23 FOUNDATION.

24 THE COURT: YOU MAY ANSWER THE QUESTION, IF YOU
25 KNOW.

26 DO YOU KNOW WHAT COAST TO COAST TOLD THEM?

1 THE WITNESS: NO, SIR, I DON'T, WITHOUT SEEING A
2 DOCUMENT.

3 BY MR. MOSHENKO: Q I'LL GO TO THAT IN A MOMENT.

4 COULD WE GO DOWN TO THIS PARAGRAPH, PLEASE.

5 AND SO WHILE YOU WERE PRESIDENT, YOUR
6 PARTNER, PAT, YOU TOLD THE MEMBERS, WHEN THEY'RE PERCEIVED
7 TO BE ORPHAN MEMBERS, THAT THE ONLY WAY TO RETAIN YOUR
8 COAST TO COAST PRIVILEGE IS TO BELONG TO A COAST TO COAST
9 RESORT. AND YOU EXPRESSED A HOPE THAT THEY WOULD STAY WITH
10 THE COAST TO COAST SYSTEM; IS THAT CORRECT?

11 A THAT'S CORRECT.

12 Q NOW, ARE YOU AWARE OF ANY REASONS THAT HAVE
13 BEEN COMMUNICATED TO YOU SINCE YOU LEFT CAMP COAST TO COAST
14 FROM THE CURRENT MANAGEMENT, OR THE 1997 MANAGEMENT OF CAMP
15 COAST TO COAST, WHY INSTEAD OF USING THAT APPROACH OF
16 EXPRESSING HOPE AND OFFERING -- SUGGESTING THEY CONSULT
17 THEIR DIRECTORIES, ET CETERA, COAST SHOULD SHIFT ITS
18 APPROACH TO SENDING OUT TRANSFER LETTERS, LIKE EXHIBIT
19 1563-0117?

20 AND YOU DON'T HAVE TO ANSWER THAT UNTIL WE
21 PUT IT UP.

22 MR. SHERMAN: BUT I'M GOING TO OBJECT BECAUSE IT
23 DOES MISSTATE THE EVIDENCE AS SUGGESTING THAT THERE WAS ONE
24 SWITCH BETWEEN 1987 OR 1988 AND 1997. THAT LACKS
25 FOUNDATION AS TO ALL THE OTHER EVOLUTIONARY ISSUES WITH
26 RESPECT TO THE ORPHAN PROGRAM.

1 MR. MOSHENKO: IT MERELY ASKS HIM IF HE HAD
2 COMMUNICATIONS WITH COAST.

3 THE COURT: I'LL ALLOW IT.

4 THE WITNESS: MR. MOSHENKO, I HAVE ABSOLUTELY --
5 IT'S NONE OF MY BUSINESS. I LEFT COAST TO COAST IN 1992.
6 THE WAY THEY MANAGE THEIR BUSINESS IS THEIR AFFAIRS. AND I
7 ABSOLUTELY HAVE HAD NO DISCUSSION WITH THEM AND HAD NO
8 CONCEIVABLE IDEA OF HOW THEY DECIDED TO APPROACH THIS
9 MATTER.

10 MR. MOSHENKO: ALL RIGHT. COULD WE BLOW THAT UP.

11 Q THIS IS EXHIBIT 1563. AND THIS PARTICULAR
12 LETTER IS ONE THAT THE JURY HAS SEEN A VERSION OF SIGNED BY
13 MR. RANDALL. AND IT'S UP HERE BECAUSE IT REFERS TO
14 DELTA ISLE AND RANCHO EL DORADO RESORT.

15 NOW, YOU'VE SEEN THIS LETTER BEFORE, HAVEN'T
16 YOU?

17 A I WOULD APPRECIATE REFRESHING MYSELF AND
18 BEING ABLE TO READ IT SO -- I BELIEVE I'VE SEEN IT BEFORE.

19 Q OKAY. WOULD YOU LIKE US TO SHOW YOU THE
20 WHOLE PAGE?

21 A THAT WOULD BE GREAT, IF YOU COULD HAND ME A
22 COPY.

23 Q YEAH. I DO HAVE COPIES FOR YOU IN MY HASTE
24 I NEGLECTED TO HAND YOU.

25 MR. SHERMAN: YOUR HONOR, COULD WE ESTABLISH FIRST
26 IF THIS WITNESS SAW THIS DOCUMENT BACK DURING THE TIME THAT

1 ANY ACTION RELATIVE TO THIS MATTER WOULD HAVE BEEN
2 OCCURRING, SAY, THE FALL OF 1997, AS OPPOSED TO WITHIN THE
3 LAST FEW MONTHS OR DURING THE COURSE OF THIS LITIGATION.

4 BECAUSE IF IT'S THE LATTER, THEN I DON'T
5 BELIEVE HIS OPINION ON THIS IS RELEVANT.

6 THE COURT: WHEN DID YOU FIRST SEE THIS LETTER?

7 THE WITNESS: YOUR HONOR, HONESTLY I SAW IT DURING
8 DEPOSITION. I DON'T BELIEVE I SAW IT BEFORE THEN.

9 MR. SHERMAN: THAT'S THE PURPOSE FOR THE RELEVANCY
10 OBJECTION.

11 THE COURT: THE OBJECTION IS SUSTAINED ON THAT
12 BASIS.

13 BY MR. MOSHENKO: Q WELL, LET'S GO TO EXHIBIT
14 2016.

15 A ALL RIGHT.

16 Q ALL RIGHT. A MOMENT AGO I HEARD YOU SAY,
17 "WE" -- I DON'T RECALL THE EXACT WORDS, BUT "WE ASKED" --
18 SUGGESTED THOSE PEOPLE THEY COULD TRANSFER THEIR
19 MEMBERSHIPS, WORDS TO THAT EFFECT; CORRECT?

20 A YES.

21 Q OKAY. IS EXHIBIT 2016 AN AUTHENTIC COPY OF
22 A LETTER THAT WAS PUBLISHED AND MAILED BY YOUR ORGANIZATION
23 TO THE MEMBERS IN WHICH -- THAT YOU WERE REFERRING TO WHEN
24 YOU SAID, "WE INVITED THEM TO TRANSFER THEIR MEMBERSHIPS"?

25 A YES, SIR.

26 MR. MOSHENKO: OKAY. OFFER IT IN EVIDENCE, YOUR

1 HONOR.

2 MR. SHERMAN: NO OBJECTION.

3 THE COURT: SO RECEIVED.

4 (WHEREUPON, EXHIBIT NO. 2016, COPY OF LETTER
5 DATED OCTOBER 23, 1997, WAS RECEIVED IN EVIDENCE.)

6 MR. MOSHENKO: I'D LIKE YOU TO HIGHLIGHT THE
7 SECOND SENTENCE, PAGE 1.

8 MR. SHERMAN: YOUR HONOR, MIGHT I SUGGEST THAT THE
9 JURY BE GIVEN THE OPPORTUNITY TO READ THE LETTER?

10 MR. MOSHENKO: THAT'S EXACTLY WHAT I'M DOING, YOUR
11 HONOR. WHAT'S THE PROBLEM HERE?

12 Q NOW, THE JURY CAN READ THIS BUT I'D LIKE TO
13 FOCUS YOU, MR. BUTLER, ON THE SECOND SENTENCE OF THE FIRST
14 PARAGRAPH.

15 IT SAYS, YOU RECENTLY RECEIVED A LETTER FROM
16 COAST TO COAST INFORMING YOU THAT YOUR HOME RESORT,
17 DELTA ISLE, HAS DROPPED OUT OF THE COAST TO COAST SYSTEM
18 AND THAT YOU HAVE THE OPTION OF TRANSFERRING YOUR COAST TO
19 COAST MEMBERSHIP TO EL DORADO RANCH; DO YOU SEE THAT?

20 A YES, I DO.

21 Q NOW, THAT WAS WRITTEN ON OCTOBER 23, 1997;
22 IS THAT CORRECT?

23 A YES.

24 Q HOW COULD YOU -- ASSUMING YOU HAD NEVER SEEN
25 THE PREVIOUS EXHIBIT, WHICH WAS THE LETTER TRANSFERRING THE
26 MEMBERS' HOME RESORTS, HOW COULD YOU WRITE TO YOUR

1 MEMBERS -- OR SORRY -- WRITE TO DEAR COAST TO COAST MEMBER
2 TELLING THEM THAT THERE WAS A LETTER FROM COAST TO COAST
3 INFORMING YOU, ET CETERA, ET CETERA?

4 A BECAUSE COAST TO COAST WOULD HAVE INFORMED
5 US, MY ORGANIZATION, THAT THEY HAD MAILED THE LETTER TO
6 THESE PEOPLE, AND THEY WOULD HAVE AT THAT TIME SENT ME A
7 LIST OF PEOPLE THAT I COULD SEND A LETTER TO, WHICH IS THE
8 LETTER WE'RE LOOKING AT.

9 SO IT WOULD HAVE BEEN THROUGH THEM INFORMING
10 ME THAT WHATEVER COMMUNICATION THEY WERE GOING TO SEND TO
11 THOSE MEMBERS HAS BEEN SENT. SO NOW IF YOU WOULD LIKE TO
12 SEND A LETTER AFTER THAT, SEND IT.

13 Q AND IS THAT WHAT HAPPENED?

14 A TO THE BEST OF MY KNOWLEDGE IT IS.

15 Q OKAY. AND SO THEY INFORMED YOU OF THE
16 LETTER, THE PREVIOUS LETTER, BUT DIDN'T PROVIDE YOU WITH A
17 COPY OF IT?

18 A MR. MOSHENKO, I HAVE OPERATING PEOPLE THAT
19 RUN MY OPERATION. I DEAL WITH CONCEPTS, AND WITH GENERAL
20 DIRECTION FROM MY ORGANIZATION. THE IMPLEMENTATION OF ANY
21 OF THESE PROGRAMS WOULD -- YOU HAD ASKED ME AT ONE TIME IF
22 THIS WAS MY SIGNATURE ON THIS LETTER. IT IS MY SIGNATURE.
23 IT'S DRIVEN BY COMPUTER SIGNATURE. I DID NOT PERSONALLY
24 SIGN THESE LETTERS. AND SO I HAVE AN ORGANIZATION THAT
25 DOES THESE TYPE OF THINGS.

26 THE JUDGE ASKED ME IF I REMEMBER SEEING THIS

1 LETTER, THE LETTER THAT COAST TO COAST SENT THE MEMBERS. I
2 ANSWERED, NO, I DID NOT.

3 SO I DON'T THINK THAT THEY WOULD HAVE SENT
4 ME THE LETTER THAT THEY WERE GOING TO SEND THE PEOPLE.
5 THEY MERELY TOLD ME THAT WE HAVE NOTIFIED THE PEOPLE, AND
6 NOW HERE IS A LIST OF PEOPLE THAT YOU CAN SEND A PIECE OF
7 MAIL TO.

8 Q AND, IN FACT, COAST PROVIDED YOU WITH A LIST
9 OF PEOPLE THAT YOU COULD SEND MAIL TO; CORRECT?

10 A YES, THEY DID.

11 Q AND THAT LIST INCLUDED ALMOST 1300 NAMES;
12 CORRECT?

13 A WHATEVER THE NUMBER WAS IT DID INCLUDE, 1300
14 SOUNDS ABOUT RIGHT.

15 Q AND YOU KNOW THAT THE GREAT MAJORITY OF THE
16 NAMES WERE PERSONS WHO HAD A PRIOR HOME PARK -- ACTUALLY A
17 PRESENT -- STRIKE THAT.

18 THE GREAT MAJORITY OF THOSE PERSONS WERE
19 PERSONS WHO WERE BEING TRANSFERRED FROM DELTA ISLE IN THE
20 SACRAMENTO DELTA; CORRECT?

21 A WE WERE TOLD THAT THESE WERE -- HAD
22 PREVIOUSLY BEEN COAST TO COAST MEMBERS OF DELTA ISLE, YES.

23 Q AND THIS MORNING YOU TESTIFIED THAT YOU HAVE
24 NEVER MARKETED TO BRING IN MEMBERS TO YOUR RESORTS; BUT YOU
25 MARKETED THESE PEOPLE BY SENDING THIS PIECE OF
26 CORRESPONDENCE, DIDN'T YOU?

1 A AND, MR. MOSHENKO, THIS MORNING I ASKED YOU
2 TO GIVE ME A DEFINITION OF "MARKETING." AND MARKETING IN
3 PROACTIVE MANNER, AS I DESCRIBED IT, WE DO NOT MARKET. IF
4 YOU WILL GO BACK AND RECALL WHAT WE SAID THIS MORNING, I DO
5 NOT MARKET MEMBERSHIP CAMPING PRODUCTS. OKAY. AND IN THIS
6 PARTICULAR CASE, WHEN I WAS CONTACTED -- OR MY ORGANIZATION
7 WAS CONTACTED BY COAST TO COAST TO PARTICIPATE IN THE
8 REDISTRIBUTION OF THIS MEMBER BASE, WE AGREED TO DO IT ON A
9 LIMITED BASIS. AND THAT IS NOT WHAT I WOULD CALL AN ACTIVE
10 MARKETING PROGRAM, A PROACTIVE MARKETING PROGRAM.

11 WE SIMPLY COOPERATED WITH THE COAST TO COAST
12 ORGANIZATION, AND WE SENT A LETTER OF INVITATION. AND IF
13 YOU READ THE ENTIRE LETTER, IT IS NOTHING MORE THAN A
14 LETTER OF INVITATION.

15 MR. MOSHENKO: MR. DURAN, WOULD YOU PUT UP -- LET'S
16 READ THE ENTIRE LETTER, AND I'LL READ IT TO THE JURY, YOUR
17 HONOR, IF WE MAY. I'LL ASK WE TAKE A FEW MOMENTS AND LET
18 THE JURY READ IT TO THEMSELVES.

19 THE COURT: ALL RIGHT.

20 MR. MOSHENKO: YOU'RE GOING TO HAVE TO BLOW IT UP A
21 COUPLE OF PARAGRAPHS AT A TIME.

22 LET'S GO TO THE SECOND PARAGRAPH. STOP
23 RIGHT THERE.

24 OKAY. LET'S GO TO THE SECOND PAGE.

25 Q NOW, MR. BUTLER, YOU DO NOT CONSIDER THIS
26 LETTER TO BE PROACTIVELY COMMUNICATING WITH MEMBERS OF THE

1 PUBLIC TO MARKET THE MEMBERSHIPS IN YOUR RESORT?

2 A MR. MOSHENKO, THIS IS A SPECIAL PROGRAM.
3 IT'S NOT OUR ORDINARY METHOD OF MARKETING. AND AS SUCH, I
4 CHARACTERIZED IT THE WAY I CHARACTERIZED IT. IT'S NOT THE
5 DATE -- YOU ASKED ME THIS MORNING -- I WANT TO BE VERY
6 CLEAR ABOUT THIS BECAUSE YOU LIKE TO MOVE THESE TERMS
7 AROUND.

8 YOU ASKED ME ABOUT MARKETING. I RESPONDED
9 TO YOU THAT MY METHOD OF MARKETING IS DIRECT MARKETING AND
10 SALES OF LOTS AND HOMES. OKAY. AND NOW YOU WANT TO JUMP
11 TO THIS AND SAY THAT I MISREPRESENTED WHAT I SAID THIS
12 MORNING. IT'S THE FURTHEST THING FROM THE TRUTH.

13 THIS IS A SPECIAL PROGRAM, AND WE DID MARKET
14 TO THESE PEOPLE WITH ONE LETTER, AND WE GOT SOME RESPONSE.
15 AND I NOW HAVE 60 PEOPLE OUT OF THOSE 1300 THAT YOU SPEAK
16 OF THAT HAPPENED TO BE DUES-PAYING MEMBERS WITH ME.

17 AND AS FAR AS I KNOW, THEY HAVE RETAINED
18 THEIR BENEFITS WITH COAST TO COAST.

19 Q MR. BUTLER, THE JURY WILL DECIDE WHAT WAS
20 ASKED YOU THIS MORNING.

21 A YES.

22 Q NOW, YOU SAY ONE LETTER. IN FACT, YOU SENT
23 NEARLY 1300 LETTERS TO NEARLY 1300 PEOPLE WHOSE NAMES
24 HAD -- AND ADDRESSES HAD BEEN PROVIDED TO YOU BY CAMP COAST
25 TO COAST INVITING OR PERHAPS EVEN DIRECTING YOU TO MARKET
26 THEM; CORRECT?

1 A I MAILED ONE LETTER TO 1300 PEOPLE. THAT
2 WOULD BE -- THAT'S YOUR NUMBER, BY THE WAY. I'M NOT SURE
3 IF IT WAS 1300. BUT I MAILED ONE LETTER TO WHATEVER THAT
4 LIST OF PEOPLE WAS AND MADE AN INVITATION TO THEM, WHICH
5 THE JURY AND WE ALL JUST READ. AND THAT WAS THE SUM AND
6 SUBSTANCE OF PROACTIVE MARKETING TO THE DELTA ISLE PEOPLE.

7 Q YOU DON'T RECALL HOW MANY MEMBERS YOU MAILED
8 IT TO?

9 A IF YOU SHOW ME SOME DOCUMENTS, I'M SURE I
10 CAN REMEMBER.

11 Q THE PROBLEM, SIR, IN ORDER TO SHOW YOU THIS
12 DOCUMENT, I HAVE TO HAVE YOU SAY ON THE RECORD YOU DON'T
13 RECALL.

14 A FINE. I DON'T RECALL.

15 Q ALL RIGHT. IS THIS A DOCUMENT THAT YOU
16 PREPARED AND PROVIDED TO US IN DISCOVERY WHICH IDENTIFIES
17 THE NUMBER OF MAILINGS THAT YOU DID?

18 A YES.

19 Q DOES IT REFRESH YOUR MEMORY AS TO HOW MANY
20 LETTERS YOU MAILED?

21 A THIS DOCUMENT YOU HANDED ME SAYS THAT IT WAS
22 TOTALED MAILED 1291, AND THE DATE OF 10/97.

23 Q AND, IN FACT, IT SAYS "PLUS OR MINUS";
24 RIGHT?

25 A IT SAYS PLUS OR MINUS.

26 Q RIGHT.

1 AND MAILING OCCURRED IN OCTOBER OF 1997,
2 DIDN'T IT?

3 A CORRECT.

4 Q AND THAT WAS A DIRECT RESPONSE TO YOUR
5 HAVING BEEN COMMUNICATED TO BY CAMP COAST TO COAST TELLING
6 YOU, WE'RE SENDING A LETTER -- I GUESS THE LETTER THAT YOU
7 DIDN'T SEE -- AND HERE IS A LIST OF PEOPLE THAT YOU SHOULD
8 COMMUNICATE WITH, WORDS TO THAT EFFECT; CORRECT?

9 MR. SHERMAN: OBJECTION. THIS HAS BEEN ASKED AND
10 ANSWERED, AND NOW IT'S CUMULATIVE.

11 THE COURT: SUSTAINED.

12 BY MR. MOSHENKO: Q ALL RIGHT. NOW, YOURS AND
13 COAST'S EFFORTS TO CAUSE THESE PEOPLE TO JOIN UP WITH YOUR
14 RESORT, EFFORTS WERE A DISMAL FAILURE, WEREN'T THEY?

15 A I WOULDN'T -- I WILL ANSWER THAT FOR YOU,
16 MR. MOSHENKO. LET ME ANSWER IT FOR YOU, AND I'LL MAKE IT
17 REAL CLEAR TO YOU.

18 OKAY. YOU LOOKED AT A BUNCH OF LETTERS
19 YESTERDAY THAT CAME UP IN THIS COURTROOM, AND I HAPPENED TO
20 BE HERE. THOSE WERE VERY DISGRUNTLED MEMBERS THAT WENT
21 THROUGH A BAD EXPERIENCE. OKAY. THESE PEOPLE, THESE 1291,
22 PLUS OR MINUS, HAD THE SAME EXPERIENCE.

23 DID I EXPECT A BUNCH OF THEM TO BECOME PART
24 OF MY PROPERTY OR MY RESORT OPERATION? NO.

25 WOULD I CALL THAT A DISMAL FAILURE? NOT ON
26 MY PART.

1 Q WELL, IN FACT, YOU SOUGHT TO BRING IN
2 1291 -- PLUS OR MINUS -- MEMBERS WITH YOUR CORRESPONDENCE
3 KNOWING THAT COAST HAD ALREADY COMMUNICATED WITH THOSE SAME
4 PEOPLE TELLING THEM WHATEVER THEY TOLD THEM IN THE LETTER,
5 AND AS A RESULT YOU GOT RESPONSES FROM 87 PEOPLE, DIDN'T
6 YOU?

7 A THAT'S CORRECT. AND THAT'S RIDICULOUS. I
8 DID NOT BELIEVE THAT 1291 PEOPLE WOULD COME TO MY PROPERTY,
9 AND I DIDN'T WANT -- I DIDN'T EXPECT 1291 TO COME THERE.
10 SO WE DID GET A RESPONSE OF 87 PEOPLE.

11 Q AND OF THE 87 PEOPLE, 69 BECAME MEMBERS OF
12 YOUR RESORT AND HAD MEMBERSHIPS AS OF JANUARY OF YEAR 2000?

13 A THAT'S CORRECT. AND AS OF YESTERDAY -- I
14 CHECKED AGAIN -- NOW THERE'S 60.

15 Q OKAY. AND THAT YOU FOUND OUT WAS A DIRECT
16 RESULT OF THE FACT THAT PEOPLE DIDN'T WANT TO BE
17 TRANSFERRED TO MEXICO; ISN'T THAT TRUE?

18 A THAT'S -- THAT IS NOT TRUE. I WON'T SAY
19 WHAT IT IS, BUT IT'S NOT TRUE.

20 Q WHAT BASIS DO YOU SAY THAT WAS NOT TRUE?

21 A THAT WAS NOT TRUE, BECAUSE THE BOTTOM LINE
22 WAS THAT THESE PEOPLE WHO -- AND I CAN OPEN THIS UP A
23 LITTLE MORE FOR YOU.

24 THE MOTIVATING FACTOR FOREMOST OF THE COAST
25 TO COAST MEMBERSHIP IS THE RECIPROCAL USE SYSTEM. AND THE
26 FACT THAT ONCE THESE PEOPLE BELONG TO A HOME RESORT AND

1 THEY JOIN COAST TO COAST, THEY HAVE THE BENEFITS AND
2 PRIVILEGES OF TRAVELING AROUND THE COUNTRY TO USE OTHER
3 AFFILIATED PROPERTIES; THAT'S THE MOTIVATING FACTOR.

4 WHEN THEY GO THROUGH A VERY, VERY BAD
5 EXPERIENCE, WHICH THESE PEOPLE WENT THROUGH, AND PEOPLE
6 HAVE GONE THROUGH IN THESE KIND OF SITUATIONS, THEN THEY
7 LOSE THEIR AFFECTION FOR THE PRODUCT.

8 SO THE FACT THAT WE DIDN'T GET AN
9 OVERWHELMING RESPONSE TO THIS INVITATION IS -- WAS NOT A
10 MYSTERY TO ME. AND IT IS WHAT IT IS.

11 Q NOW, WHEN YOU WROTE THOSE LETTERS TO THE --
12 IF I MAY ALL CALL THEM 1300 PEOPLE -- YOU KNEW THAT YOU
13 WERE ENCOURAGING THOSE PEOPLE TO LEAVE THEIR HOME RESORTS
14 AT DELTA ISLE AND OTHER RESORTS; ISN'T THAT CORRECT?

15 MR. SHERMAN: OBJECTION. MISSTATES THE TERMS OF
16 THE DOCUMENT.

17 THE COURT: SUSTAINED.

18 BY MR. MOSHENKO: Q WHAT WAS YOUR UNDERSTANDING,
19 MR. BUTLER, WHEN YOU WROTE THIS LETTER ABOUT THE POTENTIAL
20 THAT SOME PEOPLE WHO HAD BEEN TRANSFERRED FROM DELTA ISLE
21 TO YOUR RESORT WOULD COME TO YOUR RESORT AND NOT STAY AT
22 DELTA ISLE?

23 A WHAT DID I THINK THEIR RESPONSE WOULD BE?

24 Q NO.

25 YOU KNEW THERE WAS A POTENTIAL THAT THE
26 MEMBERS WHO YOU INVITED TO COME TO YOUR RESORT WOULD LEAVE

1 DELTA ISLE; THAT'S WHY YOU WROTE THE LETTERS, ISN'T IT?

2 A NO, MR. MOSHENKO, IT'S ABSOLUTELY NOT. MY
3 UNDERSTANDING OF THIS ENTIRE SITUATION WAS THAT THE MEMBERS
4 OF DELTA ISLE, FOR WHATEVER REASONS -- AND IT'S NONE OF MY
5 BUSINESS -- BUT THROUGH THE COAST TO COAST ORGANIZATION AND
6 THEIR RELATIONSHIP WITH THAT AFFILIATED PROPERTY BECAME
7 DISAFFILIATED. THEY WERE NO LONGER AFFILIATES, MEMBERS OF
8 DELTA ISLE; THEREFORE, THEY WERE GOING TO LOSE THEIR COAST
9 TO COAST PRIVILEGES. THAT'S THE ONLY REASON THAT I SENT
10 THE LETTER. IT HAD NOTHING TO DO WITH DELTA ISLE. IT
11 COULD HAVE BEEN CALLED -- YOU KNOW, WHATEVER NAME OF THE
12 PROPERTY IT COULD HAVE BEEN CALLED. IT WOULDN'T MAKE ANY
13 DIFFERENCE.

14 Q IT DIDN'T MATTER WHO THE RESORT WAS, THE
15 FACT IS, THAT YOU WERE PREPARED TO ENCOURAGE THESE PEOPLE
16 TO LEAVE THEIR RESORT, WHATEVER IT WAS, AND COME TO YOUR
17 RESORT; ISN'T THAT CORRECT?

18 A NO, YOU'RE COMPLETELY MISTAKEN. DON'T SAY I
19 ENCOURAGED THEM.

20 MR. SHERMAN: EXCUSE ME. OBJECTION. THIS HAS BEEN
21 ASKED AND ANSWERED. NOW IT'S HARASSING.

22 THE COURT: SUSTAINED.

23 BY MR. MOSHENKO: Q IN YOUR VIEW, MR. BUTLER,
24 DON'T YOU BELIEVE YOUR LETTER WOULD HAVE ENCOURAGED PEOPLE
25 TO MOVE TO YOUR RESORT FROM THEIR PRIOR RESORT?

26 MR. SHERMAN: OBJECTION. CALLS FOR SPECULATION.

1 DOCUMENT SPEAKS FOR ITSELF. ASKED AND ANSWERED.

2 THE COURT: SUSTAINED.

3 BY MR. MOSHENKO: Q NOW, MR. BUTLER, AT THE TIME
4 YOU WROTE THESE LETTERS, YOU WERE INTERESTED IN ACQUIRING
5 MEMBERSHIPS FOR YOUR RANCHO EL DORADO RESORT; CORRECT?

6 A I HAD AN INTEREST IN ASSISTING COAST TO
7 COAST WITH A PROBLEMATIC SITUATION AND AN INTEREST THAT,
8 YOU KNOW, MIGHT RESULT IN A FEW ADDITIONAL MEMBERS IN THIS
9 PARTICULAR SITUATION FOR MY PROPERTY.

10 Q ALL RIGHT. AND, IN FACT, HAD A -- IF EACH
11 MEMBER WOULD COME OVER TO YOU WOULD HAVE MEANT \$325 A YEAR,
12 OR \$200 A YEAR, DEPENDING ON THE MEMBERSHIP PROGRAM THEY
13 CHOSE?

14 A TIMES 60 IS THE AMOUNT.

15 Q WELL, TIMES 1291 LETTERS IS THE AMOUNT WHEN
16 YOU WROTE THE LETTER?

17 A MR. MOSHENKO, DON'T TWIST THIS. NO, YOU'RE
18 ABSOLUTELY WRONG. YOU'RE ABSOLUTELY WRONG. ANY TIME YOU
19 SEND OUT A PIECE OF MAIL OR ANY INVITATION, YOU GET WHAT WE
20 CALL A RESPONSE RATE. WE NEVER IN OUR WILDEST DREAM WOULD
21 EXPECT 100 PERCENT OR 50 PERCENT OR 20 PERCENT OF THOSE
22 PEOPLE TO RESPOND TO THAT TYPE OF INVITATION. THAT'S
23 COMPLETELY ABSURD.

24 Q ARE YOU SUGGESTING THAT YOU ONLY EXPECTED 60
25 PEOPLE TO RESPOND TO YOUR LETTER?

26 A WE EXPECTED A VERY LOW RESPONSE RATE.

1 THAT'S EXACTLY WHAT WE GOT.

2 Q COULD YOU EVALUATE WHAT THE POTENTIAL
3 RESPONSE RATE WOULD BE WITHOUT KNOWING WHAT COAST SENT TO
4 THEM WAS INCLUDED?

5 A YOU KNOW, IT'S SPECULATIVE. AND I'M NOT
6 GOING TO SPECULATE.

7 Q WHEN YOU SENT OUT THESE 1291 LETTERS, DID
8 YOU COMMUNICATE WITH COAST TO COAST THE FACT THAT YOU DID
9 SO?

10 A NO -- I DON'T RECALL IF WE DID OR WE
11 DIDN'T. COAST TOLD ME, "WE CONTACTED THE MEMBERS. HERE IS
12 A LIST OF PEOPLE."

13 AND WE SAID, "FINE. WE'LL MAKE A CONTACT."

14 AND THAT'S WHAT WE DID. WE DIDN'T HAVE ANY
15 REPORTING RELATIONSHIP TO COAST TO COAST, NO. I DIDN'T
16 HAVE TO RUN NEXT DOOR AND SAY, "WE SENT 1291 LETTERS."

17 Q ALL RIGHT. MR. BUTLER, I UNDERSTAND YOU
18 DIDN'T HAVE A REPORTING RELATIONSHIP, BUT THESE WERE MEN
19 THAT YOU HAD WORKED WITH FOR YEARS AND YEARS THAT YOU WERE
20 DEALING WITH.

21 A BUSINESS IS BUSINESS, MR. MOSHENKO.

22 Q AND IN BUSINESS IS BUSINESS, IT'S REASONABLE
23 FOR A RESORT OWNER TO COMMUNICATE WITH THE RECIPROCAL USE
24 ORGANIZATION AND TALK ABOUT WHAT'S GOING ON; DIDN'T YOU DO
25 THAT?

26 A NO. WHEN I GOT A RESPONSE FROM ONE OF THESE

1 MEMBERS THAT WANTED TO CONTINUE THEIR AFFILIATION WITH
2 COAST TO COAST, MY PEOPLE WOULD HAVE FILLED OUT A NICE
3 LITTLE APPLICATION FORM THAT THEY WOULD HAVE SIGNED AND
4 SENT IN WITH A SMALL CHECK TO COAST TO COAST TO ALLOW THEM
5 TO CONTINUE THEIR AFFILIATED -- AFFILIATION WITH COAST TO
6 COAST AND A NEW AFFILIATION WITH MY PROPERTY.

7 THE COURT: APPROACH, PLEASE, GENTLEMEN.

8 (DISCUSSION OFF THE RECORD.)

9 BY MR. MOSHENKO: Q ALL RIGHT. SO, MR. BUTLER,
10 WHEN ONLY 60 PEOPLE RESPONDED TO YOUR MAILING AND BECAME
11 MEMBERS OF YOUR HOME RESORT, YOU DID NOT -- YOU DID OR DID
12 NOT TELL COAST THAT ONLY 60 PEOPLE RESPONDED?

13 A ABSOLUTELY DIDN'T TELL THEM ANYTHING. THEY
14 WOULD HAVE KNOWN BY APPLICATION FLOW AND INFORMATION
15 THROUGH THE NORMAL COURSE OF CHANNEL. I HAVE 3,000 PEOPLE
16 THAT OWN LOTS WITH ME AND A THOUSAND HOMES BUILT. 60 R.V.
17 MEMBERSHIPS IS NOT MATERIAL IN MY OVERALL BUSINESS.

18 Q WELL, MAYBE, MR. BUTLER, WHAT IT MEANS IS
19 THAT WHEN -- YOU DID RESPOND BY SENDING THEM THE
20 APPLICATION, AND YOU TOLD THEM THAT 60 PEOPLE HAD APPLIED
21 FOR MEMBERSHIP IN YOUR RESORT; IS THAT WHAT HAPPENED?

22 A THEY WOULD HAVE GOTTEN THE REGULAR
23 APPLICATION FLOW, MR. MOSHENKO. AND THEY CAN COUNT
24 THEMSELVES. I DIDN'T HAVE TO TELL THEM HOW MANY PEOPLE
25 RESPONDED.

26 Q NOW, I WANT TO RETURN FOR ONE MOMENT TO YOUR

1 SITUATION WITH AMERICAN ADVENTURE.

2 YOU MENTIONED THAT YOU TOOK OVER MANAGEMENT
3 AND CONTROL, WHATEVER IT WAS YOU SAID, OF AMERICAN
4 ADVENTURE. YOU TOOK IT OVER BECAUSE AMERICAN ADVENTURE WAS
5 IN A BANKRUPTCY; RIGHT?

6 A NO, THAT'S NOT EXACTLY RIGHT. AMERICAN
7 ADVENTURE DID HAPPEN TO BE IN BANKRUPTCY, AND AS PART OF MY
8 SEPARATION PACKAGE WITH COAST TO COAST, I TOOK OVER AN
9 EQUITY INTEREST -- THEIR INTEREST IN THE AMERICAN ADVENTURE
10 ESTATE THAT WAS UNDER REORGANIZATION. AND AFTER MR. KEIM'S
11 DEATH, A YEAR LATER AFTER I LEFT COAST TO COAST, WHATEVER
12 THE EXACT DATES WERE -- ALL A MATTER OF PUBLIC RECORD IN
13 BANKRUPTCY COURT -- THEN I WAS ASKED BY THE BOARD OF
14 AMERICAN ADVENTURE TO TAKE OVER THE MANAGEMENT AGREEMENT OF
15 THE COMPANY, WHICH I DID.

16 Q OKAY. AND AS A RESULT OF THAT -- STRIKE
17 THAT.

18 YOU WERE PRESIDENT OF COAST TO COAST WHEN
19 AMERICAN ADVENTURE WENT INTO BANKRUPTCY; RIGHT?

20 MR. SHERMAN: OBJECTION. RELEVANCE, FOR THE SAME
21 REASONS WE DISCUSSED IN CHAMBERS THIS MORNING, YOUR HONOR.

22 THE COURT: SUSTAINED.

23 BY MR. MOSHENKO: Q DID COAST TRANSFER ANY OF
24 AMERICAN ADVENTURES' MEMBERS TO ANYBODY?

25 MR. SHERMAN: OBJECTION. RELEVANCE.

26 THE COURT: SUSTAINED.

1 MR. MOSHENKO: MAY I APPROACH, YOUR HONOR?

2 THE COURT: I DON'T THINK SO, NOT AT THIS POINT.

3 MR. MOSHENKO: YOUR HONOR, I'D LIKE TO READ FROM
4 THE WITNESS'S DEPOSITION.

5 THE WITNESS: MR. MOSHENKO, IF YOU'RE GOING TO READ
6 SOMETHING, I WOULD ASK AT THIS POINT THAT YOU GIVE ME A
7 COPY OF IT.

8 MR. MOSHENKO: ALL RIGHT. PAGE 376, YOUR HONOR,
9 LINES 16 TO 377, LINE 1.

10 MR. SHERMAN: OBJECTION. IT LACKS FOUNDATION.

11 MR. MOSHENKO: WELL, THE FOUNDATION --

12 Q MR. BUTLER, DID YOU HAVE YOUR DEPOSITION
13 TAKEN?

14 MR. SHERMAN: IT HAS NOTHING TO DO WITH THE
15 DEPOSITION. IT HAS TO DO WITH THE QUESTION AND ANSWER IN
16 THE DEPOSITION, AND IT LACKS FOUNDATION.

17 THE COURT: I DON'T KNOW WHAT YOU'RE TALKING ABOUT.

18 MR. SHERMAN: MAY WE APPROACH?

19 THE COURT: YES.

20 (DISCUSSION OFF THE RECORD.)

21 THE COURT: ARE YOU WITH ME?

22 THE JURY: YES, WE ARE.

23 THE WITNESS: AND TO SAVE A LITTLE TIME, THIS
24 DOESN'T HAVE PAGE 367 IN IT.

25 MR. MOSHENKO: 376.

26 THE WITNESS: 376. I'M SORRY.

1 MR. MOSHENKO: I'D LIKE TO READ FROM THE
2 DEPOSITION, BUT I'D LIKE TO PUT IT UP ON THE SCREEN, YOUR
3 HONOR.

4 THE COURT: GO AHEAD.

5 BY MR. MOSHENKO: Q MR. BUTLER, YOU GAVE A
6 DEPOSITION IN THIS CASE ACTUALLY ON THREE DIFFERENT
7 OCCASIONS; CORRECT?

8 A THAT'S CORRECT.

9 Q AND THIS PARTICULAR OCCASION TOOK PLACE ON
10 APRIL 20, THE YEAR 2000; CORRECT?

11 A WELL, I'LL ACCEPT THE DATE.

12 Q ALL RIGHT. AND I WAS QUESTIONING YOU ABOUT,
13 AMONG OTHER THINGS, COAST'S APPLICATION OF ORPHAN MEMBER
14 POLICIES TO RESORTS THAT DISAFFILIATED IN THE PAST?

15 MR. SHERMAN: OBJECTION. LET -- THE DOCUMENT
16 SPEAKS FOR ITSELF.

17 MR. MOSHENKO: WHAT'S WRONG WITH ME ASKING IT?

18 THE COURT: OBJECTION IS OVERRULED.

19 GO AHEAD.

20 BY MR. MOSHENKO: Q I WAS TALKING ABOUT COAST'S
21 APPLICATION OF ORPHAN MEMBER POLICIES TO RESORTS THAT HAD
22 DISAFFILIATED WITH CAMP COAST TO COAST.

23 A YES. SOME OF THIS DISCUSSION PERTAINS TO
24 WHAT HAPPENS TO AN ORPHAN MEMBER.

25 Q CORRECT.

26 I WAS ALSO TALKING ABOUT COAST'S APPLICATION

1 OF WHAT IT CALLS ITS ORPHAN MEMBER POLICIES TO COMPANIES
2 THAT WERE IN BANKRUPTCY; IS THAT CORRECT?

3 A WELL, MR. MOSHENKO, I WANT TO BE CLEAR ABOUT
4 IT, BECAUSE JUST BECAUSE THERE ARE ORPHAN MEMBERS THERE,
5 PEOPLE WITHOUT HOMES, THAT DOESN'T MEAN THAT THEY COME OUT
6 OF A BANKRUPTCY. IT MIGHT MEAN -- THEY COULD BE ORPHAN
7 MEMBERS FOR MANY DIFFERENT REASONS. SO I DON'T WANT TO
8 ATTACH AN ORPHAN MEMBER TO A BANKRUPTCY.

9 IN THIS PARTICULAR CASE YOU'RE TALKING TO ME
10 ABOUT -- YOU'RE TALKING ABOUT THE CONTEXT OF BANKRUPTCY.

11 MR. MOSHENKO: MOVE TO STRIKE ON THE GROUNDS THAT
12 THE ANSWER WAS NONRESPONSIVE.

13 THE COURT: MOTION DENIED.

14 THE NEXT QUESTION.

15 BY MR. MOSHENKO: Q I WAS TALKING TO YOU ABOUT
16 COAST'S APPLICATION OF ITS SO-CALLED ORPHAN POLICIES TO
17 RESORTS WHOSE -- TO MEMBERS WHOSE RESORTS WERE IN
18 BANKRUPTCIES, AMONG OTHER THINGS; CORRECT?

19 A YES, THAT'S CORRECT.

20 Q NOW, I THEN ASKED YOU IF COAST APPLIED ITS
21 ORPHAN MEMBER POLICIES TO THE AMERICAN ADVENTURE MEMBERS
22 WHICH WERE MEMBERS OF AN ORGANIZATION THAT HAD A PENDING
23 BANKRUPTCY; DO YOU RECALL THAT?

24 A YES.

25 Q ALL RIGHT. NOW, I'D LIKE TO PUT UP LINE --
26 IF YOU COULD HIGHLIGHT LINES 16 TO THE END OF THE PAGE.

1 AND THIS IS A QUESTION AND ANSWER.

2 "QUESTION: DID COAST APPLY ITS ORPHAN
3 MEMBER POLICIES TO THE AMERICAN ADVENTURE MEMBERS TO TRY TO
4 RELOCATE THOSE MEMBERS INTO OTHER AFFILIATED RESORTS AT THE
5 TIME?

6 "ANSWER: ABSOLUTELY NOT, BECAUSE THE
7 COMPANY WAS UNDER A PLAN OF REORGANIZATION WITH REGULAR
8 REPORTING TO THE FEDERAL COURT AS TO THE DISPOSITION AND
9 STATUS OF THE REORGANIZATION. AND THERE WOULD BE
10 ABSOLUTELY NO REASON TO TRY TO REDISTRIBUTE MEMBERS AT THE
11 POINT THAT THE COMPANY WAS IN A PLAN OF REORGANIZATION."

12 NOW, COAST KNEW, IN THE AMERICAN ADVENTURE
13 SITUATION, THAT IT COULD NOT INTERFERE WITH THOSE MEMBERS
14 BECAUSE OF THE PENDING BANKRUPTCY, CORRECT?

15 MR. SHERMAN: OBJECTION. RELEVANCY. CALLS FOR A
16 LEGAL CONCLUSION. LACKS FOUNDATION.

17 THE COURT: SUSTAINED.

18 MR. MOSHENKO: IT SEEKS WHAT THEY KNEW, YOUR HONOR.

19 THE COURT: OBJECTION IS SUSTAINED.

20 MR. MOSHENKO: THANK YOU.

21 Q YOU HAD THE UNDERSTANDING THAT WHERE THERE
22 WAS A PLAN OF REORGANIZATION AND THE COMPANY WAS REPORTING
23 TO THE FEDERAL COURT, THERE WAS A STAY ORDER IN EFFECT THAT
24 WOULD HAVE PREVENTED COAST FROM INTERFERING WITH THOSE
25 MEMBERS; ISN'T THAT TRUE?

26 MR. SHERMAN: OBJECTION. LACKS FOUNDATION, LACKS

1 RELEVANCY. CALLS FOR A LEGAL CONCLUSION.

2 THE COURT: I'LL ALLOW THE ANSWER.

3 THE WITNESS: PARDON, YOUR HONOR?

4 BY MR. MOSHENKO: Q YOU MAY ANSWER.

5 A OKAY. MR. MOSHENKO, YOU KNOW, THE
6 PARTICULAR AMERICAN ADVENTURE REORGANIZATION -- LET ME
7 CHARACTERIZE IT FOR YOU A LITTLE BIT IN THAT 11 PERCENT OF
8 THE AMERICAN ADVENTURE COMPANY WAS OWNED BY THE MEMBERS.

9 OKAY.

10 MR. MOSHENKO: YOUR HONOR, I OBJECT.
11 NONRESPONSIVE. IT'S A YES OR NO QUESTION; DID HE HAVE THE
12 UNDERSTANDING OR DIDN'T HE?

13 THE WITNESS: NO. THERE WAS NO STAY -- THERE WAS
14 NOT A STAY. OKAY. THE MEMBERS DESIRED TO STAY IN COAST TO
15 COAST. THAT WAS ONE OF THE LEGS OF THE PLAN OF
16 REORGANIZATION. THERE WOULD HAVE BEEN NO REASON TO
17 REDISTRIBUTE OR TO HAVE AN ORPHAN PROGRAM. THEY WERE
18 MEMBERS OF COAST TO COAST. THEY WANTED TO STAY MEMBERS OF
19 COAST TO COAST. IT'S ALL A MATTER OF FEDERAL RECORD.

20 THE COURT: YOUR TIME IS UP, MR. MOSHENKO.

21 MR. MOSHENKO: I WAS ABOUT TO SAY, YOUR HONOR, I'M
22 FINISHED.

23 THE COURT: THANK YOU. THE BALL IS IN YOUR COURT.

24 MR. SHERMAN: APPROPRIATE WITH GAME 4 TONIGHT.

25 CROSS-EXAMINATION

26 BY MR. SHERMAN: Q MR. BUTLER --

1 A YES

2 Q -- YOU HAVE BEEN PERSONALLY -- PERSONALLY
3 NAMED AS AN INDIVIDUAL DEFENDANT IN THIS CASE; IS THAT
4 RIGHT?

5 A THAT'S WHAT I UNDERSTAND.

6 Q PLAINTIFFS ARE SEEKING MONEY DAMAGES AGAINST
7 YOU; IS THAT RIGHT?

8 A THAT'S WHAT I UNDERSTAND.

9 Q DO YOU HAVE ANY IDEA WHY YOU'RE BEING SUED
10 IN THIS CASE?

11 A I ABSOLUTELY HAVE NO REASON WHY I'M IN THIS
12 COURTROOM. AND I HAVE NO -- NO REASON TO KNOW WHY I WOULD
13 BE SUED IN THIS CASE, NO.

14 Q DID YOU HAVE ANYTHING TO DO WITH CAMP COAST
15 TO COAST'S DECISION IN THE FALL OF 1997 TO SEND LETTERS TO
16 CAMP COAST TO COAST'S MEMBERS?

17 A ABSOLUTELY NOT.

18 Q HAD YOU SET FOOT IN THE CAMP COAST TO COAST
19 OFFICES AFTER YOU CEASED BEING PRESIDENT IN LATE '92?

20 A NOT ONCE.

21 Q DID MR. RYMAN CALL YOU UP ON THE PHONE IN
22 THE FALL OF 1997 AND ASK YOUR ADVICE ON ANYTHING HAVING TO
23 DO WITH NOVELLI, VOPNFORD OR THEIR COMPANIES?

24 A ABSOLUTELY NOT.

25 Q NOW, DURING YOUR CROSS-EXAMINATION,
26 MR. MOSHENKO SHOWED YOU A DOCUMENT DATED EITHER IN 1984 OR

1 1985 INVOLVING A PONDEROSA PARK; DO YOU RECALL THAT
2 DOCUMENT, SEEING THAT?

3 A YES, I DO. I THINK THE DOCUMENT WAS '84,
4 DOCUMENT SIGNED IN '85.

5 Q LET'S PUT THAT DOCUMENT BACK UP ON THE
6 BOARD, 1586.

7 NOW, I'M NOT GOING TO TAKE EITHER YOU OR THE
8 JURY THROUGH THE ENTIRETY OF THIS DOCUMENT, MR. BUTLER, BUT
9 I WOULD LIKE TO ASK YOU A COUPLE OF QUESTIONS ABOUT IT.

10 WAS THIS ONE OF THE FORMS OF WHAT'S NOW
11 KNOWN AS WRITTEN AFFILIATION AGREEMENTS THAT WAS IN PLACE
12 WHEN YOU TOOK OVER?

13 A YES.

14 Q DID COAST HAVE MEMBERS WHEN YOU TOOK OVER?

15 A YES, THEY DID.

16 Q DID COAST HAVE THE RIGHT TO CONTACT AND
17 COMMUNICATE WITH ITS MEMBERS WHEN YOU TOOK OVER?

18 A THEY WERE DOING THAT BEFORE I TOOK OVER, YES.

19 Q LET'S TURN TO SOME PROVISIONS OF THIS
20 AGREEMENT THAT MR. MOSHENKO DID NOT SHOW THE JURY. LET'S
21 TURN TO PARAGRAPH VII-G. VII-G, LICENSEE.

22 NOW, WHO IS THE LICENSEE IN THIS AGREEMENT,
23 MR. BUTLER?

24 A THE LICENSEE WOULD HAVE BEEN THE AFFILIATED
25 RESORT.

26 Q SOMETIMES REFERRED TO AS THE DEVELOPER?

1 A DEVELOPER.

2 Q OKAY. WHO IS THE LICENSOR?

3 A IT'S COAST TO COAST.

4 Q OKAY. LICENSEE, THE DEVELOPER, AGREES NOT
5 TO IMPAIR THE RELATIONSHIPS BETWEEN INDIVIDUAL MEMBERS AND
6 LICENSOR OR THEIR HOME RESORT, IF DIFFERENT FROM LICENSEE'S
7 RESORT.

8 DID YOU UNDERSTAND AT THE TIME YOU TOOK OVER
9 AS PRESIDENT OF COAST TO COAST THAT COAST HAD RELATIONSHIPS
10 WITH ITS MEMBERS?

11 A ABSOLUTELY.

12 Q AND WHAT WAS YOUR UNDERSTANDING AT THE TIME
13 YOU TOOK OVER AS PRESIDENT OF COAST AS TO, BETWEEN COAST
14 AND THE DEVELOPER, WHO HAD THE RIGHT TO DEAL WITH COAST'S
15 MEMBERS?

16 A WHAT WAS MY UNDERSTANDING OF THE DEVELOPER'S
17 RELATIONSHIP WITH THE COAST MEMBERS?

18 Q YEAH. WITH REFERENCE TO VII-G.

19 A WELL, IN MY MIND I'VE ALWAYS CHARACTERIZED
20 THE BUSINESS AS THE DEVELOPER HAVING A GROUP OF RESORT --
21 I'M SORRY -- A GROUP OF AFFILIATED MEMBERS AND COAST TO
22 COAST HAVING A SEPARATE GROUP OF AFFILIATED MEMBERS. WE
23 NEVER HAD 100 PERCENT OF A RESORT MEMBERSHIP BASE. WE HAD
24 MUCH LESS THAN THAT.

25 BUT THE MEMBERS THAT WE HAD THAT WERE OUR
26 MEMBERS THAT -- WHAT THIS SAYS TO ME IS THAT THE

1 RELATIONSHIP WE HAD BETWEEN THE DEVELOPER IS THAT WHEN IT
2 COMES TO OUR MEMBER, HE DOES NOT HAVE THE RIGHT TO IMPAIR A
3 RELATIONSHIP WITH THEM.

4 Q LET'S TAKE A LOOK AT OTHER PROVISIONS OF
5 THIS AGREEMENT. LET'S TAKE A LOOK AT SECTION XI, XI-B.

6 OKAY. NOW, I DON'T WANT TO HAVE TO GO
7 THROUGH ALL THE WORDS IN XI-B HERE, BUT YOU SEE THIS XI-B
8 HAS SOMETHING TO DO WITH TERMINATION; IS THAT RIGHT?

9 A THAT'S CORRECT.

10 Q OKAY. SO IF THERE'S A TERMINATION, THEN
11 CERTAIN THINGS HAPPEN.

12 IS THAT YOUR GENERAL UNDERSTANDING OF HOW
13 THAT WORKS?

14 A THAT'S CORRECT.

15 Q OKAY. LET'S GO TO THE LAST SENTENCE OF
16 XI-B.

17 AND, MIKE, IF YOU CAN, HIGHLIGHT THAT,
18 PLEASE.

19 IF THE LICENSEE -- THAT'S THE DEVELOPER --
20 FAILS TO COMPLY IMMEDIATELY WITH SUCH DIRECTIONS -- AND
21 MAYBE I WENT TOO QUICK ON THAT.

22 THE DIRECTIONS THAT ARE BEING REFERRED TO
23 HERE, MR. BUTLER, ARE DIRECTIONS FROM THE LICENSOR?

24 A THAT'S CORRECT.

25 Q IN THE EVENT OF A TERMINATION?

26 A YES.

1 Q SO IF THE LICENSEE FAILS TO COMPLY
2 IMMEDIATELY WITH SUCH DIRECTIONS, LICENSOR -- THAT'S COAST?

3 A YES.

4 Q -- MAY TAKE SUCH STEPS AS ARE NECESSARY TO
5 NOTIFY PURCHASERS AND ANY FEDERAL OR STATE AGENCIES WHICH
6 MAY HAVE IDENTIFIED THE RESORT WITH THE PROGRAM.

7 SO WHAT WAS YOUR UNDERSTANDING, MR. BUTLER,
8 AT THE TIME YOU TOOK OVER AS PRESIDENT OF COAST UNDER ALL
9 THESE OLD AGREEMENTS THAT MR. MOSHENKO SHOWED YOU, AS TO
10 COAST'S RIGHT TO CONTACT, COMMUNICATE WITH COAST'S MEMBERS?

11 A WELL, TO ME THE RELEVANCE OF THESE
12 AGREEMENTS -- TO BEGIN WITH, THIS IS A 1984 DOCUMENT. THIS
13 IS BEFORE I WAS PRESIDENT OF COAST TO COAST. THESE
14 DOCUMENTS WERE IN PLACE AND HAD ALWAYS BEEN IN PLACE.

15 AND THE ISSUE HERE IS THAT COAST HAS ALWAYS
16 HAD THE RIGHT, BY AGREEMENT, BY LICENSING AGREEMENT, TO BE
17 IN CONTACT WITH THEIR MEMBER BASE AND COMMUNICATE WITH
18 THEIR MEMBER BASE. AND UNDER THESE CONDITIONS IT WOULD,
19 YOU KNOW, INVOLVE TERMINATION; THAT COAST HAD THE RIGHT TO
20 COMMUNICATE TO ITS OWN MEMBERS.

21 Q OKAY. BUT LET'S FAST-FORWARD A LITTLE BIT,
22 BECAUSE NOT ALL OF THESE WORDS, NOT ALL OF THESE SENTENCES
23 ARE IN EACH VERSION OF EVERY AGREEMENT THAT FOLLOWS; IS
24 THAT RIGHT?

25 A YES. THERE WERE REVERSIONS OF THE
26 DIFFERENT -- VERSIONS OF THE CONTRACT. THEY CHANGED FROM

1 TIME TO TIME.

2 Q AS THE MAN IN CHARGE, PRESIDENT, DID THE
3 CONCEPT REMAIN THE SAME IN YOUR MIND?

4 A THE BASIC CONCEPT OF ALL OF THE PRINCIPLES
5 IN GUIDING DIRECTION OF COAST TO COAST BASICALLY, YES,
6 REMAINED THE SAME AND REMAINED IN THE SAME CONTEXT DURING
7 MY WATCH.

8 Q NOW, DURING DIRECT -- DURING EXAMINATION BY
9 MR. MOSHENKO, YOU WERE ASKED A LOT OF QUESTIONS ABOUT
10 DIFFERENT AGREEMENTS; DO YOU RECALL THAT GENERALLY?

11 A YES.

12 Q YOU WERE ASKED ABOUT THE PONDEROSA AGREEMENT
13 IN '84?

14 A RIGHT.

15 Q YOU WERE ASKED ABOUT A LICENSEE MANUAL AND
16 WHETHER IT WAS OR WASN'T INCORPORATED INTO A CONTRACT?

17 A CORRECT.

18 Q YOU WERE ASKED ABOUT FEBRUARY 1990 FORMS OF
19 AN AGREEMENT; IS THAT RIGHT?

20 A RIGHT.

21 Q I DON'T BELIEVE YOU WERE SHOWN, DURING YOUR
22 EXAMINATION, ANY CONTRACTS SIGNED BY MR. NOVELLI DURING THE
23 TIME YOU WERE PRESIDENT, THOUGH, WERE YOU?

24 A NOT TODAY, NO.

25 Q LET ME SHOW YOU ONE OF THOSE, EXHIBIT 51.

26 I BELIEVE THAT'S ALREADY BEEN -- HAS THAT

1 ALREADY BEEN ADMITTED INTO EVIDENCE?

2 THE CLERK: WHAT'S THE NUMBER AGAIN?

3 MR. SHERMAN: FIFTY-ONE. ITS COUNTERPART WAS
4 ADMITTED INTO EVIDENCE.

5 THE CLERK: THAT'S NOT IN YET.

6 MR. SHERMAN: LET ME APPROACH, IF I MAY, YOUR
7 HONOR.

8 Q EXHIBIT 51, I BELIEVE -- AND FOR THE RECORD,
9 I BELIEVE THAT THIS SAME DOCUMENT WAS SHOWN WITNESSES AND
10 ADMITTED INTO EVIDENCE WITH PLAINTIFFS' EXHIBIT NUMBER.

11 MR. BUTLER, DO YOU RECOGNIZE EXHIBIT 51?

12 A IT'S -- IT LOOKS TO BE A STANDARD LICENSEE
13 AGREEMENT.

14 Q WITH WHOM?

15 A THIS AGREEMENT IS -- IT'S SIGNED BY
16 MR. NOVELLI, AND SCHEDULE A SAYS THAT THE OWNER OF RESORTS
17 IN THIS AGREEMENT ARE ALL SEASONS RESORTS, INC.,
18 RAYMOND G. NOVELLI, PRESIDENT.

19 MR. SHERMAN: I BELIEVE THIS DOCUMENT HAS ALREADY
20 BEEN MOVED INTO EVIDENCE, BUT LET'S DO IT AGAIN.

21 THE COURT: SO RECEIVED.

22 MR. MOSHENKO: NO OBJECTION.

23 (WHEREUPON, EXHIBIT NO. 51, LICENSEE
24 AGREEMENT SIGNED BY RAY NOVELLI, WAS RECEIVED IN
25 EVIDENCE.).

26 MR. SHERMAN: AND IF WE COULD JUST GO, MIKE, TO THE

1 SIGNATURE PAGE.

2 Q THIS IS YOUR V.P., ROGER RYMAN; RIGHT?

3 A CORRECT.

4 Q THAT'S HIS SIGNATURE.

5 THAT'S RAYMOND G. NOVELLI'S SIGNATURE;

6 RIGHT?

7 A THAT APPEARS TO BE.

8 Q OKAY. AND LET'S GO TO THE LISTS OF MEMBERS

9 OF COAST COMPILED BY COAST LANGUAGE JUST FOR A MOMENT.

10 "LISTS OF MEMBERS OF COAST COMPILED BY COAST

11 FROM SUCH APPLICATIONS ARE THE SOLE PROPERTY OF COAST AND

12 MAY BE USED BY COAST, OR BY OTHERS, WITH COAST'S

13 PERMISSION, FOR ANY PURPOSES."

14 NOW, MR. BUTLER, OTHER THAN THIS AGREEMENT

15 SIGNED BY COAST AND RAYMOND G. NOVELLI ON BEHALF OF ALL

16 SEASONS RESORTS, AT THE TIME YOU STEPPED DOWN AS PRESIDENT,

17 THE END OF 1992, ARE YOU AWARE OF ANY OTHER OPERATIVE,

18 WRITTEN AGREEMENT GOVERNING THE SUBJECT OF THE

19 CONFIDENTIALITY OF MEMBER LISTS AND COAST'S ABILITY TO USE

20 ITS MEMBER LISTS, OTHER THAN AS SET FORTH HERE?

21 A ABSOLUTELY NOT.

22 Q I WANT TO ASK YOU SOME QUESTIONS ABOUT THE

23 ORPHAN PROGRAM; OKAY? AND LET'S START WITH ROUND-TABLES.

24 IT'S A PHRASE THAT'S BEEN USED A LITTLE BIT IN THIS TRIAL

25 SO FAR.

26 WHAT'S A ROUND-TABLE?

1 A A ROUND-TABLE WAS A PROGRAM THAT I
2 INSTITUTED. I TOOK OVER IN OCTOBER OF 1985. I BELIEVE IT
3 WAS IN THE YEAR OF '86. AND BASICALLY THE IDEA OF IT WAS
4 TO GO REGIONALLY TO GET TOGETHER WITH THE DEVELOPERS TO TRY
5 AND IMPROVE COMMUNICATIONS AROUND THE COUNTRY. AND IT
6 WOULD BE MYSELF AND MR. RYMAN AND THE REGIONAL DIRECTOR FOR
7 THAT PARTICULAR REGION, INVITING THE AFFILIATED DEVELOPERS
8 TO JOIN US ON A PARTICULAR DAY IN A HOTEL, IN A CONFERENCE
9 ROOM, WHERE WE WOULD PROVIDE LUNCH AND ASK TO HAVE SOME
10 OPEN, CANDID DISCUSSION ABOUT WHAT WAS GOING ON WITHIN THE
11 COAST TO COAST SYSTEM, HOW COULD WE IMPROVE THINGS.

12 AND IT WAS IN THE SPIRIT OF TRYING TO LEARN
13 THINGS THAT WE SHOULD DO A LITTLE BIT DIFFERENTLY OR BETTER
14 FOR OUR BUSINESS.

15 Q HOW MANY ROUND-TABLES WOULD YOU SAY YOU
16 ATTENDED AROUND THE COUNTRY DURING YOUR TENURE?

17 A I WOULD SAY THAT THEY WERE PRETTY STEADY ON
18 A MONTHLY BASIS FOR AT LEAST TWO YEARS. SO I WOULD IN A
19 ROUND NUMBER SAY 25 TO 30, MINIMUM.

20 Q HOW MANY ROUND-TABLES DID RAYMOND NOVELLI
21 ATTEND?

22 A I CAN'T ANSWER THAT. I DON'T REMEMBER,
23 MR. SHERMAN, IF MR. NOVELLI EVER CAME TO -- I KNOW SOME OF
24 HIS PEOPLE CAME TO SOME OF THE ROUND-TABLE SESSIONS. I
25 DON'T REMEMBER IF HE PERSONALLY CAME.

26 Q WAS THE SUBJECT OF COAST'S ORPHAN PROGRAM

1 DISCUSSED AT ROUND-TABLES?

2 MR. MOSHENKO: OBJECTION. HEARSAY. LACKS
3 FOUNDATION.

4 THE COURT: OVERRULED.

5 THE WITNESS: YES, THE SUBJECT OF ORPHAN -- THE
6 ORPHAN PROGRAM WOULD DEFINITELY HAVE BEEN DISCUSSED AT
7 ROUND-TABLES. AND IT WOULD HAVE BEEN DISCUSSED EARLY ON.
8 BECAUSE AS MR. MOSHENKO BROUGHT UP, WE DID HAVE THE
9 OCCASION TO HAVE THE NACO EXPERIENCE WHERE THEY HAD 30- OR
10 40,000 MEMBERS WHO WERE ALL OF A SUDDEN WITHOUT THEIR VOTE
11 OR -- THEY BASICALLY GOT ORPHANED. THEY GOT REMOVED FROM
12 THE COAST TO COAST SYSTEM.

13 SO THE DISCUSSION OF ORPHAN MEMBERS WOULD
14 DEFINITELY HAVE BEEN EARLY ON IN MY TENURE.

15 BY MR. SHERMAN: Q TELL THE LADIES AND GENTLEMEN
16 OF THE JURY THE KINDS OF TOPICS RELATING TO ORPHAN PROGRAMS
17 THAT YOU BROUGHT UP AT THESE ROUND-TABLES.

18 A WELL, IN GENERAL, THE ORPHAN PROGRAM WAS
19 ESTABLISHED BASICALLY -- WE'VE ALWAYS HAD A VERY STRONG
20 FEELING ABOUT THE END-USING CONSUMER; AND THAT IN THE R.V.
21 INDUSTRY LIFESTYLE WHEN PEOPLE DECIDE TO TRAVEL AROUND THE
22 COUNTRY -- AND THESE ARE GENERALLY PEOPLE THAT ARE A LITTLE
23 BIT ELDERLY, OVER THE AGE OF 50. AND THEY MAKE A
24 LIFE-STYLE DECISION TO KIND OF SPEND THEIR RETIREMENT YEARS
25 TRAVELING AROUND THE COUNTRY. OUR NETWORK PROVIDED A
26 WONDERFUL VEHICLE FOR THEM TO DO THAT. IT WAS RELATIVELY

1 INEXPENSIVE.

2 SO WHEN WE WOULD HAVE A RESORT ON OCCASION
3 THAT WOULD GET INTO FINANCIAL PROBLEMS AND MAY HAVE TO GO
4 THROUGH A REORGANIZATION, FILE A BANKRUPTCY OR FOR WHATEVER
5 REASON, THE DEVELOPER FAILED OR THE RESORT HAD PROBLEMS AND
6 CLOSED, THEN WE WOULD WIND UP WITH A GROUP OF THESE
7 CONSUMERS THAT BASICALLY WERE CLASSIFIED AS HOMELESS,
8 ORPHANED MEMBERS.

9 AND SO WE DECIDED BECAUSE OF THE -- WE HAD
10 IMMENSE PRESSURES WHEN THIS HAPPENED. I MEAN, A
11 MULTIPLE-SITE SYSTEM LIKE A NACO OR ANY OF THE OTHER BIG
12 SYSTEMS THAT WERE SPREAD ACROSS THE COUNTRY IN MAYBE 10
13 STATES OR MORE, THE FIRST THING THAT WOULD HAPPEN WAS THE
14 ATTORNEY GENERALS' PHONE WOULD RING OFF THE HOOK, BECAUSE
15 THESE WERE CONSUMERS WHO BARGAINED FOR SOMETHING, SPENT
16 THEIR HARD-EARNED MONEY TO -- FOR THE ENJOYMENT OF THE
17 RECIPROCAL USE PRIVILEGES OF COAST TO COAST. AND WHEN
18 THEY, THROUGH NO CAUSE OF THEIR OWN, WOUND UP IN A POSITION
19 OF BEING DENIED WHAT THEY BASICALLY BARGAINED FOR WHEN THEY
20 MADE THAT PURCHASE, THEY BECAME A PROBLEM TO DEAL WITH FROM
21 A STATE CONSUMER STANDPOINT, AND CERTAINLY FROM AN
22 OPERATING STANDPOINT.

23 SO, WE PUT A PROGRAM TOGETHER CALLED
24 "ORPHANED MEMBERS." AND WHEN THOSE OCCASIONS OCCURRED,
25 WHAT WE WOULD DO, WE WOULD FIND A WAY TO TRY AND REORIENT
26 THEM FOR A SMALL AMOUNT OF MONEY TO AN AFFILIATED PROPERTY

1 IN GOOD STANDING IN THE COAST TO COAST SYSTEM SO THAT WE
2 COULD REAFFILIATE THEM AND THEN COULD CONTINUE THEIR
3 BENEFITS. AND, THEREFORE, THEY, FROM A CONSUMER
4 STANDPOINT -- YOU KNOW, THEY WERE BACK WHERE THEY WERE TO
5 BEGIN WITH AND THAT THEY HADN'T BEEN, QUOTE UNQUOTE,
6 SEVERELY DAMAGED.

7 SO THAT WAS THE PURPOSE OF THE PROGRAM. AND
8 I'M NOT SAYING THAT WE WERE JUST A DO-GOOD ORGANIZATION,
9 WE. ARE A FOR-PROFIT ORGANIZATION. WE ARE NOT A
10 NOT-FOR-PROFIT. SO OBVIOUSLY THERE WAS A HUGE FINANCIAL
11 EFFECT FOR THE COMPANY ITSELF ALSO TO LOSE AN ENORMOUS
12 MEMBER BASE.

13 FOR EXAMPLE, AMERICAN ADVENTURE HAD 18,000
14 MEMBERS, AND NACO HAD 40,000 MEMBERS. I'M NOT SURE WHAT
15 THE NUMBERS WERE IN THE CASE OF MR. NOVELLI'S
16 ORGANIZATIONS. BUT IT'S A SUBSTANTIAL NUMBER. AND SO WE
17 DECIDED THAT THIS -- THAT COMMUNICATING WITH OUR MEMBERS,
18 MAKING SURE THAT THEY COMMUNICATE BACK WITH THEIR HOME
19 RESORT TO FIND OUT THE REAL STORY OF WHAT HAPPENED AT THE
20 HOME RESORT.

21 AND WE BASICALLY PICKED THE BALL UP FROM
22 THERE AND SAID, OKAY, IF YOU'VE BEEN DISASSOCIATED FROM
23 YOUR HOME RESORT, FOR YOUR COAST TO COAST BENEFITS, HERE IS
24 A WAY, AN EASY WAY TO REAFFILIATE YOURSELF. AND HERE IS AN
25 INVITATION TO DO SO.

26 Q NOW, WHAT YOU JUST TESTIFIED TO, WAS THIS

1 INFORMATION THAT YOU SHARED WITH DEVELOPERS?

2 A ABSOLUTELY. I MEAN, THE DEVELOPERS KNEW
3 FROM THE DAY THE NACO CASE HAPPENED, WHICH WAS, YOU KNOW,
4 AS I MENTIONED, EARLY IN MY TENURE. I BELIEVE IT WAS IN
5 '86. THEN THE DEVELOPERS ABSOLUTELY KNEW WHAT THE POLICY
6 AND THE GENERAL DIRECTION OF COAST TO COAST WOULD BE WHEN
7 WE HAD ORPHANED MEMBERS IN THE SYSTEM.

8 Q WHY DON'T WE PUT 2153 BACK UP ON THE BOARD.

9 THE COURT: LET'S DO THAT AFTER WE TAKE OUR BREAK.

10 MR. SHERMAN: GOOD IDEA.

11 THE WITNESS: THANK YOU, SIR.

12 (RECESS TAKEN.)

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

15 THE COURT: YOU MAY PROCEED, COUNSEL.

16 BY MR. SHERMAN: Q MR. BUTLER, JUDGE SMITH ASKED
17 ME TO WRAP THIS UP BY 4:00. SO I'M GOING TO WRAP IT UP BY
18 5 OF 4:00. SO PLEASE DON'T MIND IF I'M LOOKING AT MY
19 WRISTWATCH FROM TIME TO TIME. OKAY?

20 LET'S TALK ABOUT NACO FOR A MOMENT.

21 LETTER 2153 THAT YOU WERE SHOWN EARLIER, IF
22 WE CAN GET THAT BACK UP ON THE BOARD. THAT WAS A LETTER
23 THAT YOU SENT OUT TO NACO MEMBERS WHO WERE ALSO COAST
24 MEMBERS IN THE LATE '80'S; IS THAT RIGHT?

25 A THAT'S CORRECT.

26 Q AND DID THAT SET FORTH COAST TO COAST'S

1 METHOD OF DEALING WITH AN ORPHAN PROGRAM AT THAT POINT IN
2 TIME?

3 A IT'S THE FIRST TIME COAST TO COAST HAD EVER
4 BEEN, IN MY KNOWLEDGE -- TO MY KNOWLEDGE, FACED WITH THAT
5 KIND OF A SITUATION, ESPECIALLY OF THAT SIZE. AND THAT WAS
6 OUR DESIGNED METHOD TO DEAL WITH IT, YES.

7 Q SO IN A SENSE THIS WAS PAT BUTLER'S BAPTISM
8 IN ORPHANS?

9 A WELL, IT WAS INITIATION OF A REASONABLE WAY
10 TO HANDLE ORPHAN CONSUMERS.

11 Q IS THIS HOW YOU DID IT FROM TIME AND
12 MEMORIAL AFTER THAT?

13 A WELL, I CAN ONLY SPEAK, AGAIN, WHAT HAPPENED
14 DURING MY TENURE. AND BASICALLY DURING MY TENURE I WOULD
15 EXPECT IT WAS MORE OR LESS ALONG THESE LINES. I DIDN'T
16 MEAN TO TAKE -- YOU KNOW, TRY TO IN ANY WAY CHANGE
17 MR. MOSHENKO'S TRAIN OF THOUGHT EARLIER. BUT, YOU KNOW, AT
18 SOME POINTS WE WOULD BE ASKED BY DEVELOPERS WHO NO LONGER
19 WANTED TO BE IN THE BUSINESS, "WHAT CAN I DO WITH MY OWNER
20 BASE?" AND WE WOULD SAY, "FINE. PUT THEM THROUGH OUR
21 ORPHAN PROGRAM."

22 I MEAN, THERE WERE MANY DIFFERENT WAYS THAT
23 WE DEALT WITH THESE ORPHAN TYPE SITUATIONS. SO, YOU KNOW,
24 THE NACO ONE WAS OBVIOUSLY THE LARGEST AND MOST SEVERE ONE
25 WHEN I WAS THERE.

26 Q OKAY. BUT THIS WAS NOT SORT OF FROZEN IN

1 TIME, AND YOU DIDN'T JUST SAY EVERY TIME YOU HAD AN ORPHAN
2 PROGRAM, "OH, LET'S GO BACK TO NACO AND DO IT THE EXACT
3 SAME WAY"?

4 MR. MOSHENKO: OBJECTION. LEADING AND SUGGESTIVE.
5 THIS IS DIRECT EXAMINATION.

6 THE COURT: SUSTAINED.

7 BY MR. SHERMAN: Q DID YOU DO IT THE EXACT SAME
8 WAY EVERY TIME?

9 A WE DID -- NOT WE DID. WE WOULD ANALYZE THE
10 SITUATION AND DECIDE WHAT THE BEST METHODOLOGY TO HANDLE A
11 CASE WAS, THE INCIDENT WAS. BUT IT WAS BASICALLY ALONG
12 THESE LINES.

13 Q WAS MR. NOVELLI OR HIS COMPANIES EVER A
14 BENEFICIARY OF THE ORPHAN PROGRAM?

15 MR. MOSHENKO: LACKS FOUNDATION, YOUR HONOR.

16 MR. SHERMAN: IF HE KNOWS, HE KNOWS.

17 THE COURT: IF HE KNOWS, HE KNOWS.

18 YOU MAY ANSWER, IF YOU KNOW.

19 THE WITNESS: I BELIEVE MR. NOVELLI'S COMPANIES, IN
20 THE HISTORY OF THEIR TENURE, AFFILIATION WITH COAST TO
21 COAST, DID PARTICIPATE IN ORPHAN PROGRAMS ON OCCASION.

22 BY MR. SHERMAN: Q AND WHEN YOU SAY YOU BELIEVE
23 THEY PARTICIPATED, WHAT DO YOU MEAN BY "PARTICIPATED"?

24 MR. MOSHENKO: LACKS FOUNDATION, YOUR HONOR.

25 THE COURT: OVERRULED.

26 THE WITNESS: IN THE VERY SAME WAY I PARTICIPATED

1 AT THE REQUEST OF COAST TO COAST IN EL DORADO RANCH. AND I
2 KNOW THE RECORD WILL SHOW THAT.

3 BY MR. SHERMAN: Q I'D LIKE TO PUT UP ON THE
4 BOARD EXHIBIT 1563, ONE OF THE LETTERS THAT COAST SENT TO
5 ITS MEMBERS IN THE FALL OF 1997. AND JUST TO SORT OF SPEED
6 THIS ALONG, I DON'T HAVE THE ONE UP ON THE BOARD THAT IS
7 DIRECTED TO THE COAST MEMBERS WHO WERE MEMBERS OF
8 DELTA ISLE AND THE INVITATION TO COME DOWN TO YOUR RESORT,
9 HAVE THEIR COAST MEMBERSHIP TRANSFERRED DOWN TO YOUR
10 RESORT, MR. BUTLER.

11 BUT SINCE THIS LITIGATION HAS BEGUN, IN THE
12 COURSE OF THIS, YOU'VE HAD OCCASION TO SEE SOME OF THESE
13 COAST LETTERS?

14 A DURING MY DEPOSITION, YES.

15 MR. MOSHENKO: YOUR HONOR, OBJECTION. WHEN I
16 SOUGHT TO USE THE LETTER THAT HE HADN'T SEEN, UNTIL THE
17 DISCOVERY, IT WAS EXCLUDED. OBJECT. IT'S IRRELEVANT.
18 LACKS FOUNDATION OF THIS WITNESS. THE SAME RULING SHOULD
19 APPLY.

20 MR. SHERMAN: I'D LIKE AT LEAST TO GET MY QUESTION
21 OUT BEFORE THERE'S AN OBJECTION.

22 THE COURT: ASK YOUR QUESTION.

23 BY MR. SHERMAN: Q OKAY. MR. BUTLER, IF YOUR
24 COAST-AFFILIATED RESORT PULLED OUT OF COAST TO COAST TODAY,
25 DISAFFILIATED, WOULD YOU HAVE ANY EXPECTATIONS AS TO
26 WHETHER COAST WOULD SEND A LETTER LIKE THIS?

1 MR. MOSHENKO: OBJECTION. IT'S IRRELEVANT.

2 THE COURT: OVERRULED.

3 THE WITNESS: I EXPECT THEY WOULD. IT WOULD BE
4 NORMAL, DUE COURSE OF BUSINESS. IF I CREATED ORPHAN
5 MEMBERS, THEN THEY HAVE EVERY RIGHT UNDER MY SIGNED LICENSE
6 AGREEMENT TO DEAL WITH THE ORPHAN MEMBERS THE WAY THEY DEAL
7 WITH THEM.

8 BY MR. SHERMAN: Q NOW, THE NAME RAGATZ, IS THAT A
9 NAME YOU'RE FAMILIAR WITH?

10 A YES.

11 Q WHAT IS RAGATZ?

12 A DICK RAGATZ IS A -- HAS A DOCTORATE DEGREE
13 IN MARKETING AND MARKET STUDIES, AND HE IS A VERY
14 WELL-KNOWN PROFESSIONAL, A MAN OF ABOUT SIXTY- -- PROBABLY
15 TWO OR THREE YEARS OLD, WHO HAS BEEN DOING INDUSTRY STUDIES
16 AND THE HOSPITALITY INDUSTRY FOR 40 YEARS.

17 Q DID YOU, WHILE YOU WERE AT COAST, EVERY
18 COMMISSION A STUDY TO BE DONE?

19 A TWICE.

20 Q AND LET ME PLACE BEFORE YOU WHAT I BELIEVE
21 IS A CASE STUDY, EXHIBIT 828.

22 WHAT IS THAT DOCUMENT, MR. BUTLER?

23 A IT LOOKS TO BE A COPY OF A HARD-BOUND
24 DOCUMENT THAT WE -- WOULD HAVE BEEN ONE OF PROBABLY -- I
25 BELIEVE IN THE ORIGINAL DOCUMENT THERE -- THE ORIGINAL SET
26 OF DOCUMENTS THERE WERE FOUR INDIVIDUAL DOCUMENTS IN THAT

1 SERIES. AND SO IT APPEARS TO BE ONE -- THIS IS THE 1991
2 STUDY. SO I BELIEVE IT PROBABLY WAS THE SECOND STUDY WE
3 COMMISSIONED.

4 Q SECOND RAGATZ STUDY?

5 A YES.

6 MR. SHERMAN: OKAY. I'D LIKE TO MOVE EXHIBIT 828
7 INTO EVIDENCE.

8 MR. MOSHENKO: NO OBJECTION.

9 THE COURT: RECEIVED.

10 (WHEREUPON, EXHIBIT NO. 828, SECOND RAGATZ
11 STUDY, WAS RECEIVED IN EVIDENCE.).

12 BY MR. SHERMAN: Q NOW, AS THE PRESIDENT OF COAST,
13 WHAT DID YOU LEARN BY THIS RAGATZ SURVEY?

14 A WELL, THE INTENTION OF THE RAGATZ SURVEY IN
15 THE STUDY WAS BASICALLY TO UNDERSTAND THE MOTIVATION AND
16 THE BUYING CHARACTERISTICS OF THE CONSUMER THAT WE HAD AS A
17 MEMBERSHIP CAMPING CONSUMER, AND TO SHARE THAT INFORMATION
18 WITH OUR DEVELOPERS, AND THE DEVELOPERS THAT WERE LOOKING
19 AT THE BUSINESS'S ENTRY INTO THE INDUSTRY, AS A MEANS OF
20 GIVING THEM SOME BACKGROUND AND INFORMATION ON WHAT THE
21 BUSINESS WAS ALL ABOUT.

22 THE ONE -- PROBABLY THE MOST STARK THING
23 THAT COMES OUT OF THIS STUDY IS THE FACT THAT THE MAIN
24 MOTIVATION FOR THE PURCHASE OF A MEMBERSHIP CAMPING
25 INTEREST OR MEMBERSHIP IS THE RECIPROCAL USE SYSTEM OF
26 COAST TO COAST.

1 Q AND THOSE FINDINGS ARE SET FORTH IN THIS
2 STUDY?

3 A THEY ARE.

4 Q LET'S SEE IF WE CAN GO TO THE PAGES ON WHICH
5 THE FINDINGS ARE LOCATED.

6 2150 BATES. OKAY.

7 AND ARE YOU ON THAT SAME PAGE, 2150?

8 A NO. BUT I CAN GET THERE. FINE.

9 Q DOES -- DO THE SURVEY RESULTS ON THIS PAGE
10 SHOW THAT, THAT INFORMATION THAT YOU WERE JUST REFERENCING?

11 A YES. I MEAN, IF YOU'LL LOOK IN THE COLUMN
12 IN THE SECOND BROAD CAP THAT SAYS "CHANCE TO USE OTHER
13 AFFILIATED COAST TO COAST RESORTS FOR VACATIONS," 77.6
14 PERCENT OF THE PEOPLE SURVEYED IT WAS VERY IMPORTANT. IN
15 THE TYPE OF MEMBERSHIP UNDER A C.C.R. MEMBERSHIP, 77.9
16 PERCENT SAID IT WAS VERY IMPORTANT. UNDER THE C.C.C.
17 MEMBERSHIP, 77.30. OVERALL, 77.6 SAID IT WAS VERY
18 IMPORTANT.

19 Q AND SO IF YOU ADD TOGETHER THE VERY
20 IMPORTANTS AND THE SOMEWHAT IMPORTANTS, I GUESS YOU COME UP
21 TO ABOUT 95 PERCENT?

22 A I THINK IT'S MORE RELEVANT TO LOOK AT THE
23 NOT IMPORTANT, WHICH IS A .7 PERCENT, LESS THAN 1 PERCENT.

24 Q SO AS PRESIDENT OF COAST TO COAST IN THE
25 EARLY '90'S, TELL THE LADIES AND GENTLEMEN OF THE JURY WHAT
26 THE SIGNIFICANCE OF THESE FINDINGS WERE TO YOU.

1 A WELL, THE SIGNIFICANCE OF THE FINDINGS
2 WERE -- I MEAN, WE DIDN'T REALLY KNOW A WHOLE LOT ABOUT THE
3 DEMOGRAPHICS AND THE MAKEUP OF OUR OWNER BASE. SO WE
4 COMMISSIONED AN EXPERT IN THE FIELD OF DOING SURVEY WORK TO
5 GO OUT TO A RANDOM -- DO A LARGE RANDOM SAMPLE OF OUR
6 MEMBERS ACROSS THE COUNTRY TO HAVE THEM TELL US WHAT WAS
7 IMPORTANT AND SIGNIFICANT TO THEM WITH -- IN RELATIONSHIP
8 TO OUR PRODUCT AND OUR SERVICES.

9 AND SO THE IMPORTANCE WAS REALLY TO LEARN
10 MORE ABOUT THEIR CONSUMER HABITS AND WHAT WAS IMPORTANT TO
11 THEM AND THEN TO SHARE THAT INFORMATION WITH THE REST OF
12 THE AFFILIATED RESORTS.

13 Q AND WERE THERE OTHER FINDINGS IN THIS STUDY
14 THAT EITHER AMPLIFIED WHAT YOU JUST TESTIFIED TO OR
15 CORROBORATED IN SOME WAY?

16 A WELL, I BELIEVE THERE WOULD BE. I HAVE NOT
17 LOOKED AT THE STUDY IN 12 YEARS. I MEAN, IT'S THE FIRST
18 TIME I'VE SEEN IT. I MEAN, IF YOU CAN BE SPECIFIC WITH ME,
19 MR. SHERMAN, I'LL ANSWER THE QUESTION.

20 Q LET'S GO TO PAGE -- ON THE COMPUTER 28026,
21 AND WE'LL SEE WHAT THAT CORRESPONDS TO. THAT'S CCC 02157.

22 NOW, THIS -- THIS PAGE CONTAINS A SECTION ON
23 THE IMPORTANCE OF BENEFITS IN THE ORIGINAL PURCHASE
24 DECISION.

25 A CORRECT.

26 Q OKAY. AND AS PRESIDENT OF COAST TO COAST,

1 WHAT DID THIS TELL YOU?

2 A WELL, IT -- BASICALLY THE CAPTION HERE IS --
3 THE MAIN CAPTION IS IMPORTANCE OF BENEFITS IN ORIGINAL
4 PURCHASER'S DECISION, WHAT MOTIVATED THEM TO PURCHASE. AND
5 THE -- YOU KNOW, BY RANKING, THE RECIPROCAL USE NETWORK FOR
6 AFFILIATED RESORTS, THE USE OF THE AFFILIATED RESORTS WAS
7 OBVIOUSLY NUMBER ONE. SAVING MONEY ON VACATIONS WAS THE
8 SECOND MOST IMPORTANT THING TO THEM. SECURITY, WHICH IS
9 LACKING IN A LOT OF PUBLIC CAMPGROUNDS, AND WE DID HAVE IN
10 A NUMBER OF OUR RESORTS' PROPERTIES, WAS VERY IMPORTANT TO
11 THEM AND SO ON AND SO FORTH. CLEANLINESS, ASSURANCE OF A
12 CAMPGROUND SITE, AND THAT'S THE VERY SPIRIT AND NATURE OF
13 THE RECIPROCITY PRODUCT.

14 I SHOULD MAKE A QUICK POINT HERE, TOO.
15 BECAUSE WHEN YOU TALK ABOUT THE RELEVANCE OF THE ORPHAN
16 PROGRAM, THE ISSUE THERE IS THE PRESERVATION OF THE CONCEPT
17 OF RECIPROCITY. IF WE HAVE AN IMBALANCE IN THE SYSTEM
18 WHERE WE HAVE THIS -- DISAFFILIATED RESORTS THAT CONTINUE
19 TO HAVE THOUSANDS OF MEMBERS IN COAST TO COAST, THEY'RE NOT
20 RECIPROCATING BY PUTTING INVENTORY IN THE SYSTEM FOR THE
21 CONSUMPTION AND TAKE-DOWN OF NIGHTLY USE BY OTHER COAST TO
22 COAST MEMBERS. SO THAT WAS THE IMPORTANCE OF GETTING THOSE
23 ORPHAN MEMBERS REAFFILIATED SO THAT WE COULD KEEP A BALANCE
24 IN THE INVENTORY.

25 AND THIS IS AN IMPORTANT FACTOR TO THEM.
26 THEY WANT ASSURANCE THAT THEY HAVE A CAMPGROUND SITE OR A

1 RELATIVE LIKELIHOOD OF ASSURANCE THAT THEY HAVE A
2 CAMPGROUND SITE WHEN THEY'RE TRAVELING.

3 Q AS FAR AS THIS RANKING OF THE NINE POTENTIAL
4 MOTIVATIONS WITH COAST TO COAST USAGE COMING OUT ON TOP OF
5 ALL OF THESE DIFFERENT MOTIVATIONS, COULD A SKEPTIC OR A
6 CYNIC OR A PLAINTIFF LOOK AT YOU, MR. BUTLER, AND SAY,
7 "COME ON, YOU JUST WANTED TO GET INFORMATION BACK TO MAKE
8 YOU FEEL GOOD"?

9 A JUST WANTED TO GET INFORMATION FOR WHAT?

10 Q TO MAKE YOU FEEL GOOD. THAT'S WHY COAST
11 RANKS UP TOP THERE?

12 A IT'S RIDICULOUS. NO, THAT'S NOT WHY WE
13 COMMISSIONED THE STUDY. WE COMMISSIONED THE STUDY TO
14 GET -- REALLY TO GET INFORMATION SO WE KNEW HOW TO BETTER
15 DEAL WITH OUR CUSTOMER BASE. AND WE WANTED TO KNOW WHAT
16 WAS IMPORTANT TO THEM.

17 SO, NO. IT WAS SOMETHING WE TOOK VERY
18 SERIOUSLY. WE SPENT A LOT OF MONEY TO COMMISSION THIS
19 STUDY.

20 Q NOW, YOU'VE BEEN ASKED A LOT OF QUESTIONS
21 TODAY ABOUT RANCHO EL DORADO, CACHANILLA, AND POINTS SOUTH
22 OF THE BORDER. I WANT TO ASK YOU A FEW QUESTIONS ABOUT
23 YOUR RESORT AND PROPERTY AND DEVELOPMENT DOWN THERE,
24 MR. BUTLER.

25 WHY DON'T WE START, THOUGH, WITH THE ISSUE
26 OF WHEN YOU BECAME A COAST-AFFILIATED DEVELOPER.

1 I BELIEVE YOU WERE ASKED THAT QUESTION
2 EARLIER, AND I RECALL SOME UNCERTAINTY IN YOUR MIND.

3 DO YOU KNOW EXACTLY WHEN YOU BECAME A COAST
4 TO COAST AFFILIATE?

5 A NO. BUT WE SIGNED AN AFFILIATION AGREEMENT,
6 AND I'VE SEEN IT DURING DEPOSITIONS. SO WHATEVER THE DATE
7 IS IS THE DATE WE AFFILIATED.

8 Q LET ME SHOW YOU THAT DOCUMENT, EXHIBIT
9 1570 -- OH, WE DON'T HAVE THAT. WE HAVE THAT ON THE
10 SYSTEM, THOUGH.

11 IN ORDER TO SPEED THIS UP, I WILL REPRESENT
12 TO COUNSEL THAT THIS IS THE SAME DOCUMENT THAT
13 MR. BUTLER -- OH, IT'S THEIR EXHIBIT. EVEN BETTER. IT
14 COMES OUT OF THEIR EXHIBIT LIST. IN ORDER TO SPEED THIS
15 UP, IF WE CAN MOVE THAT --

16 THE COURT: WHAT'S THE EXHIBIT NUMBER?

17 MR. SHERMAN: 1570.

18 THE COURT: IT'S IN THE BOOKS.

19 BY MR. SHERMAN: Q WHY DON'T WE GO TO THE
20 SIGNATURE PAGE. IS THAT YOUR JOHN HANCOCK?

21 A THAT'S MY SIGNATURE, NOT MY SECRETARY'S.

22 Q OKAY. AND IT SHOWS FALL OF 1996; SEPTEMBER,
23 OCTOBER, 1996?

24 A YES.

25 Q AND IS THIS THE AFFILIATION AGREEMENT
26 WHEREBY YOUR PARK BECAME A COAST AFFILIATE?

1 A YES.

2 MR. SHERMAN: I'M GOING TO MOVE EXHIBIT 1570 INTO
3 EVIDENCE.

4 MR. MOSHENKO: NO OBJECTION.

5 THE COURT: IT WILL BE SO RECEIVED.

6 (WHEREUPON, EXHIBIT NO. 1570, AFFILIATION
7 AGREEMENT DATED SEPTEMBER, OCTOBER, 1996, WAS RECEIVED IN
8 EVIDENCE.).

9 BY MR. SHERMAN: Q NOW, MR. BUTLER, MAYBE YOU
10 COULD -- IF YOU'RE COMFORTABLE DOING IT, MAYBE YOU COULD
11 PUT UP ON THE BOARD A LITTLE DIAGRAM OF WHERE YOUR RESORT
12 SITS WITH THE SEA OF CORTEZ AND BAJA AND THE LIKE.

13 ARE YOU COMFORTABLE IN DOING THAT?

14 A YES, IF YOU'D LIKE.

15 Q AND, MR. BUTLER, WHY DON'T YOU MOVE THE
16 BLACKBOARD OUT JUST A TOUCH SO THE JURORS IN FRONT OF YOU
17 DON'T HAVE TO STRAIN.

18 A SO -- I'M NOT AN ARTIST, AND I HAVEN'T
19 REHEARSED THIS.

20 Q FIRST PUT THE SEA OF CORTEZ IN THERE AND THE
21 BAJA.

22 A OKAY. WELL, THE BAJA PENINSULA IS A
23 THOUSAND MILES LONG. BUT LET'S SAY THIS IS THE SEA OF
24 CORTEZ, AND THAT BASICALLY THIS WOULD BE SAN DIEGO. THIS
25 IS THE PACIFIC OCEAN ON THIS SIDE. THIS IS TIJUANA, WHICH
26 IS THE WEST COAST CROSSING, AND THIS IS MEXICALI, THE EAST

1 COAST CROSSING. WE'RE THE FIRST BEACH TOWN ON THE SEA OF
2 CORTEZ CALLED "SAN FELIPE." WITHIN THE TOWN OF SAN FELIPE,
3 MY PROPERTY, BASICALLY. THIS IS HIGHWAY 5 THAT RUNS FROM
4 MEXICALI AND FROM THE UNITED STATES INTO BAJA, CALIFORNIA,
5 AND RIGHT PAST OUR PROPERTY.

6 SO MY EL DORADO RANCH PROPERTY IS -- STARTS
7 ABOUT SEVEN MILES NORTH OF TOWN AND RUNS ABOUT 15 MILES
8 ALONG THE HIGHWAY HERE AND THEN IT CURVES BACK TO THE
9 MOUNTAIN RANGE, AND IT SURROUNDS THE CITY OF SAN FELIPE.
10 AND SO IF THIS WAS THE CITY OF SAN FELIPE, THE LITTLE
11 FISHING VILLAGE, OUR PLOT -- WHICH IS RATHER ENORMOUS.
12 IT'S 200,000 ACRES. BUT IT'S A LITTLE DECEIVING. IT'S A
13 LONG-TERM LEASE, PART OF WHICH WE'RE CONVERTING INTO
14 PRIVATIZATION RIGHT NOW, BUT IT'S AN ENORMOUS PIECE OF
15 PROPERTY. OBVIOUSLY IT'S NOT ALL DEVELOPED.

16 AND THEN WITH THIS BEING THE SEA OF CORTEZ,
17 ABOUT A MILE FROM WHERE MY RANCH PROPERTY IS ON THE
18 MOUNTAINSIDE OF THE HIGHWAY, ON THE EAST SIDE OF THE
19 HIGHWAY, I HAVE A MILE-LONG ROAD, A COUPLE HUNDRED ACRES,
20 WHICH IS CALLED THE BEACH AND TENNIS CLUB, SAN FELIPE BEACH
21 AND TENNIS CLUB. ON THE BEACH AND TENNIS CLUB I HAVE A
22 100-SITE R.V. PARK, WHICH HAS GOT FULL SERVICE. AND THAT
23 PROPERTY HAS GOT MORE OR LESS AN OLYMPIC SIZE POOL, A
24 JACUZZI, KIDS' POOL, PLAYGROUND, HORSEBACK RIDING, SHOWERS,
25 TWO BARS AND RESTAURANTS, ENTERTAINMENT. AND SO IT
26 BASICALLY BECOMES OUR SOCIAL CENTER FOR MY RANCH

1 RESIDENTS.

2 MY RANCH RESIDENTS LIVE -- AS I SAY, THIS IS
3 ABOUT -- ON THE HIGHWAY ABOUT A MILE DOWN THE ROAD.
4 THERE'S A ROAD THAT'S A STATE ROAD THAT RUNS ALL THE WAY
5 BACK TO THE MOUNTAIN RANGE, WHICH IS CALLED SALTITO ROAD.
6 AND ON THIS -- OFF OF THIS ROAD WE'VE GOT ABOUT NINE
7 DIFFERENT SUBDIVISIONS, SOME OF WHICH ARE HOMES ONLY ON
8 THIS SIDE OF THE ROAD. THEY'RE ALL SOLAR. ON THIS -- ON
9 THE NORTH SIDE OF THE ROAD THEY'RE ALL ELECTRIC,
10 BASICALLY. AND SO WE'VE GOT NUMEROUS SUBDIVISIONS.

11 THE FIRST ONE OF THOSE SUBDIVISIONS IS WHAT
12 WE REFERRED TO AS CACHANILLA R.V. PARK, AND THAT'S GOT
13 ABOUT, LIKE I SAID EARLIER, I THINK ABOUT 86 SITES IN IT.
14 AND IT'S GOT A CLUBHOUSE, A BATH HOUSE, SOME OTHER
15 FACILITIES LIKE LAUNDRY SERVICE AND BASICALLY --

16 Q WAIT, MR. BUTLER. LET ME STOP YOU THERE FOR
17 A MOMENT.

18 SO CACHANILLA IS WEST OF THE 5; IS THAT
19 RIGHT?

20 A RIGHT.

21 Q GOING INTO THE MOUNTAINS?

22 A RIGHT.

23 Q AND INTO YOUR SUBDIVISIONS?

24 A YES.

25 Q AND THEN YOU'VE GOT SAN FELIPE EAST OF THE
26 5, AND TURNED AROUND WITH THE SEA OF CORTEZ EAST IS GOING

1 TO THE OCEAN, THE WATER?

2 A THE BAY OR -- YES.

3 Q SO, THAT'S EAST OF THE 5, SAN FELIPE.

4 AND SAN FELIPE, THAT'S A GOOD NEIGHBOR PARK;

5 IS THAT RIGHT?

6 A SAN -- THE BEACH AND TENNIS CLUB PARK IS A

7 GOOD NEIGHBOR PARK, YES.

8 Q AND I REALIZE THAT THERE COULD BE SOME

9 POTENTIAL FOR AMBIGUITY HERE, BUT YOU WERE -- YOU KNOW, YOU

10 WERE TALKING ABOUT YOUR OLYMPIC-SIZE SWIMMING POOL AND ALL

11 THE AMENITIES AND RESTAURANTS AND THINGS LIKE THAT.

12 IS IT A NICE FACILITY, THE SAN FELIPE

13 FACILITY?

14 A IT'S A VERY HIGHLY RATED FACILITY BY THE

15 CAMPGROUND RATING INDUSTRY. AND, YES, IT'S HIGH, A VERY

16 GOOD FACILITY.

17 Q NOW, WHEN YOU GET R.V.'ERS COMING DOWN,

18 COAST TO COAST AFFILIATES, WHERE DO YOU PUT THEM; EAST OF

19 THE FREEWAY OR WEST OF THE FREEWAY?

20 A GENERALLY THEY WIND UP OVER ON THE BEACH

21 SIDE. BECAUSE IF WE CAN ACCOMMODATE THEM, WE HAVE SPACE

22 THERE. WITH THE COAST MEMBERS WE JUST -- WE PUT THEM ON

23 THE BEACH SIDE.

24 Q NOW, IS THERE -- IS THERE A REASON WHY YOU

25 WANT TO DO THAT?

26 A WELL, WE DO HAVE -- I MEAN, FIRST OF ALL,

1 IT'S MORE ACCESSIBLE FOR THEM TO BE RIGHT THERE WHERE ALL
2 THE AMENITIES ARE AT THE BEACH AND TENNIS CLUB. BUT
3 EQUALLY AS IMPORTANT, WE'RE INTO THE HOSPITALITY BUSINESS,
4 AND WE WANT PEOPLE TO HAVE A PLEASANT STAY WITH US AND A
5 GOOD EXPERIENCE. AND IF THEY DO, THEY'RE LIKELY TO BECOME
6 A LOT OWNER. AND WE HAVE SOME MIXED USE COMMUNITIES
7 THAT -- A LOT HOMES AND R.V.'S. AND SO, YOU KNOW,
8 POTENTIALLY THEY'RE CUSTOMERS, ALSO.

9 Q NOW, THIS STORAGE FACILITY THAT MR. MOSHENKO
10 WAS ASKING YOU QUESTIONS ABOUT, YOU WOULDN'T HAVE A STORAGE
11 FACILITY RIGHT ON THE BEACH WITH BEACH-FRONT ACCESS RIGHT
12 BY THE OLYMPIC POOL?

13 A THAT WOULD NOT BE THE HIGHEST AND BEST USE
14 OF THE LAND, NO.

15 Q I WOULDN'T THINK SO.

16 SO WHERE IS THE STORAGE FACILITY?

17 A THE STORAGE FACILITY IS ACTUALLY -- I MEAN,
18 IT'S CONTIGUOUS OR NEARBY AND BEHIND CACHANILLA. AND THE
19 REASON WE HAVE IT IS IN THE SUMMERTIME, A LOT OF PEOPLE
20 WILL LEAVE TO GO BACK STATE-SIDE FOR A COUPLE OF MONTHS AND
21 WON'T RETURN TILL THE FALL. THEY LEAVE IN THE HOT SEASON,
22 AND THE ONES THAT WANT TO LEAVE BOATS, CARS, R.V.'S AND
23 THAT TYPE OF THING BEHIND -- I MEAN, IT'S A SCREENED-OFF
24 FACILITY THAT HAS GOT SOME LANDSCAPING AROUND IT. SO, YOU
25 KNOW, YOU WOULD DO THAT SO IT'S NOT AN EYESORE.

26 Q AND THE 200,000 ACRES -- OF THE 200,000

1 ACRES THAT YOU'VE GOT -- I KNOW YOU'VE TESTIFIED EARLIER TO
2 THE AMOUNT OF SITES YOU'VE GOT DEVELOPED FOR SELLING HOMES,
3 BUILDING HOMES, LEASING LOTS, THINGS LIKE THAT. JUST FROM
4 AN ACREAGE STANDPOINT, OF THE 200,000 ACRES, HOW MANY ACRES
5 ARE DEVOTED TO YOUR -- TO THE R.V. ASPECT OF THIS?

6 A WELL, I CAN TELL YOU THAT THE FIRST PHASE OF
7 OUR DEVELOPMENT AND OUR MASTER PLAN IS ABOUT 40,000 ACRES.
8 I THINK IT'S 43,000. AND RIGHT NOW OF WHAT OCCUPIES IN THE
9 12 SUBDIVISIONS -- OR 11, 12 SUBDIVISIONS. I COUNT
10 CACHANILLA. THAT MAKES IT NUMBER 12. BUT WE PROBABLY
11 HAVE -- THE TOTAL R.V. COMPONENT OF THAT IS PROBABLY LESS
12 THAN 7, 8 PERCENT OF OUR TOTAL BUSINESS.

13 Q OKAY. I WANT TO ASK YOU SOME QUESTIONS ON
14 ANOTHER TOPIC NOW.

15 A SURE.

16 Q VERY NICE DIAGRAM.

17 MR. MOSHENKO: COULD I JUST SAY, DID YOU SAY 7, 8?

18 THE WITNESS: 7 TO 8.

19 BY MR. SHERMAN: Q I'D LIKE TO PUT UP ON THE BOARD
20 EXHIBIT 3, THE LETTER FROM PATRICIA KENNEDY TO
21 DENISE TUCCI. I BELIEVE IT'S ALREADY BEEN -- AGAIN,
22 THERE'S ANOTHER DEFENDANTS' COROLLARY.

23 AGAIN, IN ORDER TO SPEED THIS UP,

24 MR. MOSHENKO, YOU KNOW I'M REFERRING TO --

25 MR. MOSHENKO: I DO KNOW WHAT YOU'RE REFERRING TO.

26 MR. SHERMAN: CAN WE PUT THAT UP ON THE BOARD?

1 MR. MOSHENKO: YES, YOU MAY.

2 BY MR. SHERMAN: Q IF YOU COULD JUST ZOOM IN ON
3 THE LETTER PORTION ITSELF.

4 THE LETTER IS JANUARY, 1990, MR. BUTLER?

5 A YES.

6 Q THIS IS A LETTER ENCLOSING A PROPOSED
7 AGREEMENT FOR COAST TO SIGN. AND IF WE COULD GO TO THE
8 AGREEMENT, PROPOSED AGREEMENT -- AND I THINK IT'S EITHER
9 THE SECOND OR THIRD PAGE. YEAH. RIGHT THERE.

10 YOU'LL SEE, YOU KNOW, A LIST OF MEMBERS OF
11 COAST COMPILED BY COAST FROM SUCH APPLICATIONS, AND THEN
12 IT'S CROSSED OUT; DO YOU SEE THAT?

13 A YES.

14 Q OKAY. AND THEN GOING DOWN THE PAGE THERE'S
15 SOME INSERTION THERE. DO YOU SEE THAT INSERT, PROPOSED
16 INSERTION?

17 A I DO.

18 Q NOW, LET'S GO TO THE SPACE IN THIS DOCUMENT
19 FOR SIGNATURES. YOU'LL NOTICE THERE'S A SIGNATURE OF
20 RAYMOND G. NOVELLI. THE SPACE FOR CAMP COAST TO COAST IS
21 BLANK.

22 MY QUESTION TO YOU, MR. BUTLER, IS BEFORE
23 YOU WERE MADE A DEFENDANT IN THIS LITIGATION AND BECAME
24 AWARE OF ALL THESE ISSUES, HAD YOU EVER SEEN THIS DOCUMENT?

25 A NO. LET ME ASK YOU TO GO BACK -- GO AHEAD.

26 NO. I WAS GOING TO ASK YOU TO ROLL BACK TO THE HIGHLIGHTED

1 SECTIONS OF THE DOCUMENT.

2 Q LET'S GO BACK TO THE HIGHLIGHTED SECTIONS.

3 I'M DOING IT ON MY TIME.

4 A WELL, I AM DOING IT ON YOUR TIME.

5 MR. MOSHENKO: OBJECTION. THERE'S NO QUESTION

6 PENDING. THE WITNESS IS VOLUNTEERING TESTIMONY.

7 THE COURT: SUSTAINED.

8 THE WITNESS: NORMALLY --

9 MR. MOSHENKO: OBJECTION.

10 THE WITNESS: EXCUSE ME.

11 BY MR. SHERMAN: Q I GET TO ASK THE QUESTIONS.

12 WOULD YOU HAVE AGREED TO THIS?

13 A NO, WE WOULDN'T HAVE AGREED TO THAT. AND

14 WHAT I WAS GOING TO SAY, NORMALLY WHEN YOU HAVE A CHANGE IN

15 A CONTRACTUAL ARRANGEMENT LIKE THAT --

16 MR. MOSHENKO: OBJECTION. NONRESPONSIVE TO THE

17 QUESTION. HE IS VOLUNTEERING.

18 THE COURT: SUSTAINED.

19 THE WITNESS: -- THE TWO PARTIES WOULD INITIAL --

20 THE COURT: YOU'VE ANSWERED THE QUESTION.

21 BY MR. SHERMAN: Q NOW, THERE ARE BEEN SOME --

22 THERE WERE SOME QUESTIONS ASKED OF YOU ABOUT AMERICAN

23 ADVENTURE, MR. BUTLER, AND LET ME ASK YOU THIS ABOUT

24 AMERICAN ADVENTURE.

25 WAS AMERICAN ADVENTURE A COAST TO COAST

26 AFFILIATED DEVELOPER?

1 A YES.

2 Q DID AMERICAN ADVENTURE FILE A BANKRUPTCY
3 CASE?

4 A YES, THEY DID.

5 Q WHEN AMERICAN ADVENTURE FILED A BANKRUPTCY
6 CASE, DID AMERICAN ADVENTURE AT THAT TIME OR AT ANY POINT
7 THEREAFTER SEEK TO DISAFFILIATE, RUN ITS MEMBERS, ITSELF
8 OUT OF COAST TO COAST?

9 A NO, THEY DID NOT.

10 Q DID YOU EVER PERCEIVE THE AMERICAN ADVENTURE
11 SITUATION TO BE AN ORPHAN SITUATION?

12 A NO.

13 Q NOW, THERE WAS SOME QUESTIONS ASKED OF
14 YOU -- I'M TURNING TO ANOTHER SUBJECT NOW, ON THE
15 SUPPRESSION OF MAILINGS.

16 A YES.

17 Q ON ANCILLARY PRODUCT SALES. I BELIEVE YOU
18 USED THAT PHRASE EARLIER. THAT'S --

19 A CORRECT.

20 Q -- SELLING SPORTSWEAR?

21 A VALUE-ADDED SERVICES.

22 Q VALUE-ADDED SERVICES. THAT WAS THE PHRASE I
23 WAS LOOKING FOR.

24 DID YOU DISCUSS THAT ISSUE WITH MR. NOVELLI?

25 A AS I TESTIFIED EARLIER, MR. NOVELLI ASKED US
26 AT ONE POINT IN TIME, TO MY RECOLLECTION, TO NOT MAIL HIS

1 MEMBER-AFFILIATED MEMBER BASE THE OFFERS FOR ANCILLARY
2 PRODUCTS AND SERVICES, WHICH WE AGREED TO DO THROUGH THE
3 SUPPRESSION OF HIS LIST WHEN WE WOULD DO A COMPUTER RUN TO
4 OFFER ANY KIND OF A MAILING OF THAT TYPE.

5 Q AND WHEN MR. NOVELLI ASKED YOU TO SUPPRESS
6 THOSE MAILINGS FOR THE VALUE-ADDED OR ANCILLARY PRODUCTS,
7 DID MR. NOVELLI SAY TO YOU THAT A FURTHER REASON FOR THE
8 SUPPRESSION WAS -- HAD ANYTHING TO DO WITH THE SO-CALLED
9 CONFIDENTIALITY OF HIS LIST OF MEMBERS?

10 A NO. HIS INTENT, TO MY MEMORY, WAS THAT HE
11 HAD INTEREST IN TRYING TO CREATE HIS OWN ANCILLARY SERVICES
12 AND TO BASICALLY DUPLICATE THE TYPE OF SERVICES WE WERE
13 PROVIDING TO OUR MEMBERS AND FIND SIMILAR PRODUCTS OR
14 DIFFERENT PRODUCTS -- I DON'T KNOW WHAT HE HAD IN MIND --
15 TO HIS OWN MEMBER BASE. BUT HE DID NOT WANT US TO OFFER
16 THE ANCILLARY SERVICES FOR THAT REASON.

17 Q MR. BUTLER, WHEN YOU WERE PRESIDENT OF CAMP
18 COAST TO COAST, WHO RAN CAMP COAST TO COAST?

19 A I DID.

20 Q DID AFFINITY GROUP, INC., RUN CAMP COAST TO
21 COAST?

22 A NOT AT ALL.

23 Q WHAT ABOUT TRAILER LIFE?

24 A THERE WERE TWO SEPARATE COMPANIES. I DIDN'T
25 RUN TRAIL LIFE. THEY DIDN'T RUN COAST TO COAST. WE RAN
26 OUR OWN OPERATIONS. AS I MENTIONED EARLIER, WE HAD A

1 COMMON BOARD OF MANAGEMENT THAT WE ALL MET WITH
2 OCCASIONALLY.

3 Q NOW, DID STEVE ADAMS RUN CAMP COAST TO COAST?

4 A NO -- NO.

5 Q BEFORE YOU STARTED WITH CAMP COAST TO COAST
6 IN THE MID-'80'S, WHAT WERE YOU -- WHAT KIND OF FIELD WERE
7 YOU IN?

8 A BASICALLY I'VE BEEN IN THE HOSPITALITY
9 BUSINESS. PRIOR TO MY JOINING COAST TO COAST, I OWNED A
10 THREE-STATE CHAIN OF FRENCH BAKERY CAFES CALLED AU BON
11 PAIN. THIS WAS A FRANCHISE OPERATION.

12 AND PRIOR TO THAT I HAD SPENT EIGHT YEARS
13 WITH MARRIOTT CORPORATION IN AN EXECUTIVE CAPACITY.

14 Q YOU CONSIDER YOURSELF TO BE STEEPED IN THE
15 HOSPITALITY INDUSTRY?

16 A REASONABLY SO, YES. THAT'S WHERE MY CAREER
17 AND BACKGROUND IS, YES.

18 Q UP THROUGH THE PRESENT?

19 A YES.

20 Q AND HOW IMPORTANT IS YOUR GOOD NAME TO YOU?

21 A IT'S VERY IMPORTANT. I CONDUCT BUSINESS ON
22 MY NAME. AND NOT ONLY CONDUCT BUSINESS, BUT I DEAL WITH MY
23 RESIDENTS AND MY CONSUMERS ON A REGULAR BASIS. I EAT
24 DINNER IN THEIR HOMES. THEY EAT WITH ME. SO MY NAME IS
25 VERY IMPORTANT TO ME.

26 Q HOW HAS THIS LAWSUIT IMPACTED UPON YOUR GOOD

1 NAME?

2 A WELL, I MEAN, IT DOESN'T DO MY GOOD NAME ANY
3 GOOD. FRANKLY, I WAS ON A TELEPHONE CALL BEFORE COURT
4 STARTED THIS MORNING WITH A BUSINESS DEALING THAT I HAVE
5 TALKING WITH SOMEBODY --

6 MR. SHAW: OBJECT. HEARSAY.

7 THE WITNESS: -- TALKING WITH SOMEBODY IN NEW YORK
8 WHO SAID TO ME --

9 MR. SHAW: OBJECTION. HEARSAY.

10 THE WITNESS: -- "WHAT ARE YOU DOING IN
11 CALIFORNIA?"

12 THE COURT: SUSTAINED.

13 YOU PUT THE TIME RESTRICTION ON YOURSELF.

14 MR. SHERMAN: I HAVE ONE MINUTE.

15 THE COURT: NOT BY MY WATCH.

16 BY MR. SHERMAN: Q MR. BUTLER, HOW MANY COMPANIES
17 HAVE YOU PUT INTO BANKRUPTCY?

18 A NONE.

19 Q HOW MANY COMPANIES HAVE YOU PULLED OUT OF
20 BANKRUPTCY?

21 A I'VE DONE TWO WORKOUTS FOR TWO FEDERAL COURT
22 TRUSTEES.

23 MR. SHERMAN: I HAVE NO FURTHER QUESTIONS.

24 THE COURT: THANK YOU.

25 MR. MOSHENKO: I'LL TRY TO BE VERY PROMPT, YOUR
26 HONOR.

1 REDIRECT EXAMINATION

2 BY MR. MOSHENKO: Q MR. BUTLER, ON THIS
3 EXAMINATION THAT YOU JUST WENT THROUGH ON AMERICAN
4 ADVENTURES, AMERICAN ADVENTURES AFTER YOU ACQUIRED IT AND
5 BEGAN TO MANAGE IT WENT INTO A CHAPTER 7, DIDN'T IT?

6 A NO, IT DID NOT.

7 Q IT DID END UP LIQUIDATING AND SELLING ITS
8 RESORTS, DIDN'T IT?

9 MR. SHERMAN: OBJECTION. RELEVANCY FOR THE REASONS
10 EXPRESSED INSIDE THIS MORNING.

11 THE COURT: SUSTAINED.

12 BY MR. MOSHENKO: Q DID COAST EVER DISAFFILIATE
13 AMERICAN ADVENTURES FROM THE COAST TO COAST SYSTEM?

14 MR. SHERMAN: THE SAME OBJECTIONS.

15 THE COURT: SUSTAINED.

16 BY MR. MOSHENKO: Q YOU TESTIFIED THAT COAST
17 NEVER CONSIDERED THE AMERICAN ADVENTURE MEMBERS TO BE
18 ORPHANS.

19 ISN'T THAT BECAUSE THOSE RESORTS WERE NEVER
20 DISAFFILIATED?

21 A NO. IT WAS BECAUSE THE RESORTS WERE NEVER
22 DISAFFILIATED, AND THE MEMBERS WANTED COAST TO COAST
23 BENEFITS. THEY WERE PART OF THE REORGANIZATION PLAN. THEY
24 HAD A MEMBER COMMITTEE. THEY HAD A BOARD. THEY HAD
25 REPRESENTATION BY SEPARATE BANKRUPTCY COUNSEL.

26 Q WHILE YOU WERE PRESIDENT OF COAST TO COAST,

1 DID COAST EVER DISAFFILIATE -- SEND A LETTER TO A RESORT
2 OWNER AND SAY, "YOU ARE HEREBY OUT OF THE COAST TO COAST
3 SYSTEM"?

4 MR. SHERMAN: OBJECTION. IT GOES BEYOND THE SCOPE
5 OF MY EXAMINATION.

6 THE COURT: SUSTAINED.

7 BY MR. MOSHENKO: Q REFERRING TO THE PAT KENNEDY
8 LETTER THAT WAS UP ON THE SCREEN AND THE CONTRACT THAT HAD
9 THE -- HAD ON IT -- THAT YOU WANTED TO BRING BACK, THE
10 YELLOW HIGHLIGHTING, DO YOU RECALL THAT?

11 MR. SHERMAN: OBJECTION. IT'S NOT A CONTRACT.
12 MISSTATES THE DOCUMENT.

13 MR. MOSHENKO: IT IS A CONTRACT.

14 MR. SHERMAN: IT'S NOT SIGNED.

15 MR. MOSHENKO: IT'S A FORM OF A DOCUMENT CALLED
16 "CONTRACT." IT SAYS IT RIGHT ON IT.

17 MR. SHERMAN: I AGREE, IT IS A FORM OF A CONTRACT,
18 UNSIGNED.

19 THE COURT: THANK YOU.

20 BY MR. MOSHENKO: Q REFERRING TO THAT DOCUMENT, DO
21 YOU KNOW WHICH ONE I'M TALKING ABOUT?

22 A YES.

23 Q YOU TELL US YOU HAVE NEVER SEEN THAT?

24 A I'VE SEEN A CONTRACT SIMILAR -- THAT
25 PARTICULAR CONTRACT?

26 Q YES.

1 A I'VE ONLY SEEN THAT IN MY DEPOSITION.

2 Q YOU SIT HERE TODAY IN THE YEAR 2000 AND TELL
3 US THAT YOU CAN RECALL BACK IN 1990 THAT THAT DOCUMENT
4 NEVER CROSSED YOUR DESK?

5 A MR. MOSHENKO, 1990 WAS NINE YEARS AGO, AND I
6 DID THIS UNDER SWORN TESTIMONY WITH YOU THREE TIMES NOW.
7 THIS WILL BE THE FOURTH. THAT THAT DOCUMENT HAS -- AND MY
8 ANSWERS HAVE BEEN CONSISTENT WITH YOU -- THAT I DO NOT
9 REMEMBER SEEING THAT DOCUMENT NINE YEARS AGO, NO.

10 Q BUT I SHOWED YOU SEVERAL OTHER DOCUMENTS IN
11 1992 AND 1994 AND ASKED YOU IF YOU SAW THEM; YOU WERE
12 UNABLE TO TELL US FROM YOUR RECALL IF YOU SAW THEM; ISN'T
13 THAT TRUE?

14 A THAT'S -- YOU KNOW, I LOOKED AT THE STUFF
15 THAT YOU PRESENTED ME, AND SOME STUFF I HAD VAGUE
16 FAMILIARITY WITH, AND OTHER STUFF I HAD NO FAMILIARITY OR
17 VAGUE RECOLLECTION.

18 Q I SHOWED YOU THE DIAMOND LETTER. WAS THERE
19 SOMETHING THAT SEGREGATED THE DIAMOND -- YOU COULDN'T
20 RECALL HAVING SEEN IT?

21 A I DON'T RECALL HAVING SEEN THE DIAMOND
22 LETTER, NO.

23 Q BUT YOU DO RECALL YOU NEVER SAW THE KENNEDY
24 LETTER?

25 MR. SHERMAN: OBJECTION. IT'S NOW BEEN ASKED AND
26 ANSWERED TWICE.

1 THE COURT: SUSTAINED.

2 BY MR. MOSHENKO: Q WHEN YOU LEARNED THAT
3 MR. NOVELLI HAD COMMUNICATED TO COAST TO COAST THAT HE WAS
4 DISAFFILIATING HIS RESORTS, YOU CALLED COAST TO COAST AND
5 ASKED THEM TO SEND MEMBERS TO YOU, DIDN'T YOU?

6 MR. SHERMAN: OBJECTION. IT GOES BEYOND THE SCOPE
7 OF THE EXAMINATION.

8 THE COURT: SUSTAINED.

9 MR. MOSHENKO: REQUEST TO REOPEN FOR THAT ONE
10 QUESTION, YOUR HONOR. THAT HE -- WE HAVE TESTIMONY THAT HE
11 CALLED AND ASKED FOR MEMBERS, AND I NEED IT AS A FOUNDATION
12 TO BRING IN ANOTHER WITNESS TO TALK ABOUT IT.

13 MR. SHERMAN: YOUR HONOR, THERE'S NO BASIS FOR
14 THIS. THERE'S NO BASIS.

15 MR. MOSHENKO: I CAN SHOW IT IN THE DEPOSITION.

16 THE COURT: I'LL STAND BY MY HOLDING.

17 BY MR. MOSHENKO: Q REGARDING THE RAGATZ STUDIES,
18 THE SO-CALLED REASONS FOR PURCHASING, ISN'T IT TRUE THAT
19 THE ONLY PERSONS THAT WERE INTERVIEWED FOR THE PURPOSE OF
20 THE RAGATZ STUDY WERE PERSONS WHO PURCHASED COAST TO COAST
21 MEMBERSHIPS?

22 A WE TOOK A RANDOM SAMPLE OF THE LARGE COAST
23 TO COAST MEMBERSHIP BASE, AND THOSE WERE OUR CONSUMERS.
24 AND WE WANTED TO LEARN MORE ABOUT THEIR CHARACTERISTICS.
25 AND YES, THAT'S WHO WE DID SPECIFICALLY, INTENTIONALLY PUT
26 INTO THAT STUDY, YES.

1 Q YOU ASKED NOBODY OTHER THAN PEOPLE THAT
2 ALREADY HAD COAST TO COAST; RIGHT?

3 A I WASN'T MY DECISION, MR. MOSHENKO. THIS IS
4 MR. RAGATZ WHO HAS DONE THIS FOR 40 YEARS. SO IT HAS
5 NOTHING TO DO WITH ME.

6 MR. MOSHENKO: OBJECTION. NONRESPONSIVE, YOUR
7 HONOR.

8 THE COURT: OVERRULED.

9 BY MR. MOSHENKO: Q DID YOU ASK ANYBODY OTHER THAN
10 PEOPLE WHO HAD COAST TO COAST TO BE INCLUDED IN THE SURVEY;
11 YES OR NO?

12 A I DIDN'T -- NO. I DIDN'T ASK ANYBODY
13 ANYTHING. MR. RAGATZ ASKED EVERYBODY EVERYTHING.

14 Q DID YOU INSTRUCT MR. RAGATZ TO INCLUDE
15 ANYBODY OTHER THAN COAST TO COAST MEMBERS IN THE SURVEY;
16 YES OR NO?

17 A IT'S NOT MY FIELD OF EXPERTISE, AND I DID
18 NOT.

19 Q AND SO IT'S SORT OF LIKE GOING TO A
20 MC DONALD'S RESTAURANT AND ASKING THE PEOPLE WHO EAT THERE,
21 "DO YOU LIKE MC DONALD'S FOOD"?

22 MR. SHERMAN: OBJECTION. ARGUMENTATIVE.

23 THE COURT: SUSTAINED.

24 MR. SHERMAN: IT'S NOT RELEVANT EITHER.

25 BY MR. MOSHENKO: Q YOU HAVE NEVER SPOKEN TO
26 RAYMOND NOVELLI ABOUT THE ORPHAN PROGRAM, HAVE YOU?

1 A I DON'T RECALL THAT I HAVE OR HAVEN'T.

2 MR. MOSHENKO: I HAVE NO QUESTIONS.

3 EXCEPT I ASK ONE -- TO REOPEN FOR THAT ONE
4 QUESTION. AND I'VE SAVED 20 MINUTES. IT WON'T TAKE UNDUE
5 TIME.

6 THE COURT: NO.

7 MR. MOSHENKO: THAT'S ALL, YOUR HONOR. THANK YOU.

8 MR. SHERMAN: I THINK MR. BUTLER CAN BE EXCUSED.

9 THE COURT: YOU'RE EXCUSED, MR. BUTLER.

10 THE WITNESS: THANK YOU, YOUR HONOR.

11 THE COURT: NO MORE WITNESSES.

12 MR. SHAW: OUR NEXT WITNESS WOULD BE MR. MALPASS,
13 AND WE EXCUSED HIM TILL TOMORROW MORNING.

14 THE COURT: OKAY. SEE YOU AT 9:00 TOMORROW
15 MORNING.

16 (WHEREUPON THE COURT WAS IN RECESS UNTIL
17 THURSDAY, JUNE 15, 2000, 9:00 A.M.)

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