

**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 GLEN R. GREMILLION

Submitted April 25, 2014

1. My name is Glen Raymond Gremillion. I am a citizen of the United States of America and reside at 6 Lattingtown Woods Ct., Locust Valley, New York, USA.¹
2. I submit this witness statement on my own behalf and in support of the Claimants' memorial on the merits in connection with a DR-CAFTA claim brought by the Claimants against the Republic of Costa Rica (the "Respondent" or "Government") pursuant to the UNCITRAL Rules with its seat in Washington, D.C.
3. 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.

¹ Appendix A.9.

4. I am businessman and have owned and operated three medical businesses in the United States since graduating with a bachelor of arts in political science from South Eastern Louisiana State University in 1988.
5. In 2003, I learned from my friend and real estate agent in Costa Rica, Joan Demyen, that there were a few inexpensive properties for sale in south Playa Grande. I knew this area well, as I used to surf there when in Guanacaste. The Las Baulas Marine Park is signed at the beach entrance to Playa Grande. Although I knew the park was there, there were a number of residential properties and small hotels on Playa Grande, many of which appeared to have been recently built.
6. I heard from Joan that the developer, Brett Berkowitz, was selling a few of his beachfront lots at a low price in order to raise the necessary funds to develop the infrastructure (electrical and sewer) for the remainder of his project. The price was so good that I decided to buy the lot on Playa Grande in his development.
7. On 3 March 2004, I purchased the lot through a company established under the laws of Costa Rica, Vacation Rentals, S.A., which I own and control.² Vacation Rentals, S.A. purchased 100% of the shares of Jocote Mar Vista Estates, S.A., a company established under the laws of Costa Rica, which was the registered owner of Lot B7.³ I paid \$425,000 US for the lot.⁴
8. Since that date, I have owned Lot B7,⁵ which comprises a total of 7,365.18 square meters, 3,012.20 square meters of which is located within a distance of 125 meters from the mean high tide point east of the Pacific Ocean.
9. I planned to build a home on the lot for my personal use as a vacation property, as well as an eventual retirement home. I retained architects in Cincinnati to work on the design of the house to be built on the lot and an engineering firm in San José, Grupo Integra, to work on the engineering drawings.⁶ I spent approximately \$80,000 on architectural plans and \$12,000 on engineering drawings.
10. The planned two storey home was designed using natural finishings that would blend with the background in Playa Grande.⁷ I intended to build one home, close to the beachfront end of the property. The property has almost 40 meters of beachfront. I liked that the remainder of the lot between the house and the road would be wooded and create

² Exhibits C-27b and C-46 130612 Lot B7 Certification of Ownership.

³ Appendices B.75 and B.76

⁴ The purchase was registered on 21 April 2004. Exhibit C-47, Lot B7 Purchase by Vacation Rentals, S.A.

⁵ Folio Real No. 5-130544-000. I own 100% of the shares of Vacation Rentals, SA, a company established under the laws of Costa Rica. See Appendices B.75, B.76 and Exhibit C-46, Lot B7 Certification of Ownership.

⁶ Exhibit C-48 Lot B7 041101 Architectural and 050606 Engineering Plans.

⁷ Exhibit C-48 - Lot B7 041101 Architectural and 050606 Engineering Plans. Note that the engineering plans incorrectly refer to the old registered owner of the property. As environmental permitting was eventually halted, I never asked for this error to be corrected.

privacy for the home, but I considered the beachfront portion of the lot to be most valuable, with its proximity to the beach and beautiful ocean views.

11. The Government required an environmental impact study as the first step in the building permit process. Once the drawings were completed, I hired Mr Carlos Dengo of CDG Environmental Advisors to perform an environmental impact study so that we could seek building permits. I paid him approximately \$10,000 for an environmental impact study to be prepared.
12. When Mr. Dengo sought to file the environmental impact study with SETENA, they refused to accept the study stating that all such studies within 125 meters of the park boundary were suspended. Until that time, I had heard nothing about the expropriation of land for the park.
13. On 1 December 2005, the Government issued a decree declaring that Lot B7 was of public interest and subject to expropriation.⁸ I received notification of this a short time later. That's when the roller coaster ride of appraisals began.
14. On September 22, 2006, the administrative appraisal valued the beachfront portion of the property at 7,200 CRC or approximately \$14 USD per square meter. For the 3012.2 square meters being taken, the appraisal was 21,687,870 CRC or approximately \$43,376 USD.⁹
15. Not only did I consider this value to be far below the fair market value for the property, it was also only about 10% of what I had paid for it (before the real estate market in Playa Grande started to take off). It was also a fraction of the "valor fiscal" or value for property taxes, based on which I was paying property taxes to the municipality. I objected to the appraisal.¹⁰
16. On November 27, 2006, the Government published a decree of expropriation for my property¹¹ and on November 30, 2006, the judicial phase of the expropriation was commenced.¹²
17. In the course of the judicial proceedings, two more appraisals for my property were prepared. The first valued it at 80,046.49 CRC or approximately \$160 USD per square meter.¹³ The second valued it at 29,511 CRC or approximately \$59 per square meter.¹⁴

⁸ Exhibit C- 27c.

⁹ Exhibit C-27d.

¹⁰ Exhibit C-27d1.

¹¹ Exhibit C-27e.

¹² Exhibit C-27f.

¹³ Exhibit C-27f1.

¹⁴ Exhibit C-27f2.

18. None of the appraisals provided compensation for damages for the remnant of my property. Once the beachfront portion of the lot is expropriated, I will be left with a lot that is too small to build on according to the agricultural zoning regulations that apply. As a result, the remnant is of no value.
19. In 2011, I asked my real estate agent for an estimate of value for privately titled beachfront properties such as mine and she confirmed that many comparable properties were available and listed in the \$1000 per square meter price range.¹⁵
20. I have no confidence that the judicial expropriation process in Costa Rica will compensate me at fair market value for the property that they have taken from me. The Government started the expropriation process more than seven years ago and the process has yet to be concluded.
21. Despite the ongoing expropriation process, I have continued to pay annual property taxes to the municipality for the lot. These taxes are based on a value of 590,400,000 CRC (or approximately \$1.18 million US) and total 1,476,000 CRC (or approximately \$2,950 US) per year.¹⁶
22. I met Brett Berkowitz for the first time when negotiating the purchase of my lot. I have never met the other individual Claimants in this arbitration. I have also never met Reinhard Unglaube.
23. I also have other investments in Costa Rica and would like to receive fair compensation for this property that has been taken by the Government so that I can focus on my other investments.

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

Signed: _____

Date: _____

¹⁵ Exhibit C-49, 111207 Letter from J. Demyen of ReMax.

¹⁶ Exhibit C-50, Lot B7 Property Tax Value.