



COURT FILE NUMBER 1801 04745

COURT **COURT OF QUEEN'S BENCH OF ALBERTA**

JUDICIAL CENTRE **CALGARY**

PLAINTIFF **HILLSBORO VENTURES INC.**

RESPONDENT **CEANA DEVELOPMENT SUNRIDGE INC.**

DOCUMENT **TRANSCRIPTS FROM THE QUESTIONING OF KEITH FERREL HELD
OCTOBER 29, 2020**

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Nov. 2 2020

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COURT FILE NUMBER 1801-04745

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF HILLSBORO VENTURES

DEFENDANT CEANA DEVELOPMENT SUNRIDGE INC.

Transcript of Oral Questioning of
KEITH FERREL
(on affidavits sworn June 19, 2019, January 13, 2020, and
October 26, 2020)
Held via videoconferencing
October 29, 2020

1 ALL PARTIES APPEARING VIA VIDEOCONFERENCING

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1 (Proceedings commenced at 1:00 p.m.)

2 KEITH FERREL, affirmed, questioned by Mr. Nishimura:

3 **Q.** All right. My name is Doug Nishimura, and I represent
4 some parties with purchase contracts with respect to
5 development -- a development that was being constructed
6 by Ceana Development Sunridge Inc., which I'll call
7 "Ceana" from now on. My clients include a numbered
8 company called "1785337 Alberta Ltd.," another numbered
9 company called "1695411 Alberta Ltd," and also
10 individuals named Sukhdeep Dhaliwal and Madeep Mavi.

11 So to begin with, can you confirm that you are the
12 Keith Ferrel who swore an affidavit in Action
13 Number 1801-04745 on October 26th, 2020?

14 **A.** I am.

15 **Q.** And in fact you swore two affidavits on that day, one
16 is a confidential affidavit; correct?

17 **A.** That is correct.

18 **Q.** You've also sworn other affidavits in the same
19 proceeding, one on June 19, 2019, and one on
20 January 13, 2020; correct?

21 **A.** Yes, that's correct.

22 **Q.** All right. And at the time you swore each of the
23 affidavits you had read through each of them?

24 **A.** Yes.

25 **Q.** You took part in their preparation, I take it?

1 **A.** Yes.

2 **Q.** And since you swore those affidavits, have you become
3 aware of anything that is incorrect in them?

4 **A.** Not to my knowledge, no.

5 **Q.** All right. You also acknowledge --

6 MR. PONTIN: Sorry, just from a technical
7 point. We are having a bunch of feedback. Can we ask
8 everyone to mute their lines if they are listening. I
9 see a number of unmuted lines, so I am hoping that will
10 clear up the signal a little bit for us.

11 MR. NISHIMURA: Right. So if people are not
12 asking or answering questions, could they please mute
13 their microphones.

14 MR. PONTIN: Thank you.

15 **Q.** MR. NISHIMURA: So just carrying on, Mr. Ferrel,
16 you acknowledge that you just took an oath swearing
17 that you will be telling the truth today in this
18 Questioning?

19 **A.** Yes.

20 **Q.** Now, in the October 26th affidavit, you say that you
21 are the manager of Hillsboro Ventures Inc., which you
22 define as "HVI," and you are also the president of
23 Hillsboro Enterprises Inc., "HEI," and Hillsboro
24 Properties Inc., "HPI"; correct?

25 **A.** That's correct.

1 Q. And in an earlier affidavit, I believe it was the
2 January 13, 2020 affidavit, you said you were the
3 directing mind of all of those entities with respect to
4 their dealings with Ceana; correct?

5 A. That is correct.

6 Q. Okay. Now, you swore a further affidavit, the
7 October 26th affidavit, with respect to an application
8 to approve a sale of Ceana's project, its development
9 of a commercial condominium project to HEI; correct?

10 A. To HPI, I believe.

11 Q. Okay. So the proposal is that HPI would acquire all of
12 the development, 100 percent of it; correct?

13 A. That's correct.

14 Q. My understanding is that HPI and all of the Hillsboro
15 entities have been involved in an enforcement of
16 Hillsboro mortgage debt since 2018; correct?

17 A. And prior thereto, yes.

18 Q. And there have been previous attempts by Hillsboro to
19 acquire the project?

20 A. No.

21 Q. So this is the first proposal or offer for application
22 to have Hillsboro purchase the project; correct?

23 A. There was a -- let me rephrase that. There was a
24 proposal proposed by Bob Ghaidar that Hillsboro would
25 take the project, but Hillsboro did not take the

1 project. It wasn't by Hillsboro to them. It was from
2 them to Hillsboro.

3 Q. What date was that?

4 A. I'm sorry, I can't tell you that. But it was
5 probably -- I'm sorry, it must have been April or May
6 or somewhere in there, '18 -- or into '17 even. I'm
7 not sure.

8 Q. Okay. When was the decision -- let's go back. I
9 understand that there was a forbearance agreement
10 between Hillsboro and Ceana; correct?

11 A. That's correct.

12 Q. When did Hillsboro determine that the forbearance
13 agreement had been breached by Ceana?

14 A. Shortly after the forbearance agreement was entered
15 into there was a number of target dates and thresholds
16 that were not met.

17 Q. Right. So just in ballpark terms, when was that?

18 A. A few months -- a couple months after the forbearance
19 agreement.

20 Q. So is that 2018 again?

21 A. I believe the forbearance was March of '18.

22 THE WITNESS: Is that right?

23 A. So, again, the agreement was dated May 16th of '18.

24 Q. Right. And to your recollection, it was breached
25 sometime later that year; correct?

1 **A.** That's correct.

2 **Q.** Okay. When did Hillsboro come to a decision that it
3 wanted to acquire the project?

4 **A.** It never wanted to acquire the project.

5 **Q.** Okay. So when did it come to the decision that this
6 would -- an acquisition of the project was the solution
7 that it wanted to pursue?

8 **A.** In the last couple of months.

9 **Q.** So two months ago?

10 **A.** A month ago. Say a month. Something like that.

11 **Q.** All right. The intention of the application is that
12 the acquisition would close on what date?

13 **A.** I can't answer that.

14 **Q.** So you don't know when it would close?

15 **A.** No, I do not.

16 **Q.** Okay. Who makes those decisions then?

17 **A.** I would say the Receiver does.

18 **Q.** So there has been no purchase and sale agreement
19 between the Receiver and Hillsboro; correct?

20 **A.** Correct.

21 **Q.** So there is no timeframe for drafting the agreement or
22 doing any of the due diligence in the agreement and
23 then finally closing the agreement; correct?

24 **A.** So I think there is a -- what is the proper terminology
25 here for transfer of title here under the -- under --

1 for the courts? I think that that would be approval by
2 the courts as to what -- under the agreement that was
3 presented to the courts, is it not?

4 **Q.** So there is no agreement presented to the Court yet?

5 **A.** Well, I guess I'm missing something. I understand that
6 is -- the agreement would be presented to the courts to
7 transfer title to Hillsboro.

8 **Q.** Right.

9 **A.** At which time there would be a quote on a standard
10 closing, whatever that may be, with respect to the
11 Receiver's involvement.

12 **Q.** Okay.

13 **A.** When they were comfortable doing it, I would assume. I
14 don't know. Between them and the courts they would
15 decide that, I assume.

16 **Q.** Right. You don't know whether that is weeks or months?

17 **A.** Preferably, from my perspective, it would be weeks.

18 **Q.** All right. So if -- but you can't tell me any
19 particular time frame that that transaction must be
20 concluded by; correct?

21 **A.** No, I cannot.

22 **Q.** All right.

23 **A.** It's got to be determined by the courts and by the
24 Receiver.

25 **Q.** But from Hillsboro's perspective, there is no date that

1 is a deadline that it simply would say, "We can't
2 continue"; correct?

3 **A.** Correct.

4 **Q.** Okay. Now, when was Hillsboro first aware of Cean and
5 its project?

6 **A.** I can't give you the exact date, but it is sometime in
7 '16, latter part of '16. Something like that.

8 **Q.** All right. And your evidence in paragraph 5 of the
9 October 26th affidavit is this project is the only
10 business of Cean; correct?

11 **A.** To my knowledge, that's correct.

12 **Q.** Okay. So whatever monies Hillsboro lent, whatever
13 monies the first mortgagee lent, and whatever other
14 monies were raised by Cean, they were to go to this
15 project; correct?

16 **A.** Yes.

17 **Q.** Okay.

18 **A.** To my knowledge.

19 **Q.** Right.

20 **A.** I don't control their money, so I can't say that.

21 **Q.** Now, when were -- so you found out about this in 2016
22 when Cean approached Hillsboro for a loan?

23 **A.** No. I was approached through Liberty Mortgage.

24 **Q.** Okay. And was that in 2016 or 2017?

25 **A.** I believe it might have been 2016, but I'd have to

1 verify that.

2 **Q.** All right.

3 **A.** It could have been 2017.

4 **Q.** Okay. If I can take you to your June 21, 2019,
5 affidavit, you refer in that affidavit at paragraph 7
6 to three mortgage facilities that were advanced by
7 Hillsboro. And then Exhibit 'A' -- or, first of all,
8 before I get there, there is Exhibits A1 through, I
9 believe, C12 that are called the "facility documents,"
10 and I take it that that is one -- that is all of the
11 loan and security documents that Hillsboro has used;
12 correct? There are not any other loans, no other
13 securities?

14 **A.** There was a previous loan that was paid out by the
15 first loan here of \$3 million.

16 **Q.** Okay. But as far as the outstanding ones, this is
17 everything; correct?

18 **A.** That is correct.

19 **Q.** Okay. And when I look at Exhibit 'A', A1, there is a
20 term sheet -- or it is called a "formal loan
21 commitment," actually, and it is issued by
22 Liberty Investment Ltd. So is Liberty a related
23 company to Hillsboro?

24 **A.** No.

25 **Q.** So can you just explain to me how it is Liberty is

1 issuing the loan commitments and then Hillsboro is
2 actually advancing the monies and being on all of the
3 security?

4 **A.** So the way that Liberty operates with respect to
5 Hillsboro is it goes and finds a borrower, they do the
6 vetting of the borrower, and then they bring me a
7 project or a loan commitment that they've entered into;
8 and then basically, for all intents and purposes, it
9 was assigned to Hillsboro.

10 **Q.** Okay. Is there an assignment document?

11 **A.** Not to my knowledge. There may be, but I don't recall
12 it.

13 **Q.** Okay. If there is, can you undertake to produce it by
14 way of undertaking?

15 **MR. PONTIN:** We'll take that under advisement.

16 UNDERTAKING NO. 1 - To advise if there
17 is an assignment document between
18 Hillsboro and Liberty - TAKEN UNDER
19 ADVISEMENT

20 **Q.** **MR. NISHIMURA:** So on page 1, it says,
21 "Liberty Investments Ltd. and/or nominees are prepared
22 to offer financing." I take it you would say that
23 Hillsboro is the nominee?

24 **A.** That's correct.

25 **Q.** Okay. And Clint Evangelista is an employee or an agent

1 of Liberty?

2 **A.** Yes, and a principal, yes.

3 **Q.** Okay. So he was the one that would contact you and
4 say, "I have got a mortgage lined up. Would you like
5 to take part in it"?

6 **A.** That's correct.

7 **Q.** So when I am looking at the term sheet for this offer,
8 it provides for \$3 million, and it is 18 percent per
9 annum interest to be paid out in 12 months; correct?

10 **A.** That's correct.

11 **Q.** And aside from the initial interest payment, payments
12 were to be monthly; correct?

13 **A.** Yes.

14 **Q.** But I'm having a little bit of trouble understanding
15 this. there was a prepayment of interest. Was that
16 for the entire term of the loan?

17 **A.** It probably was, or a portion thereof.

18 **Q.** Okay.

19 **A.** I would have to go back and check.

20 **Q.** And so is it fair to say that Hillsboro was lending
21 Ceana money to pay Ceana's interest?

22 **A.** That's correct.

23 **Q.** All right.

24 **A.** Ceana's interest to Hillsboro.

25 **Q.** Right. And so when monies were advanced, that included

1 monies that would go right back to Hillsboro on account
2 of interest?

3 **A.** Yes.

4 **Q.** Okay. And did Hillsboro charge interest against those
5 advances for interest payments?

6 **A.** Yes.

7 **Q.** So there was a principal amount of \$3 million. Was
8 that including or excluding those prepayments of
9 interest advances?

10 **A.** Including.

11 **Q.** Okay. And also, did that include any fees that were
12 associated with the loan?

13 **A.** There were fees involved in this loan.

14 **Q.** Right.

15 **A.** That's correct.

16 **Q.** Were they part of the 3 million or in addition to the
17 3 million?

18 **A.** Part of the 3 million.

19 **Q.** Okay.

20 **A.** There may have been an application fee for \$2,500 that
21 was paid directly to Liberty. I don't remember that
22 one particularly, but otherwise the fees were paid.

23 **Q.** Right. And that would be, for example, a 3 percent
24 fee?

25 **A.** Correct. Whatever the fee was, yes.

1 Q. All right. Now, can you tell me, then, of this
2 \$3 million, how much money in cash actually went to
3 Ceana that they could use for their project?

4 A. I think you'll find that in my affidavit that is laid
5 out, the funds that were received and their utilization
6 of funds for the \$3 million amount.

7 Q. Right.

8 A. And under Number 27 of that facility, lays out all of
9 those monies.

10 Q. Right. But I was having a little bit of trouble
11 getting to a number there. So you don't know offhand
12 what the actual amount of cash that ended up in Ceana's
13 hands was?

14 A. I believe I just suggested that that is laid out in
15 paragraph 27 of my October 26th affidavit.

16 Q. Well, I see paragraph 27. And so \$650,000 says "Pay
17 out of existing mortgage." So that was just to pay out
18 Hillsboro for its previous mortgage; correct?

19 A. That's correct.

20 Q. And then 550,000 was prepaid interest and fees?

21 A. Yes.

22 Q. 8,450 was for legal fees and other disbursements?

23 A. Yes.

24 Q. And then 60,000 was a broker fee. Is that the
25 3 percent fee?

1 **A.** I believe that is the 2 percent fee.

2 **Q.** Okay. \$200 says "Minor Disbursements." I take it you
3 couldn't tell me what those are for?

4 **A.** That was money held back by the law firm.

5 **Q.** Okay.

6 **A.** And ultimately they are disbursed or utilized. I'm
7 sorry, I don't know the answer to that. I assume it
8 was legal costs that was entered into at some point.

9 **Q.** Right. Then there are a couple entries, one in
10 January, one in March, where it says "Released to
11 Ceana's counsel." Let's stick with the January one,
12 \$2,500. It says "Released to Ceana's counsel." Can
13 you say that is the actual cash amount paid out to
14 Ceana?

15 **A.** I misunderstood your wording there, but I think you
16 meant to say \$1,231,350?

17 **Q.** Sorry, yeah. I am looking at the wrong column.

18 So of \$3 million, they got \$1,231,350 in cash;
19 correct?

20 **A.** At that point, yes.

21 **Q.** And that added up to a total advance of \$2.5 million;
22 right?

23 **A.** To that point, yes.

24 **Q.** And when was the other 500,000 of the loan released?

25 **A.** I'm sorry, I can't answer that off the top of my head.

1 I'm sorry, I don't have the answer.

2 Q. Okay. So I'm looking at the same paragraph, and it
3 appears that \$489,031 was advanced on March 2, 2017?

4 A. That could be. I'm sorry, I don't have the answer to
5 that off the top.

6 Q. It says, "Released to Ceana's counsel." Thereafter did
7 Hillsboro keep an eye on where the money went, what it
8 was used for?

9 A. Did I keep an eye on it?

10 Q. Right. Did you get progress updates? Did you
11 monitor --

12 A. Yeah.

13 Q. -- the progress of the construction? Did you see what
14 cheques were being issued by Ceana?

15 A. I think there was a budget given to me as to where this
16 money was going to go, yes.

17 Q. Can you produce that budget, please?

18 MR. PONTIN: Is that an undertaking request?

19 MR. NISHIMURA: Yes.

20 MR. PONTIN: We'll take it under advisement.

21 MR. NISHIMURA: All right.

22 UNDERTAKING NO. 2 - To provide a copy
23 of the budget given to Mr. Ferrel as to
24 where the money was going to go - TAKEN
25 UNDER ADVISEMENT

1 Q. MR. NISHIMURA: I do notice that in the offering
2 memorandum, or the commitment, there are conditions to
3 be satisfied by the borrower, and one of those
4 conditions is a review of the total project price list,
5 along with confirmation of all pre-sales in place
6 totalling not less than \$15 million. Was it Liberty or
7 was it Hillsboro that did that review?

8 A. Probably initially Liberty, and they satisfied
9 themselves and gave me a list of the pre-sales.

10 Q. Do you have that list still?

11 A. I've got many different lists. Sorry, I can't tell you
12 which one was specifically at that date.

13 Q. Okay. I'd like an undertaking to provide that list of
14 pre-sales.

15 MR. PONTIN: Under advisement.

16 UNDERTAKING NO. 3 - To provide the list
17 of pre-sales - TAKEN UNDER ADVISEMENT

18 Q. MR. NISHIMURA: And in that process, did Hillsboro
19 look at any purchase and sale agreements that had been
20 entered into?

21 A. Yes, I did at some point, yes.

22 Q. Were the purchase and sale agreements of Ceana all in a
23 standard form?

24 A. I believe they were.

25 Q. Okay. Now, I've asked your counsel to have my clients'

1 affidavits before you, and if I look at the affidavit
2 of Sukhdeep Dhaliwal, Exhibit 'A' is a purchase
3 contract for one of the units. Is this the type of
4 contract you would have seen?

5 **A.** That's correct.

6 **Q.** Okay. Did you see this particular contract?

7 **A.** Sorry, I can't recall that --

8 **Q.** Was there any --

9 **A.** -- at this moment.

10 **Q.** Right. Was there any record of what contracts you
11 would have reviewed?

12 **A.** No, I don't believe there is actually.

13 **Q.** Okay. So when you see a list of contracts that would
14 have been provided by Liberty, you can't tell me
15 whether you did or did not look at a particular
16 contract for a particular purchaser?

17 **A.** I don't believe I can.

18 **Q.** So you were able to request the contracts and then
19 confirm what deposits had been paid from Ceana;
20 correct?

21 MR. PONTIN: Is that a question as to the
22 timing in 2017 or presently?

23 MR. NISHIMURA: 2017.

24 MR. PONTIN: That would be speculative. I
25 would object to that.

1 OBJECTION TAKEN to answering the question: So you were
2 able to request the contracts and then confirm what
3 deposits had been paid from Ceana; correct?

4 Q. MR. NISHIMURA: Well, you had the ability to do
5 that; correct?

6 A. Yes. I assume, yes, through the commitment letter,
7 yes.

8 Q. Right. Do you know whether you did or did not review
9 what deposits had been made?

10 A. Yes.

11 Q. So you did review what deposits had been made?

12 A. I had a list of what deposits had been made, yes.

13 Q. Okay. I'd like an undertaking to provide the list of
14 deposits that had been made in 2017.

15 MR. PONTIN: We'll take it under advisement.

16 UNDERTAKING NO. 4 - To provide the list
17 of deposits that had been made in 2017
18 - TAKEN UNDER ADVISEMENT

19 MR. NISHIMURA: I'd also like an undertaking to
20 provide any updates to that list that were provided in
21 the course of this or the other two facilities.

22 MR. PONTIN: We'll take that as well under
23 advisement.

24 MR. NISHIMURA: All right.

25 UNDERTAKING NO. 5 - To provide any

1 updates to the list referred to in
2 Undertaking No. 4 that were provided in
3 the course of this or the other two
4 facilities - TAKEN UNDER ADVISEMENT

5 **Q.** MR. NISHIMURA: Exhibit A2 to the June affidavit
6 is the mortgage that was associated with that initial
7 facility. The mortgage is in the name of
8 Hillsboro Ventures Inc., and it is dated at the same
9 time as the loan commitment letter. So I take it that
10 all of the transaction was in place by January 6, 2017;
11 correct?

12 **A.** Sorry, can you repeat that question again?

13 **Q.** So I'll rephrase it. So the commitment letter is dated
14 January 6, 2017, and it comes from Liberty, but the
15 mortgage and all of the other loan documents have the
16 same date, but they are in the name of Hillsboro. So I
17 take it that by that date, Hillsboro was already in
18 place as the lender; correct?

19 **A.** Yes.

20 **Q.** The mortgage --

21 **A.** Made in Hillsboro's name, yes.

22 **Q.** Right. So the documents were not signed later and just
23 given a date of January 6th; correct? They were signed
24 on the date that they state?

25 **A.** I'm sorry, I can't answer that. It states on

1 here -- but it states on here page 19 of that. It was
2 signed on the 6th of January by Ceana's Development
3 Sunridge.

4 **Q.** Right. But Hillsboro's name is on the front of that
5 mortgage; correct?

6 **A.** That's correct.

7 **Q.** And the letter is January 2, 2017, so on the front, and
8 then signed on January 4th, 2017. So my assumption is
9 that by the time this mortgage commitment letter came
10 out, Hillsboro was already in place to do the lending;
11 right?

12 **A.** Honestly, I don't remember --

13 **Q.** Okay.

14 **A.** -- the timing of exactly that. I have no idea.

15 **Q.** Well, would it typically take only two days for
16 Hillsboro to be contacted and decide to lend, or would
17 it take longer?

18 **A.** No. It usually would take longer.

19 **Q.** Okay.

20 **A.** In this case, it was the previous mortgage that may
21 have entered into it.

22 **Q.** Right. Now, the mortgage also talks about monthly
23 installments being paid on the 1st of every month at
24 18 percent. So was 18 percent interest paid monthly by
25 Ceana to Hillsboro?

1 **A.** Say that again.

2 **Q.** Is it correct that 18 percent interest was paid
3 monthly to --

4 **A.** What?

5 **Q.** So there was 18 percent per year interest. There were
6 monthly installments made by Ceana starting February 1,
7 2017?

8 **A.** Those funds -- the initial funds were taken from the
9 interest reserve.

10 **Q.** Right. So that is the prepaid interest we talked
11 about?

12 **A.** That's correct.

13 **Q.** And was the interest reserve, did it total 12 months'
14 worth of interest?

15 **A.** I believe it did.

16 **Q.** Okay. Was this loan repaid in full after January 1,
17 2018?

18 **A.** No.

19 **Q.** Okay. So then there was overdue interest; correct?

20 **A.** That's correct.

21 **Q.** And that is what paragraph 3 of the mortgage deals
22 with?

23 **A.** Okay, yes.

24 **Q.** Now, since there was only 12 months' worth of reserve,
25 did Ceana start paying interest in cash after one year?

1 **A.** No.

2 **Q.** Has Hillsboro received any cash from Ceana?

3 **A.** No.

4 **Q.** So no repayment of principal interest or fees
5 whatsoever, other than maybe the \$2,500 initial fee?

6 **A.** That's correct.

7 **Q.** Why is there an \$18,000 payment recorded by the
8 Receiver to Hillsboro?

9 MR. PONTIN: Can you take us to the reference,
10 please?

11 MR. NISHIMURA: Sure. The third report of the
12 Receiver at --

13 **A.** Actually, I don't know the answer to that. I looked at
14 that myself, and I have no idea.

15 **Q.** MR. NISHIMURA: Right. Now, to be fair, it says
16 that the date is 2016. So potentially that was in
17 respect of the previous loan.

18 In that same appendix, I believe it is
19 Appendix 'F', there are a bunch of payments marked
20 "Debt Arrangement Loan Repayment," and they span from
21 July 28, 2016 to August 28, 2017. None of those went
22 to Hillsboro?

23 **A.** No, they did not.

24 **Q.** Following --

25 **A.** Sorry, I may be able to clarify your \$18,000 here.

1 Q. Yeah.

2 A. I do not know if that is correct or not, but the
3 mortgage that was paid out, the original mortgage was
4 \$630,000; but by the time it got paid out it was
5 \$650,000, so that 18,000 may have been the
6 differential. I am not clear on that at this moment.

7 Q. Right.

8 A. But that may have been it. But it didn't come from
9 Ceana. It came from the funding and the payout of
10 the -- as shown on Number 27 for 40 of \$3 million.

11 Q. Right. But it at least looks like there was a payment
12 in the records.

13 Now, this Exhibit 'F' or Appendix 'F' to the third
14 report, had you ever seen a list like this before that
15 had payments from outside parties to Ceana and then
16 payments by Ceana to outside parties?

17 A. I'm sorry, what are we looking at?

18 Q. This is the same document.

19 MR. PONTIN: Exhibit 'F' to the third report.

20 A. This one here?

21 Q. MR. NISHIMURA: Yeah, the Receiver's third report.

22 A. Oh, the Receiver's report. So you want to understand
23 if I have seen this before?

24 Q. Yeah.

25 A. The answer is no.

1 Q. Did Hillsboro ever maintain records like this or
2 request them from Hillsboro (verbatim) outside of the
3 receivership or independent of the Receiver?

4 A. I'm sorry, I'm not sure I understand the question. Did
5 I ever request --

6 Q. Yeah.

7 A. -- information from the Receiver?

8 Q. Sorry, go ahead.

9 A. No. Go ahead. Sorry.

10 Q. The question is, did you ever maintain a record of what
11 payments Ceana was receiving and paying during the
12 course of this project?

13 A. On a one-off basis, yes.

14 Q. So what do you mean by that? Like, was --

15 A. So when -- did you --

16 Q. Did you get a whole list, or were you requesting single
17 payments?

18 A. No. I was -- information with respect to advances that
19 we had been directed to fast-track or may have been
20 directed to the steel company, or something like that.
21 So those were information. There was a list of
22 generalities of what had been spent on the project
23 previously at one point.

24 Q. Okay.

25 A. But not specifically an in-depth analysis like this,

1 no.

2 Q. Okay. So from time to time you'd get communications
3 from Hillsboro saying, "We've spent this much on the
4 project" and maybe some detail as to what those amounts
5 covered?

6 A. They either had spent or were requesting monies to
7 spend.

8 Q. Right.

9 A. To pay a bill.

10 Q. And are those reflected in Hillsboro's records, these
11 communications? Do you still have them?

12 A. I would think so.

13 Q. Okay. I would like an undertaking to provide those
14 records, particularly where Ceana was telling you what
15 money they had spent.

16 MR. PONTIN: We'll take it under advisement.

17 MR. NISHIMURA: All right.

18 MR. PONTIN: Is there a time frame you're
19 asking for?

20 MR. NISHIMURA: Well, there is only really 2017 to
21 2018, when the loan was being enforced, so, no.

22 UNDERTAKING NO. 6 - To provide records
23 of where Ceana was telling Mr. Ferrel
24 particularly what money they had spent

25 - TAKEN UNDER ADVISEMENT

1 Q. MR. NISHIMURA: Now, Mr. Ferrel, there is two
2 other loan facilities; they contain the same documents.
3 I take it that for each of these, where there is
4 interest, there is also a funding or a prepayment of
5 interest?

6 A. That's correct, yes.

7 Q. Okay. I know that in the second -- the July 5th, 2017,
8 and the October 9, 2017, there was a 3 percent fee that
9 was also taken from the loan advanced; correct?

10 A. Sorry, say that again. For which loan are you speaking
11 of?

12 Q. The July 5th and October 9th loan, they also speak to a
13 3 percent fee?

14 A. Yes, there was fees paid.

15 Q. Right. And the fees paid, essentially, those were to
16 Hillsboro from the advance; correct?

17 A. Not necessarily. Some of that money may have gone to
18 Liberty or Yorkfield, a company called "Yorkfield."

19 Q. Okay. Because in the second and third loans, I don't
20 see any other parties listed. So you are saying there
21 were other participants in the loan?

22 A. Liberty would have gotten some monies as would have
23 Yorkfield, and that was between Liberty and Yorkfield
24 and/or Bob Keader, not necessarily me. So are you
25 saying that they were also participants in the loan?

1 Q. Like I say, I don't see their names anywhere in the
2 loan commitment for any of the security.

3 A. The arrangement that is -- that Liberty and Hillsboro
4 have is that they would get fees on loans that were
5 done for clients that were brought to me in respect of
6 the first loan or second loan or that kind of thing.

7 Q. All right. Now, in each of these agreements, there was
8 also pre-sale confirmation. Do you know whether you
9 confirmed the clients that I mentioned at the outset,
10 1785337 Alberta Ltd., 1695411 Alberta Ltd, or
11 Mr. Dhaliwal and Mavi, do you know if their sale
12 agreements were part of that sale confirmation?

13 A. I don't know at this moment.

14 Q. Okay. Can you undertake to confirm that they were?

15 MR. PONTIN: We'll take that under advisement.

16 MR. NISHIMURA: And as part of that undertaking,
17 to confirm that you were aware that they paid deposits.

18 MR. PONTIN: We'll take that under advisement.

19 MR. NISHIMURA: All right.

20 UNDERTAKING NO. 7 - To advise if the
21 sale agreements of 1785337 Alberta
22 Ltd., 1695411 Alberta Ltd.,
23 Mr. Dhaliwal, and Mr. Mavi were part of
24 the sale confirmation; to confirm that
25 Mr. Ferrel was aware that they paid

1 deposits - TAKEN UNDER ADVISEMENT

2 **Q.** MR. NISHIMURA: And in the June 21 affidavit,
3 Exhibit 'D', there is a letter, and so this is a letter
4 from Connect First that is in your affidavit dated
5 April 29, 2019, and it talks about an April 30, 2019
6 monthly payment. Do you know if --

7 **A.** Sorry, excuse me for interrupting. What exhibit are we
8 speaking of?

9 **Q.** Exhibit 'D' to your June 21, 2019 affidavit. It is
10 just a one-page exhibit.

11 MR. PONTIN: 'D'. 'D' as in dog. Go to
12 Exhibit 'D'. You are in 'A'.

13 THE WITNESS: Exhibit 'D'. I see what you're
14 saying. Excuse me.

15 **A.** I see it. You're referring to this April 29th of 2019
16 letter?

17 **Q.** MR. NISHIMURA: That's right. And this is not a
18 letter from you. It is a letter from Connect First to
19 Ceana, and I take it the reason you have it is that
20 either you requested it or you obtained it as part of
21 your ability to see financial records of Ceana;
22 correct?

23 **A.** That's correct.

24 **Q.** Okay. Now, it refers in the letter to an April 30,
25 2019 monthly payment, because they have given a payout

1 statement. Do you know whether Ceana had been making
2 monthly payments to Connect First?

3 **A.** I'm sorry, I'm not privy to that.

4 **Q.** Okay. So you didn't know from any reviews of Ceana's
5 financial records whether they had in fact been made --
6 been making payments to the first mortgagee?

7 **A.** Not to my recollection.

8 **Q.** You never asked Mr. Ghaidar?

9 **A.** I'm sorry, not to my recollection, no.

10 **Q.** Okay. And it wasn't part of --

11 **A.** I may have asked him at some point, but...

12 **Q.** And it wasn't part of their regular reporting that they
13 were current on the first mortgage?

14 **A.** I was never given an indication that they were not at a
15 given point. I'm sorry, I can't tell you exactly when
16 they went into default on the first mortgage off the
17 top.

18 **Q.** All right. One of the pieces of security in each of
19 the three loans is an assignment of contract agreements
20 or project agreements; and as part of that, there is
21 assignments of purchase and sale agreements; and my
22 question is, did you ever go out and obtain consent of
23 any purchasers for the assignment of their agreements?

24 **A.** No, I did not.

25 **Q.** Okay. You are --

1 **A.** Are you referring to me personally -- (audio
2 disruption)

3 **THE COURT REPORTER:** I'm sorry, I didn't hear your last
4 comment.

5 **MR. NISHIMURA:** He asked if I was referring to him
6 personally, and the answer is, no, I'm speaking of
7 Hillsboro in general.

8 **A.** No, I don't believe so.

9 **Q.** **MR. NISHIMURA:** Okay. If we can turn now to your
10 October 26th affidavit, in paragraph 10 you say
11 that: (as read)

12 "HVI has assigned all of its rights
13 under the facilities to HEI."

14 **MR. NISHIMURA:** And just for completeness, can we
15 have an undertaking to provide the assignment document?

16 **MR. PONTIN:** That is refused. I don't think it
17 is relevant.

18 **MR. NISHIMURA:** So it is not relevant in this
19 application where there is -- where there is an
20 application to sell by virtue of a credit bid to ensure
21 that the proper party has the security for the credit
22 bid?

23 **MR. PONTIN:** It is internal documentation of
24 Hillsboro for their own purposes. I do not see what
25 disclosure would provide. The indebtedness isn't

1 changed by it.

2 MR. NISHIMURA: Well, we would like to know that
3 the proper party is making the application, but your
4 objection is noted.

5 UNDERTAKING NO. 8 - To provide the
6 assignment documents of HVI assigning
7 all of its rights under the facilities
8 to HEI - REFUSED

9 Q. MR. NISHIMURA: Now, in paragraph 16 -- or, sorry,
10 paragraph 9 and 10, rather, of your affidavit, you give
11 totals of the indebtedness to HVI both with and without
12 advances to the Receiver. I take it that those are the
13 amounts that are reflected in paragraph 27, at least
14 for the --

15 A. Paragraph 27 -- paragraph 27 does not take into account
16 interest arrears or legal costs.

17 Q. So where it says "legal fees," that is not in respect
18 of legal costs?

19 A. It was a portion of legal costs but not -- that was a
20 reflection of -- paragraph 27 is a reflection of
21 where the -- the disbursements of the mortgage funds,
22 but there is interest arrears and legal costs
23 subsequent to the disbursements of the funds laid out
24 in here as at those dates.

25 Q. And 27 would contain references to all of the actual

1 cash that Hillsboro would have sent to either Ceana or
2 maybe some of Ceana's suppliers; correct?

3 **A.** That is correct.

4 **Q.** And anything outside of that was money paid to either
5 legal fees or interest, and what you're telling me is
6 there is more legal fees and interest included -- or
7 excluded, rather?

8 **A.** That's correct.

9 **Q.** At the very end of that chart, it says April 23, 2018
10 to present, there is \$200,000 there, and it
11 says: (as read)

12 "Ongoing legal fees also for appraisal
13 costs and disbursements."

14 So that is at least in connection with legal fees
15 post-enforcement of the debt, so after you --

16 **A.** That's correct.

17 **Q.** Okay. And you are telling me that that \$200,000 is not
18 the total? There is more in addition to that?

19 **A.** I am.

20 **Q.** Okay. And part of the interest that you're talking
21 about that is in arrears is interest on advances, for
22 example, of the \$550,000 that were advanced to prepay
23 other interest; correct?

24 **A.** To prepay interest, yes.

25 **Q.** So you loan money to pay the interest, and now you are

1 charging interest on top of that?

2 **A.** No. I'm charging interest for monies that are in
3 arrears when the monthly mortgage payments were to be
4 made subsequent to the expiry or the utilization of
5 prepaid interest.

6 **Q.** So you are not charging interest on that \$550,000?

7 **A.** Well, the \$550,000 is part of the \$3 million owed as at
8 the moment that interest becomes compounded for
9 interest arrears.

10 **Q.** Right. So you were charging it on that amount? You
11 were charging on --

12 **A.** That's correct.

13 **Q.** You were charging interest on the amount that Hillsboro
14 already received for interest; correct?

15 **A.** Yes.

16 **Q.** Okay. At paragraph 36 of the affidavit, it says that
17 certain purchase contracts are already in place. Those
18 aren't inclusive of all of the purchase contracts that
19 Ceana had; correct?

20 **A.** There are certain contracts in place with respect to
21 the -- with respect to what the Receiver is dealing
22 with. I can't give you clarity on exactly which ones
23 are or aren't without speaking to them at this moment.

24 **Q.** Well, paragraph 47 lists...

25 **A.** That's correct.

1 Q. Lists nine purchasers. So those are the only ones that
2 you are talking about in paragraph 36?

3 A. I believe that's the case, yes.

4 Q. So those are the guaranteed pre-sales that you are
5 talking about?

6 A. I can't use the word "guaranteed," but they are
7 pre-sales.

8 Q. Well, you did use the word "guaranteed" in
9 paragraph 36.

10 A. I used the word "guaranteed"?

11 Q. That's what you say in the second or third sentence.
12 Are you telling me that that is probably too strong to
13 say that they are guaranteed pre-sales?

14 A. I think I used it out of context. I may have used the
15 wording out of context. I think I was guaranteed to
16 acknowledge those and accept those, not to -- that they
17 were guaranteed sales.

18 Q. So aside from that, though, there is a number of
19 purchase and sale agreements that Ceana entered into
20 that are not part of that list, and they are not part
21 of this acquisition. Is that what you are saying?

22 A. I believe that's what I'm saying, yes.

23 Q. And so those purchasers are going to be left, under
24 your scenario, with no deposit, no sale agreement
25 whatsoever?

1 MR. PONTIN: That is asking for a legal
2 conclusion, so I'm going to object to that.

3 OBJECTION TAKEN to answering the question: And so those
4 purchasers are going to be left, under your scenario, with
5 no deposit, no sale agreement whatsoever?

6 Q. MR. NISHIMURA: Well, Hillsboro is not proposing
7 to conclude those purchase and sale agreements;
8 correct?

9 A. I'm looking to the guidance of the Receiver on that and
10 for what he has agreed to and what people have not
11 agreed to go forward and which ones have with
12 their -- they handle all of this. I do not.

13 Q. Right. So if there is any that the Receiver has not
14 come to an agreement with, those are not part of this
15 deal. Is that what you're telling us?

16 A. As I understand it.

17 Q. Okay.

18 A. You'd have to speak to them, not me.

19 Q. So whatever the Receiver has agreed to, Hillsboro is
20 now agreeing to purchase?

21 A. I think that's correct, yes.

22 Q. So speaking of asking for a legal opinion, if we go to
23 paragraph 46, you say: (as read)

24 "Certain purchasers have claimed the
25 Receiver holds deposits in trust."

1 Who told you that?

2 **A.** Who told me that?

3 **Q.** Yeah.

4 **A.** There was monies sent to the Receiver from Ceana's
5 lawyer.

6 **Q.** Okay.

7 **A.** To do with purchase contracts.

8 **Q.** Right. And that is the purchasers that you are talking
9 about there?

10 **A.** Yes, I believe that is correct.

11 **Q.** So where there was no money sent to the Receiver by
12 Ceana, you're now talking about other purchasers
13 that -- whose deposits were not forwarded to the
14 Receiver; is that correct?

15 **A.** Well, this only refers to deposits held by the
16 Receiver.

17 **Q.** Right. And that is what is confusing me.

18 You are aware that there are purchasers that paid
19 deposits and their deposits were not forwarded to the
20 Receiver? Are you aware of that?

21 **A.** I assumed that, yes.

22 **Q.** But what you're telling me is -- your statement in
23 paragraph 26 doesn't refer to those purchasers at all?

24 **A.** It does not because I have no knowledge of those
25 purchasers as to their status.

1 Q. Okay. But then in paragraph 47, you say
2 that: (as read)

3 "Hillsboro denies the priority of these
4 purchasers as the money they originally
5 tendered to Ceana were spent by Ceana
6 prior to Hillsboro's loan advances."

7 So if the money was spent, how was it sent over by Ceana
8 to the Receiver?

9 A. These monies here on this list are monies held by the
10 Receiver.

11 Q. I see that. And I also see what you said right at the
12 beginning of paragraph 47.

13 A. Is there a question, sorry?

14 Q. So you told me that paragraph 46 only referred to
15 purchasers where Ceana had forwarded money to the
16 Receiver, their deposit money, and you also said that
17 you were aware that there were purchasers that paid
18 deposit money but that deposit money wasn't sent to the
19 Receiver. You told me you are not talking about those
20 guys?

21 A. Yeah.

22 Q. I'm wondering if that is correct, because then you say
23 those monies they originally tendered to Ceana were
24 spent by Ceana. Now, are you limiting it to those
25 purchasers where Hillsboro then put money back into the

1 project to replace those deposit funds?

2 **A.** I'm not limiting it to that, no. I don't believe I
3 have.

4 **Q.** And to put a finer point on it, the three clients that
5 I mentioned before that I act for all paid deposit
6 money, those monies were not forwarded by Cean to the
7 Receiver, and those purchasers are claiming that the
8 project is impressed with the trust to the amount of
9 their deposit monies which were used solely for the
10 project. Are you saying paragraphs 46 and 47 don't
11 relate to those claims?

12 **A.** Well, I can't speak to all of the monies that were
13 taken or used by Cean on behalf of their buyers and/or
14 joint ventures. I can't speak to the exact amount of
15 any transaction that people have that I don't have
16 information on.

17 **Q.** But you are not setting any money aside for those
18 claims; correct?

19 **A.** No, I'm not.

20 **Q.** And is Hillsboro taking the position that those claims
21 don't deserve any priority to either Hillsboro or
22 Connect First, either/or?

23 **A.** That's correct.

24 **Q.** In paragraph 48, you say: (as read)

25 "... these purchasers do not have a

1 priority claim to Hillsboro."

2 Has there been some sort of judicial determination about
3 who has priority yet?

4 **A.** Not to my knowledge.

5 **Q.** Are you a lawyer as part of your background?

6 **A.** No, no.

7 **Q.** So how can you say that those purchasers don't have a
8 priority claim?

9 **A.** How can I say that? Because I believe they do not have
10 a priority claim.

11 **Q.** So it is just your belief?

12 **A.** That's correct.

13 **Q.** Based on what?

14 **A.** Based on I have a first mortgage and a second mortgage
15 and a third mortgage on the property -- well, actually,
16 second, third, and fourth, excuse me, behind Connect,
17 and there is no charge on the properties in front of me
18 with respect to anybody's deposits.

19 **Q.** And your position, you are not aware of how a trust
20 might take priority to those?

21 **MR. PONTIN:** That's again a legal question, so
22 I will object to that.

23 **OBJECTION TAKEN** to answering the question: And your
24 position, you are not aware of how a trust might take
25 priority to those?

1 MR. NISHIMURA: Well, this whole paragraph is a
2 legal opinion, so I think I'm entitled to ask about how
3 he arrived at this opinion.

4 MR. PONTIN: And that's fair. But you asked a
5 legal question, and the objection stands.

6 MR. NISHIMURA: Right.

7 Q. Has someone told you the purchasers don't have a
8 priority claim?

9 A. I've discussed it with counsel.

10 Q. Okay. Has counsel provided you an opinion?

11 MR. PONTIN: If we did, it would be privileged.

12 MR. NISHIMURA: Not anymore. I think our position
13 is that privileged has been waived just now.

14 MR. PONTIN: Please continue. Our objection
15 stands.

16 OBJECTION TAKEN to answering the question: Okay. Has
17 counsel provided you an opinion?

18 Q. MR. NISHIMURA: You say in that paragraph
19 that: (as read)

20 "The deposits were spent by Ceana, and
21 funds from the Hillsboro loan advances
22 were used to cover the missing
23 deposits."

24 That is only in respect of the ones that are listed;
25 correct?

1 **A.** That's correct.

2 **Q.** And not any other purchasers?

3 **A.** That's correct.

4 **Q.** And there is no postponement agreement from any other
5 purchaser; correct?

6 **A.** No postponement. There is no offset agreement.

7 **Q.** In paragraph 49, you say: (as read)

8 "The affected purchasers postponed their
9 claims to Hillsboro."

10 So what you are calling an "offset agreement," that is
11 only with the people that you have listed; correct?

12 **THE WITNESS:** Where?

13 **MR. PONTIN:** Paragraph 49.

14 **A.** Can you repeat the question, please?

15 **MR. PONTIN:** We are just looking for a
16 reference in the affidavit.

17 **Q.** **MR. NISHIMURA:** (as read)

18 "The affected purchasers postponed their
19 claim to Hillsboro (see Tab 14 of the
20 Claims Support Letter.)"

21 And my question is that those postponements only come
22 from the purchasers listed in paragraph 47; correct?

23 **A.** Sorry, I am getting twisted around. Excuse me for a
24 second. I'm missing something here. I'm sorry, you
25 are correct. It is a postponement agreement.

1 Q. Right. And you only have or Hillsboro only has
2 postponement agreements from purchasers that are listed
3 in paragraph 47?

4 A. I believe so. I believe that's the case. And under
5 Affidavit Number 2 in June 21st of 2019, under Item
6 Number 17(j) through (p), I believe it is, there is
7 other ones listed here.

8 Q. Okay. And so those are the only postponement
9 agreements you know of, the ones you've just referred
10 to?

11 A. To my recollection, yeah.

12 Q. Thank you.

13 So I mentioned that you are aware that there are
14 trust claims being made by certain purchasers,
15 including my clients. You are aware of those; correct?

16 A. Yes.

17 Q. And you're also aware that should your application
18 proceed and be successful, those claims would be
19 affected; correct?

20 A. Yes.

21 Q. And those claims have not yet been heard; right?

22 A. Not to my knowledge.

23 Q. Okay.

24 MR. NISHIMURA: Subject to the undertakings and
25 objections, those are all of my questions. I don't

1 know if anyone else has further questions. I'll mute.

2 MR. MONEO QUESTIONS THE WITNESS

3 Q. Just a few questions, Mr. Ferrel.

4 MR. MONEO: And I just have one preliminary
5 for counsel. Can we get it on record that all parties
6 can use the transcripts for these proceedings in the
7 matter of the Receiver of Ceana Development Sunridge
8 Inc.?

9 MR. PONTIN: I don't believe I can waive any
10 undertakings of confidentiality. That might be up to
11 Doug. In any event, I would have to look into that.

12 MR. MONEO: Okay. Well, for any effect, can I
13 get confirmation that my party is privileged to the
14 transcripts in these Questionings?

15 MR. PONTIN: Well, yeah. I'd have to look into
16 what the legal concepts are around that because the
17 undertaking of confidentiality just comes to mind.

18 MR. MONEO: Okay. I'll have to talk to Doug
19 about that, then, if he can waive that as well.

20 Q. Okay. Just a bit of follow-up in addition to Doug's
21 questions here. Can I turn your attention again to
22 paragraph 49 of your October 26th affidavit. So we are
23 going to go through -- so it says: (as read)

24 "The affected purchasers postponed their
25 claims to Hillsboro."

1 And then it says:

2 "(See Tab 14)."

3 Now, my client, Eureka Prescriptions Incorporated, do
4 you have knowledge if they signed a postponement
5 agreement based on your affidavit?

6 **A.** I'm sorry, who is your client?

7 **Q.** Eureka Prescriptions Incorporated.

8 **A.** Oh, Eureka. Sorry, I don't know. No, I do not know
9 the answer to that off the top of my head.

10 **Q.** Can you turn to Tab 14 of your affidavit?

11 **MR. PONTIN:** Tab 14 of the Claim Support Letter
12 as defined in paragraph 49?

13 **MR. MONEO:** Correct.

14 **Q.** Now, the first postponement claim is -- 1982907 Alberta
15 Inc., was the creditor. They were a party to that
16 agreement; is that correct?

17 **A.** That is correct.

18 **Q.** And then turning the page to the next agreement, the
19 creditor is Central Halal Meats Limited; is that
20 correct?

21 **A.** Yes.

22 **Q.** And then the next postponement claim is Mounir Alein,
23 who is the creditor; is that correct?

24 **A.** I believe it is, yes.

25 **Q.** And that is the end of the tabs. Are there any other,

1 to your knowledge, postponement of claim agreements?

2 **A.** Not that I know of at this particular moment, no. Not
3 that I recall.

4 **Q.** And Eureka Prescriptions Incorporated was not a party
5 to the postponement of claim agreement to your
6 knowledge?

7 **A.** Not to my recollection. I don't know that
8 off -- verbatim, but I believe that's the case. I'm
9 not sure, by virtue of them not being -- showing up
10 here.

11 **Q.** Now, in regards to my client's deposit, were you aware
12 at the time of signing the mortgage documents of a
13 purchase share agreement between my client and Ceana?

14 **A.** Purchase share agreement. Do you mean that they are
15 part of a --

16 **Q.** Sorry --

17 **A.** -- part of a joint venture? Is that what you're
18 saying?

19 **Q.** Purchase and sale agreements for the Units 7A and 7B of
20 the condo complex.

21 **A.** Yes, I was not aware there was a contract with Eureka
22 to buy some units. I can't speak to which ones at this
23 moment, but yes.

24 **Q.** And just going off of -- following up on Doug's
25 Questioning here, paragraph 47 of your October 26th

1 affidavit, it says that the funds advanced -- you have
2 a table broken down here. Can you please explain to me
3 the \$200,000 depositing contract, and then there was a
4 shortfall made up by the lender. Can you please
5 explain to me a bit about that?

6 **A.** My understanding, that Eureka was a purchaser of some
7 of the property and was also a joint venture
8 participant, and therefore their joint venture monies
9 or their monies that they had on deposit they used in
10 two forms: One form was for purchasing the unit; and
11 then, secondly, as monies given to Ceana for their use
12 in the development as a joint venture participant of
13 one sort or another.

14 **Q.** And you have records from you and Ceana -- or Hillsboro
15 and Ceana of the breakdown of this?

16 **A.** The breakdown. I'm sorry, what do you mean by the
17 "breakdown"?

18 **Q.** The breakdown between the purchase and sale agreement
19 deposit and the joint venture investment.

20 **A.** I have a list of that, yes, that's showing them as
21 that, I believe, yes.

22 **MR. MONEO:** Counsel, can I get an undertaking
23 to produce the list of monies between the purchase
24 deposit and the joint venture deposit?

25 **MR. PONTIN:** Yes. We'll take that under

1 advisement.

2 UNDERTAKING NO. 9 - To produce the list
3 of monies between the purchase deposit
4 and the joint venture deposit - TAKEN
5 UNDER ADVISEMENT

6 MR. MONEO: Subject to any further questions
7 on my undertakings, those are my questions.

8 Now, I just had a question for Mr. Nishimura. We
9 talked about this and I wanted to get it on record that
10 all parties -- all affected parties can use this
11 transcript in court proceedings for the receivership
12 matter, and Mr. Pontin had noted that there may be some
13 confidentiality concerns. Do you raise any objection
14 to that?

15 MR. NISHIMURA: No, I don't. Typically we will
16 file the transcripts in any event so they would
17 be -- so that they would be part of the evidence. It
18 is an application. It is a Questioning on Affidavit,
19 so it is part of the record as well as the undertaking
20 responses. I don't think I dealt with any of the
21 information that was in the confidential affidavit, at
22 least nothing that was also in the regular affidavit.
23 So to the extent Mr. Pontin might want to raise that,
24 then likely we should do that prior to me submitting
25 the transcript for filing.

1 MR. MONEO: Thank you.

2 MR. PONTIN: And that consideration is
3 appreciated, but I don't believe there is any materials
4 from the confidential supplemental affidavit that were
5 put on record. I don't have concerns in that regard.
6 It was more about any undertaking of confidentiality
7 under the rules, but --

8 MR. NISHIMURA: We can't hear you.

9 I think what you might be talking about is the
10 implied undertaking on Questionings. I don't think
11 that would apply on a Questioning on an affidavit in a
12 proceedings like this. We can talk offline before I
13 file anything.

14 MR. MONEO: Okay. All right. Thanks, Doug.

15 Subject to questioning on the undertakings, I have
16 no further questions.

17 _____

18 (Proceedings ended at 2:34 p.m.)

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Certificate of Transcript

I, the undersigned, hereby certify that the foregoing pages 1 to 50 are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

I further certify that this questioning was conducted in accordance with the Alberta Protocol for Remote Questioning, Revised 05/05/2020.

Dated at the City of Calgary, Province of Alberta, this 30th day of October, 2020.



Kaeli Campbell, CSR(A)
Official Court Reporter

1 - I N D E X -

2 KEITH FERREL

3 October 29, 2020

4 The following is a listing of exhibits, undertakings and
5 objections as interpreted by the Court Reporter.

6 The transcript is the official record, and the index is
7 provided as a courtesy only. It is recommended that the
8 reader refer to the appropriate transcript pages to ensure
9 completeness and accuracy.

10
11 ***UNDERTAKINGS REQUESTED***

12 UNDERTAKING NO. 1 - To advise if there is an 12
13 assignment document between Hillsboro and Liberty
14 - TAKEN UNDER ADVISEMENT

15
16 UNDERTAKING NO. 2 - To provide a copy of the 17
17 budget given to Mr. Ferrel as to where the money
18 was going to go - TAKEN UNDER ADVISEMENT

19
20 UNDERTAKING NO. 3 - To provide the list of 18
21 pre-sales - TAKEN UNDER ADVISEMENT

1	UNDERTAKING NO. 4 - To provide the list of	20
2	deposits that had been made in 2017 - TAKEN UNDER	
3	ADVISEMENT	
4		
5	UNDERTAKING NO. 5 - To provide any updates to the	20
6	list referred to in Undertaking No. 4 that were	
7	provided in the course of this or the other two	
8	facilities - TAKEN UNDER ADVISEMENT	
9		
10	UNDERTAKING NO. 6 - To provide records of where	27
11	Ceana was telling Mr. Ferrel particularly what	
12	money they had spent - TAKEN UNDER ADVISEMENT	
13		
14	UNDERTAKING NO. 7 - To advise if the sale	29
15	agreements of 1785337 Alberta Ltd., 1695411	
16	Alberta Ltd., Mr. Dhaliwal, and Mr. Mavi were part	
17	of the sale confirmation; to confirm that	
18	Mr. Ferrel was aware that they paid deposits -	
19	TAKEN UNDER ADVISEMENT	
20		
21	UNDERTAKING NO. 8 - To provide the assignment	33
22	documents of HVI assigning all of its rights under	
23	the facilities to HEI - REFUSED	
24		
25		

1	UNDERTAKING NO. 9 - To produce the list of monies	49
2	between the purchase deposit and the joint venture	
3	deposit - TAKEN UNDER ADVISEMENT	
4		
5	***OBJECTIONS***	
6	OBJECTION TAKEN to answering the question: So you	20
7	were able to request the contracts and then	
8	confirm what deposits had been paid from Ceana;	
9	correct?	
10		
11	OBJECTION TAKEN to answering the question: And so	37
12	those purchasers are going to be left, under your	
13	scenario, with no deposit, no sale agreement	
14	whatsoever?	
15		
16	OBJECTION TAKEN to answering the question: And	41
17	your position, you are not aware of how a trust	
18	might take priority to those?	
19		
20	OBJECTION TAKEN to answering the question: Okay.	42
21	Has counsel provided you an opinion?	
22		
23		
24		
25		