George

Now that the submissions are over I have re-watched the hearing videos and reviewed all the submissions to the panel from both sides. I did it to memorialize my assessments of our relationship and the effectiveness of the prosecution of Claimants Case. The objective of this assessment was to evaluate, to the best of my ability, the effectiveness of Claimants to determine what are chances are to win the liability side of our case, as well as that damages that we are seeking.

I will call it the Claimants Autopsy Report, much like an autopsy is done by medical doctors to determine the cause of death. As stated above, in this particular situation, it will be for the purpose of evaluating our case. I feel I am more than qualified to do this since I have worked with many attorneys' in the past on a number of legal cases and know the difference between a good case being advance on my behalf and a not so good case. My intention is to do this for the US Investors CAFTA case, and I hope I am dead wrong about my conclusions. I will be thrilled if I am wrong and will jump up and down, since that will mean we got the damages we were seeking, which is our definition of a win.

I think in general, a fairly strong case on liability and I think we will win on liability. I would give it a rank of 6 out of 10 and think it could have been stronger. However, as I have told you in previous emails, I am not happy at all with the damage side of the case and think it could have been, and should have been, much stronger and much more aggressive. I give that a rank of 4 out of 10. We may win the damages VE and Vannin are seeking for you firms to get made whole, however, we the US Investors have to get an award of 13 to 14 million before we see a penny. A win on damages for the US Investors is the 95 million that Abdala presented, pre and post judgement interest, attorney fees, moral damages of a minimum of 5 million, Google damage and getting the 3 million for the other investors had put into the project.

Neither, I nor the other US Investors, expected a guaranteed win on the damages, but what we did expect, and deserved, was that our attorney's would make the strongest and aggressive arguments for damages possible. Although I wrote you extensively over and over again about doing that, I believe you failed to make a strong case and aggressive case for damages, therefore, I don't think we will get the damages we are seeking and again, I hope I am wrong and will give you specifics examples of why I am very concerned about that shortly.

I told you before I was in a case where I told the attorney's the exact same thing I told you, we have to ask for damages and even told them how to ask for it. As I told you, the attorney's in the prior case played the all-knowing para-gods and we won the liability and lost on damages. What happened, the jury, while in deliberations, asked the Judge if they could award damages on this and that. The Judge told them they would have to make their decision based upon the evidence and arguments presented in the case. We won the liability part of the case, but didn't get the damages we were seeking, because the attorneys didn't follow my instructions to make a strong and aggressive argument for damages that the jury could get their arms around and understand. They didn't ask and we didn't get. What did I tell you over and over and over again, if you don't ask, you don't get, but it went in one ear and out the other. Effective "asking' is presenting strong arguments for damages, WHICH JUST WAS NOT DONE. There is a difference in

making a claim and making a strong argument for that claim. A claim without strong arguments has little chance of winning. Let me give you specifics right now and break it down into two parts, liability and damages.

LIABILITY

First, I have read everything George and I can understand what I read as you know. I also can understand English and understand what I hear. As you know if you don't win on liability it all stops and you never get to damages. However, you could have structured the lability part of the case that would have helped out the damage side of the case, but unfortunately that wasn't done either. How do we win on liability? We have to prove a breach of the CAFTA Treaty and of customary International law, using the FACTS and EVIDENCE that's in the case file. Did we have strong facts and evidence on our side to win and win big? Yes. Was it used aggressively and effectively? In my assessment no.

What was the strong evidence we had to prove a breach of the CAFTA Treaty? The fact that the Government issued all the relevant permits, we were nine months into infrastructure construction and the Government shut us down with a false claim of wetlands. We also had a number of Government reports that also stated there were no wetlands, but that wasn't used effectively as well and will explain why. We also had a 7 minute YouTube video of the infrastructure work that we took just before we were the shut-down, but that was never shown to the panel even though I specifically told you to show it to them during our presentation. Again in one ear and out the other. All of the above was strong evidence that was not effectively used. I don't remember any questions that you asked Luis Martinez, the prosecutor, Mr. Juarado, the Attorney General, Monica Vargas, Hazel Melendez or Priscilla Vargas, all Government witness we called for cross examination, but they were not grilled about the above relative documents.

Also they accused me of duping SETENA into issuing me the environmental permit, statin I knew there was wetlands on the property but withheld that from SETENA, which was totally false. Duping a Government is a serious charge, however, you never asked any of these key Government witnesses what evidence they had to prove I duped SETENA. I had to defend myself before the panel and refute that myself and asked the panel were was someone from SETENA to testify that I duped them? But my attorney's never grilled them about that so the panel could clearly see they had no evidence and were lying.

So what happened in DC when you had the opportunity to cross examine these key Government witnesses? Was an effective use of facts and evidence aggressively and effectively used in their cross examinations? In my assessment NO. Why do I say that? Well if you remember, my instructions for was to carry out an effective cross examination and use the evidence that was in our case files during the cross. Sounds simple enough right? Was that done? NO, even though I specially instructed you to show each and every witness the evidentiary documents, like the SETENA permits, the construction permits, the many reports that were done before and after the permits were issued and asked them first if they had seen those documents, second if they think that Government permits should be respected. You could have also asked them based on the documents that you are looking at right now, if you were Mr. Aven would you believed there were wetlands on the project site. If they say, well based on these documents we would not

believe there were wetlands, we got them. If they say no they would not believe those documents, that wouldn't be believable and we got them. That series of questions should have been asked to every Government witness we had the opportunity to cross examine. Were any of the Government witnesses asked those basic questions, NO. You also could have asked them, do you think David Aven Duped SETENA? They would have to say yes and then ask them what evidence are you relying upon to make you believe that? They would not have been able to give you one. You could also have asked, do you think Mr. Aven fragmented lots and that he didn't have a Costa Rican as a 51% owner of the concession. Again same question, what evidence are you relying upon to cuase you to believe that. This is so elementary that I can't for the life of me understand none of the 12 attorneys that were at the hearing thought about asking those basic questions.

Another question, when the project was shut down nine months into construction, what evidence did you have that supported that decision, in light of the evidence that I just showed you? When criminal charges were filed against Mr. Aven, what evidence did you have that first there were wetlands on the project site and that Mr. Aven had intent to commit the crime you were charging him with? You especially should have grilled Martinez, the criminal prosecutor on that question. Why didn't you follow my instructions on just using THE EVIDENCE ON HAND, and grill every Government witness on it? You never aggressively addressed any of that with any Government witness.

It's really quite inexplicable why that line of questioning was not followed. Mark Baker, one of the arbitrators tried to do that job for you in the brief time he had to ask questions when he asked Martinez and Juardo, how do you get to intent with the evidence at hand and they didn't have satisfactory answers for Baker. The panel could very well take the position, if the claimants attorneys apparently don't think that line of questioning is it important for the case, then why should we. And they could make a decision that based upon the fact that we didn't cover it, they would not consider it, because we failed to argue it. Do you understand the fatal blow you may have caused the case because you failed to aggressively use our strong evidence and grill each and every Government witness? Our only hope is that the arbitrators will pick up on this and figure it out for themselves and find in our favor and award us the damages we are seeking in spite of the fact that our attorney's failed to properly argue the facts and evidence on our behalf. You should have made the above the main topic of each Government witness you crossed examined and let them explain why government permits and reports were not honored by Government functionaries and all the other things mentioned above. However, you wasted a lot of time asking irrelevant questions instead of focusing on the strong evidence in our case.

The government charged me with a very serious crime of duping SETENA. This was more serious any other of the other criminal charges, according to Roger Gureva, our Costa Rica Attorney. So why didn't you grill all of the Government witnesses about what evidence were they relying upon in making there allegations? I had to ask that question on my own behalf during my brief cross examination when I said, to the panel where on my accusers. Why isn't someone from SETENA here telling you that I duped them? Isn't that the way it's supposed to work?

You failed to asked Mr. Martinez a basic question that during the criminal trial he did not charge me with duping SETENA. You could have asked him, did he thoroughly investigate the case before he brought those criminal charges against me? He would have had to say yes of course he did. The follow-up question would have been, well apparently you had no evidence to prove Mr. Aven Duped SETENA at that time is that correct? You then should have asked him you do know that the Governmet is now claiming that Mr. Aven duped SETENA? He would have to answer yes, and the follow up would have been, do you believe Mr. Aven duped SETENA. He would have had to say yes and they the follow up would have been what is the evidence and whey didn't he discover it during his criminal investigation. He would not have been able to answer any of those question effectively. You should've asked each and every one of the government witnesses, that same question. None of them could have provided the panel with any evidence to prove theew ridiculous accusations and they would have clearly understood, via the cross examination, that they were being lied to. However, your failure to follow what I call law 101 trial procedures, that prospective attorney's learn in the first year of law school. That deprived the panel of hearing from them as they stumbled around trying to respond. George, this is absolutely inexcusable and borders incompetence. Again, the US investors are going to have to rely on the panel to figure all this out and get us a win. If that doesn't happen we won't get the damages we are seeking. Again I will say I hope I am dead wrong in my autopsy. To say that the US investors are very unhappy about this would be a gross understatement.

Another inexplicable and inexcusable act, was your refusal to enter into evidence, even though I gave you a direct instruction to do so, the audio recording I made of a Government official asking me for a $200,000 bribe. King and Spalding put that into evidence in their request for arbitration and had planned to produce that as evidence. However, you refused my numerous direct instructions to enter that into evidence as proof that we were asked for a bride and let the panel hear that recording. That was just flat out wrong and inexcusable. You said that there was some statements I made in there that could be problematic. Once again you played your timid and noe-aggressive game plan, and totally disregarded the fact that we had a government bureaucrat in a recording asking me for a $200,000 bribe. As well as an admission by this bureaucrat, saying in that recording that the way things works in Costa Rica was when it rains everyone gets wet. Meaning when it rained money all the bureaucrats wanted to get some. Roger Guevera told you that this was a common saying in Costa Rica that was only used in the context of asking for bribes. Instead of using this powerful piece of evidence you inexplicably just refused to admit it into evidence, and the panel never got to hear that recording. It's almost like you were working against our best interests in refusing to present it into strong evidence into the case. The Respondent's attorney then said say, the claimants asserted they have a recording of a bribe, but they failed to produce the recording, what's that tell you about the Claimants? I'll tell you what that told that panel, that we were lying to them and didn't have a recording. That was a damaging and incompetent decision not to enter the bribery recording into evidence, even though I gave you a direct instruction to do so. Whatever problem you had with that recording George, was far overshadowed by the fact that we had a Government bureaucrat asking me for a $200,000 bribe and making other very damaging statements, but again you resorted to your weak kneed approach and refused to advance an aggressive case on behalf of the US investors, which was totally unacceptable. The fact you cannot deny is that I had discussions with you and sent you many emails requesting you to be more aggressive and stop playing defense and get an aggressive offense going. But you never did that and resisted that right up until the end when you

refused to put my conclusion statement in our April 26, 2017 final brief to the panel. The email that you wrote me on April 25, 2017 left me dumbfounded and really shows your deficiencies as a strong litigator.

In the beginning George, I was impressed with your initial writings in your first memorial, and in fact I spoke to a couple of journalist and praised you highly. But as the case progressed I started seeing your overly cautious tendency to to be timid and non-aggressive in the prosecution of our case, even while as the same time the Respondents attorney was being very aggressive on behalf of their client in their making false allegations and assertions and trying to peddle that as evidence. It was horribly frustration to watch your weak prosecution of our case when we were the ones that had overwhelming evidence and facts. But you again and again failed to aggressively advance our case on our behalf. There were times that you wanted to be aggressive in things that I would absolutely not agree with that was just flat out wrong and if you would have followed through on those, it could have been catastrophic for our case.

The one thing you were very aggressive about, that proved to be a huge mistake, was when you decided to engage in a Battle of the wetland experts against my strong advice not to. That proved to be what could be a fatal mistake, which you admitted to the panel in your comments to them on February 7, 2017.

I remember very clearly having a very heated argument with you not to get into the battle of the wetlands experts, because it was irrelevant and there was only downside and no upside. Our position to the panel should have been that the appropriate agencies, at the time, made a determination there were no wetlands and we are not going to now engage in an exercise with the Respondent to try to make an after the fact determination that there were wetlands on the project site, since it's irrelevant. If Costa Rica wanted to do that and play with themselves, then and we would just stay out of it and argue it's irrelevant and state that SETENA and MIANE made a determination in 2008 that there were no wetlands. But no, the all-knowing attorney para-God insisted we engaged them. I told you that you would be running a huge risk that our expert could say there are wetlands in some areas and that would damage our case. But no you knew it all and said that wouldn't happen, and you once again refused to follow a direct instruction from your client and instead engage in the battle of the wetland expert, and unnecessarily spent hundreds of thousands of dollars on that folly. Costa Rica then got a second expert opinion and we had to also get a second opinion and you forced the panel to spend untold hours focusing on the irrelevant battle of the wetlands experts; instead of focusing their attention on the relevant matters of our case as we presented it. This is exactly what the respondents wanted you to do and you fail into their trap like some naïve Junior attorney who was trying their first case.

What happened? Our expert wetland expert did say there were wetlands in certain areas and the Respondent constantly told the panel that, just like I predicted would happen. But most remarkably, in your closing statement to the panel on Feb 7, 201 you make this amazing statement about the battle of the wetland experts. This is what you told the panel George: "none of this is relevant and maybe we should have never engaged in any of this". You know how stupid and damaging that statement was George? Do you have an idea what the effect of that statement could have had in the minds of the panel? No, because you have no clue about

psychology. You're not a psychologist George you're an attorney. A person's strength is to know their weakness and your decisions clearly show you consistently failed to recognized your weakness and you failed again and again to listen to reason from me and fell into their trap and could have fatally damaged our case.

Do you have any idea what you did Goerge? Here is what the panel could be thinking about your inept statement and decision: well if it was irrelevant, then why did they just refuse to engage with the respondent and save the panel the time and energy to have to consider it? Why did he waste our time on an irrelevant matter, rather than spending time on relevant matters? Your statement could have really pissed off the panel, and you spoke before thinking about what you were saying. Do you understand how much time the panel was forced to focus on that issue rather on focusing on the real issues in our case? But you were smarter than your stupid client, but in the end who was flat out wrong in that decision? There is no question about that since you admitted it to the panel that it was irrelevant and possible mistake. I could go on and on with other examples but I think you get the picture.

DAMAGES

In all that the attorneys have written on damages, only a very small amount of time was taken asking for the damages that we were seeking, and no time was taken up in making strong arguments for material damages, moral damages, damages for the destruction of a Google partnership or damages to get back the 3 million that investors put into Las Olas. For example, what arguments did you make for the 95 million dollars that Abdala said were proper damages? Did you present any strong arguments for that and by that I mean, did you look for and find any good precedent cases that you could have presented to the panel? I don't remember any. You did present precedent case examples on the liability part of the case, but none on damages.

As a precedent case, you could have argued that in the German's case against Costa Rica in 2013, the Germans got 4 million for a bed and breakfast that the Costa Rica Government refused to issue a permit for. You could have told that panel, that if that was worth 4 million, what is an entire Las Olas project worth that was a fully permitted project with 300 homes and condos planned and the US Investors were 9 months into infrastructure construction when the project was shut down for a false claim of wetlands? That would have been a goodcomparative damage argument and in fact I gave that example to you and told you to present that to panel so they could understand about comparative damages values, but you failed to argue that as a comparative damage.

Regarding moral damages. One of the experts we spoke to told me, and you, that moral damages should be argued just like any other damages. You state this in your email dated April 25. 2017 to me, "I find your assertion of a weak case on damages utterly bizarre – you have used up hundreds of thousands of dollars of lawyer time having moral damages explained to you time and time again, but the bottom line is we have claimed five times the highest award ever made for moral damages. I seriously doubt we will get anything like that, but it is one example that shows that we have pursued damages aggressively". Your above statement is distorted and conflated and stunningly inept. You seem not to understand the difference between making a claim and making a strong argument for that claim. My statement has always been that you didn't make a strong argument for moral damages,

not that you didn't make a claim for it. Your response is that what we claimed it 5 times. You don't mention your making a strong argument for moral damages or provide any proof you did, because you know you did not. You seem to think that by asking for it 5 times is the same as making an aggressive argument for it. My complaint was and is that you never made a strong augment for moral damages which I was entitled to, as your client to get.

LET ME GIVE YOU AND EXAMPLE OF WHAT I AM TALKING ABOUT. You could have said something like this to the Panel. We do understand that claiming 5 million dollars in moral damages is a high number. However, we believe it is entirely warranted. I think the evidence has shown that David Aven was falsely criminally charged for a crime he did not, and could not have committed. First, as the panel heard, at the time he was charged with a crime, it wasn't even yet a crime. There is clear evidence to prove that Mr. Aven had no intent to commit a crime. There is also clear evidence to prove that the INTERPOL referral did not meet INTERPOL's guide lines and that referring Mr. Aven to an INTERPOL Red Notice, was done maliciously to intentionally damage Mr. Aven's name and reputation. George you could have asked Martinez, the Criminal prosecutor this line of questioning. Mr. Martinez you have stated that your referring David Aven to INTERPOL was the proper thing to do. Is that correct? Did you check to determine if anyone else was ever reported to INTERPOL for an environmental crime that was a misdemeanor at that time the alleged crime was committed? Would it surprise you if I told you that we check and we were unable to find another case where anyone was ever reported to INTERPOL for an environmental crime?

I want to show you a letter from INTERPOL to your Government. Would you please read this paragraph for the panel. That Paragraph says that INTERPOL was not going to reinstate the INTERPOL Referral, because the crime did not meet their guides. Have you seen this letter from INTERPOL Mr. Martinez? So in light of clear evidence from INTERPOL that an environmental crime, or the crime of not showing up for a trial, did not meet INTERPOL Guidelines, is it still you position that referring David Aven to INTERPOL was proper.

I would then have showed him the witness statement of Mr. Valecourt and ask him to read it and then ask him if he knew that the referral to INTERPOL caused Mr. Aven damage when a Google partnership was destroyed. There were more probing questions that could have been asked of Martinez that would have shown the panel the gross negligence and maliciousness with which the Government acted, which goes to damages. But unfortunately, although we had this powerful evidence, the panel never got to hear if from you George.

On the other hand, Costa Rica's attorney had no problem being aggressive in their outrageous comments and false assertions and allegations that they constantly tried to advance as evidence. However, you never really called them out for this improper way they were trying to prosecute their case and tell the panel that if Mr. Leathey tried to prosecute the case he was advance in the hearing, of baseless allegations and assertions with no evidence, he would be laughed out of court. But the panel never got to hear that from you.

You could have said, after the assassination attempt, Mr. Aven was forced to flee the country in May of 2013 in fear of his life. Any one of us would have done the same thing. When the second trial took place in January of 2014, Mr. Aven had surgery in the US and could not make that trial

and provided copies of his doctors report and the hospital bill, but the Government improperly referred him to INTERPOL and he was red noticed. This was not only illegal it was a human rights violation as well. Interpol did take the red notice down, however, serious damage had already been done to Mr. Aven during the time the Red Notice was up. It caused Mr. Aven to lose a very lucrative partnership with Google that cost him millions of dollars in lost commissions he would have earned. You have the statement from both Mr. Aven and Mr. Valecourt about that situation and those statements went unchallenged by the Respondent. Mr. Aven was not questioned about that during his cross examination at the hearing and Mr. Valecourt was never called as a witenss. That act alone is worth more than the five million dollars we are asking. Further, Mr. Aven's reputation and name will be forever marred by the Government reckless and vengeful act of improperly referring him to INTERPOL.

You never mentioned to the panel that Mr. Aven's doctor wrote a letter to the panel which states Mr. Aven is being treated for PTSD, has developed migraine headaches, and is on anxiety medication, all stemming from the problems caused him by the government of Costa Rica. Therefore, we are asking this panel to award damages caused by improper INTERPOL filling and the minimum should be 5 million, but the panel may decide a higher number is warranted.

George, you may have been able to find some case law to support our moral damage claim, but that wasn't done. So do you see the difference between making a claim and making an aggressive argument for that claim? The simple fact is, although I talked to you about this over and over again and sent you many emails about it, which I have every one of them, you refused to follow my instructions to make a strong argument for moral damages. Then you have the audacity to tell me, "I seriously doubt we will get anything like that, but it is one example that shows that we have pursued damages aggressively". I agree with your self-fulling prophecy 100%, based upon the fact that you presented no strong arguments for moral damages or Google damages, even though your firm would have benefited in the damages award. I have no idea what you mean when you say you pursued those damages aggressively? Here is your Cambridge dictionary meaning of aggressively, "**using strong, forceful methods esp. to sell or persuade:** That simply was not done and don't try to further insult my intelligence by telling me it was!!!!

Again, I read and heard everything so please don't make assertions that are unsupportable, I have heard enough of those from the other side to last a life time. Making a claim for and making strong arguments for damages are two entirely different things, but you seem to think they are one and the same, which they are not.

Regarding, the damages of 3 million we are seeking for the buyers. I told you it was extremely important that we make strong arguments to the panel to get their money back. Why? Because I promised the buyers we would do that, I feel a moral responsibility to make the best efforts that we could to get their money back. If we didn't keep our promises, in aggressively trying to do that, then, I still could be sued by all of them. The only reason I was not sued in a class action by all of buyers, thus far, is because they knew we were going to go to bat for them and try to get their money back. I even got all the buyers to sign a letter telling them we were going to present that to the panel and would make a strong claim on their behalf. I sent that letter to Peter in Houston along with a copy of all the purchase agreements, and told him to get that into evidence.

When I asked Peter later if that was submitted he said it wasn't. So once again, I addressed this issue with you, did the work on my end to get you the evidence you needed to argue the claim, but you again did not follow my instructions. There was no aggressive and strong arguments made by you to the panel to create a record to actually show the buyers that we made a strong argument on their behalf to get their money back. That could have future ramifications for me with those buyers if we don't get the award from the panel to refund their money.

One other example. During the end of the arbitration they were two momentous happenings. One (1) resulting in a SINAC letter surfacing that was withheld from us and two (2) the construction of storm drains right in front of Las Olas, with one huge storm drain going into the Las Olas property. At the time, Paula was here and I let her read the SINAC letter in Spanish and asked her to tell me her thoughts about that letter after she read it. When she got finished, she looked at me and got all emotional and said this is so horribly embarrassing for my country. The way they speak and treat a Costa Rican and the way they treated you is totally different. They told her they were so sorry for any inconvenience they caused, they didn't mention any wetland, and they said she would have no problem getting a building permit. She said I don't get this letter it's just awful and I remember the court sent you a letter and called you a GRINGO.

How is it that Paula was better able to grasp the importance and spirit of that letter than you George? There was nothing like that in your response to that letter. In her few words she was able to say exactly what you should have said, but failed to say, and that is to explain the importance of that letter to the panel. It's just amazing. You make an arrangement for me to spend a whole day with Bond Salon to prepare me for my cross examination. You know what I remember most in that session, they told me my job was to help the panel understand what happened. That's what my attorney's should have been doing at the hearing in DC. In fact, Mark Baker one of the arbitrators, if you will remember, constantly said to people he questioned, "help me understand this". Maybe the attorneys should have taken the Bond Salon course as well so they know how to effectively prosecute a case for their clients. As you can tell by this autopsy report I am very disappointed with the prosecution of our case.

You could have said something like this about that letter. We ask the panel to consider that this was a key piece of evidence that was withheld from us. I think it's obvious why it was withheld. It only surfaced because the Respondent accused Mr. Beto Mora of a crime in moving earth on a lot that he owned, and then the Respondent tried to blame Mr. Aven for it. However, by making a criminal accusation against Mr. Mora, as a defense against that criminal accusation, Mr. Mora, sister in law give Mr. Mora the letter that SINAC wrote her in June of 2015. We ask the panel to also consider the tone of that letter and what was said and not said in that letter. The letter said that she would have no problem getting a building permit for the lot she had purchased in Las Olas and it was not in an affected area, and they were so sorry to cause her any problems. What was not mentioned was anything from SINAC about any problems with wetlands on the Las Olas site, or that the Government was claiming that there was a wetland on the Las Olas Property very near to the lot that she owned. Apparently SINAC deemed it not very important and didn't feel it necessary to mention it. However, the *I'm so sorry* comment was starling. The Claimants never got any communication from the Government ever saying anything remotely like that. The panel also has the email that was sent by the court to Mr. Aven regarding an official legal communication, and in the subject line at the end, in Capitals they put "GRINGOS". That email

and the SINAC letter to Ms. Venegas, clearly shows that Costa Ricans and foreign nationals are treated quite differently and the standard of treatment for Costa Ricans is far different from GRINGOS.

But the panel never got to hear any of that from you George. Here is how aggressively advance the arguments about that letter and what you told the panel in your April 26m 2017 letter. **"it only serves to highlight the difference in the treatment of the claimants have received at the hands of the Costa Rican authorities as compared to Costa Rican national's such as Ms. Venegas".** So which statement do you think would resonate better with the panel, my comments or you one sentence weak statement? What is so distressing is that most of the time I gave you much of my narratives before hand, but you simply refused to incorporate them into your filings. You seemed like you intentionally were rejecting my good advice because it wasn't coming from you. In reviewing your words in your April 25 email to me, you said this, "Sometimes we can have opinions on things, and take different but equally valid views, but sometimes one person is just flat-out wrong. On this occasion, that person is you. Who was the one that was flat out wrong"?

I would have to strongly disagreed with your above characterization which was arbitrary and just **"flat out wrong".** You are acting just like Leathey in making allegations and assertions without providing any proof. The above is your feeling or thinking that I am flat out wrong. I don't think I am flat out wrong at all and in fact I think I am 100% right and can back up my statements with facts and evidence. You make statements that are arbitrary and ones that don't have a cogent argument for. You seem to think it's enough that you just make your arbitrary statement it must be accepted for truth and fact. That's exactly what Leathey was constantly doing the entire hearing. The simple truth is this George, you were wrong in the way you have consistently missed opportunity after opportunity in not advancing an aggressive prosecution for your clients before the panel, on both the liability and damage side of our case; and record will bear out that truth out. If you would have taken the many opportunities you had at the hearing and in your filings with the panel and listened to me, you would have accomplished two things: You would have (1) advance the case for liability and (2) advance the case for high damages. Again, our only hope is the panel figures it out on their own and awards us a high damage number.

You then make this amazing statement in your April 25 email to me,

"As for what Herbert Smith have done recently, first they haven't tried to make generalised submissions, so what you think we should do would be more deserving of criticism. But even to the extent they have gone too far on particular points (and I agree, in numerous respects they have), is it your suggestion that we should follow their errors which demonstrated weakness (and that gave us the chance to criticise and undermine them) we should do the same? A very strange approach to strategy.

Your above statement is so far off the mark and disjointed, it really stunns me. The Respondent's entire case was built on assertions, allegations, hearsay and lies that they advance to the panel as evidence. Are you really trying to say those were not generalized submissions? Any submission not backed up with facts and evidence are generalized and irrelevant submissions. We only got that fact in the last filing, because I insisted we put it in and I drafted the statement that was used in the April 26, 2017 filing. The statement I suggested we make as a conclusion, which you again failed to follow my advice and include, were all based on facts and evidence and no generalized statements, so I don't understand your assertions about what I

wanted to say? It was all based on facts and evidence. You are again flat out wrong in making that unsupported assertion and false statement and there is not one shred of logic or truth behind it.

You say this in paragraph 4: I understand that you see American litigation on a regular basis, but it has precisely nothing to do with the calculation of damages elsewhere, including in this case.
That is another flat out blatantly wrong statement George. Damages are damages and they are calculated the same worldwide. In fact, I just spoke to Manuel Abdala about your flat our wrong statement after I read it, just to get his expert opinion on it. I did not tell him about what you said, I just asked if damages were aregure the same everywhere in the world and in all kinds of cases and he confirmand that they were, as I already knew. If you go by your weird logic, one would believe that math is different in various parts of the world. In fact, Abdala said that the US courts has a higher bar for damages than in International arbitrations. So again you are flat out wrong with you above statement George.

You end your letter with this:

David, we cannot and will not make the broad statements you want to make – we have very effectively set out our position already; I am not about to undermine your case (and that of the other Investors) by doing something that can only do harm and help Costa Rica and Herbert Smith.

That is an arbitrary statement that cannot be supported by either facts or evidence and is again flat out wrong. My statements are not broad at all, they are laser focused to prove up our case, using facts and evidence, something which you seem to have no clue about doing.

I could write many pages about this, and in fact I have written many pages about all of this in the past to you, but it's like talking to a wall, but I think you get the point so I don't need to restate it.

George listen, many doctors think they are para-Gods in their field, and that they are all knowing about what is good for their patients. Yet, millions of people die all over the world every year due to doctor's errors. I had two cousins die from mistakes made by doctors during simple operations, but from their prospective the operation was successful, the only problem was the patient died. In both instances, a jury determined something differently at the malpractice trials.

Many attorneys' think they are also para-Gods as well and think they are all knowing. But as I told you in the past, I personally can attest that I was a victim of bad lawyering and the following statement is concerning. "You say you disagree with my assertion that trying to work in generalised submissions going beyond this very limited post-hearing exchange of communications is going to piss of the Tribunal and would be entirely counter-productive, but with the greatest of respect, you have no basis for saying that. Sometimes we can have opinions on things, and take different but equally valid views, but sometimes one person is just flat-out wrong. On this occasion, that person is you".

George, on what basis can you make a statement that the panel would be pissed off, a questionable description, but I will work with it, if you advanced your case for your client in an aggressive way? That pitiful statement really shows that you know nothing of which you speak. You are not a phycologist and we didn't have one at the hearing. Maybe we should have and that would have been money well spent. Neither are you psyche who knows how the panel would

react. Your statement was totally arbitrary when you say you think it would piss them off, and seems to me to be based on some unfounded and unsupportable logic. So I would have to say, based upon the illogical and arbitrary nature of your statement, the person who is flat out wrong is once again you, not me. My call would be that the panel would have welcomed any input we could have given them that would have helped them understand what happened. It's amazing that in the country of your birth, is also the birthplace of Shakespeare, who said all the world is a stage, yet you seem to be completely non-understanding about the theater carried out in the legal arena. I can tell you one thing with certainty, the attorneys who have an understanding and appreciation for that do much better than those that don't.

At this point, our only salvation to get the damages we are seeking, is in the the panel and our hope they can figure this out themselves with the evidence they have before them, especially the cap stone evidence we produced at the end. And further hope that it will so infuriate them, when they clearly see that they were lied to by the Respondent from the very beginning, it will cause them to issue a strong damage award. If we don't get a big damages award, then it will be because you failed to aggressively advance our damage case in an effective way so the Panel would get it. In the Spence case, the Claimants lost because one of their attorneys told me personally, **"the panel didn't get it".** The panel didn't get it because the claimant attorney failed in their job to present the case in a way that would ensure the panel would **"get it".** Not getting is was due to a failure on the part of Claimants attorneys. So will it be in our case as well if the panel doesn't **get it** and award us big damages. It's not a good strategy to think the triers of fact will figure it out and "get it" As Bond Salon said, out job was to make sure we help and explain things to panel so they would **understand and get it**.

Again, I hope I am totally wrong in my autopsy and we get a big damage award. I will be thrilled and will be jumping up and down and would be grateful to you and VE forever. However, if we don't get the award we are seeking, this falls directly on your doorstep. We had the facts, evidence and witnesses all strongly on our side and all of our witnesses performed well. We will just have to wait and see where things shake out, there is nothing we can do now since the water has already gone over the dam.

David