

**UNDER THE UNCITRAL ARBITRATION RULES AND
SECTION B OF CHAPTER 10 OF THE DOMINICAN REPUBLIC -
CENTRAL AMERICA - UNITED STATES FREE TRADE AGREEMENT**

CASE NO. UNCT/13/2

BETWEEN:

**SPENCE INTERNATIONAL INVESTMENTS, LLC, BOB F. SPENCE,
JOSEPH M. HOLSTEN, BRENDA K. COPHER, RONALD E. COPHER,
BRETT E. BERKOWITZ, TREVOR B. BERKOWITZ,
AARON C. BERKOWITZ AND GLEN GREMILLION**

Investors/Claimants

AND:

THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA

Party/Respondent

FIRST WITNESS STATEMENT OF RONALD E. COPHER

Submitted April 25, 2014

1. My name is Ronald Earl Copher. I am a citizen of the United States of America and reside at 861 Seddon Cove Way, Tampa, Florida, USA.¹
2. I submit this witness statement on behalf of myself, my wife, Brenda K. Copher (“Brenda”), and my business colleague and friend, Joseph M. Holsten (“Joe”) in support of the Claimants’ First Memorial in connection with a DR-CAFTA claim brought by the Claimants against the Republic of Costa Rica (the “Respondent” or “Costa Rica”) pursuant to the UNCITRAL Arbitration Rules with its seat in Washington, D.C.
3. Both Brenda and Joe are also citizens of the United States of America and reside in Tampa, Florida, USA.²

¹ Appendix A.5.

² See Appendix A.3 and A.4.

4. This witness statement was prepared in collaboration with the attorneys for the Claimants in this proceeding, following several meetings and consultations with me. This statement accurately reflects my knowledge and recollection of the facts described herein. This testimony was drafted in English, which is my native language and which is the language that I would be prepared to testify in, if necessary.
5. I am a businessman and have owned a number of businesses over the years. I am currently retired. Most recently, I owned and operated an automotive parts and scrap business. In 2003, I had just sold parts of my business to three different buyers: Ford Motor Company, LKQ Corporation, a NASDAQ listed company; and Schnitzer Steel Industries, Inc. I still own a number of commercial properties in the US.
6. When I sold my business, my plan was to retire to Playa Ventanas in Costa Rica. I had been a frequent visitor to the area and fell in love with Playa Ventanas as a quiet, secluded place to retire. There were already some US investors there who were in the process of building new houses or renovating existing homes. I liked the community feel and went to buy property on which to build my dream home.
7. Playa Ventanas is a beautiful, white sandy beach. The lots on the beach have a natural buffer area between the building site and the beach. The lots are accessible by a public road that has an estuary on the opposite side, which limited the number of neighbors and made the property more exclusive and desirable to us, as many of the lots on the other side of the road could never be built upon. In addition, the land here was privately titled, which we knew to be rare for beachfront property in Costa Rica. I was not interested in concession properties even though they were much less expensive. I did not want to have to deal with the uncertainty that came with concession properties.
8. I invited my friend and business colleague, Bob Spence, to visit the area with me. He had also shown an interest in acquiring some personal beachfront property and I thought he would like Playa Ventanas. I had lined up a visit to Playa Ventanas with a real estate agent to view a few lots that were for sale. Coincidentally, that day, we learned that additional lots had become available and Bob Spence ended up buying those lots.
9. In September 2003, Brenda and I bought two lots on Playa Ventanas, Lots V39 and V40.³ As was customary in Costa Rica, the lots were owned by a company, so we bought the properties by purchasing 100% of the shares of Corporación Lacheaven de Ventana, SA. Brenda and I each own 50% of the shares of Corporación Lacheaven de Ventana, SA.⁴ I recall that I paid \$340,000.
10. I also bought a home in Conchal where I could live temporarily while I built the home on Playa Ventanas.

³ Folio Real Nos. 5-042348-000 & 5-042350-000. The registered date of purchase is 27 September 2000 for both beachfront lots on Playa Ventanas known as V39 and V40. The transfer of Corporación Lacheaven de Ventana, SA included these two properties. See Exhibits C-8b and C-9b.

⁴ See Appendices B.42, B.43, B.44, B.45 and B.46.

11. I immediately hired a renowned local architect, Abraham Valenzuela, to begin drawing up plans for the home. The plan was to build one home on the two lots. I recall that I spent more than \$30,000 in order to get preliminary drawings.
12. I also took other steps toward getting a building permit, including having Conambiente, S.A. prepare an environmental impact assessment, which cost us more than \$5,000.
13. In November 2004, I purchased the adjacent lot on Playa Ventanas, Lot V38.⁵ I recall that I paid \$350,000 for this lot. Again, the purchase was done through the purchase of 100% of the shares of a company, Seize the Day, SA.⁶ I purchased all of the shares of Seize the Day, SA, which was later transformed into a Limited Partnership in 2005. I bought the additional lot because I thought it would be nice to have more space and was considering building a small guest house on this property.
14. I understand that all three of these lots are located entirely within a distance of 125 meters from the mean high tide point east of the Pacific Ocean.
15. Initially, things went very well in terms of the plans for development. As time went by, we encountered some delays and issues, but each problem seemed to get resolved.
16. I recall learning about the concern over people removing turtle eggs from nests on the beach. At the time, a number of property owners on Playa Ventanas discussed ways in which they could help patrol the beach and keep the nests safe. We talked about establishing a home owners' association funded by the owners to raise funds to assist with this, as well.
17. In 2006, our friends, Joe and his wife, Deb, were visiting us in Costa Rica. We took them to visit the lots on Playa Ventanas. We decided to invest together on two additional lots, Lots V46 and V47, which were a short distance down the beach.⁷ We purchased the lots through two holding companies, both enterprises established under the laws of Costa Rica: Ronco Realty Investments, Ltda, which is wholly owned by me,⁸ and Joeco Realty Investments Ltda, which is wholly owned by Joe.⁹ I recall that we paid \$550,000 for these two lots. I understand that both of these lots lie entirely within a distance of 125 meters from the mean high tide point east of the Pacific Ocean.
18. We planned to build one or two homes on these lots, as well, or possibly build one home and sell the other lot to offset the building costs. The real estate market in the area had been steadily increasing since I made my first purchases in Playa Ventanas in 2003.

⁵ Folio Real No. 5-042346-000. See Exhibit C-7b.

⁶ See Appendices B.47, B.48, B.49, B.50, B.51, and B.52.

⁷ The registered date of purchase for Lots V46 and V47 is 8 February 2006. Lot V46 was assigned Folio Real Nos. 5-042362-001 and 002 and Lot V47 was assigned Folio Real Nos. 5-042364-001 and 002. Exhibits C-10b1, C-10b2, C-11b1 and C-11b2.

⁸ Appendices B.56, B.57, B.58, B.59, B.60, B.61, and B.62.

⁹ Appendices B.53, B.54, and B.55.

19. On October 9, 2007, declarations “of public interest” for all of our lots on Playa Ventanas were published in La Gaceta.¹⁰
20. I was surprised because I had been told that the Park went out to sea and not inland. The documents in the national land title registry showed that my properties had been certified as being outside the Park.¹¹ I had been told by local counsel that I could rely on the national registry documents, as they were official. The registry documents also identified all of the lots as building lots or lots for construction. It also broke my heart, as I really wanted to end my days on Playa Ventanas.
21. In September 2008, administrative appraisals were issued for all five of these lots. A summary of the appraised values is contained in the following chart:¹²

Lot	CRC/m2	\$/m2	CRC Total	\$ Total
V38	186,200	\$ 372	200,524,366	\$ 401,049
V39	193,800	\$ 388	196,086,840	\$ 392,174
V40	191,500	\$ 383	164,090,605	\$ 328,181
V46	195,700	\$ 391	182,989,285	\$ 365,979
V47	184,100	\$ 368	212,541,609	\$ 425,083

22. In each case, I objected to the administrative appraisals, as I did not consider them to represent fair market value for my property.¹³
23. Since then, nothing has happened. I cannot build on my lots. I have not received any payments. In fact, so much time has passed, that in order to provide the current status with respect to the expropriations, I had to ask my attorney in Costa Rica to seek out the administrative files at SINAC. After initially being told that the files could not be located, he returned with witnesses and was immediately given the files. Those files indicate that no steps have been taken since the objections to the administrative appraisals were filed.¹⁴

¹⁰ Exhibits C-7c, C-8c, C-9c, C-10c and C-11c.

¹¹ See the original Spanish plans at Exhibits C-7a, C-8a, C-9a, C-10a and C-11a, which bear a stamp that freely translated reads, “In accordance with Article 47 of the Land Registry Rules, this office does not object to the registration of this plan, and that this is outside the Maritime National Park Las Baulas del Guacauste.”

¹² Figures taken from Exhibits C-7d, C-8d, C-9d, C-10d and C-11d. Also see Exhibits C-37 and C-38, SINAC Administrative Files. Exchange to US dollars done at 500 CRC to the USD.

¹³ Exhibit C-7d1, C-8d1, C-9d1, C-10d1 and C-11d1.

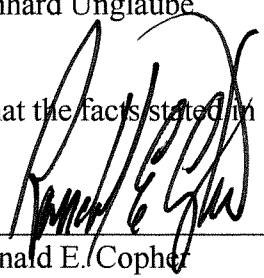
¹⁴ Exhibits C-37 Lots V38 - V40 SINAC Administrative Files and C-38 Lots V46-V47 SINAC Administrative Files.

24. I continue to pay annual property taxes for each of Lots V38, V39 and V40 and Joe and I each pay half of the annual property taxes for Lots V46 and V47. The values on which the taxes are calculated are the following:¹⁵

Lot	CRC Total	\$ Total
V38	306,800,000	613,600
V39	306,800,000	613,600
V40	306,800,000	613,600
V46	402,887,162	805,774
V47	497,437,784	994,876

25. The tax rate is 0.25% of this value, so together Joe and I pay about \$9,000 each year in property taxes to the municipality. I find it unfair that the government is content to collect property taxes from me on land that it says it is going to expropriate and which I cannot use or enjoy as I intended.
26. I would like to be paid fair market value for the property that the government has taken from me promptly and not have to continue to wait indefinitely for the government to proceed with the expropriation process.
27. My family and I have made other investments in residential properties in Costa Rica both in San Jose and the interior, which I still use and enjoy, but none of these are the beachfront location where I had imagined spending my retirement. Joe also owns other property in Costa Rica.
28. As I mentioned, I have known Bob Spence and Joe Holsten for many years and we decided to invest in Playa Ventanas at the same time or together (in the case of Joe). I have never met Brett Berkowitz, his sons or Glen Gremillion. I also do not know Reinhard Unglaube.

I confirm that the facts stated in this witness statement are true.

Signed: 
Ronald E. Copher

Date: APR. 23, 2014

¹⁵ Amounts taken from Exhibit C-39, Lots V38 -V40 and V46-V47 Property tax values. Exchange to US dollars done at 500 CRC to the USD.