

Anatomy of Corruption in Costa Rica Treaty Arbitration

"Corruption is worse than prostitution. The latter endangers individual morals, but CORRUPTION endangers the morals of an entire Nation" Karl Kraus

CHICAGO, IL, UNITED STATES, October 8, 2018 /EINPresswire.com/ --

1. In 2008 US Developers obtained Permit from Costa Rica's environment agency, SETENA to develop a 100-acre parcel on a beautiful beach in Costa Rica. The permit cleared the land of all environmental problems, no-wetlands-or-forest. After riding out the 2008 financial crisis, developers opened back up in January of 2010 and construction began in the summer of 2010.



Arbitrator Eduardo Siqueiros, Mexico City

2. (Anatomy 1) After the US Developers refused to pay a bribe, the Government shut the project down and filed FALSE criminal charges against managing US Investor, David Aven for violating wetlands.

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When there is corruption, bribery, and human rights abuse, we have to take a stand as reporters because I think our responsibility, as journalists, is to confront those who are abusing power.”

Jorge Ramos

3. (Anatomy 2) After a lengthy criminal trial 2013, a mistrial was declared due to the JUDGE becoming ill, which resulted in retrial of charges, even though it wasn't the fault of the Defendants.

4. (Anatomy 3) In April of 2013, an assassination attempt was made on the life of Mr. Aven as he was driving back from the project site. Via emails, Mr. Aven was told to stop fighting the Government and leave the country or next time they wouldn't miss. Mr. Aven family insisted he leave

the country before he was killed.

5. (Anatomy 4) In 2014, the US Investors filed a law suit against Costa Rica for breach of the CAFTA Treaty. The hearing was held at the World Bank in Washington, DC in December of 2016. The three Arbitrators were Eduardo Siqueiros, Pedro Nikken, and Mark Baker

6. (Anatomy 5) US Investors believed they would get a fair trial since all Arbitrators are seriously vetted by ICSID at the World Bank. However, their beliefs were ill-founded given the Arbitrators corrupt ruling.

7. (Anatomy 6) There was clear evidence the US Developers lawfully obtained all necessary permits. However, Costa Rica Attorneys did an end run around the rule of law and factual

evidence, and created a false narrative saying the permits were obtained unlawfully.

Here's just one of the Arbitrators incredulous and confusing statements in paragraph-551 in their final ruling:

8.(Anatomy 7) "Respondent (Costa Rica) acknowledges that SETENA and other competent authorities may have overlooked the existence of wetlands, or determined that none existed when they did carry out an inspection. But, it adds, this is incidental to the conclusions reached by its agencies, because the permits were obtained unlawfully, since Claimants were responsible to search for, identify, and disclose the existence (or even the "possible existence" of wetlands.)"

9.(Anatomy 8) Notice their strange comment: "this is incidental to the conclusions reached by its agencies, because the permits were obtained unlawfully." What the Arbitrators are saying, is that all the previous agencies reports from SETENA-MINAE-SINAC-INTA, all saying there were NO WETLANDS, didn't matter, because the permits were obtained unlawfully by the Developer's.

10.(Anatomy 9) What's blatantly false in above Arbitrators conclusion in PARA-551, is that none of the, "AGENCIES" (SETENA-MINAE-SINAC-OR-INTA) ever made any such statements, by word or pen. They couldn't have because none of the "AGENCIES" were ever called to give factual testimony in the CAFTA proceeding. That false narrative was totally made up by Costa Rica's Attorneys based upon a fabricated case strategy. It's just unbelievable the ARBITRATORS permitted this hearsay testimony to enter the record and even-more-shocking they used it in ruling against the Claimants?

11.(Anatomy 10) Furthermore, the conclusions made in PARA-551 were in direct contradiction to Costa Rica's highest wetland authority (INTA). Here's Dr. Cubero, director of INTA, conclusions in his 2011 INTA wetland report: "It's clear that there was no invasion by the project of an area previously and technically defined as a wetland. On the contrary it's based on the technical reports and inspections that the project members continue to develop the works in question. The developer is not under the obligation of knowing technical criteria for the definition of a wetland ecosystem, because it should be provided by studies of the corresponding offices."

12.(Anatomy 11) The readers have to ask this question, how was it possible for the Arbitrators to reach their conclusions in light of INTA's CONTRADICTING conclusions?



Arbitrator Perdo Nikken from Caracas, Venezuela



Arbitrator Mark Baker, Houston, Texas

13. (Anatomy 12) Per CAFTA Treaty rules, the US Investors weren't allowed to call representatives from those "AGENCIES". THOSE RULES NEED TO BE CHANGED. It's customary International law, that the accused has a right to face their accusers. A law the Arbitrators apparently failed to learn in Law school. What's fair about Costa Rica, hiding the Accusers from the Accused, thereby preventing them from calling the "alleged accusers" for-cross-examination?

14. (Anatomy 13) This HEARSAY JUSTICE was aggressively advanced by Costa Rica's Chief Counsel, Mr. Christian Leathley, an Attorney for Herbert Smith Law Firm. In written submissions and in oral hearing statements, he accused Mr. Aven of "DUPING" SETENA, by concealing wetlands from SETENA. Just one small problem, SETENA never said that, it was only through hearsay statements made over and over again by Leathley, that permitted that lie to enter the hearing-record.

15. (Anatomy 14) Prior to Mr. Aven's cross-examination by Mr. Leathley, Mr. Aven categorically denied duping SETENA and asked, "Where's SETENA'S statement saying I "DUPED" them?" The arbitrators, seemed perfectly okay with Mr. Leathley accusing Mr. Aven of a crime without any direct testimony from SETENA. The arbitrators then used the hearsay crime statements in ruling against the Claimants. What law schools teach that?

16. (Anatomy 15 CONCLUSION) None of the, "AGENCIES" (SETENA-MINAE SINAC-INTA) ever said the Developer's failed to disclosed the existence of wetlands, DUPED SETENA or they obtained permits unlawfully. It was a false story. It's a fundamental principle in the law, that you're innocent until proven guilty. However, it's obvious from the Arbitrators ruling they failed to learn that principle in Law School, since the Arbitrators clearly accused Mr. Aven without proof, of committing a crime of "DUPING" a Government. Only two possibilities, gross-incompetence or Gross-Corruption. This writer thinks BOTH!!!

This anatomy of corruption was brief, but clearly shows corruption in this CAFTA ARBITRATION by the ARBITRATORS. This outrage, should be criminally investigated by the Justice Department's of United States, Costa Rica and Mexico. See more reports at <http://crbuzz.com/903-2/>

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