

1 CROSS-EXAMINATION

2 BY MR. PEIA:

3 Q Mr. Coan, with regard to your fiduciary duty to
4 the estate, does it matter whether it is a fee or a no fee
5 case?

6 A No.

7 Q The fiduciary duty would remain the same, correct?

8 A Yes.

9 Q As a matter of practicality, though, it would be
10 less desirable, quite obviously, in terms of the amount of
11 time spending if it was perceived to be an asset case versus
12 a no asset case? That is to say, from a matter of
13 practicality and the expedience of practice, a no asset case
14 would be less desirable than an asset case?

15 A That's true.

16 Q And your perception of this case was that it was a
17 no asset case?

18 A Yes.

19 Q With regard to the matter marked as Exhibit 10,
20 Peia versus the Estate of Carlo Delina and, in pertinent
21 part, defendants Daniel Breiner, Thomas Bergstrom, William
22 Powers, Alexis Tucci, Kathy Voshin, State of New Jersey,
23 Township of Brick State of New Jersey, did there come a time
24 when you became aware of the request to enter default in
25 that matter?

1 A I don't recall that, no.

2 Q Did you become appointed Trustee prior to or after
3 the request to enter default?

4 A Well, I just said I don't recall a request to
5 enter default, so I can't answer that.

6 Q If I were to attempt to refresh your recollection
7 by saying that you did not become involved in these
8 adversary proceedings until after the matter was converted
9 to a Chapter 7 proceeding, is that correct?

10 A That's correct.

11 Q And that as a matter of record, if I was to
12 indicate to you that the request to enter default had been
13 made at some point prior to your involvement, approximately
14 4/11/96, if my memory serves me correct, that would be prior
15 to your involvement in the case; correct?

16 A That's correct.

17 Q If I was to say to you for the record that,
18 indeed, requests not only in that case, but in the other
19 cases as well, had been made, you'd have knowledge or not as
20 to whether that is so?

21 A Well, I have seen various requests for default, I
22 believe, and I'm perfectly willing to believe that requests
23 for default had been made prior to my involvement in the
24 case.

25 Q The substance of the cause of action regarding

1 those defendants that I had just mentioned and the property
2 heretofore referred to in that particular proceeding located
3 at 99 Northrop Drive in Brick Township, New Jersey, does
4 that in any way jog your recollection as to that aspect of
5 the proceeding, adversary proceeding?

6 A I've seen allegations concerning that address. A
7 piece of real estate in Brick Township I recall having read
8 of.

9 Q I'm sorry. Have you finished?

10 That property, do you know from the record when
11 that was purchased?

12 A I cannot recall.

13 Q If I was to say that it was purchased in 1973,
14 ultimately closed in early 1974, you have no way of knowing
15 or not whether that is so?

16 A That's correct.

17 Q If I was to say that there was a \$15,000 mortgage
18 on that property, there's no way of you to independently
19 verify that at this point?

20 A Not at the moment, no.

21 Q If I was to say that the property had a market
22 value of \$80,000, is there any way that you would either
23 know or by inquiry came to know whether that is a fact or
24 not?

25 A Not at the moment, no.

1 Daniel Breiner, Thomas Bergstron, William Powers,
2 Alexis Tucci, Township of Brick State of New Jersey, and the
3 County of Ocean.

4 Daniel Breiner, who wound up with the property,
5 was in default, having been properly served, proof of
6 service, certificates of mailing provided, in addition to
7 the Federal Express receipts.

8 And Thomas Bergstrom was in default, not
9 represented by counsel.

10 And William Powers, an attorney who had, indeed,
11 been part of that particular transaction on that property,
12 was in default and not part of -- and not represented by
13 counsel.

14 Alexis Tucci was co-counsel, both for himself and
15 was represented by an attorney in Stamford.

16 And the Township of Brick ultimately entered an
17 appearance and an answer, and filed an answer.

18 Those are the only attorneys that responded.

19 Had you spoken with any of them relative to this
20 99 Northrop Drive property?

21 A No.

22 Q So it's your testimony here that despite the fact
23 that the market value of this property, and it's set forth
24 in the schedule as being \$80,000, with a mortgage that had
25 been paid over 20 years at a very low interest rate of

1 \$15,000, it's your testimony here today that you spoke to
2 not one individual, not one representative, not one
3 independent party regarding this particular asset and this
4 particular adversary proceeding, despite the fact that the
5 beneficial owner who acquired the property during the
6 pendency of an automatic stay was in default? That is your
7 testimony, that you had not spoken to one person on that
8 property?

9 A No, that's not my testimony.

10 Q What is your testimony concerning that particular
11 asset with the \$15,000 mortgage relative to an \$80,000
12 value?

13 A I don't recall that I had a discussion about that
14 particular property. I may have.

15 But I inquired, as I started to say, among the
16 various attorneys who had been involved with you over
17 several years. And all of them assured me that all of the
18 various properties and allegations that you describe in your
19 lawsuit were assets that you had described in virtually the
20 same lawsuits filed over and over again; that in all cases
21 the assets appeared to have been long gone, that there
22 really was no hope of recovering anything in our case.

23 Q What you're stating for the record and what you're
24 telling the Court here is that based on conversations you
25 had with adversaries who were representing interests

1 antithetical to the estate, you decided to abandon the
2 assets without independent inquiry; is that what your
3 testimony is here?

4 A No.

5 Q Then what is your testimony? Because that's what
6 it sounds like to me.

7 A That based on my review of the adversary
8 proceedings, based on conversations with a number of
9 different people who had been involved with you for many
10 years, I sized it up that it was not a cost-effective
11 strategy on my part to devote time and efforts to these
12 adversary proceedings.

13 Q Could you state as to who you had spoken -- I mean
14 you've indicated attorneys representing interests
15 antithetical to the estate. Could you tell us who else?

16 MR. MILTENBERGER: Your Honor, I believe the
17 question mischaracterizes the testimony. I object.

18 THE COURT: I'm not clear on the clients who
19 were represented by the lawyers you mentioned.

20 A On several -- on at least two occasions in court,
21 after having reviewed your various adversary proceedings,
22 and in telephone conversations with some of the lawyers who
23 were involved in some of the adversary proceedings, I
24 generally discussed their knowledge of your multitude of
25 pieces of litigation throughout the United States.

1 And my discussions with them, combined with my
2 review of the adversary proceedings and my observation that
3 the adversary proceedings were the same case that you had
4 filed at least once, and in many cases several times
5 earlier, I made the decision that these were not lawsuits
6 that I should be pursuing for the bankruptcy estate.

7 BY MR. PEIA:

8 Q Mr. Coan, with regard to those pieces of
9 litigation that you're referring to, are you referring to
10 the RICO action that was filed and as well adversary
11 proceedings stemming from bankruptcy proceedings?

12 A I'm referring to everything that I could get my
13 hands on.

14 Q Was there ever a point in time where you had any
15 difficulty getting your hands on any of these? Did you
16 request the bankruptcy files, as an example, for the
17 Virginia case?

18 A No, I didn't.

19 Q Did it ever come as a quandary to you as to why
20 this matter, Chapter 7, following what has been attributed a
21 wrongful dismissal in Connecticut of 13, Chapter 7
22 proceeding could and would be dismissed? Without any
23 action, marshaling of the assets, et cetera?

24 You've referred to the Chapter 7 filing in
25 Virginia, yet you have not indicated as to any disposition

1 A No.

2 Q To your knowledge, could you, as a Chapter 7
3 trustee in a Chapter 7 filing, with properties with asset
4 values far in excess of mortgages, abandon or choose to just
5 allow a dismissal of, if such could actually occur, of a 7
6 proceeding without any payout to creditors under
7 circumstances where properties as have been listed on the
8 schedules had not been sold?

9 A For many reasons I would never abandon assets that
10 could provide a distribution to creditors.

11 Q And that would be contrary to your fiduciary duty,
12 correct?

13 A That's correct.

14 Q And yet with regard to this particular property at
15 99 Northrop Drive, had you had occasion to speak with
16 Jeffrey Saber, the 13 trustee?

17 A No.

18 Q Do you not think that would have been beneficial
19 to determine as best and as objective as possible the fact
20 that this property had been sold during the pendency of the
21 automatic stay, as opposed to maybe one of the counsel
22 representing interests antithetical to the estate?

23 A No.

24 Q It never occurred to you to call up Mr. Saber, the
25 Chapter 13 trustee?

1 A No.

2 Q Did it ever occur to you to contact the FBI, to
3 whom virtually all of these matters have been sent with
4 reference to the particular agents and as well the
5 particular Assistant U.S. Attorneys to whom this has been
6 sent, and I'm not talking about and I will state for the
7 record the corrupt Deidre Martini?

8 A No.

9 Q You never did?

10 A No.

11 Q Can there at any point in time -- is there any way
12 without getting relief from the stay for such an asset with
13 a \$15,000 mortgage, with a market value of \$80,000, to be
14 legitimately sold without some kind of a court order or a
15 waiver of some sort by someone which never occurred? Can
16 that legitimately be done, to your knowledge?

17 A Hypothetically, assets cannot be disposed of or
18 seized by third parties while there's an automatic stay.

19 Q So it's your testimony here that if that asset had
20 been sold during the pendency of the automatic stay, and
21 without an order, and if the asset value exceeded the value
22 of the mortgage, those should have been for the benefit
23 of -- those excess monies should be for the benefit of the
24 estate and creditors and as well any sale of such an asset
25 would be contrary to law?

1 A It's really just a platitude that I'm saying,
2 which is --

3 Q Platitude?

4 A Yeah. That assets can't be interfered with while
5 an automatic stay bars the interference. No one would
6 disagree with you.

7 Q It's a rule of law, correct?

8 A That's right.

9 Q Okay. And if I can just state for the record, is
10 it your testimony here that you're not aware of the fact
11 that that is exactly what happened with regard to that cause
12 of action concerning this property at 99 Northrop Drive with
13 defendants Breiner, Bergstrom and Powers, and Breiner
14 ultimately having wound up with the property through
15 various -- there were a couple of transfers, sham transfers,
16 I would say, but transfers of title after that illegal sale.
17 If I was to indicate that, would you dispute that at this
18 point?

19 A I have no knowledge whether anything occurred
20 during the time when an automatic stay may have been in
21 force.

22 I do know that you filed so many bankruptcy cases
23 all over the country that it's likely that one could
24 allege -- that you could allege that an automatic stay was
25 in effect over the course of ten years. But I also believe

1 that I would have had no ability to convince a bankruptcy
2 court to undo the transfer of that property.

3 Q Even if it was sold during the pendency of an
4 automatic stay?

5 A Yes.

6 Q And your testimony is that it wasn't that, indeed,
7 a cause of action against someone would legitimately exist
8 and certainly those amounts constituting an asset of the
9 estate, but rather your perception that Judge Shiff, as an
10 example, would not in any way interfere with a wrongful sale
11 during the pendency of an automatic stay?

12 A Or any other bankruptcy judge in the country, in
13 your instance.

14 Q So what you're saying is that no bankruptcy judge
15 would enforce the mandate of the automatic stay, but rather
16 would let plunderers in whatever way possible go in and
17 whatever the corruption endemic to whatever locale they were
18 trying to effect a sale, go forward without regard to the
19 legitimate creditors that were part of the bankruptcy filed
20 in the first place; isn't that part of the intent of the
21 bankruptcy statutes, to protect those creditors?

22 A Sir, I'm not saying in general that bankruptcy
23 judges ignore the automatic stay.

24 What I'm saying is that every one of your lawsuits
25 that I've seen contains so many unbelievable allegations of

1 corruption and illegality and unethical behavior by
2 government officials and judges, that I don't believe your
3 allegations, and I don't think anyone else does, and I don't
4 believe that I could have convinced a bankruptcy court to
5 undo the transfer of that.

6 Q Mr. Coan, what judges? Which judges?

7 A Which judges what?

8 Q Which judges are you referring to?

9 A I've seen allegations by you of illegality and
10 corruption by Judge Shiff, --

11 Q Right.

12 A -- by Maryanne Trump.

13 Q Right.

14 A I can't remember any others right now.

15 Q And those are the ones that are referred to. So
16 it's not judges in general, but certainly Alan Shiff and
17 Maryanne Trump, which I'll state for the record as being
18 corrupt.

19 A Well, I said judges and governmental officials.
20 It appears to me that anytime you're evicted from a piece of
21 property for non-payment of rent, or anytime a car of yours
22 is repossessed for non-payment, that you respond with a
23 lawsuit alleging actions by the Mafia against you, alleging
24 invariably actions by drug-crazed individuals. And the
25 allegations are so similar from case to case that I find

1 them to be unbelievable.

2 Q Has any of -- First, has any of these matters ever
3 been resolved on the merits?

4 A I don't know.

5 THE COURT: Mr. Peia, I apologize for
6 interrupting this proceeding, but I'm going to run out
7 of time in about fifteen minutes, and I just wanted to
8 remind everybody of that. Our time is limited.

9 And if I may, Mr. Peia seems to be concerned
10 that the New Jersey property was transferred during the
11 time the automatic stay was in effect. And I gather
12 he's concerned that nobody has attempted to inquire as
13 to whether that happened and, if so, whether the action
14 should be pursued.

15 Could you explain for him and me more fully
16 why it is that to date you haven't pursued that? Is
17 there any reason, apart from your belief that you would
18 have some difficulty persuading a bankruptcy judge to
19 credit Mr. Peia's allegations, or is that the end of
20 it?

21 THE WITNESS: Your Honor, often bankruptcy
22 trustees are faced with situations where they have to
23 make a cost-benefit analysis, and it is often the case
24 that a violation of an automatic stay takes place and
25 comes to the knowledge of a bankruptcy trustee.

