

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

WILLIAM ANTHONY COLON * CV.NO. CV-07-1380-JA
*
Plaintiff *
*
vs. *
*
RUBEN BLADES *
*
Defendant(s) *
*
-----* April 5, 2010
-----* Hato Rey, Puerto Rico

HEARING ON DEFAULT
HELD BEFORE MAGISTRATE JUSTO ARENAS
UNITED STATES MAGISTRATE JUDGE
FEDERAL BUILDING, HATO REY, PUERTO RICO

APPEARANCES:

For the Plaintiff: Juan Saavedra Castro, Esq.
For the Defendant(s): Juan M. Frontera Suau, Esq.
Pamela Gonzalez Robinson, Esq.
Court Interpreter: Official Court Interpreter
Court Reporter: FTR
Courtroom Deputy: Brenda Gonzalez

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P R O C E E D I N G S

(9:06 a.m.)

(Case is called)

MS. GONZÁLEZ ROBINSON: Good morning, Your Honor.

THE COURT: Hi, how are you?

MS. GONZÁLEZ ROBINSON: Fine, thank you. And you?
Counsel for cross-Defendant, Mr. Morgalo, is here
also.

THE COURT: Call -- please, call your first witness.

MS. GONZÁLEZ ROBINSON: The cross-Plaintiff calls
Mr. Ruben Blades.

COURTROOM CLERK: Raise your right hand.

(Ruben Blades, cross-Plaintiff Witness, is hereupon duly
sworn as Witness and testifies as follows)

COURTROOM CLERK: You may be seated.

THE COURT: Just give me a second, please.

(Documents are reviewed)

THE COURT: Give me a minute.

MS. GONZÁLEZ ROBINSON: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. GONZÁLEZ ROBINSON:

Q. Can you please state your full name for the record?

A. Ruben Blades Vellido de Luna.

Q. And you are the cross-plaintiff in this matter?

A. I am. Yes.

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1 Q. Do you know Martínez Morgalo & Associates, Inc.?

2 A. Yes.

3 Q. How do you know Martínez Morgalo & Associates, Inc.?

4 A. We had business together during a period of years between
5 1999 and 2003. And I knew them before -- Roberto Morgalo and
6 Arturo Martínez -- when they were part of David Maldonado's
7 agency. That's how we met.

8 Q. And Roberto Morgalo and Arturo Martínez and were the sole
9 shareholders of this corporation?

10 A. As far as I understand, yes.

11 Q. Is Martínez Morgalo & Associates, Inc., a corporation?

12 A. Yes.

13 Q. When -- you stated that you began business with them in
14 1999, correct?

15 A. I believe it was around 1999. But I had known them
16 before when they worked with David Maldonado.

17 Q. And under what circumstances did you know them, meaning
18 Roberto Morgalo and Arturo Martínez?

19 A. Roberto and Arturo were working with David Maldonado and
20 Juan Toro. And they were pretty much the people in the agency
21 that worked with me with anything related to shows, concerts,
22 etc.. They pretty much dealt with me.

23 Q. And what specifically did they do for you in relation to
24 those shows?

25 A. They would -- they would act as, I think, liaison between

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1 David Maldonado, the agency, and myself, and they would make
2 sure that I got all the information regarding trips, hotels,
3 venues.

4 They also had aspects related with all the
5 infrastructure for these shows, you know, getting in touch
6 with the musicians, you know, payments, all that.

7 Q. How did your relationship with these two individuals
8 develop over the years?

9 A. Very good. It was a very good relationship. I like them
10 both. We worked really well together, never had a problem.

11 Q. Did you have occasion to deal with them outside of the
12 professional relationship?

13 A. Probably sometimes in between shows. I really -- when
14 you work in shows and when you're on tour, you really don't
15 have much time -- at least, I don't, for socializing. But I'm
16 sure that we did meet in circumstances that were not
17 necessarily related to the work. And it was very good. They
18 were friends.

19 Q. Did they communicate to you their intention of leaving
20 David Maldonado entertainment and forming their own company?

21 A. Yes.

22 Q. When was that?

23 A. I don't quite remember, but it was somewhere around
24 probably the late 90's.

25 Q. What was your reaction to that?

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1 A. I thought it was something that held promise. I mean,
2 there weren't that many Latinos booking, and that the fact
3 that they were young and they knew the business, I thought it
4 was a good thing for them.

5 I always would encourage people to have control over
6 their own line of work.

7 Q. Did you offer to go with them as their client?

8 A. I told them that I would, yes. At the time, I also would
9 have to say that my relationship within the David Maldonado,
10 you know, we have had some -- some difficulties, and I thought
11 it would be a good thing to do, to go with them. And I told
12 them I would.

13 Q. And, after that, what happened?

14 A. They started -- well, we started working together. They
15 had their -- they made their company, and --

16 Q. Did -- did Martínez Morgalo & Associates actually produce
17 shows for you?

18 A. Yes. They -- they worked with me from -- from that
19 moment on when they started.

20 Q. And, to the best of your recollection, how many shows did
21 you do under Martínez Morgalo & Associates as your agents?

22 A. Tens of shows. I -- I don't quite remember. I can say.
23 I don't -- follow?

24 Q. What were their duties to you?

25 A. Basically, you know, agencies work as receptors. You --

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1 they receive phone calls and inquiries, and then they consult.

2 They consulted with me and say, you know, "We had a
3 call to do this show, and they're offering this and that, and
4 these are the conditions".

5 And then, I would say "Okay. Let's go. Let's do
6 this".

7 Q. Did the company look for business for you?

8 A. I would assume they did also, yes.

9 Q. Did they receive funds on your behalf?

10 A. Yes. Always. Um hum.

11 Q. How was that structured?

12 A. Basically, my understanding was -- I -- I was very strict
13 about certain things, for instance, establishing how much
14 money was going to be charged according to what type of
15 activity it was, and establishing the conditions of payment,
16 when was payment to be received.

17 I like to receive payment in advance so that we
18 wouldn't have problems in the future with shows where the show
19 didn't do that well, then, all of a sudden, you'd be a partner
20 on the loss.

21 Q. And, in the regular course of the business, who did you
22 communicate with at Martínez Morgalo & Associates?

23 A. It could be Robert or it could be Arturo.

24 Q. Did you talk to any other employees at Martínez Morgalo &
25 Associates concerning your instructions for -- for the shows?

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1 A. I don't -- I don't think that had another employee -- I -
2 - no. Not that I remember, no.

3 Q. Did you trust Martínez Morales & Associates?

4 A. Absolutely.

5 Q. How did you trust them?

6 A. I -- I trusted in -- in their honesty. I mean, we --
7 they weren't only my representatives, they were people I
8 liked, they were friends.

9 You know, I never had a reason not to trust them,
10 and, you know, we got along fine. I mean, I thought they were
11 -- they were, you know, good people.

12 Q. In the course of the agency relationship, did they
13 disclose to you when payments were received into their
14 account?

15 A. Well, whenever I asked, yes. They would -- they would --
16 you know, I was always trying to figure out if the monies were
17 being paid on time.

18 So, I also have to say I work with Jerry Schuster
19 whose my business manager. So, it would be a manner -- a
20 manner if they communicated with me or with Jerry to say
21 "Monies did arrive. You know, we are on schedule".

22 Q. Did Martínez Morgalo & Associates communicate to when --
23 when deals were being negotiated for shows?

24 A. Yes.

25 Q. Did they keep you informed as to dates, available dates?

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1 A. Yes.

2 Q. Did they communicate to you when your consent was
3 required for committing to a date?

4 A. I'm sorry. I didn't --

5 Q. For committing to a date --

6 A. Yes.

7 Q. -- for a concert.

8 A. Yes.

9 Q. What was your expectation in their managing your affairs?

10 A. My expectation is that they were going to be truthful,
11 they'd hold on the -- you know, to their fiduciary duty with
12 me and tell me the truth. That's basically the relationship.

13 Q. How was Martínez Morgalo & Associates compensated for
14 their services to you?

15 A. They received a percentage. They would get a percentage
16 of the total amount of the show. I think it was 10%, I
17 believe. It was 10%.

18 Q. For every show? Or did it vary?

19 A. Every show -- some -- I think, maybe, it would vary,
20 depending on the amount. Sometimes, shows were small. They
21 weren't necessarily big shows, and we could make an adjustment
22 if it was something, like, a benefit. Sometimes, they
23 wouldn't even get a percentage if it was a benefit.

24 But it was estimated always that they would be
25 receiving a percentage and it would be 10%.

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1 Q. Did either Arturo Martínez or Roberto Morgalo have
2 authority to sign contracts on your behalf?

3 A. Yes, they did.

4 Q. How were payments made by Martínez Morgalo & Associates
5 to you or to your financial manager Jerry Schuster in the
6 ordinary course of business?

7 A. They would send the amounts to Jerry directly. And,
8 sometimes, they would send it to me.

9 Q. Did they call you or otherwise communicate to you every
10 time a deposit was made?

11 A. Not necessarily every time. I think maybe they did at
12 times, and at times I would ask "Is the money there, did the
13 money arrive, did you send the money to Jerry", that sort of
14 thing.

15 J. Jorge would call me and say "Hey, we received the
16 money, and, you know, we sent it to Jerry".

17 Q. I will bring your attention now to the year 2002.

18 Q. Did you authorize Martínez Morgalo & Associates to
19 negotiate shows for you in the year 2002?

20 A. Yes, I did.

21 Q. Did you have occasion to do a show in the Dominican
22 Republic at the end of 2002?

23 A. Yes, I did.

24 Q. Was the show negotiated by Martínez Morgalo & Associates?

25 A. Yes.

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1 Q. Do you know who specifically negotiated on behalf of you?

2 A. I think Roberto.

3 Q. Who did he negotiate it with?

4 A. A Dominican promoter.

5 Q. Do know his name or her name?

6 A. I think it was Medrano the last name, Medrano.

7 Q. And did you, in fact, perform that show?

8 A. Yes, I did.

9 Q. Do you remember when that show was performed?

10 A. I think it was in the -- the show -- there were two -- I
11 think there were two shows with Medrano, you know, at two
12 different moments.

13 I think one was in January or something, and then the
14 other one was in December. So, yes, we played them both.

15 Q. Do you remember where you played in December?

16 A. I think it was in Altos de Chavón.

17 Q. Did you authorize Martínez Morgalo & Associates to
18 negotiate a reunion concert with Willie Colón to celebrate the
19 25th anniversary of the Siembra album (sic) in 2002?

20 A. After it was proposed to me, yes.

21 Q. Who proposed it to?

22 A. I received several calls for that show. Originally, I
23 was called by Martínez Morgalo and offered this show, and I
24 said no.

25 And I said no, because I didn't think that it was an

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1 idea that I wanted to follow at that time. I was doing
2 movies, I was doing other things, and I wasn't sure about the
3 show.

4 And then, I got another call -- I believe this time
5 it was from Willie Colón -- about this show, explaining why,
6 you know, we should do the show.

7 And then, I said "Okay. Let's do this show". And I
8 was told, then, "Can we do a tour"? And I said "No. We'll do
9 this one show".

10 Q. Who asked you if it could be a tour?

11 A. The office, Arturo and -- I think it must have been
12 Roberto pretty much. Roberto and Arturo, either of the two.
13 I don't remember, but, you know, it was the office.

14 Q. Did you ever agreed to do a tour of the Siembra show?

15 A. No.

16 Q. But you did come to an agreement with Willie Colón to do
17 one show?

18 A. Yes.

19 Q. Where was the show to be performed?

20 A. In Puerto Rico.

21 Q. Who were the promoters?

22 A. Rivas and Seinz.

23 Q. What were the terms of the -- was there ever an
24 engagement contract executed?

25 A. There was a contract. The contract was for -- I believe

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1 the total amount was 350 -- \$350,000. They would get 10%.

2 Q. "Them", being Martínez Morgalo & Associates?

3 A. Martínez Morgalo would get a fee for 10%.

4 Q. For what?

5 A. For their services, I you know, overseeing the collection
6 of the money, etc., etc., and representing us in this whole
7 show vis-a-vis the promoters.

8 Q. "Representing us", meaning you and Willie Colón, both?

9 A. Yes.

10 Q. Did Willie Colón agree to the joint representation?

11 A. I should think so, because I told them "Negotiate this
12 with Willie. I'm not going to negotiate with -- on behalf of
13 Willie Colón", never.

14 Q. Who agreed to the fee of \$350,000?

15 A. Both of us. I mean, --

16 Q. Did you --

17 A. I'm sorry.

18 Q. -- how was -- how was the process of deciding the amount
19 of the fee?

20 A. Basically, for me at the time, there was a situation: I'd
21 either do the show or I don't do the show.

22 And, like I said before, I had that conversation with
23 Willie Colón, and we said "Okay. We're going to do the show".

24 So, it was \$350,000, which is all lot of money. But
25 they said "You charge 350, but you will take care of all the

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1 expenses".

2 Q. What does that mean?

3 A. That means they were only going to look after sound and
4 lights. We had to pay for everything else, which means
5 hotels, air fare, musicians fees, per diems, and any other --
6 rehearsals, and any other expense that had to do with the
7 show, after which whatever was left would be split in two.

8 Q. Did Willie Colón agree to those terms too?

9 A. As far as I understand, yes.

10 Q. Did you have -- did you ever receive a written contract
11 that you signed?

12 A. I did. I didn't -- I don't recall signing it, but I
13 recall seeing it. Because, usually, the contracts were
14 negotiated by the company. They always sign.

15 MS. GONZÁLEZ ROBINSON: Your Honor, I have marked
16 Exh. No. -- cross-Plaintiff's identification (a).

17 (Exh. No. (a) is hereupon marked for identification)

18 MS. GONZÁLEZ ROBINSON: I'm showing it to Counsel.

19 (Documents are reviewed)

20 THE COURT: Alright. Counsel, at 9:30, I'm going to
21 have a break, assuming I have a prosecutor here, to do some
22 criminal -- criminal matters.

23 MS. GONZÁLEZ ROBINSON: Very well. Thank you.

24 MR. SAAVEDRA CASTRO: May we approach the Bench, Your
25 Honor?

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1 THE COURT: You want to approach the Bench?

2 MR. SAAVEDRA CASTRO: I'd like to.

3 (Bench conference is held)

4 MS. GONZÁLEZ ROBINSON: Your Honor, may I approach
5 the witness?

6 THE COURT: Approach the witness.

7 (This is done)

8 THE COURT: Let me know when the prosecutor comes in.

9 THE WITNESS: [Excuse me].

10 THE COURT: Okay.

11 THE WITNESS: May I?

12 THE COURT: I don't know if --

13 THE WITNESS: Oh, I'm sorry. Can I have my glasses,
14 please, to read? Reading glasses.

15 THE COURT: That's important, Yeah.

16 THE WITNESS: [Thank you].

17 (Documents are reviewed)

18 THE WITNESS: Um hum?

19 BY MS. GONZÁLEZ ROBINSON:

20 Q. I've shown you what's been marked as Exh. No. (a).

21 Do you recognize what Exh. No. (a) is?

22 A. Yes, I do.

23 Q. What is Exh. No. (a)?

24 A. It's the -- it's the engagement contract for the Siembra
25 show at the Hiram Bithorn between Willie and myself.

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1 Q. Is that the contract you received from Martínez Morgalo &
2 Associates?

3 A. This is pretty much, yes, the contract. Yes.

4 Q. How do you recognize it to be the same contract?

5 A. Well, you know, I've seen this before. I've seen this
6 before. So, --

7 Q. Is that the contract you produced to your attorneys --

8 A. Yes.

9 Q. -- in the course of discovery?

10 A. Yes.

11 Q. Do you know when you received, approximately, that
12 contract?

13 A. I really don't remember when it was that it was given to
14 me. I said that -- it says up here the 22nd day of January,
15 2003, so it must have been around that time.

16 Q. And can you go to the last page?

17 A. Um hum. Yes.

18 Q. Okay. Who are the signatories to -- is the contract
19 signed?

20 A. I don't see any signatures.

21 Q. Does it have names at the bottom?

22 A. Yes.

23 Q. What are the names?

24 A. The names are Desaire Production (sic), Ariel Rivas, and
25 Martínez Morgalo & Associates, FSO Ruben Blades and Willie

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1 Colón, and Arturo Martínez agent.

2 Q. What does FSO mean?

3 A. I don't know.

4 Q. Can you go to the first page? Is there a payment
5 schedule in that engagement contract?

6 MR. SAAVEDRA CASTRO: Your Honor, I object to this
7 witness reading from the documents that haven't been
8 introduced into evidence.

9 THE COURT: Well, it's not introduced. It has to be
10 introduced. It's marked for identification.

11 MS. GONZÁLEZ ROBINSON: I think I've laid the
12 foundation, Your Honor.

13 At this time, I'd like to introduce Exh. No. (a) into
14 evidence.

15 MR. SAAVEDRA CASTRO: Objection, Your Honor. There's
16 no -- no foundation. This gentleman testified that all
17 contracts are signed. He says "I don't remember, I really
18 don't remember this document".

19 THE COURT: What I'm going to do is --

20 THE WITNESS: No, I never said --

21 THE COURT: -- I'm going to allow it, subject to
22 connection. If it never gets connected, it gets complicated,
23 I strike a lot of notes, including this part of the testimony.

24 So, I'm going to assume that it's going to be valid,
25 let's put it that way.

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1 Exh. No. (a). Go ahead.

2 (Exh. No. (a), previously marked for identification, is
3 hereupon admitted into evidence)

4 BY MS. GONZÁLEZ ROBINSON:

5 Q. Did you ever see any other contract other than the
6 contract you have in front of you?

7 A. No.

8 Q. In connection with the Siembra show, when was the date
9 when the performance was supposed to be held?

10 A. May, the month of May 2003.

11 Q. What were the terms that you agreed to in terms of
12 receiving the monies?

13 A. They were very specific. Like I said before, every time
14 we worked, there were very specific schedules of payments.

15 I think, in this particular concert, there were, I
16 think, four -- four dates, specific dates, where the money
17 should arrive. That's basically the way it was supposed to
18 work.

19 Q. Were those terms included in the engagement contract that
20 is marked as Exh. No. (a)?

21 A. Yes, they were.

22 MS. GONZÁLEZ ROBINSON: Permission to obtain the
23 exhibit?

24 (Document are reviewed)

25 BY MS. GONZÁLEZ ROBINSON:

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1 Q. Who was in charge of the financial aspects of the Siembra
2 concert?

3 A. Martínez Morgalo.

4 Q. Did you receive any up-front advance according to the
5 terms of the contract?

6 A. I believe there was an advance made.

7 Q. Do you know how much money you received?

8 A. I think it was about \$68,000.

9 There's something I have to also add if I may?

10 Monies were always sent to my --

11 MR. SAAVEDRA CASTRO: We have an objection, Your
12 Honor. It's not responsive.

13 THE COURT: It's sustained.

14 BY MS. GONZÁLEZ ROBINSON:

15 Q. Where -- where were monies sent to?

16 A. Monies usually were sent to my business office, Mr. Jerry
17 Schuster's.

18 Q. Do you know if Martínez Morgalo & Associates sent an
19 upfront advance to Willie Colón?

20 A. I don't know.

21 Q. Were you informed of the payments that were received by
22 Martínez Morgalo & Associates from the Puerto Rican promoters?

23 A. No.

24 Q. What if anything did you do about that?

25 A. Basically, I called and asked "Are the funds being sent?"

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1 Are the monies being paid?"

2 Q. What if anything was told to you?

3 A. "No. They're not -- they're not coming. They said they
4 would come next week", etc..

5 Q. Who said those things?

6 A. Martínez Morgalo.

7 Q. But specifically what -- what individuals?

8 A. Arturo Martínez.

9 Q. Did you rely on those statements?

10 A. Absolutely.

11 Q. Why did you rely on those statements?

12 A. Because, first of all, promoters not necessarily always
13 send the monies within the schedules agreed upon, and,
14 secondly, because I had never had a reason not to trust
15 whatever they said to me.

16 Q. What if anything happened before the concert? Did you --
17 did you -- what if anything did you find out before the
18 concert about the balance of the fee that was unpaid?

19 A. Well, --

20 MR. SAAVEDRA CASTRO: Objection, Your Honor.

21 THE COURT: Grounds?

22 MR. SAAVEDRA CASTRO: Leading.

23 BY MS. GONZÁLEZ ROBINSON:

24 Q. Did you receive --

25 THE COURT: It's overruled.

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1 MS. GONZÁLEZ ROBINSON: I'll -- I'll rephrase.

2 THE COURT: Go ahead. It's overruled anyway. But,
3 go ahead.

4 BY MS. GONZÁLEZ ROBINSON:

5 Q. Did you receive the balance of your fee before the
6 concert?

7 A. No.

8 Q. Did you come to learn about the reason why you did not
9 receive the funds?

10 A. Basically, they -- Martínez Morgalo -- Arturo would say
11 "The funds are not here. They haven't sent of the money. The
12 money's not here".

13 Q. Do you know where was Robert Morgalo during this
14 timeframe?

15 A. I believe Robert Morgalo was in Iraq.

16 Q. When did -- when were you informed that he had left
17 Martínez Morgalo & Associates?

18 A. I'm not sure when exactly he left, but I think it
19 probably was somewhere in January or February or something,
20 around that time.

21 But, I mean, by then, you know, Arturo was in the
22 office. Martínez Morgalo was the office.

23 Q. When you testify that you made calls to find out why the
24 monies were not being sent, --

25 A. Um hum?

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1 Q. -- do you remember the approximate time frames of those
2 calls?

3 A. I think that I started calling, you know, according to
4 what the schedules were. They -- they started becoming more -
5 - more insistent calls as the date of the show became nearer.

6 So, I would say, you know, began -- began to be more
7 insistent, March, April -- March-April.

8 Q. Did you ever come to the realization that the moneys were
9 not going to be sent to you?

10 A. Never. I didn't think that -- I never -- you know, I
11 never thought it would end up not being paid.

12 Q. Did you ever threatened not to perform?

13 A. At one point, absolutely.

14 Q. When was that?

15 A. When -- when we were very close -- we were about a week
16 before or the time -- around that time, and the moneys were
17 not in. And my position was "If you don't pay, we don't
18 play". That was always the position.

19 And I'm asking the office, and the office is telling
20 me "The money is not here. They have not sent the money".

21 Q. What if anything did you do then?

22 A. At that point, I had received a call from the Puerto Rico
23 press -- Puerto Rican Press to talk about the show, and I said
24 "Maybe the show's not going to happen because we haven't
25 gotten paid", basically.

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1 Q. Do you know if this threat was ever reported in the local
2 media?

3 A. Oh, yes, it was.

4 Q. Did you have occasion to read any newspaper articles
5 about the possible cancellation of the --

6 A. Yes.

7 Q. -- of the concert?

8 A. Yes.

9 Q. Were you ever confronted with evidence of payment by the
10 promoters?

11 A. Immediately after the article appeared, I began to
12 receive calls from Puerto Rico from people that I trusted,
13 saying "I've seen documents stating that funds have been
14 paid".

15 MR. SAAVEDRA CASTRO: Objection, Your Honor.
16 Hearsay.

17 BY MS. GONZÁLEZ ROBINSON:

18 Q. Who --

19 THE COURT: It's overruled. It's not being offered
20 for the truth of the matter; it's being offered for what he
21 heard.

22 THE WITNESS: People I trust called me and said "I've
23 seen documents".

24 BY MS. GONZÁLEZ ROBINSON:

25 Q. Who called you?

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1 A. Amongst people I remember, Tuti Bou who was an executive
2 in Sony. She said she had seen the documents, "Please talk to
3 the promoters".

4 Q. And did you talk to the promoters?

5 A. Yes, I did.

6 Q. Who did you talk to?

7 A. Ariel Rivas or Seinz, one of the two. And they sent me
8 by fax the copies of the payments.

9 And they were -- they were all there except for one
10 amount.

11 Q. What was the amount?

12 A. \$62,500 were not in the -- in all the ones that they send
13 me the copies, there were \$62,500 missing when I added it all
14 up.

15 Q. What if anything did you do about that missing portion?

16 A. Nothing. I mean, at that time, the situation was -- I
17 was trying to find Arturo, you know, so he can explain me what
18 happened, and I couldn't find him.

19 So, I wasn't sure what was going on.

20 Q. Was an explanation ever given to you about the missing
21 \$62,500?

22 A. Yes.

23 Q. What was that explanation?

24 A. When we came to Puerto Rico and we had the -- there was a
25 meeting with the promoters, and then they showed me a contract

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1 where it said that \$62,500, from a concert that had been
2 apparently canceled, was being applied as an advance for the
3 show.

4 Q. Had you ever known about a canceled show in 2002?

5 A. No.

6 Q. Had you ever received information that a payment in the
7 amount of \$62,500 was received on your behalf?

8 A. No.

9 Q. Did you ever receive the amount of \$62,500 from Martínez
10 Morgalo & Associates for a show that you were to perform?

11 A. No.

12 Q. What -- where was that show supposed to be performed at?

13 A. I'm not sure.

14 Q. Was it --

15 A. I'm not really sure. Because, again, there was a show
16 that was supposed to have been done at one point; it was
17 canceled because of a conflict of dates. So, I'm not sure.
18 I'm not sure.

19 THE COURT: Let me -- I have to interrupt.

20 I'm going to excuse you for a few minutes.

21 THE WITNESS: Um hum.

22 THE COURT: I have a few criminal matters I have to
23 talk to.

24 THE WITNESS: Yes, sir.

25 THE COURT: Please, don't discuss your testimony with

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1 anyone. You can --

2 THE WITNESS: Oh, no.

3 THE COURT: Okay. We'll take a break in this one.

4 (Court continues with other matters on calendar not
5 pertaining to this case)

6 (9:36 a.m.)

7 COURTROOM CLERK: Resumed: hearing on default.

8 (9:47 a.m.)

9 MS. GONZÁLEZ ROBINSON: Your Honor, we have cross-
10 Plaintiff's Exh. No. ID-(b), letter (b).

11 (Exh. No. (b) is hereupon marked for identification)

12 MS. GONZÁLEZ ROBINSON: This is a newspaper article
13 dated Thursday, May 1, 2003, and it's -- it will be offered
14 into evidence by stipulation.

15 THE COURT: Exh. No. (b).

16 MS. GONZÁLEZ ROBINSON: Yes.

17 (Exh. No. (b), previously marked for identification, is
18 hereupon admitted into evidence)

19 BY MS. GONZÁLEZ ROBINSON:

20 Q. Mr. Blades, you were testifying that you had -- there was
21 an amount of money that was accounted for as of the term you
22 spoke with the local promoters, correct?

23 A. Um hum. Yes.

24 Q. Were you ever confronted with evidence about payment of
25 that amount of \$62,500?

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1 A. What I saw was a contract that the promoters had which
2 looked like the contract that I had seen, only that it had
3 typed that \$62,500 from a previous show that had been
4 canceled, or something, would be applied as an advance against
5 the Siembra show.

6 Q. Was that line in that contract ever -- or, credit ever
7 presented to you in any contract or document presented?

8 A. Never.

9 Q. Did you authorize or consent to the application of
10 \$62,500 as a deposit to a Siembra concert from another show of
11 yours?

12 A. Never.

13 Q. To your knowledge, did Willie Colón authorize payment for
14 application of \$62,500 from a show of yours to be applied for
15 a Siembra concert?

16 A. I doubt it. I absolutely doubt that.

17 Q. Do you know if he was informed about a payment in 2002 of
18 \$62,500?

19 A. I doubt he was ever informed.

20 Q. Do you know, at the time you traveled and came to Puerto
21 Rico, the whereabouts of Roberto Morgalo or Arturo Martínez?

22 A. I believe Morgalo -- Roberto was in the Army in Iraq.
23 And Arturo, I wasn't sure where he was. I had heard from Juan
24 Toro, I believe, that he was in the hospital.

25 Q. Do you know why he was in the hospital?

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1 A. What I remember is that he apparently had tried to do
2 something to harm himself.

3 Q. Did you ever receive actual evidence of payment of the
4 \$62,500?

5 A. No.

6 Q. Was it accounted for at any time after or before the
7 show?

8 A. No.

9 Q. Did you ever clear the issue with the local promoters as
10 to whether the payments were actually made to Martínez Morgalo
11 & Associates?

12 A. He was very clear to me that he had reached that
13 arrangement with the -- with the agency.

14 Q. When you say "He", who are you referring to?

15 A. I'm referring to the promoters, whether -- Ariel Rivas --
16 Ariel Rivas.

17 Q. And when he says that "They had authorized that
18 application", who was he referring to?

19 A. Martínez Morgalo.

20 Q. And, specifically, any individual within the firm?

21 A. I remember it was Morgalo.

22 Q. Did you ever receive the balance of your fee before
23 performing the Siembra concert?

24 A. No.

25 Q. Did you suffer a loss of revenues because of not having

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1 received the funds?

2 A. Absolutely.

3 Q. Did you have occasion to learn about what had happened to
4 the monies sent by the promoters to the Martínez Morgalo &
5 Associates account after the show?

6 A. Yes.

7 Q. When was that?

8 A. At one point, I asked Juan Toro to please try to
9 communicate with Arturo so that he can explain to me what
10 happened about this.

11 Q. Did he communicate with you?

12 A. Yes. They set a meeting -- Juan Toro set a meeting at
13 his office.

14 Q. Do you know approximately when that meeting was?

15 A. It must have been after -- definitely, after the concert.

16 Q. Was it a few weeks? A few days?

17 A. What I remember is it must have been weeks after.

18 Q. Was -- had -- had Arturo Martínez actually been
19 hospitalized?

20 A. What I remember is that he had been in the hospital.

21 Q. But, when you saw him, it was outside of the hospital?

22 A. He was outside of the hospital when I saw him. I saw him
23 at Juan Toro's office.

24 Q. Was anyone else present during this conversation you had
25 with him?

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1 A. Yes.

2 Q. And, to the best of your recollection, what did he say to
3 you, and what did you say to him?

4 A. Well, he said basically --

5 MR. SAAVEDRA CASTRO: Objection, Your Honor.
6 Hearsay.

7 THE COURT: Overruled.

8 Who -- who is "He"?

9 THE WITNESS: I'm sorry.

10 At Juan Toro's office, with Juan Toro present, Arturo
11 Martínez said to me that they had -- they, meaning the
12 company, Martínez Morgalo, was going through certain hardship
13 because they had made some investments and some shows that
14 hadn't worked out, and, ultimately, they started diverting
15 funds that were coming -- that were supposed to be coming for
16 me to pay for the problems that they were having, the
17 shortages that there were having, economically speaking.

18 BY MS. GONZÁLEZ ROBINSON:

19 Q. What else was said to you if anything?

20 A. Well, he was -- you know, they -- he was very
21 embarrassed, very -- he felt terrible about what had happened.

22 But, basically, what he -- what he -- what he
23 confessed to me at that time was that they were having
24 economic problems and they were taking funds that were being
25 received as advances for shows that I was supposed to be

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1 making, not only shows in the States, but abroad, and they
2 were using that money to pay for their shortages.

3 Their shows had -- they were producing shows on their
4 own that weren't happening. Their shows were failing, and
5 they needed to make -- to make payments.

6 They apparently had made also loans on the street
7 from people who were pressing them now for payment, and they
8 were directing those moneys to pay for these -- for these
9 urgencies that they had.

10 Q. Did you have occasion to specifically discuss the \$62,500
11 paid in 2002 to their account, Martínez Morgalo's?

12 A. At one point, I asked what happened with the \$62,500, and
13 they said that they in fact had --

14 MR. SAAVEDRA CASTRO: Objection, Your Honor.
15 Hearsay.

16 THE COURT: Overruled.

17 THE WITNESS: -- that he had -- they had received the
18 money, but then said that -- you know, they had used the money
19 for the purposes that I was describing before.

20 BY MS. GONZÁLEZ ROBINSON:

21 Q. Was this the first time you learned about payment of the
22 \$62,500?

23 A. The first time I heard about it. From his mouth, yes.

24 Q. What if anything was told to you about the decision to
25 use or divert funds from the account? Who made that decision?

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1 A. What he told me -- meaning, Arturo -- was that it was a
2 decision that had been made by the both of them. And,
3 actually, Morgalo had instructed him what to pay and what not
4 to pay.

5 Q. After this explanation was given to you, what did you?

6 A. I got very angry, and, you know, I told them "Why didn't
7 you talk to me before -- when -- when all of this was
8 happening to you, why didn't you come to me and tell me "I
9 have a problem, we have a problem, you know, we -- we can't
10 meet some of the problems that we have"? And, you know ...

11 Q. Was there any money left to pay your balance of your fee,
12 or Willie Colón's balance of their fee?

13 A. Apparently, there was a balance that they never got to
14 use.

15 If I re -- what I remember is that, since the monies
16 hadn't been paid exactly on the dates that they were supposed
17 to be paid, there was apparently an last installment that had
18 been sent, and, at that time, the installment was not used by
19 the company, either by Morgalo or Martínez, and it was on
20 deposit.

21 There were over \$40,000 that we ended up having
22 access to, because his wife -- Arturo Martinez's wife -- told
23 Juan Toro that there was some money still there. Apparently,
24 I would imagine, by -- Arturo had told his wife about it. So,
25 we did recoup that -- that amount.

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1 Q. Was that all of the amount that was left in the account?

2 A. Yes.

3 Q. And did you actually receive that amount?

4 A. Yes.

5 Q. How did you receive it?

6 A. We received it -- there was a transfer, a wire transfer.

7 Q. What did you use the money for?

8 A. Well, we returned -- we paid back some money we had
9 loaned here. We --

10 Q. Who did you loan money to here -- or from?

11 A. Gilberto Santa Rosa loaned me money to pay the musicians
12 and expenses that we had here.

13 And then, part of the money, whatever was left was
14 sent also to Willie Colón.

15 Q. So, your testimony is you repaid the loan to Gilberto
16 Santa Rosa?

17 A. Absolutely. Every -- every money we took as a loan we
18 paid back right away.

19 Q. And the remainder -- the remaining balance you sent to
20 Willie Colón?

21 A. Yes.

22 Q. Where did you send it to?

23 A. To his office, the --

24 Q. Did you personally send that?

25 A. Yes. We sent it.

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1 Q. Do you remember how much the concert expenses were?

2 A. What I remember is we had about \$73,000, and it probably
3 would have gone a little higher, because there were other
4 expenses that were beginning to -- to be considered, things
5 that were not originally thought of, like, bodyguards, and
6 food, and things that came at the last minute.

7 Q. For which you had no receipts?

8 A. And a lot of those expenses came from Willie Colón. So,
9 no, I didn't.

10 MS. GONZÁLEZ ROBINSON: Your Honor, at this time, I
11 would like to offer into evidence -- or, refer to the summary
12 judgment record. Therein, there is total documented expenses
13 amounting to \$72,663.69. Those are actual -- with receipts.

14 I have them with me here in case Counsel wants to see
15 them again?

16 MR. SAAVEDRA CASTRO: 72,000?

17 THE COURT: Yeah.

18 MS. GONZÁLEZ ROBINSON: \$72,663.69.

19 And that includes everything the witness testified
20 to: airfare, hotels, rehearsals, transportation.

21 THE COURT: Are you quoting from my order, or no?
22 Are you quoting from my order or from your motion?

23 MS. GONZÁLEZ ROBINSON: From the summary judgment --
24 right. Yeah. The order refers to the --

25 THE COURT: Alright.

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1 MS. GONZÁLEZ ROBINSON: -- exhibits.

2 THE COURT: Okay.

3 MS. GONZÁLEZ ROBINSON: I don't believe those are in
4 controversy, Your Honor. They're undisputed.

5 THE COURT: Alright.

6 BY MS. GONZÁLEZ ROBINSON:

7 Q. Did you ever have to explain to the local taxing
8 authorities what happened with the -- with the concert?

9 A. Absolutely.

10 Q. Can you explain to the Court what happened?

11 A. Well, I went to Hacienda --

12 Q. When did you go to Hacienda?

13 A. Immediately after the concert.

14 Q. That would have been the next --

15 A. Yeah.

16 Q. -- business day?

17 A. It would have been around -- I think the next business
18 day, correct.

19 Q. Did you go there alone?

20 A. I went alone.

21 Q. Were you supposed to go there alone?

22 A. No. Willie Colón was supposed to be there too.

23 Q. Did Willie Colón accompany you to Hacienda?

24 A. No.

25 Q. Why did you have to go to Hacienda?

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1 A. I always had very, very, very clear the need to pay
2 taxes. And I've always been very puntacious (sic) about that.

3 And I've always -- every single time I come to Puerto
4 Rico, I make sure that I got to Hacienda and that I would deal
5 -- I have a person here that works with me all the time, a
6 Puerto Rican [Accountant], and the first thing I do is make
7 sure that everybody's paid taxes.

8 So, I went, because there was such a notorious
9 scenario, situation, \$350,000, and all of a sudden all of this
10 stuff happens, that I needed to talk to them and tell --
11 explain to them that we hadn't really received the money.

12 Usually, Hacienda takes a percentage, 30% or 35% of
13 whatever it is that the show is for, and I get -- we get the
14 rest after taxes are collected.

15 And, in this particular situation, given the fact
16 that I never had this problem before, I had to talk to
17 Hacienda personally, explain to them what had happened, and
18 explain to them that we would have to pay taxes at another
19 time because there was no money to be retained.

20 Q. Did you have to pay taxes over the entire amount of --

21 A. Absolutely.

22 Q. -- of your half of the fee?

23 A. I'm sure we did.

24 Q. Did you explain that you had not received the full
25 amount?

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1 A. Absolutely, I did. Yeah.

2 Q. What if anything did Hacienda do at the end?

3 A. They were very understanding. They gave us an extension.

4 And I also spoke -- I tried to defend Willie who
5 wasn't there, because I think he was on tour or I don't know
6 where, and I explained to them that Willie hadn't been able to
7 be there but he was aware of what was going on.

8 So, they were -- you know, for IRS, they were very
9 understanding. They gave us the opportunity to -- to extend
10 our period to pay.

11 Q. Did you ever receive the balance of your fee so as you
12 could pay Hacienda the rest of the money?

13 A. From the concert?

14 Q. Correct.

15 A. No.

16 Q. Do you know if Martínez Morgalo & Associates in fact
17 charged the \$35,000 as a commission?

18 A. Yes, they did.

19 Q. Is it your understanding that they were entitled to the
20 commissions for this concert?

21 A. Absolutely not. Given the betrayal of the fiduciary
22 duty, no.

23 Q. Did you ever recover their commission? Did they ever pay
24 you back the commission?

25 A. No.

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1 Q. What if anything did you -- did you sue Martínez Morgalo
2 & Associates?

3 A. No.

4 Q. Why did you not sue Martínez Morgalo & Associates?

5 A. My position in this was they didn't have any money. I
6 didn't think they had any money. If they had money, I don't
7 think they would have taken it from us.

8 And Arturo had a -- his wife was pregnant. Roberto
9 has a daughter with a heart problem. And I thought, you know,
10 why would I want to sue these people? I'm going to punish the
11 family.

12 So, you know, we just lost it. And what -- what can
13 you do.

14 Q. Did you ever discuss with Willie Colón the possibility
15 of --

16 A. Yes.

17 Q. -- seeking redress for -- legal or otherwise against the
18 company?

19 A. Willie wanted to sue them, and my position was -- and,
20 again, I said "Willie, the only way we're going to get our
21 money back is to make them work for us for free until we
22 collect whatever it is. Because, I'm not going to sue them,
23 because it's going to hurt the family. It's not going to
24 bring us the money. So, it doesn't make sense".

25 Q. What if anything did he tell you in response?

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1 A. He was upset about it. And I said "Well, I'm not going
2 to sue them". You know, he could sue them. Why didn't he sue
3 them? I -- I'm not going to sue them. I said "I'm not going
4 to sue them".

5 Q. Do you know what the remaining balance owing to you is at
6 this time from the fee of the concert?

7 A. Well, what I remember: The 62-5, \$62,500, and that should
8 have been split in two I believe, because I think, out of
9 that, Willie would get half.

10 And that money was never paid to me.

11 The balance, I think it was about, you know, \$70,000.
12 I don't remember.

13 Q. Are you referring to the shortage from the 2003 concert?

14 A. Yes.

15 Q. You're also claiming \$62,500 that was for your show that
16 was canceled?

17 A. Absolutely. Yeah. I'm sorry I get confused at times at
18 this.

19 True. There were \$62,500 -- I'm sorry -- let me
20 correct myself -- there were \$62,500 from a show that had been
21 canceled that I was supposed to have gone and I never did get.
22 And then, they applied that to this other show.

23 Plus -- plus whatever amounts -- I think it was
24 another 60 or whatever was owed to me from the show -- 70-
25 something.

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1 Plus the half of the fee. They don't -- you know, I
2 don't think -- I think that the fee should go back to us.

3 Q. The commission, you mean?

4 A. The commission fee: 17-5 each, for Willie and for me.

5 MS. GONZÁLEZ ROBINSON: Your Honor, other than
6 submitting into evidence portions of the video recording of
7 the press conference with -- I have the minutes, I have no
8 further questions for this witness.

9 But I don't know if the Court wants to see the press
10 conference at this time or save it for later.

11 THE COURT: No, you're in charge of the -- thank you.
12 Thank you, you may step down.

13 MS. GONZÁLEZ ROBINSON: Thank you.

14 THE COURT: You're not -- just have a seat a second
15 so I can think of this.

16 To cross examine him? You're not -- you don't
17 represent the --

18 MR. FRONTERA SUAU: We -- we're not representing the
19 corporation. We're representing Mr. Morgalo.

20 However, if there's some determination the Court may
21 -- may --

22 THE COURT: Whatever determination I make would -- I
23 would have to somehow tailor my opinion, because he's not
24 defaulted. So, I have to protect his rights.

25 MR. FRONTERA SUAU: That's --

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1 THE COURT: At the same time, I really look at this
2 in very narrow terms.

3 MR. FRONTERA SUAU: Okay. That's -- I -- I was -- I
4 just wanted to --

5 THE COURT: So, --

6 MR. FRONTERA SUAU: -- to get that clear.

7 THE COURT: -- I don't -- I doubt if Counsel is going
8 to disagree -- but I don't think that there's some type of
9 estoppel involved here or res judicata or -- as to Morgalo.
10 Whatever findings I make have to be tailored as to
11 the corporate entity.

12 MR. FRONTERA SUAU: The only issue is here, Your
13 Honor, that we --

14 THE COURT: And, precisely, if I deny you the right
15 to cross examination, well, that concept that I have has more
16 strength.

17 MR. FRONTERA SUAU: I'm -- I'm try -- I'm bringing
18 this up to you, Your Honor, because it has been mentioned by
19 counsel for Plaintiff that they -- their intention is to seek
20 redress Morgalo and equity for what the corporation would
21 be --

22 THE COURT: That may not -- that may not be that --
23 but, the idea of piercing the corporate veil is -- is foreign
24 to this --

25 MR. FRONTERA SUAU: So, the issue is --

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1 THE COURT: -- proceeding.

2 MR. FRONTERA SUAU: -- what -- what I want -- what I
3 want to get clear, Your Honor, is that, at the proper time, I
4 would have my right to cross examine this witness over this
5 issue with respect to my client.

6 MS. GONZÁLEZ ROBINSON: Your Honor, trial in this
7 matter has been scheduled for May. That is the time at which
8 we will make our allegations in official and personal capacity
9 against Mr. Morgalo.

10 THE COURT: And it's coming -- and it's -- it's
11 coming up. So, --

12 MR. FRONTERA SUAU: Okay.

13 MS. GONZÁLEZ ROBINSON: But, it's true that they are
14 jointly and severally liable.

15 THE COURT: Well, I understand that. It's just that,
16 at the same time, in my findings, at some point, whenever I
17 make them after today's hearing, then, you know, I'll address
18 that issue.

19 MR. FRONTERA SUAU: Okay.

20 THE COURT: Because, I can't make that finding as to
21 him, you know, based on this, you know. It's only as to the
22 corporate defendant.

23 MS. GONZÁLEZ ROBINSON: And, Your Honor, pursuant to
24 the sidebar we held, we are moving at this time to introduce
25 exhibit --

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1 THE COURT: Thank you. Thank you.

2 MS. GONZÁLEZ ROBINSON: -- identification (a) for
3 the -- into evidence, the contract.

4 THE COURT: Exh. No. (a) is allowed.

5 MR. SAAVEDRA CASTRO: Your Honor, you said that it
6 was subject to connection with --

7 THE COURT: It still is. I can take it out.

8 MR. SAAVEDRA CASTRO: Yeah.

9 THE COURT: You know, this is not a jury.

10 MR. SAAVEDRA CASTRO: Yeah, right.

11 THE COURT: So, I'm -- I'm allowing it. I'm allowing
12 its use, assuming it's going to go in.

13 MR. SAAVEDRA CASTRO: So, sorry, then. Yes.

14 THE COURT: Okay?

15 MR. SAAVEDRA CASTRO: Yes. Of course.

16 THE COURT: If not, then I -- alright?

17 MR. SAAVEDRA CASTRO: That's correct, Judge.

18 THE COURT: Alright.

19 MR. SAAVEDRA CASTRO: That's correct.

20 (Documents are reviewed)

21 MS. GONZÁLEZ ROBINSON: Your Honor, the next witness
22 we would call is Mr. Ariel Rivas.

23 THE COURT: I overruled your objection, 801 (d) (2) -
24 - (b), (c), or (d), one of those things that I --

25 MR. SAAVEDRA CASTRO: What?

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1 THE COURT: 801 (d) (2), (b), (c), or (d). That's
2 why I overruled both objections that you had.

3 (Documents are reviewed)

4 THE COURT: Take his oath.

5 (Ariel Rivas, cross-Plaintiff Witness, is hereupon duly
6 sworn as Witness and testifies as follows)

7 THE COURT: Do you understand English?

8 THE WITNESS: Yes, I do. Almost everything.

9 THE COURT: You almost understand English?

10 THE WITNESS: (No verbal response)

11 THE COURT: Alright. Okay. It's not going to work,
12 but that's okay. Now I owe her two lunches thanks to you.

13 DIRECT EXAMINATION

14 BY MS. GONZÁLEZ ROBINSON:

15 Q. Can you please state your full name?

16 A. Carlos Ariel Rivas Villamán.

17 Q. What is your age?

18 A. 32.

19 Q. How -- what is your profession?

20 A. I'm a promoter and a booking management -- Manager, I
21 mean, a booking manager for artists.

22 Q. And for how many years have you been engaged in that
23 profession?

24 A. For about 15 years.

25 Q. What work did you do in preparation for the practice of

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1 your profession?

2 A. Well, more than experience, it's just knowledge that you
3 acquire with time.

4 Q. Do you have any licenses in connection with your
5 profession?

6 A. Yes.

7 Q. What are they?

8 A. I have a promoter's licence in different countries.

9 Q. Can you tell the Court, please, what countries those are?

10 A. Dominican Republic, Costa Rica, Panama.

11 Q. And Puerto Rico?

12 A. Yes.

13 Q. Are you a member of any associations, business
14 associations?

15 A. No.

16 Q. Do you own a company?

17 A. Yes.

18 Q. What is that company's name?

19 A. Ariel Rivas Entertainment.

20 Q. And what is your relationship if any to Distar
21 productions?

22 A. I'm an associate.

23 Q. Who are you a partner with or an associate with?

24 A. In Distar, Danny Rivera.

25 Q. Are you Danny Rivera's agent?

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1 A. Yes.

2 Q. Do you know the firm of Martínez Morgalo & Associates?

3 A. Yes.

4 Q. How do you know them?

5 A. I met Roberto Morgalo and Arturo Martínez in the year
6 2002.

7 Q. What were the circumstances of that meeting?

8 A. We were interested in contacting Ruben Blades to do a
9 show in the Dominican Republic together with Daniel Rivera.
10 And Mr. Blades referred us to contact Martínez Morgalo.

11 Q. Did you in fact negotiate a show formally with the Office
12 of Martínez Morgalo & Associates for that Daniel Rivera-Ruben
13 Blades concert?

14 A. Yes. In the year 2002, we started doing negotiations in
15 order to set up a show in the Dominican Republic.

16 Q. What -- who did you negotiate that show with?

17 A. With Arturo Martínez and Roberto Morgalo.

18 Q. And what were the substance of the conversations?

19 A. It was the present a show with Ruben Blades and Daniel
20 Rivera in Altos de Chavón, Dominican Republic, in March 2002.

21 Q. And did that show take place?

22 A. No.

23 Q. Why did it not take place?

24 A. In February 2002, I took -- made a trip to Havana, Cuba,
25 with Danny, and I was incomunicado for about five days.

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1 At the moment I arrived, I immediately got in touch
2 with Roberto, and he told me -- and he told me that he had not
3 been able to get ahold of me, so he closed the show
4 immediately with the promoter over there in the Dominican
5 Republic.

6 Q. Do you know the name of that promoter?

7 A. Luis Medrano.

8 Q. Can you describe the nature of your relationship with
9 Roberto Morgalo?

10 A. During the year 2002, we started a business relationship,
11 and I accepted the lack of communication that occurred that I
12 took a closing of the show in the Dominican Republic with
13 Danny Rivera.

14 And I proposed to Roberto that I wanted to do a show
15 in Puerto Rico with Ruben Blades and Cheo Feliciano.

16 Q. And what did he say?

17 A. That, yes, that he was interested in our doing the show
18 in Puerto Rico.

19 Q. Did you then commence negotiations for a show in Puerto
20 Rico?

21 A. That is correct.

22 Q. What if anything did you come -- did you come to an
23 agreement?

24 A. Yes.

25 Q. What was that agreement?

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1 A. We picked a date for the show in December 2002.

2 Q. Did you make any payments --

3 A. Yes.

4 Q. -- to Martínez Morgalo & Associates?

5 A. Yes.

6 Q. What were those payments?

7 A. Right after May 2002, we decided and we agreed that the
8 fees for Ruben Blades would be \$125,000 for the show we were
9 going to do in Puerto Rico in December. And we sent the
10 deposit of 50%.

11 THE COURT: Who is -- who is "We"? You or your
12 company? Distar? Or --

13 THE WITNESS: Yes.

14 THE COURT: Go ahead.

15 BY MS. GONZÁLEZ ROBINSON:

16 Q. Were you negotiating that deal only with Distar or in
17 conjunction with another firm?

18 A. No. In this case, the negotiations were in conjunction
19 with Rompeolas César Seinz.

20 Q. Were the payments from one account vs. another encounter,
21 meaning Distar vs Rompeolas, the payment of the deposit you
22 mentioned?

23 INTERPRETER/TRANSLATOR: Pardon me? Could you repeat
24 it?

25 BY MS. GONZÁLEZ ROBINSON:

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1 Q. Were the deposits made by Distar or by Rompeolas?

2 A. Either -- either of the two companies. We had a common
3 account.

4 Q. What was the total amount paid on behalf of the show, the
5 Cheo Feliciano-Ruben Blades show?

6 A. The show was -- the total was \$125,000, of which \$62,500
7 was a deposit to be paid in four transfers by May 2002.

8 Q. Were those four transfers made to the Martínez Morgalo &
9 Associates account?

10 A. That is correct.

11 Q. Did you confirm receipt that the funds had been received
12 at their account?

13 A. Yes.

14 Q. Who did you confirm it with?

15 A. With the Office of Martínez Morgalo.

16 Q. Specifically, who did you talk to about it?

17 A. With Roberto.

18 Q. Did the show take place as scheduled?

19 A. No.

20 Q. Why not?

21 A. Well, at the same time that we had programmed the show,
22 Richie Rey and Bobby Cruz were going to do an anniversary
23 show. We thought it would be wise to postpone our show and
24 select another date, because it would be -- we would conflict,
25 since they had the same style and the same music as we do.

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1 Q. Did you agree on a different date to perform the concert?

2 A. Yes. That is correct.

3 Q. What was that date?

4 A. February 2003.

5 Q. Who suggested that date?

6 A. Well, César Sienz and I, as partners, well, we selected a
7 date, and we propose to Roberto Morgalo that we pick a date in
8 February.

9 Q. Do you remember the approximate time when you reached or
10 you communicated to Roberto Morgalo this new date?

11 A. It must have been between October and November 2002.

12 MS. GONZÁLEZ ROBINSON: Your Honor, I'm showing
13 Counsel what I've marked as cross-Plaintiff's (d) for
14 identification.

15 (Exh. No. (d) is hereupon marked for identification)

16 MS. GONZÁLEZ ROBINSON: May I approach the witness?

17 BY MS. GONZÁLEZ ROBINSON:

18 Q. I'm showing you Exh. No. (d) for identification. I ask
19 you to please take a look at that and read it.

20 (Documents are reviewed)

21 Q. Do you recognize Exh. No. (d)?

22 A. Yes.

23 Q. What do you recognize it to be?

24 A. It's a fax that I sent to César Seinz.

25 Q. When did you send it?

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1 A. October 30, 2002.

2 Q. Did you create that document?

3 A. Yes.

4 Q. Was it created on or about the time that it is dated?

5 A. Yes.

6 Q. Is it in the same or substantially the same condition as
7 it was when you prepared it?

8 A. Yes.

9 Q. What is it that you communicate to your partner in that
10 fax?

11 A. Should I read it?

12 Q. No.

13 A. That, because of the problems we had with the dates in
14 December, that I had spoken to Roberto and Arturo to move the
15 date to February.

16 Q. And do -- what if anything is stated about the remainder
17 of the fee?

18 A. That I had spoken to Roberto, and he acknowledged
19 receipt, and he certified that the 10% was still lacking to
20 complete the fees for Ruben Blades.

21 Q. So, by October 30, 2002, Martínez Morgalo & Associates
22 had received \$62,500 on behalf of the Cheo Feliciano-Ruben
23 Blades show?

24 A. That is correct.

25 MS. GONZÁLEZ ROBINSON: Your Honor, I move to enter

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1 Exh. No. (d) into evidence.

2 THE COURT: Any objection?

3 MR. SAAVEDRA CASTRO: Yes, Your Honor.

4 The document is not signed. The document has been
5 identified by the witness as a fax. There's no -- nothing in
6 the document that refers to it as fax information.

7 THE COURT: It's a fax that he sent. He generated
8 the fax. So, it doesn't have to be --

9 MR. SAAVEDRA CASTRO: That's our objection, Your
10 Honor.

11 THE COURT: Alright. It's overruled. And it's Exh.
12 No. (d).

13 (Exh. No. (d), previously marked for identification, is
14 hereupon the admitted into evidence)

15 BY MS. GONZÁLEZ ROBINSON:

16 Q. Did you continue negotiations, or did you close the sale
17 Feliciano deal with a date certain?

18 A. No. We continued negotiations.

19 Q. Did the show take place?

20 A. No.

21 Q. Why not?

22 A. Okay. We found a date for February 2003 to do the show
23 with Cheo, and I commented to Roberto Morgalo that we had
24 already come up with a date.

25 At that time, the orchestra that accompanied Ruben

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1 Blades was Eddie Tours from Costa Rica, and Eddie -- I mean,
2 Roberto Morgalo commented to me that, for the date that we
3 were proposing, Eddie Tours could not a company Ruben Blades.

4 I told Roberto that I wasn't contacting Eddie Tours,
5 I was contacting Ruben Blades. And Roberto told me that we
6 had a show that we could do in Puerto Rico which was the
7 celebration of the 25th anniversary of Siembra that was Ruben
8 Blades together with Willie Colón.

9 He told me that the negotiations would have to be
10 different because it was a much bigger show.

11 Q. Do you remember when he said this approximately?

12 A. That was, like, between October and December 2002.

13 Q. What if anything did you say when he proposed to you this
14 Siembra concert?

15 A. That I was interested, and that, to do that show, the
16 Siembra show, and that the deposit -- the money that we had
17 deposited up to that point would be credited to the Siembra
18 show.

19 Q. Why do you say this was obvious?

20 A. Well, we had made deposits to Rubén Blades for the
21 \$62,500. And, since the conflict arose that we could not do
22 the show on the date that we had selected because of the
23 conflict of genre, we moved it to February.

24 And because in February Eddie Tours was not going to
25 be able to accompany Rubén Blades, that's when the proposal to

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1 do Siembra with Willie Colón and Rubén Blades arose. And
2 Roberto told me that the economic terms -- correction --
3 financial terms were going to be much different because it was
4 a much bigger show.

5 We reached an agreement for \$350,000 for the
6 participation of Rubén Blades as well as Willie Colón. And
7 the \$350,000 was everything included.

8 Q. Did you request that the \$62,500 be applied towards that
9 new fee, larger fee, or was it proposed by Robert Morgalo?

10 A. No. It was proposed by Roberto.

11 Q. And did you accept that?

12 A. It wasn't a question of accepting. It was logical that
13 the money that we had already deposited for Rubén -- for Rubén
14 was going to be accredited to that show.

15 Q. And did you and your partner then officially desist from
16 doing the Cheo concert and then decided to do the Siembra
17 concert?

18 A. Yes. When Roberto proposed the new concept to us, we saw
19 that that new concept would have a greater potential, and we
20 accepted the new proposition.

21 Q. You stated the financial terms were \$350,000 all
22 inclusive, correct?

23 A. That is correct.

24 Q. What does that mean?

25 A. All the expenses incurred by the artist up to the point

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1 on which he reaches the stage. That includes rehearsals,
2 arrangements, airfare, hotels, per diems, security,
3 transportation, until he reaches the stage.

4 And we -- and we pay for stage, sound, lights,
5 rentals.

6 Q. What if any confirmation did you receive from the office
7 of Martínez Morgalo & Associates that they had authority to
8 represent Willie Colón?

9 A. At all times, when they -- when Roberto proposed to me
10 the Siembra show, he had -- Roberto not only saw it as one
11 single show, but he was, like, proposing a tour.

12 Q. Did he propose to you to do other cities?

13 A. Yes.

14 Q. Did he ask for deposits for those cities?

15 A. No. We told him that we were interested -- I told him
16 that I was interested and doing other shows in other
17 countries, and we set a final -- we negotiated finally the
18 concert for Puerto Rico.

19 Then, Roberto goes on to become Willie Colón and
20 Rubén Blades representative for the Siembra concert.

21 Q. By that, you mean Roberto, as officer of Martínez Morgalo
22 & Associates?

23 A. Correct.

24 Q. Do you know if Martínez Morgalo & Associates had
25 represented Willie Colón before?

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1 A. Yes, according to my understanding.

2 Q. Did you close the negotiations with the office of
3 Martínez Morgalo & Associates and specifically with Robert
4 Morgalo for the Siembra show?

5 A. Correct.

6 Q. When was that?

7 A. By December or November of 2002, the deal had already
8 closed to do the Siembra concert in May 2002.

9 Q. Was the contract --

10 INTERPRETER/TRANSLATOR: Correction: "2003".

11 BY MS. GONZÁLEZ ROBINSON:

12 Q. Was the contract executed?

13 A. Yes.

14 Q. When was the contract executed?

15 A. I don't exactly recall.

16 Q. Did Martínez Morgalo & Associates confirmed to you the
17 May 3rd date to do the concert?

18 A. Yes.

19 Q. When was the last time you talked to Roberto Morgalo with
20 respect to the Siembra show?

21 A. Well, in January 2003, Roberto told me that he had been
22 called to go to Iraq. And, in conversations with Arturo, he
23 tells me that a surprise party was being prepared for him in a
24 -- at his home in the United States -- I don't remember if it
25 was New Jersey or --

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1 Q. Did you attend that party?

2 A. Well, yes. By -- by that time, we had sort of a
3 friendship going on between us, because we had been in
4 conversations for around a little over a year. And I traveled
5 to New York to attend the surprise party.

6 Q. By -- by in January of 2003, how much money had you then
7 deposited toward the Siembra concert?

8 A. I would have to look at my files to answer that.

9 Q. Was Robert Morgalo aware of the remainder that was due
10 under the contract for the Siembra show?

11 A. Yes. Because, all of the negotiations were with Roberto.

12 Q. What did -- what if anything did he tell you about, after
13 his leaving for active duty, about the affairs for the
14 concert?

15 A. Well, I told him that I was somewhat surprised that he
16 was going to be leaving for Iraq, and then he (In
17 mid-answer) --

18 Q. Did he mention that he --

19 A. -- but that he had to, you know, do his duty with his
20 country and that everything was going to work out just fine,
21 that Arturo was going to be in charge, that if I had to get in
22 contact with him, to do so.

23 Q. Did he tell you during your January meeting that the
24 company Martínez Morgalo & Associates was under financial
25 distress?

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1 A. No. Not at all.

2 Q. So, what did -- what did -- did you talk about the
3 Siembra concert at all during your visit to the --

4 A. Yes, of course.

5 Q. -- party?

6 A. Yes, of course.

7 Q. Did you exchange telephone numbers?

8 A. No. Well, he said that he was going to be somewhat
9 incommunicado, because he was going to leave for Iraq, and
10 that if I needed anything, well, to get in touch with Arturo,
11 that everything was already set, squared away.

12 MS. GONZÁLEZ ROBINSON: Your Honor, I've marked Exh.
13 No. (e) for identification. I'm showing it to Counsel.

14 (Exh. No. (e) is hereupon marked for identification)

15 (Documents are reviewed)

16 MR. SAAVEDRA CASTRO: Your Honor, may we approach the
17 Bench, Your Honor?

18 THE COURT: Sure.

19 (Bench conference is held)

20 MS. GONZÁLEZ ROBINSON: Your Honor, we realize that
21 the fax publishing is this one, not this one. So, that --

22 THE COURT: Well, then, there's --

23 MS. GONZÁLEZ ROBINSON: -- I may have the wrong one
24 too.

25 THE COURT: -- no need for an explanation.

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1 MS. GONZÁLEZ ROBINSON: Alright. Your Honor, may I
2 approach the witness?

3 BY MS. GONZÁLEZ ROBINSON:

4 Q. I'm showing you a two page document which was marked Exh.
5 No. (e) for identification.

6 Can you please read it, and tell me when you're done?

7 (Documents are reviewed)

8 A. Yes.

9 Q. Can you please tell us what is Exh. No. (e)?

10 A. It's a fax that Martínez Morgalo sent where they're
11 confirming to me the date of May 3, 2003, with Rubén Blades
12 and Willie Colón in the Hiram Bithorn Stadium.

13 Q. Did you receive that fax?

14 A. Yes. That's my understanding, that I did receive it.

15 Q. What is the date on that fax?

16 A. January 22, 2003.

17 MR. FRONTERA SUAU: I have an objection, Your Honor.
18 The fax does not have a date. The letter sent my fax has a
19 date.

20 THE COURT: The fax doesn't have a date?

21 MR. FRONTERA SUAU: The fax does not have --

22 MS. GONZÁLEZ ROBINSON: The cover sheet is only --

23 MR. FRONTERA SUAU: -- the letter sent has a date.

24 THE COURT: Alright.

25 BY MS. GONZÁLEZ ROBINSON:

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1 Q. Is -- is it consistent with your memory that you received
2 a fax from Martínez Morgalo & Associates on or about January
3 22nd confirming the date for the concert?

4 A. Yes.

5 Q. Is the fax signed -- is the letter signed? I'm sorry.
6 The second page of the fax.

7 A. Yes.

8 Q. Who signs it?

9 A. Arturo Martínez.

10 Q. Do you remember having received a signed document from
11 Arturo Martínez?

12 A. Yes.

13 MS. GONZÁLEZ ROBINSON: Your Honor, I move to enter
14 Exh. No. (d) into evidence.

15 THE COURT: Any objection?

16 MR. FRONTERA SUAU: No, Your Honor.

17 MR. SAAVEDRA CASTRO: No, Your Honor.

18 THE COURT: Okay. Exh. No. (e).

19 (Exh. No. (e), previously marked for identification, is
20 hereupon admitted into evidence)

21 MS. GONZÁLEZ ROBINSON: Your Honor, Exh. No. (f) is
22 the 13 wire transfers that were made in total for \$351,000 --
23 \$351,000.

24 MR. SAAVEDRA CASTRO: This is going to be exhibit
25 what?

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1 MS. GONZÁLEZ ROBINSON: (f).

2 (Exh. No. (f) is hereupon marked for identification)

3 MR. SAAVEDRA CASTRO: Does that include the amounts
4 that were applied from the other concert to this concert?

5 MS. GONZÁLEZ ROBINSON: That's correct. The first
6 four wire transfers add up to \$62,500. And --

7 MR. SAAVEDRA CASTRO: Because, I'm a little confused,
8 because I thought Blades had said they had not received the
9 \$351,000, and that they had not applied the money for the
10 other concert.

11 Is your position -- is the position of your client
12 that they did in fact receive that money and apply it for the
13 other --

14 THE COURT: Are you -- are you just having a
15 conversation between -- you can talk -- this is excess for me.
16 So, you can talk soto voce, or you can talk to me.

17 MS. GONZÁLEZ ROBINSON: Your Honor, --

18 THE COURT: Go ahead. Go ahead.

19 MR. SAAVEDRA CASTRO: Well, she showed me the
20 document's, Your Honor, and I think that's --

21 THE COURT: I just don't know what you're doing.
22 You're --

23 MR. SAAVEDRA CASTRO: I'm trying to understand.

24 THE COURT: -- I'm not involved -- I'm not involved
25 in this conversation.

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1 MR. SAAVEDRA CASTRO: I'm just trying to understand,
2 Your Honor.

3 So, you'll have to go one by one, counselor, because
4 I -- I can't stipulate to a bunch of documents that you just
5 put it together.

6 MS. GONZÁLEZ ROBINSON: Alright. Your Honor, may I
7 approach the witness?

8 THE COURT: Go ahead.

9 MS. GONZÁLEZ ROBINSON: Thank you.

10 (This is done)

11 BY MS. GONZÁLEZ ROBINSON:

12 Q. I'm showing you Exh. No. (f) that has been marked for
13 identification, and I'd ask you to please review those
14 documents.

15 (Documents are reviewed)

16 Q. Do you recognize Exh. No. (f)?

17 A. Yes.

18 Q. What do you recognize it to be?

19 A. The 13 transfers that we did for Martínez Morgalo &
20 Associates. They add up to the total amount of \$350,000 --
21 \$351,000.

22 Q. And what are -- what are wire transfers? What is exactly
23 what is contained in Exh. No. (f)?

24 A. Well, like I said before, the first four transfers are
25 for \$62,500 that corresponded to the 50% deposit for the show

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1 the was going to be done with Cheo Feliciano.

2 Q. And can you please tell the Court what the dates and
3 amounts were that added to \$62,500?

4 A. \$12,500, May 21, 2002. \$20,000, June 27, 2002. \$20,000,
5 October 3, 2002. And \$10,000, October 29, 2002.

6 Q. And are all the wire transfers represented in these 13
7 pages from the -- from the banking institution Banco Popular?

8 A. Yes.

9 Q. And were they all deposited to the same account?

10 A. Yes.

11 Q. What was that account?

12 A. Martínez Morgalo & Associates.

13 Q. Where was their bank?

14 A. New York.

15 Q. New York City?

16 A. Yes.

17 Q. What -- what are the other -- the remaining transfer
18 amounts and dates?

19 A. Once we determined that the concept of the concert was
20 going to be changed, in order to do the concert with Rubén
21 Blades and Willie Colón, the rest of the transfers together
22 with the first four were the total amount agreed upon with
23 Roberto Morgalo.

24 Q. After the \$10,000 deposited on October 29, 2002, when was
25 the next wire transfer to Martínez Morgalo & Associates?

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1 A. The fifth transfer was on February 27, 2003.

2 Q. And that would have been after you received the signed
3 offer and you executed the contract for Siembra, correct?

4 A. Correct.

5 Q. And what was the amount of that fifth transfer?

6 A. \$72,500.

7 Q. Is there any reason why that was such a large amount in
8 comparison to the previous?

9 A. (In mid-answer)

10 MR. SAAVEDRA CASTRO: I'm sorry. This was for how --
11 how much?

12 MS. GONZÁLEZ ROBINSON: \$72,500.

13 BY MS. GONZÁLEZ ROBINSON:

14 Q. Do you remember why the amount was \$72,500?

15 A. Not exactly.

16 Q. What are the remaining dates and amounts, please?

17 A. The sixth transfer was for \$15,000 on March 7, 2003.

18 The seventh was for \$60,000, March 25, 2003.

19 And then, the eighth was for March 28, 2003, for
20 \$20,000.

21 And the ninth transfer was for \$10,500 on April 8,
22 2003.

23 And on February 22, 2003, a 10th transfer for
24 \$25,000. Correction: April 22, 2003.

25 The 11th transfer was for \$10,000 on April 24, 2003.

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1 The 12th transfer was for \$26,000 on April 29, 2003.

2 And a last transfer of \$52,500 on April 30, 2003.

3 It's -- it's labeled "Settlement of Siembra concert", for a
4 grand total of 31 -- I mean, pardon -- \$351,000.

5 Q. Is this the evidence you showed Mr. Rubén Blades before
6 he came to Puerto Rico?

7 A. That is correct.

8 Q. Did you personally fax these papers to him?

9 A. Yes.

10 Q. When was that?

11 A. Around five or six days before the concert. And Mrs.
12 Tuti Bou from Sony we sent her copies, and she also sent them
13 to Rubén Blades.

14 Q. Why were these payments made in these intervals?

15 A. Well, in the year 2002, Mr. Willie Colón had a lawsuit
16 with -- against Pepe Dueño for breach of contract, and he was
17 threatening to release to the media or to embargo the tickets.
18 We explained to Roberto that sales were slow. And, due to the
19 lawsuit that Willie had with Pepe, that people were somewhat
20 doubtful that the concert would ever take place.

21 Q. You said you talked to Roberto Morgalo about --

22 A. (In mid-translation)

23 Q. When did you talk with him about that?

24 A. That is correct.

25 Sometime in November, December, January. I told

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1 Roberto "We will be sending you the money. The important
2 thing is for you to know that, before the event begins, you
3 will have been paid completely".

4 And he said (In mid-translation) --

5 Q. And that was a material --

6 A. -- there was no problem with that.

7 Q. -- condition of the agreement?

8 INTERPRETER/TRANSLATOR: That was what?

9 BY MS. GONZÁLEZ ROBINSON:

10 Q. That was a material condition of the agreement?

11 A. That the total amount of the money for the concert be
12 deposited in the Martínez Morgalo account, yes.

13 MS. GONZÁLEZ ROBINSON: Your Honor, I would like to
14 show the Witness Exh. No. 1 that has been admitted into
15 evidence -- (a). (a).

16 (Documents are reviewed)

17 BY MS. GONZÁLEZ ROBINSON:

18 Q. Have you seen Exh. No. (a) before?

19 A. I saw it on the day of the deposition for the first time,
20 in February of this year.

21 Q. Exh. No. (a) is a copy of an engagement contract,
22 correct?

23 A. Correct.

24 Q. Is that the engagement contract you remember having
25 received from Martínez Morgalo & Associates?

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1 A. No.

2 Q. Why not?

3 MR. SAAVEDRA CASTRO: Well, Your Honor, what --
4 what's the point about why not, Your Honor?

5 THE COURT: But that's not --

6 MR. SAAVEDRA CASTRO: Objection. It's an irrelevant
7 question.

8 THE COURT: -- that's not -- that's not an objection.
9 Have a seat.

10 MR. SAAVEDRA CASTRO: I object to the question, Your
11 Honor.

12 THE COURT: Overruled.

13 Go ahead.

14 BY MS. GONZÁLEZ ROBINSON:

15 Q. How is the contract different from the one you saw?

16 A. In point 7 of the contract where it specifies the form of
17 payment, it says "A first deposit of \$62,500 which must be
18 paid immediately".

19 MR. SAAVEDRA CASTRO: Move to strike the statement,
20 Your Honor, because it's -- the record is not -- that document
21 is not in evidence, and he has read from the document.

22 THE COURT: It's overruled.

23 THE WITNESS: In the contract that Roberto Morgalo
24 and Arturo Martínez gave to me, those \$62,500 were credited in
25 that contract.

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1 MR. FRONTERA SUAU: Objection. The witness is
2 talking about a document that is not in evidence, Your Honor.

3 THE COURT: I understand that. It's overruled.

4 BY MS. GONZÁLEZ ROBINSON:

5 Q. Other than that point No. 7 and that first deposit, is
6 the contract the same?

7 MR. SAAVEDRA CASTRO: Objection, Your Honor. He's --

8 BY MS. GONZÁLEZ ROBINSON:

9 Q. To the one you remember --

10 MR. SAAVEDRA CASTRO: Objection.

11 BY MS. GONZÁLEZ ROBINSON:

12 Q. -- having received --

13 MR. SAAVEDRA CASTRO: Your Honor, we --

14 BY MS. GONZÁLEZ ROBINSON:

15 Q. -- from Mr. Morgalo.

16 MR. SAAVEDRA CASTRO: -- Your Honor, we all have a
17 copy of the document that was actually sent. There's no point
18 in referring to testimony from a document that's not in the
19 record when we have the document that is, really.

20 THE COURT: So, what is the grounds for your
21 objection?

22 MR. SAAVEDRA CASTRO: Your Honor, she's -- she's
23 asking the witness to read from -- to compare statements in a
24 document that's not in the record with the statements in a
25 document that's not in the record. Its double-triple hearsay,

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1 Your Honor.

2 MS. GONZÁLEZ ROBINSON: Your Honor, he's
3 testifying --

4 THE COURT: Overruled.

5 MS. GONZÁLEZ ROBINSON: -- from memory.

6 THE COURT: It's overruled.

7 BY MS. GONZÁLEZ ROBINSON:

8 Q. Are there any other differences that you recall from the
9 document that you did receive from the office of Martínez
10 Morgalo & Associates, in looking at Exh. No. 1 -- (a) --
11 sorry?

12 A. I understand that there are no other differences.

13 MS. GONZÁLEZ ROBINSON: Your Honor, I'm marking Exh.
14 No. (g) for identification.

15 (Exh. No. (g) is hereupon marked for identification)

16 MS. GONZÁLEZ ROBINSON: And, let the record reflect
17 that I'm showing it to Counsel.

18 (Documents are reviewed)

19 MR. SAAVEDRA CASTRO: Can we approach the Bench, Your
20 Honor?

21 THE COURT: Sure.

22 MR. SAAVEDRA CASTRO: Thank you.

23 (Bench conference is held)

24 MS. GONZÁLEZ ROBINSON: Your Honor, may I approach
25 the witness?

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1 THE COURT: Go ahead.

2 MS. GONZÁLEZ ROBINSON: I'm showing Mr. Rivas what
3 has been marked as Exh. No. (g) for identification.

4 BY MS. GONZÁLEZ ROBINSON:

5 Q. And I'd ask you to please take a look at that.

6 (Documents are reviewed)

7 Q. Do you recognize -- have you read the document?

8 A. Yes.

9 Q. Do you recognize Exh. No. (g)?

10 A. Yes. That is correct.

11 Q. What do you recognize Exh. No. (g) to be?

12 A. This is the contract that was given to me.

13 Q. Can you please state the difference in the item No. 7 in
14 that contract?

15 A. Yes. As I mentioned as to the difference between this
16 contract and the previous contract, in point 1, clause 7, in
17 the contract you showed me before it says in terms of form of
18 payment or deposit, that the \$62,500 had to be paid
19 immediately.

20 In the contract that was given to me, in the contract
21 was given to me, the \$62,500 appear credited on April 2nd --
22 in April 2002.

23 Q. And, other than the markings on the document that say
24 exhibit, is that document in the same or substantially similar
25 condition as it was when you received it from Martínez Morgalo

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1 & Associates?

2 A. Yes.

3 Q. Did you ever have an opportunity to produce that document
4 to Mr. Rubén Blades?

5 A. After the show, I prepared a binder for Mr. Blades in
6 terms of everything, all the documents and everything that
7 occurred in regard to the show.

8 All of the transfers, all of the negotiations that
9 had taken place, including all of the -- even of the contract
10 that I had received, all of that was included in the binder.

11 Q. Were you ever questioned by Mr. Blades specifically with
12 respect to the \$62,500 that show as a different amount in both
13 contracts?

14 A. (In mid-translation)

15 Q. When did he mention that?

16 A. Well, Mr. Blades mentioned that there was an amount -- he
17 didn't specify the amount -- but there was an amount that he
18 had to consolidate with his accountant. And, on the day of
19 the press conference, that he mentioned it.

20 And, on other occasions, he mentioned that he had to
21 reconcile the documents that I had sent it to him.

22 Q. Was it then that you showed him the first four wire
23 transfers, the first four papers of Exh. No. (g)?

24 A. (In mid-translation)

25 Q. I'm sorry. Exh. No. (f).

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1 A. Yes. There was a confusion at that moment, because he
2 didn't understand where the pending balance was. And we never
3 imagined that that balance had been credited. And it was in
4 that contract that Martínez Morgalo presented to us.

5 And it was later when we realized that \$62,500 were
6 missing, which were precisely the \$62,500 that we had sent.

7 And that's when we explained to Rubén "Rubén, those
8 \$62,500 that apparently do not tally was money that we sent to
9 you, to your representatives Martínez Morgalo in April 2002
10 and which were credited to the Siembra concert.

11 Q. Did Mr. Blades ever tell you about being informed of the
12 \$62,500 prior to your statements?

13 A. No.

14 Q. Did he ever receive those moneys?

15 A. I don't know.

16 Q. Did he ever consent to application of the credit?

17 A. The negotiation was done with those that were
18 representing -- representing Rubén Blades and Willie Colón. I
19 didn't negotiate directly with Rubén Blades.

20 Q. But, after the concert, did he ever -- did you have
21 occasion to discuss with him or he told you "I in fact
22 consented to the application of the credit --

23 A. Of course. When he realizes that the 13 transfers that
24 were done amount to the Total -- amount to the total sum of
25 the Siembra concert, that's when he figures it out, tallies in

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1 his mind, that the full amount of money was sent -- had been
2 sent -- correction.

3 Q. Did you have occasion to speak to Willie Colón about the
4 explanation of the wire transfers and the monies?

5 A. Not exactly an explanation. However, before the May 3rd
6 concert, I did speak to Mr. Colón on several occasions by
7 telephone to explain to him that we had sent all of the money
8 and that we had no communication with Arturo Martínez and we
9 wanted to know what was going to happen.

10 Q. To your knowledge, did Willie Colón receive what's been
11 marked as Exh. No. (f) and review it, the wire transfer
12 evidence?

13 A. Yes, that's my understanding.

14 Q. Do you know when he saw it?

15 A. Once we sent through Tuti Bou and myself of the documents
16 to Mr. Blades before the show, Mr. Blades and Mr. Colón came
17 to Puerto Rico and we held a press conference.

18 The first thing that Mr. Blades shows is the total
19 amount of transfers that we had made, and he did that together
20 with Willie. And both of them, well, affirmed that they had
21 received the amount stipulated and that that was the reason
22 that they had come to, you know, to present themselves,
23 because we had complied with our part of the contract.

24 And their representatives, Rubén Blades and Willie
25 Colón's representatives, were the ones who had not sent them

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1 the money.

2 Q. Did you confirm with anyone at Martínez Morgalo &
3 Associates receipt of the transfers 5 through 13?

4 A. Yes.

5 Q. Who did you confirm that with?

6 A. Every time I made a transfer, I would call the office and
7 say "I made a transfer for so much money". I think it was
8 Arturo's brother who worked with him who was the one who would
9 say "Yes, we received it already; no, we haven't received it;
10 and a few days -- so many days have passed".

11 The last few transfers were almost done on a weekly
12 basis; so, we were, like, constantly communicating: "Yes, we
13 received a transfer", "Yes".

14 Q. Did you also communicate with Arturo Martínez over the
15 phone?

16 A. Yes. Yes. We always communicated by phone, e-mail.

17 Q. Did you ever suspect that anything was wrong?

18 A. Not at all.

19 Q. When is the last time that you speak to Arturo Martínez?

20 A. Like, three days before the show.

21 Q. And what was the substance of that conversation?

22 A. They were rehearsing in New York with Willie Colón. And
23 I called him to tell him that to us it was important, because
24 the sale of the tickets was still slow, and I wanted Willie
25 and Rubén to come to Puerto Rico to do some publicity.

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1 Q. And what did Arturo Martínez tell you?

2 A. Rubén was supposed to arrive in Puerto Rico a week before
3 the show. And he told me that Rubén had had to go to a
4 medical appointment on Monday and that they were -- and then,
5 it was because they were still rehearsing in New York -- he
6 started giving me excuses why he couldn't -- they couldn't
7 come to Puerto Rico.

8 Q. Then what happened?

9 A. One night -- I don't remember the night exactly -- it was
10 they were rehearsing -- Tuesday or Wednesday or something --
11 they were rehearsing, and Arturo call me and said that they
12 were finishing rehearsing, that everything was fine, that it
13 was possible that, you know, Rubén and Willie were going to
14 leave for Puerto Rico the next day. And that's when Arturo
15 disappears.

16 Q. What do you mean by "He disappears"?

17 A. I never again was able to locate him. I never contacted
18 him. I started calling him on the phone.

19 And then, later on, Jaime Torres Torres of El Nuevo
20 Día called me to tell me that he had had an interview with
21 Rubén Blades where he was told that the show was not going to
22 go on because they had not received their money.

23 Q. And what happened next?

24 A. That's when we started trying to search -- I mean, to get
25 hold of Rubén Blades since Arturo was nowhere to be found.

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1 And, through Tuti Bou from Sony, I was able to
2 achieve direct contact, conversation with Rubén Blades for the
3 first time.

4 Q. Did you ever receive an offer from any third party to
5 record the Siembra concert on May 3, 2003?

6 A. Yes. That is correct.

7 Q. Who did you receive an offer from?

8 A. Since it was of the 25th anniversary, it was a
9 celebration of the most -- the salsa record that had sold the
10 most, Siembra, BMG made an offer to us for \$150,000 to record
11 the music of the concert.

12 THE COURT: How much?

13 THE WITNESS: [\$650,000].

14 INTERPRETER/TRANSLATOR: Oh, I'm sorry. 650. A

15 BY MS. GONZÁLEZ ROBINSON:

16 Q. That was to record it on video or audio?

17 A. Video, to do a DVD and CD.

18 Q. Did BMG contact you or César Seinz or both?

19 A. Me.

20 Q. Did you communicate this offer to Martínez Morgalo &
21 Associates?

22 A. Yes, of course.

23 Q. Who did you communicate it to?

24 A. I mean, I mentioned it to Roberto and to Arturo, because
25 BMG was very interested in doing it.

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1 Q. And what happened?

2 A. We never received a confirmation or an answer.

3 Q. From Martínez Morgalo & Associates?

4 A. That is correct.

5 Q. Do you know if they ever communicated that offer to
6 Willie Colón or Rubén Blades?

7 A. I learned after the show that it seems they never
8 mentioned it to them.

9 Q. Does this surprise you?

10 A. Of course.

11 Q. How so?

12 A. Because, a \$650,000 offer, and, if you consider that our
13 contract was \$350,000 and it was considered to be quite big,
14 to have an additional offer of \$650,000, it was \$1 million
15 that was going to be made in one night. And they didn't
16 answer.

17 Q. Do you remember when the offer was received from BMG and
18 when you communicated it to Martínez Morgalo & Associates?

19 A. Since we -- ever since we announced that we were going to
20 do the 25th anniversary concert for Siembra in December 2002,
21 Fernando Ramos, who was the BMG director, communicated with me
22 since I had had business with him in the past -- we had
23 recorded -- we had made a record with Danny Rivera in Carnegie
24 Hall, we had done something, some work in regard to Lucecita
25 Benítez -- and he said to me "Ariel, I want that show".

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1 Q. Do you remember when you communicated that intention of
2 BMG, of Fernando Ramos, to Martínez Morgalo & Associates?

3 A. Possibly two minutes later.

4 Q. Who paid the concert expenses?

5 A. The production part I paid it together with my partner
6 César Seinz. That included the promotion, stadium, chairs,
7 stage, lighting, sound.

8 Q. What about the other concert expenses that were covered
9 under the all-inclusive fee of the engagement contract?

10 A. Hotel expenses -- I remember Rubén started paying all the
11 expenses, and, at one point, he was short cash because (In
12 mid-translation) --

13 Q. Are you referring to --

14 A. -- he had to pay the payroll.

15 Q. -- the musicians salaries?

16 A. Yes.

17 He asked me if I could lend him the money at that
18 moment. I told him "Look, we have about a little over
19 \$600,000 at risk here, and we've had a lot of losses. I don't
20 know".

21 So, Rubén went to Gilberto Santa Rosa, and Gilberto
22 Santa Rosa lent him some money so he could pay the musicians.

23 I know that he used his credit card to pay for air
24 fare and to pay hotels. And the rest of the expenses I don't
25 know how he covered them.

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1 Q. Thank you.

2 MS. GONZÁLEZ ROBINSON: I have no further questions
3 for the witness.

4 THE COURT: Thank you. You may step down.

5 THE WITNESS: [Thank you].

6 (Previous witness is hereupon excused)

7 MR. SAAVEDRA CASTRO: Will the Court -- will the
8 Court allow me to make more questions, Your Honor?

9 THE COURT: No.

10 Your next witness?

11 MS. GONZÁLEZ ROBINSON: Your Honor, the cross-
12 Plaintiff calls Robert Morgalo as an adverse party.

13 THE COURT: We're breaking at 12:00 for lunch.

14 COURTROOM CLERK: Raise your right hand, please.

15 (Roberto Morgalo, cross-Plaintiff Witness, is hereupon
16 duly sworn as Witness and testifies as follows)

17 COURTROOM CLERK: You may be seated.

18 MS. GONZÁLEZ ROBINSON: Your Honor, I ask that I be
19 permitted to ask questions as if in cross examination.

20 THE COURT: That's fine.

21 MS. GONZÁLEZ ROBINSON: Thank you, Your Honor.

22 THE COURT: And we'll be -- will be referring to you
23 as Mr., probably, you know, with all respect to your rank.

24 THE WITNESS: That's okay, sir, Your Honor.

25 THE COURT: Alright. Go ahead.

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1 DIRECT EXAMINATION

2 BY MS. GONZÁLEZ ROBINSON:

3 Q. Mr. Morgalo, you are the president of Martínez Morgalo &
4 Associates. Isn't that correct?

5 A. I was.

6 Q. When did you stop being the president of Martínez Morgalo
7 & Associates, Inc.?

8 A. January 16, 2003.

9 Q. Pursuant to what did you stop being the president of
10 Martínez Morgalo & Associates, Inc.?11 A. When I got called to active duty, and I informed
12 everybody, including my partner -- my then-partner, Arturo
13 Martínez, that I would no longer be serving as capacity of
14 President of the company.

15 Q. Everybody meaning who? Arturo Martínez?

16 A. I informed Arturo Martínez. I informed -- well, I
17 informed everybody I knew that I was living to Iraq, that I
18 got called to active duty. So, yes.

19 Q. But was the company dissolved at that time?

20 A. No, it wasn't. But I was no longer acting as president
21 of the company.22 Q. Is there a governing board resolution? A shareholder
23 resolution?24 A. There was no time to do that. I actually just informed
25 Arturo Martínez. And my orders are specific of the day that I

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1 was supposed to report. And, from that point on, I actually
2 reported to -- to my unit.

3 Q. You reported to your unit in March. Isn't that correct?

4 A. That is not correct. I reported -- I got my orders, I
5 was on training exercises, and, on January 16, 2003, I
6 received the WARNO, what's called the warning order, which is
7 a verbal order pending the actual paper orders.

8 On January 16th, I got my orders to report on January
9 21, 2003. I had five days from the time I got the warning
10 order to the day I had to report to active duty.

11 Q. My question was: you left -- when did you leave the
12 continental United States?

13 A. I believe it was March 11, 2003.

14 But your question was when was --

15 Q. Sir, -- sir, you've answered my question.

16 A. Thank you.

17 Q. It is there any governing board resolution or a
18 shareholder resolution authorizing you to stop being the
19 president of Martínez Morgalo & Associates, Inc.?

20 MR. FRONTERA SUAU: Asked and answered, Your Honor.

21 THE COURT: It's overruled.

22 THE WITNESS: I don't understand the question.

23 BY MS. GONZÁLEZ ROBINSON:

24 Q. You came back to the United States, didn't you?

25 A. I don't understand the question. Well, I'm here now; so,

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1 I did, yes.

2 Q. Okay. And, after your return, did you then dissolve
3 Martínez Morgalo & Associates?

4 A. No. The company -- the company was administratively
5 dissolved in, I believe, 2005.

6 Q. Pursuant to what was it dissolved?

7 A. It was just dissolved by -- by the State of New York.

8 Q. The State of New York or the State of Delaware?

9 A. Well, in 2004, the State of Delaware voided the company.
10 And, in 2005, the State of New York dissolved,

11 administratively dissolved the -- we have what we call a
12 certificate of authority to do business in New York, which we
13 applied for an -- or, which was applied for in 19 -- in 2000.

14 And the State of New York dissolved that in 2005.
15 And, in 2004, the corporation was voided by the State of
16 Delaware, to my knowledge.

17 Q. Meaning, they informed you, the State of Delaware?

18 A. Excuse me?

19 Q. Meaning, the State of Delaware informed you that the
20 company --

21 A. They did not --

22 Q. -- was voided?

23 A. -- they did not inform me. It's public record. You can
24 check it out for yourself.

25 Q. So, you didn't take any affirmative steps to dissolve the

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1 corporation?

2 A. No, I did not.

3 That's because --

4 Q. That's okay.

5 A. Okay. Thank you.

6 Q. When did you organize Martínez Morgalo & Associates?

7 A. The company was formed in December of 1999.

8 Q. And you had a 51% interest. Is that correct?

9 A. That's correct.

10 Q. You also served as President?

11 A. That is correct.

12 Q. And, as president of Martínez Morgalo & Associates, you
13 had authority to sign tax returns. Is that correct?

14 A. Yes, I did.

15 Q. Have you produced all of the documents regarding the tax
16 returns of the company for the years in question?

17 A. All documents that I have, yes.

18 Q. Have you produced the documents from the Secretary of
19 State or the State of New York concerning the ineffectiveness
20 of Martínez Morgalo & Associates?

21 A. I just filed it earlier today. I don't have that.

22 Q. And you had authority to sign contracts on behalf of
23 Martínez Morgalo & Associates?

24 A. Yes.

25 Q. You had authority to sign contracts on behalf of the

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1 artists you represented, correct?

2 A. Yes.

3 Q. And, in fact, you managed the company?

4 A. Yes.

5 Q. You sought grants and sponsorships for Martínez Morgalo &
6 Associates, correct?

7 A. That's correct.

8 Q. And you sought loans on behalf of Martínez Morgalo &
9 Associates, correct?

10 A. Yes, I did.

11 Q. And you paid the staff, correct?

12 A. Well, the company paid the staff.

13 Q. Meaning, yourself and your partner, Arturo Martínez,
14 correct?

15 A. That's correct.

16 Q. What other employees did you have at Martínez Morgalo &
17 Associates?

18 A. We had, throughout the history of -- the time that I
19 served as president, which was from 2000 -- December 2000 --
20 or, January 16, 2003, over that timeperiod we had
21 approximately, on and off, 10 employees.

22 Q. What were your duties?

23 A. Well, my main responsibility in the company was to build
24 the company. It was to, you know, develop product or plans to
25 build the company, to grow the company. I would -- such as

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1 the Latin Nights at the Apollo, which was something that I
2 created, in 2001.

3 Q. The company was dedicated to representing artists in the
4 tropical salsa music, correct?

5 A. Yes. To represent artists and to book specific dates for
6 promoters who are looking to -- to -- to book dates, and to
7 produce events.

8 Q. And your main find was Mr. Rubén Blades. Isn't that
9 correct?

10 A. No.

11 Q. It is not correct that the higher volume from your
12 company came from representing Rubén Blades?

13 A. No.

14 Q. Who was your main clients?

15 A. Rubén -- Rubén Blades represented -- by 2002, Rubén
16 Blades represented maybe 10 percent of the company's income.

17 In 2002, the majority of the income that came in to
18 the company came in from Latin Nights at the Apollo. That was
19 our main client.

20 Q. What about 1999, 2000, 2001?

21 A. 1999, December 1999, we had just incorporated. We had
22 not -- we had no operation.

23 In 2000, Rubén Blades was the main artist. In 2001,
24 it was -- it was split a little bit. And then, in 2002, he
25 was no longer the main artist that we were --

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1 Q. What are the --

2 A. -- or the main -- the main source of income.

3 Q. What other clients or sources of income did you have?

4 A. Well, we had talent buyers from all over the country that
5 we booked, artists such as El Gran Combo, Oscar de León, Luis
6 Damón, Patrick Shannon, I mean, those are a bunch of artists
7 that we represented. I mean, we even booked Willie Colón.
8 So, you know, ...

9 But the bookings, but 2002, was not the major focus
10 of the company.

11 Q. And, in representing artists, what were your duties?

12 A. In representing artists?

13 Q. Correct.

14 A. Well, basically, if I negotiate a deal for an artist, I
15 communicate with the person who is presenting the offer for a
16 particular date. I present it and either run it through
17 Rubén, as an example, or run it through Arturo and Arturo
18 would present it to the artist. It depends.

19 Q. And, in fact, you've stated in admissions that -- during
20 the course of discovery, that your duties were to get the best
21 deal for the client. Isn't that correct?

22 A. That is correct, yes.

23 Q. And you had a duty of skill and diligence associated with
24 your profession. Isn't that correct?

25 A. Yes.

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1 Q. And a duty of loyalty. Isn't that correct?

2 A. Yes.

3 Q. And you had a duty of communicating to the client when
4 payments were received from promoters for shows. Isn't that
5 correct?

6 A. Yes. Absolutely.

7 Q. And did you charge commissions equal to 10% for all
8 shows --

9 A. Yes.

10 Q. -- of Rubén Blades?

11 A. Yes.

12 Q. Did you charge that off the top of every concert -- of
13 every payment?

14 A. Yes. Right off the top.

15 Q. Why did you do that?

16 A. Because, we're in a business of procuring dates. Our 10%
17 commission is how we make our money.

18 So, we just charge 10% of -- that's standard in the
19 industry. That's standard in the industry: 10% off the top.

20 Q. You negotiated with Ariel Rivas a concert in the
21 Dominican Republic with Rubén Blades. Isn't that correct?

22 A. In the Dominican Republic?

23 Q. Correct.

24 A. That's not correct.

25 Q. You negotiated with Ariel Rivas a show with Danny Rivera.

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1 Isn't that correct? You began negotiating it?

2 A. In the Dominican Republic?

3 Q. For the Dominican Republic?

4 A. Okay. I think it should be --

5 THE COURT: Don't give her instructions.

6 THE WITNESS: Okay. I'm sorry.

7 THE COURT: Go ahead. Go ahead.

8 THE WITNESS: I -- it's not -- it's not clear.

9 THE COURT: That's fine.

10 THE WITNESS: Thank you.

11 THE COURT: Go ahead. You asked -- you asked two
12 questions at the same time.

13 BY MS. GONZÁLEZ ROBINSON:

14 Q. You did negotiate with Ariel Rivas a show with Rubén
15 Blades and Danny Rivera. Isn't that correct?

16 A. Ariel Rivas made an offer, and I think it's clear -- I
17 need to be clear. The difference between an offer and a
18 negotiation, to me, they're two separate issues.

19 So, to be frank in answering the question, I need to
20 make sure that I make that clarification.

21 Ariel Rivas proposed a date in Santo Domingo with
22 Ariel Rivas -- excuse me -- with Danny Rivera and Rubén
23 Blades, yes. Proposed a date.

24 Q. But that never materialized, correct?

25 A. Not with Ariel Rivas, no.

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1 Q. No. You negotiated a concert with Luis Medrano, correct?

2 A. That was done through Juan Toro of David Maldonado
3 Entertainment, to the best of my recollection.

4 Q. But you did receive an offer from Luis Medrano for a show
5 in December in the Dominican Republic with Rubén Blades?

6 A. For December, yes.

7 Q. And you did, in fact, sign that deal?

8 A. Not to my recollection, no.

9 Q. You also negotiate with Ariel Rivas or received an offer
10 for a different show with Cheo Feliciano in December of 2002?

11 A. Yes, I did.

12 Q. And the original date was moved because there was a
13 conflict of dates, correct?

14 A. When you say original date, which --

15 Q. The date proposed initially, December 2002.

16 A. It wasn't moved. It was canceled by Ariel Rivas.

17 Q. But he had made payments, hadn't he?

18 A. He had paid \$62,500 as a deposit, not as per the
19 engagement agreement, but he did pay \$62,500 deposit for a
20 date with Rubén Blades by himself in December of 2002 in
21 Puerto Rico.

22 Q. And you didn't notify Rubén Blades of those payments, did
23 you?

24 A. I absolutely did notify Rubén Blades of that.

25 Q. How did you notify him?

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1 A. By phone, speaking to him. Just so we can be clear and
2 so that everyone can understand this much: the date that was
3 negotiated with Ariel Rivas for December was done sometime in
4 May of 2002.

5 Q. That was with you. Isn't that correct?

6 A. That was with me, yes. That date was with me. And it
7 was with Rompeolas, the company Rompeolas.

8 That date was negotiated sometime in May 2002 for a
9 show in December of 2002.

10 It is impossible that I would have a date that long
11 on the books and not inform Rubén Blades of that date.

12 Q. I didn't ask you about informing him of the date.

13 A. I --

14 Q. I asked you about the payments.

15 A. You asked -- and I informed him of the payments, yes.

16 Q. Do you have evidence of communications to Rubén Blades
17 informing him of receiving funds that you had?

18 A. Evidence?

19 Q. Correct.

20 A. You just asked me a question, and I asked you -- that I
21 spoke to him, and I told him yes.

22 I -- I -- I spoke to him of the deposits.

23 Q. Is there any written record of you informing him of funds
24 being paid into his account?

25 A. No.

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1 Can -- can -- I'm sorry -- can you re-ask that
2 question?

3 Q. Isn't it true -- isn't it true that the original date for
4 the Cheo concert was moved to February 16, 2003?

5 A. No. The show was canceled. The show in December was
6 canceled.

7 Q. You stated in your request for admissions that Ariel
8 Rivas proposed a second concert on February 16, 2003, for
9 another \$125,000. Is that correct?

10 A. That's correct.

11 Q. That would have been with Cheo Feliciano, correct?

12 A. I can't recall if it was with Cheo Feliciano or not.
13 But, just so we can be clear: The show in December was
14 canceled -- alright? That show was canceled, and, pursuant to
15 that engagement contract, Ariel Rivas, who, in my
16 relationships with him throughout the time, has not kept any
17 of the agree -- any of the terms of the contracts, had not
18 abided by any one of them.

19 Then, he cancels show on me, and, as per the
20 stipulations on the contract, he loses his deposit of \$62,500.

21 Then he proposes another show. Because, when he
22 cancels that show, I told Rubén Blades about that show, and I
23 spoke to Rubén Blades on the telephone. And I told him --

24 Q. When did you --

25 A. -- and he answered --

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1 Q. -- when did you speak to Rubén Blades on the phone?

2 A. As -- as soon as he canceled the show, that, after he
3 canceled the show and I told him that, and he comes back and
4 says he wants to do a date in February.

5 Q. When was the time that you spoke to Ariel Rivas?

6 A. It was sometime, I would say, in -- definitely before
7 December 2002, and it could have been any time after October.
8 I'm not specific with a date.

9 Q. And your testimony is that Blades agreed to apply his
10 portion of the deposit to the new February 16, 2003, date?

11 A. No.

12 Q. He didn't?

13 A. No. The way -- the way that this whole thing transpired:
14 he lost the \$62,500 deposit --

15 Q. Half -- half of a \$125,000 show?

16 A. Yes. Just so that we can be clear. I am not Ariel
17 Rivas's partner -- okay? Ariel Rivas is in the business that
18 he was going to make money or lose money.

19 If he makes a billion dollars in profit, if the
20 contract states it's \$125,000, I cannot demand nor is he
21 obligated to pay a penny more in monies to Rubén Blades,
22 because the contract says x-amount of dollars.

23 In the same token, if he's going to lose money or if
24 he loses money, he can't say "Rubén Blades has to pay me --
25 I'm going to pay less money to Rubén Blades".

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1 We don't assume the risks that he's going to assume.
2 When he enters into a contract and the contract says it's
3 \$125,000, and, if you cancel this date, you're going to lose
4 that deposit, he's aware that he's going to lose that \$62,500
5 deposit --

6 Q. And the artist --

7 A. -- if he cancels.

8 Q. And the artist keeps the money, correct?

9 A. Minus our commission, yes.

10 Q. So, you deducted a commission on half of a show that
11 never took place, --

12 A. No. We deducted a full commission for the full
13 contracted price, which is \$12,500, and \$50,000 was sent to
14 Rubén Blades which was his portion of that money.

15 Q. And at what time did he send it back to you and said
16 "Apply it towards the February 16, 2003, date"?

17 A. He did. That's a whole separate date that never
18 materialized, because the whole way that second show can about
19 is because Ariel Rivas was so upset about losing the \$62,500
20 he proposed a second date of February -- alright? -- so that
21 he can at least recoup from the profits the \$62,500 that he
22 lost for canceling that date.

23 Q. Do you remember producing a response to a request for
24 admissions?

25 A. Yes.

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1 Q. Do you remember signing that under oath --

2 A. Um hum.

3 Q. -- on December 31, 2008?

4 A. Yes.

5 Q. Do you remember stating in your answers that "Blades
6 agrees to apply his portion of the deposits from the December
7 7, 2002, canceled the show towards the new show of February
8 16, 2003"?

9 A. Yes, I do remember that.

10 Q. And, thus, \$50,000 was applied as a deposit towards this
11 February 16, 2003, show?

12 A. Yes.

13 Q. So, were you lying then, or are you lying now?

14 A. I'm not lying in either one.

15 Just so we can be clear: I wrote that when I was
16 being pro se attorney -- okay? I was being very facetious,
17 and, obviously, it didn't transfer well into what I was saying
18 in the paper. But I was being very facetious to prove how
19 ridiculous it would be to do that.

20 And, again, I was acting pro se --

21 MS. GONZÁLEZ ROBINSON: Your Honor, I move to strike
22 everything after "Yes".

23 THE COURT: It's stricken.

24 MS. GONZÁLEZ ROBINSON: Thank you.

25 THE COURT: It's stricken. Ask another question.

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1 BY MS. GONZÁLEZ ROBINSON:

2 Q. You proposed a Siembra show to Ariel Rivas, didn't you?

3 A. No, I did not.

4 Q. You in fact offered that after you canceled the February
5 16th date?

6 A. No, I did not.

7 Q. After saying that Eddie Tours wasn't available to
8 accompany Blades on that date?

9 A. No, I did -- no, I did not.

10 Q. But you did negotiate the Siembra concert as an officer
11 of Martínez Morgalo & Associates, did you not?

12 A. No, I did not.

13 Q. Didn't you admit to that in your response to the cross-
14 claim, amended cross-claim?

15 A. No, I did not.

16 Q. And you were represented by Counsel when you answered the
17 cross-claim, didn't you?

18 A. I did not answer those -- that -- that.

19 MS. GONZÁLEZ ROBINSON: Your Honor, refer to exhibit
20 -- I'm sorry -- to the answer to the amended cross-claim.
21 That is docket 67.

22 (Documents are reviewed)

23 MS. GONZÁLEZ ROBINSON: Paragraph #13 states: "It is
24 admitted that upon information and belief on or about January
25 22, 2003, an engagement contract was entered into for the

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1 purposes stated in paragraph 13 of the amended cross-claim.

2 MR. SAAVEDRA CASTRO: If the purpose of that is
3 impeaching, that is not -- that does not impeach the witness.

4 THE COURT: It doesn't.

5 Go ahead. Ask a question.

6 BY MS. GONZÁLEZ ROBINSON:

7 Q. Do you deny conversations with Ariel Rivas about the May
8 3rd date?

9 A. For the one for Siembra?

10 Q. Correct.

11 A. Yes.

12 Q. And you denied having offered it as a tour, correct?

13 A. Yes.

14 Q. Did you offer it to other promoters --

15 A. No.

16 Q. -- in Latin America?

17 A. No.

18 (Documents are reviewed)

19 THE COURT: How much longer are you going to be with
20 the witness?

21 MS. GONZÁLEZ ROBINSON: Your Honor, I would like to
22 cover --

23 THE COURT: In terms of minutes, how much time?

24 MS. GONZÁLEZ ROBINSON: Minutes? 15 minutes.

25 MR. SAAVEDRA CASTRO: 50 or 15?

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1 MS. GONZÁLEZ ROBINSON: 15.

2 MR. SAAVEDRA CASTRO: Okay.

3 BY MS. GONZÁLEZ ROBINSON:

4 Q. You stated in 2000 to Rubén Blades was not the main
5 source of income of Martínez Morgalo & Associates, correct?

6 MR. FRONTERA SUAU: Asked and answered, Your Honor.

7 THE COURT: Sustained.

8 BY MS. GONZÁLEZ ROBINSON:

9 Q. What was the main source of income?

10 A. Latin Nights at the Apollo.

11 Q. That was a series of shows that you produced?

12 A. That the company produced, yes.

13 Q. Isn't it true that those shows failed?

14 A. No.

15 Q. Isn't it true that that's the reason that you asked for
16 an economic injury disaster loan to the Small Business
17 Association at the end of 2001?

18 A. No. Just so you know: In 2001, -- in 2000, our first --

19 MS. GONZÁLEZ ROBINSON: Your Honor, move to strike
20 as non responsive.

21 MR. FRONTERA SUAU: Your Honor, --

22 THE COURT: No, no.

23 MR. FRONTERA SUAU: -- she asked a question --

24 THE COURT: Just that you -- no, no. He's an adverse
25 witness, and she has a right to have her questions asked

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1 (sic), that's all.

2 Go ahead.

3 BY MS. GONZÁLEZ ROBINSON:

4 Q. You did apply for an economic injury disaster loan to the
5 Small Business Association, didn't you?

6 A. Yes.

7 Q. And that was approved in February of 2002?

8 A. Yes.

9 Q. You said your company was in severe financial distress,
10 did you not?

11 A. It's -- it's possible.

12 Q. You stated that your company was going to have trouble
13 booking business in 2002.

14 A. It's because of 9-11, yes. It was a projection. It was
15 -- the answer is yes, but the way you're asking the
16 question --

17 Q. And in mid-2002, you asked for an enlargement of that
18 loan. Isn't that correct?

19 A. Yes.

20 Q. And you used the funds that were approved by the Small
21 Business Association to pay other loans. Isn't that correct?

22 A. It was -- it was a stipulation of the loan.

23 Q. You paid --

24 A. And those --

25 Q. -- three different loans with the funds provided by the

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1 SBA.

2 A. That was a stipulation of the loan, because it was loans
3 that I had taken out in my own, my mortgage loans and bridge
4 loans that we had taken out right after 9-11, and we had
5 applied for the -- for the relief loan, and part of that --
6 the terms of that loan was to pay off the other loans.

7 Q. You also received \$100,000 from Pirnot Ricard in 2002,
8 December of 2002, correct?

9 A. That's -- that's correct.

10 Q. And you -- you sought that on behalf of Martínez Morgalo
11 & Associates.

12 A. That's a sponsorship for the Latin Nights at the Apollo.

13 Q. You also received other private and government grants,
14 didn't you?

15 A. Of course. We applied for them. They were there to be
16 applied for, and, yes, we got -- and just so you know: the
17 \$100,000 grant -- alright? -- you have to be financially
18 viable to get the grants.

19 Q. And your testimony is that Martínez Morgalo & Associates
20 was in solid financial condition at the end of 2002. Is that
21 correct?

22 A. It was -- it was in good financial conditions in 2002
23 when I left, yes.

24 Q. And you continue to overlook the company finances?

25 A. Excuse me?

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1 Q. You continue to overlook --

2 MR. SAAVEDRA CASTRO: "To oversee".

3 BY MS. GONZÁLEZ ROBINSON:

4 Q. -- the company finances after you left for Iraq. Isn't
5 that correct?

6 A. That is not correct.

7 Q. So, you just forgot about the company?

8 A. You know, no, I did not just forget about the company.

9 Q. You kept communicating with Arturo Martínez from where
10 you were stationed. Isn't that correct?

11 A. That is not correct.

12 Q. And you ask him to make payments for certain creditors,
13 correct?

14 A. That is not correct.

15 Q. And you directed him to pay debts of the company. Isn't
16 that correct?

17 A. That is not correct.

18 Q. And he informed you that he was receiving funds from
19 Ariel Rivas for the Siembra show?

20 A. That is not correct.

21 Q. Do you deny talking to Ariel Rivas on January 16, 2003,
22 at your goodbye party in --

23 A. No. He showed up to my house.

24 Q. And you talked about Siembra, didn't you?

25 A. No, we did not.

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1 Q. He didn't mention Siembra at all?

2 A. No, he did not.

3 (Documents are reviewed)

4 Q. You received another \$150,000 from Prestige Capital on
5 December 9, 2002, correct?

6 A. That is correct.

7 Q. And, prior to your deployment, you received a total of
8 \$350,000, not counting commissions earned in December 2002,
9 correct?

10 A. Can you -- can you re--- I'm sorry?

11 Q. You have not produced your tax records for 2002. Is that
12 correct?

13 MR. FRONTERA SUAU: Your Honor, there's a question
14 pending, and she's asking another question.

15 THE WITNESS: Yes, Yeah, Yeah.

16 MS. GONZÁLEZ ROBINSON: I withdraw the question.

17 MR. FRONTERA SUAU: What question?

18 THE COURT: The one that he didn't answer.

19 MS. GONZÁLEZ ROBINSON: The one he didn't answer.

20 THE COURT: That's the one that's withdrawn.

21 THE WITNESS: Okay. Can you --

22 BY MS. GONZÁLEZ ROBINSON:

23 Q. You did not produce your personal -- the company
24 financial -- tax returns for the year 2002, correct?

25 A. I turned in whatever I had.

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1 Q. You did not produce your company and financials for 2002.

2 A. I can't remember. But I turned in whatever I had.

3 Q. But, yet, you state that, by December 2002, Martínez
4 Morgalo had received a total of \$350,000, not counting
5 commissions earned in 2002.

6 A. I believe that was just during that time in December. I
7 mean, we've actually -- it could have been more than that.

8 Q. After you left the continental United States, did you
9 care to know what happened to all this money that was
10 deposited into Martínez Morgalo & Associates?

11 A. Well, of course.

12 Q. Did you care to know what happened to your partner?

13 A. Of course.

14 Q. Did you learn that he had tried to commit suicide?

15 A. Yes.

16 Q. When did you learn that?

17 A. I went -- I was sent sometime in June --

18 Q. Why is it funny to you?

19 A. I'm going to tell you why it's funny -- okay? And it's
20 not funny. I'm really pissed off about it. So, let me
21 explain.

22 THE COURT: Alright. We're going to do this: --

23 THE WITNESS: I'm sorry, Your Honor.

24 THE COURT: No, no, no.

25 THE WITNESS: I apologize.

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1 THE COURT: No, no, no. We're going to recess now.
2 I don't think I'm available probably until 3:30.

3 So, I'm going to ask you to come back. Don't discuss
4 your testimony with anyone. I won't comment on your comment.
5 We'll see you at 3:30. Alright? I have other things I have
6 on calendar, and I have something official that I have to take
7 care of -- alright? 3:30.

8 MS. GONZÁLEZ ROBINSON: Thank you, Your Honor.

9 COURTROOM CLERK: All rise. Court recesses until
10 3:30.

11 (Court stands in recess and will continue into afternoon
12 session at 3:30 p.m.)

13 (11:46 a.m.)

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1 AFTERNOON SESSION

2 (3:49 p.m.)

3 THE COURT: Robert Morgalo is he here?

4 COURTROOM CLERK: Yeah, he's right here.

5 MR. SAAVEDRA CASTRO: Yes, Your Honor.

6 THE COURT: Could you resume the witness stand,
7 please?

8 (This is done)

9 THE COURT: How many exhibits do you have that you're
10 going to be presenting?

11 MS. GONZÁLEZ ROBINSON: How many -- I'm sorry, Your
12 Honor?

13 THE COURT: Exhibits that you have now that you're
14 going to be presenting with Mr. Morgalo.

15 MS. GONZÁLEZ ROBINSON: I have about 10 exhibits,
16 but they're all related to one topic. And it should be pretty
17 fast unless we have any controversies.

18 THE COURT: You're still under oath.

19 THE WITNESS: Yes, Your Honor.

20 Your Honor, is there any way I can get some more
21 water?

22 THE COURT: It's empty?

23 THE WITNESS: Yeah. Sorry.

24 (There is a short pause in record)

25 THE COURT: Can I talk to Counsel a second?

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1 (Bench conference is held)

2 THE COURT: Your witness.

3 BY MS. GONZÁLEZ ROBINSON:

4 Q. Mr. Morgalo, before we recessed, you were indicating that
5 you took affirmative steps to find out about your company
6 after you were deployed. Is that correct?

7 A. Well, I was in -- in Iraq.

8 Q. What affirmative steps --

9 A. I'm going --

10 Q. -- did you take?

11 A. -- I'm going to get to that -- okay?

12 I was in Iraq, and I was ordered to go to Kuwait.

13 Q. What affirmative steps did you take --

14 A. I'm trying to answer the question.

15 Q. -- to find out about --

16 A. I'm telling -- I'm explaining --

17 Q. -- the company?

18 A. -- the affirmative steps that I took.

19 MR. SAAVEDRA CASTRO: Counsel made an open-ended
20 question, and he's answering.

21 THE COURT: It's -- I find it an open-ended question,
22 and he's going through it.

23 THE WITNESS: Thank you, Your Honor.

24 I was in Iraq, and I --

25 THE COURT: Don't -- well, let me -- let me explain

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1 something too.

2 THE WITNESS: I'm sorry, Your Honor.

3 THE COURT: It's not that I'm giving you a great
4 invitation, --

5 THE WITNESS: I've got you, Your Honor.

6 THE COURT: -- but, at some point, things might be
7 limited -- okay?

8 THE WITNESS: I've got you. Alright.

9 THE COURT: Okay.

10 THE WITNESS: I was in Iraq, and my commander ordered
11 me to go to Kuwait to get some medical supplies.

12 As I'm going to Kuwait to get medical supplies, I ran
13 into someone who had a satellite telephone. At that point, I
14 had availability to be able to call somebody just to be able
15 to call somebody. So, I paid this person money so I could use
16 his satellite phone, and I was able to make phone calls.

17 At that time, I called Totally Touched (sic), who was
18 an artist that I know would be up at that time because of the
19 difference of times, and, when I called him, I found out
20 through a conversation with him that something had happened.

21 And when he -- when I asked him what had happened, he
22 told me -- excuse my French -- he said "Shit went down" --
23 just like that -- "Shit went down, and things happened with
24 Arturo".

25 You know, and "What happened"? And he couldn't tell

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1 me.

2 So, immediately, I started spending money on that
3 satellite phone, and I contacted Juan Toro's office.

4 BY MS. GONZÁLEZ ROBINSON:

5 Q. When was this?

6 A. This was some time in June or the beginning of July of
7 2003. And I was there for three weeks. I was there in Kuwait
8 for three weeks.

9 And, while I was there getting the medical supplies
10 and making the phone calls, I had contacted Juan Toro's
11 office.

12 I called Rubén, left him a message at his phone in
13 Los Angeles. I -- I didn't get ahold of him then. I called
14 Juan Toro's office, and it was at Juan Toro's office when I
15 called Juan Toro's office that Angela answered the phone.

16 And Angela told me -- she was laughing at that time --
17 -- that's why I told you I was upset and I was pissed off --
18 because, I had -- Arturo is someone I care about very much,
19 someone who I have -- he was my partner, he was my friend and
20 someone I trusted.

21 Q. Is that why you filed the third-party complaint today
22 against him?

23 A. Can I finish answering this question before answering
24 another question, please?

25 Q. Is it because --

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1 MR. SAAVEDRA CASTRO: Your Honor, he's answering --

2 MS. GONZÁLEZ ROBINSON: He answered my question --

3 MR. FRONTERA SUAU: Your Honor, objection.

4 THE COURT: No, no.

5 MR. SAAVEDRA CASTRO: Your Honor, objection.

6 THE COURT: You know what the problem --

7 MR. FRONTERA SUAU: I have an objection.

8 THE COURT: No, no, no. No, no. Your objection is
9 overruled.

10 In general terms, Counsel, -- people, you may not
11 enjoy this -- but there are certain rules, and I have to
12 interpret them.

13 THE WITNESS: Um hum?

14 THE COURT: She's generally controls the
15 examination --

16 THE WITNESS: Um hum?

17 THE COURT: -- of what we call an adverse witness or
18 a hostile witness on cross examination. That's the way I'm
19 treating this examination, although she has called you.

20 THE WITNESS: Um hum?

21 THE COURT: And she actually controls the examination
22 up to a point, --

23 THE WITNESS: Um hum?

24 THE COURT: -- you know.

25 Right now, I'm thinking you're going beyond something

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1 that I would consider responsive.

2 She wants to interrupt, and I am allowing the
3 interruption. So that, although you would like to explain, I
4 won't be allowing --

5 THE WITNESS: I've got it.

6 THE COURT: -- you to explain. Okay?

7 THE WITNESS: Yes.

8 THE COURT: So, -- okay.

9 THE WITNESS: To the answer to that question --

10 THE COURT: And let me -- and let me explain
11 something else.

12 THE WITNESS: Yes? Um hum?

13 THE COURT: Your attorney has the opportunity to
14 examine you later --

15 THE WITNESS: I -- I understand.

16 THE COURT: -- if I do not allow you to talk.

17 THE WITNESS: I understand. I understand, Your
18 Honor. I --

19 THE COURT: Okay. I just want --

20 THE WITNESS: -- I know the rules. I'm just not
21 familiar with them, and -- and --

22 THE COURT: But you're familiar --

23 THE WITNESS: -- I'm trying.

24 THE COURT: -- with certain degrees of decorum.

25 THE WITNESS: Yes. Yes.

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1 THE COURT: Okay.

2 THE WITNESS: Okay.

3 The answer to your question is no, that is not why --
4 okay?

5 And, to continue answering your questions, it was at
6 that time that I found out through Angela -- from David
7 Maldonado Entertainment that I do know he had tried to kill
8 himself.

9 And she was laughing at the time when she told me
10 this.

11 BY MS. GONZÁLEZ ROBINSON:

12 Q. So, your --

13 A. And that's when I found --

14 Q. -- testimony is that the first time you heard about
15 Arturo's attempted suicide was July 2003?

16 A. June or July, yes.

17 Q. Was this the first time you also heard that there had
18 been a concert in Puerto Rico for Siembra, the celebration of
19 Siembra?

20 A. Yes.

21 Q. Who told you about that?

22 A. Excuse me?

23 Q. Who told you about the Siembra concert?

24 A. They told me about a concert in Puerto Rico that there
25 was a problem with.

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1 Q. The first time you heard about the concert in Puerto
2 Rico?

3 A. With Totally Touched, when I spoke to him, he told me.

4 And then, when I spoke to Angela at that time, that's
5 when they told me there was a show in Puerto Rico. The only
6 information that I had at that time -- this is what Angela
7 told me -- alright?

8 She -- she was laughing, telling me that my friend,
9 Arturo -- and our friend, because he's her friend too -- she
10 was laughing at the time that she told me that Arturo tried to
11 kill himself, that my company went bankrupt. I mean, she was
12 just so happy to tell me this that you could hear it in her
13 voice.

14 I got so upset I said "Let me talk to Juan Toro".
15 Juan Toro wasn't there.

16 I finally was able to talk to Juan Toro from Kuwait,
17 and he explained to me everything that happened. He told me
18 there was a show in Puerto Rico. He showed me that -- he told
19 me that Arturo disappeared with the money -- there was, like -
20 - I mean, according to him, there was, like, \$150,000,
21 \$200,000. I mean, I was just now getting all this information
22 from Juan Toro.

23 Q. Before that, you never called Arturo Martínez?

24 A. No.

25 Q. Before that, you never called Rubén Blades?

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- 1 A. No.
- 2 Q. Before that, you never called Ariel Rivas?
- 3 A. No.
- 4 Q. What did you do after you learned that shit went down?
- 5 A. I just told you I called Juan Toro, I called Rubén
6 Blades, and I spoke to Angela, and I spoke to Juan Toro and
7 Angela. And I left a message with Rubén Blades.
- 8 Q. And what did you do about your company?
- 9 A. Well, ma'am, I don't know if you know, but I was in
10 combat, --
- 11 Q. No, I don't know.
- 12 A. -- and there was nothing I could do.
- 13 Q. I don't know. That's why --
- 14 A. Okay.
- 15 Q. -- I'm asking.
- 16 A. Okay.
- 17 Q. What if anything did you do with your company?
- 18 A. From Iraq?
- 19 Q. At the time you learned that shit had gone down.
- 20 A. Nothing.
- 21 Q. Did you ever call Arturo Martínez after you learned that
22 he had attempted suicide?
- 23 A. No.
- 24 Q. Did you ever speak to him after that?
- 25 A. No.

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1 Q. Did you ever contact him in any way, send him an e-mail?

2 A. I tried. When I came -- when I came back from
3 deployment, I tried.

4 I tried. When I came back from deployment sometime
5 in 2000 -- as a matter of fact, it was, like, November or
6 December of 2004 I was down in Fort Jackson, South Carolina,
7 and I contacted the prison, and I tried to see if I could
8 visit him.

9 Q. Did you send him a letter before that while you were in
10 Iraq?

11 A. I -- I -- yes, I think I did send him a letter when I was
12 in Iraq.

13 Q. Where did you send the letter to?

14 A. I believe it was to his house.

15 Q. And what was the purpose of writing him?

16 A. Because, I had -- you know why? Because I had just found
17 out about what was going on, and I sent him a letter.

18 Q. What did you say in the letter?

19 A. Well, I don't have a letter in front of me. So, I can't
20 -- I can't -- I can't recall what I said.

21 MS. GONZÁLEZ ROBINSON: Your Honor, I've marked Exh.
22 No. (h) for identification purposes, and I'm showing it to
23 Counsel.

24 (Exh. No. (h) is hereupon marked for identification)

25 (Documents are reviewed)

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1 MR. SAAVEDRA CASTRO: Do you have a copy? You don't
2 have a copy?

3 (Documents are reviewed)

4 MR. SAAVEDRA CASTRO: Your Honor, -- Your Honor, can
5 we approach?

6 (Bench conference is held)

7 MS. GONZÁLEZ ROBINSON: May I approach the witness?

8 MR. SAAVEDRA CASTRO: We haven't read it yet.

9 THE COURT: No, they haven't -- they haven't finished
10 reading it.

11 MS. GONZÁLEZ ROBINSON: Oh, sorry.

12 THE COURT: They haven't seen it.

13 (Documents are reviewed)

14 MS. GONZÁLEZ ROBINSON: Your Honor, may I approach
15 the witness?

16 THE COURT: Go ahead.

17 MS. GONZÁLEZ ROBINSON: I'm showing the witness a
18 three page original letter marked as Exh. No. (h) for
19 identification purposes --

20 THE WITNESS: Um hum?

21 MS. GONZÁLEZ ROBINSON: -- and ask the Witness to
22 please read it.

23 THE WITNESS: Sure thing.

24 "Arturo, I hope that you and your family are doing
25 well. I am still in Iraq, and it looks like I will be here

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1 until at least May 2004, unless they extend my orders again;
2 then, it may be longer".

3 "I have been in contact with the SBA. Everything
4 seems to be going well with respect to an application I
5 submitted. There are some issues that have needed to be taken
6 care of in order for me to proceed with the underwriting of
7 the loan".

8 "If everything goes well with the SBA, I will be able
9 to take care of the situation with Rubén Blades. I spoke with
10 him recently, and he knows ..." --

11 I'm sorry. Am I being too loud?

12 COURTROOM CLERK: No. Everything's fine.

13 THE WITNESS: Okay. Okay. Is that better? Can you
14 hear me fine? So, I don't have to get so close.

15 COURTROOM CLERK: Right.

16 THE WITNESS: Okay. Where was I?

17 "If everything goes well with the SBA, I will be able
18 to take care of the situation with Rubén Blades. I spoke with
19 him recently, and he knows that I am here, and he is being
20 reasonable".

21 "I gave him my lawyer's information. I believe that
22 if I can get all the information to the SBA that they are
23 requesting of me, I have a very good chance of getting the
24 funds necessary to take care of these problems".

25 "The only things -- the only thing that ..." --

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1 Are you stopping me, or do you want me to continue?

2 BY MS. GONZÁLEZ ROBINSON:

3 Q. Continue.

4 A. Okay.

5 "The only thing that is holding it back right now is
6 you. I have not heard from you, and I am still waiting on
7 that notarized letter. Without your help in sending this to
8 me, I cannot resolve the issues we will relate (sic)".

9 "I can only imagine that you have your own problems
10 right now. But, please realize that by doing something as
11 simple as sending me that notarized letter, I have the
12 potential of taking care of a problem that affects you too".

13 "The SBA has asked me for some company financial,
14 which I sent to them, and some additional information that I
15 am working on getting to them. They have asked about you, and
16 that is why I need you to send that to me".

17 "Arturo, I have a very good chance of getting these
18 problems taken care of. Understand this application I
19 submitted is because I have been deployed. This loan
20 application is available to me because of the deployment, and
21 it's a benefit for being activated".

22 "Let's not blow this great opportunity. Please don't
23 stand in the way of me resolving this issue with Rubén".

24 "Please send that letter to me, and also e-mail me if
25 you are going to send it. I can't stress enough how is within

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1 reach the potential to take care of these problems".

2 "Again, I hope you are doing well. I wish the best
3 for you. Remember that you are my friend, and I am yours.
4 Nothing will change that".

5 "Take care. Robert".

6 Q. That's the letter you sent to Arturo Martínez while you
7 were --

8 A. Yes. And I apologize. It just got wet. Yes.

9 THE COURT: That's okay. You can leave it there. No
10 problem.

11 THE WITNESS: Okay. I just want to make sure it gets
12 dried up, because it's wet over here.

13 Yes?

14 BY MS. GONZÁLEZ ROBINSON:

15 Q. And the notarized letter that you're asking for is a
16 letter where Arturo Martínez assigns his 49% interest in
17 Martínez Morgalo & Associates over to you, correct?

18 A. I don't believe that's what it was. I can't remember
19 what the notarized letter was for. But I know it's something
20 that the SBA needed.

21 Q. And the reason was you wanted it to resolve the issue
22 with Rubén Blades, correct?

23 A. Well, yes. At the time, I found out in -- when I was in
24 Kuwait, what I found out was that Arturo had tried to kill
25 himself and there was a lot of money missing. That's all the

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1 information I had.

2 Q. And you had also been the one that told him where to
3 spend the money, correct?

4 A. That's not correct.

5 Q. That's why you felt responsible for making Rubén whole or
6 so you say --

7 A. No. Ac --

8 Q. -- in the letter, correct?

9 A. -- actually, no. Actually, no. What I -- what I knew at
10 that time -- remember, I was -- I had very little information.
11 What I --

12 Q. You in fact submitted an application --

13 A. Yes.

14 Q. -- to the SBA for a loan, correct?

15 A. Yes.

16 Q. For an increase of your original loan, correct?

17 A. No. Actually, no. This was a thing called the mil --
18 that I found out when I went through my chain of command to
19 explain to them what was going on back home, they informed me
20 of this thing called the military reservist economic relief
21 fund that is for people who are owners of companies that can
22 apply to this loan, and I could get, I think, something, like,
23 -- I can't remember if it was \$500,000 or something like that
24 because I got deployed.

25 Now, what I knew at the time -- this is what I --

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1 Q. And the goal was to repay Rubén Blades, correct?

2 A. Well, obviously, if the company -- alright? --
3 obviously, if Arturo misspent the money, obviously there's a
4 problem with Rubén Blades. I don't want -- I did not want
5 that to be a burden on him or the company.

6 So, yes. You know, if the company owed monies to
7 Rubén Blades --

8 Q. But you never did pay Rubén Blades what the company owed
9 him, did you?

10 A. For what? For what? For what? I'm asking. I -- I
11 don't know. You -- can you answer the question? I don't -- I
12 mean, can you explain to me?

13 Q. Let's go back to the SBA loan, original application.

14 A. Okay.

15 Q. You filed that a few days around September 18, 2001, is
16 that correct?

17 A. That -- yes. That's around seven days or so after the 9-
18 11 attacks, yes.

19 Q. And, at that time, you stated that you had to do because
20 with your current income and with a mountain of debt created
21 by the cancellations, you had -- you had problems at the
22 company.

23 Is that correct?

24 A. Well, everybody in the entertainment business in the --
25 Entertainment, insurance, and -- what is the other industry?

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1 -- the travel industry were the most -- according to CNN, were
2 the most severely affected by 9-11. And --

3 MS. GONZÁLEZ ROBINSON: Your Honor, I move to strike
4 the answer as non-responsive.

5 MR. FRONTERA SUAU: That was an open-ended question.

6 THE COURT: It's stricken. It's non-responsive.

7 MS. GONZÁLEZ ROBINSON: Your Honor, before I proceed
8 with questioning, I will at this time introduce Exh. No. (h)
9 into evidence based on the authentication of the witness.

10 THE COURT: Exh. No. (h).

11 (Exh. No. (h), previously marked for identification, is
12 hereupon admitted into evidence)

13 MS. GONZÁLEZ ROBINSON: I'm showing Exh. No. (i) for
14 identification to Counsel.

15 (Exh. No. (i) is hereupon marked for identification)

16 (Documents are reviewed)

17 BY MS. GONZÁLEZ ROBINSON:

18 Q. Before I ask questions on Exh. No. (i): you did receive
19 the notarized letter from Arturo Martínez, didn't you?

20 A. What notarized letter?

21 Q. The notarized letter he sent you assigning over his
22 shares of the company that you asked for.

23 A. I don't know what letter you're talking about.

24 Q. Did you receive it?

25 A. What letter?

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1 Q. The notarized letter that you requested in your letter --

2 A. No, I did not.

3 Q. -- to Arturo Martínez.

4 MS. GONZÁLEZ ROBINSON: May I approach the witness?

5 THE COURT: Go ahead.

6 MS. GONZÁLEZ ROBINSON: I'm showing the witness what
7 has been marked as Exh. No. (i) for identification. And I ask
8 the witness to take a look at that two-page exhibit.

9 (Documents are reviewed)

10 THE WITNESS: Okay.

11 BY MS. GONZÁLEZ ROBINSON:

12 Q. That is a true copy of the application you submitted to
13 the SBA. Is that correct?

14 A. As far as I know, yes.

15 Q. And you asked for that to be expedited, correct?

16 A. That is correct.

17 Q. And that was because of the urgency of this matter and
18 the livelihood of your company that was at stake. Is that
19 correct?

20 A. Yes, correct.

21 Q. And that application was originally denied. Isn't that
22 correct?

23 A. As far as I remember, no.

24 Q. They -- they withdrew your application from active
25 consideration pending a formal character eligibility

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1 determination. Isn't that correct?

2 A. Oh, yes. I remember that, yes. Yes. Okay.

3 Q. What was the problem with your character that they denied
4 you the application?

5 A. Well, the -- well, they wanted to know, because I had a -
6 - many years prior to that --

7 MR. SAAVEDRA CASTRO: Objection. Your Honor, I have
8 an objection to that. There's no relevance to getting into
9 that issue.

10 MS. GONZÁLEZ ROBINSON: Judge, the entire issue of
11 the SBA loan and the process that he applied for, the
12 information he submitted is relevant.

13 THE COURT: You can talk up here and I can rule on
14 the record, but -- give me a second.

15 (Bench conference is held)

16 THE COURT: It's overruled.

17 BY MS. GONZÁLEZ ROBINSON:

18 Q. So, there was an issue with your good character, wasn't
19 there?

20 A. Well, there was a question about my character, yes.

21 Q. What was the question?

22 A. Well, they wanted to know regarding an arrest in 19 -- I
23 think it was 1992 which is many years prior to that, which I
24 was arrested for aggravated assault. And --

25 Q. Thank you. You've answered my question.

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1 Did you then clarify this information for the SBA?

2 A. Well, they gave us the loan. So, obviously, they had no
3 more issues with my character.

4 Q. You guaranteed this loan personally, right?

5 A. That was a condition of the SBA loan, yes.

6 Q. It was on behalf of Martínez Morgalo & Associates, but
7 you guaranteed it with a collateral of your home. Is that
8 correct?

9 A. That is correct, yes.

10 Q. Then, on or about November 22, 2002, you requested
11 additional funds for working capital. Is that correct?

12 A. 2002. 2002. When?

13 Q. Right. About two months before you left the company.
14 You requested additional funds for working capital. Is that
15 correct?

16 A. That is correct.

17 Q. And you were denied the increase. Is that correct?

18 A. Yes.

19 Q. And that was because you were unable to substantiate
20 additional disaster-related economic injury, correct?

21 A. That's because we were doing well.

22 Q. Why did you apply for the funds then?

23 A. Because I wanted to expand the company.

24 Q. And isn't it true that on or about July 23, 2003, you yet
25 again, for a third time, asked for an increase of the loan?

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1 A. Can you -- can you repeat the date?

2 Q. July 23, 2003.

3 A. That is correct.

4 Q. You were in Iraq at that time?

5 A. At that time, yes.

6 Q. And you sent a request for military reservist economic
7 injury disaster loan program, correct?

8 A. That's the one that I stated in the letter, yes.

9 Q. That's the one that you talked -- told Arturo you were
10 requesting to pay Rubén Blades?

11 A. That's the one in the letter, yes.

12 Q. But you had testified earlier that you didn't know about
13 what had happened with the company until 2004, a year later.
14 Isn't that correct?

15 A. That is not correct. I stated that in Kuwait, when I
16 spoke to David Maldonado's office while I was on -- in Kuwait
17 getting medical supplies, that's when I found out.

18 MS. GONZÁLEZ ROBINSON: Your Honor, I've marked Exh.
19 No. (j) for identification purposes and show it to Counsel.

20 (Exh. No. (j) is hereupon marked for identification)

21 (Documents are reviewed)

22 MS. GONZÁLEZ ROBINSON: Your Honor, may I approach
23 the witness?

24 THE COURT: Go ahead.

25 (This is done)

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1 MS. GONZÁLEZ ROBINSON: I'm showing the witness
2 what's been marked as Exh. No. (j) for identification. It's a
3 two-page letter. And I ask the Witness to please take a look
4 at the letter.

5 (Documents are reviewed)

6 THE WITNESS: Okay.

7 BY MS. GONZÁLEZ ROBINSON:

8 Q. Do you recognize the exhibit?

9 A. Yes.

10 Q. Is that the letter you sent to the SBA requesting another
11 loan to refinance the original loan?

12 A. Not to refin -- yes. Yes. To -- for -- for money under
13 the economic relief fund for the -- it's called a service
14 membership -- what was the name of the -- it was a disaster
15 loan for the military reservist --

16 THE COURT: "Economic relief fund".

17 THE WITNESS: Economic relief fund. Yes, sir -- yes,
18 Your Honor. Yes. That's the one.

19 BY MS. GONZÁLEZ ROBINSON:

20 Q. You submitted company documentation along with that
21 letter, didn't you?

22 A. Yes. I had to request some from my wife.

23 Q. Your wife had company records?

24 A. Some. Yes, at the house.

25 Q. Where did she get them from?

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1 A. From the ones that were at my house.

2 Q. The company was operating out of your house?

3 A. No, ma'am. We had documents at the house. Sometime,
4 somewhere, somebody brought some documents over to my house.

5 Q. Are those the documents you didn't produce to Mr. Blades
6 in the course of discovery?

7 A. No.

8 Q. Have you produced those records to Mr. Blades?

9 A. Yes.

10 Q. Did that include financial information of the company
11 from 2002 and 2003?

12 A. Whatever I had. I can't remember what it was that I
13 submitted, but whatever they required that's what I sent.

14 Q. Do you still have company records at your house?

15 A. No.

16 Q. Isn't it true that you -- when you came back from active
17 duty, didn't you operate the business out of your home,
18 Martínez Morgalo & Associates?

19 A. Excuse me?

20 Q. Didn't you operate Martínez Morgalo & Associates from
21 your home upon your return to the United States?

22 A. No, I did not.

23 Q. But you have operated under Martínez Morgalo &
24 Associates. Isn't that correct?

25 A. No, I have not.

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1 Q. Haven't you provided answers to interrogatories where you
2 state that you have represented artists for business --

3 A. Yes.

4 Q. -- after your return?

5 A. Yes.

6 Q. And that was using the name Martínez Morgalo &
7 Associates?

8 A. No, it was not.

9 Q. How many e-mail accounts did you use at Martínez Morgalo
10 & Associates?

11 A. I -- from what I remember, it was Martínez Morgalo &
12 Associates @ AOL, and there was a Martínez Morgalo -- I can't
13 remember -- there was two.

14 There was an actual Martínez Morgalo Web site that
15 had, like, for instance, Robert at Martínez Morgalo -- I can't
16 remember if it was Martínez Morgalo.com or -- Yeah -- I think
17 it was Robert at Martínez Morgalo.com, Arturo at Martínez
18 Morgalo.com.

19 We had a Martínez Morgalo Web site that, with that
20 web site, you had an e-mail.

21 Q. How many persons had access to the Martínez Morgalo at
22 AOL.com e-mail?

23 A. Everybody in the office.

24 Q. So, you had the password and Arturo had the password.
25 Isn't that correct?

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1 A. Everybody in the office had the password.

2 Q. You also had a Rubén Blades 123 @ AOL.com. Isn't that
3 correct?

4 A. I didn't have a Rubén Blades 123. That's -- that's an
5 account that Arturo Martínez opened up, and I believe it was
6 for Ruben Blades, as far as I remember.

7 Q. When you, in your sworn answers to interrogatories,
8 stated that you handled all of Blades' bookings for live
9 shows, as well as handled many managerial services for Blades
10 that fell outside of the booking agency job description.

11 A. That's correct.

12 Q. What did you mean by that?

13 A. Well, I'll give you an example. They -- David Fritz, was
14 an attorney, that presented us an offer for Rubén Blades, for
15 one of his songs to go on a TV series. And it was pretty good
16 money, and we presented that offer to Rubén Blades.

17 And that's -- we -- I mean, and that's outside of the
18 scope of what -- what we do.

19 We also -- Rubén Blades has a house in -- in New
20 York, and that he needed furnishings and furniture inside the
21 house. And I was asked to rent some furniture and put
22 furniture in his house so that he could have furniture in his
23 house when he got there.

24 And I had to go rent furniture. And, you know,
25 that's stuff that -- you know, I don't know any agency on the

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1 planet that's going to go do that.

2 Q. So, you went beyond your agent role in dealing with Mr.
3 Blades. Isn't that correct?

4 A. Yes.

5 Q. Going back to your testimony earlier this after -- this
6 morning, that you had charged a full commission on half of the
7 deposit -- on half of an entire show's amount.

8 A. That's correct.

9 Q. Was that your practice?

10 A. That's my policy, yes.

11 Q. To take the entire commission for a show out of a 50%
12 deposit?

13 A. That is my policy for the company, yes.

14 Q. Even if the concert was never held?

15 A. We did our job as a company. Our job -- our job is to
16 procure dates for the artist and to negotiate on their behalf
17 and to close the deal.

18 Once that deal is closed, we did our job. And we
19 should get remunerated for the work that we do.

20 Q. But, yet, with respect to the Siembra show, you agreed
21 that you were not entitled to a commission of \$35,000.

22 A. Well, first --

23 Q. Isn't that correct?

24 A. -- of all, I had nothing to do with the Siembra show.

25 Q. But you did agree that Martínez Morgalo & Associates

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1 should not have been entitled to \$35,000 as a commission for
2 that show?

3 A. I have no way of agreeing or disagreeing on that.

4 Q. Based on the testimony that you heard today from Mr.
5 Blades, do you believe that Martínez Morgalo & Associates was
6 entitled to a 10% commission on the Siembra show?

7 A. Absolutely.

8 Q. You are?

9 A. Absolutely. The company did its job. Ariel Rivas did
10 not pay the money that he was supposed to.

11 Ariel Rivas has sat here and stipulated that the
12 money from one show was to be applied to another one, but
13 offers no proof at all that that money was supposed to be
14 applied to the other show.

15 There's absolutely no way that -- I mean, I had
16 nothing to do with the Siembra show, but, as far as I can see
17 from the evidence that I've seen so far -- alright? -- the
18 company did its job and booked the dates.

19 Q. Do you remember being present at the taking of Mr. Rubén
20 Blades' deposition by William Colón?

21 A. I -- of course I do.

22 Q. Do you remember that that was on April 23, 2009 -- I'm
23 sorry --

24 A. Last year.

25 Q. -- 2008?

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1 A. Yeah -- no, no.

2 Q. 2009.

3 A. 9, yes, ma'am.

4 Q. Do you believe -- do you remember me asking the questions
5 and -- yes -- during redirect to Mr. Blades that Martínez
6 Morgalo was -- asking Mr. Blades if he was entitled -- if
7 Martínez Morgalo was entitled to any commissions on this
8 concert?

9 A. I remember --

10 Q. Do you remember that?

11 A. -- you asked him the question, yes.

12 Q. Do you remember Rubén Blades saying "My feeling is that
13 they did not deserve the commission"?

14 A. I remember him saying that, yes.

15 Q. And do you remember and nodding your head at the time and
16 saying "I agree with that statement"?

17 A. I -- no. I did not say that.

18 Q. Okay.

19 MS. GONZÁLEZ ROBINSON: Your Honor, I'm marking Exh.
20 No. (k) for identification purposes.

21 (Exh. No. (k) is hereupon marked for identification)

22 MS. GONZÁLEZ ROBINSON: This is an excerpt from the
23 deposition.

24 (Documents are reviewed)

25 MS. GONZÁLEZ ROBINSON: I'm showing it to Counsel.

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1 MR. FRONTERA SUAU: Your Honor, this is not -- this
2 is not the way to introduce the testimony of a witness at --

3 THE COURT: It may or may not be. We're -- it's fine
4 so far. It may not -- it may not be at some point.

5 THE WITNESS: Can I put this away now? I don't want
6 it to get wet.

7 (Documents are reviewed)

8 MS. GONZÁLEZ ROBINSON: Your Honor, may I approach
9 the witness?

10 BY MS. GONZÁLEZ ROBINSON:

11 Q. I'm showing you Exh. No. (k) for identification.

12 (This is done)

13 MR. FRONTERA SUAU: Your Honor, may I approach? I
14 have an objection with regards to impeachment. This is not --

15 THE COURT: Do you want to approach? Do you want to
16 approach or do you want to give me your objection?

17 MR. FRONTERA SUAU: My objection is that this is not
18 a proper impeachment document. This is -- it was not his
19 testimony under oath. It was the testimony of Mr. Blades in
20 Mr. Colón's deposition. And this is not under oath.

21 THE COURT: He says something previously. It's his
22 own statement.

23 MR. FRONTERA SUAU: What's the --

24 THE COURT: It's his own statement. I know it wasn't
25 under oath, but it was his own statement.

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1 MS. GONZÁLEZ ROBINSON: Your Honor, for the record,
2 Counsel doesn't have standing to object to this question.

3 THE WITNESS: I don't have a problem answering the
4 question either. No -- no problem.

5 BY MS. GONZÁLEZ ROBINSON:

6 Q. Have you -- have you read Exh. No. (k)?

7 A. Yes, I have.

8 Q. Do you remember now giving the answer "I do agree 100%.
9 I mean, I don't know if I'm allowed, but I agree 100% with
10 that statement"?

11 A. Yes. And what statement am I talking about there?

12 Q. And the statement was "Under those conditions, they,
13 meaning Martínez Morgalo & Associates, should relinquish
14 whatever amount they think they should have earned because
15 this is a horrible scenario".

16 Is that correct?

17 A. No. I was nodding yes to the statement that you said
18 "Let the record reflect that Mr. Morgalo is agreeing".

19 Q. Thank you.

20 MS. GONZÁLEZ ROBINSON: This -- this exhibit, Your
21 Honor, Exh. No. (k), is an official document, and we move at
22 this time to introduce it into evidence.

23 THE COURT: Any objection?

24 MR. FRONTERA SUAU: It's not relevant. It's not
25 impeachment. For impeachment purposes, it's not relevant and

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1 does not impeach the witness.

2 MS. GONZÁLEZ ROBINSON: Your Honor, this is the
3 answer, completely inconsistent with what he gave previously
4 to the question of whether Martínez Morgalo & Associates was
5 entitled to any commissions on the concert, and that being the
6 Siembra concert.

7 THE COURT: I don't -- I just don't remember -- it's
8 excluded. Exh. No. (k) is excluded.

9 Your testimony is there, the testimony is all --

10 MS. GONZÁLEZ ROBINSON: May I -- may I ask him to
11 read the entire statement so that the record is clear?

12 THE COURT: Whose deposition was being taken?

13 MS. GONZÁLEZ ROBINSON: Rubén Blades'. But he was
14 asking questions pro se at that time. He was --

15 THE COURT: You can --

16 MS. GONZÁLEZ ROBINSON: -- representing himself.

17 THE COURT: -- you can read it.

18 MS. GONZÁLEZ ROBINSON: Okay.

19 On page 167 of the deposition transcript, my question
20 was:

21 "Is it your understanding that Martínez Morgalo &
22 Associates is not entitled to any commissions on this
23 concert"?

24 The answer was: "My feeling --

25 MR. FRONTERA SUAU: Whose answer? I'm sorry?

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1 MS. GONZÁLEZ ROBINSON: The Deponent. The Deponent,
2 Mr. Rubén Blades.

3 MR. FRONTERA SUAU: Okay.

4 MS. GONZÁLEZ ROBINSON: "My feeling in this thing,
5 with all due respect to everyone -- and they can say "Well, we
6 worked, and, you know, we deserve money", but my feeling is
7 that we were all done a very huge disservice. So, my feeling
8 is they should not get anything".

9 "But that's my feeling: that they should not get
10 anything. You know, that's my feeling".

11 "And I'm sorry, because you can argue "Okay, we
12 worked, and, you know, part of it, yes, we worked", but, I
13 mean, I don't think he -- I don't think either of us is
14 satisfied with what happened".

15 "So, under those conditions, they should relinquish
16 whatever amount they think they should have earned, because
17 this is a horrible scenario".

18 At that time, I put on the record "Let the record
19 reflect that Mr. Morgalo is agreeing".

20 Mr. Morgalo says: "Oh, I agree".

21 And Ms. González says: "Nodding with his head".

22 Mr. Morgalo says: "I -- I do agree 100% with -- I
23 mean, I don't know if I'm allowed, but I agree 100% with that
24 statement".

25 He was nodding for the record; I acknowledged it for

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1 the record; and then he affirmed it.

2 THE WITNESS: I mean, affirmed what?

3 MR. FRONTERA SUAU: And Ms. González is going to be a
4 witness in the case.

5 THE COURT: That sounds like it's going to be

6 MS. GONZÁLEZ ROBINSON: Well, Your Honor, the record
7 was --

8 THE COURT: Because, that --

9 MR. FRONTERA SUAU: If she's going to be a witness in
10 the case, --

11 THE COURT: -- no, no, no, no, no. Wait, wait. No,
12 no, no. One part. The other part is you're being a witness.

13 One thing is just reading from exactly what that
14 says, which is fine. After that, I'm not going to weigh it as
15 evidence.

16 MR. FRONTERA SUAU: Because, Your Honor, --

17 MS. GONZÁLEZ ROBINSON: Understood, Your Honor.

18 MR. FRONTERA SUAU: -- she's giving you her
19 interpretation of what happened.

20 THE COURT: I understand that. Beyond the
21 reading, --

22 MR. FRONTERA SUAU: Okay.

23 THE COURT: -- it's not in notes, it's not in
24 evidence.

25 MS. GONZÁLEZ ROBINSON: But this deposition

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1 transcript was admitted by the Deponent and it was admitted by
2 everyone. I mean, --

3 THE COURT: I just generally -- I just, and
4 generally, in the nature of things, I just don't allow it.
5 Depositions can be read from, and the only way it's admitted
6 is if I have the stenographer coming here and certifying this
7 is it, although it's at the end, it's the only way I do it
8 generally.

9 So, it's been read.

10 MS. GONZÁLEZ ROBINSON: Thank you, Your Honor.

11 THE WITNESS: Do you want the other part of this,
12 ma'am?

13 (Documents are reviewed)

14 MS. GONZÁLEZ ROBINSON: Your Honor, I'm showing Exh.
15 No. (1) to opposing counsel for identification purposes.

16 (Exh. No. (1) is hereupon marked for identification)

17 BY MS. GONZÁLEZ ROBINSON:

18 Q. Before I ask questions are: as you sit here today, your
19 testimony is Martínez Morgalo & Associates was entitled to a
20 \$12,500 commission on a show that never took place and to
21 \$35,000 for commissions on the Siembra show.

22 Is that correct?

23 A. Well, I can't speak for the Siembra show, because I had
24 nothing to do with that -- okay?

25 Now, the \$12,500 commission for a date that we did

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1 our part for and that the promoter canceled for whatever
2 reason they canceled, we're entitled to get paid, and, yes.

3 Q. And your testimony is that you sent the remaining money
4 from that \$62,500 to Rubén Blades yourself?

5 A. \$50,000, yes.

6 Q. And you called him on the phone to let him know. That
7 was your testimony.

8 A. Can you repeat that, please?

9 Q. You called him on the phone to let him know you had sent
10 that money, correct?

11 A. Well, I spoke to him and -- I spoke to him, and I told
12 him about the cancellation. He was aware of the cancellation.
13 He even asked me "Did they send the money", and I said "Yes".

14 So, I don't understand what -- yes.

15 Q. I'm sorry. When did you call Rubén Blades? What date?

16 A. I can't remember the day. It was -- it was before
17 December and after October sometime I would imagine, of 2002.

18 MS. GONZÁLEZ ROBINSON: Your Honor, I move to
19 approach the witness?

20 BY MS. GONZÁLEZ ROBINSON:

21 Q. I'm showing you Exh. No. (1).

22 MR. FRONTERA SUAU: Which?

23 THE WITNESS: They haven't seen it?

24 BY MS. GONZÁLEZ ROBINSON:

25 Q. Yeah, they have seen it.

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1 A. Okay.

2 (Documents are reviewed)

3 A. Okay.

4 Q. You recognize Exh. No. (1), don't you?

5 A. Well, I mean, I -- I -- I remember it now, yes. Yes.

6 Q. That was yet another grant that you applied for as
7 president of Martínez Morgalo & Associates, correct?

8 A. Any grant that we can apply for I will apply for, yes.

9 Q. And that letter is dated what date?

10 A. October 15, 2002.

11 Q. And what was the amount of the money that you received?

12 A. \$9,289.

13 Q. What did you use that money for?

14 A. I can't remember. We used it for operating expenses,
15 whatever our operating --

16 Q. Did you use it to settle other company debts as well?

17 A. When you say other company -- the company had debts. The
18 company had accounts payable. The company had accounts
19 receivable. We had payroll.

20 So, when you say "And pay other company debts", that
21 money went towards company expenses, whatever it went to. I
22 can't tell you what for, rent, or it went for payroll, or it
23 went for advertising. I can't explain it. It went for
24 company expenses.

25 Q. Do you remember if it went to cover the failed shows at

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1 the Apollo series?

2 A. The Apollo Theater was very lucrative for our company.
3 It was the -- it was very lucrative for our company.

4 MS. GONZÁLEZ ROBINSON: Your Honor, I move to
5 introduce Exh. No. (1) into evidence.

6 THE COURT: Exh. No. (1).

7 (Exh. No. (1), previously marked for identification, is
8 hereupon admitted into evidence)

9 BY MS. GONZÁLEZ ROBINSON:

10 Q. Going back to your sworn answers to request for
11 admissions that you sent in December of 2008, --

12 A. Um hum?

13 Q. -- you stated that, once the \$50,000 --

14 MR. FRONTERA SUAUI: Your Honor?

15 BY MS. GONZÁLEZ ROBINSON:

16 Q. -- that was left after --

17 MR. FRONTERA SUAUI: I have an objection.

18 Is she using the request for admission to impeach him
19 or --

20 MS. GONZÁLEZ ROBINSON: I'm -- I'm asking questions,
21 Your Honor. I'm not impeaching.

22 MR. FRONTERA SUAUI: She can't ask --

23 THE COURT: Well, I understand that. But, you know,
24 they're already there. It's going to be either consistent or
25 inconsistent with his testimony.

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1 MR. FRONTERA SUAU: Um hum?

2 THE COURT: So, it's either impeachment or we're
3 already going to hear things that we already know, and I don't
4 know why we're hearing it. It kind of duplicates things that
5 I have to hear.

6 MR. FRONTERA SUAU: Yeah.

7 MS. GONZÁLEZ ROBINSON: Well, Your Honor, this is
8 about what happened with the \$50,000 that he stated he sent to
9 Rubén Blades.

10 THE COURT: So, -- what? -- you're laying a
11 foundation for something else?

12 MS. GONZÁLEZ ROBINSON: Correct.

13 THE COURT: It's overruled.

14 BY MS. GONZÁLEZ ROBINSON:

15 Q. You stated that that was applied towards the February 16,
16 2003, show. Is that correct?

17 A. Excuse me? Say that again.

18 Q. In your answers to admissions under oath, you stated that
19 the \$50,000 that was left after you deducted \$12,500 was
20 applied towards the deposit to the February 16, 2003, date.

21 Is that correct?

22 A. I was being facetious when I wrote that.

23 Q. And you also stated that Rubén Blades had agreed to apply
24 that \$50,000 --

25 A. Again, I was --

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1 Q. -- to that date.

2 A. -- again, I was being facetious and incredulous when I
3 wrote that, to show -- to prove a point.

4 Q. You said --

5 A. Which obviously did -- didn't pan out right.

6 Q. The February 16, 2003, show was also for \$125,000. Is
7 that correct?

8 A. That's correct.

9 Q. And you state that you earned a commission on that
10 \$125,000 again, correct?

11 A. If that date would have happened, we would have earned
12 another commission of \$12,500, yes.

13 Q. And that you in fact deducted \$12,500 again from the
14 \$50,000, correct?

15 A. Again, I'm being facetious to prove how incredulous that
16 -- that -- that line of thought would be.

17 What I'm trying to -- listen, I wrote that at 3:00 in
18 the morning. I --

19 Q. I'm not asking what -- when you wrote it.

20 MS. GONZÁLEZ ROBINSON: Your Honor, --

21 THE WITNESS: I understand. But I was -- okay -- I
22 was being facetious.

23 MS. GONZÁLEZ ROBINSON: -- may I ask the next
24 question?

25 THE WITNESS: I was being facetious.

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1 BY MS. GONZÁLEZ ROBINSON:

2 Q. So, you said that the remaining balance going to Rubén
3 Blades was \$37,500, correct?

4 A. If you follow that train of thought, yes.

5 Q. And you said that if anything would have been applied
6 towards the Siembra concert, it would have been \$37,500.

7 A. Well, if you apply that train of thought, that logic,
8 Yeah.

9 But that logic doesn't make sense, because it -- it's
10 -- why would Rubén Blades agree to continuously apply -- why
11 would Rubén Blades agree to apply \$62,500 of his money to a
12 show that automatically he's got to give half of it to Willie
13 Colón?

14 The only one --

15 Q. Why did you propose --

16 A. -- that stands to gain there is Ariel Rivas.

17 Q. -- then why -- why -- why did you propose to Ariel Rivas
18 to exactly do that, to apply --

19 A. I did not propose that --

20 Q. -- \$62,500 --

21 A. -- to Ariel Rivas.

22 Why would I -- why would I -- let me -- Ariel Rivas
23 canceled the show on me, after not sending the deposits when
24 he was supposed to do it, after almost a year of waiting for
25 him to do that, he cancels the date --

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1 Q. So, he did negotiate with you the Siembra terms, didn't
2 he?

3 A. Not the Siembra show, the Rubén Blades for December show.

4 That show he canceled on me. Do you think I'm --
5 after he did all that -- and he didn't have any credibility
6 with me -- I'm just going to offer -- there's an old saying
7 that says "If you're responsible in the small things, you can
8 be counted on in the big things".

9 If he was irresponsible with me in the small things,
10 why would I trust him with something so big?

11 The answer is no, I never did that.

12 Q. Do you remember calling Ariel Rivas to -- when he was in
13 Santo Domingo to ask whether the show, the Siembra show, had
14 been confirmed?

15 A. No.

16 Q. Was it at the January 16th farewell party that you told
17 Ariel Rivas to deal with Arturo Martínez from now on for the
18 Siembra show?

19 A. Ariel Rivas came to my house uninvited. I did not invite
20 him to my house. He showed up.

21 When I came home the day when I'm supposed to be
22 leaving, my wife has a surprise party for me. I was in
23 uniform already -- okay?

24 And I get home. There was -- because, it was my
25 birthday. I have to report on January 21st to go to combat on

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1 the same day as my birthday -- alright?

2 Q. You were not happy to see Ariel Rivas, were you?

3 A. Well, it's not that I was unhappy. It's just I didn't
4 know -- understand why he was at my house. I -- I -- you
5 know, I was -- I was --

6 Q. You didn't want to deal with the Siembra issue anymore,
7 did you?

8 A. I didn't have -- you know, I didn't have anything to do
9 with the Siembra -- we didn't discuss the Siembra show.

10 He was there begging to not lose the \$62,500 that he
11 lost. On his contract, his \$62,500 he lost. He canceled
12 the --

13 Q. Was he begging or --

14 A. -- date.

15 Q. -- was he upset?

16 A. He was begging and asking. I thought -- I didn't think
17 it was appropriate. I'm here at my house.

18 First of all, I didn't want that party. You know, I
19 was -- I had people in my house. I wanted to spend time with
20 my wife and my kids. You know what I'm saying?

21 I -- I -- my wife did that --

22 Q. So, your testimony is that he went all the way over to
23 your house to be you for the application of \$62,500?

24 A. Why would he come all -- let me put it -- why would he
25 come to my house?

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1 Rubén Blades was in New York, according to what I've
2 read. Rubén Blades was in New York; he didn't come to my
3 house.

4 Q. When did you read that?

5 A. When -- when -- in the papers that were -- that were
6 submitted into evidence.

7 And Rubén Blades was in New York, and he didn't come
8 to see me when I was going to -- but this guy came from Puerto
9 Rico to see me.

10 Q. Did he threaten to sue you over the \$62,500?

11 A. No.

12 Q. No, because you proposed --

13 A. He knew he --

14 Q. -- that it be applied towards a bigger show.

15 A. No.

16 Q. You had done that already.

17 A. Why would I do that? Why would I -- the -- no. The
18 answer's no.

19 Q. So, you relinquished the affairs of the business to
20 Arturo Martínez. Is that your testimony?

21 A. That's correct.

22 Q. And you had nothing to do anymore with the affairs of the
23 business?

24 A. That's correct.

25 Q. Except to ask for additional loans, correct?

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1 A. When I found out that Arturo Martínez, my friend, tried
2 to commit suicide, when I found this information out, -- and
3 let me tell you something: Arturo Martínez is a friend of
4 mine. He's sitting over there, and I don't care what -- he's
5 got a good heart, he's got a good heart, and I know --

6 MS. GONZÁLEZ ROBINSON: Your Honor, I move to strike
7 the answer as unresponsive.

8 THE WITNESS: Okay. Well, you're asking an open-
9 ended question.

10 I'm sorry, Your Honor.

11 THE COURT: Which part do you want stricken?

12 MS. GONZÁLEZ ROBINSON: Everything from "Arturo
13 Martínez is my friend".

14 THE COURT: That's stricken.

15 BY MS. GONZÁLEZ ROBINSON:

16 Q. In your answers, you state that "Once Morgalo was called
17 to active military duty, his obligations and duties were to
18 the United States of America and not to Blades or Colón",
19 correct?

20 A. Can you repeat that, please? I'm sorry. I wasn't
21 hearing --

22 Q. "Once Morgalo was called to active military duty, his
23 obligations and duties were to the United States of America
24 and not to Blades or Colón", correct?

25 A. That's correct.

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1 Q. But, before you were called to active duty, your duties
2 were to Willie Colón and Rubén Blades, weren't they?

3 A. My duties as the President of the company was to the
4 company first, and to the artists and to the promoters, to my
5 clients -- alright?

6 So, yes. While I'm in the company, while I'm working
7 as the company -- of course. I have to -- I have to do
8 business with Rubén or Willie or whoever it is I do business
9 with --

10 MS. GONZÁLEZ ROBINSON: Thank you, Your Honor.

11 That --

12 THE WITNESS: -- in a good --

13 MS. GONZÁLEZ ROBINSON: -- that concludes my --

14 THE WITNESS: -- in a good way.

15 MS. GONZÁLEZ ROBINSON: -- oh, may -- may I have one
16 moment before I finish?

17 (Documents are reviewed)

18 MS. GONZÁLEZ ROBINSON: Your Honor, at this time, we
19 would move to introduce into evidence Exh. No. (m) which we've
20 marked for identification purposes.

21 (Exh. No. (m) is hereupon marked for identification)

22 MS. GONZÁLEZ ROBINSON: This is the response to the
23 request for admissions. It was filed under docket 87 of the
24 record. And we move to admit it into evidence, along with the
25 exhibits that were attached to it.

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1 THE COURT: Docket 87?

2 MS. GONZÁLEZ ROBINSON: Docket 87. That's correct,
3 Your Honor.

4 THE COURT: Okay. Exh. No. (m).

5 (Exh. No. (m), previously marked for identification, is
6 hereupon admitted into evidence)

7 THE COURT: You may step down, --

8 MS. GONZÁLEZ ROBINSON: Your Honor, I have one more
9 question for the --

10 THE COURT: Go ahead.

11 MS. GONZÁLEZ ROBINSON: -- Witness.

12 BY MS. GONZÁLEZ ROBINSON:

13 Q. How lucrative were the Apollo night series at the -- the
14 Latin Nights series at the Apollo?

15 A. They were very lucrative.

16 Q. How lucrative?

17 A. Do you want me to explain?

18 Q. Dollars and cents.

19 A. It sustained, I would say, 90% of the business for the
20 company.

21 Q. How much money did you earn?

22 A. Exactly, I can't -- I can't -- I can't recall. But I
23 could tell you this much -- and I could give you an example
24 and --

25 Q. No, I want -- do you recall how much money the company

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1 made?

2 A. Well, at least -- I can't remember.

3 Q. Gross revenues.

4 A. Oh, gross revenues?

5 Q. An approximation.

6 A. Gross revenues, I would imagine somewhere between
7 \$800,000 and \$1 million, gross.

8 Q. And that would have been reported in your 2001 tax
9 returns?

10 A. No. In 2002. And I didn't have it -- when I -- when I -
11 - I filed the 2002 tax returns, and I filed them after I came
12 back from Iraq. And I filed them with whatever documents I
13 had at the time.

14 Q. Are you referring to your personal tax returns or --

15 A. No. I'm talking --

16 Q. -- the company tax returns?

17 A. -- I'm talking about the company tax returns -- okay?

18 And I filed it with whatever documents that I had at
19 the time, and it reflected, I believe, \$1.8 million in gross
20 sales, but that did not include all of the revenues from the
21 Apollo -- alright?

22 Q. Why did it not include it?

23 A. I didn't have those records. I had to -- I had to go --
24 I figured I'd do an amended tax return afterwards, but I never
25 got --

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1 Q. And you didn't --

2 A. -- I didn't get around to it.

3 Q. And you never produced either the original or any other
4 tax return for the company for 2002. Is that correct?

5 A. I -- I requested it from the IRS for those documents, and
6 I spoke to a lady -- I have her ID No. -- and they're looking
7 for it. They'd say they -- they might not even have it
8 because it's so old. But if they get it to me, they're going
9 to mail it to me.

10 And I have that information, and I'd be more than
11 happy to give it to you. You could request it I would
12 imagine.

13 Q. So, as you sit here today, you say you did not report
14 income to the IRS?

15 A. I did report income. I reported income --

16 Q. You did not report the Apollo nights income.

17 A. I reported the income that -- with the information that I
18 had at that time, with the hopes that, once I get more --
19 because, see, Arturo was in prison. I had no communication
20 with him, and I had no documents.

21 Because, according to his own testimony, he had stuff
22 in other places that he didn't want -- he got mad at his
23 brother because he didn't want me to have access to that.

24 So, --

25 THE COURT: That's fine. That's fine.

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1 THE WITNESS: Okay. Thank you.

2 THE COURT: Are you going to ask any questions?

3 MR. FRONTERA SUAUI: Yes, Your Honor.

4 THE COURT: How long are you going to be?

5 MR. FRONTERA SUAUI: 20 minutes.

6 THE COURT: How many more witnesses do you have?

7 MS. GONZÁLEZ ROBINSON: One more, Arturo Martínez.

8 THE COURT: Cross.

9 MR. FRONTERA SUAUI: Can I have the exhibits?

10 COURTROOM CLERK: All of them?

11 MR. FRONTERA SUAUI: Yes.

12 (Documents are reviewed)

13 CROSS EXAMINATION

14 BY MR. FRONTERA SUAUI:

15 Q. Now, Mr. Morgalo, I'm going to show you two exhibits:

16 Exh. No. (a) and Exh. No. (g).

17 (This is done)

18 Q. Exh. No. (a) was the contract identified by Mr. Blades in
19 during his deposition -- during his testimony.

20 A. Yes.

21 Q. And Exh. No. (g) was a contract identified by Mr. Rivas
22 during his testimony.

23 A. Yeah.

24 Q. Have you seen any other contracts for the Siembra show?

25 MS. GONZÁLEZ ROBINSON: Your Honor, I'll object,

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1 because it's beyond the scope of my cross, or my -- the
2 examination.

3 THE COURT: It's overruled.

4 THE WITNESS: I've seen these, if that's what you're
5 asking me, yes.

6 BY MR. FRONTERA SUAU:

7 Q. Are those the only contracts that you have seen with
8 regards to the Siembra show?

9 A. I believe so, but I can't remember. I think there was a
10 third one.

11 Q. I'm going to show you a document.

12 (This is done)

13 COURTROOM CLERK: Is it marked?

14 THE COURT: It has to be marked.

15 MR. FRONTERA SUAU: We're going to mark it as
16 identification --

17 THE COURT: Retrieve it.

18 MR. FRONTERA SUAU: Oh, I'm sorry.

19 THE WITNESS: Yeah. I haven't looked at it yet.

20 MS. GONZÁLEZ ROBINSON: Can I see it, Your Honor?

21 MR. FRONTERA SUAU: Sure.

22 (Documents are reviewed)

23 MR. FRONTERA SUAU: As I -- ID-1.

24 (Exh. No. 1 is hereupon marked for identification)

25 THE COURT: How long is your expected examination of

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1 Mr. Martínez?

2 MS. GONZÁLEZ ROBINSON: No longer than 30 minutes.

3 THE WITNESS: Okay.

4 BY MR. FRONTERA SUAU:

5 Q. Is the ID-1 the other contract that you have seen in this
6 -- during these proceedings?

7 A. I believe so, yes.

8 Q. Have you seen any signed contract for the Siembra show?

9 A. No, I have not.

10 Q. Now, Exh. No. (g), --

11 A. Okay.

12 Q. -- paragraph 7, --

13 A. Yes?

14 Q. -- states that the \$62,500 was paid in April 2002. Is
15 that right?

16 A. That's what it says.

17 Q. Have you seen evidence of those payments, any documentary
18 evidence of those payments made by -- allegedly made by Mr.
19 Rivas in April 2002?

20 A. No. They don't exist.

21 Q. Now, you were here, and you heard Mr. Rivas state that
22 those payments were made, four wire transfers. And those are
23 in Exh. No. -- Exh. No. (f).

24 I'm going to show you the exhibit.

25 (This is done)

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1 Q. Now, Mr. Rivas's testimony was that the first four wire
2 transfers contained in Exh. No. (f) --

3 A. Yes?

4 Q. -- was the payment of the \$62,500 included in the Exh.
5 No. (g).

6 Was that what -- that was what --

7 A. That's what he said, yes. That's what he said.

8 Q. Now, did you receive the first four wire transfers
9 contained in Exh. No. (f)?

10 A. The company Martínez Morgalo & Associates received
11 \$62,500. The four payments that are in here, the company did
12 receive \$62,500.

13 Q. Who made those wire transfers?

14 A. They were made from Rompeolas for Rubén Blades and Cheo
15 Feliciano, not for Siembra.

16 Q. Why do you know that?

17 A. It says it right on the wire transfer.

18 Q. Where in the wire transfer?

19 A. Right here in the middle, it says "10% deposit, deposit
20 10%, [Concert] Rubén Blades, Puerto Rico, 2002, [With] Cheo
21 Feliciano", right on the -- right on the wire transfer.

22 Q. When was the Cheo Feliciano concert was going to take
23 place?

24 A. December 2002.

25 Q. Do you know why Mr. Ariel Rivas canceled the December

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1 2002 concert between Cheo Feliciano and Rubén Blades?

2 A. He had told me that there was another show taking place
3 that same weekend that was going to cost him a lot of money in
4 ticket sales, lost ticket sales, because it's the same genre.

5 And I told him that I don't run the risk with him.
6 It's not my business whether he loses money or makes money,
7 and I can't cancel a date -- if I -- if I have to cancel a
8 date every time a promoter was going to lose money, we
9 wouldn't be doing business.

10 Q. Now, --

11 A. Oh, and by the way -- I'm sorry -- this -- these wire
12 transfers were not done in April --

13 Q. Yeah, I was going to ask you. What dates -- well, I'm
14 sorry.

15 The wire transfers, the first four wire transfers are
16 May 21st -- are made -- the first one was made in May 21,
17 2002. Is that right?

18 A. That is not correct. I don't -- I don't -- I don't --
19 let me take a look at them. But I believe the first wire
20 transfer was done sometime in July of 2002.

21 I have to look at these dates. Where is the -- okay.
22 This one says May 21, 2002, and this is for an amount of
23 \$12,500 -- yes. May 21st was the first one, 2002.

24 Q. Could that wire transfer have been made for a concert in
25 April 2003?

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1 A. No. This -- this -- this was for a concert in December
2 2002 with Rubén Blades only.

3 Q. The second wire transfer is dated June 27, 2002. Is that
4 right? For \$20,000.

5 A. June 27, 2002, for \$20,000. Yes, it is.

6 Q. And the third one is October --

7 A. And it says "[Second deposit, concert, Rubén Blades,
8 Puerto Rico, 2002]".

9 Q. And the third one is October 3, 2002.

10 A. October 3, 2002.

11 Q. For \$20,000.

12 A. \$20,000. Third deposit, Rubén Blades, 20 -- it says here
13 23 November.

14 Q. And the fourth one is October?

15 A. October 29, 2002, for \$10,000, and that's for Rubén
16 Blades, deposit.

17 Q. Now, what did Ariel Rivas told you at your house on
18 January 16, 2003?

19 A. He wanted to speak to me regarding trying to find a way
20 that he can recoup that \$62,500, that he couldn't lose that
21 \$62,500.

22 I told him that I'm sorry that he lost his deposit --
23 okay? So, -- and I told him that it wasn't appropriate for
24 him to be talking to me in the house when I'm getting ready to
25 deploy.

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1 The conversation must have been, like, maybe five
2 minutes. And I told him that he needed to speak -- anything
3 he needed to speak, he needed to speak with Arturo.

4 Q. Did Arturo ever told you that he assigned those \$62,500
5 to the Siembra show?

6 A. No.

7 Q. Did Arturo ever ask you for permission to do that?

8 A. No.

9 Q. Who signed the contract between Ariel Rivas and Martínez
10 Morgalo for the Siembra show?

11 A. There's not a single contract that's been signed by
12 anybody.

13 The contracts are between Ariel Rivas, Distar
14 productions, and Martínez Morgalo & Associates for the
15 services -- FSO is "For the services of" Rubén Blades and
16 Willie Colón -- and Arturo Martínez.

17 So, the person who did this contract is Arturo
18 Martínez on behalf of Willie Colón and Rubén Blades for Ariel
19 Rivas. And it was -- Yeah.

20 Q. Is any of the three contracts that is being shown to you
21 during today is for your signature?

22 A. No.

23 Q. It's for the signature of Mr. Arturo Martínez?

24 A. That's correct.

25 Q. What did you did with the \$62,500 that was paid by Mr.

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1 Rivas for the Rubén Blades and Cheo Feliciano concert in
2 December of 2002?

3 A. I'm sorry. Can you repeat that?

4 Q. What did you did --

5 MR. SAAVEDRA CASTRO: "What did you do".

6 BY MR. FRONTERA SUAU:

7 Q. -- do -- what did you do with the \$62,500 that Mr. Rivas
8 paid in advance for the December 2002 concert?

9 A. Well, once he -- once he canceled the dates, I had to
10 wait until the actual date of that day to disperse the funds -
11 - I think that date was December 7th, I believe -- and I think
12 -- that was a weekend -- and I think that immediately the
13 Monday or Tuesday after that we dispense \$50,000 to -- a wire
14 transfer to Rubén Blades Productions.

15 Q. Now, why would you say that the Latin Nights business was
16 lucrative for Martínez Morgalo?

17 A. You know, it's one of those things that, unless you
18 really know the business of what's going on and internal --
19 the real internal affairs of the business, it could appear to
20 anybody that it was not. And I'll give an example.

21 There were dates that we had to give tickets -- not
22 had, we gave tickets away to what we call "Pay for the house".
23 We have to pay for the house.

24 But that was not a sign of a distraught or a thing of
25 distraught, that was a business judgment, a business decision

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1 that was a real prudent one.

2 And what I mean by prudent is this: If I -- if
3 someone gives you \$100,000, as an example, someone gives you
4 \$100,000 and says go do a concert, and the company takes that
5 \$100,000 to produce the concert, and we produce a concert that
6 costs \$50,000, we automatically made \$50,000.

7 But let's say that we do that concert and no one
8 shows up to the concert. Well, we pay for the house so that
9 the sponsor who gave us the money for that show is happy with
10 the turnout.

11 Now, if no one bought a ticket and we produce the
12 show, we still make \$50,000.

13 But there isn't a single show of Latin Nights at the
14 Apollo that did not sell a single ticket. Some shows did not
15 do well in the ticket box office, and some shows sold out
16 completely. And they were huge -- alright?

17 But it didn't matter, because all the shows were
18 subsidized, all of the shows were under the budget that we had
19 for the shows. So, automatically, we're going into it with a
20 profit on those shows, which was revenue towards the company,
21 and the revenues from the ticket sales also belong to us.

22 So, we had, that year alone, income to the company --
23 as far as I remember for Latin Nights at the Apollo -- was
24 somewhere around \$750,000, I think, is what came in for that.

25 That's not counting the ticket sales, and I don't

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1 have those numbers exact.

2 But, to anyone outside, seeing us give out tickets or
3 anything like that, might say "Look, these people are losing
4 money", but the case is not that.

5 And if you couple that --

6 THE COURT: Let me interrupt you.

7 THE WITNESS: Yes.

8 THE COURT: Can I talk to the attorneys?

9 (Bench conference is held)

10 BY MR. FRONTERA SUAU:

11 Q. Okay, Mr. Morgalo, from your perspective, --

12 A. Um hum?

13 Q. -- the \$62,500 were never assigned to the Siembra
14 concert?

15 A. Absolutely not. Never.

16 Q. And if there ever was an assignment of that, it was not
17 approved by you?

18 A. Absolutely.

19 Q. Or not negotiated with you?

20 A. Absolutely.

21 Q. Now, why did you -- why did you have no contact with
22 Martínez between January 2003 until you found out what
23 happened with him in June or July 2002? Can you tell us why?

24 A. Yes. I got -- I got my WARNO order January 16, 2003. I
25 had five days to get my affairs in order.

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1 Now, you have to really understand what that means to
2 be told that in five days you've got to leave and you're going
3 into combat -- okay?

4 At that moment, the company was secondary to me. The
5 actual reality of the fact that I'm being deployed, I'm being
6 pulled away from my life, I'm being pulled away from my wife
7 and my kids, and I'm going -- I had five days to -- to really
8 appreciate that and to get my affairs as much as possible in
9 order for me to go, and not knowing when I'm going to come
10 back.

11 Then, I get -- I report on the 21st, I get called to
12 active duty. And, between that time and between the 21st of
13 January and March 11th which is the actual day that we got the
14 NATO orders to go ship out overseas, during that time there
15 was a couple -- a couple of reasons: number one, I trusted
16 Arturo Martínez -- alright? I trust that he was going to have
17 good judgment to handle the business. I didn't need to worry
18 about that. The same way as Rubén Blades trusted him and knew
19 that things would -- you know, --

20 THE COURT: Okay. Now, let me interrupt. You can
21 continue after -- I'm going to take a five minute break. Just
22 a five-minute break.

23 MR. FRONTERA SUAU: Okay.

24 THE COURT: Alright? Don't discuss your testimony
25 with anyone.

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1 THE WITNESS: Can I stay right here, Your Honor?

2 THE COURT: You can stay there, sure.

3 COURTROOM CLERK: All rise.

4 (There is a short pause in record)

5 THE COURT: You can have a seat.

6 You were saying?

7 BY MR. FRONTERA SUAU:

8 Q. You were saying to us why --

9 A. I said --

10 THE COURT: Why you had -- why you had no contact
11 with Martínez between those dates.

12 That was the question, no?

13 MR. FRONTERA SUAU: Yeah.

14 THE COURT: That was the question.

15 BY MR. FRONTERA SUAU:

16 Q. Why did you have no contact with Mr. Martínez between
17 January 2003 and June and July 2003?

18 A. Because, I trusted Arturo. I had no -- I had confidence
19 in him to do what he needed to do, just as Rubén Blades had
20 confidence in Arturo Martínez and the company, you know.

21 THE COURT: Could you, like, limit your testimony?

22 THE WITNESS: Because I trusted him?

23 THE COURT: Like, -- no. Just like Rubén Blades,
24 just like -- that extends it beyond the answer.

25 THE WITNESS: Okay.

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1 THE COURT: That's the problem.

2 THE WITNESS: Okay.

3 THE COURT: Then, this goes on to a never ending
4 story.

5 THE WITNESS: Yeah, okay.

6 THE COURT: I just want to avoid that.

7 THE WITNESS: I trusted Arturo, and I didn't need to,
8 because I had the confidence in him.

9 And, secondly, we were specifically by my -- because,
10 this was before we were getting ready to actually invade Iraq.
11 We were training up during that time. We were training up for
12 -- for combat mobilization.

13 So, we were limited in our -- I mean, strictly
14 limited in our communication, what we can -- who we can call,
15 what we can say, don't be talking to the media, don't be -- if
16 you talk to your wife, you can't tell them you're going here
17 or how long you're going to be gone, because --

18 THE COURT: So, which is a better answer: because you
19 trusted Arturo or because you were busy?

20 THE WITNESS: It was -- it was -- no. It was both.
21 I mean, --

22 THE COURT: Which one was more important? Or why I
23 didn't call him: I trusted him, --

24 THE WITNESS: Well, I trusted him.

25 THE COURT: -- or I was in combat?

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1 THE WITNESS: I trusted him. That's more important,
2 Yeah.

3 THE COURT: So, you could have called him?

4 THE WITNESS: Excuse me?

5 THE COURT: You could have called at some point
6 between those dates?

7 THE WITNESS: Well, no. I was instructed not to.

8 THE COURT: So, you couldn't call him?

9 THE WITNESS: Yes. But you're asking me, Your Honor,
10 of what was more important to me? I was -- I was -- I had the
11 peace of mind to know that I didn't have to, but I was
12 instructed not to. I mean, I only called people that was --

13 THE COURT: So, -- so, you couldn't call him?

14 THE WITNESS: Yes, I couldn't call him.

15 THE COURT: Alright.

16 MR. FRONTERA SUAU: I have no further questions, Your
17 Honor.

18 THE COURT: Do you have any questions?

19 MS. GONZÁLEZ ROBINSON: One, Your Honor. Well, --

20 THE COURT: One?

21 MS. GONZÁLEZ ROBINSON: -- I have a question.

22 REDIRECT EXAMINATION

23 BY MS. GONZÁLEZ ROBINSON:

24 Q. You received an offer on September 12, 2002, from Luis
25 Medrano to do a show. Exactly, it was a -- a confirmation of

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1 a date of Saturday, 14 December, to do a show with Rubén
2 Blades in the Fortaleza Osama de Santo Domingo, correct?

3 MR. FRONTERA SUAU: That wasn't part of the cross,
4 Your Honor.

5 THE COURT: It's sustained.

6 MS. GONZÁLEZ ROBINSON: Your -- no, Your Honor.

7 THE COURT: It's not part of the cross.

8 MS. GONZÁLEZ ROBINSON: This is very important to
9 clarify the issue of the \$62,500.

10 MR. FRONTERA SUAU: It was not part of the cross,
11 Your Honor.

12 THE COURT: Well, it may be, but --

13 MR. FRONTERA SUAU: It was not part of the direct, --

14 THE COURT: -- it was not part of the cross.

15 MR. FRONTERA SUAU: -- and it was not part of the
16 cross.

17 MS. GONZÁLEZ ROBINSON: But this is -- this is
18 actually part of Exh. No. 87 which was introduced into
19 evidence.

20 THE COURT: Then, you can raise it -- then, you can
21 raise it later on. But it's not part of the cross, and I'm
22 not going to allow the testimony.

23 MS. GONZÁLEZ ROBINSON: Well, with respect to the --

24 THE COURT: I'm not going to allow it.

25 MS. GONZÁLEZ ROBINSON: Your Honor, --

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1 THE COURT: You're talking -- you're talking about
2 something --

3 MS. GONZÁLEZ ROBINSON: May I do an offer of proof?

4 THE COURT: You -- go ahead. Make an offer of proof.

5 MS. GONZÁLEZ ROBINSON: The offer of proof would be
6 that there was a show that was performed by Rubén Blades in
7 Santo Domingo on 14 December, 2002, that was negotiated by
8 Luís Medrano and Roberto Morgalo, and that is the concert for
9 which he dispersed the funds in December to Rubén Blades
10 productions.

11 MR. FRONTERA SUAUI: Your Honor, --

12 THE COURT: You've made the offer of proof.

13 MR. FRONTERA SUAUI: Okay.

14 THE COURT: You may step down. Thank you.

15 THE WITNESS: Thank you, Your Honor.

16 (Previous witness is hereupon excused)

17 THE COURT: Call your next witness.

18 MS. GONZÁLEZ ROBINSON: The cross-Plaintiff calls
19 Mr. Arturo Martínez to the stand.

20 COURTROOM CLERK: Raise your right hand, please.

21 (Arturo Martínez, cross-Plaintiff witness, is hereupon
22 duly sworn as Witness and testifies as follows)

23 COURTROOM CLERK: Talk into the microphone, please.

24 THE WITNESS: Sure. Sorry.

25 DIRECT EXAMINATION

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1 BY MS. GONZÁLEZ ROBINSON:

2 Q. Can you please state your full name and tell us your age,
3 please?

4 A. Arturo Martínez, 37 years old.

5 Q. Where do you currently reside?

6 A. I live 4324 43rd Street, apartment (b)-3, Sunnyside, New
7 York, Queens, New York.

8 Q. And how long have you lived there?

9 A. Since I came home in October. October 2008.

10 Q. What is your occupation?

11 THE COURT: Since when do you live there?

12 THE WITNESS: October 2008. 2008.

13 THE COURT: 2000 what?

14 THE WITNESS: 2008.

15 THE COURT: Make sure you --

16 THE WITNESS: Oh, 2000, I'm sorry.

17 THE COURT: -- that I hear the entire answer from the
18 beginning to the end.

19 THE WITNESS: Yes, sir.

20 THE COURT: Okay? Don't let the bottom drops off at
21 the end.

22 THE WITNESS: Yes, sir.

23 THE COURT: Go ahead.

24 BY MS. GONZÁLEZ ROBINSON:

25 Q. The question was: what is your occupation?

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1 A. I'm a junior booking agent After Atlantis Agency (sic).

2 Q. And prior to that, where did you work?

3 A. My last place of employment? Martínez Morgalo &
4 Associates.

5 Q. What was your position there?

6 A. I was a vice president and booking agent.

7 Q. Were you also the treasurer?

8 A. As far as titles, I believe so. I'm not really truth --
9 I don't remember the titles, but as far as -- yes. Title.

10 Q. And Robert Morgalo was your partner, correct?

11 A. Correct.

12 Q. What -- how were the duties split among the both of you?

13 A. Robert primarily was -- we were both booking agents. He
14 was the main booking agent, obviously. I tended to travel
15 more with the artists, artists we booked. So, I did a lot of
16 road work with them.

17 We both worked on productions as far as Latin Nights
18 at the Apollo, things of that nature.

19 Q. How did you decide -- what -- what was the process of
20 organizing as your own company?

21 A. We both worked at David Maldonado Entertainment, both as
22 booking agents, and we decided we wanted to grow and start our
23 own company.

24 And, actually, Robert left ahead before I did. He
25 pretty much set up the company, and then I joined him as well.

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1 But always, it was, you know, there with him, and stuff like
2 that. And ...

3 Q. When did you join the company?

4 A. We incorporated December 99. I wanted -- I want to say I
5 joined, like, not too much later, like, about two months
6 later, maybe late January, early February.

7 Q. Okay. What was your relationship to Rubén Blades?

8 A. While I was at David Maldonado? Or when we went over to
9 --

10 Q. When you went over to Martínez Morgalo & Associates.

11 A. We were his booking agents. We were formally his booking
12 agents, in -- in music only, not in cinematic things.

13 Q. You have seen the contract that was -- the two contracts
14 that have been introduced into evidence, or you have heard the
15 testimony today about two contracts, correct?

16 A. Yes. Correct.

17 Q. Can you explain to the Court how the process was of
18 printing these contracts in general, the engagement contracts
19 for shows for Rubén Blades?

20 A. Pretty much have buyer information. It -- it sounds kind
21 of unconventional, but, pretty much, whoever did the contract
22 name went on the bottom on "For services of".

23 Q. Who prepared the contracts?

24 A. It was on both parts. We both would do contracts.

25 Q. How about the Siembra show? Who negotiated that

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1 contract?

2 A. Robert negotiated the contract.

3 Q. Who did he negotiate it with?

4 A. With Ariel Rivas.

5 Q. What sort of things did negotiate?

6 A. Date, fee, that was probably the start of it, you know,
7 what date, what would be the fee.

8 And then, from then on, it would be discussions as
9 far as the technical rider of production, what would -- what a
10 rider consists of is how many rooms we would need, travel
11 accommodations, anything that -- any logistics, things of that
12 nature.

13 Q. What about the payment schedule? Who negotiated that,
14 the intervals?

15 A. As well. Whoever did the -- whoever negotiated the deal
16 at first, then you would pretty much do the -- there was --
17 there was a standard -- it was a standard. You usually do 50
18 percent up front, and then you could set intervals as far as
19 when the payment schedules are done.

20 Q. Specifically for the Siembra show, who set the intervals?

21 A. I believe I did, as far as the intervals. As far as
22 payment, how much it was, because the Siembra comes at a later
23 time, you know, we always talk about that first show, that
24 first contract, and then that comes at a later time.

25 So, as far as the payment intervals, it would be at a

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1 later time. So, ...

2 Q. Going back to that first show, can you tell the Court
3 what happened with the first show, the Cheo Feliciano show?

4 A. No, I really don't remember the exact details of it. But
5 I remember, well, like, I -- I wouldn't be able to tell you
6 why it was moved or why it was postponed -- not canceled, it
7 was postponed.

8 Q. Who negotiated that show with Ariel Rivas?

9 A. Robert.

10 Q. But you learned that money was being deposited for that
11 show, correct?

12 A. Correct.

13 Q. Who set the intervals or the payment schedules for that
14 Cheo Feliciano show?

15 A. Well, for that first show, it was Robert. But, all
16 along, he had always told me, you know, what was happening as
17 well. So, you know, ...

18 Q. What do you mean by "He told me what was happening"?

19 A. Well, you know, when he would say "Hey, we've got this
20 show", so we'd put it on the books. You know, whenever he'd
21 booked a show, he'd also, you know, let me -- just like if I'd
22 book a show, I'd tell him when the show was and stuff like
23 that, as far as any shows going back out.

24 Q. With respect to the four payments the constituted a half
25 of that contract fee, --

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1 A. Um hum?

2 Q. -- was that money ever sent to Rubén Blades?

3 A. Not to my knowledge, no.

4 Q. Did you ever send that money to Rubén Blades?

5 A. No.

6 Q. Did you ever tell him that that money was being deposited
7 for a December show in Santo Domingo?

8 A. No.

9 Q. Were you a party to the conversations about rescheduling
10 the date from December 7th to February 16, 2003?

11 A. I knew Ariel, but pretty much he wasn't my client. Like,
12 Robert did that show. So, Robert advised me of it, but I
13 really didn't get the intimate details of it as far as when it
14 would be or where it would be or, you know, things of that --
15 but I knew it would be rescheduled. And at no point was it
16 ever mentioned of cancellation or losing a deposit, things of
17 that nature.

18 Q. What -- what was that money used for, the \$62,500?

19 A. I can't tell you exactly what we used it for, because I -
20 - I don't -- I just don't remember what, you know, dollar for
21 dollar where that money went.

22 But there were --

23 MR. SAAVEDRA CASTRO: Objection, Your Honor. He just
24 testified he cannot remember.

25 THE COURT: It's overruled.

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1 BY MS. GONZÁLEZ ROBINSON:

2 Q. You may answer the question.

3 What was the money used for?

4 A. To cover company debts, company expenses that we had, you
5 know, company debts.

6 Q. What kind of company debts did you have a by December 7,
7 2002?

8 A. Numerous. Numerous.

9 Q. Can you give the Court some examples?

10 A. The Apollo Theater loans.

11 Q. What debts were associated with the Apollo Theater?

12 A. Correct.

13 Q. What -- what debts?

14 A. The venue, radio station, television channels, promoter
15 fliers -- people who give out fliers, pretty much that -- that
16 would be for that.

17 Q. What happened with the Apollo night series?

18 A. It was -- well, we started it -- it -- it was great. It
19 was just a great thing that just didn't pan out. 9-11 came and
20 -- and, you know, it just didn't pan out. And we wanted to
21 keep it going and -- and, you know, we tried to keep it going.
22 We tried to keep it going, and the losses were just too big
23 for us.

24 Q. Can you give the Court an approximation of how heavily in
25 debt the company was in connection with the Apollo night

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1 series?

2 A. Well, we had gotten some sponsorship -- can I give
3 examples? I don't know -- you know, we had gotten -- we had
4 gone some sponsorship money, but this was a series, a 10-show
5 series.

6 So, in 10 shows, \$100,000 sounds like a lot, but you
7 have to break it down within 10 shows, and you have to pay for
8 that theater \$20,000 10 different times, and you have to pay
9 for 10 different artists, and you have to pay the radio
10 station 10 different times.

11 So, it might sound like, you know, it's -- it's big
12 money, \$100,000, but, when you pro rate it, you're looking at
13 maybe going \$7,000, \$8,000 per show. And -- and --

14 Q. Who were the sponsors -- can you give us some names of
15 sponsors that Martínez Morgalo & Associates owed money to?

16 A. We didn't owe money to sponsors. We didn't owe money to
17 sponsors. But --

18 Q. But what were the creditors? Who -- some names of
19 creditors of Martínez Morgalo & Associates?

20 A. SBS Broadcasting, the Apollo Theater, El Diario
21 newspaper, that -- that's as far as my recollection --

22 Q. Did Robert Morgalo know you were receiving the money from
23 Ariel Rivas for the December show?

24 A. Yes. Yes.

25 Q. **And who withdrew the money from the account to pay the**

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1 creditors? Did you do --

2 A. Yes.

3 Q. -- withdrew the money?

4 A. Yes.

5 Q. Did -- how did you know which creditors to pay?

6 A. We had -- we had spoken about this many times and --

7 Q. When you say "We", who are you talking about?

8 A. Myself and Robert spoke about it many times, continued to
9 speak about it many times. A lot of it was done through wire
10 transfers, you know, so ... it was just a snowball effect,
11 that we just kept trying to get it right. It was never done -
12 - you know, I can't say anyone went out and bought lavish cars
13 or houses or anything like that, because that wasn't the case.
14 It was just bad management that just escalated and escalated
15 and escalated.

16 Q. When was the Siembra concert idea brought up at Martínez
17 Morgalo & Associates?

18 A. The exact date I wouldn't even begin to tell you.
19 So, ...

20 Q. Was it in 2002?

21 A. Yeah, it was in 2002.

22 Q. Who brought it up?

23 A. Myself and Robert had brainstormed about it, and it was
24 something that -- the idea that we spoke about was a great
25 idea. Again, it was a great idea to do something that, you

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1 know, ...

2 Q. Who proposed it to Ariel Rivas?

3 A. Robert. Robert.

4 Q. Who negotiated the details of the show?

5 A. Robert.

6 Q. Was it supposed to be a tour?

7 A. We had -- we -- it wasn't -- it -- it -- the idea was for
8 a tour. We did actually get the offers throwing out there
9 just to see. You know, but it wasn't something that it was
10 concrete, that it would be a tour, things like that.

11 But it was -- it was mentioned, and we did get the
12 offers from all lot of different countries and a lot of
13 different places that wanted to do it.

14 Q. What was done with that first amount of money, the
15 \$62,500 that were deposited?

16 A. Again, I wouldn't remember exactly what, you know, ...

17 Q. Did you propose that it be applied as a credit towards
18 the Siembra show?

19 A. Again, I didn't specifically do that first show. But, to
20 my understanding, what I remember, you know, that's what it
21 was for.

22 Q. It was applied as a credit --

23 A. As a credit.

24 Q. -- for Siembra?

25 A. Correct.

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1 Q. But who proposed that it be applied as a credit for
2 Siembra?

3 A. It was agreed upon between Ariel and Robert.

4 Q. Was it ever consulted with Rubén Blades?

5 A. No.

6 Q. Was it ever consulted with Willie Colón?

7 A. No.

8 Q. Did Martínez Morgalo & Associates receive authorization
9 in writing or otherwise from Rubén Blades to apply \$62,500 as
10 a deposit towards the Siembra show?

11 A. No.

12 Q. Did Martínez Morgalo & Associates deduct a 10% commission
13 equal to \$35,000 from the Siembra funds deposited by Ariel
14 Rivas?

15 A. Did we apply it? That's -- that's --

16 Q. Did you charge a commission?

17 A. The thing is that there was no balance -- there were no
18 monies that were paid out. So, I never sat down and did a
19 stat sheet, how much is owed, things like that, because, from
20 the beginning, it was, you know, -- that's why I question when
21 he says we took a deposit on that, but that -- it was probably
22 -- it would be applied -- it would have been applied, yes.

23 But, you know, at the time when we first got that
24 money, the Siembra tour wasn't -- that wasn't what that money
25 was for at first. So, ...

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1 Q. What was it for?

2 A. It was for another Rubén Blades show.

3 Q. That you never informed him of?

4 A. Correct. Correct.

5 Well, let me take that back. I'm sorry. He knew of
6 the show, but he wasn't informed of the money coming in.

7 So, he knew there was going to be a show, there was a
8 proposed show, but the money never came in. So, that was
9 never, you know, extended there.

10 Q. You accept there was a duty of yours and the company to
11 inform Rubén Blades of the money coming in?

12 A. Definitely. It -- it -- I take responsibility for a lot
13 of things.

14 Q. What was the extent of Mr. Morgalo's participation in --
15 after -- after the December 7, 2002, date with respect to the
16 Siembra concert?

17 A. I'm sorry. What date?

18 Q. What -- what was the extent of both of your participation
19 in dealing with Ariel Rivas for the Siembra show after
20 December 7, 2002?

21 A. More -- I -- I guess the creative aspect and things like
22 that were with Robert. And, then, as the day got closer, I
23 dealt with -- obviously, because Robert was gone, so I dealt
24 with Ariel.

25 Q. When did you find out that Robert Morgalo was leaving for

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1 the military?

2 A. Write -- right before. Right before. It was -- it was -
3 - Robert was leaving, and it was a -- a -- how could I say? -
4 - it was predetermined that he be going and he'd be tried to
5 get some grants so we could try to fix things and we'll get a
6 break in doing this.

7 Q. And did he join the military to get grants?

8 A. No. No, no. No, no. Not at all. He was -- he was in
9 the military. He was in the National Guard I believe. So, he
10 would go on deployment, like, every now and then for weekends.

11 He had been in the military for a while.

12 Q. What if anything did he do to stay in touch with you
13 after he was deployed?

14 A. After the January date?

15 Q. Correct.

16 A. I still spoke to Robert. He didn't -- he also did
17 mention he wasn't allowed to say some things about his -- his
18 mission and things like that. But I was in contact with
19 Robert.

20 Q. How frequently did you speak to him?

21 A. Robert -- Robert is my brother, you know. It -- it
22 was ...

23 Q. Did he e-mail you?

24 MR. SAAVEDRA CASTRO: Your Honor, she has asked two
25 questions.

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1 THE COURT: Yeah, just give -- Yeah.

2 THE WITNESS: I -- I can't remember any e-mails
3 exactly that he had sent me.

4 BY MS. GONZÁLEZ ROBINSON:

5 Q. Did he keep in touch through e-mail or phone?

6 A. Yes.

7 Q. Did you advise him his money was coming in from Ariel
8 Rivas for the Siembra show?

9 A. Yes.

10 Q. Did you -- what if anything did he tell you with respect
11 to the incoming funds that were being received by Martínez
12 Morgalo & Associates for the Siembra show?

13 A. At this point, things had gotten very out of hand as far
14 as collectors, things we have to pay, the pressure coming down
15 on certain things. And he can't just try to make things
16 right, you know. No money was ever funneled to Robert, you
17 know. So, I just want to make that clear. It's not like, you
18 know, he had taken any money or I had taken any money. It was
19 trying to -- trying to cover up and pay bills and just keep
20 hoping that things would -- trying to stay afloat.

21 Q. But he was aware of what the situation was --

22 A. Correct.

23 Q. -- at the time?

24 A. Correct.

25 Q. Did he have any input as to what creditors were going to

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1 be paid or what the money was going to be used for --

2 A. Yes.

3 Q. -- with the money being wired by Ariel Rivas?

4 A. Yes. Yes.

5 Q. Did Martínez Morgalo & Associates actually expend money
6 on behalf of the Siembra show?

7 A. Well, what -- could you explain the question?

8 Q. Did Martínez Morgalo & Associates pay for any expenses?

9 A. Yes.

10 Q. What expenses did Martínez Morgalo & Associates pay for?

11 A. I paid for the air fares of the band. I paid for the air
12 fares from technicians and a musician from Costa Rica. I paid
13 for rehearsal space.

14 Q. Did you send --

15 A. That's what I remember offhand. That's, you know, ...

16 Q. Did you send an upfront advance to Willie Colón?

17 A. I -- I don't -- I don't think so. I don't remember, but
18 I don't -- I'm not -- I don't remember.

19 Q. Do you recall if there were two transfers of \$31,500 each
20 to Willie Colón on or about March of 2003?

21 A. It -- it -- I could have. At that point in my life --
22 and it's -- by no means am I making any excuses -- I -- I was
23 very -- not disoriented, but very nervous, very fidgety, doing
24 things that were out of character just to get out of this, you
25 know.

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1 Q. Did the artists -- were the artists asking you for money?

2 A. Yes.

3 Q. Did Rubén Blades ask you for money?

4 A. Yes.

5 Q. Did you send him an advance of \$68,125?

6 A. Again, if -- I don't remember, but, if they were sent, I
7 would have sent them. You know, so, the exact -- if they were
8 sent -- because, Robert was away. So, he had no access to
9 that -- to the account and sending any money. So, ...

10 Q. Was he aware that you had made those advances to the
11 artists?

12 A. I -- I don't remember exactly. I don't want to say that
13 he knew when I sent them or where I sent them.

14 Q. What did any -- what if anything did you say to Rubén
15 Blades when he started asking you about the remainder of their
16 fee?

17 A. You know, that -- that was hard, you know, lying to him,
18 because I just had to keep, you know, hoping something will
19 happen, you know, from anything, Lotto, rainbow, pot of gold,
20 something will make it right.

21 So, just trying to keep it up, you know. So, ...

22 Q. Did you ever tell him that the promoters from Puerto Rico
23 had not made the payments to you?

24 A. Yes.

25 Q. What if anything happened on April 29, 2003?

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1 A. Personally?

2 Q. Yes.

3 A. I -- I took an overdose of some pills, some sleeping
4 pills. And I guess the pressure had gotten to me and -- and -
5 - I wasn't strong enough to face the things, and, you know,
6 just wanted to sleep.

7 Q. By this time, the artists were supposed to have traveled
8 to Puerto Rico. Is that correct?

9 A. Either that day or the next day.

10 At that point, I do remember, like, towards that week
11 before, that Robert would try to call me. I wouldn't take his
12 calls. Ariel would call me. I wouldn't take his calls.
13 Rubén called me. I wouldn't take -- I wasn't taking anyone's
14 calls. And, so, ... I did that, and then I was hospitalized.

15 Q. How long were you hospitalized?

16 A. Approximately 10 days.

17 Q. When did Robert find out about your hospitalization, your
18 attempted ...?

19 A. Robert had gotten in touch with my wife. And she had
20 pretty much been explaining the situation.

21 So, the exact date, when he found out, I'm not, you
22 know, or how he found out or when he found out.

23 Q. Was it while you were at the hospital?

24 A. Yes. I believe so.

25 Q. When you left the hospital, did you have occasion to

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1 speak to Rubén Blades about what had happened?

2 A. It was a few weeks later by -- I had some of Mr. Blades's
3 personal items. Our relationship was, you know, much more
4 than an agent, so I had some things in my house of his, and --
5 and he had wanted to meet with me in Juan Toro's office. So,
6 I was bringing the stuff to him, and that was the first time I
7 got to speak with him.

8 Q. Did he confront you about this Siembra show?

9 A. Yes.

10 Q. What if anything did he say to you and what did you say
11 to him?

12 A. He was hurt. He was disappointed, obviously upset. You
13 know, just -- just why didn't I tell him and -- and, you know,
14 things of that nature.

15 Q. Was there any money in the Martínez Morgalo & Associates
16 account by May of 2003 to pay the balance of the fee owing to
17 Willie Colón and Rubén Blades?

18 A. The whole fee, no. No. There wasn't.

19 There was some monies that came in, because I used
20 money to buy, again, airline tickets and some rehearsal space
21 and things of that nature.

22 But, by the time I had gotten out of the hospital,
23 you know, all that had been -- I believe Juan had access to
24 it, and my wife had given them the necessary -- and they had
25 took whatever was there. So, ...

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1 Q. Did Rubén Blades know, prior to your confession that you
2 just testified to, that money was being diverted from the
3 Martínez Morgalo account for other uses?

4 MR. SAAVEDRA CASTRO: Objection, Your Honor. It's
5 leading.

6 THE COURT: Overruled.

7 THE WITNESS: Did he know? Well, you know, it was
8 the company account. So, it was of the company -- we didn't
9 have a separate accounts. Like, we didn't have a Rubén Blades
10 account or any other specific account. It just came to all
11 one account.

12 BY MS. GONZÁLEZ ROBINSON:

13 Q. But was he aware that the monies that were supposed to go
14 out to him and Willie Colón were being applied towards other
15 debts --

16 A. No.

17 Q. -- of the company?

18 A. No.

19 Q. What if anything happened to Martínez Morgalo &
20 Associates after May of 2003?

21 A. I -- can I just say the whole situation or whatever?

22 Q. Sure.

23 A. I -- I was -- I was incarcerated in August of 2003.

24 Q. What was the reason for your incarceration?

25 A. I was convicted of drug trafficking.

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1 Q. When -- what --

2 A. In the state of Georgia.

3 Q. In the state of Georgia?

4 A. Correct.

5 Q. Did you have a prior criminal record before that arrest?

6 A. No.

7 Q. What was the charge -- what were the circumstances of
8 that conviction?

9 A. In August, I -- I had tried to initiate, you know, try to
10 work some things out. And I made the wrong choice of trying
11 to -- trying to make money. I had a lot of money that was
12 owed. You know, --

13 Q. Does that include Rubén Blades and Willie Colón?

14 A. Yes. Of course. That, you know, -- for our company to
15 go down the way it was, it -- it was, you know, -- you know, -
16 - but I didn't have materialistically, monetary-wise. I had
17 my name, and that just crushed me, you know. And this is,
18 like, reliving everything all over again. But, you know,
19 that's all I had. And -- and -- I made the wrong choice. I
20 thought I could come back up through this, and, you know,
21 and ...

22 Q. Did you plead guilty?

23 A. Correct.

24 Q. Did you go to a trial?

25 A. No.

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1 Q. What was your sentence?

2 A. 15 years.

3 Q. That was a state offense?

4 A. Correct.

5 Q. When were you released?

6 A. October 23, 2008, after serving five years. I got
7 released on good behavior after serving a third of my
8 sentence.

9 Q. What happened to the company?

10 A. Well, when I was in Coastal, I will speak to my brother.
11 And my brother Christian worked at the company. And my
12 brother Christian one day had told me that Robert was going --
13 that Robert was going to the house and was going to get some
14 papers. Because, before we had close the company, we took all
15 the stuff out of the office, took stuff to Robert's house and
16 took stuff to my house.

17 And Christian had told me that Robert was calling,
18 that he needed a letter, that he needed a letter signing me of
19 my shares to him, to the company.

20 And Christian had let him go to my house and get
21 those. I did get upset when Christian let him go through the
22 stuff, because that stuff there I knew it was going to come
23 back, and I wanted to hold something because I knew exactly
24 what's happening was going to happen then, that I'd be the
25 scapegoat, you know.

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1 And -- and, so, I -- you know, I got upset. But I
2 did send him the letter. I had the letter and the address.

3 Q. Was that the letter that he requested through Exh. No.
4 (h)?

5 A. Correct. Correct.

6 Q. What exactly did you state in the letter?

7 A. I'm Arturo Martínez, my Social Security number, and
8 resigned all my shares in Martínez Morgalo & Associates, Inc.
9 to Robert J. Morgalo.

10 Q. And you signed that before a notary public?

11 A. Correct.

12 Q. And was that Notary Public --

13 A. She was --

14 Q. -- an officer?

15 A. -- she was a corrections officer at Clinton County Jail
16 in Clinton County, Ga..

17 Q. Did you keep a copy of the letter?

18 A. We didn't have any access to copy machines. So, I didn't
19 have a copy of the letter, no.

20 Q. So, you --

21 A. I don't have a copy.

22 Q. How was the letter sent to Robert Morgalo?

23 A. Through the mail, regular mail.

24 Q. Did you put it in an envelope?

25 A. Yes.

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1 Q. Did you address the envelope?

2 A. I addressed it. I didn't have Robert's address. I sent
3 it to my brother, Christian Ramiry, and he in turn gave it to
4 Robert.

5 Q. Why did you sign over your interest in the company to
6 Robert Morgalo?

7 A. It -- it -- it got me -- Martínez Morgalo I wanted so
8 much to save the company. You know, we built that company,
9 and we had great ideas, and things like that. And -- and --
10 and it wasn't supposed to go down the way it did.

11 And I was sitting in a cell after, didn't want
12 nothing to do with the music business, and then, you know,
13 didn't want to hear anything about it, anything about the
14 company, anything about anything.

15 Q. Did you believe that Robert Morgalo was going to obtain
16 funds to make Rubén Blades whole for what he had suffered?

17 A. At that point in the company, I don't think anything
18 could have saved the company. Would it have made it better?
19 But I don't think anything would have saved the company.

20 And if he thought that he was going to succeed in
21 that, you know, God bless him, I'll give him the letter, and
22 go ahead.

23 Q. You believed that he was going to get a loan and pay
24 Rubén Blades?

25 A. That's what he mentioned. And, in the letter, I also

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1 specified that I transfer my stock, all my rights to the
2 company, and its debts, you know.

3 Q. To Robert Morgalo?

4 A. If he -- if he wanted it whole, let him have everything.

5 Q. Did he ever -- did Robert Morgalo ever right back to you
6 while you were in prison?

7 A. No. But I did not get another letter from him. He also
8 did --

9 Q. When was that?

10 A. It was about a year later. But this letter had nothing
11 to do with anything. It was just checking on my well-being
12 and see how I was doing, and things like that.

13 Q. To your knowledge, was the company operating under the
14 control of --

15 A. Yes.

16 Q. -- Robert Morgalo?

17 A. Yes.

18 Q. And what specific knowledge do you have in regards to
19 that?

20 A. I had gotten a letter from a -- a client that we had in
21 Orlando, Fla., that had been contacted. And -- and him, with
22 a gentleman, Michael Maldonado, they were both operating using
23 Martínez Morgalo, using the e-mail.

24 Then, a friend of mine had also gotten an e-mail from
25 Robert that had Martínez Morgalo at AOL.com.

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1 The -- that AOL address was my wife's address. When
2 we -- I opened that account, it was my wife's account. And we
3 had gotten a deal with America Online where they were giving
4 us free AOL. So, --

5 Q. And what happened to that account?

6 A. That account, my wife one day her code was changed, and
7 that account -- apparently, when she called AOL, they said it
8 was transferred from her to Robert.

9 Robert in turn did I give her her e-mail, because
10 you're allowed five AOL addresses. So, he did give her her
11 AOL e-mail back. But she was no longer operator of that
12 account.

13 Q. And so, it was transferred to Robert Morgalo?

14 A. Correct.

15 Q. And was this in the year 2004?

16 A. 2004, 2005.

17 Q. Do you know if Morgalo did any other concerts with
18 artists in any city?

19 A. I've heard promoters from Chicago --

20 MR. SAAVEDRA CASTRO: Objection, Your Honor.
21 Hearsay.

22 THE COURT: Sustained.

23 BY MS. GONZÁLEZ ROBINSON:

24 Q. You heard Mr. Robert Morgalo testify that the \$62,500
25 that were deposited by Ariel Rivas and his partner César Seinz

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1 in 2002 for the Cheo Feliciano show was forfeited.

2 Is that a true statement?

3 A. No. No. That deposit was always -- it was common
4 knowledge it was, you know, applied for Ariel.

5 Ariel was a -- a good client of ours. Robert
6 initiated, you know, relations with him, and he was a good
7 client.

8 Q. To your knowledge, did Robert Morgalo send Rubén Blades
9 \$50,000 from that deposit in December of 2002?

10 A. To my knowledge, no.

11 Q. Would you have known if he had sent that to Rubén Blades?

12 A. Yes.

13 Q. As an officer of Martínez Morgalo & Associates, do you
14 believe that you acted in an open, fair, and honest manner
15 with respect to Willie Colón and Rubén Blades --

16 A. No.

17 Q. -- for the Siembra show?

18 A. No. Both Mr. Colón and -- and Rubén both were very fair,
19 in trusting and -- and put a lot in -- you know, in our
20 company, put a lot of faith in our company.

21 Q. Did Willie Colón talk to you with respect --

22 A. Yes.

23 Q. -- to the Siembra concert?

24 A. Yes.

25 Q. How often were you in touch before the April 29th --

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1 A. Before the initial contact -- before the initial concert,
2 I was talking to Mr. Colón just about every day. Just about
3 every day.

4 Q. And had Martínez Morgalo & Associates represented Willie
5 Colón for another show before?

6 A. We had. We had -- actually, Robert booked him in a great
7 show at the Blue Note. Robert had done some stuff with him,
8 and -- and everything had always been fine, you know.

9 Q. The Blue Note is a venue in New York City?

10 A. Correct. Sorry.

11 Q. To your knowledge, did Willie Colón ever object to your
12 representation of him and Rubén Blades for the Siembra
13 concert?

14 A. No. No. Again, you know, they put a lot of faith in us
15 and -- and -- you know, I -- I -- I do take my blame in, you
16 know, something historical and feel, you know, responsible for
17 doing this.

18 Q. Should Martínez Morgalo & Associates return the
19 commission that it charged for the Siembra show?

20 A. I've never been asked that. And, to be honest, things
21 were done, you know, as far as booking shows, booking,
22 rehearsals, keeping in contact with musicians, booking them.
23 So, in that aspect, things were done for that show.

24 But, ethically, because of the outcome, you know, it
25 -- it -- it shouldn't be applied. But, honestly, work was

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1 done for that show. So, ...

2 Q. Were you aware of the loans and grants that Robert
3 Morgalo was applying for?

4 A. Yes.

5 Q. Did you participate in the process of --

6 A. Yes. I cosigned a loan with him. Well, we were a team,
7 you know. We were a team, you know.

8 MS. GONZÁLEZ ROBINSON: I have no further questions.

9 Oh, I'm sorry, Your Honor. May I have one moment,
10 please?

11 (Documents are reviewed)

12 THE COURT: What time is it?

13 COURTROOM CLERK: 5:54.

14 BY MS. GONZÁLEZ ROBINSON:

15 Q. Do you know if Rubén Blades performed a concert in
16 December of 2002 in the Dominican Republic?

17 A. Yes. Yes, he did. Sorry.

18 Q. Where was the concert held?

19 A. It was in Santo Domingo, in the capital, at Fortaleza
20 Osama, and it was with Raymond Pozo, Miguel Céspedes, and
21 Sergio Vargas.

22 Q. And did he perform with Eddie Tours ensemble?

23 A. Eddie Tours and Eric Ridler, yes.

24 Q. And what was the amount of the show?

25 A. I want to say \$100,000, but I don't remember the exact --

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1 it's somewhere in that -- in that --

2 Q. Who negotiated that show?

3 A. That show we negotiated with Luís Medrano.

4 Q. And do know who signed the contract between Luís Medrano
5 and Martínez Morgalo & Associates?

6 A. I believe it was Robert. I believe it was Robert, but I
7 don't remember exactly.

8 Q. Did you actually pay Rubén Blades in full for the
9 concert?

10 A. Yeah. Rubén was paid for that concert.

11 Q. How do you know that?

12 A. If it was December, he would have -- he would have had
13 somebody, you know.

14 No, that concert he -- he was paid for.

15 Q. Would he have performed if he had not been paid in full?

16 A. No.

17 MS. GONZÁLEZ ROBINSON: I have no further questions.

18 THE COURT: You may step down. Thank you.

19 THE WITNESS: Thank you.

20 (Previous witness is hereupon excused)

21 MS. GONZÁLEZ ROBINSON: Your Honor, may I do a brief
22 submission for the Court as part of the interrogation at the
23 end of this? It's very simple.

24 THE COURT: Like three minutes? Two minutes?

25 MS. GONZÁLEZ ROBINSON: Yeah. Oh, less than that.

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1 COURTROOM CLERK: Counsel, do you want to give me the
2 CD, DVD?

3 MS. GONZÁLEZ ROBINSON: Oh, Your Honor, before we
4 close the -- before I proceed: There are some references to
5 the video that we did not play. So, I wanted to give the
6 Court the minutes so that those portions of the ones that --
7 the video is about an hour long, and all these sub-portions
8 are the ones that we wanted -- this is Exh. No. (c).

9 THE COURT: That -- that -- okay.

10 MS. GONZÁLEZ ROBINSON: They stipulated to the
11 authenticity of the video.

12 THE COURT: Okay. So, you just give me -- let me
13 know the minutes, and then --

14 MS. GONZÁLEZ ROBINSON: For the record, it is
15 minutes 9:25 --

16 THE COURT: Are you hiding from me?

17 COURTROOM CLERK: I'm turning it on, and we'll be
18 hearing your --

19 THE COURT: No. It's going to be submitted.

20 MS. GONZÁLEZ ROBINSON: No, it's going to be
21 submitted.

22 COURTROOM CLERK: Oh, okay.

23 THE COURT: It's going to be submitted, and they
24 agreed, and I'll -- and I'll listen to it.

25 COURTROOM CLERK: Thank you. I have --

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1 THE COURT: Go home.

2 MS. GONZÁLEZ ROBINSON: It's going to be minutes
3 9:25 to 26:37.

4 THE COURT: Okay.

5 MS. GONZÁLEZ ROBINSON: Your Honor, you have heard
6 evidence that Martínez Morgalo & Associates were the agents of
7 Rubén Blades from the time they were incorporated in 1999 and
8 up to and inclusive of 2003 where they also represented Willie
9 Colón for the Siembra show.

10 As agents for Rubén Blades and Willie Colón, they had
11 duties of full and truthful disclosure, to act in a diligent
12 manner in handling the affairs, and of holding a higher
13 standard of fiduciary duties because they held the property of
14 Rubén Blades.

15 You heard that they took advantage of that
16 relationship of trust and confidence, to Rubén Blades's
17 detriment.

18 In order to benefit Martínez Morgalo & Associates,
19 they received funds, and, while they paid for some services in
20 connection with the Siembra concert, they did not perform
21 other services. They failed to disclose and make payments,
22 and they failed to act in good faith or with due regard for
23 Mr. Blades's interests.

24 They failed to exercise reasonable care, skill, and
25 exposed Mr. Blades to actual harm and potential liability.

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1 The law imposes upon agents the obligation to perform
2 the duty which they have assumed. And, in this case, we have
3 asked in our amended cross-claim, docket 56, for the amount of
4 \$143,000, exclusive of interest and costs. And that is broken
5 down in the following way: \$62,500 as for monies received a
6 bye Martínez Morgalo & Associates in 2002 for a show
7 exclusively of Rubén Blades which was to be performed with
8 Cheo Feliciano, of which he was not informed, and of which he
9 received none of that money.

10 Also, after application of the total documented
11 expenses, which the record shows, from the summary judgment
12 record, that there were \$72,663.69 in expenses, Mr. Blades is
13 owed individually an amount of \$70,500, after applying the
14 upfront advance he did receive and that was \$68,125.

15 The rest of the damages claimed are for commissions
16 that are owed back to Rubén Blades. And that amount, we are
17 asking for \$10,000, in consideration of the fact that Martínez
18 Morgalo & Associates did pay for some expenses related to the
19 concert.

20 Therefore, between those three amounts, that adds up
21 to \$143,000, which is the pleaded amount. Plus, we are asking
22 for costs and reasonable attorney's fees against Martínez
23 Morgalo & Associates for having to bring the lawsuit.

24 In addition, Judge, we are asking for full
25 indemnification from Martínez Morgalo & Associates as for all

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1 the other counts, because, to the extent that they were agents
2 of Mr. Rubén Blades and Willie Colón, they are the ones
3 responsible for their losses for which we are here in this
4 lawsuit.

5 Thank you, Your Honor.

6 THE COURT: Is part -- is the entire -- the cross-
7 claim is partially indemnification?

8 MS. GONZÁLEZ ROBINSON: It's full indemnification.
9 But we have -- we have pleaded --

10 THE COURT: Both.

11 MS. GONZÁLEZ ROBINSON: -- full and partial, as well
12 as contribution.

13 THE COURT: Alright.

14 MS. GONZÁLEZ ROBINSON: And a declaratory judgment,
15 Your Honor, is that Martínez Morgalo & Associates is liable to
16 both the plaintiff Mr. Colón and to Rubén Blades for the
17 losses that are the subject matter of this action.

18 THE COURT: I will -- I have to withhold judgment. I
19 will be issuing an opinion and order. But I withhold judgment
20 just because I'm going to wait until final judgment as to all
21 parties --

22 MS. GONZÁLEZ ROBINSON: Very well.

23 THE COURT: -- before you get a default judgment.
24 Alright?

25 Anything else?

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1 MS. GONZÁLEZ ROBINSON: No. Just that we're ready
2 for trial, Your Honor.

3 THE COURT: Thank you.

4 MS. GONZÁLEZ ROBINSON: Thank you.

5 COURTROOM CLERK: All rise.

6 (Hearing on default in this matter is hereupon concluded
7 for this day)

8 (6:02 p.m.)
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I N D E X

DIRECT CROSS REDIRECT RECROSS

WITNESSES FOR THE

PLAINTIFF:

None.

WITNESSES FOR THE

DEFENDANT:

| | | | | |
|-----------------|-----|-----|-----|----|
| Ruben Blades | 2 | ** | ** | ** |
| Ariel Rivas | 43 | ** | ** | ** |
| Robert Morgalo | 79 | 151 | 164 | ** |
| Arturo Martinez | 166 | ** | ** | ** |

| <u>1</u> | <u>EXHIBITS</u> | <u>FOR IDENTIFICATION</u> | <u>ADMITTED</u> |
|----------|-----------------|---------------------------|-----------------|
| 2 | Exh. A | 13 | 17 |
| 3 | Exh. B | 25 | 25 |
| 4 | Exh. D | 49 | ** |
| 5 | Exh. E | 57 | 59 |
| 6 | Exh. F | 60 | ** |
| 7 | Exh. G | 68 | ** |
| 8 | Exh. H | 112 | 119 |
| 9 | Exh. I | 119 | 139 |
| 10 | Exh. J | 123 | ** |
| 11 | Exh. K | 130 | EXCLUDED 133 |
| 12 | Exh. L | 136 | ** |
| 13 | Exh. M | 147 | 148 |
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| 16 | Exh. 1 | 152 | ** |
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TRANSCRIBER CERTIFICATION

I, CRYSTAL INCHAUSTEGUI BREAZ, Transcriber, do hereby certify that the foregoing transcript was transcribed by me to the best of my abilities.

I CERTIFY that all "(inaudible)", "(phonetic)", and "(unintelligible)" were carefully reviewed and found to be as written.

I FURTHER CERTIFY that I am not interested in the outcome of the case mentioned in said caption.

S/ CRYSTAL INCHAUSTEGUI
CRYSTAL INCHAUSTEGUI BREAZ

I, DIANE BREAZ, RPR and Official Court Reporter for the District Court of Puerto Rico, certify that the foregoing transcript has been verified and certified by me.

S/ DIANE BREAZ
DIANE BREAZ