

The Protti Report and SETENA: The State Defense's Fabricated and False Case Strategy to Negate the Fact the Aven legal was issued and acquired all the legitimate project permits.

In the ruling the Tribunal pointed out one clear and key statement. They clearly said that Claimant and Respondent were in agreement that Claimant had provided all required documents necessary for the SETENA EV permit, and listed all the documents that were provided, with the one exception. That exception was the Protti report, which Counsel for Costa Rica used in falsely alleging there were wetlands, that David Aven knew there the report said there was wetland, withheld that information from SETENA, was guilty in Duping SETENA and therefore made the SETENA EV permit of June 2, 2008 null and void.

That was the only strategy the state could come up with to effectively counter that Aven had acquired all the legal permits. To be clear, the Protti Report was not a report that was required by SETENA nor was is a report that was order by Aven's architect and Engineer Mussio Madrigal. The Protti Report was order by Tecnocontrol who was hired by Mussio Madrigal to provide information for road construction. Protti was hired to provide soil borings for the roads to determine soils types, to determine what type of subbase would be needed for the road, and what compaction rate for the subbase. They would also recommend what base to put on the subbase and what compaction rate of the base, before concrete or blacktop was laid down

The report never said there were wetland it identified wet areas and for sure there were areas due to the nature of the rolling hills and topography. However, those wet areas were designated as green areas not to be built upon.

It's important to understand that Costa Rica rallied the entire power of the Government to come up with an effective strategy to explain how and why Mr. Aven's project was shut down after acquiring all the lawful permits. Costa Rica had a team of Costa Rica Attorneys working full time on this case from the beginning that included the Attorney General's office. The Attorney General himself Julio Juarado, provided witness statements and was called to testify at the hearing. Costa Rica US Attorneys Herbert Smith were taking their marching orders from the Costa Rica Attorneys. The strategy was to make David Aven a serial criminal by showing he was charged with a crime of violating the wetland, duped SETENA, has a RED NOTICE filed against him, was involved in a forge MINAE letter and other illegalities. The Vinson and Elkins attorneys knew that, but failed to convey that to the arbitrators in a clear and understandable way during the trial.

The prosecutor office also initially duped INTERPOL into issuing a RED NOTICE for Mr. Aven who had not been convicted of any crime. Mr. Aven must have been the first ever to have a RED NOTICE issued for him having never been convicted of a serious crime. If Mr. Aven was convicted it would have been for violation wetlands, which doesn't rise to the level of INTERPOL involvement.. When Mr. Aven's attorney pointed that out the truth to INTERPOL they immediately took the RED NOTICE down, and wrote Costa

Rica a letter of why they took it down. The trial transcript will show there's nothing in their about any of this and VE abjectly failed to make that crystal clear to the tribunal during the 35 hours allotted to prove up their case.

Then there was the ruse of the alleged forged MIANE report. . SETENA was provided an alleged forged MINAE report and told it was the one SETENA relied upon. Based on that lie, that neither MINAE or SETENA confirmed, SETENA rescinded their June 2008 permit. When Mr. Aven appealed the rescission and proved that MIANE was lying to SETENA and produced the real MINAE report that in fact SETENA relied upon, they rescinded their suspension and reinstated their June 2008 Las Olas permit.

The simple truth is this, the only defense that Costa Rica could come up with was to make Mr. Aven responsible and make him look like a criminal in the minds of the Tribunal and criminals don't win in court. Unfortunately Costa Rica were aided and abetted in their false narrative strategy by Mr. Aven's own Vinson and Elkins attorneys when they destroyed his credibility by not producing the Audio Bribery recording. They also aided and abetted Costa Rice in their scheme when Vinson and Elkins failed to hire a criminal Barrister to defend Mr. Aven against the defaming, slanderous and false criminal allegations that he duped SETENA and engaged in a plethora of other criminal acts. Vinson and Elkins clearly were not competent to represent Mr. Aven against Costa Rica's onslaught of false criminal charges and was denied a competent defense by VE, who was duty bound to provide Mr. Aven with a proper criminal defense.

Further, VE failed to follow Mr. Aven's instructions and get a statement from both Protti, Tecnocontrol and SETENA about the above allegations. Counsel for Costa Rica then hid SETENA, PROTTI and Tecnocontrol from the proceeding by not obtaining witness statements that precluding Mr. Aven's attorneys from cross-examining them at trial. However, Counsel for Costa Rica provided unending lawyer testimony in the absence of this direct testimony and it all went without objection. The general rule is that if there's no objection it goes as being true. Therefore, all the evidence presented regarding the duping of SETENA, the Protti Report and SETENA was all hearsay.

Again the Protti report was not a required report for the SETENA. SETENA was in charge and they told Mr. Aven's architect and engineer what they needed to provide SETENA for the Project Approval. Mussio and Madrigal was an experienced firm who had gotten similar approves for other large developers. The process took over a year to complete and the contract with Mussio and Madrigal was \$300.000 for the entire process.

Since the Protti report was a report that Mr. Aven ordered he knew nothing about that report for years was not aware of its existence during the time frame that SETENA was approving the EV permit. Therefore, it would have been impossible for him to dupe SETENA about a report he never saw or knew about. Again the trial transcript will prove that VE failed to make any of those points clear to the tribunal during the time he had to cross examine key witness at the trial so the Tribunal would be clear about the above details.

The above goes to causation. If VE would have properly exploited the facts surrounding the Protti report, then the Tribunal would have clearly seen the truth and realized it was a red herring in an attempt to improperly render the SETENA approval null and void. Since Mr. Aven had all the legally required permits, and was nine months into infrastructure construction, it was the state's only defense strategy to win their case. If they couldn't prove Mr. Aven duped SETENA with the Protti report they had no defense and Mr. Aven wins, hands down. Unfortunately, due to the gross negligence the VE attorneys, in failing to present the facts and evidence properly and clearly to the tribunal, the Tribunal bought into the state's red herring false narrative defense.

To put the icing on the cake when the Protti report came up, during Mr. Aven's redirect testimony by George Burn, instead of taking the opportunity to seriously and methodically debunk that report before the Tribunal, Mr. Burn makes an inappropriate political joke which had nothing to do with Mr. Aven's case. The improper political joke actually damaged the case before the Tribunal and had its own independent serious consequences on the case. When is it ever proper to make jokes in a court room in a 100 million dollar case over a cornerstone piece of evidence. This was another key example of Solicitor Negligence. (I think we should provide a video clip of that in our letter/complaint)

I think it's pretty clear that if another competent attorney would have acted professional and properly during the trial and carried out their required duty of care for their client, followed their client's advice to get witness statements from both Protti and SETENA, and exploited the evidence properly, that would have

made the difference in the ruling since the Tribunal had ruled there was agreement by both parties about everything regarding the SETENA EV permit they issued to Mr. Aven with the exception of the Protti report.

I must stress again that because the VE attorneys didn't put the audio bribery recording into evidence per Mr. Aven's direct instruction, it ruined his credibility with the tribunal and led to their thinking he was a liar. From there is a short hop to concluding he was lying about everything else as well. With that perception his credibility is ruined, he was not liked by the Tribunal and per Todd Weilers email to Mr. Aven, "if the arbitrators don't like you (or your attorney) they will find a way for you to lose", and that exactly what happened.