Case: 1:17-cv-00108 Document #: 74-12 Filed: 05/06/19 Page 1 of 43 PageID #:1894



# **Transcript of Sharad Tak**

**Date:** September 21, 2017 **Case:** RNS Servicing, LLC, et al. -v- Spirit Construction Services, Inc., et al.

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#### Case: 1:17-cv-00108 Document #: 74-12 Filed: 05/06/19 Page 2 of 43 PageID #:1895

#### Transcript of Sharad Tak

1 (1 to 4)

Conducted on September 21, 2017

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citizen,

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3 APPEARANCES IN THE UNITED STATES DISTRICT COURT 1 THE NORTHERN DISTRICT OF ILLINOIS 2 ON BEHALF OF THE PLAINTIFF: EASTERN DIVISION 3 BRIAN C. LANGS, ESQUIRE - - - - - - - - x 4 JOHNSON & BELL, LTD. RNS SERVICING, LLC, : 5 33 West Monroe Street An Illinois Limited : Suite 2700 6 Company, : Civil Action No. 7 Chicago, Illinois 60603 Plaintiff, : 17-cv-108 8 312-372-0770 9 SPIRIT CONSTRUCTION : 10 ON BEHALF OF THE DEFENDANTS: SERVICES, INC., A : ROBERT M. ROMASHKO, ESQUIRE 11 HUSCH BLACKWELL, LLP 12 Corporation and : 120 South Riverside Plaza 13 : Steven Van Den Suite 2200 14 Heuvel, A Wisconsin : 15 Chicago, Illinois 60606 312-655-1500 16 Defendants. : 17 - - - - - - - - x 18 Deposition of SHARAD TAK 19 Bethesda, Maryland 20 Thursday, September 21, 2017 21 8:55 a.m. 22 ALSO PRESENT: 23 MARC LANGS 24 Pages: 1-68 Reported By: Carla Andrews 24 JOHN HEALY (via phone) 2 4 Deposition of SHARAD TAK, held at the offices CONTENTS 1 2 EXAMINATION OF SHARAD TAK PAGE 3 By Mr. Romashko 5, 59 Intelligent Office Bethesda 4 By Mr. Langs 32, 64 7201 Wisconsin Avenue 5 Suite 440 6 EXHIBITS Bethesda, Maryland 20814 7 (Attached to transcript) 240-235-6900 8 DEPOSITION EXHIBIT 9 PAGE 10 NO. 1 -- Declaration 10 11 NO. 2 -- Contract 40 12 Pursuant to Notice, before Carla Andrews, 13 14 Notary Public in and for the State of Maryland. 14 15 16 17 18 19 20 21 22 23

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Transcript of Sharad Tak

2 (5 to 8)

Conducted on September 21, 2017

Conducted on Se	
1 P-R-O-C-E-E-D-I-N-G-S	1 have you ever given a deposition in a matter related
2 Thereupon, SHADAD TAK	2 to Ron Van Den Heuvel?
3 SHARAD TAK,	<b>3 A.</b> Yes.
4 was called as a witness and, after being duly sworn	4 Q. What was that matter?
5 by the notary, was examined and testified as	5 A. It was a matter we had Mr. Van Den
6 follows:	6 Heuvel had sued our companies six to eight times so
7 EXAMINATION BY COUNSEL	7 far. And we had given depositions in several cases.
8 FOR THE DEFENDANTS	8 Q. Okay. Do you remember approximately when
9 BY MR. ROMASHKO:	9 you gave those depositions?
10 Q. Hello, Mr. Tak. Thank you for being here	10 A. In the last four or five years. One was
11 today. I am just going to walk through a few	11 two days before.
12 preliminary things. You probably heard this before,	12 Q. Okay.
13 but it is kind of a necessity.	13 A. It wasn't a deposition. It was court
14 So I guess the first question is, have	14 trial.
15 you been deposed before?	15 Q. And that was in the Eastern District of
16 A. Yes.	16 Wisconsin?
17 Q. Okay. So you are aware that even though	17 A. I don't know what district. It was in
18 this isn't a courtroom setting, you are under oath	18 Green Bay, Wisconsin.
19 and you are sworn to tell the truth?	19 Q. Okay. In federal court, though?
20 A. Yes.	20 A. Yes.
21 Q. Is there any reason that you can't do	21 Q. All right. So I just want to start. Can
22 this deposition today that you can think of?	22 you briefly give your professional background.
23 A. No.	23 Let's just start with your education.
24 Q. Okay. And are you under the influence of	24 A. I have a bachelor's in electrical
6	8
1 any prescription drugs or alcohol or other	1 engineering and master's in computer science.
2 substances that would affect your ability to	2 Q. Okay. And can you just briefly tell me
3 understand the questions I am asking or to answer	3 about your professional background?
4 them?	4 A. Well, as I said, I have a master's in
5 A. Not to my knowledge.	5 computer science. I have worked for Computer
6 Q. Okay. Do you have any medical condition	6 Science Corporation. I have worked for a lot of
7 that would affect your ability to understand my	7 contracts with the U.S. Government working on
8 questions or answer them?	8 satellites and high-tech instrumentation, air
9 A. I am not aware of any.	9 traffic control systems.
10 Q. And you said you had given a deposition	10 Q. And you, I think, indirectly own a
11 before. Can you tell me in what matters?	11 company called ST Paper, LLC; is that correct?
12 A. Legal matters.	12 A. Yes, I do.
13 Q. Okay. What were the subjects of those	13 Q. And when did you well, did you start
14 matters?	14 that business?
15 A. Business business things, employee	15 A. Yes.
16 lawsuits and employer lawsuits.	16 Q. And when did you start that business?
17 Q. Have any of those related to either of	17 A. In 2005 or 2006.
18 the parties in Spirit Construction or RNS Servicing?	18 Q. Can you sort of describe what got you
19 A. I don't know what RNS is. And I don't	19 that's a paper company, correct?
20 know if I ever gave any deposition for Spirit	20 A. Yes.
21 Construction, either.	21 Q. I don't think anyone would dispute that.
22 Q. What about IFC Credit Corporation?	22 Had you been in the paper industry prior to that?
23 A. I don't know about IFC.	23 A. No.
24 Q. And I guess just for completeness sake,	24 Q. Can you briefly just sort of lay out why
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# Case: 1:17-cv-00108 Document #: 74-12 Filed: 05/06/19 Page 4 of 43 PageID #:1897

Transcript of Sharad Tak

3 (9 to 12)

Conducted on September 21, 2017

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1 you had gotten in the paper industry at that point?	1 belabor the points. I want to ask a few follow-up
2 A. I have been into several different	2 questions on the points that are in the declaration.
3 businesses in the past, including building a power	3 So I was asking you about your involvement with Ron
4 plant, funding a bank, doing some real estate work.	4 Van Den Heuvel. When you got involved with Mr. Van
5 And someone from New York had called me and said	5 Den Heuvel, I believe you said, in 2005 or 2006
6 or they approached me to get into paper industry and	6 A. Yes.
7 can I help him get into it. And that's how I	7 Q did you and Mr. Van Den Heuvel develop
8 started looking at paper industries.	8 a plan related to your business together?
9 Q. And as you got into the paper industry,	9 A. Yes.
10 did you become involved with Ron Van Den Heuvel?	10 Q. And so can you describe that plan,
11 A. Unfortunately, yes.	11 please?
12 Q. How did you meet Mr. Van Den Heuvel?	12 A. Basically, we wanted to build a few
13 A. We wanted to build a paper plant in	13 tissue paper mills around the country and also one
14 Utah central Utah. And somebody had introduced	14 liner board.
15 me to Van Den Heuvel that he builds paper mills.	15 Q. And why did you want to build these mills
16 Q. And do you remember who introduced you?	16 with Mr. Van Den Heuvel?
17 A. I don't, but I think it was a friend of	17 A. Because Mr. Van Den Heuvel convinced me
18 mine Mr. Rajon. I think he introduced us, but I am	18 that they are a very profitable business and there
19 not sure.	19 is a great demand for this product.
20 Q. Okay. And do you remember when you met	20 Q. And was a mill that he already owned part
21 Mr. Van den Heuvel?	21 of this plan?
22 A. 2005 or 2006.	22 A. Yes.
23 Q. Did you let me back up, actually, at	23 Q. What was that mill?
24 this point. So you executed a declaration in this	24 A. It was called Oconto Falls Tissue Mill.
10	12
10 1 case, correct?	12 1 I don't know what the legal name is.
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1 case, correct? 2 A. Yes.	<ol> <li>I don't know what the legal name is.</li> <li>Q. And what was the plan in relation to that</li> </ol>
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Transcript of Sharad Tak

4 (13 to 16)

Conducted on September 21, 2017

	15
1 the mill. And then we would build some other mills.	1 Q. And those are laid out in this
2 And his brother's company called Spirit Construction	2 declaration, and I don't want to belabor it. But as
3 will be the construction manager for those mills.	3 I said, can you just describe what those EPC
4 Q. And was there any agreement with Mr. Van	4 contracts were?
5 Den Heuvel in relation to his Ron Van Den Heuvel,	5 A. I don't remember now what they were, but
6 that is. I should be careful because there are a	6 there were three or four contracts to build three or
7 number of Van Den Heuvels.	7 four different mills in different parts of this
<ul> <li>8 A. So many Van Den Heuvels.</li> </ul>	8 country. And as I mentioned before, some were
9 Q. Yes. Was there any agreement with	9 tissue paper mills and one might be liner board.
10 Mr. Van Den Heuvel in relation to services he would	10 Q. And these agreements these EPC
11 perform in relation to these mills?	11 contracts, you did sign those, correct?
12 A. He had told me that he has a lot of	12 A. Yes.
12 A. The nad toru me that he has a lot of 13 knowledge about tissue business and he knows how to	12 A. Tes. 13 Q. And those three four of those attached
14 run the mills. And I didn't know how much really he	14 to this declaration. You are the one who signed all
15 knows, so I was non-committal about his involvement.	
	15 four of those, correct?
16 Q. But was there something called a sales	16 A. Correct.
<ul><li>17 and marketing agreement?</li><li>18 A. Yes.</li></ul>	17 Q. Can you just describe how these let me
	18 back up. And all of these contracts are dated
	19 November 14, 2006, correct?
20 that agreement?	20 A. That might be.
21 A. Mr. Van Den Heuvel's company was supposed	21 Q. Okay. I mean, if they let me ask this
22 to provide certain services, which are defined in 23 the color and marketing concernent much better then L	22 way. If they say they were dated November 14, 2006,
23 the sales and marketing agreement much better than I 24 can tell you. But he was supposed to provide	23 does that mean you signed them on or about that 24 time?
14	16
14 1 customer interaction and any problems with the	16 1 A. Yes.
1 customer interaction and any problems with the	1 A. Yes.
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Transcript of Sharad Tak

5 (17 to 20)

	19
1 where the mills were going to be built and what kind 2 of mills they were going to build. And we had	1 place for these contracts when you signed them?
2 of mills they were going to build. And we had	2 A. No.
3 quoted an approximate cost for that. And then	3 Q. Is that in your experience uncommon in
4 Spirit Construction gave us these contracts. I went	4 business?
5 through it, and our counsel went through it. And	5 A. No.
6 then we negotiated and signed.	6 Q. Okay. What was your intention on how 7 financing would be obtained for these projects?
7 Q. And stepping forward for a second, I	
8 suppose. I don't know that we have established	8 A. At that time, we were talking to Goldman
9 this, but I don't think it is in dispute that you	9 Sachs. And we were talking to Barclays Bank. And
10 now own or control through various companies	10 we might have talked to other investment firms to go
11 multiple paper mills?	<ul> <li>11 and raise money for this project in the market.</li> <li>12 Q. So attached to this declaration are four</li> </ul>
<ul> <li>A. I do have more than one paper mill.</li> <li>Q. And you have constructed you have done</li> </ul>	
13 Q. And you have constructed you have done 14 you have contracted for construction at various	13 of those EPC contracts. Unless anyone objects, I am 14 just going to say generally what they are and ask
15 of those mills?	15 you to sort of describe the project if you would.
<b>16 A. Yes.</b>	16 So the first one, according to page one of the
17 Q. And with companies other than Spirit?	17 declaration at paragraph 2A, is titled EPC Agreement
18 A. Yes.	18 Between Spirit and ST Paper at Oconto Falls and De
19 Q. Were these negotiations different than	19 Pere, Wisconsin upgrades.
20 how you negotiate with other companies in your	20 A. Yes.
21 experience or were they similar?	21 Q. What was the project that was
22 A. I think they might be similar. But in	22 contemplated with that contract?
23 other companies, I did not get involved into so much	23 A. We were going to buy a mill in Oconto
24 of direct negotiations as with this EPC contract.	24 Falls, and that needed certain upgrades, putting in
1 Q. Okay. So you were actually more involved	1 some new equipment and all of that. That's what it
2 in direct negotiation of these than you are in other	2 means.
3 companies?	3 Q. And that's the Oconto Falls Mills that
4 A. Yes.	4 you eventually did buy from Ron?
5 Q. Okay. Is there any particular reason you	5 A. Yes.
6 were more involved in the direct negotiation of	6 Q. What does De Pere refer to in that one?
7 these?	7 A. There was expectations that we might buy
8 A. This was my first foray into paper mills,	8 another plant from Mr. Van Den Heuvel in De Pere.
9 and I did not have a big team at that time. People	9 And that's what De Pere means. We ended up not
10 were very knowledgeable and all that. And that's	10 buying that.
11 why I was more involved.	11 Q. And with respect to that first one, was
12 Q. And when you were negotiating these	12 there any performance on any portion of that
13 contracts, did you want the projects they described	13 contract?
14 to succeed?	14 A. Yes.
15 A. Yes.	15 Q. Which portion of that would that be?
16 Q. And did you intend for those projects to	16 A. I think they did some work at Oconto Fall
17 be built or commenced?	17 Mills. ST did some work on Oconto Fall Mills.
18 A. Yes.	18 Q. Do you remember when that work was done?
19 Q. So these contracts that we discussed are	<b>19</b> A. 2007 and maybe 2008.
20 signed on November 14, 2006, or thereabouts?	20 Q. Do you remember roughly the dollar value
21 A. Yes.	21 of that work or what you paid?
22 Q. Now, that's so at the time and I	22 A. About \$20 million.
23 think you mentioned this previously. Let me just	23 Q. Do you know if Ron Van Den Heuvel was
24 ask it in the proper way. Was there financing in	24 used as a subcontractor on any of that work?

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Transcript of Sharad Tak

6 (21 to 24)

Conducted on September 21, 2017

Conducted on Se	
21	23
A. I don't think he was used as a	1 A. No.
2 subcontractor.	2 Q. Why was that?
3 Q. So the second of these four EPC	3 A. We did not get the financing, and so none
4 agreements is listed as St. George, Utah?	4 of the projects commenced.
5 A. Yes.	5 Q. Did you attempt to get financing on
6 Q. What was that project intended to be?	6 these?
7 A. Build a paper mill in St. George, Utah.	7 A. We did in 2006, 2007, same time period.
8 Q. And let me run through the other two.	8 And then there was an economic crisis and everything
9 And then I will ask some questions that pertain to	9 fell apart.
10 the other three.	10 Q. And briefly can you describe some of the
11 A. Sure.	11 sources of financing you were looking at for these.
12 Q. The third one, then, which is Exhibit C	12 A. As I said, I was looking at Goldman Sachs
13 to this declaration, is between Spirit and ST Paper	13 to be an intermediary or Barclays Bank to be
14 at a Pennsylvania site?	14 intermediary and go and raise the money from the
15 A. That's correct.	15 market.
16 Q. And what was that intended to be?	16 Q. Okay. And with respect to those
17 A. I think that was a paper mill, too	17 companies, had you had any success using them in
18 tissue paper mill.	18 that role for other transactions?
19 Q. And I am guessing by the name that you	19 A. Excuse me. Can you ask me again?
20 guys hadn't picked the exact site, which is why	20 Q. Had you used either of those companies in
21 there is no city listed.	21 a similar role in other transactions?
22 A. We might have, but I don't remember now.	22 A. I had used Goldman Sachs to finance the
23 Yeah.	23 Oconto Falls mill. Barclays I don't think I used
24 Q. And then the last one is listed as De	24 before that.
22	24
1 Pere, Wisconsin?	1 Q. Okay. So you used Goldman Sachs to
2 A. That's correct.	2 finance the purchase of the Octono Falls mill?
3 Q. And what was that project?	3 A. Yes.
4 A. That might have been a liner board and	4 Q. And was that also related to the upgrade
5 tissue mill together.	5 of the Oconto Falls mill?
6 Q. Was that separate from the other De Pere	6 A. Yes.
7 listed on that first EPC contract?	7 Q. So you had some success using them in
8 A. It might have been the same location, but	8 that sort of role?
9 I don't know.	9 A. Yes.
10 Q. And that was the location, I think you	10 Q. And did you have an expectation that you
11 said, that you never purchased from Ron?	11 might be able to use them successfully based on
12 A. That's correct.	12 that?
13 Q. When you signed these contracts, did you	13 A. I had expectations that Barclays and
14 intend to purchase that location from Ron?	14 Goldman, they both will come through on this
15 A. Our intention was to get the financing	15 project.
16 for all of these projects and execute them.	16 Q. Now, did they ever did financing ever
17 Q. Okay. And was there any performance on	17 come through on these last three transactions?
18 the contracts that we just described at St. George,	18 A. No.
19 Pennsylvania and De Pere?	19 Q. I guess let me ask. Did the I am just
20 A. I think there is a performance guarantee	20 trying to think about how to word the question in a
21 provided in these EPC contracts by Spirit	21 way that makes sense. Well, I guess when did it
22 Construction.	22 become apparent that financing wasn't going to come
23 Q. Okay. But did performance actually	23 through on those last three transactions?
24 happen?	A. I would say about end of 2007, early
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#### Case: 1:17-cv-00108 Document #: 74-12 Filed: 05/06/19 Page 8 of 43 PageID #:1901

Transcript of Sharad Tak

7 (25 to 28)

25	27
1 2008.	1 economy has gone south and it would be extremely
2 Q. But now at the time you were purchasing	2 difficult to raise that kind of money now.
3 the OFTI mill?	3 Q. And so at that point, did you intend to
4 A. That's correct.	4 go forward with these projects anymore?
5 Q. And you know, I think I said OFTI. I am	5 A. At that time, I decided not to waste any
6 not sure you have said that. So let's just clarify.	6 more time.
7 What is OFTI?	7 Q. Did you ever communicate that to Spirit?
8 A. I think it stands for Oconto Falls	8 A. I didn't need to communicate because we
9 Tissue, Inc.	9 never gave a Notice to Proceed to Spirit
10 Q. And we can agree when I say that, that	10 Construction. All of these contracts were dependent
11 that refers to the Oconto Falls mill you purchased?	11 on giving a Notice to Proceed. And we never serve
12 A. That's correct.	12 them Notice to Proceed.
13 Q. So do you remember when you purchased	13 Q. Did you serve them a Notice to Proceed on
14 that mill?	14 the first the upgrade contract?
15 A. We purchased it in April of 2007.	15 A. Yes.
16 Q. Okay. And not to belabor the point. But	16 Q. But not on the other three contracts?
17 when you purchased it, did you still believe that	17 A. That's correct.
18 you would be going forward with all four of the	18 Q. So is it your understanding that if you
19 projects described in those EPC contracts?	19 had served Spirit with a Notice to Proceed, they
20 A. Yes.	20 would have been obligated to start work?
21 Q. And you said that you attempted to obtain	21 A. That's correct.
22 funding on those but were unable. Was anyone else	22 Q. And if you did serve them a Notice to
23 looking for funding on those to your knowledge?	23 Proceed, you would expect them to start work, as
24 A. My team was looking for it. I was	24 described in the contract?
24 7. Ny team was looking for it. 1 was	28
1 working with my people.	1 A. I would expect so.
<ol> <li>working with my people.</li> <li>Q. Okay. So it wasn't just you. I mean,</li> </ol>	<ol> <li>A. I would expect so.</li> <li>Q. So I want to turn to a slightly different</li> </ol>
2 Q. Okay. So it wasn't just you. I mean,	2 Q. So I want to turn to a slightly different
<ul><li>Q. Okay. So it wasn't just you. I mean,</li><li>3 can you just give us a rough estimate of how many</li></ul>	<ul><li>2 Q. So I want to turn to a slightly different</li><li>3 subject. Do you recall ever having any contact with</li></ul>
<ul> <li>Q. Okay. So it wasn't just you. I mean,</li> <li>can you just give us a rough estimate of how many</li> <li>people you had looking into this?</li> </ul>	<ul> <li>Q. So I want to turn to a slightly different</li> <li>subject. Do you recall ever having any contact with</li> <li>anyone representing IFC Credit Corporation back</li> </ul>
<ul> <li>Q. Okay. So it wasn't just you. I mean,</li> <li>can you just give us a rough estimate of how many</li> <li>people you had looking into this?</li> <li>A. On my team we probably had six or seven</li> </ul>	<ul> <li>Q. So I want to turn to a slightly different</li> <li>subject. Do you recall ever having any contact with</li> <li>anyone representing IFC Credit Corporation back</li> <li>around the time you executed these contracts?</li> </ul>
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# Case: 1:17-cv-00108 Document #: 74-12 Filed: 05/06/19 Page 9 of 43 PageID #:1902

Transcript of Sharad Tak

8 (29 to 32)

Conducted on September 21, 2017

29	31
1 Q. And you don't remember the specifics of	1 A. I don't think so.
2 that meeting, then, from what you said?	2 Q. It would be an attorney named Leibowitz?
3 A. Yes, that's correct.	<b>3</b> A. No, I don't recall it.
4 Q. After that meeting, do you recall dealing	4 Q. So attached to your declaration as
5 with anyone at IFC before 2016?	5 Exhibit E is email correspondence between you and
6 A. No.	6 Marc Langs. If you could turn to that. It is this
7 Q. Okay. And not to put too fine a point on	7 tab here, sir. Do you remember this correspondence?
8 it, but you don't recall dealing with anyone at IFC	8 A. Yes.
9 after the mill sale closed?	9 Q. And there is a reference in that
10 A. I don't think. I don't recall.	10 correspondence to a phone call between you and
11 Q. Okay. And you don't recall dealing with	11 Mr. Langs?
12 anyone at IFC in relation to any litigation they	12 A. That's correct.
13 filed against Ron or Spirit?	13 Q. Can you describe the content of that
14 A. I don't.	14 phone call?
15 Q. And you were never called to testify in	15 A. Mr. Langs had called me and asked me some
16 any sort of in any case related to that?	16 questions about EPC contracts and all of that, and I
17 A. No.	17 wanted to I didn't have much time. So I told him
18 Q. Okay. And do you recall ever getting	18 these were useless contracts, so.
19 contacted by anyone from the law firm of Masuda,	19 Q. And when you say useless go ahead.
20 Funai, Eifert & Mitchell?	20 Sorry. I didn't mean to cut you off.
21 A. I don't. I don't recall anything.	A. No, no. So that was the end of it.
22 Q. And you were never contacted by Gerald	22 Q. When you say useless contracts, what do
23 Morell?	23 you mean?
24 A. I don't recall.	24 A. I think these contracts were not valued
30	32
30 1 O Or an Edward Underhill?	32
1 Q. Or an Edward Underhill?	1 at that time, because the time has passed by. We
<ol> <li>Q. Or an Edward Underhill?</li> <li>A. I don't know. I don't think so.</li> </ol>	<ol> <li>at that time, because the time has passed by. We</li> <li>never got the financing. So the contracts were</li> </ol>
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# Case: 1:17-cv-00108 Document #: 74-12 Filed: 05/06/19 Page 10 of 43 PageID #:1903

Transcript of Sharad Tak

9 (33 to 36)

Conducted on September 21, 2017

33	35
1 Q. Mr. Tak, my name is Brian Langs, and I am	1 think I have heard that name several times.
2 representing RNS Services. And I just have a few	2 Q. Okay. And how about the name Partners
3 questions for you, I think. When was the first time	3 Concepts Development, Inc sometimes referred to
4 that you ever met Steven Van Den Heuvel?	4 PCDI?
5 A. In 2005 or 6 maybe.	5 A. I have heard that, too, you know.
6 Q. And how did you come to meet Steven Van	6 Q. Is it your understanding that's another
7 Den Heuvel?	7 company that Ron Van Den Heuvel was associated with?
8 A. I guess in the room or his brothers,	8 A. Yes.
9 because we were talking to Spirit Construction for	9 Q. Have you ever done any business with
10 the contracts. In that connection, he came in to	10 PCDI?
11 see me.	11 A. As I said, we bought the mill from a
12 Q. Okay. And how about David Van Den	12 company called OFTI. But in that connection, he
13 Heuvel? Have you ever met David Van Den Heuvel?	13 used many names of these group of companies.
14 A. Yes.	14 Q. When you bought the Oconto Falls paper
15 Q. And how did you become to meet David Van	15 plant, did you buy that under the name of ST Paper,
16 Den Heuvel?	16 LLC?
17 A. In the same connection.	17 A. Yes.
18 Q. Is it your understanding that Steve Van	18 Q. And is there also another company that
19 Den Heuvel is associated with Spirit Construction?	19 you either own or you are a part ownership of called
20 A. That's correct.	20 ST Paper II, LLC?
21 Q. Is it your understanding that David Van	21 A. At one time we had a company called ST
22 Den Heuvel is associated with Spirit Construction?	22 Paper II, yes.
23 A. Yes.	23 Q. And what was the purpose of ST Paper II,
24 Q. Do you know or have you ever had any	24 LLC?
34	36
1 contact with a Fortress Investment Group?	1 A. The purpose was that one of these
2 A. I might have met them in 2006 or maybe	2 mills we weren't sure whether ST Paper after
3 early 2007 in connection with Mr. Van Den Heuvel	3 doing the deal in Oconto Falls would be able to buy
4 Ron Van Den Heuvel.	4 another mill with the same company, because the
5 Q. And did you have any other interaction	5 lenders have all kinds of liens and mortgages. So
6 with Fortress Investment Group at all back then in	6 we had formed two or three companies under which we
7 2006, 2007?	7 can buy or build other plants.
8 A. I don't recall any.	8 Q. Okay. Did you ever sign any contracts
9 Q. What about a company called Spirit	9 with respect to any of these plants we have been
10 Fabrication?	10 talking about today on behalf of ST Paper II, LLC?
11 A. I think Spirit Fabrication and Spirit	11 A. I don't recall. I may have.
12 Construction, Vos Electric, I thought they were the	12 Q. And you said there might be other
13 same companies owned by the same people. So I had	13 companies. Are there other ST Paper companies or is
14 interactions with those companies from time to time.	14 there an ST Paper III, LLC?
15 Q. How about Tissue Products Technology	15 A. I think so, yeah.
16 Corporation sometimes referred to as TPTC?	16 Q. Do you recall any contracts specifically
17 A. That is one of the companies Ron Van Den	17 that you signed on behalf of ST Paper II or ST Paper
18 Heuvel owns. And that name I have heard many names.	18 III or you don't have that recollection at this
19 Q. Did you ever do any business with TPTC	19 time?
20 with respect to any of these plants or any other	20 A. I don't. All of these EPC contracts had
21 plants you owned?	21 a clause that they can be assigned to another
22 A. I don't know. Ron Van Den Heuvel has 50	22 company. So we may not have assigned those
23 companies or something and uses all the names in	23 contracts to any other company?
24 different contracts and different context. So I	24 Q. Okay. And then just to change gears a

# Case: 1:17-cv-00108 Document #: 74-12 Filed: 05/06/19 Page 11 of 43 PageID #:1904

Transcript of Sharad Tak

10 (37 to 40)

37	39
1 little bit, how many paper mills or paper	1 some sort of construction documents. And my
2 manufacturing facilities are you involved in now as	2 question for you is, what sort of costs up front
3 we sit here today?	3 costs did you have to sink into the deal before you
<b>4</b> A. We have another paper mill in Franklin,	4 signed those documents?
5 Virginia.	5 A. A few million dollars of doing
6 Q. Okay, so you have a paper mill in	6 engineering studies and doing the study, whether it
7 Franklin, Virginia. And you are still involved in	7 makes sense or not.
8 the paper mill in Oconto Falls; is that correct?	8 Q. And then after you spent a few million
$\begin{array}{ccc} 9 & A. & Yes. \\ 10 & O & A & A \\ \end{array}$	9 dollars researching whether or not it made sense,
10 Q. Are there any other paper mills or paper	10 you decided to go forward and execute the contracts
11 manufacturing facilities that you are involved with?	11 and refurbish the mill; is that correct?
12 A. No.	12 A. Yes.
13 Q. When did the paper let me start over.	13 Q. Did you have any sort of did you sink
14 Did you build the paper mill in Franklin, Virginia?	14 millions of dollars into four EPC contracts that we
15 A. We kind of bought an old paper mill from	15 are talking about today, whether that's in the Utah
<ul><li><b>16 International Paper and Refurbishment.</b></li><li>17 Q. And when did that occur? When did that</li></ul>	16 plant, the De Pere plant, and the Pennsylvania 17 plant?
	-
18 transaction occur? 19 A. 2012.	<b>18 A.</b> We did spend quite a bit of money.
	19 Q. Do you know how much you spent?
20 Q. And how did you get involved with that	20 A. I will have to go back and look at the 21 books. And I don't know whether I can find it now.
21 business opportunity briefly?	22 But three or four million dollars. It could be more
22 A. We found that International Paper had	
23 closed a mill in Franklin, Virginia. So we called	23 because we had several meetings with the banks. And
List them to see it they are willing to sell one of the	
24 them to see if they are willing to sell one of the	24 we had meetings with the credit agencies. And so
38	40
<sup>38</sup> 1 machines to us, which can be converted to tissue	40 1 (Exhibit No. 2, marked for
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Transcript of Sharad Tak

11 (41 to 44)

41	43
1 Q. Can you explain to me the difference	1 A. Okay.
2 between that contract that was signed in November	2 Q. So that's Exhibit D to the De Pere
3 2006 and this contract that was signed around	3 contract, which was also Exhibit D to your
4 March 6, 2008?	4 declaration. And at the top of that, it says
5 A. I think after talking to the banks and	5 subcontracts; is that correct?
6 looking at the industry and how the market was	6 A. Yes.
7 going, there may have been some changes in	7 Q. Is it common let me ask you this
8 engineering design and what kind of machines we were	8 question. When you were signing the EPC contract
9 going to install at the De Pere plant. So this is a	9 with respect to the Franklin, Virginia plant, did
10 this is a contract, which would be a second	10 the construction company that was going to be doing
11 version of that earlier contract we had with quite a	11 the refurbishment of that plant designate the
12 few changes.	12 subcontractor that they were going to use on the
13 Q. And I don't know if you still have it in	13 project at that point in time when you were first
14 front of you. Do you have your declaration? Oh,	14 executing for the construction contract?
15 you do. Could you turn to Exhibit D in your	15 A. Sometimes they do and sometimes they
16 declaration, which is the first De Pere contract?	16 don't, because you want to make sure that
17 A. Yes.	17 subcontractors a main contractor uses good ones.
18 Q. So I think it should be on Exhibit D down	18 So I don't know whether that's common practice, but
19 there.	19 I think sometimes they do. Like in constructing a
20 A. Okay.	20 house, you tell them what kind of appliances to use.
21 Q. Let me get the page for you here. If you	21 So sometimes you specify and sometimes you don't.
22 could turn towards the end in the exhibits, and	22 Q. And in the page that you are looking at,
23 there is Bates numbers on the bottom that start with	23 which is I believe it is Bates numbers SCS 282;
24 SCS. And I am looking at page SCS 005422.	24 is that correct?
42	44
1 MR. ROMASHKO: Within Exhibit 2?	1 A. That's correct.
2 MR. LANGS: Yeah, Exhibit D. It says	2 Q. Under the subcontractor, it says, One of
3 subcontractors at the top.	3 the subcontractors on this deal had it been
4 THE WITNESS: 005422?	4 performed was going to be Tissue Products Technology
5 BY MR. LANGS:	5 Company; is that correct?
6 Q. Yes, it should be SCS 005422?	6 A. That's what it says.
7 A. I can't figure it. Maybe you can find it	7 Q. And then if you look at Exhibit No. 2
8 for me.	8 that I had just handed you, which is the 2008
9 Q. No, yours has different numbers as mine.	9 contract, right, to your right?
10 MR. ROMASHKO: You are sure you are not	10 A. Uh-huh.
11 looking at Exhibit 2, because that starts at 297.	11 Q. And if you can turn to the same page in
12 MR. LANGS: I'm pretty sure. I am	12 that contract, which would be Exhibit D,
13 looking at Exhibit D here. Well, these are numbered	13 subcontract?
14 differently than the ones I have.	14 A. The same page you mean 282?
15 MR. ROMASHKO: I am not sure. Oh, I	15 Q. It won't be 282. I will give you a
16 apologize. I put a Bates number for the production	16 number in a second here. This contract is a bit
17 to you so that I could track it. There should be	17 longer, so hold on a second here. I am getting
18 I didn't realize it would overwrite the old Bates	18 close here. So this one is going to be, I believe,
19 numbers.	19 SCS 356.
20 MR. LANGS: I can still find you the same	20 A. Okay.
21 page here. Hold on a second. Here we go. So this	21 Q. And that's similar to the contract that
22 is the page I am looking at.	22 you signed in November 2006, except in this list of
23 BY MR. LANGS:	23 subcontractors TCPC is not there; is that correct?
24 Q. Here you go, Mr. Tak.	24 A. I don't see it, yes.
124 O. HOL YOU SO, WILL LAK.	

#### Case: 1:17-cv-00108 Document #: 74-12 Filed: 05/06/19 Page 13 of 43 PageID #:1906

Transcript of Sharad Tak

12 (45 to 48)

45	1 /
45 1 Q. Do you remember or do you know any reason	47 1 attended a few meetings.
2 why they weren't included on this contract and they	2 Q. If you go to the next page, please. And
3 were included in the 2006 contract?	3 then at the very bottom it says, legal requirements.
4 A. I don't know.	4 A. That's right.
5 Q. If you could turn to the beginning of	5 Q. And it says, "Legal requirements means
6 this contract. I just want to go through a few	6 all substantive, procedural, and formal legal
7 things with you.	7 requirements and permits applicable to the design,
	9 project, et cetera." What kind of permits and what 10 kind of permits were needed in order to execute
<b>10 A.</b> You are talking which?	11 these kind of EPC contracts?
11 Q. Right now I am talking about Exhibit 2 to	
12 your deposition, which is the March 6, 2008,	12 A. I think to build a project, especially a
13 contact.	13 paper mill, there are various permits like
14 A. SCS 300?	14 environmental permits, permits of how much gas can
15 Q. SCS 300, yeah.	15 be emitted, to what kind of chemicals you can use,
16 A. Yes.	16 what kind of chemicals you cannot use, where to
17 Q. I am looking at the second heading there.	17 store it, where to obtain the water or how to purify
18 It says, Acceptable Letter of Credit. Can you kind	18 the water before you put back into the river, so
19 of just explain to me why that's there and what that	19 there are several. I will not be able to sit here
20 means?	20 and recount how many permits are needed.
A. It says what it says. That's what	21 Q. If you look at is SCS 350, which is
22 (Telephone interruption in deposition.)	22 towards the back of this contract.
23 MR. ROMASHKO: We can go off the record.	23 A. Okay.
24 BY MR. LANGS:	24 Q. Are those the types of permits that you
46 1 Q. All right. We will go back on the	48 1 researched or somebody else researched in relation
2 record. So it says, Acceptable Letter of Credit; is	2 to this transaction that were going to be needed had
3 that correct?	3 this plant been built?
4 A. That is right.	4 A. Yes.
5 Q. And underneath acceptable letter of	5 Q. And when we are looking at for the
6 credit, it is saying that ST Paper or Barclays Bank,	6 record, there's one, two, three, four, five, six,
7 as administrative agent, certifies that it is	7 seven, another whole page, about three pages worth
8 entitled to draw upon letter of credit. And what's	8 of permits; that correct?
9 the reason that you would want that in this	9 A. That's correct.
10 contract?	10 Q. If you could go back to the front of the
11 A. I don't know who needed it. But we were	11 contract again. And now I am looking at page 302,
12 talking to Barclays Bank at that time to do the	12 so SCS 302.
13 financing. So it could be I have to read the	13 A. Okay.
14 whole thing. But it could be that Spirit wanted to	14 Q. And if you go one, two, three, four down,
15 make sure that they have an acceptable letter of	15 there is a liquidated damages definition.
16 credit from some good bank.	16 A. Correct.
17 Q. And you were testifying earlier that when	17 Q. And it refers you to Article 21H. Do you
18 it came to these contracts that you were the one	18 see that, and 21J?
19 that was trying to obtain the financing; is that	19 A. Uh-huh.
20 correct? You and people that worked for you?	20 Q. Could you go to Article 21 of the
21 A. That's correct.	21 contract, please. And I will give you a page number
22 Q. And Ron Van Den Heuvel was not; is that	22 in a second. It's SCS 334.
23 correct?	23 A. Yes, I have got the termination of clause
24 A. He was not much involved. He might have	24 here. That's 332?
	Γ DEPOS
<b>FLANE</b>	

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Transcript of Sharad Tak

13 (49 to 52)

Conducted on September 21, 2017

49	51
1 Q. It's SCS 334 is what I am looking at.	1 negotiating these contracts these EPC contracts
2 A. Okay.	2 and when I say those contracts, I mean the four
3 Q. And towards the bottom of that page,	3 we have been talking about the Utah plant, the
4 there is an article. The heading is Liquidated	4 Pennsylvania plant, the upgrades to the Oconto Falls
5 Damages.	5 and De Pere, and I believe new construction to the
6 A. That's correct.	6 De Pere plant unless I am incorrect. When you were
7 Q. And there it says that the contractor	7 negotiating, you said you did a lot of the
8 will pay the owner, which is you, \$10,000 a day and	8 negotiation yourself; is that correct?
9 \$40,000 a day for a liner board machine for every	9 A. That's correct.
10 day that the performance of this contract is	10 Q. You also said you had some legal counsel
11 delayed. Is there any reason that, you know, you	11 that was reviewing these documents?
12 didn't want to go after these liquidated damages or	12 A. Yes.
13 you didn't want to give them a Notice to Proceed in	13 Q. Do you remember who you were using?
14 order to start this going?	14 A. I don't remember, no.
15 A. Yes. We did not get the financing. And	15 Q. In the contract on page 5548 and you
16 without having financing, you cannot give them	16 don't really need to turn to it. There is a section
17 Notice to Proceed. You have to give them Letter of	17 that tells both the owner and the contractor who
18 Credit and Notice to Proceed.	18 they want to give notice to. And for yourself or ST
19 Q. And you said	19 Paper II, it is yourself Mr. Sharad Tak. And for
20 A. You need money for that.	20 Spirit Construction, it is Steve Van Den Heuvel. Is
21 Q. And you said you never gave the Notice to	21 there any reason that you didn't list your legal
22 Proceed to Spirit on this deal; is that correct?	22 counsel there to receive notices related to this
23 A. That's correct.	23 contract?
24 Q. How long would you expect a construction	24 A. I don't know how much legal counsel was
50	.)2
50 1 company after you hadn't given them a Notice to	
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Transcript of Sharad Tak

14 (53 to 56)

4A. That is right.4MR. LANGS: Back on the record.5Q. And then it says, "These were frivolous5BY MR. LANGS:6contracts. Ron tried to raise money for these but6Q. Mr. Tak, you were talking to Mr. Romashko7was unsuccessful. Nothing ever happened on these7earlier about a meeting that you had way back8contracts." Now, earlier today you were testifying9rearlier about a meeting that you had way back9that you were the one as the owner that was trying9Credit Corporation I believe I don't know if10to raise money trying to finance these contracts.10you said this, but I believe that Rudy Trevells was11Why did you tell Marc Langs on March 21 that Ron was11present at that meeting. And I believe that Ron Van12the one trying to raise money but was unsuccessful?12Den Heuvel was present at that meeting. Do you13A. I think I wanted to end the conversation.13remember that?14So I might have said mistakenly like I mentioned it14A. It could be, yeah.15Q. And do you remember what was discussed at1616one or two meetings with the banks.17A. I really don't specifically. The only18and Vos Electric has been doing well, have been very18thing I know is I think IFC told me that they had19profitable in executing several other construction19loaned some money to Van Den Heuvel and never got it20contracts, including some EPC contracts." What21Q.		
2       A. I think my people had asked them to bid       2       Pacific or SCA, P&G. So I think they have done few         3       on part of the work – Spirit Construction or Spirit       3       EPC contracts – quite a few.         4       Fab. I don't know which one.       4       Q. Do you know when any of those paper mills         5       Q. So they bid on the work. But,       5       think they buid for SCA in Barton.         7       A. That's correct. My people decided to.       8       built doy our member what construction company you         9       But doy our member what construction company you       9 not know what yeas. Those are the kind of things         10       A. Capital C, period R, period Meyer,       12       Q. Can you spell that?         12       Q. Okay. Just a couple more questions, and       13 sou never were contacted by the barkruptcy: instac correct?         15       O. Q. Okay. Just a couple more questions, and       16 think 1 am done with you, If you would take a       17 me.         12       O. Cany you about these deals and what you knew.       16 dut then 1 am looking at the email from you, which       18       Q. Sure. And I don't need you to guessor         13       MR. ROMASHKO: It has its own Bates, so I       20       MR. LANGS:       16 met canges         24       oo sit is your email from March 21, 2016.       3       17 mE <td< td=""><td></td><td></td></td<>		
<ul> <li>3 on part of the work - Spirit Construction or Spirit</li> <li>4 Fab. Idon't know which one.</li> <li>5 Q. So they bid on the work. But,</li> <li>6 ultimately, you didn't use them; is that correct?</li> <li>7 A. That's correct. My people decided to.</li> <li>8 Q. And you might have already said this.</li> <li>9 But do you remember what construction company you</li> <li>9 But do you remember what construction company you</li> <li>9 But do you remember what construction company you</li> <li>9 But do you remember what construction company you</li> <li>9 But do you remember what construction company you</li> <li>9 But do you aremember what construction company you</li> <li>9 But do you aremember what construction company you</li> <li>9 But do you aremember what construction company you</li> <li>9 Du to have in the industry. So I have no direct</li> <li>11 A. I did not say that, but it is C.R. Meyer.</li> <li>12 Q. Car you spell that?</li> <li>13 A. Capital C, period R, period Meyer,</li> <li>14 M-EY-F-R. I may not mow the exact spelling.</li> <li>15 Q. Okay. Just a couple more questions, and</li> <li>16 I think I am looking at the email form you, which</li> <li>21 so nage SCS 5439?</li> <li>23 mR. ROMASIIKO: It has its own Bates, so I</li> <li>24 apologize.</li> <li>14 A. Thatis right.</li> <li>24 on there: the one ast from you, which</li> <li>25 on age SCS 5439?</li> <li>24 apologize.</li> <li>15 Q. And then it sing, These were frivolous contracts. "</li> <li>31 Rats with, "These were frivolous contracts."</li> <li>32 on rever were law for mais money for these bat</li> <li>34 C. Turkis right.</li> <li>35 Q. And then it says, These were triviolous contracts. Not wire to raise money for these bat</li> <li>35 Q. And then it says, These were triviolous contracts. And Kon might have attended it</li> <li>34 that was the capy out dive the mast form March 21, 2016.</li> <li>34 that was the out right or aise money for these bat</li> <li>35 Q. And then it says, These were friviolous contracts. Rot tried to raise mo</li></ul>		••
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10 went with for that plant?       10 you hear in the industry. So I have no direct         11 A. I did not say that, but it is C.R. Meyer.       11 knowledge of those.         12 Q. Can you spell that?       12 Q. Okay. And you already said earlier that         13 A. Capital C, period R, period Meyer,       13 A. Capital C, period R, period Meyer,         14 M-E-Y-E-R. I may not mow the exact spelling.       12 Q. Okay. And you already said earlier that         13 A. Capital C, period R, period Meyer,       13 A. I said I don't recall. I might have.         16 I think I am done with you. If you would take a       17 look at what was Exhibit E to your declaration. And         18 that was the email between you and Marc Langs, to you kind of       15 A. I said I don't recall. I might have.         20 just asking you about these deals and what you knew.       18 Q. Sure. And I don't need you to guess or         21 and then in moking at the email from you, which       18 Q. Sure. And I don't need you to guess or         23 more assess full.       14 M. ROMASHKO: It has its own Bates, soil         24 apologize.       54         5 Q. And then it says, "These were frivolous contracts."       54         6 contracts. Non, carlier today you were testifying       11 THE WITNESS: Okay.         2 to raise money trying to finance these contracts.       5         3 A. I think I wanted to end the conversation.       14 M. I could be, yeah. <td< td=""><td></td><td>-</td></td<>		-
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Transcript of Sharad Tak

15 (57 to 60)

57	59
1 of an ownership over the Oconto Falls plant at that	1 A. I don't recall that.
2 time?	2 Q. What is your recollection of exactly how
3 A. I don't remember that, but I have seen	3 that transaction ended up?
4 their name quite a few times here and there. With	4 A. I think in simple terms we paid them. We
5 Ron, he had given me 10,000 financial statements.	5 borrowed some money from Goldman Sachs. I put some
6 And, you know, they had hundreds of entries.	6 equity in and paid them cash. And we got the title
7 Q. Do you remember that ultimately what	7 to Oconto Falls mill.
8 happened in that transaction was that you bought the	8 Q. And who did you pay the money to?
9 Oconto Falls plant out of the involuntary	9 A. I think I will have to go back and look
10 bankruptcy?	10 at look at the closing sheet. But it went to
11 MR. ROMASHKO. Objection. Assumes fact	11 different people like there were some bonds and
12 not in evidence.	12 you know.
13 BY MR. LANGS:	13 Q. Do you recall why your presence was
14 Q. You can answer.	14 needed at that meeting with IFC Credit Corporation
15 A. I think we did not buy it from	15 and Ron Van Den Heuvel?
16 involuntary bankruptcy, but I had extended some	16 A. I don't recall right now.
17 money to Ron Van Den Heuvel to take it out of	17 MR. LANGS: I think that's all I have for
18 involuntary at one time.	18 you.
19 Q. Okay. And are you aware of any other	19 EXAMINATION BY COUNSEL
20 intricacies of that deal with respect to Fortress	20 FOR DEFENDANTS
21 and IFC?	21 BY MR. ROMASHKO:
22 A. I am not aware of what was involved, but	22 Q. Just a few questions. So with that
23 I know that they probably had loaned money to Van	23 meeting with IFC Credit Corporation and Ron Van Den
24 Den Heuvel.	24 Heuvel and Marc Langs and I think Rudolf Trevells
	<u> </u>
58	60
1 Q. And	<sup>60</sup> 1 was mentioned, was anybody from Spirit Construction
1Q. And2A. And put some liens on the property.	60 1 was mentioned, was anybody from Spirit Construction 2 there?
<ol> <li>Q. And</li> <li>A. And put some liens on the property.</li> <li>Q. And in loaning money to Ron Van Den</li> </ol>	60 1 was mentioned, was anybody from Spirit Construction 2 there? 3 A. I don't recall really.
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Transcript of Sharad Tak

16 (61 to 64)

Conducted on September 21, 2017

61	63
1 executed?	1 Q. And I said IFC, but that also extends to
2 A. No.	2 RNS Servicing as well.
3 Q. Why would you execute multiple versions	3 A. That's correct.
4 of a contract?	4 Q. One moment, but I think that's it. Oh,
5 A. Because deals change from time to time	5 one more quick question for you, and that will clear
6 depending on the financing, depending on where the	6 it up. One of the differences between the two
7 money comes from. The scope could change. The	7 versions of the EPC contract that has been marked as
8 banks may require different requirements, so.	8 Exhibit 2 that counsel for RNS pointed out was a
9 Q. And that Exhibit 2 was dated March 6,	9 list of permits. And I will represent to you I
10 2008, correct?	10 don't know if you were asked about this
11 A. That's correct.	11 specifically. But Exhibit D to your declaration
12 Q. Does that mean as of March 6, 2008, you	12 doesn't contain a similar list of permits. Does
13 had an expectation that that project would proceed?	13 that mean that you weren't investigating those
14 A. That's correct.	14 permits?
15 Q. And you also discussed your	15 A. I think our banks might have suggested or
16 correspondence with Mr. Marc Langs, which is	16 someone suggested that we should have a list of
17 attached to your declaration as Exhibit E?	17 permits of what it is. So I don't know how it came
18 A. Right.	18 about. And when I signed these contracts, I assumed
19 Q. The question I have for you is, had you	19 that the construction company will take care of
20 been contacted by Mr. Langs earlier, do you think	20 whatever is needed to build the mill and handle
21 you would have given different statements?	21 the EPC contract is like a turnkey contract. So
22 A. If he had contacted me in 2007, yes,	22 they are supposed to do everything and give me the
23 certainly it could have been different.	23 plant start it up and give me the plant.
24 Q. How would they have been different?	24 Q. And just as follow-up to that, are there
62	24 Q. And Just as follow-up to that, are there 64
1 A. At that time, we expected to build these	1 an EPC contract wouldn't be the only form of
2 paper mills. And that was our intent. That would	2 contract you might enter into with a construction
3 have been a good project for us.	3 company, right?
4 Q. But once those deals collapsed is that	4 A. That's correct.
5 a fair characterization that those deals collapsed?	5 Q. And are there different so there are
	<ul><li>6 different types. Do different types of contracts</li><li>7 come with different assignments of responsibility</li></ul>
7 Q. Once those deals collapsed, would your	
8 statements to Mr. Langs have been any different than	8 between the parties?
9 they were in that letter?	9 A. Yes.
10 A. I would have used a different word than	10 Q. And you have executed EPC contracts with
11 frivolous. I just want to end the call quickly, so	11 other construction companies?
12 I used that word.	12 A. Yes.
13 Q. And have you ever had any conversations	13 Q. In your experience, was this unusual for
14 with anyone at Spirit concerning let me back up.	14 an EPC contract or were these four contracts unusual
15 Prior to your conversation with Mr. Langs in 2016,	15 for EPC contracts?
16 had you ever had any conversations or dealings with	16 A. I don't think so.
117 survey and Quint in malation to DNIC Completing on IEC	
17 anyone at Spirit in relation to RNS Servicing or IFC	17 MR. ROMASHKO: I don't have anything
18 Credit?	17 MR. ROMASHKO: I don't have anything 18 further.
18 Credit? 19 A. No.	<ul> <li>17 MR. ROMASHKO: I don't have anything</li> <li>18 further.</li> <li>19 EXAMINATION BY COUNSEL</li> </ul>
<ul> <li>18 Credit?</li> <li>19 A. No.</li> <li>20 Q. Had anyone at Spirit ever told you not to</li> </ul>	17 MR. ROMASHKO: I don't have anything 18 further.
18 Credit? 19 A. No.	<ul> <li>17 MR. ROMASHKO: I don't have anything</li> <li>18 further.</li> <li>19 EXAMINATION BY COUNSEL</li> </ul>
<ul> <li>18 Credit?</li> <li>19 A. No.</li> <li>20 Q. Had anyone at Spirit ever told you not to</li> </ul>	<ul> <li>17 MR. ROMASHKO: I don't have anything</li> <li>18 further.</li> <li>19 EXAMINATION BY COUNSEL</li> <li>20 FOR PLAINTIFF</li> </ul>
<ul> <li>18 Credit?</li> <li>19 A. No.</li> <li>20 Q. Had anyone at Spirit ever told you not to 21 talk to IFC?</li> </ul>	<ul> <li>17 MR. ROMASHKO: I don't have anything</li> <li>18 further.</li> <li>19 EXAMINATION BY COUNSEL</li> <li>20 FOR PLAINTIFF</li> <li>21 BY MR. LANGS:</li> </ul>
<ul> <li>18 Credit?</li> <li>19 A. No.</li> <li>20 Q. Had anyone at Spirit ever told you not to</li> <li>21 talk to IFC?</li> <li>22 A. No.</li> </ul>	<ol> <li>MR. ROMASHKO: I don't have anything</li> <li>further.</li> <li>EXAMINATION BY COUNSEL</li> <li>FOR PLAINTIFF</li> <li>BY MR. LANGS:</li> <li>Q. Just a couple more. We were talking</li> </ol>

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17 (65 to 68)

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<ul> <li><sup>65</sup></li> <li>1 with the March 2008 execution contract regarding the</li> <li>2 De Pere plant. Were there any other execution</li> <li>3 contracts related to the other facilities at all?</li> <li>4 And I am talking about the Pennsylvania facility and</li> <li>5 the Utah facility or the upgrade.</li> <li>6 A. I don't recall it.</li> <li>7 Q. None of them have been produced to us in</li> <li>8 this case. So I am my knowledge is that there</li> <li>9 are no other execution contracts. Is there any</li> <li>10 reason why you would have signed an execution</li> <li>11 contract two years later on the De Pere plant and</li> <li>12 not on the Pennsylvania plant or the Utah plant?</li> <li>13 A. Yes, because we were looking for well,</li> <li>14 as we went into it, we developed a little more</li> <li>15 details of what we are going to do at a particular</li> <li>16 facility. And we were talking to Barclays Bank.</li> </ul>	67 1 you ever been involved in signing four different 2 construction contracts at the same time that were 3 all pretty much similar boilerplate? 4 A. I have not done that before. 5 Q. And that's the only time you have done 6 that? 7 A. That's correct. 8 MR. LANGS: All right. I think that's 9 all we have. 10 THE WITNESS: Okay. 11 MR. LANGS: Thank you for your time. I 12 appreciate it. 13 MR. ROMASHKO: Nothing further here. 14 (At 10:14 a.m., the deposition was 15 concluded.) 16
<ul> <li>17 And they were willing to go out in the market and</li> <li>18 produce the financing for this plant in De Pere.</li> <li>19 Q. And I think you said one of the reasons</li> <li>20 that March 2008 contract is much more detailed is</li> <li>21 because the bank suggested it, because it would be</li> <li>22 easier to get financing with a more detailed</li> <li>23 contract; is that correct?</li> </ul>	17 18 19 20 21 22 23
24       A. That's correct.         66         1       Q. So if you had more detailed contracts         2       with respect to the Utah plant or the Pennsylvania         3       plant, do you think the financing would have been         4       easier to get in those situations as well?         5       MR. ROMASHKO: Objection. Calls for         6       speculation.         7       THE WITNESS: We did not have enough time         8       to pressure all the four contracts of different         9       financing. So Barclays said let's focus on one         10       plant and get that done.         11       BY MR. LANGS:         12       Q. When you were signing your declaration         13       and looking through these four contracts that were         14       attached to your declaration, did you review each of         15       those contracts?         16       A. I looked at the contract signature page,         17       and I did not review the contracts.         18       Q. You didn't read through the contracts to	68 1 CERTIFICATE OF NOTARY PUBLIC 2 3 I, Carla L. Andrews, the officer before 4 whom the foregoing deposition was taken, do hereby 5 certify that the witness, whose testimony appears in 6 the foregoing deposition was duly sworn by me, that 7 the testimony of said witness was taken by me in 8 stenotype and thereafter reduced to typewritten form 9 under my supervision, that said deposition is a true 10 record of the testimony given by said witness; that 11 I am neither counsel for, related to, nor employed 12 by any of the parties to the action in which this 13 deposition was taken, and further that I am not a 14 relative or employee of any attorney or counsel 15 employed by the parties thereto nor financially or 16 otherwise interested in the outcome of the action. 17
<ul> <li>18 Q. You didn't read through the contracts to</li> <li>19 see the similarities between the four?</li> <li>20 A. No.</li> <li>21 Q. Is it your recollection that the four</li> <li>22 contracts are basically similar?</li> <li>23 A. Yes.</li> <li>24 Q. Is it your in your experience, have</li> </ul>	<ul> <li>18</li> <li>19 Carla L. Andrews, Notary Public</li> <li>20 Carla L. Andrews, Notary Public</li> <li>21 for the State of Maryland</li> <li>22</li> <li>23 My Commission Expires: November 26, 2017</li> <li>24</li> </ul>

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