

FRED ELLIOTT DEPOSITION

- Stated that he has testified once before, but has provided affidavits under oath prior to his testifying before Gold at the April 2 hearing.
 - Pg 7; Lines 12-22

- In August 2008, there was about \$29 million in promissory notes, but by October 15, 2008, there was \$13 million left as \$16 million worth of notes had taken some sort of option
 - Pg. 8; Lines 5-14

- The various options used regarding the \$16 million worth of promissory notes were:
 - 30% discount for cash payment;
 - 25% discount for payment over 3 years;
 - 20% discount for 5 years, waiving all interest; and
 - Return of fractions to liquidate promissory notes (majority of purchasers took this option)
 - Page 8; Lines 16-25
 - Page 9; Lines 1-2

- Exhibit 1 (Peggy Groo letter from Ocean Palms Real Estate (SVG) Inc.):
 - Representative of the options available on promissory notes as of August 4, 2008
 - Pg. 9; Lines 7-23

- Exhibit 10 (Derek Elliott September 4, 2008 Letter):
 - Representative of the options available on promissory notes as of September 4, 2008
 - Pg. 10; Lines 3-25
 - Pg. 11; Lines 1-9

- Exhibit 10 – offered 3 options for prepaying promissory notes; 2 more options offered after September 4, 2008
 - Pg. 11; Lines 15-25

- Doesn't know how many people took advantage of the prepayment options, but Elliotts received about \$1.5 million in cash from purchasers exercising an option
 - Pg. 12; Lines 1-11

- Money was deposited in Juan Dolio bank accounts – either Ban Reservas or Banco del Progreso
 - Pg. 12; Lines 12-18

- Money was not used to complete construction on Juan Dolio, but to help sustain the property
 - Pg. 12; Lines 19-25;
 - Pg. 13; Lines 1-25
 - Pg. 14; Lines 1-2

- Exhibit 2 – Under § C – Ocean Palms Real Estate referenced is the same company named in Exhibit 1 Letter
 - Pg. 14; Lines 8-25;
 - Pg. 15; Lines 1-25
 - Pg; 16; Lines 1-16

- Exhibit 2 – Under § C – Ocean Palms Real Estate referenced is the same company named in Exhibit 1 Letter and had made offers for prepayment of promissory notes as of Aug. 4, 2008
 - Pg. 16; Lines 17-20

- The \$1.475 million cash collected from promissory notes prepayment did not go to laying bricks and steel
 - Pg. 18; Lines 5-23

- Fred’s representations to purchasers meant finishing the product
 - Pg. 19; Lines 7-9

- Project won’t be finished “for a while”
 - Pg. 19; Lines 13-15

- Not all proceeds from note prepayment went to Ocean Palms (Ex. 1), but doesn’t recall the other companies
 - Pg. 19; Lines 16-23

- Only Ocean Palms is referenced in the accounting
 - Pg. 20; Lines 1-17

- Ocean Palms is not located in Miami – address shown on Ex. 1 is mail forwarding address
 - Pg. 21; Lines 9-20

- US investors who took prepayment option – checks were deposited with NWN in account in Henderson, Nevada
 - Pg. 22; Lines 2-10

- By August 4, Lawters were receiving some money, but checks were sent to Elliotts via Miami mail forwarding address
 - Pg. 23; Lines 8-24

- Escrow account for Juan Dolio was located with DMK law firm in Santo Domingo
 - Pg. 25; Lines 1-4

- Fred Elliott found out on April 2nd that escrow account was located in Tamarac, Florida
 - Pg. 25; Lines 5-13

- Denies testifying that he learned of Tamarac account and shut it down in February 2009
 - Pg. 25; Lines 14-17
- DMK account in Tamarac has not been closed and Fred is not planning on closing it
 - Pg. 25; Lines 18-20
- Purpose of Tamarac account is for clearing funds of all investors for Sun Village Juan Dolio project
 - Pg. 25; Lines 21-25
- Accounting filed only represents part of money received from note repayments
 - Pg. 26; Lines 3-14
- No entries for September because account was probably opened in late September
 - Pg. 29; Lines 3-12
- Ex. 3 came from DMK
 - Pg. 29; Lines 13-16
- Ex. 3 – information did not come from a CPA, but from bank records held by DMK lawyers
 - Pg. 29; Lines 17-24
- Ex. 3 was prepared by Elliott internal employees
 - Pg. 30; Lines 5-15
- Outside auditor or accounting firm was not used to create Ex. 3
 - Pg. 30; Lines 18-19
- Ex. 1 – third party referenced who had been sold promissory notes is Aviati
 - Pg. 31; Lines 5-24
- Approximately \$13 million worth of notes sold to Aviati
 - Pg. 31; Lines 25
 - Pg. 32; Lines 1-2
- Remaining \$16 million were redeemed and some people paid cash discounts and others are making payments on the notes
 - Pg. 32; Lines 3-9
- By the time Exs. 1 & 10 are written, Fred is back in charge (took command on June 8, 2008)
 - Pg. 34; Lines 8-19

- Fred believes all trust certificates and cancelled promissory notes have been sent out to purchasers who took one of the options offered, Elliott inventory department would have copy
 - Pg. 35; Lines 7-25
- Admits he made representations contained in Ex. 4
 - Pg. 36; Lines 7-25
 - Pg. 37; Lines 1-2
- Some of the money collected from the discount options were sent to CCW Dominicana
 - Pg. 40; Lines 22-25
 - Pg. 41; Lines 1-4
- Some of the money collected was sent directly to Banco Popular to service the interest on the Juan Dolio mortgage
 - Pg. 41; Lines 6-17
- Money did not go to construct the Juan Dolio hotel
 - Pg. 41; Lines 18-19
- Admits that representation in Ex. 4 that all proceeds to be deposited with DMK in trust were to be used for completing Juan Dolio hotel
 - Pg. 43; Lines 3-9
- Claims that all entries in Ex. 3 demonstrates monies used to complete Juan Dolio
 - Pg. 43; Lines 17-22
- No entries in Ex. 3 demonstrate monies were used for hard costs
 - Pg. 45; Lines 1-9
- Ex. 5 demonstrates some of the monies received of those who took prepayment offer on notes
 - Pg. 46; Lines 3-23
- Fred does not know why Ex. 5 references checks as monies forwarded by NWN was done by wire transfers
 - Pg. 47; Lines 2-21
- Payee on checks shown in Ex. 5 is DMK
 - Pg. 48; Lines 4-12
- No record of sale of promissory notes to Aviati in Ex. 2
 - Pg. 49; Lines 8-19
- Ex. 2, page 3 of 13, number 6 – “management” referenced is Fred Elliott
 - Pg. 50; Lines 22-25

- Pg. 51; Lines 1-9
- Ex. 2 – entry for management fees and commissions of \$8 million represents 3% development fee, management fees paid to Elliott parent company
 - Pg. 51; Lines 22-25
 - Pg. 52; Lines 1-11
- Elliott companies received \$8 million in commissions
 - Pg. 53; Lines 1-7
- The entry for loans to related companies of \$17 million were all to Elliott related companies
 - Pg. 53; Lines 8-14
- Of the \$8 million received by Elliotts, \$3 million went to Juan Dolio soft costs
 - Pg. 54; Lines 22-25
 - Pg. 55; Lines 1-10
- None of the \$17 million in loans to related parties went to complete the Juan Dolio
 - Pg. 55; Lines 11-14
- Had the \$17 million been used for Juan Dolio, it would be complete today
 - Pg. 55; Lines 15-17
- Check #1001 to CCW Dominicana for \$100, 000 went to soft costs
 - Pg. 56; Lines 5-22
- Checks appear out of sequence (missing checks) probably because DMK did not use trust account solely for Elliott monies
 - Pg. 58; Lines 4-18
- Payment of \$48,000 to Sol Seguros for insurance payment to Cofresi and Maxim benefited the Juan Dolio hotel as soft cost support – Cofresi is needed in order to support Juan Dolio
 - Pg. 58, Lines 24-25
 - Pg. 59; Lines 1-25
 - Pg. 60; Lines 1-25
 - Pg. 61; Lines 1-4
- Bank accounts were not provided to auditors because Greg Clark would not sign-off on certain bank accounts
 - Pg. 61; Lines 13-25
- Despite cash inflows of \$91 million, Juan Dolio still not completed today
 - Pg. 62; Lines 3-16

- Wells Fargo is the only bank with problems with Greg Clark not signing off on – DR banks have no signatory problems
 - Pg. 66; Lines 1-17
- CPA, Gomez Nina, were provided bank statements from DR banks
 - Pg. 66; Lines 18-22
- If Gomez Nina had all of the bank statements, the \$91 million cash inflow would not be a higher number
 - Pg. 67; Lines 23-25
 - Pg. 68; Lines 1-2
- Fred Elliott is the only individual who can make withdrawals from DMK trust account – de Marchena cannot make withdrawals
 - Pg. 69; Lines 5-10
- Fred Elliott has full control over trust account – no money moves in that account without his authorization
 - Pg. 69; Lines 13-22
- Business plan is subject to review and comment by advisory committee and there will be changes to it
 - Pg. 71; Lines 9-14
- Despite having advisory committee, Fred Elliott is the ultimate decision maker
 - Pg. 71; Lines 19-25
 - Pg. 72; Lines 1-2
- Cellwave is parent company of Juan Dolio and has two subsidiaries, one that owns the hard assets and the other which is the operating company
 - Pg. 72; Lines 19-23
- Juan Dolio is indirectly owned by Sun Village Juan Dolio Inc. (TCI company)
 - Pg. 73; Lines 6-11
- Purchasers of Juan Dolio product own directly an interest in Juan Dolio
 - Pg. 73; Lines 16-25
 - Pg. 74; Lines 1-6
- Ownership interest is recorded in the condominium regime in the DR, probably Santo Domingo, where all the land registry office is located
 - Pg. 74; Lines 7-25
- Business plan calls for reconfiguration of Juan Dolio – increased rooms (from 240 to 343)

- Pg. 75; Lines 1-18
- Reconfiguration includes converting conference center into extra condos, the casino into a restaurant, 3 restaurants into condos, and 1 restaurant will be sold – all self-financed
 - Pg. 76; Lines 14-25
- New business plan was communicated to Juan Dolio investors through webinar held on first Thursday of every month; business plan was not emailed or mailed to investors, and investors should have learned of it from Joaquin Duenas (COO) on webinar held on May 7
 - Pg. 77; Lines 17-25
 - Pg. 78; Lines 1-6
 - Pg. 79; Lines 4-25
 - Pg. 80; Lines 1-25
 - Pg. 82; Lines 1-3
- Elliott family has an 89% beneficial interest in Cellwave
 - Pg. 81; Lines 4-24
- Miches was a land speculation purchase made in July 2006, acquired for \$22.5 million
 - Pg. 82; Lines 8-24
- Part of the funds for acquiring Miches (represented by part of the \$17 million referenced in the historical records filed with the Court) came from Juan Dolio investors – transaction was recorded as an intercompany loan
 - Pg. 82; Line 25
 - Pg. 83; Lines 1-13
- Juan Dolio purchasers do not have an interest in Miches
 - Pg. 83; Lines 14-16
- All of the Impact leaders were informed of using Juan Dolio funds to acquire Miches – individual investors were not informed directly by Elliotts
 - Pg. 83; Lines 20-25
 - Pg. 84; Lines 1-18
- Elliotts have not gotten authorization from Juan Dolio investors regarding the reconfiguration
 - Pg. 84; Lines 21-25
 - Pg. 85; Lines 1-3
- For reconfiguration, Elliotts relying on a variety of methods for financing project including selling the buffet restaurant, collecting \$2.88 million still owed on promissory notes
 - Pg. 86; Lines 19-25
 - Pg. 87; Lines 1-24

- Last sale in Juan Dolio was in November/December 2008
 - Pg. 89; Lines 19-25
 - Pg. 90; Lines 1-6

- Elliotts lost 1 sale as a result of this lawsuit – the only sell they had going back 2 years
 - Pg. 90; Lines 25
 - Pg. 91; Lines 1-6