

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)

NP/ke

B E T W E E N:

BRUNO-MANSER-FONDS, Association for the  
Peoples of the Rainforest and  
MUTANG URUD

Applicants

- and -

ROYAL BANK OF CANADA, TORONTO-DOMINION  
BANK, MANULIFE FINANCIAL CORPORATION  
AND DELOITTE & TOUCHE

Respondents

- - - - -

This is the Cross-Examination of LUKAS STRAUMANN on his  
Affidavits sworn the 27th day of June, 2017 and the 21st  
day of August, 2017, taken at the offices of WEIRFOULDS,  
Suite 4100, TD Bank Tower, 66 Wellington Street, Toronto,  
Ontario, on the 9th day of January, 2018.

- - - - -

APPEARANCES:

LINCOLN CAYLOR	)	-- for the Applicants
MAUREEN WARD	)	
NINA BUTZ	)	
(Articling Student)		
MARIE-ANDREE VERMETTE	)	-- for Jamilah Taib
ANASTASIJA SUMAKOVA	)	Murray, Sean Murray,
DUNCAN FRASER	)	Sakto Development
		Corporation, Sakto
		Corporation, City Gate
		International
		Corporation, Urban Sky
		Investments Ltd.,
		Urban Sky Europe Ltd.,
		1041229 Ontario Inc.,
		1575 Carling Limited,
		Hawkhurst Island
		Holding Ltd., Adelaide
		Ottawa Corporation,
		Preston Building
		Holding Corporation,
		Tower One Holding
		Corporation, Tower Two
		Holding Corporation,
		Waterford Property
		Group Ltd., Prime
		Median Holdings Inc.,
		Ridgeford Properties
		Limited, Ridgeford
		Developments Limited,
		Wallysons Inc. and
		Sitehost Pty Limited
JUNIOR SIRIVAR		-- for the Respondents,
		Royal Bank of Canada
		and Toronto-Dominion
		Bank
STACEY DANIS		-- for the Respondent,
		Manulife Insurance
JED BLACKBURN	)	-- for the Respondent,
CONRAD LEE	)	Deloitte & Touche
(articling student)		
ALSO PRESENT:		
Bruce Bailey		
Mutang Urud		

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1 -- upon convening at 10:00 a.m.

2 -- upon commencing at 10:02 a.m.

3 LUKAS STRAUMANN, affirmed

4 CROSS-EXAMINATION BY MS. VERMETTE:

5 1. Q. Good morning, Mr. Straumann.

6 A. Good morning. Sorry.

7 2. Q. Thank you. Mr. Straumann, my name  
8 is Marie-Andree Vermette and I represent a number of  
9 individuals and corporations, and I won't go through  
10 the list, but they are in the documents that we  
11 served in this proceeding.

12 So, Mr. Straumann, you are the executive  
13 director of the Bruno-Manser-Fonds?

14 A. Correct.

15 3. Q. And that is one of the applicants in  
16 this case?

17 A. Yes.

18 4. Q. And if that is fine with you I will  
19 refer to the Bruno-Manser-Fonds throughout as "BMF".  
20 It is just shorter.

21 A. Fine.

22 5. Q. So, you are a Swiss citizen?

23 A. Yes.

24 6. Q. You were born in Switzerland?

25 A. Yes.

1 7. Q. Grew up in Switzerland?

2 A. Yes.

3 8. Q. And you went to university in both  
4 Switzerland and Spain?

5 A. Yes.

6 9. Q. You obtained a Master's degree in  
7 history?

8 A. Yes.

9 10. Q. And a Ph.D in history?

10 A. Yes.

11 11. Q. From Zurich University?

12 A. Yes.

13 12. Q. And that was in 2005?

14 A. As far as I remember, yes.

15 13. Q. So you are a historian by training?

16 A. Correct.

17 14. Q. And the year before you got your  
18 Ph.D. you became executive director of BMF?

19 A. I became...yes, in 2004. June,  
20 2004.

21 15. Q. And that is the position that you  
22 still hold today?

23 A. Yes.

24 16. Q. And as the executive director of BMF  
25 you swore two affidavits in this proceeding?

1 A. Yes.

2 17. Q. And the first one, which is at tab B  
3 of volume 1 of your motion record, was sworn on June  
4 27th, 2017. If you look on page 13, the date...page  
5 13. No, 13, the big numbers in the right-hand  
6 corner.

7 A. Correct.

8 18. Q. And that affidavit has 140 exhibits?  
9 If you look, volume 7...

10 A. Yes, I presume. Yes, 140.

11 19. Q. And it is included in seven volumes?

12 A. Yes.

13 20. Q. And your second affidavit is a  
14 supplementary affidavit, and it was sworn on August  
15 the 21st, 2017.

16 A. Correct.

17 21. Q. And this one has only one exhibit.

18 A. Correct.

19 22. Q. And you are here today, Mr.  
20 Straumann, pursuant to a Notice of Examination that  
21 we served on December 18, 2017?

22 A. Yes.

23 23. Q. And I gave you a copy of the Notice  
24 of Examination.

25 A. Yes.

1           24.                   MS. VERMETTE:        So, we will mark it as  
2                                   the first exhibit.

3

4           ---   EXHIBIT NO. 1:       Notice of Examination of Lukas  
5                                   Straumann

6

7           BY MS. VERMETTE:

8           25.                   Q.           And, Mr. Straumann, if you look on  
9                                   the second page of this document, the list of all  
10                                  the parties that we represent are listed at the  
11                                  bottom of the page. Do you see that?

12                                 A.           I do see it, yes.

13           26.                   MS. VERMETTE:        So, I understand,  
14                                  Counsel, that Mr. Straumann is not being  
15                                  tendered as an expert in this case?

16                                 MR. CAYLOR:        Correct.

17

18           BY MS. VERMETTE:

19           27.                   Q.           And I take it, Mr. Straumann, that  
20                                  you have never been qualified in court as an expert,  
21                                  in the past?

22                                 A.           No.

23           28.                   Q.           You have never been qualified as an  
24                                  expert in corruption?

25                                 A.           No.

1           29.                   Q.           You have never been qualified as an  
2                                    expert in money laundering?

3                                   A.           No.

4           30.                   Q.           Okay. Mr. Straumann, we are going  
5                                    to give you a copy of the Notice of Application in  
6                                    this case. And that Notice of Application was  
7                                    issued on December the 20th, 2017? It is on the  
8                                    second page.

9                                   A.           Correct.

10          31.                   MS. VERMETTE:        So, we will mark that as  
11                                    the second exhibit.

12

13          ---   EXHIBIT NO. 2:        Notice of Application

14

15          BY MS. VERMETTE:

16          32.                   Q.           So, in the Notice of Application  
17                                    that we just gave to you, Mr. Straumann, could you  
18                                    please go to paragraph 1, which is on page 4? And  
19                                    in that paragraph you request a number of things,  
20                                    and starting on the fifth line you request:

21                                   "...Financial, customer and other  
22                                    information with respect to transactions,  
23                                    loans and mortgages, which information  
24                                    relates to Abdul Taib Mahmud, Jamilah Taib  
25                                    Murray, Sean Murray, Onn Bin Mahmud and any



1 corporations owned or controlled by these  
2 individuals, collectively the 'Taib  
3 entities'..."

4 A. Correct.

5 33. Q. So, that is what you request?

6 A. Yes.

7 34. Q. And, can I have the endorsement? I  
8 am going to give you a copy of the Endorsement of  
9 Justice Myers in this case, dated August 22, 2017.

10 MR. CAYLOR: August 21st.

11 35. MS. VERMETTE: No, the...

12 MR. CAYLOR: Oh, I...

13 36. MS. VERMETTE: ...it was heard August  
14 21st, the date of the...

15 THE DEPONENT: Yes, correct.

16 37. MS. VERMETTE: ...decision is August  
17 22nd.

18 THE DEPONENT: Correct.

19

20 BY MS. VERMETTE:

21 38. Q. And you are familiar with this  
22 decision?

23 A. I am sorry?

24 39. Q. You are familiar with this decision?

25 A. I am familiar, yes.

1 40. MS. VERMETTE: So, we will mark it as  
2 the next exhibit.  
3

4 --- EXHIBIT NO. 3: Endorsement of Justice Myers, dated  
5 August 22, 2017  
6

7 BY MS. VERMETTE:

8 41. Q. And if you go to the second page of  
9 that decision, please?

10 A. M'hmm.

11 42. Q. Okay, so the...at the very first  
12 line on this page, on page 2, Justice Myers says:

13 "...The plaintiffs claim that some or all  
14 of Mr. Taib, his family members and their  
15 corporations, whom they define as 'The  
16 Sakto Group', have committed crimes in  
17 Canada relating to the possession and  
18 laundering of funds here that were  
19 illegally obtained by Mr. Taib abroad..."

20 And Mr. Taib is Abdul Mahmud Taib. Is that how you  
21 understand the reference here?

22 A. Correct.

23 43. Q. Yes. And so...

24 A. And his family members.

25 44. Q. Yes, but...

1                   A.           This is how the court has...how the  
2                   judge has summarized this.

3           45.                   Q.           Yes, I just make this clarification  
4                   because earlier in the paragraph the judge does  
5                   refer to Mr. Abdul Mahmud Taib, and then later on he  
6                   just says "Mr. Taib", and because I just read the  
7                   end of the paragraph, just wanted to clarify that  
8                   Mr. Taib...

9                   A.           Is the same person.

10           46.                   Q.           ...is Abdul Mahmud Taib. Okay.

11                   A.           Correct.

12           47.                   Q.           So, here in this paragraph Mr.  
13                   Justice Myers refers to the defined term "Sakto  
14                   Group", and in your Notice of Application that we  
15                   just looked at, we have the defined term "Taib  
16                   Entities".

17                   A.           Correct.

18           48.                   Q.           So, are these two defined terms  
19                   referring to the same list of people, or  
20                   incorporations, or are there differences between  
21                   these two defined terms?

22                   MR. CAYLOR:        I don't think the witness  
23                   can comment on what Justice Myers meant.  
24                   But...

25           49.                   MS. VERMETTE:       No, Justice Myers says,

1 "Whom they define as the Sakto Group, the  
2 plaintiffs". Second line on page 2.

3 MR. CAYLOR: You want this witness'  
4 evidence as to whether Justice Myers is  
5 referring, when he says "Sakto Group", it  
6 is the same defined term in the Notice of  
7 Application?

8 50. MS. VERMETTE: Justice Myers says that  
9 the plaintiffs, who you represent, defined  
10 as Sakto Group, the people who have  
11 committed crimes in Canada, and I am just  
12 asking, are we talking about the same  
13 things, when you earlier referred to the  
14 Sakto Group before Justice Myers, and now  
15 the Notice of Application you refer to "The  
16 Taib Entities".

17 MR. CAYLOR: And, I am sorry, what is  
18 the question then?

19 51. MS. VERMETTE: The question is, are the  
20 Sakto Group, as you defined it before  
21 Justice Myers, and the Taib Entities as you  
22 defined it in the Notice of Application,  
23 the same thing, or are there differences  
24 between those two defined terms?

25 MR. CAYLOR: I think there was a

1 difference that came between the Statement  
2 of Claim that would have been before  
3 Justice Myers and the Notice of Application  
4 that wasn't, if I have got that correct.  
5 Is that right?

6 52. MS. VERMETTE: So, can we...so, we were  
7 obviously not before Justice Myers. We  
8 don't know how you defined the Sakto Group,  
9 so can I ask you maybe to check and get  
10 back to us on that?

11 MR. CAYLOR: We will check it, and  
12 either...it is either in our factum or it  
13 is set out in the affidavit, but we will  
14 confirm with you the way it was presented  
15 to him, Justice Myers. U/T

16 53. MS. VERMETTE: So, what I want to know  
17 is whether the Sakto Group, as it was  
18 presented to Justice Myers, is the same as  
19 the Taib Entities in paragraph 1 of the  
20 Notice of Application.

21 MR. CAYLOR: We will let you know. U/T

22 54. MS. VERMETTE: Thank you.

23

24 BY MS. VERMETTE:

25 55. Q. So, going back, Mr. Straumann, to

1 the Notice of Application, paragraph 1, the  
2 definition of Taib Entities, as you will see in the  
3 first paragraph, includes Abdul Taib Mahmud and  
4 also, among others, Onn Bin Mahmud. Do you see  
5 that?

6 A. Yes.

7 56. Q. And you know, Mr. Straumann, that  
8 WeirFoulds does not represent these two individuals?

9 A. Yes.

10 57. Q. Okay, and now if I can ask you to go  
11 to the decision of Justice Myers that we marked as  
12 an exhibit, I think as Exhibit 4.

13 MS. SUMAKOVA: Exhibit 3.

14 58. MS. VERMETTE: Exhibit 3, sorry.

15

16 BY MS. VERMETTE:

17 59. Q. And if you could please go to  
18 paragraph 36 on the last page? So, in that  
19 paragraph Justice Myers orders that:

20 "...The motion be adjourned pending service  
21 of the application record on the defendants  
22 and the Sakto Group, as defined by the  
23 plaintiffs..."

24 That is the first sentence in the paragraph.

25 A. Correct.

1           60.                   Q.           And so my question is has the  
2                                   application record been served on Onn Bin Mahmud?

3                                   MR. CAYLOR:           Yes.

4           61.                   MS. VERMETTE:        And in what country did  
5                                   you serve it?

6                                   MS. WARD:            Malaysia.

7           62.                   MS. VERMETTE:        Have you served the  
8                                   application record on Abdul Taib Mahmud?

9                                   MR. CAYLOR:           Yes.

10          63.                   MS. VERMETTE:        In Malaysia as well?

11                                  MR. CAYLOR:           Yes.

12          64.                   MS. VERMETTE:        And do you have any  
13                                  information as to whether the record has  
14                                  come to the notice of these two  
15                                  individuals?

16                                  MR. CAYLOR:        My understanding is that we  
17                                  have an Affidavit of Service and attempted  
18                                  service and ultimate service, but we will  
19                                  let you know.

U/T

20          65.                   MS. VERMETTE:        Thank you.  Okay, so also  
21                                  for...given it is shorter, if that is fine  
22                                  I will refer to Abdul Taib Mahmud just as  
23                                  "Taib" going forward, okay?

24                                  THE DEPONENT:        Fine.

25

1 BY MS. VERMETTE:

2 66. Q. Okay, Mr. Straumann, as we have seen  
3 from the decision of Justice Myers, BMF first sought  
4 to obtain a Norwich Order in this proceeding,  
5 exparte, before Justice Myers on...

6 A. Yes.

7 67. Q. ...in August, 2017?

8 A. Correct.

9 68. Q. And you were made aware that when a  
10 party makes a motion exparte or without notice, that  
11 party is required to make full and fair disclosure  
12 of all material facts?

13 A. Correct.

14 69. Q. And that is referred to in your  
15 affidavit?

16 A. Yes.

17 70. Q. And so I take it your affidavit...I  
18 take it your affidavit...in your supplementary  
19 affidavit were your best attempt at making full and  
20 fair disclosure of all material facts?

21 A. Yes.

22 71. Q. And BMF hasn't filed any additional  
23 evidence after the hearing before Justice Myers in  
24 August?

25 MR. CAYLOR: That is correct.



1 BY MS. VERMETTE:

2 72. Q. And in this proceeding, and in your  
3 affidavit, Mr. Straumann, you make very serious  
4 allegations of wrongdoing.

5 A. Yes.

6 73. Q. And you make, among other things,  
7 allegations of corruption in Malaysia?

8 A. Yes.

9 74. Q. And allegations of money laundering  
10 in Canada?

11 A. Yes.

12 75. Q. And you will agree with me, Mr.  
13 Straumann, that when you make serious allegations  
14 like this due diligence is required?

15 A. Correct.

16 76. Q. And it is required because  
17 allegations of wrongdoing can have serious  
18 consequences for the people who are the subject of  
19 those allegations?

20 A. Yes.

21 77. Q. So, it is important to take steps to  
22 ensure that all statements are correct and accurate?

23 A. Correct. I agree.

24 78. Q. Okay, Mr. Straumann, I want to talk  
25 to you now about Mr. Ross Boyert.

1 A. Good.

2 79. Q. So, Mr. Boyert...well, Mr. Boyert is  
3 no longer with us right now.

4 A. Yes.

5 80. Q. That is correct?

6 A. Yes.

7 81. Q. But he was a former employee of two  
8 U.S. corporations Sakti Corporation and Wallyson's  
9 Inc.?

10 A. Correct.

11 82. Q. And he committed suicide in October,  
12 2010?

13 A. Yes.

14 83. Q. And you talked about Mr. Boyert in a  
15 number of places in your affidavits, and we will get  
16 to that, but first if you could please go to volume  
17 3 in the motion record, tab 37?

18 MR. CAYLOR: 37?

19 84. MS. VERMETTE: 37, yes.

20

21 BY MS. VERMETTE:

22 85. Q. And if you go to page 127, and I am  
23 using the big page numbers at the top.

24 A. M'hmm.

25 86. Q. So you see that this document...

1 MS. WARD: Page 927?

2 87. MS. VERMETTE: Page 927, yes.

3 MS. WARD: Thank you.

4

5 BY MS. VERMETTE:

6 88. Q. And so you see that this is a  
7 complaint for damages that Mr. Boyert filed in the  
8 Superior Court of the State of California?

9 A. Yes.

10 89. Q. And that is a complaint against  
11 Sakti International Corporation Inc. and Wallyson's  
12 Inc.?

13 A. Yes.

14 90. Q. And some does.

15 A. Okay.

16 91. Q. I will refer to Sakti International  
17 Corporation as just "Sakti", and Wallyson's Inc. as  
18 just "Wallyson's".

19 A. Yes.

20 92. Q. Okay, and if you go to page 924, a  
21 few pages before, just to confirm the filing date of  
22 this document. The document that was filed in court  
23 on February 6th, 2007?

24 A. Yes.

25 93. Q. And Mr. Boyert gave you a copy of

1           this document when you met with him?

2                           A.       No.

3       94.                Q.       No?  So, how did you get this  
4       document?

5                           A.       These documents are online, and I  
6       received them from the internet from the San  
7       Francisco Superior Courts, online, from online court  
8       records.

9       95.                Q.       Did you receive this document before  
10      you met with Mr. Boyert?

11                          A.       I don't know.  I can't...I have no  
12      recollection if I obtained these documents before or  
13      after.

14      96.                Q.       Were you aware of this lawsuit  
15      before you met with Mr. Boyert?

16                          A.       Yes.

17      97.                Q.       And do you remember...so, I take it  
18      you read this document before this proceeding was  
19      commenced?

20                          A.       Before this proceeding here...

21      98.                Q.       In Ontario, yes.

22                          A.       Correct.

23      99.                Q.       Yes.  And the general nature...there  
24      are various allegations in the document, but the  
25      general nature of the claim is a claim for wrongful

1 dismissal?

2 A. Yes.

3 100. Q. And if you could please go to page  
4 929?

5 A. Yes.

6 101. Q. We see in paragraph 12 that Mr.  
7 Boyert says in this document that he was hired in  
8 December, 1994.

9 A. Yes.

10 102. Q. And if you go to paragraph 27 on  
11 page 934...

12 A. Yes.

13 103. Q. ...you see that Mr. Boyert says that  
14 he was terminated in January, 2007?

15 A. Yes.

16 104. Q. And going back to paragraph 19 on  
17 page 932. So, having read this document before you  
18 know that Mr. Boyert also claimed that he had an  
19 unwritten agreement under which was entitled to  
20 one-half the value of the net proceeds of the future  
21 sale of the two buildings owned by Sakti and  
22 Wallyson's? If you want to read it...

23 A. I am not sure if I understood you  
24 right now. I mean, you are referring to what is  
25 being stated in paragraph 19?

1 105. Q. Yes, and if you look at the end, at  
2 line 19 on the page.

3 A. M'hmm.

4 106. Q. So, it says:  
5 "...As incentive for Boyert to remain an  
6 employee of both Sakti and Wallyson's,  
7 Rahman..."

8 And Rahman is the son of Taib?

9 A. Correct.

10 107. Q. It continues:  
11 "...Rahman offered Boyert the  
12 responsibility to manage all aspects of  
13 both operations..."

14 And then skipping a few words:

15 "...with additional compensation in the  
16 form of (a) commission fees..."

17 But what I was referring to in my question is (b):

18 "...One-half the value of the net proceeds  
19 of any future sale of 260 California..."

20 Which I understand is a building owned by Sakti. Is  
21 that your understanding as well?

22 A. Yes. Formerly owned by Sakti

23 108. Q. And continuing on paragraph 19:  
24 "...And one-half the value of the net  
25 proceeds of any future sale of the Third

1 Avenue building..."

2 A. Yes.

3 109. Q. And that is the building in Seattle?

4 A. Correct.

5 110. Q. And my understanding is that it is  
6 owned by Wallyson's?

7 A. Correct.

8 111. Q. So, Mr. Boyert was alleging the  
9 right to receive those...an agreement under which he  
10 would have the right to receive those proceeds?

11 A. Yes, as laid out here.

12 112. Q. Yes, and is your understanding that  
13 this alleged agreement was oral, not written?

14 A. I have not seen any document  
15 that...I have not seen any...among the documents  
16 that Boyert gave us that we also provided you, I  
17 have not seen any such an agreement.

18 113. Q. So, Mr. Straumann, this document,  
19 this complaint filed in Court by Mr. Boyert does not  
20 mention Taib anywhere in it.

21 A. Could you repeat the question again,  
22 please?

23 114. Q. This document, the complaint that  
24 Mr. Boyert filed in court, it does not refer to  
25 Abdul Taib Mahmud anywhere in it.





1 company, and Rodin Mass is a shareholder of  
2 Wallyson's. We have not been able to ascertain this  
3 statement. We have not found any information on  
4 Rodin Mass.

5 So, I would say the allegations put forward  
6 by Ross Boyert, they are connected to allegations of  
7 money laundering. I don't see anything of  
8 corruption, but I see a money laundering element  
9 implicitly being mentioned here.

10 118. Q. So you are saying, Mr. Straumann,  
11 that because Mr. Boyert says that hold companies  
12 owned shares, this is an allegation of money  
13 laundering?

14 A. No. I think it is normal that  
15 companies can be owned by other companies.

16 119. Q. That is right.

17 A. But, I mean, this court case, and  
18 now...actually, now that we are talking about this,  
19 I remember having...I can now confirm that I have  
20 seen this document before I met with Boyert, because  
21 what struck me about Mr. Boyert's allegation was,  
22 first of all, that he mentioned the Taib family  
23 members as being the shareholders and the directors  
24 of Sakti, and that was new information which we  
25 didn't have at the time, because until then

1 basically that had been disputed.

2 So first we know that Sakti is a Taib  
3 family entity, being owned and controlled by  
4 brothers, siblings and children of Taib Mahmud. And  
5 the link between the siblings and the children, it  
6 is Taib himself. He is not in the documents. He is  
7 in one document as the shareholder for whom shares  
8 are being held in trust.

9 120. Q. We will get to that, but my  
10 question...

11 A. Okay.

12 121. Q. ...Mr. Straumann was, in this  
13 document there is no allegation of corruption or  
14 money laundering.

15 A. In this document there is no  
16 allegation of corruption or money laundering, but  
17 this document has helped us, as part of the  
18 circumstantial evidence, to reconstruct what we  
19 think is a complex web of offshore structures and  
20 money laundering structures.

21 122. Q. But you mentioned the paragraph  
22 about Sogo Holdings.

23 A. Correct.

24 123. Q. And Rodin Mass.

25 A. Correct.

1 124. Q. And I believe in your affidavit you  
2 do note that these allegations were denied in  
3 Sakti's defence?

4 A. Correct.

5 125. Q. So you actually have no evidence  
6 that Sogo Holdings is, in fact, a shareholder of  
7 Sakti Holdings?

8 A. Correct. However, we know that  
9 there was correspondence in 1996 and 1997 between  
10 Sakti and Sogo Holdings, and BT trustees, Bankers  
11 Trust formerly, now Deutsche Bank, if Sakti should  
12 become...if Sakti shares should be transferred to  
13 Sogo Holdings in Jersey. We don't know if that was  
14 ever executed, but there has been correspondence  
15 already in 1996 and 1997.

16 126. Q. The correspondence...

17 A. I believe...

18 127. Q. The correspondence.

19 A. ...two faxes.

20 128. Q. And it is in the record?

21 A. It is in the record.

22 129. Q. And as you said you don't know  
23 whether the transaction actually happened?

24 A. Correct.

25 130. Q. Okay, so I want to take you now to

1 three references in the complaints, and that is in  
2 relation to Mr. Boyert's allegation in this action  
3 that no money was infused in either Sakto or  
4 Wallyson's. Do you remember reading that in the  
5 complaint?

6 MR. CAYLOR: I am sorry, I closed the  
7 brief.

8 131. MS. VERMETTE: So, we are tab number  
9 3...

10 THE DEPONENT: Which complaint are you  
11 referring to?

12 MR. CAYLOR: Sorry...

13 132. MS. VERMETTE: I am talking about this  
14 document.

15 THE DEPONENT: Yes, yes.  
16

17 BY MS. VERMETTE:

18 133. Q. So, let me take you to the  
19 references. So, if you could please go to paragraph  
20 17 on page 930.

21 A. Okay.

22 134. Q. So, starting at line 20 on that  
23 page. At the end of that line it says:

24 "...Between September..."

25 Do you see that?

1 A. Between September?

2 135. Q. Yes.

3 A. Yes.

4 136. Q. So, it reads:

5 "...Between September, 1995 and December,  
6 1997, Boyert was able to obtain five  
7 separate loans for 260 California, to keep  
8 the construction and leasing activity  
9 going, despite Sakti informing Boyert that  
10 no additional equity capital or investment  
11 funds would be provided, either for the  
12 renovation or to acquire new properties..."

13 A. Correct.

14 137. Q. Okay, and so the next paragraph on  
15 the next page, paragraph 18, and if you look at line  
16 16...

17 A. M'hmm.

18 138. Q. ...it says:

19 "...At this time Boyert, because Wallyson's  
20 would not invest money of its own, secured  
21 100 percent construction financing without  
22 equity capital..."

23 Do you see that?

24 A. Yes.

25 139. Q. And then last reference, next page,

1 paragraph 19, line 16...well, let's start at the  
2 beginning of the paragraph:

3 "...With 260 California and the Third  
4 Avenue building both in financial straits  
5 for the reasons above described, Boyert and  
6 Rahman met in April, 1999 to discuss the  
7 manner in which to address them. Rahman  
8 repeatedly told Boyert there was no cash to  
9 be infused into either Sakti or Wallyson's.  
10 Bankruptcy was not an option and suggested  
11 borrowing from Boylston..."

12 A. Boylston, yes.

13 140. Q. So, as I said, Mr. Boyert alleges in  
14 this action that there was no money being infused in  
15 Sakti and Wallyson's.

16 A. Between December, 1994 and February,  
17 2007, correct, as I understand.

18 141. Q. And all the documents we get from  
19 this...

20 A. Oh, sorry, between September, 1994,  
21 yes.

22 142. Q. And with all the documents that you  
23 got from Mr. Boyert, did you see any infusion of  
24 capital in Sakti or Wallyson's?

25 A. Not after 1990...December 1994. But

1 the initial shareholding capital, and the initial  
2 amount of money that was used to purchase real  
3 estate worth several thousand million U.S. dollars,  
4 it must have come from somewhere, and part of it  
5 came from Mr. Taib's son.

6 143. Q. So you, of course, have no evidence  
7 of what you are saying right now, because Mr. Boyert  
8 was not an employee of Sakti at that time.

9 A. Correct.

10 144. Q. So there is no document supporting  
11 what you are saying.

12 A. Well, I am a bit surprised that  
13 now...I will have to check back on that with you. I  
14 mean, because as you are aware it is 2,000 pages of  
15 documents we got from Boyert. And I think there  
16 are...if we go through these documents, which you  
17 have a copy of, I think there are shareholder loans  
18 from...there are loans coming in from Taib family  
19 members...

20 145. Q. There are no loans coming from Taib  
21 family members.

22 A. I would dispute that.

23 146. Q. ...respecting Wallyson's.

24 A. I think this is a question we could  
25 still clarify, but...

1 147. Q. Well, Mr. Straumann...

2 A. Not between December, 1994  
3 and...Wallyson's, I know that the firm Wallyson's  
4 got loans from Taib family members, from Jamilah  
5 Taib's brother.

6 148. Q. And documents showing that are not  
7 in your motion record?

8 A. They are among the documents we  
9 supplied you in response to your request to inspect  
10 documents.

11 149. Q. Well, those documents are not in the  
12 record. Mr. Boyert provided you with numerous  
13 documents, correct?

14 MR. CAYLOR: And just so the witness  
15 understands your point, which I agree with,  
16 is that the record is the...when counsel  
17 refers to the record she is talking about  
18 the motion record we filed before Justice  
19 Myers.

20 THE DEPONENT: Yes, not among these  
21 ones, correct.

22 MR. CAYLOR: And the point she is making  
23 is that the records you are now referring  
24 to were supplied after that.

25 THE DEPONENT: Correct.



1 150. MS. VERMETTE: Okay.

2

3 BY MS. VERMETTE:

4 151. Q. So, Mr. Boyert, as you mentioned,  
5 Mr. Straumann, provided you with numerous documents.

6 A. Correct.

7 152. Q. And that was in June, 2010?

8 A. In June, 2010 I received from him  
9 maybe 100 pages, and more documents were provided  
10 later on.

11 153. Q. Okay. And among those numerous  
12 documents you have only attached a few to your  
13 affidavit.

14 A. Correct.

15 154. Q. And there is this document about the  
16 shares that we will come back to and there are the  
17 pleadings in the litigation, and the letter to Taib,  
18 but there is nothing else.

19 A. Well, we filed the court action in  
20 Ontario, so we submitted all the documents that we  
21 felt would be relevant for a court action in  
22 Ontario. So because of the jurisdiction being in  
23 Ontario, that is what we filed. But, of course, all  
24 these documents, you requested to see these  
25 documents and we provided you these documents.

1 155. Q. That is right.

2 A. We are not sure...I mean, the  
3 question is...okay.

4 156. Q. But presumably you have included in  
5 your affidavit in this Ontario proceeding the  
6 documents that you thought supported your position  
7 the most.

8 A. We submitted those documents that  
9 made a connection between the United States, Sakti,  
10 and Sakto in Canada.

11 157. Q. Mr. Boyert, aside from his exchanges  
12 with Sean Murray, had no documents about Sakto and  
13 its operations.

14 A. Not that I know of, or that I  
15 recollect now, but, I mean, the documents he gave  
16 us, like, the letters that Mr. Murray had written to  
17 him. But I don't think he had any separate  
18 documents on Sakto, correct.

19 158. Q. And so if there was a document in  
20 those that Mr. Boyert provided that showed  
21 corruption, kickbacks and money laundering, I  
22 presume you would have attached that to your  
23 affidavit?

24 A. We only...I don't think...I mean, we  
25 attached all the documents that connected Sakto to

1           Sakti, and that connected Sakti back to the Taib  
2           family.

3           159.           Q.           So you...

4                    A.           But we could not...I mean, we...it  
5           is a very extensive...it is a very big body of  
6           documents and it requires...if you want to go  
7           through them in detail it requires months, or years.  
8           So, we took those documents that we thought  
9           supported the case, correct.

10          160.           Q.           Okay.

11                    A.           But we did not withhold any document  
12          we linked to Sakto that...I mean, in terms of full  
13          and frank disclosure that would not have...that  
14          would have said anything else.  If...am I correct?  
15          Am I clear?  Sorry.

16          161.           Q.           I understand.

17                    A.           I understand you are implying that  
18          we withheld some documents.

19          162.           Q.           I am not implying that you are  
20          withholding documents.  I am saying that if there  
21          were good documents you attached to them to your  
22          affidavit.

23                    A.           There are more documents which we  
24          could not attach because this is an Ontario case.  
25          It is not a U.S. case.  If we went to court in the

1 U.S. we would have attached them, like the loans  
2 from Jamilah's brother to Wallyson's. We did not  
3 attach them.

4 163. Q. Well, I have...again, I haven't seen  
5 these documents. I am not here to give evidence,  
6 but those documents are not in the record, and I am  
7 not sure what restrictions you are referring to  
8 about not filing documents in Ontario. Maybe your  
9 counsel can throw light on that because I don't  
10 understand what restrictions there would be.

11 MR. CAYLOR: I don't think I understand  
12 the witness to be referring to  
13 restrictions. It is just the focus on the  
14 case in Ontario is not Sakti, it is Sakto.

15 164. MS. VERMETTE: That is right.

16 MR. CAYLOR: Yes.

17

18 BY MS. VERMETTE:

19 165. Q. Okay, so Mr...going back to what we  
20 were discussing earlier, that Mr. Boyert alleges  
21 that no cash was being infused in the time period  
22 referred to in the pleading in Sakti and Wallyson's.  
23 And he refers throughout the pleading, and I can  
24 give you examples but you may remember. He refers  
25 throughout the pleadings to various loans that he

1           obtained from various financial institutions...

2                   A.       Correct.

3   166.           Q.       ...for the two companies.

4                   A.       Yes.

5   167.           Q.       Yes. Okay. If you could please go  
6           back to your affidavit at tab B, volume 1. And go  
7           to page 44, please. Okay, paragraph 75. You say in  
8           the last sentence:

9                   "...As noted previously, Boyert was a  
10           whistleblower who worked closely for Taib  
11           in setting up his ventures in the United  
12           States, primarily in California, and who  
13           worked on transferring wealth to the United  
14           States on behalf of, and in trust for  
15           Taib..."

16           Well, we just saw that Mr. Boyert said that there  
17           was no money coming to the United States, so, Mr.  
18           Straumann, I am putting to you that there is no  
19           evidence in the record showing that Mr. Boyert  
20           worked on transferring the wealth to the United  
21           States.

22                   A.       Yes. It should say...it should read  
23           "worked on generating wealth in the United States".

24   168.           Q.       Okay. Thank you. And you are  
25           aware, Mr. Straumann, that Mr...in response to Mr.

1 Boyert's complaint, Sakti and Wallyson's brought a  
2 cross-complaint against Mr. Boyert?

3 A. Correct.

4 169. Q. But this is not mentioned anywhere  
5 in your affidavit.

6 A. The cross-complaint is among the  
7 exhibits. It is on record. We have provided it.

8 170. Q. But we will go look at that in just  
9 one second, but do you agree with me that you do not  
10 say anywhere in the body of your affidavit that  
11 Sakti and Wallyson's brought a cross-complaint  
12 against Mr. Boyert?

13 A. Actually, in section 78 we say:  
14 "...As a result of his dismissal Boyert  
15 filed a suit with the Superior Court of  
16 California against Taib family..."

17 Included in the statement was a detailed description  
18 of the properties owned by Taib and so on. And  
19 Exhibit 37...and then you go to Exhibit 37 and the  
20 whole...

21 171. Q. Exhibit 37 is Mr. Boyert's complaint  
22 only.

23 A. It is Mr. Boyert's complaint only.

24 I...

25 172. Q. So, the document...

1                   A.       In my understanding, the response  
2                   also had been there, but I may be wrong.

3   173.               Q.       Okay. So, but we will get to that.  
4                   My question was not whether the document is an  
5                   exhibit, because we will go there. My question is,  
6                   is in the text of your affidavit, do you say  
7                   anywhere that there was a cross-complaint?

8                   A.       No. Not that I am aware of.

9   174.               Q.       Okay. So, I am going to ask you to  
10                   turn two documents at the same time, because we will  
11                   compare them. The first one is volume 5 of your  
12                   motion record, and that is what I think you had in  
13                   mind, volume 5, tab 81. Tab 81.

14                   So, the first document starting at page  
15                   1720 is, again, Mr. Boyert's complaint. Do you see  
16                   that?

17                   A.       Yes.

18   175.               Q.       And then if you go to page 1741 we  
19                   have the verified answer of defendant Sakti  
20                   International Corporation and Wallyson's Inc. to  
21                   verify the complaint for damages, and then  
22                   ":cross-complaint". Do you see that?

23                   A.       Correct. Yes.

24   176.               Q.       And on page 1740 it says that this  
25                   was filed on May 10th, 2007.

1 A. Yes.

2 177. Q. Okay. So, keep this open please,  
3 and then can you please take our responding motion  
4 record. Your blue book. It is just there, Mr.  
5 Straumann.

6 MR. CAYLOR: I guess, Counsel, you put  
7 to my friend...or, my witness, that the  
8 body of the affidavit doesn't refer to what  
9 you just took him to, but you might take  
10 the witness to paragraph 132, to be fair to  
11 him, as it is not a memory test, of course.  
12 Where it say, "In reply, the Taib  
13 Family..."

14 THE DEPONENT: Correct.

15 MR. CAYLOR: "...denied the allegation,  
16 and (falsely) claimed that it had no  
17 knowledge or information about Sogo".

18 178. MS. VERMETTE: That is all in the  
19 defence. In the cross-complaint Mr. Boyert  
20 is accused of misappropriation of funds and  
21 self-dealings and all of that, as we will  
22 see. And so this is not mentioned in the  
23 affidavit. The accusation...the  
24 allegations against Mr. Boyert.

25



1 BY MS. VERMETTE:

2 179. Q. Okay, so if you could keep,  
3 please...

4 A. Sure.

5 180. Q. ...this open at 1741, and then go to  
6 our blue responding motion record, tab C. So, this  
7 is also the verified answer of Sakti International  
8 and Wallyson's in the cross-complaint. Do you see  
9 that?

10 A. Yes.

11 181. Q. Okay, so in this document, if you  
12 can go, please, to page 19...

13 A. I am sorry...

14 182. Q. Sorry, 35.

15 A. I am sorry, but page 16 in the blue  
16 document...

17 183. Q. Yes.

18 A. ...does not have the same stamp as  
19 the page 1741, which says "filed on May 10th, 2007".  
20 Is there a reason why this stamp is missing?

21 184. Q. So we...as mentioned in the  
22 affidavits in our record, this document comes from  
23 the response to the request to inspect. So, we got  
24 this document from the document you provided to us.  
25 And that is paragraph 4 of the affidavit of Kimberly

1 Campbell, which is...so, it is the only thing I can  
2 say.

3 My understanding is that the documents are  
4 identical.

5 A. Okay.

6 185. Q. If you...you know, if you find any  
7 identical...except I am going to point that out, but  
8 if you have any different information, please let me  
9 know.

10 So, if you could please go to page 19 of  
11 the document.

12 A. Yes.

13 186. Q. Oh, sorry, I meant page 35, using  
14 the numbers at the top.

15 A. Okay.

16 187. Q. And that is page 19 of the defence.  
17 You see that?

18 A. Yes.

19 188. Q. So, in...yes, you are seeing the  
20 problem now.

21 A. Okay, I see the problem.

22 189. Q. So, okay, in our responding motion  
23 record you will see there is a page 19, and that is  
24 the end of the defence portion of the document, you  
25 see?

1 A. Yes.

2 190. Q. And then you turn the page and that  
3 is when the cross-complaint starts, you see?

4 A. Right, yes.

5 191. Q. And the cross-complaint part is not  
6 included in your motion record.

7 A. Yes. Let me see...yes, that is  
8 correct.

9 192. Q. But then...

10 A. However...

11 193. Q. ...you include the answer...

12 A. However, it becomes clear from the  
13 numbering of pages that the document is not  
14 finished, and it becomes clear from the title that  
15 there is a cross-complaint, but it is not part...it  
16 is not in the record. Correct.

17 194. Q. It is not in the record, and we  
18 don't know from your affidavit either what the  
19 cross-complaint was about.

20 A. Yes, but your clients would know,  
21 because they filed the cross-complaint.

22 195. Q. My client was not before Justice  
23 Myers. Okay. And we will come back to the  
24 cross-complaint, but if you go to page 1762 in your  
25 record, you have the verified answer of Ross Boyert

1 to Sakti International Corporation and Wallyson's  
2 Inc.'s cross-complaint. So, we have the answer  
3 there?

4 A. Yes.

5 196. Q. Okay. And again, Mr. Straumann,  
6 this document, this answer of Mr. Boyert does not  
7 mention Taib.

8 A. No.

9 197. Q. And if you look on page 1763...

10 A. Yes.

11 198. Q. ...paragraph 14, Mr. Boyert says  
12 that his direct supervisor was Rahman, and that he  
13 was subject to Rahman's direction in all matters in  
14 connection with the corporation. Do you see that?

15 A. Yes.

16 199. Q. And also this answer, this document  
17 does not contain any allegation of corruption or  
18 money laundering.

19 A. No.

20 200. Q. Okay. So, I want now to go back to  
21 the cross-complaint in our blue record, starting on  
22 page 36.

23 A. Okay.

24 201. Q. So, even though it is not in your  
25 record you did read the cross-complaint before the

1 litigation in Ontario was commenced?

2 A. Yes.

3 202. Q. And so you were aware of the  
4 allegations of Sakti and Wallyson's that Mr. Boyert  
5 abused his position of trust and engaged in acts of  
6 self-dealing?

7 A. Yes.

8 203. Q. If you could please go to page 38?  
9 So paragraph 15 at the bottom, it says:

10 "...Over the year Boyert abused his  
11 position of trust and confidence, and  
12 engaged multiple acts of self-dealing  
13 without the knowledge or approval of the  
14 president or board of directors of Sakti  
15 and Wallyson's respectively. The full  
16 extent of this pattern of self-dealing is  
17 not presently known but includes the  
18 following..."

19 And you have read this list before that follows from  
20 A to M?

21 A. I...yes. I presume I have read it,  
22 yes.

23 204. Q. And you see that the first few  
24 paragraphs talk about Mr. Boyert having improperly  
25 caused himself to be paid additional compensation?

1 A. Yes.

2 205. Q. And if you go to page 40, paragraph  
3 I, there is an allegation that:

4 "...Mr. Boyert improperly caused Sakti to  
5 pay the lease on a luxury car for his  
6 personal use, paid for auto insurance,  
7 repair work, gas purchases and car  
8 washes..."

9 Do you see that?

10 A. Yes.

11 206. Q. And in J there is an allegation  
12 about having:

13 "...Sakti paying for trips to Las Vegas for  
14 Mr. Boyert and his wife..."

15 A. Correct.

16 207. Q. And the expenses included:

17 "...lodging, dining, spa treatments and  
18 shows..."

19 A. Yes.

20 208. Q. And in paragraph K the other  
21 allegation is that:

22 "...Mr. Boyert caused Sakti to pay for work  
23 at his home..."

24 A. Yes.

25 209. Q. And in L the allegation is that he:

1                    "...caused Sakto pay thousands of dollars  
2                    in medical expenses..."

3                    A.            Yes.

4            210.            Q.            And again, you don't mention any of  
5                    that in your affidavit.

6                    A.            No. Well, I understand that this  
7                    has not been tested. I mean, there has not been a  
8                    court decision, so it is an allegation.

9            211.            Q.            Same for Mr. Boyert.

10                    A.            We could also say this allegation is  
11                    showing there was a serious lack of governance and  
12                    compliance within Sakti, and we could summarize it  
13                    in this way, but I am not denying that it is not  
14                    being in the record here, because this record is  
15                    about Sakto, not about Sakti. The case is about  
16                    Sakto. So, that may be...we could also talk about  
17                    the Safe Haven report.

18            212.            Q.            Well, this is my  
19                    cross-examination...

20                    A.            Sorry.

21            213.            Q.            ...Mr. Straumann. And you do rely  
22                    heavily on Mr. Boyert in many cases in your  
23                    affidavit. Correct?

24                    A.            We rely on documents provided by Mr.  
25                    Boyert, yes.

1       214.           Q.       You also rely on statements made by  
2       Mr. Boyert that are not supported by any documents.

3                   A.       Yes.

4       215.           Q.       And so Mr. Boyert's alleged  
5       fraudulent behaviour is certainly relevant to his  
6       credibility?

7                   A.       Sorry, that was a question or a  
8       statement?

9       216.           Q.       That was a question.

10                  A.       If it is relevant...yes, it is  
11       relevant. I mean, can you please repeat this  
12       question exactly for me?

13       217.           Q.       You said that the alleged fraudulent  
14       behaviour of Mr. Boyert is relevant to the question  
15       of his credibility.

16                  A.       It could be relevant.

17       218.           Q.       And the fact that he may be a  
18       disgruntled employee is relevant to the question of  
19       his credibility.

20                  A.       It could be relevant.

21       219.           Q.       Okay. So, as you mentioned, Mr.  
22       Straumann, you provided us with a lot of documents  
23       which have been provided to you by Mr. Boyert. And  
24       one of them, and that was in response to paragraph 5  
25       of our request to inspect. So, one of them and I am



1 showing this to you, is a brief called "Exhibits to  
2 Mediation Brief of Sakti International Corporation  
3 and Wallyson's Inc."

4 MR. CAYLOR: Sorry, Counsel, is this  
5 something new?

6 220. MS. VERMETTE: This is something new but  
7 this is, as I just mentioned, part of what  
8 you provided us in response to our request  
9 to inspect, and that was in response to  
10 paragraph 5, and under the tab M, just for  
11 your own reference.  
12

13 BY MS. VERMETTE:

14 221. Q. Mr. Straumann, do you remember...

15 A. I am sorry, tab M...

16 222. Q. I am referring to the way the  
17 documents...

18 A. Okay.

19 223. Q. ...were provided to us. So, do you  
20 remember...well, backing up. Have you reviewed all  
21 the documents over the years that Mr. Boyert  
22 provided to you?

23 A. Not thoroughly. We are  
24 currently...I mean, we have to provide them to you,  
25 and I have started looking into them, but I am not

1 familiar with the documents Mr. Boyert provided, to  
2 the extent that I am familiar with the documentation  
3 on Sakto.

4 224. Q. Okay. And this document that I just  
5 provided to you, do you want to take just a minute  
6 to see whether you remember having seen this  
7 document before or not?

8 A. M'hmm. Tab A, or...

9 MR. CAYLOR: That whole brief?

10 225. MS. VERMETTE: That whole brief. This  
11 is...we added the tabs, but if you look at  
12 the second page, so the title of this  
13 document is "Exhibits to Mediation Brief of  
14 Sakti and Wallyson's". The second page has  
15 an index with exhibits from A to L, and  
16 just for the purpose of facilitating the  
17 review we added the tax, but this was part  
18 of what you provided.

19 THE DEPONENT: Yes, I have seen some of  
20 these documents, but I have...I could...I  
21 have not...I can't testify to every word of  
22 these documents, but I have seen them. I  
23 mean, the general gist I know.

24 226. MS. VERMETTE: Okay. So, I am going to  
25 ask that this document be marked as the

1 next exhibit.

2 MS. WARD: Exhibit 4.

3 227. MS. VERMETTE: Exhibit 4.

4

5 --- EXHIBIT NO. 4: Exhibits to Mediation Brief for Sakti  
6 and Wallyson's, letter A through L

7

8 BY MS. VERMETTE:

9 228. Q. Okay, so as I mentioned, this is  
10 exhibits to a mediation brief, and if you look at  
11 the index you see that this document filed by Sakti  
12 includes documents on the issue of self-dealing.

13 A. Yes.

14 229. Q. And so you see, for instance, the  
15 index refers to a spreadsheet of unauthorized meal  
16 expenses, a spreadsheet of unauthorized credit card  
17 purchases, and also a spreadsheet of total  
18 unauthorized gym expenses. You see that in the  
19 index?

20 A. Yes.

21 230. Q. Okay. And so I want to take you to  
22 tab C in this brief.

23 A. M'hmm.

24 231. Q. And do you remember...sorry, tab E.  
25 Do you remember, Mr. Straumann, seeing allegations

1           that Mr. Boyert falsified expenses receipts with  
2           respect to personal meals?

3                   A.           What page are you referring to?

4           232.           Q.           Sorry, on tab E.

5                   A.           Tab E.

6           233.           Q.           If I can get you to just look at the  
7           second page of this one here. You have it? So, it  
8           is a signed declaration of...

9                   A.           Cheryl D. Orr.

10          234.           Q.           That is right.

11                   A.           "...I, Cheryl D. Orr, declare as  
12          follows..."

13          235.           Q.           And she says in the first paragraph  
14          she is an attorney licensed to practice law in  
15          California. Do you see that?

16                   A.           Yes.

17          236.           Q.           And in paragraph 3:  
18                   "...While I was still at the Carlton firm I  
19                   occasionally dealt with Ross Boyert, who  
20                   managed the building on behalf of the  
21                   Carlton firm's landlord, Sakti  
22                   International Corporation Inc. I have been  
23                   shown certain meal expense documentation, a  
24                   true and correct copy of which is attached  
25                   hereto as Exhibit A, that purports to show

1                   that on dates and at locations contained  
2                   therein, I had a series of meals with Mr.  
3                   Boyert.

4                                 In fact, I did not have a meal with  
5                   Mr. Boyert on any of these occasions, or  
6                   ever, nor did I ever meet with him at any  
7                   of the restaurants listed in Exhibit A..."

8                   So, do you remember reading this declaration before?

9                                 A.           I remember reading either this  
10                  declaration or a very similar declaration by someone  
11                  else, but I remember this allegation being brought  
12                  against Mr. Boyert.

13           237.                 Q.           Okay, and if you could please go to  
14                  tab F, you actually have a very similar declaration.  
15                  I won't read it, but a very similar declaration of  
16                  Sue Moon Pon. Do you see that?

17                                 A.           Yes.

18           238.                 Q.           And do you remember in addition to  
19                  the allegations about the meals, seeing allegations  
20                  about the unauthorized gym expenses?

21                                 A.           Yes.

22           239.                 Q.           And if you could please go to tab K,  
23                  and we have a series of gym invoices that were filed  
24                  by Sakti.

25                                 A.           Yes.



1                   Canada is based on an interview of Boyert,  
2                   and on reviewing the documents I obtained  
3                   directly from him..."

4                   And so you are talking about money laundering in  
5                   Canada in this sentence, correct?

6                   A.        Yes. In analogy to what is  
7                   happening in California.

8    247.            Q.        Okay. So, because you have said  
9                   earlier that...

10                  A.        Yes.

11   248.            Q.        ...there were no documents provided  
12                   by Mr. Boyert about the operations or financing of  
13                   Sakto. Or Canadian corporations.

14                  A.        Correct. However, Sakti was taken  
15                   over by Sakto in 2007. And Wallyson's was also  
16                   taken over by Sakto in 2007, so what happened in the  
17                   U.S. prior to 1994, all the funds brought in were  
18                   subsequently to January, 2007, being administered  
19                   from Canada, from Ontario.

20   249.            Q.        Yes, but we...you said earlier, Mr.  
21                   Straumann, that Mr. Boyert was not there prior to  
22                   1994, and so cannot in an interview, or in these  
23                   documents, give you evidence of what happened with  
24                   Sakti and Wallyson's before he was an employee of  
25                   these companies.

1                   A.       Well, he had documents going back to  
2                   the incorporation of Sakti in 1987, then the setting  
3                   up of Sakti International Holdings. So, part of the  
4                   documents he provided us went further back than when  
5                   he was employed in 1994. So...because he held the  
6                   company records.

7   250.               Q.       But you...the only document that you  
8                   have included in the record that precedes his  
9                   employment, and we will get to that, is the document  
10                  dated 1988 about the shares. I think it is...is it  
11                  8...which is Exhibit 8, tab 8.

12                   A.       I presume this is correct.

13   251.               Q.       If I am wrong you will let me know?

14                   A.       Yes. I don't think this is the only  
15                  document. I mean, this is the only document we...       U/T

16                   MR. CAYLOR:        The witness is looking at  
17                   tab 8.

18                   THE DEPONENT:     Yes. Tab 8.

19   252.               MS. VERMETTE:     Yes.

20

21   BY MS. VERMETTE:

22   253.               Q.       This is the only document...my  
23                   question was this is the only document you have  
24                   attached that precedes Mr. Boyert's employment.

25                   A.       Which we have attached.



1           254.                   Q.           Yes.

2                           MR. CAYLOR:        In the motion record.

3                           THE DEPONENT:      In the motion record.

4                           Yes.

5

6           BY MS. VERMETTE:

7           255.                   Q.           So, Mr. Straumann, when Mr. Boyert  
8                           gave you all these documents that you received and  
9                           provided to us in response to our request to  
10                          inspect, you knew that for the most part they were  
11                          not his documents, they were the corporation's  
12                          documents?

13                           A.           Yes.

14           256.                   Q.           And you also knew, because Mr.  
15                           Boyert told you, that he had signed a settlement  
16                           agreement with Sakti and Wallyson's?

17                           A.           I beg your pardon?

18           257.                   Q.           Mr. Boyert had signed a settlement  
19                           agreement with Sakti and Wallyson's in which he was  
20                           supposed to return the documents?

21                           A.           I am not aware that he...I don't  
22                           think he told us. I am not sure. The settlement  
23                           agreement...I mean, my understanding was basically  
24                           that he had filed a complaint and then he retracted  
25                           the complaint. But the settlement agreement, if

1           this is...I am not sure how it ended up, to be  
2           honest.

3           258.           Q.       Okay.

4                    A.       I am not aware of this clause.

5           259.           Q.       Leaving aside the settlement  
6           agreement...

7                    A.       Yes.

8           260.           Q.       ...were you aware that Mr. Boyert  
9           had agreed to return all the company documents to  
10          Sakti and Wallyson's?

11                   A.       I was not aware, but I was aware  
12          that these were company documents by Sakti, but I  
13          was not aware of the dealings between Mr. Boyert and  
14          Sakti regarding these documents.

15                    Mr. Boyert told me that he had fought Sakti  
16          in court, and then that the documentation had  
17          disappeared, and then that he had made copies of  
18          that documentation. And which he then submitted,  
19          but the exact details between Sakti and Mr. Boyert I  
20          don't know.

21          261.           Q.       But you know that many of these  
22          documents were not his personal documents?

23                    A.       Correct. Internal company  
24          documents. Yes.

25          262.           Q.       And you didn't have the consent of

1 Sakti and Wallyson's to receive a copy of these  
2 documents?

3 A. No.

4 263. Q. And you published a number of these  
5 documents on the internet.

6 A. I am not sure.

7 264. Q. Okay.

8 A. I know that Sarawak report published  
9 a whole set of documents, but I am not sure if BMF  
10 published these documents prior to Sarawak Report  
11 publishing them. But the whole set of documents was  
12 published by Sarawak report.

13 265. Q. So, but you say you may not have  
14 published them prior to Sarawak Report. Did you  
15 publish them after Sarawak Report did?

16 A. I am not sure if we published the  
17 documents, but definitely we referred to all these  
18 documents, and we published content based on the  
19 documents on our...in the internet, and also in my  
20 book I used these documents to make a case.

21 266. Q. Okay. Just on this point, if you  
22 could please go to your Money Logging book at tab  
23 1...in volume 1, tab 1.

24 A. Okay.

25 267. Q. And page 40 of the book.

1 A. Yes.

2 268. Q. And so the second paragraph under

3 "Grief and Tears", the two last sentences:

4 "...We then went to Menlo Park, where Ross  
5 kept duplicates of all Sakti company  
6 documents in a rented storage room. We  
7 copied the most important documents, and  
8 would soon publish them on the internet..."

9 A. Correct. But, I mean, these were  
10 published by Sarawak Report, not by BMF. So, the  
11 "we", Clare Rewcastle and myself met Boyert there.  
12 Bruno-Manser-Fonds did not publish these documents.  
13 Not that...I mean, not that I am aware of.

14 269. Q. Okay. But you do refer to them, as  
15 you said, in some of your publications. Some of  
16 the...BMF's publications and your book?

17 A. I refer to these documents, yes,  
18 also in the source index in the book. Yes.

19 270. MS. VERMETTE: Maybe we should take the  
20 morning break, okay?

21 MR. CAYLOR: Sure.

22

23 --- upon recessing at 11:15 a.m.

24 --- A BRIEF RECESS

25 --- upon resuming at 11:28 a.m.

1 LUKAS STRAUMANN, resumed

2 CONTINUED CROSS-EXAMINATION BY MS. VERMETTE:

3 271. Q. Okay, Mr. Straumann, would you  
4 please go to paragraph 77 of your affidavit on page  
5 44? The big volume one.

6 A. Yes.

7 272. Q. You have the smaller version. Okay,  
8 so in that paragraph, first sentence, you state:

9 "...In 2005 Sulaman had a series of career  
10 setbacks that resulted in Taib losing trust  
11 in him..."

12 Just to clarify, Sulaman and Rahman are the same  
13 person?

14 A. Yes.

15 273. Q. And as we have said earlier, Rahman  
16 Sulaman is Taib's son?

17 A. Yes.

18 274. Q. And you made the statement that I  
19 just read as if you were privy to the relationship  
20 between the father and the son, but you actually  
21 don't know them, do you?

22 A. No.

23 275. Q. You have never talked to Mr. Taib or  
24 Rahman?

25 A. No.



1 to...this document is not in response...  
2 279. MS. VERMETTE: No, the request to  
3 inspect says that the documents refer...in  
4 paragraph 18 of the affidavit, are the  
5 document at Exhibit 8, and you can see that  
6 in the response to the request to inspect,  
7 tab B of our responding motion record,  
8 paragraph 1 of the response.

9

10 BY MS. VERMETTE:

11 280. Q. Okay, and so we have referred to  
12 this document a couple of times earlier today  
13 without going to it, but that is the document. And  
14 it is dated, you see on the second page of the  
15 document, April 8th, 1988.

16 A. Yes.

17 281. Q. And so again, that was before Mr.  
18 Boyert's employment at Sakti?

19 A. Yes.

20 282. Q. Okay, so this document, as you state  
21 in your affidavit, appears to suggest that some  
22 shares of Sakti were held, at least at that time, in  
23 trust for Taib?

24 A. Yes.

25 283. Q. In its court case...so, sorry. This

1 document was provided to you by Mr. Boyert?

2 A. Yes.

3 284. Q. And in its court case, and the  
4 complaint, and the answer that we looked at earlier,  
5 Mr. Boyert does not say anywhere that they were  
6 shares held in trust for Taib?

7 A. No.

8 285. Q. He mentions the shareholders of the  
9 corporations. He doesn't talk about any shares  
10 being held in trust.

11 A. Correct.

12 286. Q. And this document at Exhibit 8, tab  
13 8, only talks about shares being held in trust.

14 A. Yes.

15 287. Q. It doesn't talk about assets of  
16 Sakti being held in trust.

17 A. Well, my understanding is that the  
18 shareholder is an asset holder through the shares he  
19 holds in the company. If...

20 288. Q. A share is an asset of the  
21 shareholder, correct?

22 A. A share is...if you have 50 percent  
23 ownership in the company, and the company has a  
24 building, as a shareholder you have an asset there.

25 289. Q. You know, Mr. Straumann, that the



1 company's assets is the company's assets. It is not  
2 the shareholder's asset. You understand how  
3 corporations work?

4 A. Yes.

5 290. Q. So, what I just said about a  
6 company's asset not being a shareholder's asset is  
7 correct?

8 A. It is correct, yes.

9 291. Q. So, going back to paragraph 18 of  
10 your affidavit. So, you have corrected that it  
11 should have been only one document that is being  
12 referred to, and you say in the third line:

13 "...I have obtained documents..."

14 Which is the one at Exhibit 8:

15 "...that confirm that at least some of the  
16 offshore assets held by those companies  
17 are, in fact, held by Taib's family members  
18 in trust for Taib..."

19 And, Mr. Straumann, this statement is incorrect,  
20 because this document at Exhibit 8 does not show any  
21 assets being held in trust.

22 A. Unless you lift the corporate veil.

23 292. Q. But you are not talking in paragraph  
24 18 about lifting the corporate veil.

25 A. Yes, but I have obtained one

1 document that confirms that one company that holds  
2 offshore assets is majority owned by...

3 293. Q. It is actually not...

4 A. We could...I mean, we can argue how  
5 to formulate this differently, but the fact is...and  
6 what I mean is that Taib family members are holding  
7 shares in trust for their father, or for their  
8 brother.

9 294. Q. But...

10 A. And the company, Sakti International  
11 Corporation, is holding assets. So, I mean, you may  
12 be right that the assets are being held by Sakti,  
13 and Sakti's shares are being held in trust for Taib.

14 295. Q. And you say Taib is a majority  
15 shareholder. He is actually not. Only under this  
16 document, Exhibit 8, he would hold 50 percent, not  
17 50 percent plus one.

18 A. 50 percent, correct. Yes.

19 296. Q. Okay, when you met with Mr. Boyert,  
20 Mr. Straumann, and you also met with his wife at the  
21 same time in California, you mentioned earlier that  
22 Clare Rewcastle Brown was with you.

23 A. Yes.

24 297. Q. And it was in June, 2010?

25 A. Yes.

1       298.           Q.       And Ms. Rewcastle Brown met with the  
2                   couple a second time a few months later?

3                   A.       Yes.

4       299.           Q.       But you were not present for that  
5                   second meeting?

6                   A.       No.

7       300.           Q.       And you are aware that Ms. Rewcastle  
8                   Brown made a video of parts of her interviews with  
9                   Mr. and Mrs. Boyert?

10                  A.       Yes.

11       301.           Q.       And you have seen this video before?

12                  A.       Yes.

13       302.           Q.       It is on the internet?

14                  A.       Yes.

15       303.           Q.       And Ms. Rewcastle Brown says at the  
16                   beginning of the video that she had been seeking Mr.  
17                   Boyert for weeks, and eventually tracked him down  
18                   through his bankruptcy lawyer. Does this accord  
19                   with your recollection of how you found Mr. Boyert?

20                  A.       Yes. Actually, Mr. Boyert contacted  
21                   BMF and The Borneo Project, a San Francisco-based  
22                   NGO prior to that. Maybe a year prior. And I  
23                   didn't give it much attention, actually. It was the  
24                   first time. He called BMF maybe one year before all  
25                   this. And there was this strange voice on the

1           answering machine, and I had other issues to do, so  
2           I didn't call back.

3                       And then later he contacted The Borneo  
4           Project, an NGO based in Berkeley. And I understand  
5           that he also met some of The Borneo Project staff.

6                       Somehow, then, this information got to Ms.  
7           Rewcastle. But by then Boyert had moved. I think  
8           he had lost his house, and that is how she spent a  
9           lot of time to look for him, and through the lawyers  
10          she found him.

11          304.           Q.       Okay.

12                       A.       But he was the one who reached out.

13                       MR. CAYLOR:       Just answer the question.

14                       THE DEPONENT:       Okay, sorry.

15

16          BY MS. VERMETTE:

17          305.           Q.       Okay, could you please go to  
18           paragraph 80 of your affidavit, page 46?

19                       A.       Okay.

20          306.           Q.       In paragraph 80 you state:

21                       "...In addition to confirming that Taib has  
22           been laundering corrupt money from Malaysia  
23           to his children, Boyert confirmed that it  
24           is well known..."

25                       And then you continue talking about the names Sakto

1 and Sakti. But what I am interested in is the first  
2 part of the paragraph.

3 So, you are saying in that paragraph that  
4 Mr. Boyert confirmed to you that Taib had been  
5 laundering corrupt money from Malaysia to his  
6 children?

7 A. Yes.

8 307. Q. But Mr. Boyert did not provide any  
9 document or evidence supporting this?

10 A. No. But that was what he was  
11 convinced of. I mean, that is what he said.

12 308. Q. And as we mentioned before, there is  
13 no mention of Taib or corruption or money laundering  
14 in the court case that Mr. Boyert commenced...

15 A. Correct.

16 309. Q. ...in California. So, the first  
17 record we have of Mr. Boyert making this sort of  
18 allegation is when he meets with you and Ms.  
19 Rewcastle Brown.

20 A. I think he made that allegation to  
21 The Borneo Project as well, prior to meeting us.  
22 But, yes.

23 310. Q. And The Borneo Project is working  
24 with BMF on these issues? Or, what is the  
25 relationship with BMF?

1                   A.       The Borneo Project is a  
2 Berkeley-based organization that has been working on  
3 in Sarawak for over 20 years, so we know them, and  
4 they informed us about this.

5   311.            Q.       Okay.

6                   A.       So, it is just an American NGO  
7 working in the same place as us.

8   312.            Q.       Okay. By the time that you and Ms.  
9 Rewcastle Brown met with Mr. Boyert and his wife,  
10 however, their mental health was questionable?

11                  A.       Yes.

12   313.            Q.       And could you please go to your  
13 book, your Money Logging book at tab 1, page 37 of  
14 the book? So, page 37, fourth paragraph, you write  
15 in the book:

16                   "...As we talked with Ross Boyert, Clare  
17 and I both felt a growing concern about the  
18 health of the former Taib employee.  
19 Suddenly he expressed serious doubt whether  
20 it had, indeed, been he who had negotiated  
21 the rental contract with the FBI for the  
22 big Taib building in Seattle. He asked  
23 'Was I really the decisive person in that  
24 deal with the FBI, or did the negotiations  
25 actually take place at a higher level

1 without me being informed? It is feasible  
2 that the U.S. government made a secret deal  
3 with Taib. Who is really behind the FBI,  
4 the CIA and the U.S. government? Are they  
5 secretly under Taib's control'?..."

6 So, Mr. Boyert said that to you?

7 A. Yes.

8 314. Q. And you say in the next paragraph  
9 that:

10 "...Real and imaginary situations were  
11 becoming mixed up in [Mr. Boyert's]  
12 mind..."

13 A. Yes.

14 315. Q. And in the video we referred to  
15 earlier, Ms. Rewcastle Brown makes similar comments,  
16 and she says that:

17 "...Mr. and Mrs. Boyert had lost their  
18 ability to decide what was real and what  
19 was not..."

20 Do you agree with that comment?

21 A. Could you please repeat that?

22 316. Q. She says:

23 "...They had lost their ability to decide  
24 what was real and what was not..."

25 A. I would not sign it like this. I

1 would not fully agree to that, but definitely some  
2 kind of paranoia was being part of what is...their  
3 perception.

4 317. Q. Okay. Could you please go to page  
5 41 of your book? I am not going to read it, but you  
6 say there that Ms. Rewcastle Brown and you found  
7 someone to pay for a security company for the  
8 Boyerts?

9 A. Yes.

10 318. Q. And you also say on that same page  
11 that Mr. Boyert, however, later dismissed that  
12 security company because he suspected that the  
13 security personnel might turn out to be a new  
14 threat.

15 A. Yes.

16 319. Q. And in the third full paragraph on  
17 that page you say:

18 "...We drew up a plan to bring the Boyerts  
19 over to Europe for a holiday, to  
20 recuperate, and to establish contacts with  
21 opposition figures from Malaysia..."

22 A. Yes.

23 320. Q. It continues:

24 "...But at the decisive moment Ross refused  
25 to board the aircraft and to leave the



1 U.S.A. He had suddenly lost his trust in  
2 Clare Rewcastle, and began to suspect that  
3 because of her prominent brother-in-law,  
4 the British government or some other dark  
5 agency might be behind her..."

6 A. Yes.

7 321. Q. It continues:

8 "...Ross was trapped in his paranoia and  
9 could no longer find a way out..."

10 A. Correct.

11 322. Q. So that paragraph is accurate?

12 A. The paragraph is accurate.

13 323. Q. And you, in the next paragraph you  
14 report that:

15 "...Two months after your visit Mr. Boyert  
16 was admitted to a psychiatric hospital..."

17 A. Yes.

18 324. Q. And that was after a suicide  
19 attempt?

20 A. Yes.

21 325. Q. And Ms. Rewcastle Brown says in her  
22 video that Mr. Boyert had taken pill, and had  
23 crashed his car, and he had left a note saying that  
24 his wife and daughter would be safer without him.  
25 Is that your information as well? Do you know?

1                   A.        I have no other information because  
2                   I was not there.

3    326.            Q.        Okay.  And you know, however, that  
4                   Ms. Rewcastle Brown went to visit Mr. Boyert in the  
5                   hospital?

6                   A.        Yes.  I think she did.

7    327.            Q.        It is in the video?

8                   A.        Yes.

9    328.            Q.        And so that was just after his  
10                  suicide attempt?

11                  A.        Yes.

12   329.            Q.        And Ms. Rewcastle Brown says that:  
13                   "...Mr. Boyert was in a locked mental ward  
14                   with suspected paranoid schizophrenia..."  
15                  Is that your information as well?

16                  A.        I don't...I have no...I have the  
17                  same source of information because I was not there.

18   330.            Q.        And so despite that Mr. Boyert was  
19                   in the locked mental ward just after a suicide  
20                   attempt, Ms. Rewcastle Brown proceeded to do another  
21                   interview with him?

22                  A.        Yes.  I guess she did.  Yes, she  
23                  did.  She did.

24   331.            Q.        And in the video we see Mr. Boyert  
25                   with his face full of bruises.  Do you remember

1           that?

2                   A.       Yes. I remember that.

3    332.           Q.       And a few weeks later, as we said  
4           earlier, Mr. Boyert committed suicide.

5                   A.       Yes.

6    333.           Q.       Okay, could you please go to volume  
7           3 of your motion record at tab 39, please? Okay,  
8           and if you go to page 953...

9                   A.       Yes.

10   334.           Q.       So, this is a letter written by Mr.  
11           Boyert.

12                   A.       Yes.

13   335.           Q.       And he provided you with a copy of  
14           this document?

15                   A.       Yes.

16   336.           Q.       And on page 953 we see the letter is  
17           dated November 20, 2006?

18                   A.       Yes.

19   337.           Q.       And it is addressed to Chief  
20           Minister Dato Pehin Tan Haji?

21                   A.       Yes.

22   338.           Q.       So, Mr. Boyert was certainly not on  
23           a first name basis with the Chief Minister?

24                   A.       No. Not that I know of.

25   339.           Q.       No. And as we saw earlier in Mr.

1 Boyert's complaint, he says he was terminated in  
2 January, 2007. Do you remember seeing that?

3 A. Yes.

4 340. Q. And so this letter was written  
5 before he was terminated.

6 A. Well, I understand that between  
7 probably the end of 2005 and January, 2007 it was  
8 already being made clear to Boyert that he was  
9 terminated, but he challenged that. Because he  
10 said...actually he got a phone call from Sean  
11 Murray. The first thing he got was a phone call  
12 from Sean Murray in which he was informed he would  
13 be terminated, apparently because Taib Mahmud Taib  
14 had decided that Sakti should be managed from other  
15 one, by Sean Murray.

16 And then as I understand it, and according  
17 to my recollection, Boyert challenged that decision  
18 and said, "Sean Murray, you have no authority to  
19 terminate me because this company is being run by  
20 Sulaman, or Rahman". And then it took quite a long  
21 time until this decision by the shareholders, signed  
22 by all shareholders, arrived, which formally  
23 terminated Boyert's mandate with Sakti.

24 So, I understand between...I think we have  
25 to find the exact date, but the end of 2005 and

1           January, 2007. There was a year during which the  
2           termination procedure was under way, and that letter  
3           to...that letter has to be read in that context.

4           341.           Q.           Okay, so if you...we will come back  
5           to that letter. If you can go back to tab 37, that  
6           is Mr. Boyert's court complaint.

7           A.           Yes.

8           342.           Q.           And so if you can please go to page  
9           933?

10          A.           Yes.

11          343.           Q.           Okay, so if you look at paragraph 24  
12          at the bottom of the page...

13          A.           Yes.

14          344.           Q.           ...to paragraph 27...

15          A.           Yes.

16          345.           Q.           ...my understanding, based on this,  
17          and also the letter that we were looking at, is that  
18          Mr. Murray was replacing Rahman as Mr. Boyert's  
19          boss, basically, Not that Mr. Boyert was being  
20          terminated. And as we see in paragraph 27 Mr.  
21          Boyert himself says he was terminated on January 9,  
22          2007 during a meeting with Mr. Murray.

23          A.           Correct.

24          346.           Q.           So, we can agree he was terminated  
25          in January, 2007?

1 A. Yes.

2 347. Q. Okay, so going back to tab 39,  
3 please. So, this letter dated November, 2006 was  
4 written as we just discussed, before the  
5 termination, and obviously it was written before Mr.  
6 Boyert sued Sakti for wrongful dismissal?

7 A. Correct.

8 348. Q. So, if you can keep that open,  
9 because we will come back to that, but go to your  
10 affidavit, tab 1, page 46, paragraph 81.

11 So, the first sentence, I think it is just  
12 the confusion that we just cleared up.

13 A. Okay, "...Boyert...he sent to Taib  
14 in November, 2006 after he was let go from Sakti..."  
15 Yes, I mean, in November, 2006 within this..."at  
16 this meeting Murray terminated Boyert's employment".  
17 Yes, I am fine with...

18 349. Q. So, we agree that Mr. Boyert...

19 A. Yes.

20 350. Q. ...was terminated January, 2007, but  
21 there was uncertainty as to who was in charge prior?

22 A. Sure, yes.

23 351. Q. We can agree on that?

24 A. Yes.

25 352. Q. Okay.

1                   A.       My understanding is that actually  
2 Boyert challenged that decision, and he didn't  
3 accept instructions from Murray.

4   353.            Q.       He asked for written resolutions of  
5 the board of directors?

6                   A.       That is my understanding, yes.

7   354.            Q.       Okay.

8                   A.       Okay, yes, we could...this paragraph  
9 81, I agree with that, your interpretation.

10   355.           Q.       Okay. So, going back to the letter  
11 to Taib at tab 39. So, this is a long letter. It  
12 has 17 pages.

13                   A.       M'hmm.

14   356.            Q.       And then there is a three-page index  
15 that follows that.

16                   A.       Yes.

17   357.            Q.       And the index summarizes or sets out  
18 the binders of documents that were sent with the  
19 letter.

20                   A.       Yes.

21   358.            Q.       Okay, if you could please go to page  
22 954, which is the second page of the letter. So,  
23 the second paragraph, he says:

24                   "...The following facts and circumstances  
25 of the last 12 years are accompanied by the

1                   two supporting binders..."

2                   And so what Mr. Boyert does in this letter is to  
3                   explain what he has done over the years while  
4                   working for Sakti and Wallyson's?

5                   A.           Yes.

6           359.           Q.           And if you go to page 969, the third  
7                   paragraph from the bottom, the three last line, Mr.  
8                   Boyert writes:

9                   "...I do not believe that you would  
10                   countenance the bullying behaviour I have  
11                   been subjected to, and I thank you for the  
12                   time you took to read this partial story of  
13                   the last 12 years. There is so much more  
14                   to tell..."

15                   You see that?

16                   A.           Yes.

17           360.           Q.           So, clearly in writing this long  
18                   letter saying what he has been doing over 12 years,  
19                   Mr. Boyert did not think that Taib already knew  
20                   about all of this?

21                   A.           Well, that is an interpretation  
22                   which I don't share. Actually, I thought that at  
23                   least once Taib visited California, and inspected  
24                   Sakti, and my interpretation of the letter is that  
25                   Boyert wanted to show his achievements, and he



1            appealed to the ultimate boss of the endeavour.

2            361.            Q.            And so this...you say you know Mr.  
3            Taib went once. Obviously you were not there, so  
4            that is information that Mr. Boyert gave to you?

5                       A.            That is information that is in the  
6            documents that Boyert gave us, and that you have a  
7            copy of.

8            362.            Q.            But that is not in the record?

9                       A.            It is not in the record.

10          363.            Q.            Okay. In your affidavit, if you  
11          could please go to page 44, you have a heading in  
12          the middle of the page and in that heading you refer  
13          to Mr. Boyert as "Taib's right-hand man".

14                     A.            Yes.

15          364.            Q.            But you don't have any evidence that  
16          Mr. Boyert worked with Taib?

17                     A.            He was the...he worked with the  
18          company of which Taib held 50 percent of the shares.

19          365.            Q.            But he was not taking any  
20          instructions from Taib.

21                     A.            He was taking instruction from  
22          Taib's son.

23          366.            Q.            From Rahman?

24                     A.            From Rahman.

25          367.            Q.            So, he may be Rahman's right-hand

1 man.

2 A. Well, the question is who is behind  
3 Rahman, and where did Rahman get his money from?

4 368. Q. Well, Mr. Straumann, right-hand man  
5 has a meaning. Would you say that someone could be  
6 somebody else's right-hand man if they have maybe  
7 seen them once in 12 years, and don't communicate?

8 A. Taib aide. You could also say Taib  
9 aide instead of right-hand man.

10 369. Q. Well, you are saying that you can be  
11 someone's aide if you see them once in 12 years?

12 A. Yes.

13 370. Q. So that is your interpretation of  
14 this word?

15 A. Well, aiding in generating wealth,  
16 and in looking after his company. That is clearly  
17 an aide.

18 371. Q. Okay. Aside from this letter at tab  
19 39, there is no other evidence in the record of  
20 communications between Mr. Boyert and Taib?

21 A. Not that I know of.

22 372. Q. And also, you are not aware of any  
23 response to this letter?

24 A. No.

25 373. Q. Okay. In the letter...could you

1 please go back to the letter at tab 39? You have it  
2 there? Yes. Okay. In...could you please go to  
3 page 969? So, the first paragraph on that page, Mr.  
4 Boyert writes:

5 "...If you go to www.zillow.com and call up  
6 our home at 128 Heather Drive, Atherton,  
7 California, you will see that there is no  
8 such home. If you look at the aerial, the  
9 house is visibly there, but the outline  
10 shows that we have been excluded from the  
11 community. This, a national website with  
12 over 65 million homes listed..."

13 So, in this letter to the Chief Minister of  
14 Malaysia, Taib...sorry, not Malaysia, Sarawak, Mr.  
15 Boyert is suggesting that his house was  
16 intentionally removed from an aerial map?

17 A. I don't understand this paragraph.

18 374. Q. You don't understand. I suggest to  
19 you, Mr. Straumann, that this paragraph shows that  
20 Mr. Boyert had paranoia and mental health issues  
21 already in 2006, before being terminated.

22 A. I am not in a position to judge  
23 that, because I did not meet him then.

24 375. Q. Okay. Okay, going back to your  
25 affidavit, please, page 20.

1 MS. WARD: Of the record or of the  
2 affidavit?

3 376. MS. VERMETTE: Of the record.  
4

5 BY MS. VERMETTE:

6 377. Q. Okay, so paragraph 19. You see in  
7 paragraph 19 that:

8 "...The following is a summary of certain  
9 key factors which support my strong belief  
10 that Jamilah and the Canadian Taib-related  
11 companies discussed herein have and are  
12 laundering proceeds of corruption from  
13 Malaysia..."

14 And one of the key factors that you list in  
15 subparagraph (f) on page 22 is Ross Boyert, correct?

16 A. Yes.

17 378. Q. And in that paragraph (f), you  
18 describe Ross Boyert as Taib's employee.

19 A. Yes.

20 379. Q. And that is incorrect. He was not  
21 Taib's employee. He was Sakti's employee or  
22 Wallyson's employee.

23 A. Sakti was holding 50 percent and  
24 shares of Sakti, and...I mean, formally speaking you  
25 can say Sakti's employee, but Sakti being a...he was

1 Taib's...he was a Taib's family employee, to be on  
2 the safe side.

3 380. Q. He was Sakti's employee and  
4 Wallyson's employee.

5 A. Well, he was.

6 381. Q. Yes, he was. And you say,  
7 continuing the same sentence, that:

8 "...Mr. Boyert was charged with managing  
9 Taib's wealth in the U.S...."

10 And again, he was not doing that. He was property  
11 manager for Sakti and Wallyson's.

12 A. No, but Sakti and Wallyson's are  
13 Taib's wealth, because he is the 50 percent  
14 shareholder of this company, and the rest is being  
15 held by his children.

16 382. Q. Well, we actually don't know that.  
17 But there is a document dated 1988 that may mean  
18 that, but it is still 50 percent, even if that is  
19 correct.

20 A. M'hmm.

21 383. Q. So, he was managing, really, the  
22 assets of Sakti and Wallyson's.

23 A. He was managing Taib family wealth  
24 in the U.S.

25 384. Q. That is your interpretation.

1 A. Yes.

2 385. Q. Do you have any documents in which  
3 there is mention of personal assets of Taib that Mr.  
4 Boyert had?

5 A. I understand that Mr. Boyert implied  
6 that the Presidio Avenue mansion in San Francisco  
7 was Taib's personal mansion, but as far as I know it  
8 was being held through Rahman or through Sakti. But  
9 that was his mansion in San Francisco.

10 386. Q. Rahman was staying in that house.

11 A. I don't know. I have...

12 387. Q. So you don't...so the answer is you  
13 don't know?

14 A. Well...

15 MR. CAYLOR: Do you have evidence that  
16 Rahman was staying there, or you lead that  
17 evidence?

18 388. MS. VERMETTE: It is...I am asking the  
19 question.

20 MR. CAYLOR: No, you put it to him as if  
21 he was staying there.

22 389. MS. VERMETTE: Well, I think it is in  
23 the documents. I will provide it. But I  
24 am asking the question.

25 THE DEPONENT: The question is if Rahman



1                   Taib abused his position in government to  
2                   obtain millions of dollars, and he has been  
3                   laundering money through his family members  
4                   and numerous companies, including Sakto and  
5                   Sakti..."

6                   And so I am suggesting to you, Mr. Straumann, that  
7                   it was impossible for Mr. Boyert to have any direct  
8                   knowledge about anything happening at the government  
9                   level in Malaysia.

10                   A.       Well, apart from reading newspapers  
11                   and...I think Boyert came...I mean, Boyert came to  
12                   the...that was the conclusion that Boyert had come  
13                   to after 12 years of service for this family. And  
14                   after having had to report secretly to offshore  
15                   addresses in Singapore, and Rahman making it clear,  
16                   "Please don't let anyone know that I hold these  
17                   assets". And even when they were negotiating for  
18                   Wallyson's they didn't want anyone to know when they  
19                   were applying for loans. They didn't want to  
20                   disclose the ownership structure, so definitely  
21                   there were attempts, strong attempts of concealment,  
22                   and there is evidence of these attempts of  
23                   concealment within the Boyert documents.

24                   So, Boyert made his personal conclusion,  
25                   and...but we can't prove if this was a correct



1 conclusion, yes or no. But that was his conclusion  
2 as having worked for this company, and for this  
3 family for 20 years.

4 395. Q. You will agree with me, Mr.  
5 Straumann, that there are many reasons why someone  
6 may want to keep their investment confidential, and  
7 that has nothing to do with money laundering.

8 A. Yes, but in the case of the Taib  
9 family, the big question is how did they become so  
10 rich in such a short time? And we shouldn't forget  
11 they are politically exposed persons.

12 396. Q. But Mr. Boyert couldn't have an  
13 answer to that question, because he was just a  
14 property manager in California, wasn't he?

15 A. He was a property manager in  
16 California who had a lot of insight into this  
17 family, and in the end fell out with the family.  
18 But I think we should just take it as what it is.  
19 It is Ross Boyert's...well, the conclusion he came  
20 to after 12 years of service.

21 397. Q. Okay, now, Mr. Straumann, I want to  
22 talk about the Global Witness video that you  
23 referred to in your affidavits.

24 A. Yes.

25 398. Q. And we sent to your counsel

1           yesterday some changes to the transcripts. And I  
2           don't know whether you have had the opportunity to  
3           look at this.

4                     A.           Actually, I have not had the  
5           opportunity to look at this.

6     399.           Q.           Okay. So, we will give you...

7                     MR. CAYLOR:        If it helps, Counsel, you  
8           can mark the copy given us...

9     400.           MS. VERMETTE:       Well, we will mark those  
10          documents as exhibits, just so that the  
11          transcript knows what we provided. So, I  
12          am providing to you, Mr. Straumann, a clean  
13          copy with...of a revised transcript, which  
14          we will mark as Exhibit...

15                    MS. SUMAKOVA:       Exhibit 5.

16     401.           MS. VERMETTE:       ...5.

17

18     ---   EXHIBIT NO. 5:       Clean revised transcript, memorandum,  
19   provided by Bennett Jones  
20

21     402.           MS. VERMETTE:       And I am providing you  
22          with a blackline document, which we will  
23          mark as Exhibit 6, and the blackline  
24          documents shows the changes that we have  
25          made to the transcript that is at Exhibit

1 28 to your affidavit.

2

3 --- EXHIBIT NO. 6: Blackline document, memorandum,  
4 transcript by Bennett Jones

5

6 403. MS. VERMETTE: And so as I mentioned in  
7 my e-mail to your counsel yesterday, I  
8 would ask for an undertaking that you  
9 review the changes and let us know if you  
10 disagree with any of the changes that were  
11 made.

12 MR. CAYLOR: We will give you that  
13 undertaking.

U/T

14 404. MS. VERMETTE: Thank you very much.

15

16 BY MS. VERMETTE:

17 405. Q. Okay. So, in the Global Witness  
18 video...you may actually want, Mr. Straumann, to  
19 open the transcript that is actually in your record  
20 because we will use it. And it is in volume 3, tab  
21 28.

22 A. Okay. I just have to say that  
23 I...the transcript has been made by Bennett Jones.

24 406. Q. Yes.

25 MR. CAYLOR: She is going to ask you

1 questions about it.

2 THE DEPONENT: Okay, sure.

3 407. MS. VERMETTE: No, no, I understand. I  
4 understand that the transcript was prepared  
5 by Bennett Jones.

6 THE DEPONENT: Good.

7

8 BY MS. VERMETTE:

9 408. Q. And again, there are no big  
10 substantive changes. It is just to clarify certain  
11 things. Okay. So, in the Global Witness video  
12 there are a number of people that are interviewed in  
13 that video, that appear in that video.

14 A. Yes.

15 409. Q. Yes. And including two cousins of  
16 Taib.

17 A. Correct.

18 410. Q. And the two cousins of Taib in the  
19 video are the daughters of Taib's uncle, Rahman.

20 A. Correct.

21 411. Q. Another Rahman.

22 A. Yes.

23 412. Q. So in that part of the examination  
24 when I refer to Rahman I will be talking about the  
25 uncle, not the son.

1                   A.        Correct.  Yes, that is why Sulaman  
2                   is the son and Rahman is the uncle.

3    413.            Q.        But Mr. Boyert, I think, was calling  
4                   Sulaman on a daily basis, Rahman.

5                   A.        Correct.  Actually, he was using the  
6                   name Rahman in the U.S. and using the name  
7                   Sulaman...he is more known as Sulaman in Malaysia.

8    414.            Q.        Okay.  So now we are talking about  
9                   Rahman the uncle, Taib's uncle.

10                  A.        Correct.

11   415.            Q.        Okay.  And Rahman used to be  
12                  Sarawak's Chief Minister just before Taib.

13                  A.        Correct.

14   416.            Q.        And in your book you describe a long  
15                  conflict that took place between Taib and his uncle,  
16                  Rahman.

17                  A.        Correct.

18   417.            Q.        And this conflict arose out of  
19                  Rahman's attempt to return to power after Taib  
20                  became Chief Minister?

21                  A.        Yes.

22   418.            Q.        But that attempt failed?

23                  A.        Correct.

24   419.            Q.        Could you please go to your book at  
25                  tab 1 of volume 1, the Money Logging book at page

1 120? Okay, three lines from the bottom you write:

2 "...Wreaking revenge on his uncle became  
3 one of Taib's principal obsessions in the  
4 years that followed..."

5 A. Yes.

6 420. Q. And:

7 "...He missed no chance to chastise his  
8 uncle whose talent and charisma he had  
9 envied throughout his life, and even  
10 arranged for Rahman, who had the reputation  
11 of living the life of a "bon viveur", to be  
12 spied on making sure that his life became  
13 utter hell..."

14 A. Yes.

15 421. Q. So, you say in your book that this  
16 situation went on for more than 20 years?

17 A. Yes.

18 422. Q. And we will come to what happened a  
19 little bit later on, but during that time there were  
20 certainly no good family relationships between Taib  
21 and his uncle?

22 A. Yes.

23 423. Q. Okay. If you could please go to  
24 page 121?

25 A. Between Taib and his uncle

1 personally. I don't know to what extent that  
2 referred to all of the family members, but between  
3 the two men, and then later on there was a public  
4 reconciliation.

5 424. Q. Yes, so that is what we are going to  
6 look at. Page 121, please.

7 A. Yes.

8 425. Q. So, the second full paragraph on  
9 that page you talk about this reconciliation. You  
10 write:

11 "...It was not until more than 20 years  
12 later on Rahman's 80th birthday in January,  
13 2008, that public reconciliation occurred  
14 between Taib, who was still Chief Minister,  
15 and his uncle, who had long since ceased to  
16 represent any form of political threat..."

17 A. Yes.

18 426. Q. Then:  
19 "...'blood is thicker than water' said  
20 Rahman in a speech before more than a  
21 thousand guests at his birthday celebration  
22 in the Hilton Hotel in Kuching. He then  
23 went so far as to grovel publicly and to  
24 announce that Taib was 'someone whom I have  
25 always loved'. Taib played along and

1                   refrained from speaking..."

2                   A.        Yes.

3        427.           Q.        So, that is...so, your position or  
4                   allegation that there was a reconciliation between  
5                   the two men is based on the facts set out in that  
6                   paragraph?

7                   A.        On the...yes, it was reported quite  
8                   widely in the news in Malaysian at the time.   Yes.

9        428.           Q.        You were not there?

10                  A.        I was not there.

11        429.           Q.        No.   Okay.   Can we go back to your  
12                   affidavit, please, page 38?   Okay, so at the top of  
13                   the page we have paragraph 56 that is continuing  
14                   from the previous page.   And the seventh line from  
15                   the top on page 38, you say:

16                           "...In my view the Global Witness video  
17                           shows the following..."

18                   And then you list a few things.

19                  A.        M'hmm.

20        430.           Q.        Yes?   Sorry, you have to say yes or  
21                   no because "m'hmm", for the record...

22                  A.        Yes.

23        431.           Q.        ...doesn't work.

24                  A.        Yes.   Sorry, yes.

25        432.           Q.        So, the first thing that you mention



1 is tax fraud by evading Sarawak's real property  
2 gains tax using double invoicing.

3 A. Yes.

4 433. Q. So, stopping there, none of the  
5 suggestion in the video about having two sets of  
6 agreements involved Taib, correct?

7 A. I am sorry, I couldn't...

8 434. Q. Involved the...the suggestion in the  
9 video about having two sets of agreements do not  
10 involve Taib?

11 A. They involve his family members.

12 435. Q. They involve the cousins.

13 A. The cousins, yes.

14 436. Q. And a prospective purchaser.

15 A. Yes.

16 437. Q. Taib would not be a party to these  
17 agreements.

18 A. He would be a party insofar as  
19 controlling...I mean, if you look at how Global  
20 Witness proceeded, they approached the  
21 administration on the...which is under Taib, because  
22 he is the Chief Minister, and said that they would  
23 want to buy land.

24 So, public officials directed them and  
25 said, "You have to go through the cousins". And

1 then when they approached the cousins, the cousins  
2 told them how this deal was going to be made.

3 So, Taib is being implied by controlling as  
4 the Minister for state planning and natural  
5 resources, how lands are being distributed.

6 438. Q. So, the government doesn't have...

7 A. But a single deal in the end does  
8 not personally imply him.

9 439. Q. And just to be clear, the transcript  
10 that you have at tab 28 says, in the first box.

11 MR. CAYLOR: I think she wants you on  
12 this spreadsheet.

13 440. MS. VERMETTE: Yes.

14 THE DEPONENT: Okay.

15 441. MS. VERMETTE: Let's use the version  
16 that is in evidence for the moment.

17

18 BY MS. VERMETTE:

19 442. Q. The first box, fifth line from the  
20 bottom:

21 "...Although we approached the government  
22 directly, officials sent us to members of  
23 Taib's own family..."

24 MR. CAYLOR: Sorry, Counsel, which page  
25 are you at?

1 443. MS. VERMETTE: Sorry, page 802. Sorry.  
2 The first page.

3 THE DEPONENT: Yes, I can see where  
4 it...also, "We approached government  
5 directly. Officials sent us to members of  
6 Taib's own family". Correct.

7 444. MS. VERMETTE: Okay.

8

9 BY MS. VERMETTE:

10 445. Q. So, we don't have more information  
11 on this interaction about officials...about this...

12 A. We don't.

13 446. Q. We don't. And...

14 A. I am sure Global Witness has more  
15 information, but we don't.

16 447. Q. You don't. And, of course, the  
17 government was not selling land.

18 A. No.

19 448. Q. And the saving on tax that would  
20 have occurred had there been two sets of agreements,  
21 would have been savings on the part of the cousins?

22 A. Yes.

23 449. Q. There would have been no savings for  
24 Taib?

25 A. No.

1       450.               Q.       Okay. A related point that you make  
2                       in paragraph 56, and sorry, in your affidavit. I  
3                       think you still have it open at the right page. So,  
4                       we just talked about tax fraud that you mentioned in  
5                       that paragraph, and then we will come back to the  
6                       other points, but the very last point in that  
7                       paragraph is the requirement to use nominees to  
8                       circumvent property regulations. Sorry, not the  
9                       last point, the...

10                      A.       M'hmm.

11       451.               Q.       So, you see that in the paragraph?

12                      A.       Yes.

13       452.               Q.       Okay. So, again, the suggestion  
14                       about using a nominee in the video does not involve  
15                       Taib?

16                      A.       No.

17       453.               Q.       And, in fact, the use of nominee was  
18                       to allow a foreign purchaser, a non-Malaysian  
19                       purchaser, to circumvent a requirement that 51  
20                       percent of the shareholdings be held by Malaysians?

21                      A.       Correct.

22       454.               Q.       Okay, going back to your affidavit,  
23                       you say...another thing that you say that the Global  
24                       Witness video shows is...the second thing you  
25                       mention is:

1                    "...The requirement that a bribe be paid to  
2                    Taib through an offshore Singapore bank in  
3                    exchange for the sale of a company owned by  
4                    Taib's cousin..."

5                    Do you see that?

6                    A.            What section is that in?

7                    455.            Q.            So, it is page 38.

8                    A.            Yes.

9                    456.            Q.            And the paragraph 56. So, if you  
10                    start at the end of paragraph 56 it is the fifth  
11                    line. "The requirement..."

12                    A.            Yes.

13                    457.            Q.            You see that?

14                    A.            I think there is...it should  
15                    read...I don't...I don't think that the video shows  
16                    that the bribe should be paid through the offshore  
17                    bank, but the requirement that the bribe be paid to  
18                    Taib in exchange for the sale of a company. But I  
19                    think we should cut that through an offshore  
20                    Singapore bank.

21                    458.            Q.            Okay, that is one correction. And I  
22                    suggest to you also, Mr. Straumann, that there was  
23                    no suggestion that in the proposed transaction with  
24                    the cousins that there be a bribe paid. And you can  
25                    look at the transcript if you want.

1                   A.           Yes. I think that refers to a  
2 different...there are two deals being described, and  
3 the deals with the cousins, there is no mention that  
4 a bribe is being paid in that respect. Correct.

5   459.            Q.           Okay. So, there is something else  
6 to be corrected in paragraph 56.

7                   A.           So, it is he paying this...yes.

8   460.            Q.           Okay. And just before going to the  
9 other transaction that is discussed in the video, I  
10 just want to point out, if you could please go to  
11 page 21 of your affidavit.

12                  A.           I beg your pardon?

13   461.            Q.           Page 21 of your affidavit.

14                  MR. CAYLOR:        Are we finished that one?

15   462.            MS. VERMETTE:       For the moment. I will  
16 go back to it, but...

17                  MR. CAYLOR:        Sorry, I was looking at the  
18 witness.

19   463.            MS. VERMETTE:        Oh.

20                  MR. CAYLOR:        I thought he had something  
21 to say about that.

22   464.            MS. VERMETTE:        Sorry. Page 2. Page 21.

23                  THE DEPONENT:       Yes.

24   465.            MS. VERMETTE:        Page 21.

25

1 BY MS. VERMETTE:

2 466. Q. So, we have, again, a similar  
3 allegation in paragraph (b), when you talk about a  
4 purchase of a company from Taib's first cousin.  
5 They were told to be required to pay 10 percent to  
6 Taib offshore, and so I am suggesting to you that  
7 the same corrections have to be made here, that  
8 there was no discussion of offshore and the  
9 requirement to pay 10 percent was not with respect  
10 to the proposed transaction with the cousins.

11 A. Correct. There were two deals: One  
12 with the cousins, and one with...yes.

13 467. Q. Okay.

14 A. That is correct.

15 468. Q. Okay. So, let's go to the  
16 transcript that is in the record at tab 28. I think  
17 you have it under your affidavit...

18 A. Yes.

19 469. Q. ...Mr. Straumann. Yes. Okay, so  
20 the other transaction, the person on the video who  
21 he talks about another potential transaction is  
22 called Huang Luong Ong.

23 A. Yes.

24 470. Q. Yes. Okay. And if you could please  
25 go to page 804.

1 A. Yes.

2 471. Q. And the ninth box from the bottom,  
3 the one that says, "Is this your uncle?" Do you see  
4 that?

5 A. Yes.

6 472. Q. Okay, so the transcript reads:  
7 "...Global Witness: Is this your uncle?..."

8 Mr. Ong:

9 "...Yes..."

10 Global Witness:

11 "...How many uncles you got..."

12 Mr. Ong:

13 "...From my wife's side, they are from a  
14 big family..."

15 A. Yes.

16 473. Q. Global Witness:  
17 "...But then behind that is the Chief  
18 Minister..."

19 A. Yes.

20 474. Q. Mr. Ong says "yes". Global Witness:  
21 "...Okay, and will he ever surface..."

22 Mr. Ong:

23 "...No, never. It is like this. I award  
24 you this licence. In return you grateful  
25 to me. Maybe he say I give you a



1 percentage..."

2 So, first of all, if...you recognize that Mr. Ong  
3 says "maybe", correct?

4 A. Yes.

5 475. Q. And then he says:

6 "...Maybe he say I give you a  
7 percentage..."

8 We don't know who the "he" is.

9 A. Now, I feel a bit uncomfortable,  
10 because we are not seeing the video, which is, see,  
11 this transcript here. Actually, did you...your  
12 corrections of the transcript, did they...

13 476. Q. You can look at them. There are  
14 no...

15 A. Okay.

16 477. Q. ...substantive changes.

17 A. "Maybe he says I give you..."

18 "Maybe he say I give you a percentage", yes.

19 478. Q. So, I just say...first of all he  
20 says, "Maybe", and you said yes, because it is in  
21 the transcript.

22 A. Yes.

23 479. Q. And second of all, we don't know who  
24 the "he" is.

25 A. Well, we presume it is Taib, the

1 Chief Minister...

2 480. Q. Well, Taib is not...

3 A. ...because it has been talked about  
4 the Chief Minister before.

5 481. Q. Okay. But it says, "Maybe he say I  
6 give you a percentage". Taib is not giving a  
7 percentage.

8 A. It doesn't make sense, does it?

9 482. Q. That is my point.

10 A. He would take a percentage, not give  
11 a percentage.

12 483. Q. So, we don't know who the "he" is.

13 A. It is a conversation. That they  
14 talk about the Chief Minister:

15 "...Behind that is Chief Minister, yes.

16 Okay, will he ever surface? "He" is Chief  
17 Minister. No, never. It is like this. I  
18 awarded this licence..."

19 I mean, I would understand that this would also be  
20 the Chief Minister, but...

21 484. Q. And you will also agree with me that  
22 Mr. Ong's English is not a...we have seen the video.  
23 English is not his first language.

24 A. I presume it is not. It would be  
25 Mandarin or...more than presume? He was struggling

1 talking, and we can see in the transcript there are  
2 words clearly that are missing from the sentences.

3 A. I have not met Mr. Ong.

4 485. Q. No, but you have seen the video.

5 A. Yes.

6 486. Q. You rely on this video.

7 A. Yes. I presume he is not...I don't  
8 know what language he was brought up with, but it  
9 would...I mean, it would be a Chinese, either  
10 Mandarin or Cantonese or whatever. Presumably.

11 487. Q. Okay, so we have your interpretation  
12 of that sentence. Okay, the transcript continues  
13 the very last box on page 804. Global Witness:

14 "...Okay, so he would look for a percentage  
15 from the licence..."

16 Mr. Ong:

17 "...Yes..."

18 Global Witness:

19 "...And how will that get paid, though? To  
20 the nominee..."

21 Mr. Ong:

22 "...The existing owner will pay him up..."

23 Global Witness:

24 "...So he gets paid upfront..."

25 Mr. Ong:

1                                "...Yes, one go..."

2                                Global Witness:

3                                "...What kind of percentage are we looking  
4                                for? I think I know..."

5                                Mr. Ong:

6                                "...Probably 10 percent. He is selling for  
7                                \$230,000,000..."

8                                And then it continues. And that is where the 10  
9                                percent comes from?

10                                A.            Yes.

11                                488.            Q.            And he says again, "Probably 10  
12                                percent".

13                                A.            Yes.

14                                489.            Q.            So he doesn't know?

15                                A.            Maybe there is not a fixed  
16                                percentage.

17                                490.            Q.            And as you have said...as you said  
18                                before, there is no mention in there of payment  
19                                through an offshore bank.

20                                A.            There is no mention, yes. It could  
21                                be in cash.

22                                491.            Q.            We don't know, yes.

23                                A.            We don't know.

24                                492.            Q.            Okay, so could you please go to page  
25                                810? So, that is the very last page of this

1 transcript. And that is at the end of the video,  
2 and then the fourth paragraph on that page says that  
3 Mr. Ong told Global Witness:

4 "...I have never been appointed by Hii Yii  
5 Peng as his solicitors. I have no  
6 knowledge of how Hii Yii Peng obtained the  
7 asset, or that there is a kickback. Your  
8 allegations are untrue and not within my  
9 knowledge to answer..."

10 A. M'hmm.

11 493. Q. So, Mr. Ong confirms there that he  
12 doesn't know. He says, "I have no knowledge".

13 A. Yes.

14 494. Q. And you don't refer in your  
15 affidavit to the fact that Mr. Ong provided this  
16 information to Global Witness about the video.

17 A. No.

18 495. Q. Okay. Could you please go back to  
19 page 38 of your affidavit? So, going back to the  
20 list of things that you say the video shows, in  
21 paragraph 56.

22 A. Yes.

23 496. Q. The two last things that we haven't  
24 talked about yet is owning Sarawak land, which had  
25 been granted to the company by Taib. And the other

1 one in that paragraph is at the end, the illegal  
2 appropriation of state land. So, you see that in  
3 paragraph...

4 A. Yes.

5 497. Q. ...56? Okay. Okay, could you  
6 please now go to tab 1 of the Money Logging book,  
7 page 237? Okay, so the very...the last four  
8 paragraphs on page 237, you discuss what is shown in  
9 the Global Witness video.

10 A. M'hmm.

11 498. Q. Okay. You have to say...

12 A. Yes. Yes.

13 499. Q. Thank you.

14 A. Sorry.

15 500. Q. Okay, so you write in that  
16 paragraph:

17 "...Early in 2011 Ample Agro..."

18 And Ample Agro was the company of the cousins,  
19 right?

20 A. Yes.

21 501. Q. It continues:

22 "...Ample Agro had received a concession  
23 from Taib to clear 5,000 hectares of rain  
24 forest in the Tekoyong District, and to use  
25 the land as an oil palm plantation until

1 2071..."

2 A. Yes.

3 502. Q. It continues:

4 "...It had paid roughly \$330,000 U.S.  
5 dollars for the rights, and had also agreed  
6 to an annual lease at roughly \$1 per  
7 hectare. Although that part of the forest  
8 had been used by Indigenous Iban  
9 communities for more than 100 years, the  
10 Taib government denied them any rights at  
11 all over the forest, which had been  
12 classified as state-owned land..."

13 So, you wrote that? You wrote that in the book?

14 A. Yes.

15 503. Q. Yes. Okay, so just to clarify, we  
16 see from this information in your book that the  
17 sister's company, in fact, did not own the land,  
18 right?

19 A. Correct.

20 504. Q. It was state-owned land.

21 A. It is a lease, yes.

22 505. Q. Yes. So they had this...those  
23 rights to use the land as an oil palm plantation and  
24 a lease...

25 A. A 60-year lease, yes.

1       506.           Q.       Yes. Okay. And they had received  
2                    this right for the oil palm plantation from the  
3                    government?

4                    A.       Yes.

5       507.           Q.       And they had paid 330,000 U.S.  
6                    dollars for those rights?

7                    A.       Yes.

8       508.           Q.       And they were also under the lease  
9                    paying an annual rent?

10                   A.       Yes.

11       509.           Q.       And even though you say in this  
12                    paragraph that the land had been used by the Iban  
13                    community, there was no recognition by the  
14                    government, or by the courts, of other rights over  
15                    this particular piece of land...of Indigenous rights  
16                    over this particular piece of land?

17                   A.       Not that I know of, but land and  
18                    survey is very intransparent, so you would not just  
19                    obtain that kind of information. It is not public.  
20                    It is being withheld from public scrutiny.

21       510.           Q.       But you are not aware of...

22                    A.       Of any recognition.

23       511.           Q.       ...Indigenous rights over that  
24                    specific piece of land?

25                    A.       Yes.



1 512. Q. So, there was no illegal  
2 appropriation of land then?

3 A. Well, I mean, the question is how do  
4 you define illegal appropriation?

5 513. Q. I define it as something that is  
6 illegal, and if the state was owned by the land and  
7 there were no recognized...other recognized rights  
8 over the land, then there was no illegal  
9 appropriation of land.

10 A. Yes, but if a Minister gives a piece  
11 of land to his closest family members at an  
12 absolutely underrated price, is that legal?

13 514. Q. That is not for me to answer, but do  
14 you have any expert evidence that this price was  
15 actually too low?

16 A. If it is important we can obtain  
17 that evidence.

18 515. Q. But you don't have it in the record?

19 A. Well, actually, we rely on Global  
20 Witness having done a very serious investigation  
21 there, and Global Witness is recognized as an NGO  
22 with very credible...with very high credibility.

23 So, 330,000 U.S. dollars for 5,000  
24 hectares, you can calculate it is 66 U.S. dollars  
25 per hectare would be a very cheap price, wouldn't

1           it? So, I would confirm here this is way too low,  
2           and way below what it is worth.

3   516.           Q.       And, Mr. Straumann, you are not a  
4           timber exportation expert, or no palm planation.

5           A.       I am not, but this is common sense.

6   517.           Q.       Okay. In your book you do say that  
7           court in Malaysia have recognized Indigenous land  
8           rights in a number of cases.

9           A.       Correct.

10 518.           Q.       And I don't think we need to turn it  
11           up, but you refer to the fact that more than 200  
12           Indigenous land rights claims have been filed in  
13           court since 2001. Does that sound...

14           A.       Correct.

15 519.           Q.       ...correct? Yes. And could you  
16           please go to page 245 of your book, at tab 1? Just  
17           so that you have the reference, the last full  
18           paragraph, last sentence, you write:

19                   "...The courts decide more often than not  
20                   in favour of the Indigenous communities..."

21           A.       Where is that?

22 520.           Q.       Page 245, the last full paragraph,  
23           last sentence.

24           A.       "The courts decide more often than  
25           not in favour of the Indigenous communities." Yes.

1 521. Q. That is right?

2 A. That book was written in 2014. Now,  
3 unfortunately, we are seeing this practice has been  
4 a bit reversed by the Federal Court in Malaysia, but  
5 I don't want to go into details there.

6 522. Q. But they are...sorry. But they are  
7 still deciding, at least, some cases, I would take  
8 it, in favour of the Indigenous communities?

9 A. Correct.

10 523. Q. Correct. So, the courts in Malaysia  
11 can and do rule against the government in some  
12 cases?

13 A. In some cases, yes. But not in many  
14 cases.

15 524. Q. But here at page 245 you said more  
16 often than not.

17 A. Well, the question is, is this  
18 against the government? And, I mean, because we  
19 have to make the distinction between the State  
20 Government and the Federal Government. And we have  
21 had a situation where many cases being in favour of  
22 Indigenous communities were upheld by...in the past  
23 were upheld by the federal courts, but this is  
24 changing, because more federal money is being placed  
25 in Sarawak.

1                   In some cases...I mean, I would stand by  
2                   what is written here. I don't want to challenge  
3                   anybody.

4           525.           Q.           And I believe in your book, and  
5                   maybe somewhere else you said that the State of  
6                   Sarawak reserved the right to deal with the timber  
7                   resources and all of that, so here we would really  
8                   be talking about something that goes against the  
9                   interests of the State as opposed to the Federal  
10                  Government?

11                  A.           Correct.

12           526.           Q.           Okay. Now, Mr. Straumann, I want to  
13                   talk. We turn to the Japanese tax decision. And  
14                   this relates to the company Regent Star.

15                  A.           Yes.

16           527.           Q.           And Regent Star was a company  
17                   incorporated in Hong Kong?

18                  A.           Correct.

19           528.           Q.           And can you please go to your book  
20                   again, page 108?

21                  A.           Page?

22           529.           Q.           108.

23                  A.           108, yes.

24           530.           Q.           Okay. So, in the third paragraph on  
25                   that page you are talking about Taib's brother, Onn.

1 A. Yes.

2 531. Q. And you state:

3 "...Having completed his business in  
4 Canada, Onn's next port of call was on the  
5 other side of the Pacific, namely in Hong  
6 Kong, where he set up the Regent Star  
7 company on 22 November, 1983..."

8 A. Yes.

9 532. Q. It continues:

10 "...It was destined to become the chief  
11 clearing house for timber kickbacks paid  
12 into the Taib empire..."

13 A. Yes.

14 533. Q. And you see there that you have a  
15 footnote in support of the serious allegation in  
16 that paragraph?

17 A. Yes.

18 534. Q. Okay. And if you go to...keep your  
19 finger at page 108, but if you go to page 280 of the  
20 book, you see that footnote 2 refers to the  
21 Certificate of Incorporation of Regent Star?

22 A. Yes.

23 535. Q. And there is nothing else referred  
24 in that footnote?

25 A. Correct.

1       536.           Q.       Okay.  And you have included the  
2                    Certificate of Incorporation of Regent Star in your  
3                    record.

4                    A.       Yes.

5       537.           Q.       And we can turn it up if you want,  
6                    but Onn's name does not appear anywhere in this  
7                    document.

8                    A.       Correct.

9       538.           Q.       Mr...so, Onn is neither a  
10                   shareholder nor a director of Regent Star?

11                   A.       Correct.

12       539.           Q.       So, the Certificate of Incorporation  
13                   that you cite in footnote 2 doesn't support at all  
14                   the statement in the book that Onn set up the Regent  
15                   Star company on November 22nd, 1983.

16                   A.       The document supports the setting up  
17                   of Regent Star on the 22nd of November, 1983.

18       540.           Q.       But not by Onn.

19                   A.       Onn was the directing mind.

20       541.           Q.       You have absolutely no evidence of  
21                   that, Mr. Straumann.

22                   A.       I know he was the directing mind.  
23                   He set up two companies the same day, same place,  
24                   same office.

25       542.           Q.       But he did not set up Regent Star.

1 MR. CAYLOR: Let him finish.

2 THE DEPONENT: He was the directing mind  
3 behind the setting up of...because Shea Kin  
4 Kwok was his employee.

5

6 BY MS. VERMETTE:

7 543. Q. Again, you have no evidence that...

8 MR. CAYLOR: Let him finish. Let him  
9 finish. He is trying to answer your  
10 question.

11 THE DEPONENT: Shea Kin Kwok, you know  
12 that on the same day the Richfold  
13 investment was set up at the same place,  
14 and Shea Kin Kwok had one share, and Onn  
15 had all the other shares.

16 So, Shea was his business partner,  
17 but he was acting upon instruction by Onn.  
18 That is my allegation.

19

20 BY MS. VERMETTE:

21 544. Q. Okay, and do you have any document  
22 to support your allegation that Mr. Kwok was an  
23 employee of Onn, as opposed to a business partner,  
24 or a co-shareholder or a co-director?

25 A. I don't have any supporting

1 document.

2 545. Q. And you don't have any supporting  
3 document either that Onn was involved in any way in  
4 setting up Regent Star.

5 A. There is quite strong circumstantial  
6 evidence that...I mean, Regent Star and Richfold  
7 Investment are twin companies set up the same date  
8 by the same person, Shea Kin Kwok and Onn. And it  
9 is...I mean, you have to apply common sense here.  
10 Regent Star was set up as a shell company.

11 546. Q. How do you know that?

12 A. This is very classic in money  
13 laundering. I mean, you don't want the money to be  
14 paid to the Chief Minister's daughter. You need  
15 someone else to receive the money, so you put his  
16 business partner, his employee, in front. But at  
17 the same time they set up these two companies, and  
18 it is obvious that Onn was the directing mind.

19 547. Q. It is obvious without any document  
20 to support it?

21 A. We should subpoena Shea Kin Kwok and  
22 let him come here and testify.

23 548. Q. Well, it is up to you, Mr.  
24 Straumann. So, again, you have no evidence, no  
25 documents showing that Onn was involved in setting



1 up Regent Star?

2 A. I have no document supporting that,  
3 correct. But he was the directing mind.

4 549. Q. You have no evidence that Onn was  
5 the directing mind of Regent Star.

6 MR. CAYLOR: Other than what he has  
7 already told you.

8

9 BY MS. VERMETTE:

10 550. Q. So you are saying they were...

11 A. We have a structure in place. We  
12 have a structure in place. Onn is the director of  
13 Dewa Niaga Sarawak, with whom all the Japanese  
14 shippers have an agreements. So, all the Japanese  
15 shippers, they have to pay money to a Hong Kong  
16 company, who happens to be the company of Onn's  
17 business partner, and then later on we have money  
18 flowing from Richfold Investments, a twin company,  
19 to Canada, again, being received by Onn, who is a  
20 shareholder and director of Sakto.

21 So, we have Onn at all...we have him in  
22 Sarawak, we have him in Hong Kong records, and we  
23 have him in Canada on record.

24 So, he is the link between all this. So,  
25 it is very obvious...that is very much a classic in

1 money laundering. But, of course, we need access to  
2 the bank records to show how the funds were flowing.  
3 That is why we need to know which one it was.

4 551. Q. You think it was...

5 A. One of the reasons why.

6 552. Q. Yes. You are not asking for bank  
7 records of Regent Star. You won't get records of  
8 Regent Star here in Canada.

9 A. Yes, but we want bank records of  
10 Sakto, because Sakto received money from Richfold.

11 553. Q. But you have no evidence of any  
12 transfer of funds between Regent Star...sitting here  
13 today you have no evidence of transfer of funds  
14 between Regent Star and Richfold?

15 A. No, we don't.

16 554. Q. No, you don't,

17 A. But we have a structure which is a  
18 classic in money laundering, and all money  
19 laundering is about is to create an appearance of  
20 legitimacy.

21 555. Q. And again.

22 A. That is what it is all about.

23 556. Q. And again, Mr. Straumann, as you  
24 told me at the beginning of this examination, you  
25 are not an expert in money laundering.

1                   A.       Well, in a certain way I have become  
2                   an expert. After seven years of investigation...and  
3                   I am a certified fraud examiner, by the way. And I  
4                   am a historian. Historians are trained to research  
5                   exactly this kind of thing.

6   557.            Q.       Historians are qualified in making  
7                   findings of money laundering?

8                   A.       Historians are qualified in  
9                   researching...doing painstaking source research, and  
10                  combining, and then trying to establish the truth.  
11                  So, we are trying to find out the truth, nothing  
12                  else.

13   558.            Q.       Yes. And we have seen today that  
14                  you have made a lot of mistakes in your research,  
15                  and reporting your research.

16                  A.       Some minor...we have made some  
17                  corrections, and I am happy that you brought them  
18                  up. Then we can...because, I think our common  
19                  endeavour should be to establish the truth.

20   559.            Q.       Okay, so...I am all in favour of the  
21                  truth. So, Onn Mahmud was a director and  
22                  shareholder of Richfold, just to clarify.

23                  A.       Correct.

24   560.            Q.       Another Hong Kong company.

25                  A.       Correct.

1 561. Q. But he was not a director and  
2 shareholder of Regent Star?

3 A. Correct.

4 562. Q. And you have no evidence in this  
5 record that Richfold and Regent Star did any  
6 business together, or exchanged money?

7 A. No.

8 563. MS. VERMETTE: Okay. Why don't we break  
9 for lunch now and come back at 2:00, if  
10 that works for everybody?

11

12 --- upon recessing at 12:55 p.m.

13 --- A LUNCHEON RECESS

14 --- upon resuming at 1:59 p.m.

15

16 LUKAS STRAUMANN, resumed

17 CONTINUED CROSS-EXAMINATION BY MS. VERMETTE:

18 564. Q. Now, Mr. Straumann, can you please  
19 go to page 35 of your affidavit?

20 A. Yes.

21 565. Q. And in paragraph 49 you talk about  
22 the decision of the Tokyo Regional Taxation  
23 Authority.

24 A. Correct.

25 566. Q. And in the second sentence in that

1 paragraph you state:

2 "...The Tokyo Regional Taxation Authority  
3 found that these payments were  
4 'illegitimate expenses', or kickbacks,  
5 rather than 'entertainment expenses', as  
6 they were so claimed by the shipping  
7 companies that were paid to the Taib family  
8 to facilitate tropical hardwood exports  
9 from Sarawak to Japan..."

10 A. Yes.

11 567. Q. So, in that sentence you put the  
12 words "illegitimate expenses" and "entertainment  
13 expenses" in quotes, but I understand that you do  
14 not have a copy of the decision of the Tokyo  
15 Regional Taxation Authority.

16 A. Yes. Actually, we had tried to  
17 obtain a copy of the Regional Tax Authority's  
18 decision, but according to Japanese privacy  
19 legislation, it is not possible for third parties to  
20 access those copies.

21 568. Q. So the quotation marks refer to  
22 what?

23 A. Quotation marks refer to the Japan  
24 Times report, and actually, in the tab 26 we have  
25 the National Tax Tribunal decision, and the National

1 Tax Tribunal decision also refers to the original  
2 decision, that the agency took the original action  
3 decided, pages 779 to 784. And I think...I found  
4 this sentence a bit confusing here. The Tokyo  
5 Regional Tax...according to my understanding, the  
6 Tokyo Regional Taxation Authority found that these  
7 payments were entertainment expenses. It is not  
8 illegitimate expenses rather than entertainment  
9 expenses. I mean, these were...because the relevant  
10 law here is article 61 of the Japanese Measures law.

11 569. Q. If I can interrupt. I agree with  
12 you. I agree with you...

13 A. Yes.

14 570. Q. ...that the court, the first...with  
15 the first decision, the Tokyo Regional Taxation  
16 Authority decision did find that those payments were  
17 entertainment expenses under Japanese law.

18 A. Correct.

19 571. Q. So, that would need to be  
20 corrected...

21 A. Yes. That has been corrected.

22 572. Q. ...back on 49.

23 A. Yes.

24 573. Q. Okay. So, as...so, you refer to a  
25 Japan Times article, so the only things you know

1 about the actual ruling are what is referred to in  
2 the National Tax Tribunal decision, or what was  
3 reported in foreign media?

4 A. Correct.

5 574. Q. Okay. In paragraph 50 of your  
6 affidavit, which should be before you, on page 35,  
7 you refer to the fact that Taib made a statement in  
8 the Sarawak State Assembly in May, 2007, denying the  
9 allegations.

10 A. Correct.

11 575. Q. And the...if you can go to volume 2  
12 of your motion record.

13 A. Volume 2.

14 576. Q. At tab 24, please. So, that is the  
15 statement you refer to in paragraph 50 of your  
16 affidavit?

17 A. Correct.

18 577. Q. And could you please go to page 735?  
19 And at the bottom of page 735 in paragraph 6.3, the  
20 last three lines, you see that Taib says:

21 "...The Sarawak government and the Chief  
22 Minister have no knowledge of Regent Star,  
23 and have not received any remuneration or  
24 other payments from the alleged Hong Kong  
25 company called Regent Star, or any agent of

1                   the Japanese shipping companies to Regent  
2                   Star, as alleged. The Sarawak government  
3                   and myself, as the Chief Minister, are  
4                   totally unaware of such payments..."

5                   So...

6                   A.           Correct.

7           578.           Q.           ...Taib made that declaration in the  
8           State Assembly?

9                   A.           Yes. He did.

10          579.           Q.           So, as you mentioned there was a  
11           subsequent decision by the National Tax Tribunal  
12           because the Tokyo Regional Taxation Authority's  
13           decision was appealed?

14                   A.           Correct.

15          580.           Q.           And the National Tax Tribunal  
16           reversed the decision of the Tokyo Regional Taxation  
17           Authority?

18                   A.           Correct.

19          581.           Q.           And you have already referred to the  
20           decision, which is at tab 26 of your record.

21                   A.           Correct.

22          582.           Q.           And volume 3. And that is an  
23           unofficial English translation that BMF prepared?

24                   A.           Yes. We commissioned that with a  
25           professional translator in Japan.



1 583. Q. Okay. And we can see on page 743  
2 that the date of the decision is July 23rd, 2008?

3 A. Page 743. 23rd of July, 2008.  
4 Correct.

5 584. Q. Yes. And you will agree with me,  
6 Mr. Straumann, that because there are so many words  
7 that are redacted, sometimes it is difficult to  
8 understand the meaning of certain passages of that  
9 decision?

10 A. Correct.

11 585. Q. And sometimes there are many words  
12 missing in one sentence?

13 A. Yes.

14 586. Q. And I take it that the original  
15 decision that you received in Japanese also had  
16 those redactions, those...

17 A. Yes.

18 587. Q. Yes. Okay, if you could please go  
19 in that decision to page 772? Do you see in the  
20 middle of the page paragraph B?

21 A. Yes.

22 588. Q. And then the last four lines, it  
23 says:

24 "...Therefore, as stated in (a) above, the  
25 brokerage commission of the present case is

1 acknowledged to have been paid as  
2 consideration for services provided on the  
3 basis of the agreement..."

4 A. Yes.

5 589. Q. It continues:

6 "...Thus, it cannot be said that it was  
7 paid with the objective of facilitating  
8 business relations through deepening  
9 intimacy with 'blank'..."

10 A. Yes.

11 590. Q. That is what the tribunal found.

12 A. Yes.

13 591. Q. And ultimately in paragraph (d) on  
14 the same page, the tribunal finds that the payments  
15 of the brokerage commission of the present case do  
16 not satisfy the necessary conditions of  
17 entertainment expenses.

18 A. According to article 61 of the  
19 Measures law.

20 592. Q. That is right.

21 A. Yes. Correct.

22 593. Q. And then in the next paragraph, they  
23 revoke the Authority's decision.

24 A. Correct.

25 594. Q. Okay, if you could please go back to

1 volume 2 of your motion record? And at tab 25...it  
2 is the last tab. So you have included as an exhibit  
3 to your affidavit this article that was published in  
4 the Daily Timber News on August 8, 2008?

5 A. Correct.

6 595. Q. And it is entitled "Total victory of  
7 NFA puts an end to controversy over transport  
8 brokerage fee. Revision disposition requiring  
9 additional tax payments as rescinded".

10 A. Correct.

11 596. Q. And the NFA, is your understanding  
12 that that refers to the Japanese shipping companies?

13 A. Correct. Nanyozai Freight  
14 Agreement, the cartel of the nine shipping  
15 companies.

16 597. Q. Okay. And this article reports on  
17 the decision of the National Tax Tribunal that we  
18 just looked at.

19 A. Yes.

20 598. Q. And so did you see this article in  
21 August, 2008, shortly after it was published?

22 A. Yes.

23 599. Q. So you became aware of the National  
24 Tax Tribunal decision at about that time, in August,  
25 2008?

1 A. Yes.

2 600. Q. And the penultimate paragraph in  
3 this article summarizes the decision. It states:

4 "...On the 28th of last month, the National  
5 Tax Tribunal ruled to rescind the Tokyo  
6 Regional Taxation Bureau's revision  
7 disposition, stating that 'The brokerage  
8 fees were paid according to a contract, and  
9 cannot be deemed to be entertainment  
10 expenses. Regent Star exists in actuality  
11 and provides legitimate brokerage  
12 services'..."

13 A. Yes.

14 601. Q. And that is consistent with your  
15 understanding of the decision?

16 A. Yes. I mean, my understanding of  
17 the decision is...I mean, we look at the facts. We  
18 look at the applicable law, and we look at the legal  
19 consequence. So, the facts are acknowledged. So...

20 602. Q. Sorry, the facts are?

21 A. Acknowledged.

22 603. Q. Acknowledged, okay.

23 A. So, no one disputed the facts.

24 Based on the 1981 agreement and the 1983 agreement,  
25 payments were made by all Japanese timber importers

1 to Regent Star in Hong Kong. These payments...no  
2 one disputed these payments.

3 Now, the controversy has been what these  
4 payments mean with reference to Japanese  
5 legislation. And Japanese legislation has quite a  
6 narrow understanding of what kickbacks are, or what  
7 corruption means. And...

8 604. Q. Mr. Straumann, what is your  
9 knowledge of Japanese legislation?

10 A. Well, knowledge is what I see here  
11 in the judgment by Judge Junichi, on the 23rd of  
12 August, because the law is referred to in this  
13 judgment.

14 MR. CAYLOR: Just let him finish his  
15 answer. You asked what his understanding  
16 is, and he is trying to tell you.

17 THE DEPONENT: And basically the legal  
18 questions were, were these payments made on  
19 a voluntary basis, or were they obliged to  
20 make these payments?

21 The second point was to whom were  
22 these payments made? Were they made to a  
23 public official, or were they made to  
24 someone else?

25 Now, basically defence...the



1 even though there is no...there was no...it  
2 was admitted that there was no substantial  
3 business at the address of the headquarters  
4 of Regent Star.

5 And we can go through the court  
6 decision in detail.

7

8 BY MS. VERMETTE:

9 608. Q. That is all we have, so yes.

10 A. Okay, sure.

11 609. Q. So, tell me where the tribunal found  
12 that the parties were compelled to make payments, as  
13 opposed to just doing what they agreed to in the  
14 contract.

15 A. Yes. Okay, let's...let's go  
16 through...okay, you agree that the payments were  
17 made, that this is part of...well, it is on record,  
18 and no one disputed that these payments were being  
19 made.

20 And just to make a point here. We talk  
21 about the world's largest exporting nation of  
22 tropical timber for 20 years.

23 610. Q. Okay, let...

24 A. We talk about the main market  
25 receiving the tropical timber, so it is a

1 substantial...

2 MR. CAYLOR: She hasn't asked you a  
3 question. She wants you to go through the  
4 decision...

5 THE DEPONENT: Okay, yes.

6 MR. CAYLOR: ...and just highlight for  
7 her the basis for the answer you have  
8 given.

9 THE DEPONENT: Yes. I will just...okay.  
10 Okay, on page 753, the interpretation of  
11 laws and regulations. Basically three  
12 conditions need to be met. First  
13 paragraph, "interpretation of laws and  
14 regulations", line 7, it says:  
15 "...In order for said expenditure to  
16 correspond to entertainment expenses, three  
17 conditions need to be met. The other party  
18 of the expenditure must be someone  
19 concerned with the business. The objective  
20 of the expenditure must be to facilitate  
21 business relations by deepening intimacy  
22 with the concerned business party, and the  
23 form of action must be to entertain,  
24 regale, provide hospitality, return a  
25 favour or engage in other similar



1                   behaviour..."

2                   So, that is the legal...that is how the  
3                   Japanese law defines entertainment  
4                   expenses.

5                                 But it also says whether or not the  
6                   objective of the expenditure is to  
7                   entertain should be determined by overall  
8                   judgment of the concrete circumstances,  
9                   such as the motive, amount made, and the  
10                  effect of the expenditure. So, that is the  
11                  legal base.

12                                Then the different contracts are  
13                  referred to. On page 757, on top, you have  
14                  mentioned the three different contracts  
15                  that were made, and these contracts were  
16                  also acknowledged by Taib Mahmud in his  
17                  speech at the State Assembly, so...

18

19         BY MS. VERMETTE:

20         611.                 Q.           No, Taib Mahmud says he doesn't know  
21                                about Regent Star, so he doesn't...he cannot know  
22                                about these contracts.

23                                A.           I object.

24         612.                 Q.           Okay, show me in the statement  
25                                where...

1           A.       Yes. In tab 24, Taib's vote for the  
2 State Assembly, on page 734, section 4(2), he says:

3           "...From documents obtained by my  
4 solicitors, which I only saw very recently  
5 in December of 1981, an agreement was  
6 signed between the Japanese shipping cartel  
7 operating with the Nanyozai Freight  
8 Agreement and Dewan Niaga Sarawak, which,  
9 at the time, was holding on by SEDC, a  
10 state company..."

11       So, basically he acknowledges that agreement. And  
12 in the next paragraph he says:

13           "...The agreement was signed in Tokyo on  
14 26th of December, 1981, and was stated to  
15 be 'For the purpose of securing a smooth  
16 operation of the transportation of logs  
17 produced in Sarawak, Malaysia, and shipped  
18 there to Japan, and also securing stable  
19 freight rates. A further agreement was  
20 signed between all individual members of  
21 the shipping cartel and Dewan Niaga  
22 Sarawak, Sdn Bhd in Tokyo in 1983..."

23       MR. CAYLOR:       Just try and read a little  
24 slower.

25       THE DEPONENT:     I am sorry.

1 MR. CAYLOR: That is just fine, but just  
2 going forward, maybe you can read slower.

3 THE DEPONENT: So, the existence of this  
4 contracts has been...

5 613. MS. VERMETTE: Okay.

6 THE DEPONENT: ...acknowledged. Now, on  
7 page 759 in the first paragraph, under (b),  
8 I understand that this is a document  
9 provided by the shipping companies. They  
10 are saying:

11 "...Difficulties were experienced during  
12 the previous negotiations in 1994, and the  
13 negotiations in 1992, because the other  
14 party made severe demands regarding share  
15 and brokerage amounts..."

16 So severe demands were made. And under  
17 (c):

18 "...During negotiations in 1992, Regent  
19 Star demanded concessions from NFA with  
20 Archipelago's aggressive strong-arm tactics  
21 by refusing to undertake agent operations,  
22 to which NFA had no countermeasures, and  
23 ultimately had to make concessions..."

24 Now...

25 MS. WARD: Major concessions.

1 THE DEPONENT: Major concessions. This  
2 is basically the demands brought to NFA by  
3 Archipelago, and Archipelago is the  
4 shipping company that was controlled by  
5 Taib's brother, Onn Mahmud.

6

7 BY MS. VERMETTE:

8 614. Q. So, but that talks about  
9 negotiations.

10 A. Yes. Now, there is more to come.

11 On page 762, on top, letter (b):

12 "...During the last five years brokerage  
13 commission has been increasing in price,  
14 even though [this should be log shipping]  
15 is declining..."

16 615. Q. Sorry, what? What...

17 MR. CAYLOR: Is that just a blank there?

18 THE DEPONENT: Yes. On page 762, the  
19 first paragraph, first line.

20

21 BY MS. VERMETTE:

22 616. Q. Yes.

23 A. It reads:

24 "...During the last five years the  
25 brokerage commission has been increasing in

1 price, even though 'blank' is declining.  
2 As a result the percentage of 'blank'  
3 accounted for by commissions, which was  
4 'blank' in 1991, has reached 'blank' in  
5 1996..."

6 So, we see that there is...the brokerage commission  
7 is being increased, and it is a problem for the  
8 shipping companies.

9 617. Q. So, where does it say the problems  
10 of the shipping company?

11 A. This is my interpretation.

12 618. Q. Yes, because there are lots of words  
13 missing in that paragraph.

14 A. And...okay, then if we go to page  
15 779, appendix 2, "Assertions of the Parties".

16 619. Q. Yes.

17 A. And I think that is the clearest  
18 part of the whole judgment, because there is not  
19 much...

20 620. Q. But, Mr. Straumann, those are  
21 assertions of the parties. Those were not found by  
22 the tribunal.

23 A. Well, but the appellant...I mean,  
24 the tribunal followed the appellant's argument.

25 621. Q. No. If you look in the decision,

1 page 753. So, you see at the top, section 2, it is  
2 called, "The points at issue and the assertions of  
3 the parties".

4 A. Yes.

5 622. Q. And it refers to appendix 2. And  
6 then section 3 of the decision is "Conclusions".  
7 So, those are the conclusions of the tribunal. The  
8 tribunal didn't endorse, or found that all the  
9 assertions of the parties were necessarily facts.  
10 The tribunal made its own conclusions in the  
11 conclusions section of the decision.

12 And so far what you have referred to in the  
13 actual decision of the tribunal doesn't show that  
14 the companies were compelled to make payments, and  
15 it doesn't show that payments went to anyone else in  
16 Regent Star.

17 A. Well, the tribunal did not make a  
18 statement on if they were compelled, yes or no.

19 623. Q. That is right.

20 A. According to what I have seen, but  
21 the argument of the appellants was that they were  
22 compelled.

23 624. Q. Yes, but that is not what the  
24 decision found. The decision found as summarized in  
25 the article that you attached at tab 25, that:

1                    "...The brokerage fees were paid according  
2                    to a contract, and cannot be deemed to be  
3                    entertainment expenses. Regent Star exists  
4                    in actuality, and provides legitimate  
5                    brokerage services..."

6                    That is what the tribunal found.

7                    A.            I just wanted to get back to page  
8                    782, what the appellant, the shipping company said.  
9                    I mean, on the right column, "Form of Action".  
10                    Second paragraph. The shipping company said:

11                    "...However, the brokerage commissions of  
12                    the present case are expenses directly  
13                    required for economic transactions, for  
14                    engaging in 'blank', and were paid  
15                    compulsorily under 'blank' of 'blank'..."

16                    So they were saying...basically, the shipping  
17                    company said they were compelled to make these. It  
18                    was an obligation, they had to.

19                    625.            Q.            Well, they had...

20                    A.            There was no way out for them.

21                    626.            Q.            They had an obligation, we know,  
22                    under an agreement.

23                    A.            Yes. But what kind of agreement is  
24                    that if you have to agree with the Chief Minister's  
25                    brother that you will pay to his business partner in

1 Hong Kong a fee for every log that you import? I  
2 think it is an illegal agreement.

3 627. Q. And I think it is nowhere even in  
4 the assertions of the parties. Show it to me if it  
5 is there.

6 A. What exactly?

7 628. Q. That they were compelled to pay  
8 something to the brother of the Chief Minister.

9 A. Well, they were compelled to Regent  
10 Star, and as we discussed earlier, Regent Star  
11 was...Onn Mahmud was the right...the directing mind  
12 behind setting up Regent Star.

13 629. Q. So what you just said in that is not  
14 in the decision.

15 A. The decision establishes the fact  
16 that payments were made over a period of 24 years,  
17 to an agent in Hong Kong, which had no other  
18 business activity than accepting...I mean...

19 630. Q. No, no. The article says...we will  
20 go back to it again. That:

21 "...Regent Star exists in actuality, and  
22 provides legitimate brokerage services..."

23 The decision doesn't say it doesn't do anything and  
24 its only purpose in life is to cash payments.

25 A. I mean, brokerage services that are



1 considered to be legitimate under Japanese tax law.  
2 It is not a criminal case. It is not a money  
3 laundering case. I mean, if you had looked at this  
4 same situation under Canadian criminal law, I am  
5 sure they would have been sentenced. But this is a  
6 tax...purely a tax case on Japanese legislation, on  
7 the Measures law. That is all it is.

8 631. Q. Well, thank you for your legal  
9 opinion on Canadian law, but this decision of the  
10 Japanese...the National Tax Tribunal finds that  
11 these payments are not illegal, correct?

12 A. Are not in contravention of the  
13 Measures law.

14 632. Q. And they don't find them to be  
15 illegal under Japanese law.

16 A. Well, they haven't ordered the  
17 criminal investigation. It is not the criminal  
18 court. It is the tax court.

19 633. Q. There is no finding in Japan as far  
20 as you know, that the payments made by the Japanese  
21 shipping companies are illegal.

22 A. There is no such finding, correct.

23 634. Q. Thank you. Can you please go in our  
24 responding motion record, at tab D? So, this is an  
25 article from The Sun Daily, entitled "Taib withdraws

1 suit against Malaysiakini".

2 A. Yes.

3 635. Q. And you have seen this article  
4 before this litigation?

5 A. I have not seen this article, but I  
6 have seen similar articles. For instance, one  
7 published in Malaysiakini on 4th of January, 2012,  
8 which I have here.

9 636. Q. Okay. I think this article is  
10 referred to in footnote 125 of The Safe Haven Canada  
11 report, just for information, but it doesn't matter.

12 A. Okay. Then I have seen it before.

13 637. Q. So, Malaysiakini is an online news  
14 portal in Malaysia?

15 A. Correct.

16 638. Q. And this article refers to the fact  
17 that Taib had sued Malaysiakini for defamation after  
18 it had published articles suggesting that Taib had  
19 received kickbacks from the Japanese shipping  
20 companies?

21 A. Correct.

22 639. Q. And the article also says that Taib  
23 withdrew his action for defamation after  
24 Malaysiakini made an apology in open court?

25 A. Correct.



1       642.               Q.       Do you remember reading that in  
2                           2012?

3                           A.       Yes.  However, there...I mean, it is  
4                           not factually correct what it is here.  Because the  
5                           Tokyo Regional Taxation Bureau has not reversed its  
6                           decision.  The National Tax Tribunal reversed that  
7                           decision.

8       643.               Q.       That is correct.  But that is a  
9                           quote from the apology, so they may have been  
10                          mistaking the apology in terms of the correct  
11                          tribunal.

12                         A.       And I have to add to that that The  
13                          Japan Times did not retract their article.  Only  
14                          Malaysiakini retracted an article, and Taib Mahmud  
15                          had threatened to sue The Japan Times in his  
16                          statement in the State Assembly, in 2007, which he  
17                          did not do.

18       644.               Q.       Did Japan Times publish an article  
19                           about the National Tax Tribunal...

20                         A.       Correct.

21       645.               Q.       ...decision?

22                         A.       They published an article about the  
23                          Regional Taxation Bureau's original decision, and  
24                          about...which found these payments to be  
25                          entertainment expenses.  And they have not retracted

1           that article.

2   646.           Q.       Now, my question is, did it later  
3           publish an article saying that the Tokyo Regional  
4           Taxation Bureau decision had been reversed by the  
5           National Tax Tribunal?

6           A.       I don't know because I am not a  
7           regular reader of The Japan Times.

8   647.           Q.       Okay. So, Mr. Straumann, a kickback  
9           is an illegal payment, right? There are no legal  
10          kickbacks.

11          A.       If there is...may I make another  
12          comment on that retraction? I mean, it is important  
13          to know that Malaysiakini's correspondent had died,  
14          Tony Tien (phon.), in 2009, and he had independently  
15          ascertained with shipping companies in Sarawak, with  
16          industry sources in Sarawak, that actually payments  
17          had been made. But Malaysiakini had failed to  
18          document that properly, so when he died they had no  
19          position to defend themselves legally.

20   648.           Q.       And so you...

21          A.       Just as a comment.

22   649.           Q.       ...you are giving us information of  
23          a dead Malaysian journalist, and you got this  
24          information...and is there any written evidence of  
25          that?

1 A. Yes. I have it here.

2 650. Q. No.

3 A. Okay.

4 651. Q. It is not in the record.

5 A. Can we take it on the record?

6 652. Q. Okay. Could you please go to volume

7 3 of your motion record, tab 35? Okay, this is a

8 report of BMF called "The Taib Timber Mafia".

9 A. Yes.

10 653. Q. And it was published in

11 September...September, 2012, or...

12 A. Yes.

13 654. Q. And you were involved in the

14 preparation of this report?

15 A. Yes.

16 655. Q. And you reviewed it before it was

17 published?

18 A. Yes.

19 656. Q. Okay, can you please go to page 884?

20 884, yes.

21 A. Yes.

22 657. Q. Okay, so the first paragraph under

23 the heading reads:

24 "...In 2007 a scandal exposed by the

25 Japanese Tax Authorities revealed that tens

1 of millions of U.S. dollars had been paid  
2 in secret. Illegal kickbacks by Japanese  
3 shipping companies exporting Timber from  
4 Sarawak.

5 The money was paid directly to Hong  
6 Kong companies linked to the Chief  
7 Minister's brother, Onn Mahmud, the  
8 Japanese cartel..."

9 and then you talk about the Malaysian company, Dewa  
10 Niaga. So, we dealt earlier, before lunch, about  
11 the issue of Onn Mahmud, but what I want to point  
12 out, Mr. Straumann, is that you do not refer in this  
13 report, to the fact that the decision, the 2007  
14 decision was reversed in 2008.

15 A. No, but I am...yes. I don't. We  
16 don't.

17 658. Q. Okay, if you could please go to 887?  
18 Just to say the same statement is repeated at the  
19 bottom of the page in 2007, a scandal. And so  
20 again, you don't refer to the 2008 decision there.

21 MR. CAYLOR: The witness isn't with you  
22 yet.

23 659. MS. VERMETTE: Sorry?

24 MR. CAYLOR: The witness is not yet with  
25 you.

1 660. MS. VERMETTE: Oh, sorry.

2 THE DEPONENT: Sorry.

3 661. MS. VERMETTE: Sorry, page...

4 MR. CAYLOR: Page 887.

5 THE DEPONENT: Yes.

6

7 BY MS. VERMETTE:

8 662. Q. I am just pointing out that the last  
9 paragraph, you will see, Mr. Straumann, you  
10 basically repeat the same statement as we saw  
11 earlier in this report.

12 A. Yes.

13 663. Q. And again, you don't refer to the  
14 National Tax Tribunal decision reversing the Tokyo  
15 Regional Taxation Bureau's decision.

16 A. Yes. But we refer to the reversing  
17 in the affidavit, in section 50 on page 35.

18 664. Q. Yes, I am dealing now with  
19 publications of BMF.

20 A. Okay.

21 665. Q. Okay. And if you could please go to  
22 our responding motion record at tab E? This is a  
23 press release of BMF.

24 A. Yes.

25 666. Q. Yes. And dated February 16, 2014.



1 A. Correct.

2 667. Q. And it is entitled  
3 "Bruno-Manser-Fonds alleges police report against  
4 Taib family over laundering of timber kickbacks in  
5 Canada".

6 A. Correct.

7 668. Q. And you were involved in the  
8 preparation of this press release?

9 A. Yes.

10 669. Q. Okay, and the third paragraph,  
11 again, you refer to the decision of 2007 of the  
12 Tokyo Tax Authorities.

13 A. Correct.

14 670. Q. But you do not mention that this  
15 decision was revised in 2008.

16 A. Correct.

17 671. Q. And this press release is still on  
18 your website.

19 A. Correct.

20 672. Q. Okay, if we go to your Money Logging  
21 book, it is at tab 1.

22 A. Volume 1.

23 673. Q. Volume 1, yes, at page 108. So,  
24 this book was published in 2014?

25 A. Yes.

1       674.           Q.       So, six years after the decision of  
2                    the National Tax Tribunal?

3                    A.       Yes.

4       675.           Q.       And last paragraph on page 108, you  
5                    say:

6                    "...More than 20 years later tax  
7                    authorities in Tokyo found that the  
8                    shipping companies that had exported  
9                    tropical timber from Sarawak to Japan had  
10                   paid sums to Regent Star, running into  
11                   millions. The conditions for timber  
12                   exporters were clear. Without kickbacks to  
13                   Regent Star, there would be no export  
14                   permit..."

15                   A.       Yes.

16       676.           Q.       So you refer to kickbacks, while the  
17                    payments were found to be legitimate...legitimate  
18                    payments.

19                   MR. CAYLOR:       Well, I think he had only  
20                    agreed as far as the tax authorities go,  
21                    when you put it to him.

22                   MS. WARD:        Entertainment expenses is the  
23                    defined term that was being addressed.

24       677.           MS. VERMETTE:    Yes, but you cannot have  
25                    Mr. Straumann...

1 BY MS. VERMETTE:

2 678. Q. You cannot have a legal kickback. A  
3 kickback is, by definition, illegal.

4 A. I am not sure about this, but...

5 679. Q. So each time you use the word  
6 kickback in the material, or in BMF's publications,  
7 you intend to convey the impression that these  
8 payments are legal?

9 A. I think these payments are illegal  
10 under Malaysian law. But there is no justice.

11 680. Q. And you are not a lawyer in  
12 Malaysia?

13 A. I am not a lawyer in Malaysia, but  
14 we know lawyers in Malaysia.

15 681. Q. And we don't have their evidence  
16 here. But these payments were found to be legal in  
17 Japan.

18 A. These payments were found not to be  
19 entertainment expenses under Japanese tax laws.

20 682. Q. And so they could be made.

21 A. They could be deducted from the tax.

22 683. Q. And again, there has been no finding  
23 anywhere in the world that these payments are  
24 illegal?

25 A. Not yet.

1       684.           Q.       If you could please go to your  
2                    affidavit, paragraph 50 on page 35.  Sorry, we have  
3                    covered that already in our discussion.  Volume 6,  
4                    please.  Sorry.  Okay, so this is a complaint...oh,  
5                    sorry, tab 113.  This is a report to the City of  
6                    London police that was filed on behalf of BMF?

7                    A.       Correct.

8       685.           Q.       And it is dated June 23rd, 2014.

9                    A.       Correct.

10      686.           Q.       And if you go to page 2165, the  
11                    first paragraph states:

12                    "...This report presents evidence amounting  
13                    to a prima facie case that Richford  
14                    Properties Limited, a limited company,  
15                    incorporated in the U.K. may be concerned  
16                    in laundering the proceeds of overseas  
17                    corruption..."

18                    A.       Correct.

19      687.           Q.       And if you go to page 2167, please,  
20                    paragraph 7 says:

21                    "...The evidence assembled highlights  
22                    evidence that ATM..."

23                    And "ATM" is Abdul Taib Mahmud?

24                    A.       Correct.

25      688.           Q.       So:

1                    "...the evidence assembled highlights  
2                    evidence that Taib has misused the control  
3                    over timber concessions to..."

4                    And then if you turn the page and look at 7.4:

5                    "...Received bribes from Japanese timber  
6                    exporters via Hong Kong companies  
7                    controlled by ATM's brother, Onn Mahmud.  
8                    This arrangement was exposed by an  
9                    investigation by the Japanese tax  
10                    authorities in 2007..."

11                    So, first of all as we discussed before lunch, Onn  
12                    Mahmud did not control...or you don't have evidence  
13                    that Onn Mahmud controlled Regent Star.

14                    A.            You said we established that. I  
15                    disagree. Onn Mahmud controlled Regent Star.

16                    689.            Q.            That is your personal opinion.

17                    A.            Yes.

18                    690.            Q.            And there is nothing else outside  
19                    what is in the motion record on which you rely for  
20                    that. That you haven't said already in your  
21                    affidavit, or in some of the reports?

22                    A.            No.

23                    MR. CAYLOR:        We include in that your  
24                    exchange earlier today.

25                    691.            MS. VERMETTE:        Yes. Or what we said

1                   today. Okay.

2

3           BY MS. VERMETTE:

4           692.           Q.           And in that paragraph, in that  
5                   complaint to the London police, you don't refer to  
6                   the 2008 decision of the National Tax Tribunal.

7                   A.           Sorry, no, I don't.

8           693.           Q.           And you qualify the payment as  
9                   bribes.

10                  A.           Yes.

11           694.           Q.           And no decision has found that these  
12                  payments were bribes, correct?

13                  A.           No.

14           695.           Q.           And you also say, if you look at 7,  
15                  that it is Taib receiving bribes, and again, from  
16                  the Japanese timber exporters. Again, there is no  
17                  document that shows that Taib received bribes from  
18                  the Japanese timber exporters.

19                  A.           Sorry, where do I say that Taib  
20                  received bribes?

21           696.           Q.           If you look at the introductory  
22                  paragraph 7.

23                  A.           "ATM has misused his control over  
24                  timber concessions to..."

25           697.           Q.           "To receive bribes".

1 A. Yes.

2 698. Q. Okay. Mr. Straumann, I now want to  
3 talk about the complaint that BMF filed with the  
4 National Contact Points for the OECD...

5 A. Yes.

6 699. Q. ...in Canada. And so you can take  
7 volume 7. And your complaint is at tab 130. So can  
8 you just confirm that that is the complaint that...

9 A. Yes.

10 700. Q. ...BMF filed...

11 A. Yes, the OECD complaint, correct.

12 701. Q. And that is a complaint against what  
13 you call the Sakto Group in that document?

14 A. Yes.

15 702. Q. And that complaint is based on the  
16 OECD guidelines for multinational enterprises?

17 A. Correct.

18 703. Q. And that was...and the date of that  
19 complaint is January 2, 2016?

20 A. Correct.

21 704. Q. So, on page...if you can go to page  
22 2480.

23 A. Yes.

24 705. Q. So, on page 2480 and page 2481, you  
25 list all the companies that you say are part of the

1 Saktó Group.

2 A. Yes.

3 706. Q. And so there is a significant  
4 overlap between that list and the corporations  
5 against which you are seeking...about which you are  
6 seeking information in this Ontario proceeding?

7 A. Yes.

8 707. Q. And if you go, please, to page 2488.  
9 So, in section 7 of your complaint you include what  
10 you call the request by the complainants.

11 A. Yes.

12 708. Q. And there are seven different  
13 requests that are listed in the letter.

14 A. Yes.

15 709. Q. And we won't...I won't go over all  
16 of them but there is the request for financial  
17 information, information about beneficial ownership,  
18 related-party transactions, and other requests.

19 A. Yes.

20 710. Q. And there is a lot of overlap, will  
21 you agree, between what you requested in this  
22 complaint, and what you are requesting in this  
23 proceeding?

24 A. Correct.

25 711. Q. And after you filed this complaint



1 with the National Contact Point, that I will call  
2 NCP...

3 A. Yes.

4 712. Q. ...you...BMF issued a press release  
5 about the fact that it lodged a complaint.

6 A. Correct.

7 713. Q. And this press release is still on  
8 your website?

9 A. Yes.

10 714. Q. If you can go now to tab 131. So,  
11 on October 25, 2016, or at least that is the date of  
12 the draft, the NCP sent you this draft initial  
13 assessment for your review?

14 A. Yes.

15 715. Q. So, was there a cover letter coming  
16 with that?

17 A. I think there was a cover e-mail or  
18 cover letter, yes.

19 716. Q. Okay. It is not here, but if you go  
20 to tab 132...

21 A. Yes.

22 717. Q. So, tab 132...we will come back to  
23 that, but this is, at that tab, a draft final  
24 statement that has been sent to you for your review?

25 A. At tab?

1 718. Q. 132.

2 A. Yes.

3 719. Q. Okay. But there is a cover letter  
4 at that tab?

5 A. Yes.

6 720. Q. And so the...if you go to page 2505,  
7 that is the cover letter, and...

8 A. Yes.

9 721. Q. ...the last paragraph on that page  
10 reads:

11 "...Please note that the draft final  
12 statement is considered confidential  
13 communication, and not a public  
14 document..."

15 A. Yes.

16 722. Q. It continues:

17 "...This document may not be shared, the  
18 content communicated, or the draft  
19 distributed. We would ask that there be no  
20 external commentary until the final  
21 statement has been released publicly by the  
22 NCP. Once the NCP is in receipt of  
23 comments from the parties, we will review  
24 and consider the comments, and endeavour to  
25 issue the final statement shortly



1                   A.       So, because...I mean, you will note  
2                   that the draft final statement we were sent on the  
3                   21st of March, 2017, differs strongly from the final  
4                   statement we received in July, 2017, after we had  
5                   to...after our lawyers contacted the NCP that they  
6                   could not work like this.

7       728.           Q.       Okay. So, we will go over the  
8                   documents, Mr. Straumann.

9                   A.       Yes.

10       729.          Q.       So, okay. So, whether or not there  
11                   was similar language in the cover letter enclosing  
12                   the draft initial assessment, you just said that you  
13                   were aware that you had a confidentiality...

14                   A.       We have committed to confidentiality  
15                   on a voluntary basis.

16       730.          Q.       Okay. So that was...a draft initial  
17                   assessment was at tab 131. Tab 132 was the draft  
18                   final statement, and if you go, please, to page  
19                   2508, as you pointed out, the final statement is  
20                   different from this one, the ultimate final  
21                   statement, but in this draft the National Contact  
22                   Point concludes that:

23                   "...An offer of good offices to the parties  
24                   would not contribute to the purpose and  
25                   effectiveness of the OECD guidelines, and

1                   considers the matter closed..."

2                   A.        Correct.

3       731.           Q.        Okay. Please go to page 2510. This  
4                   is a letter from Bennett Jones, BMF's counsel...

5                   A.        Yes.

6       732.           Q.        ...dated March 23rd, 2017. And as  
7                   you stated, Mr. Straumann, in this letter you take  
8                   issue with the draft final statement.

9                   A.        Correct.

10       733.          Q.        And page 2511, in the second  
11                   paragraph, it is acknowledged that...in the second  
12                   sentence, that:

13                               "...BMF is aware of the NCP's guidelines  
14                               with respect to confidentiality..."

15                   A.        Correct.

16       734.          Q.        And:

17                               "...transparency as well..."

18                   Okay, if you could please go to page 2520? So, this  
19                   is a letter from the NCP to you, dated March 30th,  
20                   2017?

21                   A.        Yes.

22       735.          Q.        And so you received that letter?

23                   A.        We did receive that letter, yes.

24       736.          Q.        And in that letter, Mr. McMullen is  
25                   drawing your attention to a specific section of the

1 procedures of the NCP.

2 A. Correct.

3 737. Q. And that relates to maintaining  
4 confidentiality, among other things?

5 A. Correct.

6 738. Q. And it states that:  
7 "...Undertaking public campaigns related to  
8 a case during the proceedings is considered  
9 a confidentiality breach..."

10 A. Correct.

11 739. Q. And so then Mr. McMullen says:  
12 "...The NCP review has not yet concluded in  
13 this specific instance. Until then these  
14 undertakings remain in place. The draft  
15 initial assessment and draft final  
16 statement are products of the NCP and not  
17 the parties, and should not be made public  
18 without our consent. At this time our  
19 consent will not be forthcoming..."

20 A. Correct.

21 740. Q. So, you read that letter when you  
22 received it?

23 A. Yes.

24 741. Q. And would you please go to page  
25 2514, please? So, even though it is before in the

1 motion record, it comes later in the chronology  
2 because it is dated April 5th, 2017?

3 A. Correct.

4 742. Q. Correct? Yes. So, that is another  
5 letter from Bennett Jones?

6 A. Correct.

7 743. Q. And in the first paragraph it says:  
8 "...BMF is not interested in engaging in  
9 what has now become an open-ended process  
10 in respect of the amended final  
11 statements..."

12 A. Correct.

13 744. Q. And you are asking that the NCP  
14 close the case and issue a final statement within 30  
15 days?

16 A. Yes.

17 745. Q. And so you were no longer interested  
18 in proceeding with your complaint?

19 A. Correct.

20 746. Q. And on the second...on page 2515,  
21 Bennett Jones advises the NCP that:

22 "...BMF has posted the draft initial  
23 assessment and the draft final statement on  
24 its website..."

25 A. Correct.

1 747. Q. And that is true, that is what you  
2 did?

3 A. Yes.

4 748. Q. And when you did that you knew that  
5 you didn't have the consent of the NCP?

6 A. I think it was the same day,  
7 so...but I...yes.

8 749. Q. No, we saw in the letter dated March  
9 30th, that it said that their consent will not be  
10 forthcoming, in terms...

11 A. Yes.

12 750. Q. So you knew because of the March  
13 30th letter that you didn't have the consent of the  
14 NCP to publish their draft documents?

15 A. Correct.

16 751. Q. And you had undertaken at the  
17 beginning of the proceeding to keep the proceeding  
18 and the documents confidential until the end?

19 A. I am not sure if we said  
20 confidential until the end, but...I mean, the  
21 confidentiality commitment was given under the  
22 impression that there would be good faith from all  
23 involved parties. And we did not...we felt  
24 compelled to go public because the NCP did not  
25 follow the guidelines as the OECD are showing. I



1 mean, they...you saw the draft initial assessment,  
2 which was quite material, and said our...so at page  
3 4, section 4 in the draft initial assessment, on the  
4 tab 131, drafted the 25th of October, it says:

5 "...BMF's complaint is material and  
6 substantial..."

7 Okay, I am...what was the question? Sorry.

8 752. Q. The question was that you decided to  
9 post the documents in breach of your  
10 confidentiality...

11 A. Yes.

12 753. Q. ...undertaking.

13 A. Yes.

14 754. Q. And you are saying it is because  
15 your view was that the NCP had not followed...

16 A. Correct.

17 755. Q. ...the procedure?

18 A. Yes.

19 756. Q. And so...

20 A. We were let down.

21 757. Q. You felt let down?

22 A. Yes.

23 758. Q. And so because it was your view that  
24 they didn't follow procedure, you felt justified in  
25 taking matters in your own hands and just putting

1           that on the internet?

2                   A.       Yes.

3   759.           Q.       Okay.  Could you please go to page  
4           2522?  That is a press release of BMF?

5                   A.       Correct.

6   760.           Q.       And it is dated April 5th, 2017?

7                   A.       Yes.

8   761.           Q.       And that is about the sending of the  
9           Bennett Jones letter that we just looked at?

10                  A.       Correct.

11   762.           Q.       And in that letter you...sorry, in  
12           this press release you say that the letter requests  
13           that various statements be made about Sakto by the  
14           NCP?

15                  A.       Correct.

16   763.           Q.       And...but again, with this press  
17           release you are breaching the confidentiality of the  
18           proceeding.

19                  A.       Well, yes.  Actually, there had been  
20           a press conference on either the 30th or the 31st of  
21           March, by BMF and other NGOs on Parliament Hill, to  
22           deal with how the NCP treats complaints by  
23           complainants.

24   764.           Q.       Complaints, plural, or just your  
25           complaint?

1                   A.        No, not just our complaint, but it  
2                   had been...I mean, other NGOs had filed complaints  
3                   before us.

4       765.           Q.        Okay.

5                   A.        So...

6       766.           Q.        And this press release, and the  
7                   draft initial assessment and the draft initial final  
8                   statement are still on your website?

9                   A.        I presume they are, yes.

10      767.           Q.        So, can we go now to your  
11                   supplementary affidavit, the small...

12                   A.        Yes.

13      768.           Q.        ...small book. And you swore this  
14                   affidavit on August 21, 2017? That is on the first  
15                   page.

16                   A.        Yes.

17      769.           Q.        And that is the same date as the  
18                   hearing before Justice Myers, correct?

19                   A.        Yes.

20      770.           Q.        And that affidavit deals with the  
21                   final statement of the NCP?

22                   A.        Yes.

23      771.           Q.        And the final statement was  
24                   released...well, it is at tab 8, right?

25                   A.        Yes.

1 772. Q. And that was released, or it is  
2 dated July 11, 2017?

3 A. Yes.

4 773. Q. So by the time you swore your first  
5 affidavit in...on June 27th, 2017, the final  
6 statement had still not been issued by the NCP?

7 A. Correct.

8 774. Q. And the NCP was still expecting you  
9 to maintain confidentiality until the issuance of  
10 the final statement?

11 A. Well, I mean, we had gone public on  
12 the 30th of March, 2017, so all of this was already  
13 on the website.

14 775. Q. So, from your...

15 A. So, if you go public once then it is  
16 in the public domain.

17 776. Q. So from your perspective it didn't  
18 matter?

19 A. Yes.

20 777. Q. So, in the final statement, the NCP  
21 decided that it would not make an offer of  
22 facilitated...that is in paragraph 4:

23 "...It will not make an offer of  
24 facilitated dialogue to the parties because  
25 of actions taken by the parties during the

1 process..."

2 A. Correct.

3 778. Q. And it said that it was closing the  
4 case.

5 A. Correct.

6 779. Q. And the final statement speaks for  
7 itself, but it contains criticisms of both parties.

8 A. Correct.

9 780. Q. And with respect to BMF, it  
10 criticizes...what it says is:

11 "...BMF's breach of confidentiality..."

12 A. Correct.

13 781. Q. And also in paragraph 28, ninth line  
14 in that paragraph, the NCP says, after referring to  
15 an April 3rd, 2017 news release of BMF, it says:

16 "...It is the NCP's opinion that these  
17 public statements reveal a misuse of the  
18 NCP process to seek actions clearly outside  
19 the mandate granted to the NCP by the OECD  
20 guidelines. In the NCP's view the  
21 confidentiality breach accompanied by the  
22 significant involvement during the review  
23 process of legal counsels representing both  
24 parties was contrary to the spirit and  
25 intent of the NCP system as a whole..."

1 A. Correct.

2 782. Q. And in going back, in paragraph 23  
3 of the final statement...

4 A. Yes.

5 783. Q. ...in the seventh line in that  
6 paragraph, the NCP states that:

7 "...The parties had a longstanding and  
8 adversarial history..."

9 A. I don't see that statement...in  
10 paragraph 23?

11 784. Q. Yes, seventh line.

12 A. "Two parties with a longstanding and  
13 adversarial history". Correct.

14 785. Q. And do you agree with this  
15 characterization of the relationship between the  
16 parties?

17 A. "Longstanding and adversarial  
18 history". Well, I don't disagree with it. Yes,  
19 okay.

20 786. Q. BMF has never communicated directly  
21 with Jamilah Taib Murray?

22 A. Good question. Not that I remember.

23 787. Q. And same for Sean Murray?

24 A. I don't remember. Yes, I don't  
25 think we did. Yes.

1 788. Q. And same for Sakto Corporation, or  
2 Sakto Investment Corporation?

3 A. Well, actually, we never approached  
4 it directly, but they were repeatedly approached by  
5 journalists on basically allegations made by BMF,  
6 and so they sent to journalists. And we knew from  
7 these letters that they were not interested in  
8 discussing issues relating to their businesses.

9 789. Q. Okay. Could you please go to volume  
10 3, tab 35? And...

11 A. Well, actually, I mean, while...

12 MR. CAYLOR: She is asking a question.

13 But is there something to correct or add to  
14 a question that she has already asked you?

15 THE DEPONENT: It is to correct.

16 Actually, we were in talks with the lawyers  
17 in London, Mishcon de Reya, when we  
18 published a report on their Australian  
19 business Sitehost. We sent them a letter  
20 and asked the lawyers to comment. And  
21 prior to the publication of my book they  
22 sent letters...legal letters to my  
23 publisher, and to Amazon, but not to us.  
24 Not to me. But I sent...we sent them  
25 before, when we published the Sitehost

1 report, we sent them a letter to Mishcon  
2 who was saying they were representing  
3 Jamilah and Sean.  
4

5 BY MS. VERMETTE:

6 790. Q. Okay, and the letter about your  
7 book, it is in your record, page 40. The  
8 one...sorry, tab 140, if you want to look at it. My  
9 understanding from that letter is that that was sent  
10 on behalf of Taib, not Jamilah Taib Murray.

11 MR. CAYLOR: You mean to Taib.

12 791. MS. VERMETTE: No, the lawyers who sent  
13 the letter...

14 MR. CAYLOR: Oh, I see.

15 792. MS. VERMETTE: ...to Amazon that you  
16 just referred to, Mr. Straumann.

17 MR. CAYLOR: They were lawyers for Mr.  
18 Taib as opposed to...

19 793. MS. VERMETTE: That is my recollection  
20 of the letter.  
21

22 BY MS. VERMETTE:

23 794. Q. Yes, so tab 140, the first paragraph  
24 you see, Mr. Straumann, that they say that they act  
25 for Taib.



1                   A.       Yes. But they had been acting for  
2                   Sean and Jamilah before this.

3       795.           Q.       Okay, but for this letter...

4                   A.       For this specific letter they were  
5                   acting for Taib, yes.

6       796.           Q.       Thank you. Okay, so we were at  
7                   volume 3, tab 35.

8                   A.       Yes.

9       797.           Q.       And so if you can go page 897? So,  
10                   this report is on your website?

11                   A.       Yes.

12       798.           Q.       So this is a page on Jamilah Taib  
13                   Murray?

14                   A.       Yes.

15       799.           Q.       And you published her date of birth?

16                   A.       Yes.

17       800.           Q.       Her passport number?

18                   A.       Yes.

19       801.           Q.       And the name of her children?

20                   A.       Correct.

21       802.           Q.       And if you go to page 906...

22                   A.       Yes.

23       803.           Q.       ...you do the same thing for Mr.  
24                   Sean Murray.

25                   A.       Correct.

1 804. Q. And if you go to page 915...

2 A. Yes.

3 805. Q. ...you see number 54, 55, 56?

4 A. Yes.

5 806. Q. Those are the children of Jamilah  
6 Taib Murray and Sean Murray?

7 A. Correct.

8 807. Q. And you published their dates of  
9 birth?

10 A. Correct.

11 808. Q. Can you please go in volume 1 to tab  
12 4?

13 A. Okay.

14 809. Q. Okay, so this is the Safe Haven  
15 Canada report of BMF?

16 A. Yes.

17 810. Q. Again, available on your website?

18 A. Correct.

19 811. Q. And on the cover page of this report  
20 we have Jamilah Taib Murray's home address?

21 A. Correct.

22 812. Q. Could you please go to page 170?

23 A. Yes.

24 813. Q. And again, the paragraph in the  
25 middle of the page you repeat again in this report

1 Jamilah Taib Murray and Sean Murray's home address  
2 in Ottawa?

3 A. Correct.

4 814. Q. And there is a picture of their  
5 house right there?

6 A. Yes.

7 815. Q. And on page 169 there is a map of  
8 Ottawa showing where their house is located.

9 A. Yes. All their private properties  
10 in Ottawa.

11 816. Q. Okay, so as we have seen, the NCP  
12 issued its final statement on July 11th, 2017.

13 A. Yes.

14 817. Q. That is the same date that you  
15 issued your Statement of Claim in this matter. I am  
16 showing it to you.

17 A. Okay.

18 818. Q. So the date is on the second page,  
19 Mr. Straumann. So you see it is dated July 11th,  
20 2017?

21 A. M'hmm.

22 819. MS. VERMETTE: Okay, we will mark the  
23 Statement of Claim as Exhibit 7.

24

25 --- EXHIBIT NO. 7: Statement of Claim dated July 11, 2017

1 BY MS. VERMETTE:

2 820. Q. So, were you waiting for the final  
3 statement before issuing the Statement of Claim?

4 A. No.

5 821. Q. No? So, that is a coincidence?

6 A. Yes.

7 822. Q. Okay, can you go to our responding  
8 motion record, tab F, in the blue book?

9 A. Okay. So at tab F we have another  
10 press release of BMF dated September 19, 2017.

11 A. Yes.

12 823. Q. And that press release is about  
13 Justice Myers' decision in this case?

14 A. Yes.

15 824. Q. And the title of the press release  
16 is, "Toronto court to hear money laundering case  
17 against Sarawak governor's daughter".

18 A. Correct.

19 825. Q. And you are aware, Mr. Straumann,  
20 that the court is not going to hear a money  
21 laundering case? You will only have a money  
22 laundering case if you proceed with the criminal  
23 prosecution.

24 A. Yes.

25 826. Q. So, you jumped a stage here.

1                   A.       Well, but the Norwich Pharmacal  
2                   order is being sought in view of a potential  
3                   prosecution.

4       827.           Q.       That is right, but what is going to  
5                   be heard is the request for a Norwich order, not the  
6                   money laundering case.

7                   A.       Yes, but without...yes. Okay. I  
8                   mean, that is a question of semantics, how you  
9                   define it. In the end this is a money laundering  
10                  case.

11       828.           Q.       But this is not what the court is  
12                  going to hear, at this point.

13                  A.       The court is...it is a pre-action  
14                  Norwich Pharmacal for disclosure order being sought.

15       829.           Q.       That is right.

16                  A.       But the action is...okay.

17       830.           Q.       Okay, so the press release, the  
18                  first sentence you repeat what we just talked about.  
19                  The money...that a sealed money laundering case will  
20                  be heard, and we just talked about that. But you  
21                  say that the court...the judge ruled that the case  
22                  will be heard in public.

23                  A.       Correct.

24       831.           Q.       But, of course, it was BMF who had  
25                  sought to have the case heard in the absence of the

1 public in the first place.

2 A. Correct.

3 832. Q. And at the bottom of page 63 there  
4 is a link to a video of yourself?

5 A. Correct.

6 833. Q. And in that video you talk about the  
7 case?

8 A. Yes.

9 834. Q. You also ask for donations?

10 A. Yes.

11 835. Q. Could you please go to page 64? So,  
12 there is a heading in the middle of the page,  
13 "Failure of public prosecutors to become active".

14 A. Yes.

15 836. Q. And then the press release states:  
16 "...BMF is going to court against the Taib  
17 family because of the failure of public  
18 prosecutors in Canada to investigate and  
19 charge Sakto for money laundering..."

20 A. Correct.

21 837. Q. It continues:  
22 "...Since 2010 BMF has repeatedly alerted  
23 FINTRAC, the RCMP, and the Canadian  
24 government over the suspected flow of  
25 proceeds of crime from Sarawak to

1 Ottawa..."

2 A. Correct.

3 838. Q. The next paragraph says:

4 "...In 2011 the RCMP replied to BMF that  
5 the RCMP does not normally confirm or deny  
6 the existence of any criminal  
7 investigation..."

8 A. Correct.

9 839. Q. Okay. So, but the RCMP in this case  
10 has done more than just reply...sending you a letter  
11 in 2011, correct?

12 A. I don't know.

13 840. Q. Okay. So, let's go to volume 7 of  
14 your...

15 A. I mean, what are you referring to?

16 841. Q. Yes, we are...

17 A. Okay.

18 842. Q. ...going there. Tab 129.

19 A. Okay.

20 843. Q. So this is an e-mail from Bruce  
21 Bailey to you, dated February 6th, 2017.

22 A. Yes.

23 844. Q. And you describe Mr. Bailey in your  
24 affidavit as BMF's representative in Ontario.

25 A. Correct.

1       845.           Q.       And that e-mail, Mr. Bailey is  
2                    reporting to you about a call that he had with an  
3                    RCMP officer?

4                    A.       Yes.

5       846.           Q.       Mr. Sheldon Landry. And so Mr.  
6                    Bailey says...well:

7                    "...I got a longish call from Sheldon  
8                    Landry from the RCMP today. What to say?  
9                    I think he is a sincere guy who is trying  
10                   hard to be communicative [and then there is  
11                   a big] BUT we talked about several things  
12                   from his frustration with dealing with a  
13                   variety of corruption cases, to lack of  
14                   investigative tools, to work he has done in  
15                   Indonesia with their anti-corruption  
16                   agency.

17                   However, when all is and was said  
18                   and done, his problem [meaning the RCMP's  
19                   problem] is that there is no proof of  
20                   violation of the law which would allow the  
21                   RCMP to prosecute a case. My response was  
22                   that we appreciate that problem..."

23                   So, from that e-mail the RCMP did look at your case.

24                   MR. CAYLOR:       Other than the e-mail, do  
25                   you have anything?



1 THE DEPONENT: I don't have anything  
2 else. I mean, yes...I mean, what do you  
3 want? What are you...  
4

5 BY MS. VERMETTE:

6 847. Q. I want the application to be  
7 dismissed. No, I am asking you...so, the RCMP from  
8 that e-mail told Mr. Bailey that their view was that  
9 there was no proof of violation of the law that  
10 would allow the RCMP to prosecute a case. That is  
11 what the e-mail says, correct?

12 MR. CAYLOR: She is asking you, does the  
13 e-mail say that?

14 THE DEPONENT: Well, the e-mail says  
15 there is no profitable violation of the  
16 law, which would allow the RCMP to  
17 prosecute the case. Yes.  
18

19 BY MS. VERMETTE:

20 848. Q. And so to counter that conclusion or  
21 make the statement, they had to have a look to what  
22 you provided to them, at least some of the things  
23 you provided to them.

24 A. Well, I presume they would.

25 849. MS. VERMETTE: Okay. Maybe we can take

1 a quick break. I may have about 20 minutes  
2 left. I am not sure. Off the record.

3

4 --- upon recessing at 3:21 p.m.

5 --- A BRIEF RECESS

6 --- upon resuming at 3:32 p.m.

7

8 LUKAS STRAUMANN, resumed

9 CONTINUED CROSS-EXAMINATION BY MS. VERMETTE:

10 850. Q. Okay, Mr. Straumann, could you  
11 please go to volume 3, tab 34? We are now going to  
12 talk about the investigations of the Malaysian  
13 Anti-Corruption Commission.

14 A. M'hmm.

15 851. Q. And I will refer to that commission  
16 as "MACC".

17 A. Okay.

18 852. Q. So, at tab 34 we have a letter that  
19 BMF sent to MACC on December 13, 2011.

20 A. Correct.

21 853. Q. And if you go to page 868, you refer  
22 at the end of the letter to a number of exhibits.

23 A. Yes.

24 854. Q. And the exhibits contain additional  
25 information that you were bringing to the attention

1 of MACC?

2 A. Yes.

3 855. Q. And if you can, please go back to  
4 page 860.

5 A. Yes.

6 856. Q. In the first paragraph you are...the  
7 letter is requesting:

8 "...The immediate arrest and criminal  
9 prosecution of Chief Minister Taib and 13  
10 members of his family..."

11 A. Correct.

12 857. Q. And on page 861 we have the list of  
13 names...

14 A. Yes.

15 858. Q. ...of the people you are seeking the  
16 arrest?

17 A. Correct.

18 859. Q. And just after the list of names you  
19 mention in the letter that MACC had announced on  
20 June 9th, 2011, that it had opened a formal  
21 investigation into Taib?

22 A. Yes.

23 860. Q. So there was already an  
24 investigation by the time you sent your letter in  
25 December?

1 A. Correct.

2 861. Q. And on page 862...

3 A. Yes.

4 862. Q. ...the sixth paragraph. Again, you  
5 refer to the Japan tax issues, but you do not refer  
6 to the National Tax Tribunal decision of 2008.

7 A. Correct.

8 863. Q. And in your affidavit you say that  
9 you did not receive a reply to this letter.

10 A. Correct.

11 864. Q. Okay. Could you please go to volume  
12 7, tab 137? So, there is no date on this document,  
13 but your table of contents indicates that this is an  
14 article from Malaysian Insider, dated February 24,  
15 2014. Do you want to check that, or does that sound  
16 right?

17 A. Dated 20...

18 865. Q. February 24, 2014.

19 A. Okay.

20 866. Q. And this article reports on the MACC  
21 investigation.

22 A. Yes.

23 867. Q. And the first paragraph states:

24 "...A MACC probe failed to nail Sarawak  
25 Chief Minister Taib for alleged abuse of

1 power over large tracts of lands in logging  
2 areas, which were given to his relatives,  
3 as the approvals were made by two senior  
4 state ministers, sources said..."

5 A. Correct.

6 868. Q. So, in this particular  
7 investigation, because I understand there were more  
8 than one, but in this particular investigation the  
9 Chief Minister was found not to have abused his  
10 power because of the procedure that was followed in  
11 those cases?

12 A. Well, according to this article,  
13 yes. The team discovered that...on the next page,  
14 2570, it says:

15 "...the team discovered that Taib did not  
16 make decisions to evade running afoul of  
17 the law, but he had delegated his authority  
18 under two ministers who, on separate  
19 occasions, had given the approvals..."

20 869. Q. Yes.

21 A. So his underlings gave the land to  
22 his relatives.

23 870. Q. But that was found not to have  
24 constituted an abuse of power? That is what the  
25 first paragraph of the article says.

1                   A.        Yes, what a...this is what the  
2        article says, yes.

3        871.           Q.        Yes.  And so in your affidavit, Mr.  
4        Straumann, you have made a number of allegations of  
5        abuse of power and conflict of interest.

6                   A.        Yes.

7        872.           Q.        But you actually do not know the  
8        internal procedures that were followed to grant  
9        specific licences and contracts.

10                  A.        I don't, but I know the result.

11       873.           Q.        You have not included in the record  
12        any evidence of the internal processes that is  
13        followed by the Sarawak government in granting  
14        licences and contracts.

15                  A.        Correct.

16       874.           Q.        And go to page 2571 in the same  
17        article.  So, this part of the article gives more  
18        information about the investigation.  And you see on  
19        the second paragraph, second full paragraph, it says  
20        that the investigation started sometime in 2009?

21                  A.        Yes.

22       875.           Q.        Do you have any information that  
23        contradicts this, that the investigation started as  
24        early as 2009?

25                  A.        No.

1 876. Q. Okay.

2 A. It was publicly acknowledged in  
3 2011, but I have no other information than this.

4 877. Q. And so this paragraph reads:  
5 "...Sometime in 2009 the MACC set up the  
6 team of 30 following information received  
7 and obtained from blogs on Taib's alleged  
8 misuse of power for illegitimate private  
9 gain. Over the period about 10  
10 investigation papers were opened, and even  
11 private forensic accounting experts were  
12 roped in to trace documents and the money  
13 trail..."

14 So now, and this is a quote:

15 "...'The team checked about 500 files, but  
16 the probe did not meet the desired  
17 results', the source added..."

18 Do you see that?

19 A. Yes.

20 878. Q. So, this article reports on  
21 significant efforts that were made by MACC in the  
22 investigation. Would you agree with that?

23 A. Yes.

24 879. Q. But they did not uncover anything  
25 that could lead to a prosecution?

1 A. Correct.

2 880. Q. Now, could you go to page 135?

3 MR. CAYLOR: Sorry, tab 135?

4 881. MS. VERMETTE: Yes, I think I have the  
5 wrong tab. 136.

6 MR. CAYLOR: Yes.

7 882. MS. VERMETTE: Yes, 136.

8

9 BY MS. VERMETTE:

10 883. Q. I have to take you to the article in  
11 French, that is why. Okay, so at tab 136, we have  
12 another article. It is dated June 12th, 2014.

13 A. Yes.

14 884. Q. And this article reproduces  
15 statements of the Malaysian Prime Minister, about the  
16 MACC investigation?

17 A. Not the Prime Minister. The  
18 Minister in the Prime Minister's department, Paul  
19 Low.

20 885. Q. Okay. And if you go to page 2566,  
21 Mr. Low says that MACC's investigation...and that is  
22 the fourth paragraph:

23 "...MACC's investigation against Taib  
24 continues on the instruction of the  
25 Attorney General's Chambers..."



1 A. Yes.

2 886. Q. And there is also a discussion in  
3 the article about the fact that Taib did not gain  
4 immunity from investigation when he was appointed  
5 Governor of Sarawak.

6 A. Correct.

7 887. Q. And these statements were made in  
8 2014?

9 A. Yes.

10 888. Q. And to your knowledge, has MACC  
11 taken any action since then?

12 A. I have no knowledge about MACC  
13 action since then.

14 889. Q. And in your affidavit you state  
15 that:

16 "...It is unclear whether MACC is still  
17 investigating Taib..."

18 A. Yes.

19 890. Q. But you also say, and maybe you can  
20 go in your affidavit to paragraph 74, page 44. So,  
21 paragraph 74 you state:

22 "...I am not aware of any criminal  
23 investigation taking place in any country  
24 regarding Taib or his family members..."

25 Does that include Malaysia?

1                   A.       Well, yes, because, I  
2                   mean...basically my understanding is that MACC never  
3                   formally closed the investigation, but it is dead  
4                   anyway, I would say.

5       891.           Q.       So given that nothing has happened  
6                   for a number of years now, to use your term, it is  
7                   very likely that it is dead? Is that...

8                   A.       I would...I don't know.

9       892.           Q.       No.

10                  A.       Maybe it is half dead, maybe it is  
11                  just a marketing tool that the Prime Minister keeps  
12                  against Taib. I don't know.

13       893.           Q.       So you don't know whether it is  
14                  closed or not?

15                  A.       No, I don't know.

16       894.           Q.       Okay. Okay, so...

17                  A.       We don't see any activity.

18       895.           Q.       Okay. Thank you. Okay, aside from  
19                  the letter that you sent to MACC, BMF also wrote  
20                  letters to a number of authorities in a number of  
21                  countries about the allegations in this case.

22                  A.       Yes.

23       896.           Q.       And that was starting approximately  
24                  in 2010?

25                  A.       Or 2011, maybe.

1 897. Q. Okay.

2 A. Yes.

3 898. Q. And I want to go over some of  
4 that...

5 A. Yes, 2010, 2011, that period.

6 899. Q. Okay. I will go over with you some  
7 of that correspondence, and we will start with the  
8 U.K. So, volume 6, please, tab 113.

9 Okay, we saw that earlier that is BMF's  
10 report to the City of London police?

11 A. Yes.

12 900. Q. And it mainly concerns Richford  
13 Properties?

14 A. Correct.

15 901. Q. And you can keep that open, but then  
16 if you go to your affidavit, page 83. So, in  
17 paragraph 168 there you say...you refer to that  
18 report to the London police, and you say in that  
19 paragraph that the case was later transferred to the  
20 National Crime Agency?

21 A. Correct.

22 902. Q. And you also say that since January,  
23 2015 BMF has contacted the National Crime Agency on  
24 numerous occasions, to provide addition evidence and  
25 ask for updates?

1 A. Correct.

2 903. Q. And you say that the NCA declined to  
3 share the status of their assessment of the  
4 allegations made against Richford.

5 A. Yes. We provided you the  
6 correspondence with the NCA in its entirety.

7 904. Q. That is right. Well, I have  
8 correspondence. So, three years have passed since  
9 your detailed complaint to the London police, or  
10 more than three years?

11 A. Yes.

12 905. Q. And the London police has not taken  
13 action based on your complaint?

14 A. Not that we know of.

15 906. Q. And even after you provided  
16 additional evidence to the National Crime Agency, to  
17 your knowledge there has not been government action  
18 based on your complaint and the information you  
19 provided?

20 A. Correct.

21 907. Q. And there has been no prosecution in  
22 the U.K.?

23 A. No.

24 908. Q. Okay. In your...the Money Logging  
25 book, tab 1, page 261, the very last paragraph on

1 this page, you say that BMF also exchanged  
2 correspondence with the British Foreign and  
3 Commonwealth Office?

4 A. Correct.

5 909. Q. That was in 2011?

6 A. Yes.

7 910. Q. And their response was that they  
8 were going to keep a watch on the MACC  
9 investigation?

10 A. Correct.

11 911. Q. And to your knowledge, no action has  
12 been taken by the British Foreign and Commonwealth  
13 Office since 2011?

14 A. Correct.

15 912. Q. Okay. So, moving to Australia, in  
16 your book, 261...

17 A. Yes.

18 913. Q. ...page 261, in the last full  
19 paragraph on the page, you refer to correspondence  
20 exchanged with the Australian Department of Foreign  
21 Affairs, and the Australian Federal Police?

22 A. Correct.

23 914. Q. And that was in 2011 as well? I  
24 mean, if you look at the footnote. We can go to the  
25 footnote.

1 A. It was all around that period.

2 915. Q. Okay. So, but the footnotes all  
3 included specific dates.

4 A. 28...yes, September, 2011, October,  
5 2011, yes.

6 916. Q. Okay. And you say in that  
7 paragraph:

8 "...The Australian Department of Foreign  
9 Affairs and the Australian Federal Police  
10 emphasized that they took the  
11 implementation of the U.N. convention  
12 against corruption very seriously, but that  
13 there wasn't sufficient evidence in the  
14 Taib case for them to act. They requested  
15 that Bruno-Manser-Fonds provide hard  
16 evidence that Taib real estate in Australia  
17 had, indeed, been financed out of the  
18 proceeds of corruption..."

19 A. Correct.

20 917. Q. And in the absence of that kind of  
21 evidence they didn't take action?

22 A. Correct.

23 918. Q. And in Australia you also later made  
24 a submission to the Senate Inquiry into foreign  
25 bribery?

1 A. Correct.

2 919. Q. And we can look at it. It is in  
3 volume 7, tab 124. So, that was your submission to  
4 the Senate Inquiry?

5 A. Correct.

6 920. Q. And it is dated October 16, 2015?

7 A. Correct.

8 921. Q. And in terms of specific companies  
9 mentioned in it, it relates to the Sitehost company?

10 A. Correct.

11 922. Q. And could you please go to 2448?

12 A. Yes.

13 923. Q. So, this is the letter that you  
14 received in response?

15 A. Yes.

16 924. Q. And it just acknowledges receipt of  
17 your submission?

18 A. Correct.

19 925. Q. And you say in your affidavit that  
20 because the Australian parliament...there was a  
21 dissolution of the Australian parliament because of  
22 an election in May, 2016, so the inquiry did not  
23 continue?

24 A. Correct.

25 926. Q. But you didn't hear anything further

1 about your submission, I take it?

2 A. No. Actually, last month we were  
3 invited to make a statement, because there will be a  
4 new bill, criminal finance bill, or something like  
5 that. But we have not made any submission.

6 927. Q. That is a separate submission?

7 A. That is a completely new...

8 928. Q. Okay.

9 A. It is not an inquiry. It is just a  
10 new legislation going into place, so they asked for  
11 a comment.

12 929. Q. Okay.

13 A. But also by the same committee.

14 930. Q. Okay. Okay, Germany. Volume 3,  
15 please, tab 35.

16 A. Yes.

17 931. Q. Page 912. So, the very last entry  
18 on that timeline on this page says that:

19 "...BMF sent a letter to the German  
20 Chancellor..."

21 A. Correct.

22 932. Q. "...in June, 2011".

23 A. Yes.

24 933. Q. Asking the government to:

25 "...investigate Taib's close business ties



1 with Deutsche Bank..."

2 A. Correct.

3 934. Q. Okay, now you can actually keep that  
4 open because we will come back, but in the Money  
5 Logging book, tab 1, page 262...

6 A. Yes.

7 935. Q. ...in the second paragraph you  
8 state, the second sentence:

9 "...The Federal Ministry of Finance  
10 launched an inquiry into the business  
11 relationship between Deutsche Bank and the  
12 Taib family to determine if it was in  
13 compliance with German regulations against  
14 money laundering. However, BaFin, the  
15 Federal Financial Supervisory Authority  
16 entrusted with this inquiry also concluded  
17 that there was no basis for it to  
18 intervene..."

19 A. Correct.

20 936. Q. And that conclusion was...I have  
21 from the footnote March 8, 2012. And...

22 A. Yes. So, 31, footnotes 31 and 32 on  
23 page 298.

24 937. Q. Yes, okay.

25 A. I have to add that BaFin, as bank

1 regulator, they look at these issues from a  
2 regulatory law standpoint, not from a criminal law  
3 standpoint.

4 938. Q. Okay. And if you go to page 197,  
5 still in the Money Logging book, in the first full  
6 paragraph on that page you give more detail on the  
7 BaFin's examination.

8 A. Correct.

9 939. Q. And that paragraph reads:  
10 "...Following questions addressed by the  
11 Bruno Manser Fund to the German government  
12 in 2011, BaFin...took a close look at  
13 Deutsche Bank's relations with the Taib  
14 family. Its examination dealt with  
15 'compliance with the due diligence duties  
16 laid down in the anti-money laundering law'  
17 and also 'the internal security measures  
18 set up by the financial institute'.

19 BaFin concluded that there were 'no  
20 grounds' for action by the regulatory  
21 authorities..."

22 A. Correct.

23 940. Q. So that is accurate?

24 A. That is accurate.

25 941. Q. And you are not aware of any other

1 action taken in Germany since 2012?

2 A. No.

3 942. Q. Okay. So now your home country,  
4 Switzerland.

5 A. Yes.

6 943. Q. In your book, page 199. So you say  
7 in the first paragraph that you wrote to...

8 A. Micheline Calmy-Rey, the Swiss  
9 foreign minister.

10 944. Q. Yes, and that was in, I believe,  
11 March, 2011?

12 A. Correct.

13 945. Q. And you asked that any assets that  
14 Taib might have in Switzerland be frozen?

15 A. Correct.

16 946. Q. And she responds, and you talk about  
17 that in the next paragraph. And she says that:

18 "...It is not going to work..."

19 But she forwards your letter to FINMA, which is the  
20 Swiss Financial Market Supervisory Authority?

21 A. Correct.

22 947. Q. And if we can go to volume 7.

23 A. 1 to 7?

24 MR. CAYLOR: No, volume 7.

25 948. MS. VERMETTE: So, tab 125.

1 THE DEPONENT: Tab 125, yes.

2

3 BY MS. VERMETTE:

4 949. Q. So, on page 2456, the first full  
5 paragraph, you say that...fourth line, that:

6 "...FINMA informed you in May, 2011 of an  
7 ongoing investigation on possible Taib  
8 assets in Swiss banks..."

9 So, you see that?

10 A. Yes.

11 950. Q. So, I haven't seen any reference to  
12 correspondence about FINMA informing you of an  
13 ongoing investigation. Was that...

14 A. In the affidavit.

15 MR. CAYLOR: Just let her ask the  
16 question.

17

18 BY MS. VERMETTE:

19 951. Q. Sorry, how did FINMA inform you of  
20 this?

21 A. I think FINMA sent us a letter, but  
22 in retrospect I am not sure if this was just a  
23 standard letter, or if it was a real...I haven't  
24 looked at the letter for a long while, so I would  
25 have to consult it to let you know. But...

1 952. Q. So, is it fair to say it is not  
2 clear in your mind now that there was necessarily an  
3 investigation: it may just have been a standard  
4 letter that they sent to everybody who sent a  
5 complaint?

6 A. Well, actually, following this we  
7 made a complaint...actually, when Taib's  
8 daughter-in-law, Shahnaz, who went to court against  
9 her husband, Bekir, in a divorce case...I mean, she  
10 produced evidence in court that said there was money  
11 in Switzerland being held by Swiss banks of the Taib  
12 family.

13 So, we used that to inform public  
14 prosecutors in Switzerland, and they looked into  
15 these, and then they came back and said, "We have  
16 not been able to identify any Taib funds currently  
17 being held", but there were two family members had  
18 assets in Switzerland, but these bank accounts had  
19 been closed down in the...probably 1990s.

20 953. Q. Okay. So...

21 A. So that is what we got. No ongoing  
22 investigation.

23 954. Q. Okay, so just to close the loop on  
24 that. So, if you can keep that open, but go in the  
25 Money Logging book, page 201.

1 A. Oh, yes, Shahnaz's testimony.

2 955. Q. That is what you were referring to,  
3 and we will come back to that. Just to point out  
4 that this was in 2013.

5 A. Yes.

6 956. Q. And so in the letter that we were  
7 looking at at tab 25, this talks about 2011.

8 A. Yes. Correct.

9 957. Q. So, in the letter...I am just trying  
10 to understand your answer. In the letter you say  
11 that FINMA informed you...

12 A. Yes.

13 958. Q. ...of an investigation, but you  
14 appear now to have doubts. I am not sure. What is  
15 your answer?

16 A. Honestly, I have to dig out that  
17 letter, because FINMA usually never they make these  
18 kinds of comments, so I wonder if I misinterpreted  
19 that letter based on my understanding back in 2011  
20 of these kinds of things.

21 959. Q. Okay. But in any event, as you  
22 said, since 2011 you haven't heard anything from  
23 FINMA?

24 A. No.

25 960. Q. Okay. So, now, page 201 of the book

1           that we were looking at. And this talks about the  
2           testimony given by Taib's daughter-in-law in her  
3           divorce proceeding, as you were saying?

4                   A.        Correct.

5           961.        Q.        And so that paragraph reads:  
6                   "...Shahnaz's testimony also sent  
7                   shockwaves through Switzerland. However,  
8                   her accusations could not be  
9                   substantiated..."

10                   A.        Correct.

11           962.        Q.        And:  
12                   "...An examination carried out by the  
13                   office of the Swiss Attorney General in  
14                   2013 showed that only one of the Swiss  
15                   banks mentioned by Taib's daughter-in-law  
16                   had had a business relationship with the  
17                   Taib family. Their bank accounts had  
18                   already been closed in 1999. Contrary to  
19                   the Muss Aman case, the Swiss prosecutors  
20                   did not open a criminal investigation and  
21                   ordered not to proceed with the matter..."

22                   A.        Correct.

23           963.        Q.        So, that is accurate? And to your  
24                   knowledge, no other action was taken in Switzerland?

25                   A.        No.

1 964. Q. Okay, now the United States. Okay,  
2 volume 3, tab 34. No, sorry, tab 35, and page 913.  
3 So, that is your timeline in this document, which is  
4 the Taib Timber Mafia report of BMF?

5 A. Correct.

6 965. Q. Okay. And so the August 24, 2011  
7 entry refers to a letter to FBI director Robert  
8 Mueller?

9 A. Correct.

10 966. Q. And in that letter BMF called on the  
11 FBI to cut ties with Taib-owned Wallyson's Inc?

12 A. Correct.

13 967. Q. And the...and you asked the FBI to  
14 suspend the rental contract for the Abraham Lincoln  
15 Building in Seattle, which is owned by Wallyson's?

16 A. Correct.

17 968. Q. And you did not receive a response  
18 from Mr. Mueller?

19 A. No.

20 969. Q. And then down on the same page, the  
21 December 12th, 2011 entry, it states that you  
22 forwarded a copy of your letter to MACC to both  
23 Secretary of State Hillary Clinton, and FBI's  
24 director Robert Mueller?

25 A. Correct.



1 970. Q. And you did not receive a response  
2 from either Hillary Clinton or Mr. Mueller?

3 A. No.

4 971. Q. Okay, then in your Money Logging  
5 book at tab 1, page 243. So you refer to Mr.  
6 Mueller in your book as well. You see in that  
7 section?

8 A. Page?

9 972. Q. Pages 243 and 244.

10 A. Yes.

11 973. Q. So, Mr. Mueller, in fact, is or was  
12 on your list of what you called "Taib's foreign  
13 helpers"?

14 A. Yes.

15 974. Q. And the fifth line from the end of  
16 the page, on page 243, you state in the book:

17 "...At the end of 2011 in the context of  
18 its stop timber corruption campaign, the  
19 Bruno Manser Fund published a blacklist in  
20 the format of a wanted poster, with the  
21 names of 30 individuals from nine countries  
22 who were accused of providing financial,  
23 technical or other services to Taib, and  
24 thereby of having supported or legitimized  
25 the despot's regime..."

1 And...

2 A. Yes.

3 975. Q. ...so that is accurate?

4 A. Yes.

5 976. Q. And in the last paragraph, the last  
6 full paragraph on page 244, you say:

7 "...The most prominent American to make its  
8 way onto the list of Taib's helpers was the  
9 former FBI director, Robert Mueller..."

10 A. Right.

11 977. Q. It continues:

12 "...Mueller's name was included because of  
13 the FBI's decision to close their eyes to  
14 the corruption of the Malaysian despot when  
15 moving their Seattle head office into a  
16 building belonging to the Taib family..."

17 And then:

18 "...Mueller was written to on this subject  
19 on numerous occasions, but his office has  
20 never provided a reply..."

21 A. Yes.

22 978. Q. So, you put Mr. Mueller's face on a  
23 wanted poster.

24 A. Correct. I mean, wanted poster.

25 This is not an official wanted poster, but it is

1 just...this is what we call a name and shame  
2 campaign.

3 979. Q. And that it said "wanted" on the  
4 poster.

5 A. He was not in office when the FBI  
6 moved into that building. But that was a campaign  
7 tool, yes.

8 980. Q. And despite your letters to Mr.  
9 Mueller, he did not take action?

10 A. No.

11 981. Q. And as far as you know the FBI is  
12 still in that building in Seattle?

13 A. Correct.

14 982. Q. Okay, now in your affidavit, please,  
15 page 94, paragraph 202.

16 A. He didn't complain about being on  
17 the list.

18 983. Q. Well, he didn't respond to your  
19 letters.

20 A. No.

21 984. Q. Okay. Paragraph 202, you say in  
22 this paragraph that:

23 "...In 2013 [you] met with the team of U.S.  
24 investigators in New York, two officers  
25 from the FBI and one from the IRS, to brief

1                   them on BMF's findings on Taib  
2                   corruption..."

3                   A.           Correct.

4       985.           Q.           And after...nothing ensued from that  
5                   meeting?

6                   A.           Not that I know.

7       986.           Q.           Okay.  And if you can go to page 80  
8                   in your affidavit, paragraph 162, you refer in that  
9                   paragraph to a report dated January, 2017 by the  
10                  United States Government Accountability Office.

11                  A.           Correct.

12       987.           Q.           And that is a report on high  
13                  security space leased from foreign owners.

14                  A.           Yes.

15       988.           Q.           And the report refers to the FBI's  
16                  building in Seattle, owned by Wallyson's.

17                  A.           Correct.

18       989.           Q.           And you quote from the report in  
19                  paragraph 162, but I just want to take you to the  
20                  end of the quote on page 81, five lines from the  
21                  top.

22                  A.           Correct.  Yes.

23       990.           Q.           The report says:  
24                  "...We found no evidence that the family  
25                  has been indicted or convicted of

1                   wrongdoing that would disqualify them from  
2                   leasing to the government..."

3                   A.           Correct.

4           991.           Q.           And:  
5                   "...GSA officials said that they are not  
6                   concerned about the ownership of the FBI  
7                   field office in Seattle.  According to GSA,  
8                   'as long as the lessor performs according  
9                   to the contract, additional concerns about  
10                  ownership would not be raised'..."

11                  A.           Correct.

12           992.           Q.           And as you have said, the FBI is  
13                  still there.

14                  A.           Yes.

15           993.           Q.           And in paragraph 163 of your  
16                  affidavit you say that you:

17                         "...are not aware of any U.S. money  
18                         laundering investigation or criminal  
19                         actions against Taib or Taib-related  
20                         entities..."

21                  A.           Correct.

22           994.           Q.           And this has not changed since you  
23                  swore your affidavit?

24                  A.           No.

25           995.           Q.           Now turning to Canada.  We are going

1 to go back in volume 7 to tab 125. So, page 2452.

2 A. Yes.

3 996. Q. On June 17th, 2010 you write to  
4 FINTRAC.

5 A. Correct.

6 997. Q. And FINTRAC is the Financial  
7 Transactions and Reports Analysis Centre of Canada?

8 A. Yes.

9 998. Q. And in the fourth paragraph of your  
10 letter you ask FINTRAC to launch a formal  
11 investigation against Sakto under the Canadian  
12 Anti-Money Laundering legislation.

13 A. Yes.

14 999. Q. And I understand you don't receive a  
15 response from FINTRAC to this letter, but you  
16 received one later on?

17 A. Yes.

18 1000. Q. Okay. So, then next page...well,  
19 page 2454. You sent to FINTRAC a copy of your  
20 letter of the same date, July 1st, 2011, to Prime  
21 Minister Stephen Harper.

22 A. Correct.

23 1001. Q. And the letter to the Prime Minister  
24 is on page 2455?

25 A. Correct.

1 1002. Q. And in addition to FINTRAC you sent  
2 a copy of this letter to the RCMP and others?

3 A. Correct.

4 1003. Q. And on page 2456, fourth full  
5 paragraph from the top, you state in the letter:

6 "...In particular, we would be grateful if  
7 the Canadian government could inform the  
8 public if FINTRAC or any other official  
9 Canadian body is investigating Taib assets  
10 in Canada, and what results a possible  
11 probe has yielded. We would also be  
12 interested in knowing how the Canadian  
13 government intends to deal with the assets  
14 of politically exposed persons from foreign  
15 countries in Canada..."

16 A. Yes.

17 1004. Q. So that was your request?

18 A. Correct.

19 1005. Q. And now at tab 126 you have the  
20 response from FINTRAC.

21 A. Yes.

22 1006. Q. And in the second paragraph they  
23 say:

24 "...I want to assure you that any  
25 information volunteered by persons or

1 organizations concerning their suspicions  
2 of money laundering is analyzed and  
3 assessed by FINTRAC in accordance with the  
4 Proceeds of Crime Money Laundering and  
5 Terrorist Financing Act..."

6 A. Correct.

7 1007. Q. And then:

8 "...I would like to point out that FINTRAC  
9 does not have the mandate to undertake  
10 money laundering or terrorist financing  
11 investigations or to freeze assets.

12 Rather, once statutory requirements are  
13 met, FINTRAC must disclose financial  
14 intelligence to investigative bodies such  
15 as the RCMP, to assist them in their  
16 work..."

17 A. Yes.

18 1008. Q. And they say that also:

19 "...They don't make public the fact that  
20 they do or do not disclose financial  
21 intelligence..."

22 A. Correct.

23 1009. Q. So, they assure you that they do  
24 assess and analyze information provided to them.

25 A. Yes.



1 1010. Q. Okay. At tab 127 a letter from the  
2 RCMP, and they respond to their request that there  
3 be a public statement as to whether there is an  
4 investigation. And they say the RCMP does not  
5 normally confirm or deny the existence of any  
6 criminal investigation.

7 A. Correct.

8 1011. Q. Okay, if you can go to the Money  
9 Logging book at page 261. So, the third  
10 paragraph...it is not in the record, but you say in  
11 your book that you did receive, as well, a letter  
12 from James Flaherty, the Canadian Minister of  
13 Finance at the time.

14 A. Correct.

15 1012. Q. In 2011?

16 A. Yes.

17 1013. Q. And do you know if he was responding  
18 for the Prime Minister?

19 A. I think he was.

20 1014. Q. And you say in that paragraph that  
21 Mr. Flaherty thanked you for the information and  
22 said that:

23 "...Canada was actively involved in  
24 international initiatives to combat  
25 corruption..."

1 A. Correct.

2 1015. Q. And until you contacted the RCMP  
3 again in 2013, and we will get to that, nothing else  
4 happened in Canada that you are aware of?

5 A. No.

6 1016. Q. Okay. So...

7 A. I mean, this e-mail contact that we  
8 talked about before...

9 1017. Q. The e-mail from Bruce Bailey?

10 A. Yes.

11 1018. Q. It was 2017.

12 A. Yes. I mean, that is the last  
13 knowledge we have.

14 1019. Q. Okay.

15 A. We have no knowledge what went on in  
16 between.

17 1020. Q. Okay. So, in volume 7, tab 128.  
18 Okay, so before Mr. Bailey's contact with the RCMP  
19 in 2017, there is another contact and, if you go to  
20 page 2469 starting at the first e-mail in the chain,  
21 this is an e-mail from Martin Bedard to you, dated  
22 April 4, 2013.

23 A. Yes.

24 1021. Q. And so you were in Ottawa at that  
25 time, at some point in April, 2013?

1 A. Correct.

2 1022. Q. And you contacted the RCMP to  
3 request a meeting?

4 A. Yes.

5 1023. Q. Mr. Bedard says in his e-mail that  
6 he could not meet you.

7 A. Correct.

8 1024. Q. But he invites you to forward  
9 additional information if you have anything else.

10 A. Correct.

11 1025. Q. He also says in the second sentence:  
12 "...I understand that our organization sent  
13 you a response letter concerning the same  
14 allegations..."

15 A. Correct.

16 1026. Q. Do you know if he is referring to  
17 the letter at tab 127?

18 A. Yes. Correct. This is the only  
19 letter we got.

20 1027. Q. Okay. And so going to page 2468, a  
21 few months later, September, 2013, you do send  
22 additional information to Mr. Bedard of the RCMP?

23 A. Correct.

24 1028. Q. And I understand that nothing  
25 followed from this e-mail?

1 A. Correct.

2 1029. Q. And then the next...as far I  
3 understand, the next contact with the RCMP was the  
4 call with Mr. Bailey?

5 A. Maybe...I am not sure. Maybe there  
6 was an attempt to contact him in between, but we  
7 never met them, or we never got any material  
8 information, so if there was a contact in between,  
9 which I doubt, it wouldn't have been substantive.

10 1030. Q. Okay. And again, the call with Mr.  
11 Bailey and Officer Sheldon Landry is set...Mr.  
12 Bailey summarizes his call in the e-mail at tab 129?

13 A. Correct.

14 1031. Q. Okay. If you can go to page 95 of  
15 your affidavit? So you summarize your contacts with  
16 the Canadian authorities in paragraph 2 and 3(a)  
17 and...well, (a)?

18 A. Correct.

19 1032. Q. And then in (b) you say that despite  
20 your efforts you are not aware of any formal or  
21 active investigations regarding the Taib entities  
22 discussed herein in the affidavit?

23 A. Correct.

24 1033. Q. And that is actually the truth, not  
25 for only Canada but other countries, with the

1 possible exception of MACC, that we discussed  
2 earlier? Meaning that you are not aware of any  
3 formal active investigation regarding the Taib  
4 entities in any...

5 A. Correct.

6 1034. Q. So, ultimately none of the  
7 complaints that you have made to the various  
8 authorities have resulted in a prosecution?

9 A. Correct.

10 1035. MS. VERMETTE: Okay, those are all my  
11 questions, Mr. Straumann.

12 THE DEPONENT: Okay, thank you.

13 1036. MS. VERMETTE: Thank you very much.

14

15 CROSS-EXAMINATION BY MR. SIRIVAR:

16 1037. Q. Mr. Straumann, I am the lawyer for  
17 the Royal Bank of Canada and the Toronto-Dominion  
18 Bank. I just have a few questions.

19 A. Sure.

20 1038. Q. Can I take you to paragraph 101 of  
21 your affidavit? It is found in volume 1, I believe,  
22 of your motion record, page 58 of the record. Do  
23 you have that?

24 A. Yes.

25 1039. Q. Paragraph 101 is under a section

1 titled "BMF's investigation into the Sakto Group's  
2 financials", and then the paragraphs that follow  
3 that for some number of pages describe both the  
4 investigation that I understand you undertook, as  
5 well as what you were able to determine as a result  
6 of that investigation. Is that correct?

7 A. Correct.

8 1040. Q. And as I understood your evidence  
9 earlier in response to questions by Ms. Vermette,  
10 you have been investigating what you call the Sakto  
11 Group for some seven years now?

12 A. Correct.

13 1041. Q. And am I correct that the  
14 information you outline at paragraphs 101  
15 essentially through to paragraph 137, which relate  
16 to what you found in the financials, was undertaken  
17 at some point in time in that seven-year  
18 investigation?

19 A. Correct.

20 1042. Q. And focusing for the moment on  
21 paragraph 101, the first part of the investigation,  
22 if I can put it that way, was in conducting internet  
23 searches that led you to Sakto's financial reports  
24 for the first 10 years of its existence. Is that  
25 correct?

1 A. Correct.

2 1043. Q. And what you did was you essentially  
3 Googled the Sakto Group, surfed the internet and  
4 found that their financial statements for this  
5 period of time were housed at the University of  
6 Western Ontario in London, Ontario?

7 A. Correct.

8 1044. Q. And if I understand correctly, you  
9 then physically went to the University of Western  
10 Ontario and obtained these records, or asked for  
11 them. Is that fair?

12 A. I asked for them and they sent them.

13 1045. Q. Fair enough. And what you got back  
14 was information that allowed you to conclude, first  
15 of all, who the accountants for Sakto were during  
16 the relevant time period?

17 A. Correct.

18 1046. Q. And you obtained physical copies of  
19 the financial statements that you append as Exhibits  
20 56 and 57 to your affidavit, correct?

21 A. Correct.

22 1047. Q. And the second part of your  
23 investigations was undertaken because you weren't  
24 able to find financials for the period of time after  
25 1993, as you say in the first sentence at paragraph

1 102 of your affidavit, correct?

2 A. Correct.

3 1048. Q. And so what you did was you  
4 undertook searches of public land registries to make  
5 a determination as to information that might be of  
6 assistance to you in your investigation, correct?

7 A. Correct.

8 1049. Q. And having searched the land  
9 registries, you...particularly in Ottawa, you were  
10 able to find a number of documents that allowed you  
11 to discern where the Sakto Group, as you call them,  
12 had various relationships with financial  
13 institutions, including my clients, the Royal Bank  
14 and the Toronto-Dominion Bank, correct?

15 A. Correct.

16 1050. Q. And if we go to the e-mail that Ms.  
17 Vermette took you to just a little while ago, which  
18 is found at tab 1...Exhibit 128 of your affidavit.  
19 And I am going to focus on the e-mail that is at  
20 page 2468 of the record.

21 A. Yes.

22 1051. Q. This is the e-mail from you to Mr.  
23 Bedard of the RCMP, in which you are responding to  
24 provide him with information on his invitation in  
25 relation to the fruits of your investigation,



1 correct?

2 A. Correct.

3 1052. Q. And what you say to Mr. Bedard in  
4 the first paragraph of that e-mail, which is dated  
5 the 19th of September, 2013, is that you are getting  
6 back to him in regards to your earlier communication  
7 on what you characterize as suspected money  
8 laundering of corruption proceeds by the Malaysian  
9 Taib family in Canada, correct?

10 A. Correct.

11 1053. Q. And so what you are doing here is  
12 you are giving Mr. Bedard of the RCMP the fruits of  
13 your investigation, so as to allow the RCMP to make  
14 an assessment of whether or not to do something  
15 about it, correct?

16 A. Correct.

17 1054. Q. And what...you provide Mr. Bedard  
18 with are a number...the covering e-mail, which is  
19 self-explanatory, and summarizes some of the things  
20 that your investigation has found, correct?

21 A. Correct.

22 1055. Q. And you append specific documents to  
23 the e-mail so he can have a review of the source  
24 documents themselves, correct?

25 A. Yes.

1 1056. Q. And the goal here is to inform the  
2 RCMP, or to provide the RCMP with the information  
3 you believed was supportive of your conclusions that  
4 there may have been money laundering occurring in  
5 Canada, correct?

6 A. Yes.

7 1057. Q. And, by this point in time the  
8 institution that you were concerned about in  
9 relation to where the money laundering may have  
10 occurred were the Royal Bank of Canada, the  
11 Toronto-Dominion Bank and the other respondents in  
12 this proceeding, correct?

13 A. Yes.

14 1058. Q. And now, if you go to the second  
15 last paragraph in your e-mail of September 19th,  
16 2013 to Mr. Bedard, which is found at page 2469 of  
17 the record.

18 A. Yes.

19 1059. Q. After having given him a summary of  
20 the findings of your investigation, at least the  
21 salient findings of your investigation, you say:

22 "...Finally, we would also like to provide  
23 you with the financial reports of Sakto  
24 Development Corporation's first 10 years of  
25 operation, 1984 to 1993, that are proving

1                   that despite constant losses the company  
2                   continuously built up its assets, which  
3                   reached over 40,000,000 dollars in the  
4                   early 1990s. We will send you these  
5                   documents with a separate e-mail..."

6                   So, I gather those are the same financials that you  
7                   obtained from the University of Western Ontario,  
8                   correct?

9                   A.        Correct.

10           1060.        Q.        And so you sent those financial to  
11                   the RCMP because you believed they should have them  
12                   and look at them and see if they will come to the  
13                   same conclusions that you were coming to, correct?

14                   A.        Yes.

15           1061.        Q.        In addition you say, in the last  
16                   paragraph of that same e-mail:

17                   "...We believe that the Sakto Development  
18                   Corporation is still involved in the  
19                   laundering of illicit Taib family assets,  
20                   and are currently working on the analysis  
21                   of the corporation's more recent mortgages  
22                   and loans, which we will provide within the  
23                   next weeks..."

24                   And those are the fruits of the second part of your  
25                   investigation that you and I talked about, that you

1 are referring to in paragraph 102 of your affidavit,  
2 correct?

3 A. Well, that is basically what is  
4 summarized in the Safe Haven Canada report in  
5 Exhibit 4, yes.

6 1062. Q. Right. But what I am getting at is  
7 you were able to get the information with respect to  
8 the mortgages...

9 A. Yes.

10 1063. Q. ...and loans from your review...

11 A. Yes.

12 1064. Q. ...of the land registries, correct?

13 A. Yes.

14 1065. Q. Right. And so the information that  
15 you outline in paragraphs 101 to 107 of your  
16 affidavit, dated June 27...

17 A. Yes.

18 1066. Q. ...of 2017 is information you had at  
19 least as early as September the 19th, 2013, correct?

20 A. Can you repeat the question, please?

21 1067. Q. You...yes...

22 A. We are summarizing what we had...in  
23 September 19, 2013, we had some information, like  
24 the financial statements, but the land registry  
25 research was ongoing.

1 1068. Q. Fair enough. Fair enough.

2 A. So that part of the land mortgage  
3 information and so on, we only...I mean, it is a  
4 very long tedious procedure to research that.

5 1069. Q. Fair enough. All of the financial  
6 information that you described in paragraph 101, so  
7 those are the statements from 1984 to 1993...

8 A. Yes.

9 1070. Q. ...you had all of those.

10 A. Correct.

11 1071. Q. Because you were going to send them,  
12 correct.

13 A. Correct.

14 1072. Q. Right. And the fruits of your  
15 investigation, as outlined in paragraph 102, which  
16 is the products of the land registry...

17 A. Yes.

18 1073. Q. ...you are...if I understand the  
19 distinction you are making, you may not have had all  
20 of them, but you certainly had some of them because  
21 you make reference to them in the e-mail to Mr.  
22 Bedard on September the 19th, 2013.

23 A. Correct.

24 1074. Q. But in any event...as it relates to  
25 the land registry, those are all publicly available

1 searches that you could have undertaken at any time,  
2 correct?

3 A. Yes.

4 1075. Q. Now, you then, at some point in  
5 time, retain a forensic accounting...a litigation  
6 and forensic accounting firm by the name of Ferguson  
7 & Mak, LLP?

8 A. Correct.

9 1076. Q. Correct? And at some point...well,  
10 on the 24th of January, 2014, they provided you with  
11 a report?

12 A. Correct.

13 1077. Q. And so I gather they were retained  
14 at some point prior to the 24th of January, 2014?

15 A. Yes.

16 1078. Q. And they were provided with the  
17 financial reports that you and I were just talking  
18 about, correct?

19 A. I mean, we took them on specifically  
20 to look into the Manulife mortgages, because during  
21 the land registry research we found that there were  
22 two sets of...I mean, there is mortgages at somewhat  
23 unusually high interest rates, and we did not know  
24 how to interpret these facts. So, that is why we  
25 commissioned Ferguson & Mak to provide us an answer

1           what could these...I mean, how many mortgages were  
2           there, really, and what could this basically mean in  
3           terms of financing these properties.

4                   MR. CAYLOR:       He wants to know if you  
5                   gave them the financials.

6   1079.           MR. SIRIVAR:       Yes.

7

8   BY MR. SIRIVAR:

9   1080.           Q.       My simple question was what you gave  
10           them, not what you asked them to do.

11                   A.       I don't think we gave them the  
12           financial statements.

13   1081.           Q.       So, let's go to...

14                   A.       But I can't exclude it. I can't for  
15           sure exclude it, either.

16   1082.           Q.       Okay. So, let's then go to Exhibit  
17           86 to your affidavit dated June the 27th, 2017.

18                   A.       Sure.

19   1083.           Q.       Do you have that, sir?

20                   A.       Yes. I do.

21   1084.           Q.       And so this is the report that you  
22           ultimately obtained from Ferguson & Mak, correct?

23                   A.       Correct.

24   1085.           Q.       And just a couple of preliminaries.  
25           It is dated the 24th of January, 2014, correct?

1 A. Correct.

2 1086. Q. And in the second paragraph under  
3 the heading, "Introduction", what the author states  
4 is that he understands that this report will be used  
5 by Bruno-Manser-Fonds for purposes of contemplating  
6 litigation. And he then states:

7 "...We further understand that this report  
8 may also be shared with law enforcement and  
9 regulatory authorities..."

10 Correct?

11 A. Correct.

12 1087. Q. Now, if you flip down to pages 9 and  
13 10, he has a heading on page 1830 of the record,  
14 that is titled "Relating party funding". Do you see  
15 that there?

16 A. Yes. "E, related party funding".

17 1088. Q. "E, related party funding", was the  
18 heading...

19 A. Correct.

20 1089. Q. ...correct? And under that heading  
21 he does discuss, as he does throughout the report,  
22 the Manulife mortgages, and answers the questions  
23 that you asked. But if you look at the third  
24 paragraph, which starts with the words, "I further  
25 note..."



1 A. Yes.

2 1090. Q. He states:

3 "...I further note that a mortgage was  
4 registered in favour of Jamilah Taib in  
5 trust, on certain Preston Square  
6 properties, on or about August 19th,  
7 1996..."

8 And then there is a footnote that says:

9 "...See mortgage instrument LT994559..."

10 Do you see that there?

11 A. Yes.

12 1091. Q. So, he is presumably footnoting a  
13 specific mortgage instrument that you provided as a  
14 result of the investigations you had undertaken from  
15 the land registry, correct?

16 A. Correct.

17 1092. Q. It then says:

18 "...The mortgage was charged to Sakto  
19 Development Corporation, with interest to  
20 be determined from time to time, subject to  
21 a maximum of the Royal Bank of Canada prime  
22 rate plus five percent..."

23 As I read that, that mortgage instrument relates to  
24 what was a Royal Bank of Canada mortgage, correct?

25 A. I think reference is being just made

1 to the interest rate, to the Royal Bank of Canada  
2 prime rate, but I am not sure. Because the  
3 mortgage...we have this mortgage here as  
4 Exhibit...is it 68?

5 MR. CAYLOR: Is that where you want to  
6 us to look at the mortgage or...

7 1093. MR. SIRIVAR: Yes, we are going to look  
8 at the mortgage. My only question is  
9 whether...

10 MR. CAYLOR: Just wait.

11 1094. MR. SIRIVAR: ...we are in Sakto's.

12 MR. CAYLOR: He doesn't want you to look  
13 at the mortgage.

14 1095. MR. SIRIVAR: No, no you can look at the  
15 mortgage if it will assist you answering my  
16 question. I don't want to preclude you  
17 from doing that.

18

19 BY MR. SIRIVAR:

20 1096. Q. My question was simply for you to  
21 confirm that in addition to Manulife documents, that  
22 the forensic accountants were also provided with the  
23 documents that you had discerned from mortgages, or  
24 other lending relationships with other financial  
25 institutions, including the Royal Bank of Canada.

1 MR. CAYLOR: Do you recall if  
2 they...what group of documents you gave to  
3 them at this time for this report?

4 THE DEPONENT: Well, I mean, we provided  
5 them some documents and other documents  
6 they researched by themselves. What is  
7 your question exactly? If we provided them  
8 the mortgage document, the Royal Bank of  
9 Canada mortgage?

10

11 BY MR. SIRIVAR:

12 1097. Q. Yes, I don't want to make this any  
13 more complicated than it is. Really, from my  
14 perspective, it was simple and I apologize if I have  
15 made it more complicated in the way I have asked.

16 A. Okay, I am sorry.

17 1098. Q. Let me try it again.

18 A. Sorry.

19 1099. Q. If you go to page 1831, which is the  
20 very next page of the report...

21 A. Yes.

22 1100. Q. ...look at the second last paragraph  
23 under the heading "E", where it says, "Jamilah  
24 Taib". Do you see that there?

25 A. Yes.

1 1101. Q. It says:  
2 "...Jamilah Taib signed the 1989 Royal Bank  
3 debenture on behalf of Sakto Development  
4 Corporation..."

5 So, you would agree with me there that they are, at  
6 least in that instance, referring to a debenture  
7 from the Royal Bank...

8 A. Yes.

9 1102. Q. ...as opposed to Manulife. Correct?

10 A. Yes.

11 1103. Q. So, in their possession they had  
12 mortgage and other loan documents from financial  
13 institutions other than Manulife, correct?

14 A. Yes.

15 1104. Q. And given that, as you describe at  
16 paragraph 102, one of the things you were doing in  
17 relation to your investigations, was searching the  
18 land registry. I take it that you would agree with  
19 me that it is likely that, to the extent that they  
20 had documents from the land registry relating to the  
21 lending relationship with the RBC, that those  
22 documents may have come from your investigation?

23 A. Correct.

24 1105. Q. Now, coming back to your affidavit.

25 All of the information that is contained in

1 paragraphs 103 to 137, as you have now described, is  
2 information that was obtained from either the  
3 financial reports, or the land registry  
4 documentation, correct?

5 A. Yes.

6 1106. Q. And you have summarized...

7 MS. WARD: Do you mean 37? You said 103  
8 to 137?

9 1107. MR. SIRIVAR: Correct.

10 MS. WARD: Is that right?

11 1108. MR. SIRIVAR: Correct.

12 MR. CAYLOR: Just let him check.

13 THE DEPONENT: Yes, correct.

14

15 BY MR. SIRIVAR:

16 1109. Q. And as it relates to RBC, if you  
17 skip to paragraph 133 of your affidavit...

18 A. Yes.

19 1110. Q. ...you were able to discern  
20 specifics on RBC's relationship with Sakto, as  
21 described in paragraphs 133 and 134...

22 A. Correct.

23 1111. Q. ...from publicly available  
24 information, correct?

25 A. Yes.

1 1112. Q. You and I spoke at the same time.  
2 The answer to the question that I asked is correct?  
3 It is yes?

4 A. Yes.

5 1113. Q. And so you were able to discern that  
6 at least by September of 2013?

7 A. I would say so. Or, maybe in  
8 November, 2013. Sometime in there. Ferguson &  
9 Mak's investigation did not...I mean, the period of  
10 time was very limited when they conducted this  
11 investigation.

12 1114. Q. So your point is sometime in 2013?

13 A. Yes. Fall 2013.

14 1115. Q. Now, when we go to table 4 in  
15 relation to your summary of...

16 MR. CAYLOR: What page?

17 1116. MR. SIRIVAR: Sorry, table 4 is at  
18 paragraph 51 of your affidavit.

19 MR. CAYLOR: Paragraph or page?

20 MS. WARD: What page?

21 1117. MR. SIRIVAR: Page 63...I am sorry.  
22 Page 63 of the record, paragraph 114 of the  
23 June 27th, 2017 affidavit. My apologies.

24 MR. CAYLOR: Okay.  
25

1 BY MR. SIRIVAR:

2 1118. Q. You have summarized in table form  
3 your conclusions as to the loans that Sakto had from  
4 1984 to 1993, correct?

5 A. Correct.

6 1119. Q. And am I correct in understanding  
7 where you indicate the type of mortgage...sorry, the  
8 type of loan, you have indicated in two instances in  
9 items 15 and 16, that they were related-party loans,  
10 so from your assessment you viewed that as being two  
11 corporate or other entities that were in one way  
12 related?

13 A. Correct.

14 1120. Q. And so to the extent that you  
15 haven't made that reference that those were third  
16 party mortgages?

17 A. The others?

18 1121. Q. Yes.

19 A. No. Actually, we concluded that  
20 these were related-party loans from two facts.  
21 First...

22 MR. CAYLOR: No, but the rest of them.

23 He is just asking about the rest of them.

24 THE DEPONENT: The rest of them are just  
25 other mortgages.

1 BY MR. SIRIVAR:

2 1122. Q. Maybe I will make it simple. Do any  
3 of the mortgages described on table 4 between items  
4 1 and 13...sorry, 1 and 14, and then item 17, do any  
5 of those relate to mortgages that were granted  
6 either by the TD Bank or the Royal Bank or any of  
7 the institutions that are respondents to this  
8 application?

9 MR. CAYLOR: Do you know...

10 MS. WARD: These are loans...

11 THE DEPONENT: Well...

12 1123. MR. SIRIVAR: I would like the witness'  
13 answer.

14 THE DEPONENT: Yes. Let's check at  
15 table 5 on the next page, because in table  
16 5 we tried to identify the loans  
17 corresponding to the loans in table 4. And  
18 we have a loan dated the 13th of January,  
19 1989, which was from the Royal Bank of  
20 Canada, so number 13 in table 4.

21 1124. MR. SIRIVAR: So...

22 THE DEPONENT: We cross-referenced that  
23 as an RBC loan.  
24

25 BY MR. SIRIVAR:



1 1125. Q. So, table 5 is your attempt to  
2 reconcile table 4 with who the third party lenders  
3 are?

4 A. Correct.

5 1126. Q. Okay, so we will go to table 5.

6 A. So, table 5 is based on land  
7 registry sources; whereas table 4 is based on  
8 financial statement sources.

9 1127. Q. I see.

10 A. And the financial statement sources  
11 mostly don't say who the loan was being owed to.

12 1128. Q. I see.

13 A. But that is why we reconciled those.

14 1129. Q. I see. So, if we go to table 5  
15 then, your investigations revealed that there were  
16 two loans, of specific relevance to me. One was  
17 from the Toronto-Dominion Bank, dated the 27th of  
18 May, 1986.

19 A. Correct.

20 1130. Q. And the other one was from the Royal  
21 Bank of Canada, dated the 13th of January, 1989?

22 A. Correct.

23 1131. Q. And it is in relating to those  
24 specific accounts that you are looking for  
25 documentation on this application, among others?

1 A. Yes.

2 1132. Q. Now, in relation to the loans from  
3 1994 and up to 2016, you have identified in table 6,  
4 which is at paragraph 120 of your affidavit...

5 A. Yes.

6 1133. Q. ...a mortgage granted by the Royal  
7 Bank on the...that is described as having been  
8 granted to Sakto on September the 14th, 1994?

9 A. Correct.

10 1134. Q. And as it relates to the TD Bank,  
11 and the Royal Bank, insofar as your affidavit goes,  
12 those are the only mortgages that you were able to  
13 identify in respect of those two entities, correct?

14 A. Correct. However, I understand that  
15 some other financial institutions that may be listed  
16 in table 5 have been taken over by the  
17 Toronto-Dominion Bank since. Is that correct?

18 1135. Q. I am not going to answer your  
19 question.

20 A. Sorry. According to my recollection  
21 one...the TD Bank also took over...I don't know if  
22 it is Guaranty Trust Company of Canada,  
23 Mortgage and Housing Corporation. If that is the  
24 case, these two mortgages will also relate to the TD  
25 Bank.

1 1136. Q. So, leaving aside for the moment...

2 A. Yes.

3 1137. Q. ...mortgages that were taken over by  
4 an institution, these are the only mortgages that  
5 you were able to discern were mortgages that were  
6 granted originally by the financial institutions  
7 that I represent?

8 A. Correct.

9 1138. Q. And so to the extent that you have  
10 identified other mortgages in the proposed draft  
11 order, those are mortgages that you say the  
12 Toronto-Dominion Bank took over?

13 A. Took over if it...yes.

14 1139. Q. And so in relation to those  
15 categories of mortgages, the ones at  
16 Toronto-Dominion Bank, you would agree with me that  
17 the only information that the Toronto-Dominion Bank  
18 would have would be information that arises from the  
19 time...the period of time that it took over the  
20 mortgages?

21 MS. WARD: What...you are asking...

22 THE DEPONENT: Are you referring to the  
23 disclosure order? I mean, exactly what is  
24 being listed there?

25 1140. MR. SIRIVAR: Yes.

1 BY MR. SIRIVAR:

2 1141. Q. So you are asking for documents  
3 relating to certain mortgage and other accounts,  
4 correct?

5 A. Yes.

6 1142. Q. And you and I have just been through  
7 the totality of the list of the mortgage accounts  
8 that you identified from the Toronto-Dominion Bank  
9 and the Royal Bank that were granted by those  
10 institutions in the first instance. Correct?

11 A. Yes.

12 1143. Q. You also said that in addition to  
13 those there may be other mortgages that the  
14 Toronto-Dominion Bank took over from other financial  
15 institutions, correct?

16 MR. CAYLOR: Correct.

17

18 BY MR. SIRIVAR:

19 1144. Q. In respect of that latter category  
20 of mortgages, you would agree with me that the only  
21 information that the Toronto-Dominion Bank would  
22 have, as it relates to your intended targets, would  
23 be the information that it had from the date on  
24 which it took that mortgage account over, going  
25 forward?

1 A. I presume so, yes.

2 1145. Q. It would give you no information in  
3 relation to what happened in terms of the inflow of  
4 funds in the period of time before that?

5 MR. CAYLOR: Well, I don't think the  
6 witness can answer one way or the other.

7 1146. MR. SIRIVAR: Well, he can tell me if he  
8 can.

9 MR. CAYLOR: He has to presume, so I  
10 don't want him to do that again. So, only  
11 your client can tell us the information  
12 they got when they took over. I understand  
13 the distinction...

14 1147. MR. SIRIVAR: Mr. Caylor, if you want to  
15 object that is okay, I will move on, but I  
16 want the witness to...if he can't answer  
17 the question he will tell me that.

18 MR. CAYLOR: Well, he is presuming, so I  
19 don't want him to presume.

20 THE DEPONENT: We...I...

21 MR. CAYLOR: So, don't presume.

22 THE DEPONENT: Okay.

23 MR. CAYLOR: You can give whatever  
24 information you do have...

25 THE DEPONENT: Okay.

1 MR. CAYLOR: ...and you can answer the  
2 questions.

3 THE DEPONENT: We don't know if there  
4 was a customer relationship between the  
5 Royal Bank of Canada and the Taib family  
6 prior to these loans being granted. So, if  
7 there is a...for instance, it is possible  
8 that two years prior to these mortgages  
9 being granted, \$5,000,000 came in from  
10 Malaysia onto an RBC bank account, and  
11 later on were used as a collateral or  
12 whatever. I mean, this is possible.

13

14 BY MR. SIRIVAR:

15 1148. Q. But you are speculating?

16 MR. CAYLOR: You are asking him to.

17 1149. MR. SIRIVAR: No, you told him not to.

18 THE DEPONENT: But, I mean...

19 MR. CAYLOR: It is late in the day. I  
20 understand...is there anything further on  
21 that point that you want to get from the  
22 witness, Counsel?

23 1150. MR. SIRIVAR: I have your position.

24

25 BY MR. SIRIVAR:

1 1151. Q. Mr. Straumann, Ms. Vermette took you  
2 to the e-mail correspondence that Mr. Bailey, who  
3 you would agree with me is in this room...

4 A. Yes.

5 1152. Q. ...had with the RCMP?

6 A. Correct.

7 1153. Q. And you would agree with me that the  
8 conclusion that Ms. Vermette took you to, in  
9 relation to the RCMP, determined that there was no  
10 proof of violation of law, which could allow the  
11 RCMP to prosecute a case, was based after...was at a  
12 point in time after you had given the RCMP all the  
13 information that you and I talked about you giving  
14 them in September of 2013?

15 A. Yes.

16 1154. Q. So they looked at everything you  
17 gave them and they told Mr. Bailey that in their  
18 view there was no proof of violation of law which  
19 would allow the RCMP to prosecute a case, correct?

20 A. We don't know if they looked at  
21 everything we gave them.

22 1155. Q. But they had it?

23 A. I mean, this kind of phone call  
24 information, it is not firsthand information from  
25 the RCMP. It is just what Mr. Bailey wrote to me

1 about the phone call, and...

2 1156. Q. Mr. Straumann...

3 A. I don't know...we don't know what  
4 the RCMP did. We simply don't know.

5 1157. Q. Do you doubt Mr. Bailey's  
6 conclusion...Mr. Bailey's recitation of what the  
7 RCMP told him?

8 A. No.

9 1158. Q. And what the RCMP told him with the  
10 documents you provided them was that they did not  
11 have proof of violation of law which would allow the  
12 RCMP to prosecute a case, correct?

13 A. I am just making the point that this  
14 e-mail is not direct information from the RCMP, but  
15 it is after the recollection has been written down  
16 and sent to me. So, it is not the exact wording  
17 that the RCMP may have given.

18 1159. Q. Is the answer to my question yes?

19 A. We have no record of the phone  
20 calls.

21 1160. Q. But is the answer to my question  
22 yes?

23 A. What was the question?

24 1161. Q. Mr. Bailey told you in an e-mail  
25 that the RCMP told him in February of 2017 that



1           there was no proof of violation of law which would  
2           allow the RCMP to prosecute a case?

3                   A.           Yes.

4   1162.           Q.           And the RCMP...Mr. Bailey told you  
5           that in February of 2017, correct?

6                   A.           Can we look at...

7                   MR. CAYLOR:       I am assuming that is the  
8           date of the e-mail. Is that what is stated  
9           in the e-mail?

10                  THE DEPONENT:       Yes.

11

12   BY MR. SIRIVAR:

13   1163.           Q.           So the answer to my question is yes?

14                   A.           The date of the e-mail?

15   1164.           Q.           Mr. Bailey told you that in February  
16           of 2017, correct?

17                   A.           Yes.

18   1165.           Q.           And he told you that he had had the  
19           conversation with the RCMP that day, correct?

20                   A.           Yes.

21   1166.           Q.           And some years earlier you had  
22           provided the RCMP with all of the information you  
23           and I had discussed earlier, correct?

24                   A.           Yes.

25   1167.           MR. SIRIVAR:       This question might be for

1 your counsel. Mr. Caylor, at the outset of  
2 Mr. Straumann's cross-examination you had  
3 an exchange with Ms. Vermette relating to  
4 whether or not Mr. Taib and Onn, who as we  
5 have been referring to them, were served  
6 with the applicants' materials. Several  
7 questions.

8 The first is were both of those  
9 individuals served with the Notice of  
10 Application?

11 MR. CAYLOR: I don't know, but I think  
12 so. I will have to confirm that. U/T

13 1168. MR. SIRIVAR: Were both those  
14 individuals served with what I am going to  
15 call the application record, or the  
16 seven-volume record?

17 MR. CAYLOR: We will have to confirm but  
18 I think they were, yes. U/T

19 1169. MR. SIRIVAR: And I would like to know  
20 the manner of service. How were they  
21 served?

22 MR. CAYLOR: And I think I gave the  
23 undertaking to our friend that, to the  
24 extent there is a record of how the service  
25 took place, we will provide that. U/T

1 1170. MR. SIRIVAR: Okay. Was leave of the  
2 court granted to serve those individual ex  
3 juris?

4 MR. CAYLOR: No.

5 1171. MR. SIRIVAR: I would also like to know  
6 where they were served.

7 MR. CAYLOR: As I said, we will give you  
8 the particulars. U/T

9 1172. MR. SIRIVAR: Perhaps the witness could  
10 be given a copy of Exhibit 7, the Statement  
11 of Claim?  
12

13 BY MR. SIRIVAR:

14 1173. Q. Do you have that in front of you?  
15 Do you have the Statement of Claim in front of you?

16 A. Yes.

17 1174. Q. I gather this is a document you have  
18 seen before?

19 A. Yes.

20 1175. Q. And prior to it being filed with the  
21 court, if you understand...or, issued with the  
22 court, I gather you had an opportunity to review it  
23 in draft form?

24 A. Yes.

25 1176. Q. To make sure that you understood

1           what the document said, and agreed with its  
2           contents, correct?

3                   A.       Correct.

4   1177.           Q.       And so this document, as far as you  
5           are concerned, is correct?

6                   A.       Yes.

7   1178.           Q.       And if you refer to paragraph 10...

8                   A.       Yes.

9   1179.           Q.       ...it states:

10                   "...The defendants..."

11           Which are now the respondents in this application.

12                   A.       Correct.

13   1180.           Q.       It continues:

14                   "...through no fault of their own appear to  
15           have become mixed up in the crime of money  
16           laundering at the direction of the Taib  
17           entities..."

18           Do you see that?

19                   A.       Correct. Yes.

20   1181.           Q.       And when this matter was converted  
21           into an application, the document that is now at  
22           Exhibit 2 was issued. Can you have that in front of  
23           you?

24                   MR. CAYLOR:       Yes, we have it.

25

1 BY MR. SIRIVAR:

2 1182. Q. So, I have looked at these documents  
3 closely together, and when I look at the Notice of  
4 Application I see no reference in the Notice of  
5 Application to a sentence similar to the first  
6 sentence at paragraph 10 that you and I just took  
7 over. Can you...is it the position...so, does it  
8 continue to be the applicants' view that the  
9 respondents, including the Royal Bank and  
10 Toronto-Dominion Bank, have done nothing wrong, to  
11 put it bluntly?

12 MR. CAYLOR: Yes.

13 1183. MR. SIRIVAR: Okay. Now, are you  
14 prepared to undertake not to sue the  
15 respondents, including the Royal Bank and  
16 The Toronto-Dominion Bank, if you are  
17 granted the order you are seeking?

18 MR. CAYLOR: I will have to give that  
19 some thought and let you know. Yes, I will  
20 have to speak to my client, but you have  
21 our position with respect to the pleading  
22 and the position. I will let you know  
23 about the undertaking.

U/A

24 1184. MR. SIRIVAR: And so what was the  
25 position in terms of the pleading again?



1 MR. CAYLOR: Do you know? Do you have  
2 an understanding of what they meant?

3 1188. MR. SIRIVAR: Well, he has mentioned...

4 THE DEPONENT: I have an understanding  
5 what they meant.

6 MR. CAYLOR: Okay.

7 THE DEPONENT: They were concerned about  
8 the report being published. The only  
9 context that this report should be used was  
10 within a litigation context.

11

12 BY MR. SIRIVAR:

13 1189. Q. And at that time, in 2014, were you  
14 contemplating litigation as against TD Bank, the  
15 Royal Bank or any of these respondents?

16 A. We were contemplating litigation  
17 against the Taib Group, not against TD Bank and  
18 Royal Bank of Canada.

19 1190. Q. And that remains the case today?

20 A. From my point of view, yes.

21 1191. Q. Well...

22 MR. CAYLOR: No, we have already  
23 answered that, I thought.

24 THE DEPONENT: Yes, this remains  
25 the...yes.

1 BY MR. SIRIVAR:

2 1192. Q. From the point of view of Lukas  
3 Straumann, the BMF and the applicants in this  
4 proceeding, correct?

5 A. Correct. I mean...

6 MR. CAYLOR: That is all right, just  
7 wait for a question.

8 1193. MR. SIRIVAR: Thank you, those are my  
9 questions.

10

11 CROSS-EXAMINATION BY MS. DANIS:

12 1194. Q. Hi. By the way, I am Stacey. I am  
13 here for Manulife Financial. We just wanted to  
14 confirm as you just did, that it was your position  
15 as for RBC and TD that they have done nothing wrong.  
16 That it is also that you agree that it is your  
17 position that Manulife Financial has done nothing  
18 wrong? Do you agree with that?

19 A. Yes.

20 1195. Q. Okay. And I understand now you are  
21 considering to undertake not to sue RBC and TD based  
22 on the documents that we have produced?

23 MR. CAYLOR: And I will consider the  
24 same with respect to your client.

U/A

25 1196. MR. SIRIVAR: Okay, that is all of our



1 questions. Thank you.

2 MR. CAYLOR: Thank you.

3 MR. BLACKBURN: And finally, very brief.

4 Jed Blackburn, counsel for Deloitte. I

5 would just like to confirm that those

6 questions and answers apply similarly to

7 the Respondent, Deloitte?

8 MR. CAYLOR: We will so confirm that.

9 MR. BLACKBURN: Thank you.

10

11 --- upon adjourning at 4:56 p.m.

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