

ALSO PRESENT:

MS. CATHERINE KETTLEWELL
Secretary to the Tribunal

Realtime Stenographer:

MR. DAVID A. KASDAN
Registered Diplomate Reporter (RDR)
Certified Realtime Reporter (CRR)
B&B Reporting/Worldwide Reporting, LLP
529 14th Street, S.E.
Washington, D.C. 20003
United States of America

SRA. MONIQUE FERNÁNDEZ
SR. RODOLFO RINALDI
D.R. Esteno
Colombres 566
Buenos Aires 1218ABE
Argentina

Interpreters:

MR. DANIEL GIGLIO
MS. SILVIA COLLA
MS. MONIQUE FERNÁNDEZ

APPEARANCES:

On behalf of the Claimant:

MR. HERNANDO DÍAZ CANDIA
MR. RAMÓN AZPÚRUA
MS. GABRIELLA HORMAZABAL
MR. SEBASTIÁN ORDOÑEZ
MR. MIKEL del VALLE-CORONA
WDA Legal
848 Brickell Avenue
Suite 1000
Miami, Florida 33131
United States of America

Party Representatives:

MR. [REDACTED]
Founder

MS. [REDACTED]
Finance Manager

APPEARANCES: (Continued)

On behalf of Respondent:

MS. VANESSA RIVAS PLATA SALDARRIAGA
President, Special Commission that
Represents Peru in International
Investment Disputes

MR. JHANS PANIHUARA ARAGÓN
Counsel, Technical Secretariat to the
Special Commission that Represents Peru in
International Investment Disputes

MR. GINO CAMPAÑA ALBÁN (remote)
SUNAT's Representative before the Special
Commission

MR. JUAN FALCONÍ GÁLVEZ (remote)
Ministry of Justice's Representative before
the Special Commission

MR. PATRICIO GRANÉ LABAT

MS. MÉLIDA HODGSON

MR. ÁLVARO NISTAL

MS. KATELYN HORNE

MR. TIMOTHY SMYTH

MS. CRISTINA ARIZMENDI

MR. PETER SABAN

MS. ANDREA MAURI PARICIO

MS. PALOMA GARCÍA GUERRA

MR. AGUSTIN HUBNER

MR. ANDRÉS ÁLVAREZ CALDERÓN

Arnold & Porter, LLP

601 Massachusetts Avenue, N.W.

Washington, D.C. 20001

United States of America

MR. JORGE LAZO (remote)

MR. ROCHAR ALLEMANT (remote)

MR. JOSE JARAMILLO (remote)

Lazo Abogados

Pardo y Aliaga 699, San Isidro Lima

Gobierno Regional de Lima LIMA, 27

Peru

APPEARANCES: (Continued)

On behalf of the United States of America:

MR. DAVID BIGGE
MS. MELINDA E. KURITZKY
Office of the Legal Adviser
United States Department of State
Washington, D.C. 20520
United States of America

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1 advance notice. We do not anticipate starting with
2 Mr. Caro Coria today. As to whether we get to
3 Mr. [REDACTED] before 11:30, we can determine that as we
4 go, but we are also not anticipating starting before
5 11:30. But again, we will check as we go along.

6 Thank you.

7 PRESIDENT McRAE: Thank you.

8 Then we can proceed to the examination of
9 Ms. [REDACTED], the Witness.

10 [REDACTED], CLAIMANT'S WITNESS, CALLED

11 PRESIDENT McRAE: Good morning, Ms. [REDACTED].

12 THE WITNESS: Good morning.

13 PRESIDENT McRAE: You may or may not be
14 familiar with the process, but you will be invited
15 first to make a statement or respond to questions of
16 counsel.

17 MR. DÍAZ-CANDIA: Yes, I was going to
18 mention that, Mr. President. This Witness is in
19 Spanish, so she needs the headset. Her Declaration is
20 in Spanish, in her first language.

21 PRESIDENT McRAE: Yes. I noticed in her
22 Witness Statement she said she would do her testimony

1 in Spanish.

2 Then I--just make sure I hear your
3 responses.

4 THE INTERPRETER: Checking the English
5 channel. Test. Test.

6 PRESIDENT McRAE: So, under this process,
7 you will have an opportunity to make a statement or
8 respond to questions of your counsel. Then you will
9 be cross-examined by the lawyers for the Republic of
10 Perú. After that, counsel for the Claimant will have
11 an opportunity to redirect or to ask you further
12 questions, and then there may be questions from the
13 Tribunal as well.

14 Is that understood?

15 THE WITNESS: Yes.

16 MR. GRANÉ LABAT: Mr. President, terribly
17 sorry to interrupt. I have a point of clarification.

18 We've heard counsel for Claimant yesterday
19 referring to statements by fact witnesses, and we also
20 now heard your reference to statements by fact
21 witnesses. Our understanding, based on P01 and P04
22 Sections 18.12.2, is that oral testimony from fact

1 witnesses would only encompass direct examination
2 limited to 10 minutes and the issues described
3 therein. It was not our understanding that fact
4 witnesses can make just open-ended statements as would
5 be the case for experts with preparations.

6 So, can we please get some clarification
7 about that point?

8 Thank you.

9 PRESIDENT McRAE: Yes, that's my mistake in
10 referring to it as an opening statement, and each time
11 Mr. Díaz-Candia has corrected me or done it the right
12 way by asking questions rather than having an opening
13 statement. So, I apologize for that incorrect
14 statement.

15 MR. DÍAZ-CANDIA: Just to clarify, none of
16 the remaining witnesses of fact are expected to make
17 Opening Statements. Ms. [REDACTED] and Mr. [REDACTED] will
18 not make Opening Statements.

19 PRESIDENT McRAE: Thank you.

20 Ms. [REDACTED], then, you've heard the
21 correction and you will not be invited to make an
22 Opening Statement, of course. You will be asked to

1 respond to some initial questions from counsel for the
2 Claimant. And perhaps before we do that, in front of
3 you, you will find a statement, a written statement.
4 It's a written Declaration, and I would ask if you
5 would read that Declaration aloud to the Tribunal.

6 THE WITNESS: I solemnly declare upon my
7 honor and conscience that I shall speak the truth, the
8 whole truth, and nothing but the truth.

9 PRESIDENT McRAE: Thank you.

10 Mr. Díaz-Candia?

11 Ah.

12 MS. HORMAZABAL: Good morning.

13 DIRECT EXAMINATION

14 BY MS. HORMAZABAL:

15 Q. Could you please state your full name for
16 the record.

17 A. I'm [REDACTED] [REDACTED] [REDACTED]. I'm

18 [REDACTED]

19 Q. When you answer the questions, please look
20 at the Tribunal. .

21 Could you please confirm that the Witness
22 Statement that you have before you is your own.

1 A. Yes.

2 Q. Could you please confirm that the signature
3 at the end of the document is yours.

4 A. Yes.

5 Q. Is there anything in your statement that you
6 would like to clarify or correct at this time?

7 A. I just wanted to clarify that I left Kaloti
8 Metals from December 2015 until March 2018.

9 Q. What was your position at Kaloti Metals &
10 Logistics?

11 A. The last position I had was Head Trader.

12 Q. Thank you.

13 MR. GRANÉ LABAT: Thank you. My colleague,
14 Ms. Cristina Arizmendi, will be conducting the
15 cross-examination.

16 PRESIDENT McRAE: Thank you. Please go
17 ahead.

18 MS. ARIZMENDI: Good morning, Mr. President,
19 Members of the Tribunal. I will now switch to
20 Spanish, given that Ms. [REDACTED] has made her Witness
21 Statement in Spanish.

22 CROSS-EXAMINATION

1 BY MS. ARIZMENDI:

2 Q. Good morning, Ms. [REDACTED]?

3 A. Good morning.

4 Q. My name is Cristina Arizmendi, I'm a member
5 of the Arnold & Porter team representing Perú in this
6 Arbitration. During this cross-examination I'm going
7 to ask you a number of questions in connection with
8 the Witness Statement that you have submitted in this
9 Arbitration.

10 When I ask a question, please keep your
11 answer to the question I have asked you. I will ask
12 you several questions that can be answered with a
13 "yes" or "no", when I ask this type of questions
14 please answer with a "yes" or "no" answer.

15 I'm going to speak about specific statements
16 that you have made or specific documents that you have
17 cited that are relevant for your statement. I will
18 identify the source of my question. If at any point
19 in time I ask you a question about a document that
20 you're not familiar with, please let me know.

21 I know that some of the documents may be in
22 English, you're bilingual, so you have no problem in

1 that regard; right?

2 A. Yes, correct.

3 Q. Do you agree with the rules that I have just
4 put to you?

5 A. Yes.

6 Q. Now, let us start with your work experience
7 and your role in Kaloti. In 2005, you ended your
8 accounting studies at the Superior Technological
9 Institute Antonio Guiteras in Havana, Cuba? Correct?

10 A. Yes.

11 Q. Between '05 and '06, you worked in the
12 Accounting Department of the National Cuban Company of
13 Public Works; correct?

14 A. Correct?

15 Q. After that, between '06 and '08, you worked
16 in the Department for Administration and Accounting in
17 the Telégrafo Hotel in Havana; correct?

18 A. Correct?

19 Q. None of these positions had to do with the
20 purchase and sale of precious metals; correct?

21 A. Correct.

22 Q. You explained in your statement that in '09

1 you migrated to the U.S., and that in July 2011, you
2 started working for Kaloti; correct?

3 A. Correct.

4 Q. You were 25 when you started working for
5 KML; correct?

6 A. Yes, correct.

7 Q. You started working for sales in Kaloti; is
8 that correct?

9 A. Yes.

10 Q. You worked in full in the field of closing
11 operations--that is to say, sales for and the
12 Transaction of precious metals, that most of those
13 Transactions were gold?

14 A. Yes.

15 Q. Then you became the Head Trader. When did
16 you start working as the Head Trader?

17 A. About a year after I began, approximately.

18 Q. So, July 2012?

19 A. Thereabouts.

20 Q. Your regular place of business when you
21 worked in Kaloti was Miami; right? Place of
22 residence, rather, was Miami; right?

1 A. Yes.

2 Q. Up until when did you work in Kaloti?

3 A. Well, the first time up until December 2015,
4 around Christmas time.

5 Q. When did you leave Kaloti?

6 A. I was there until it closed.

7 Q. When?

8 A. September 2018.

9 Q. You also indicate in your statement that, to
10 manage sales transactions, there was a very
11 sophisticated computer software called "NEO," and it
12 was very complicated, but you said that you were
13 familiarized with it, and you were fast-familiar with
14 it?

15 A. Yes.

16 Q. So, it was NEO an ERP (Enterprise Resource
17 Planning) software that had several applications to
18 manage kaloti's accounting, sales, purchasing or
19 customer services? A. What is it in Spanish?

20 You're saying it in English. I don't know what you
21 mean.

22 Q. That is the name that's used, it's a

1 planning software to manage enterprises.

2 A. It was a software especially designed for
3 operations or transactions related to metals.

4 Q. Okay. Understood.

5 This type of software has different aspects;
6 right? It has to do with metal transactions. Does it
7 include email in it, for example?

8 A. Yes. It has everything.

9 Q. This software allowed you to collect, keep,
10 interpret information on sales and Kaloti clients
11 related to the matter.

12 A. Yes.

13 Q. This software, NEO, also contained
14 information kept where? The information that you just
15 said, for example, in connection with clients
16 purchases and sales, is it on the cloud?

17 A. It's on a server.

18 Q. You also explained in your statement that
19 95 percent of the closing transaction operations of
20 Kaloti were channeled through you; correct?

21 A. Yes.

22 Q. When you make reference to closing

1 transactions, does that include the purchase of gold
2 by Kaloti from the different Suppliers?

3 A. Yes.

4 Q. You knew, then, the approximate amount of
5 gold that Kaloti bought yearly internationally.

6 A. Yes.

7 Q. You also know who the main Suppliers were
8 that sold gold to Kaloti.

9 A. Yes.

10 Q. You were also in charge of conducting due
11 diligence of Kaloti's Suppliers; right?

12 A. No.

13 Q. Who was in charge of that?

14 A. The Compliance Officer, [REDACTED]

15 Q. Can you please briefly explain how Kaloti's
16 due diligence worked?

17 A. I could explain it, but [REDACTED] could explain
18 it better.

19 Q. Could you please explain what your
20 understanding was of that due-diligence process?

21 A. When there was a prospective new client,
22 [REDACTED] sent, depending on where the material was

1 extracted or collected, a special form. First, a
2 generic form was sent and then a more detailed form
3 was sent on the basis of the origin of the metal, then
4 the documents were received, ██████ decided if he
5 needed more supporting documentation. After
6 everything was reviewed, he approved or rejected the
7 account, and once the account was approved, was added
8 to the system--the Supplier was added as a Client, and
9 it was notified that it was ready to start operations.

10 Q. Let's move on. You had a personal interest
11 in buying the largest quantity of gold possible;
12 right?

13 A. No.

14 Q. As the Head Trader, your salary was
15 commission-based; right?

16 A. At the very end.

17 Q. At the very end?

18 A. Yes. Not always.

19 I was salaried, and then almost at the end
20 it was a commission-based remuneration that I got.

21 Q. One moment, please.

22 (Pause.)

1 Q. You said it was commission-based and it was
2 at the end. Can you be more specific as to the
3 timeline?

4 A. I do not recall. I can look for it. If you
5 give me a little bit of time, I can look for it.

6 Q. Can you try to give me a date--month,
7 year--when this change took place?

8 A. Just one moment.

9 (Pause.)

10 A. December 2014, I think. I looked at the
11 salary increases, the salary was reviewed every
12 six months, so I think that's it.

13 Q. Around December 2014?

14 A. Yes.

15 Q. And then, when you came back in March 2018,
16 that was maintained?

17 A. No. I was salaried again.

18 Q. Apart from your interest or the Commissions
19 that you got, you were pressured by [REDACTED] to buy
20 all of the gold that you could in the market?

21 A. After the account was approved, yes.

22 Q. After the account was approved, but not

1 before?

2 A. No.

3 Q. So, he wasn't insisting that you should get
4 the most gold that you could.

5 A. No.

6 Q. Let's look at your statement, Paragraph 23.
7 We're going to cite that.

8 At Paragraph 23 of your statement--it's on
9 the screen--you say: "Mr. [REDACTED] always pushed
10 me to buy as much gold as possible in Perú, as much as
11 I could get on the market. I remember perfectly well
12 that, in 2013, Mr. [REDACTED] told me that I had
13 authorization and carte blanche to buy up to 45 tons
14 of gold per year in Perú on behalf of KML."

15 That's your statement; correct?

16 A. Yes.

17 Q. This is before you got the Client?

18 A. Excuse me?

19 Q. This authorization and carte blanche to
20 purchase up to 45 tons, this authorization came before
21 you obtained the Suppliers or made the purchases?

22 A. This refers to approved clients.

1 Q. The approved clients up until 2013 allowed
2 you to buy up to 45 tons of gold in Perú?

3 A. I don't know if that allowed that amount but
4 this was for approved clients, in the case of a client
5 that had two purchasers: Us and someone else. Then I
6 had to exert pressure and do the best I could to gain
7 exclusivity and for everything to come to us. That's
8 what that means.

9 Q. The pressure to buy as much gold as possible
10 came from [REDACTED] That was the main Buyer
11 and financier of Kaloti; right?

12 A. No, not to me.

13 Q. At Paragraph 20, you say: "KML could always
14 be certain to resell the gold very quickly to [REDACTED]
15 [REDACTED], a conglomerate based in Dubai, United Arab
16 Emirates, which pressured KML to increase the supply
17 of Peruvian gold." That's your statement; right?

18 A. Okay.

19 Q. "Okay" means "yes"? This is your statement?

20 A. Yes. Yes.

21 Q. You need to say "yes" or "no" for the
22 record.

1 A. Yes.

2 PRESIDENT McRAE: Can you wait for the
3 Witness is finished before you ask the next question?
4 I understand that it's difficult for you because you
5 hear the answer and you're ready to go ahead, but it's
6 more difficult for the Interpreters and for those of
7 us listening to follow.

8 MS. ARIZMENDI: Excuse me, Mr. President. I
9 will make my best effort.

10 PRESIDENT McRAE: Thank you.

11 BY MS. ARIZMENDI:

12 Q. You made your best efforts to comply with
13 the instructions that [REDACTED] and the pressures
14 exerted by [REDACTED]

15 A. I wanted to clarify something. It says here
16 that [REDACTED] pressured KML, not me. Nobody
17 from [REDACTED] provided an instruction to me or
18 said anything to me. That's what I wanted to say.

19 Q. And you included this in your statement
20 because you received that message at that time?

21 A. It was a fact, but only [REDACTED] was the
22 one providing instructions to me.

1 Q. Paragraph 12 of your statement, you say that
2 Kaloti was known for being very strict in terms of the
3 legal standards and the origins of the gold that was
4 traded; correct.

5 A. Yes.

6 Q. Kaloti, for that purpose, had a compliance
7 and AML Manual which is C-0025 in your statement;
8 right?

9 A. Yes.

10 Q. That Manual was to be strictly complied
11 with, or was it just a guideline?

12 A. It was to be strictly complied with.

13 Q. Who controlled the strict compliance with
14 the provisions of the Manual?

15 A. The Compliance Officer.

16 Q. What happened when there was no compliance
17 with the Manual?

18 A. Repeat the question, please.

19 Q. What happened if it was determined that
20 there had been a non-compliance with the Manual?

21 A. That never happened.

22 Q. It never happened that there were

1 non-compliances or nothing happened?

2 A. It never happened. There were no
3 non-compliances.

4 Q. Paragraph 18, now you say here that Kaloti
5 conducted training sessions about Anti-Money
6 Laundering to be conducted by external
7 personnel. Correct?

8 A. Yes.

9 Q. And then, you cite C-0034 to support your
10 statement; is that correct?

11 A. Yes.

12 Q. Let us look at that one, please. You are
13 going to be shown the document on the screen. This is
14 Díaz Reus attorneys and solicitors international
15 practice-KML staff AML training; correct?

16 A. Yes.

17 Q. The presentation was a training session on
18 AML by this law firm, Díaz Reus; right?

19 A. Yes.

20 Q. Did you attend this session?

21 A. Yes.

22 Q. Do you know when the session was held,

1 approximately?

2 A. No. I know where it was held but I couldn't
3 tell you the date. I don't recall at all.

4 Q. But you recall that you participated in this
5 session?

6 A. Yes.

7 Q. Let us look at this training, and let's look
8 at Page 29 of this PDF. And this is C-0034.

9 A. Yes.

10 Q. Please, can you read that statement here.

11 A. "KML AML Audit/Examination: A sample of the
12 51 different precious metals sale transaction files
13 for the period of 2011-12, revealed only 12 percent
14 with completed files. The same for the customer
15 files, only 3 out of the 30 customer files reviewed
16 had the required documentation."

17 Q. As you can appreciate, Díaz Reus looked at
18 Kaloti files, and only 12 percent of the Transactions
19 between 2011 and 2012 had completed files; correct?

20 A. That's what it says.

21 Q. It also determined that only three of the 30
22 customer files reviewed had the required

1 documentations; correct?

2 A. Yes.

3 Q. Let us look at the sales that Kaloti made in
4 general. You prepared monthly reports on the gold and
5 silver volumes that were closed monthly. Do you think
6 it's reasonable that between 2012 and 2017, although,
7 I think because of your correction, we should say
8 December 2015 at least, Kaloti purchased gold that
9 came mainly from five countries: U.S., Perú, Guyana,
10 Bolivia, and Curaçao. Do you recall that?

11 A. Yes.

12 Q. From what you remember, do you think it's
13 reasonable for me to say to you that in 2013, Kaloti
14 purchased about 14,000 kilograms of gold from
15 Suppliers in Perú?

16 A. Maybe.

17 Q. To make things easier, we can show on the
18 screen AS-0068. We're looking at Page 53 of the PDF
19 of this document. This exhibit was submitted by
20 Kaloti in this Arbitration, and this table, as we
21 understand it, was prepared by the damages experts
22 from Kaloti with information provided by the Company.

1 This table shows the pure gold purchased by Kaloti per
2 year and per country. Here, the table shows the
3 amounts in grams, but we're going to talk about
4 kilograms, okay?

5 So, were you asked to provide your
6 assistance in connection with this table?

7 A. Probably.

8 Q. Do you recall?

9 A. I don't know the data that was used to
10 populate this table.

11 Q. So, you were asked to provide information in
12 connection with the purchase and sales made by Kaloti
13 during the time it was in operation?

14 A. Well, the Reports were made by me. I don't
15 know if the documents had to do with the original
16 Reports that I made or other documents, the system
17 gives out these documents. I could have done this or
18 anybody else that had access to the system could have
19 provided the information as well.

20 Q. Do you have any reason to doubt the
21 information on this table?

22 A. No.

1 Q. From what you recall, you think it is--

2 A. Yes.

3 Q. Let us look at the information contained in
4 this table; and, on the basis of this information
5 between 2012 and 2017, Kaloti bought gold from the
6 U.S., Perú, Guyana, Bolivia, and Curaçao; correct?

7 A. Yes.

8 Q. Let us look at 2013, just as an example.

9 In 2013, Kaloti bought gold in the following
10 order and in the following quantities. First--okay.
11 Let's see. I'm not going to deal with the numbers. I
12 think I'm going to look at the countries first.
13 First, Perú, then the U.S., then Curaçao, then Guyana,
14 and then Bolivia in connection with how much they
15 bought; correct?

16 A. Yes.

17 Q. Now, let us forget about Perú and the U.S.
18 And let us look at Curaçao. This was a third country
19 that Kaloti bought the most gold from in 2013; right?

20 A. Yes.

21 Q. Kaloti bought about 3,735 kilograms of gold
22 from Curaçao in 2013; correct?

1 A. Yes.

2 Q. And then Kaloti purchased in 2012 and then
3 2014, 2015, 2016, et cetera, gold from Curaçao; right?

4 A. Yes.

5 Q. We looked at the presentation from Díaz
6 Reus. We look at it a moment ago. Can we look at
7 Page 14 of that presentation?.

8 According to that law firm hired by Kaloti,
9 Curaçao is on "The U.S. List of Countries or
10 Jurisdictions of Primary Concern"; correct?

11 A. Yes.

12 Q. And then they explain as well that it is
13 known to serve as a tranship port for gold that is
14 illegally exported from Venezuela due to Venezuelan
15 regulations restricting the gold trade and their
16 strict currency exchange controls.

17 Is that what it says?

18 A. Yes.

19 Q. And they also explain that it is a
20 transshipment point for drugs from South America; is
21 that correct?

22 A. Yes.

1 Q. Did you know that Curaçao has no gold mines?

2 A. No.

3 Q. Can we please show exhibit 254. This is a
4 note from the Department of Justice of the U.S. Let's
5 go to Page 2, and I will read. It says: "Curaçao, a
6 country with no gold mines that is commonly used as a
7 way point for gold illegally mined in, and smuggled
8 out of other countries."

9 Is that what it says?

10 A. Yes.

11 Q. Let's go to the fourth country from which
12 Kaloti gold bought the most gold in 2013. That
13 fourth country is Guyana; correct?

14 A. Yes.

15 Q. Kaloti bought approximately 3,200 kilograms
16 of gold from Guyana; correct? And it continued buying
17 gold from Guyana in 2014, 2015, 2016, and 2017;
18 correct?

19 A. Yes.

20 Q. Now we can go back to Exhibit C-0034, which
21 says that: "Black-listed for inefficient systems that
22 aid money-laundering activities and terrorist

1 financing across the globe."

2 Q. "Guyana is a country making current changes
3 to be removed from Financial Action Task Force fact on
4 black-list.". Let's go to the fifth country from which
5 Kaloti bought the most gold in 2013, and that country
6 is Bolivia. Correct?

7 A. Yes.

8

9 BY MS. ARIZMENDI

10 Q. Approximately 3,152 kilograms of gold from
11 Bolivia in 2013; correct?

12 A. Yes.

13 Q. And Kaloti had also bought gold in 2012 and
14 continued to buy from Bolivia in 2014, 2015, 2016 and
15 2017; correct?

16 A. Yes.

17 Q. Let's go now to the presentation again, and
18 according to that law firm hired by Kaloti, Bolivia
19 was also on the U.S. List of Countries or
20 Jurisdictions of Primary Concern; correct?

21 A. Yes.

22 Q. And then they explain as well that Bolivia:

1 "Considered high risk for money-laundering and
2 terrorist financing, primarily due to cocaine
3 trafficking, corruption, tax evasion, smuggling, and
4 trafficking in person." One second, please. Let's go on
5 to another topic now.

6 In Paragraph 34 of your Statement, you say
7 that many Suppliers ceased to trade with Kaloti
8 because of concerns because Kaloti was being
9 investigated; correct?

10 A. Yes.

11 Q. And you refer, among others, to Darsahn
12 International S.A.C.; correct?

13 A. Yes.

14 Q. Let's go to Exhibit C-0030, which you cite,
15 and in this page that we see on the screen, we see the
16 details regarding Suppliers, Kaloti Suppliers, for
17 2013. And here we see that Darsahn International Inc.
18 sold 1,544 kilograms of pure gold, and Darsahn 2 sold
19 approximately 5,071 kilograms; Do you agree?

20 A. Yes.

21 Q. So, in 2013, Kaloti bought approximately
22 6,600 kilograms, and we're talking about pure gold

1 from Darsahn International Group; correct?

2 A. Yes.

3 Q. Now, let's go back to where we were looking
4 at, that table at Exhibit C-0068, and we see that, in
5 2013, it was approximately 14,000 kilograms of pure
6 gold that Kaloti bought from Perú; correct?

7 A. Yes.

8 Q. This means that Kaloti bought approximately
9 half of all the gold purchased from Perú that year
10 from Darsahn; correct?

11 A. Almost half.

12 Q. Let's now go to Exhibit R-0251. This is an
13 article regarding the socioeconomic effect of illegal
14 mining. Let's go to Page 192 of the article. It's
15 Page 16 of the PDF in Spanish and 2 of the English
16 PDF.

17 MS. ARIZMENDI: We have copies of this
18 article in English in case it's needed, but please let
19 me know. Okay.

20 BY MS. ARIZMENDI:

21 Q. In the first paragraph that we see on the
22 screen, refers to what they call "exportadores

1 golondrinos" which are the ones that are involved in
2 this activity very few times and then you never hear
3 from them again; correct?

4 A. I'm sorry, what document is this?

5 Q. It's an article about the socioeconomic
6 impact of illegal mining.

7 A. But this is something new that you're
8 showing me that I'm not supposed to have seen before;
9 right?

10 Q. It's Exhibit R-251.

11 A. Okay.

12 MS. HORMAZABAL: Objection, Mr. President.
13 This is a legal article, legal question. It's not
14 necessary. There's no relevance to her testimony.

15 PRESIDENT McRAE: I'm not quite sure--we've
16 got to--I'm not quite sure--what we've heard--the
17 Witness asked what this was. She's explaining what it
18 is. I don't know what the question is yet, so if it's
19 a legal question, she certainly can't ask. But the
20 fact that it's in a document, may not itself be a
21 problem.

22 MS. HORMAZABAL: Is this on the record?

1 MS. ARIZMENDI: Yes. It's Exhibit R-251,
2 and I'm not planning to make any legal questions.

3 MS. HORMAZABAL: You just want her to read a
4 document?

5 MS. ARIZMENDI: Yes.

6 MS. HORMAZABAL: Thank you.

7 Thank you, Mr. President.

8 BY MS. ARIZMENDI:

9 Q. Let's go back to the article.

10 Then it explains that out of the 130
11 exporting in 2013, 69 were doing it for the first
12 time. So, a little over half of those exporters that
13 year had never exported gold before; correct?

14 A. That's what it says here.

15 Q. Let's go back--let's go now to the next
16 page, and this is directly related to what we had been
17 discussing. This page says that, in the last three
18 years, several cases of gold exports from illegal
19 origin have been made public, and several of these
20 fly-by-night exporters have been involved. The first
21 one they mention is Axbridge Gold Corp. S.A.C., [REDACTED]
22 Gold Corp. S.A.C. and Darsahn International. They are

1 among the 114 companies mentioned above, these
2 fly-by-night exporters. And it says that the fourth
3 one was the most significant in 2013, the only year
4 that it did any exports and did so only for four
5 months. The other two also exported between four and
6 six months during 2012 and 2013.

7 You've confirmed that approximately half of
8 the gold bought from Perú came from Darsahn
9 International. Did you know that that company in 2013
10 only exported during 2013 and only for a few months?

11 A. I didn't know.

12 Q. In fact, did you know that that company was
13 dissolved only a year after its creation?

14 A. No, I didn't know that either.

15 Q. Kaloti also bought from Axbridge Gold, one
16 of those other 2013 fly-by-night companies; is that
17 right?

18 A. Yes.

19 Q. Kaloti argues also that it acquired gold
20 from [REDACTED] which was delivered Shipment 2, which is
21 an object of this Arbitration; correct?

22 A. Yes.

1 Q. Let's go back to article 251. We were
2 talking about some examples. Let's go to yet another
3 example now. It says that Comercializadora de
4 Minerales Rivero S.A.C. which shipped gold for four
5 months only in 2013 and is not on the Registry of gold
6 producers or in the mining directory. This is another
7 example of one of those fly-by-night exporters. Do
8 you remember whether Kaloti also bought gold from
9 Comercializadora de Minerales Rivero S.A.C. in 2013?

10 A. Yes.

11 Q. You do remember that they bought gold, just
12 to make it clear?

13 A. Yes.

14 Q. And from what you remember, do you think it
15 was approximately 1,152 kilograms?

16 A. I don't remember the amount.

17 Q. We can go to Exhibit 0030, C-0030, which you
18 attached to your Statement.

19 A. Okay.

20 Q. You see it there, Comercializadora de
21 Minerales Rivero, 1,152 kilograms of gold
22 approximately. Correct?

1 A. 1,067.

2 Q. Yes. That's pure gold.

3 A. Yes.

4 MS. ARIZMENDI: Just a moment, please.

5 (Pause.)

6 BY MS. ARIZMENDI:

7 Q. Let's go in to another topic now.

8 In Paragraph 36 of your Statement, you
9 explain that the sales volume shrank to such an extent
10 that KML became inviable; and, in 2018, it shut down
11 its operations; correct?

12 A. Yes.

13 Q. And you said that you were very affected
14 because your income was reduced by approximately 75
15 percent; correct?

16 A. Yes.

17 Q. And then you lost your job with Kaloti in
18 2018.

19 A. No.

20 Q. You said you stopped working in September of
21 2018; is that not the case?

22 A. Yes, but what I meant was that that was when

1 I left in 2015.

2 Q. I'm sorry. When you lost that revenue and
3 you lost your job, that was in 2015?

4 A. No, I'm sorry. We were talking about
5 Paragraph 36. That part about income was in C-34.

6 Could you ask the question again?

7 Q. Yes, of course.

8 Let's go to Paragraph 34.

9 There, you say that you were hit hard
10 because your income was reduced by approximately
11 75 percent; is that the case?

12 A. Yes.

13 Q. For that reason, in September of 2018, you
14 stopped working for Kaloti.

15 A. No. That caused me to leave in December of
16 2015.

17 Q. Just a moment, please.

18 (Pause.)

19 Q. You said that you were hit hard because your
20 income was reduced by 75 percent in 2015. Then you
21 also said that you came back in March of 2018. Why
22 did you come back in March of 2018?

1 A. It was a personal reason. I had--I had left
2 Miami, and I wanted to go back to Miami. I saw an ad
3 on Facebook that they were hiring, and I always
4 enjoyed working there. It was something that I wanted
5 to come back and do, and I thought that if they had
6 continued it was because the situation had been
7 repaired, and I wanted to go back and work for Kaloti
8 Metals again.

9 Q. And you say that you left Kaloti in
10 September of 2018. Why did you leave Kaloti in
11 September 2018?

12 A. Because they stopped operating.

13 Q. But you haven't said in your Witness
14 Statement that you started working for [REDACTED]
15 [REDACTED]; right?

16 A. Right.

17 Q. And that company was incorporated by the
18 same owner, [REDACTED] right?

19 A. Right.

20 Q. Can you tell us when you started working for
21 [REDACTED]?

22 A. January of 2019.

1 December, I'm sorry.

2 Q. December of when?

3 A. Of 2018.

4 Q. And, in May of 2021--or before we do that,
5 in May of 2021, you were appointed as General Manager
6 for [REDACTED], replacing Mr. [REDACTED]
7 correct?

8 A. May 2021, yes.

9 Q. On the date that you issued your Witness
10 Statement, February 8, 2022, you continued to be
11 General Manager of [REDACTED]; correct?

12 A. Yes.

13 Q. And you didn't think that was relevant to
14 include in your Statement?

15 A. No, but I said--no.

16 Q. Did you prepare your Witness Statement?

17 A. Yes.

18 Q. And you didn't think it was relevant to
19 include your current position?

20 A. No. I had already said that I had started
21 working there. I didn't consider it was relevant.

22 MS. HORMAZABAL: The question was asked and

1 answered.

2 Q. You also didn't think it was relevant to say
3 you were working for [REDACTED], even though the
4 offices were the same ones used by Kaloti?

5 A. No.

6 Q. When was [REDACTED] incorporated?

7 A. I think it was September of 2018.

8 Q. How many people started working for [REDACTED]
9 [REDACTED]?

10 A. Two, not counting [REDACTED]

11 Q. Who were those two people?

12 A. Myself and Nicolás Collazo.

13 Q. And when did [REDACTED] start its
14 operations?

15 A. January of 2019. 2019.

16 Q. [REDACTED] also uses the NEO software
17 for its operations?

18 A. Yes.

19 Q. And when you transferred to [REDACTED],
20 you maintained your good commercial relations with
21 your Suppliers or clients?

22 A. With which ones?

1 Q. The ones you had before with Kaloti.

2 A. They're not the same.

3 Q. None of them is the same?

4 A. Some I was able to get to transfer to

5 [REDACTED], but very few.

6 Q. You say that you were able to get some of
7 the Suppliers of Kaloti to transfer to [REDACTED]

8 [REDACTED] Can we go to Exhibit C-0030. We have seen
9 it before. It's the Transaction history for Kaloti
10 from 2012 to 2018. Let's go to Page 5 that shows
11 transactions, and now we're looking at an example. It
12 says here Alishayev Sons. That's one of the
13 Suppliers. We're going to highlight it on the screen.

14 Do you see that it shows up as a Kaloti
15 Supplier? And we're talking about the Year 2013;
16 correct?

17 A. Yes.

18 Q. Let's go now to 2014. And we see again the
19 same Supplier; correct?

20 A. Yes.

21 Q. Let's look at 2015 now. And we see again
22 the same Supplier; correct?

1 A. Yes.

2 Q. Let's go to 2016. And it shows that Kaloti
3 again purchased from Alishayev Sons that year;
4 correct?

5 A. Yes.

6 Q. Let's go to 2017. Again, we see that
7 Alishayev Sons sold gold to Kaloti; correct?

8 A. Yes.

9 Q. Then, lastly, let's go to Year 2018. As far
10 as the information we have here, we see that that year
11 Alishayev Sons also made sales to Kaloti; right?

12 A. Yes.

13 Q. So, the records show that Alishayev was a
14 Supplier in 2013, 2014, 2015, 2016, 2017, and 2018;
15 correct?

16 A. Yes.

17 Q. So, that was a long-term supplier for
18 Kaloti; correct?

19 A. Yes, correct.

20 Q. Thank you.

21 Let's go now to Exhibit C-134. This is a
22 list of [REDACTED] Suppliers in 2019 and 2020

1 identified by their name and Code.

2 Let's go to the first page. The ninth name
3 on that List of Suppliers is Alishayev Sons.

4 Do you see it?

5 A. Yes.

6 Q. You have stated that you would prepare
7 monthly reports on closing profits and that you used
8 that software called "NEO" to do that, and that these
9 included gold and silver volumes.

10 Now, this Exhibit C-0030 was extracted from
11 the NEO software; correct? You still have access to
12 the information that's archived in the software?

13 A. Yes.

14 Q. If we look at C-0030 again, that lower
15 corner, it says that this information was downloaded
16 by Mr. [REDACTED] on January 19, 2022; correct?

17 A. Yes.

18 MS. ARIZMENDI: Mr. President, I think this
19 would be a good moment to take the break, if it's
20 possible. I don't know if--

21 PRESIDENT McRAE: It's a bit earlier than we
22 normally would, but if that's your preference to take

1 the break now, if there are no objection. So, let's
2 take a 15 minute break now. It's now 10:30, we'll
3 resume at 10:45.

4 MS. ARIZMENDI: Thank you.

5 (Recess.)

6 PRESIDENT McRAE: Then, if everyone is
7 ready, we will resume.

8 Ms. Arizmendi, please go ahead.

9 MS. ARIZMENDI: Thank you.

10 BY MS. ARIZMENDI:

11 Q. At Paragraph 13 of your statement, you state
12 that Mr. [REDACTED] always knew the importance of
13 being able to track down the legitimate origin of the
14 gold bought by KML; and, in the case of Perú, it was
15 possible because of the Government's system to
16 register mining and everything related--gold-mining.

17 Is that registry the one that is known as
18 "RECPO" for traders of gold?

19 A. Yes.

20 Q. Does that mean that, before purchasing gold,
21 Kaloti always looked into the RECPO?

22 A. Yes.

1 Q. Can we look at C-0030 on Kaloti's
2 transactions.

3 In 2015, Kaloti purchased 241 kilograms of
4 gold from Minera IRL S.A. Can you please confirm that
5 that actually took place?

6 A. Yes.

7 Q. Let us now look at C-0010. That is the
8 Special Registry for Gold Traders (RECPO) at Page 187.
9 Minera IRL S.A.; correct?

10 A. Yes.

11 Q. You had confirmed that in 2015 Kaloti
12 purchased gold from Minera IRL S.A., but based on the
13 information that we see in RECPO, Minera was only
14 registered as of April 2018; is that correct?

15 A. That's what it says.

16 Q. Let us look at a different example. C-0030.
17 The Company acquired 3,470 kilograms of gold from
18 Corporación Centro between 2012 and 2018, and we can
19 look at different pages where we see the total number.
20 Corporación del Centro--and you have some of--you see
21 the examples there; correct?

22 A. Yes.

1 Q. Now let us go back to C-0010. That is RECPO
2 that we were looking at. Let us now look at where we
3 should be--we should find Corporación del Centro.
4 This company is not there in the Registry, and I am
5 going to give you some time.

6 A. I don't see it yet on the screen.

7 Can I move around--can I scroll down this
8 page myself?

9 Q. You should find, in that folder, C-0010.

10 And you can also ask us to scroll down or go
11 to a specific page of your preference.

12 A. What is the exhibit?

13 Q. C-10, C-0010.

14 This is an exhibit submitted by Claimant.

15 (Pause.)

16 A. I cannot find it.

17 Q. So, let us continue.

18 We had--let us look at Paragraph 16 in your
19 statement. There, you state that the compliance risk
20 management and money-laundering prevention department
21 was responsible for carrying out periodic reviews of
22 our Suppliers as a parallel risk-management mechanism.

1 And you cite C-0033 to support your assertion;
2 correct?

3 A. Yes.

4 Q. Let us look at 0033. This is "KML
5 Compliance Department Periodic Review of Suppliers."

6 Let us look at the next page. These are the
7 periodic reviews carried out by Kaloti; correct?

8 A. Yes.

9 Q. Let us look now at the first page that is
10 for [REDACTED] correct?

11 A. Yes.

12 Q. And there we see that at that time a review
13 was carried out in World Check as well as its
14 principals agents; correct?

15 A. Yes.

16 Q. And that the results had been satisfactory;
17 correct?

18 A. Yes.

19 Q. And that review was carried out on
20 February 7th, 2014; correct?

21 A. Correct.

22 Q. Now, let us look at the next one. This is

1 something similar, but for the [REDACTED] mining
2 company; correct?

3 A. Yes.

4 Q. And the World-Check review was carried out
5 on March 19th, 2014; correct?

6 A. Correct.

7 Q. Let us move on to the next one. This is
8 also Certification of Periodic Review. This is
9 similar but now for [REDACTED]; correct?

10 A. Yes.

11 Q. And this was also a satisfactory result;
12 correct?

13 A. Correct.

14 Q. And that review, that World-Check was
15 carried out on February 7th, 2014; correct?

16 A. Correct.

17 Q. And there is no similar document for [REDACTED]
18 correct?

19 A. Correct.

20 Q. Let us now look at Paragraph 34 of your
21 statement.

22 There, you say that many Suppliers stopped

1 providing gold to KML because KML was being
2 investigated by the Government of Perú, and in
3 particular you're referring to some companies that
4 supply gold. You said that, as of 2015, they stopped
5 selling gold to KML.

6 Who talked to these Suppliers or--how did
7 they communicate their concerns and to whom?

8 A. Well, it was to me, and I don't know to whom
9 else it was.

10 Q. And when the Suppliers told you about the
11 concerns they had, who did you refer this to? Who did
12 you communicate this to? Well, first, did you let
13 anyone know?

14 A. Yes.

15 Q. Who?

16 A. [REDACTED]

17 Q. And how did you communicate this?

18 A. In conversation

19 Q. So, how did you communicate [REDACTED] the
20 concern that the Suppliers had?

21 A. I talked to him.

22 Q. Did you prepare any memorandum?

1 A. No.

2 I talked with him directly.

3 Q. And when the providers, when the Suppliers
4 talked to someone else within [REDACTED] team, how
5 did you hear about that?

6 A. They didn't let me know. The customers
7 expressed their concerns, and what they told me I
8 passed on to [REDACTED]

9 Q. You didn't have any internal communications
10 amongst the team members?

11 A. Excuse me?

12 Q. The Kaloti team, the team members didn't
13 have internal communications amongst yourselves, only
14 conversations with [REDACTED]

15 A. Well, one office was next to another. We
16 communicated amongst all the departments all the time.

17 Q. No written communication?

18 A. No, not that I recall.

19 Things were discussed. There were meetings,
20 and we took notes, but in our notebooks; not in...

21 Q. Have you looked at the notes that you
22 prepared for this cross-examination?

1 A. No.

2 Q. In order to prepare your statement?

3 A. No.

4 Q. You also--in that same paragraph, you said
5 that there were a number of banks that closed KML
6 accounts, and the representatives of the banks said
7 that it was because of the investigations conducted by
8 Perú. Generally, the banks liaised with you in
9 connection with the accounts they had with Kaloti?

10 A. Not at the beginning, but I did speak to
11 some of the representatives of the bank.

12 Q. At the beginning?

13 A. No.

14 Q. Can you be more specific.

15 A. When I started working, that was not part of
16 my job description. Then, later on, starting in
17 2016--no. Two years after I left.

18 2013, I did communicate with the banks, and
19 then when I came back in 2018, yes, there were more
20 communications.

21 Q. In 2013 precisely, JPMorgan closed KML's
22 account; correct? Kaloti's account.

1 MS. HORMAZABAL: Objection. This is a
2 speculation.

3 PRESIDENT McRAE: She makes comments about
4 banks communicating and not being--so I'm not quite
5 sure what the speculation is. She's simply asked
6 whether JPMorgan--

7 MS. HORMAZABAL: The question is about a
8 fact not in evidence.

9 PRESIDENT McRAE: What's your response to
10 that?

11 MS. ARIZMENDI: Mr. President, the Witness
12 has said that she has had discussions with banks that
13 was in her--is in her Witness Statement, and she has
14 confirmed that beginning in 2013 the banks were
15 dealing with her directly, so I'm asking about facts
16 that the Witness knows.

17 PRESIDENT McRAE: Most specifically, the
18 statement that the fact that the account of JPMorgan
19 was closed is not on the record. There was
20 considerable discussion about this yesterday, so I
21 just want to get clarification, if it's not in record,
22 because it was discussed yesterday.

1 MS. HORMAZABAL: We'll go ahead and withdraw
2 the objection.

3 PRESIDENT McRAE: Thank you.
4 Please, go ahead.

5 MS. ARIZMENDI: Thank you.

6 BY MS. ARIZMENDI:

7 Q. Back to my question, JPMorgan closed
8 Kaloti's account in 2013; correct?

9 A. I think Kaloti was the one that closed the
10 Chase account. I wasn't referring to Chase
11 specifically. I was referring to other banks.

12 Q. What other banks closed accounts with
13 Kaloti, apart from the ones that you mentioned?

14 A. Iberia, I think, Sun Trust, BB&T.

15 And I do not recall the others. There are
16 many. I would have to look at the system. I don't
17 recall. There were many.

18 Q. Were you in charge of opening the accounts
19 with the banks?

20 A. No.

21 Q. Let us look at C-0043. Let's put it the
22 screen. This is "KML's Transaction Summary of all

1 Suppliers and Purchases"; correct?

2 A. Yes.

3 Q. That is the heading and let us look at the
4 first page of this exhibit.

5 It shows all Kaloti's transactions between
6 2012 and 2013; correct?

7 A. It says '16 here.

8 Q. But it starts in 2012.

9 A. Yes, 2012.

10 Q. "2016" it says up there, but let's go
11 step-by-step. But then, it shows other transactions
12 in 2013; correct?

13 A. Yes, correct.

14 Q. Then in 2014, 2015. And, if we go to the
15 very end, we see the last section. This shows
16 Kaloti's transactions from January to July 2018;
17 correct?

18 A. Correct.

19 Q. And no other transaction is included after
20 July 2018; correct?

21 A. Correct.

22 Q. You had mentioned that Kaloti closed its

1 operations in 2018. Can you please explain what
2 happened in Kaloti between the end of July 2018 and
3 the time Kaloti closed its doors.

4 A. In what sense?

5 Q. Well, because there are no other
6 transactions in that document. Did they cease
7 transactions?

8 A. Well, that was for Perú. If we ran the same
9 reports for other countries, well, it may be
10 different. What it says there is that the last
11 transaction with Perú took place in July 2018..

12 MS. ARIZMENDI: We don't have any further
13 questions, Mr. President.

14 PRESIDENT McRAE: Thank you.

15 Counsel for the Claimant, do you have some
16 questions?

17 MS. HORMAZABAL: Yes.

18 REDIRECT EXAMINATION

19 BY MS. HORMAZABAL:

20 Q. Ms. [REDACTED] --

21 (Pause.)

22 Q. --what are the consequences for KML when

1 they lost Darsahn and [REDACTED] as Suppliers? Could KML
2 have bought gold from other Suppliers or gold ceased
3 to be available in the market?

4 MS. ARIZMENDI: Objection.

5 MS. HORMAZABAL: Please continue?

6 MS. ARIZMENDI: I was not referring to the
7 consequences of those.

8 MS. HORMAZABAL: But you did ask about them.

9 MS. ARIZMENDI: I'm switching to Spanish.
10 I didn't establish a link between the
11 question, or you didn't establish a link between the
12 question that I asked and the question that was posed
13 by you.

14 MS. HORMAZABAL: It's within the same scope.
15 My question is within the same scope.

16 MS. ARIZMENDI: I maintain my objection.

17 PRESIDENT McRAE: I think it's in the
18 general scope of what was being asked, so I don't see
19 that there's any problem with asking that question.
20 We can see where it goes from there, maybe it will go
21 beyond, but at the moment, it's simply taking up
22 further the topics that you were dealing with.

1 MS. ARIZMENDI: A number of questions were
2 asked, and sections were read.

3 So, I just wanted to remind you of this.
4 Could we go back to the question and ask each
5 question one by one?

6 MS. HORMAZABAL: Okay. Agreed.

7 BY MS. HORMAZABAL:

8 Q. Ms. [REDACTED], could KML have bought gold from
9 other Suppliers or was the gold no longer available on
10 the market?

11 MS. ARIZMENDI: Objection. That's a leading
12 question.

13 PRESIDENT McRAE: The first part was
14 certainly not leading. She's asking whether there was
15 gold available or not in the market. I'm not quite
16 sure whether that's a problem with that. Maybe you're
17 concerned about the next part, was it not available.
18 Well, if you ask the first part, you'll get the answer
19 to the second, so why don't you go ahead with the
20 first part of the question.

21 BY MS. HORMAZABAL:

22 Q. Ms. [REDACTED] could KML have bought gold?

1 Excuse me, Ms. [REDACTED], what were the
2 consequences for KML when it lost Darsahn and [REDACTED]
3 as Suppliers?

4 A. The volume was reduced, the sales volume was
5 reduced because of the amounts that it represented.

6 Q. Could KML have bought gold from other
7 Suppliers?

8 A. Yes.

9 Q. Was the gold no longer available in the
10 market?

11 A. The gold was available, continued to be
12 available.

13 Q. Why didn't it buy it, then?

14 A. Because it was difficult to get new clients
15 because of the damage to the reputation it had
16 suffered.

17 Q. I'm sorry. New question. The carte blanche
18 that you received from [REDACTED] and that you
19 mention at Paragraph 23 of your Witness Statement, did
20 that entail a relaxation of KML's due diligence
21 proceedings--procedures?

22 A. It did not.

1 Q. You said that the closing decisions for
2 sales were taken by you as the Head Trader; correct?

3 MS. ARIZMENDI: Excuse me. I'm sorry, but
4 just for the record, that's an example of a leading
5 question. She's even asking "correct."

6 PRESIDENT McRAE: I thought she was asking
7 what she had said, or I'm misunderstanding the
8 question.

9 MS. HORMAZABAL: You said (in Spanish).

10 BY MS. HORMAZABAL:

11 Q. You said that the decisions for closing
12 sales were made by you as the Head Trader; correct?

13 A. Correct.

14 Q. The staff that was based in the Perú office,
15 did it have any specific control?

16 A. Yes.

17 Q. Any specific role?

18 A. Yes.

19 Q. What was the role of the individuals based
20 in Perú?

21 A. They could also take closings, but I entered
22 those in the system. They could determine whether a

1 transaction was conducted or not, they could negotiate
2 the rates up to a certain limit. They had the
3 capabilities of a regular office such as ours with the
4 same--

5

6 A. If they took a closing, they could take it
7 and pass it on. They could decide to increase the
8 rates. After an account was opened, they could close
9 it. And they could make decisions. I think that's
10 what they could do, as far as I can recall.

11 Q. Thank you.

12 IRL and Corporación del Centro, those were
13 put to you by Perú's counsel, were they informal or
14 artisanal miners?

15 A. I don't know.

16 Q. The due diligence reviews that you mentioned
17 in your Statement, what were those about? They showed
18 that to you.

19 A. Which ones are you referring to?

20 Q. The three periodic reviews that were signed
21 by Mr. [REDACTED] that were shown on the screen. Were
22 these periodic reviews?

1 A. Yes.

2 Q. Was there any kind of additional review of
3 the Suppliers?

4 A. I don't understand your question.

5 Q. When you say "periodic," were there other
6 reviews?

7 A. Yes. The ones that they--the one that they
8 submitted was conducted at least once a year after the
9 account was opened.

10 Q. Now we have the same exhibit that was shown
11 to you by the counsel for Perú. This is C-0034. This
12 makes reference to the files of 2011 and 2012. Was
13 this just a sample or?

14 A. I wouldn't know.

15 Q. Could you please read the first sentence
16 here.

17 A. "A sample of the 51 different precious
18 metals sale transaction"--

19 Q. Thank you.

20 A. Continue?

21 Q. Do you know whether these recommendations
22 were taken into account by KML later on, or do you

1 know whether these referred to 2013 transactions?

2 A. Excuse me, I don't understand the question.

3 Q. Do you know whether these recommendations
4 were taken into account by KML later on? You said
5 that this related to 2011 and 2012.

6 A. Definitely.

7 Q. [REDACTED] bought gold in Perú?

8 A. No.

9 Q. Has it bought at some point in time gold in
10 Perú?

11 A. No.

12 Q. [REDACTED] sold gold to [REDACTED]
13 [REDACTED] Dubai?

14 A. No.

15 Q. Thank you.

16 MS. HORMAZABAL: Thank you. We are
17 finished.

18 PRESIDENT McRAE: Was there any recross?

19 MS. ARIZMENDI: No. Thank you.

20 PRESIDENT McRAE: Thank you. Any questions?

21 ARBITRATOR KNIEPER: I have one question.

22 PRESIDENT McRAE: Go ahead, please.

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QUESTIONS FROM THE TRIBUNAL

ARBITRATOR KNIEPER: I have just one question.

Ms. [REDACTED] in your written Witness Statement, you say under Paragraph 30 that the gold had already been paid for. Now, we heard from the Parties yesterday that this was not so for all the shipments. Are you aware of that, that at least two of the shipments were not paid for?

THE WITNESS: Yes. I'm sorry, what paragraph are you referring to?

ARBITRATOR KNIEPER: Paragraph 30, I'm sorry.

THE WITNESS: Okay. What was the question again?

ARBITRATOR KNIEPER: The question was whether you're aware that two of the shipments that were not paid for--

THE WITNESS: Yes.

ARBITRATOR KNIEPER: You're aware of that?

THE WITNESS: Yes.

ARBITRATOR KNIEPER: Okay. Thank you. That

1 is all. Thank you very much.

2 PRESIDENT McRAE: Thank you.

3 I just have a follow-up arising out of the
4 redirect, and as I understand it, you were referred to
5 the people in Lima working for Kaloti, and I'm trying
6 to understand how the Transactions occurred. In
7 order, did the staff in Perú enter into contracts with
8 the Suppliers, or was that your function as Manager?

9 We talked earlier about the relationship
10 between what you did and what Mr. [REDACTED] did, but we
11 all functioned to ensure that there were Contracts or
12 to monitor the people who were entering into the
13 Contracts? I just want to get a better idea of how it
14 actually operated.

15 THE WITNESS: Can you break the question a
16 little bit? It was too--

17 PRESIDENT McRAE: Well, maybe the first part
18 is, were contracts entered into by the Kaloti staff in
19 Lima, or did you supervise and enter into the
20 Contracts from Miami?

21 THE WITNESS: I'm going to go to Spanish.
22 Sorry, I didn't realize.

1 PRESIDENT McRAE: Please, please respond in
2 Spanish. Please. Would you like me to repeat the
3 question?

4 THE WITNESS: No, I don't think it's
5 necessary.

6 (In Spanish) All of the accounts, all of
7 them, had to be approved for a transaction to begin in
8 Miami. They had to be approved by the Compliance
9 Officer [REDACTED]. After the account was approved, a
10 number of documents were signed. Amongst them, the
11 Precious Metals Transaction Agreement. That was the
12 processing or refining agreement. From then on, one
13 could start transactions or operations. Does that
14 answer your question, sir?

15 PRESIDENT McRAE: Well, the question was
16 whether or not, when you say "starting operations,"
17 that was done in Perú by the staff in Perú.

18 THE WITNESS: I'm not understanding your
19 question. "Start operations," you say?

20 PRESIDENT McRAE: Well, the Contracts with
21 the Suppliers--presumably there were contracts with
22 the Suppliers. Who entered into those?

1 THE WITNESS: They were signed between
2 [REDACTED] as KML representative and the
3 representatives of the companies that supplied the
4 metal. That's called the Agreement or the Contract.

5 PRESIDENT McRAE: Okay. Thank you.

6 THE WITNESS: You're welcome.

7 PRESIDENT McRAE: I think that, then, brings
8 to an end your testimony. Thank you very much for
9 coming and giving your testimony today. You're now
10 free.

11 THE WITNESS: Okay. Thank you.

12 PRESIDENT McRAE: Shall we take a break
13 while we get the next witness?

14 (Witness steps down.)

15 PRESIDENT McRAE: How long do you need to
16 get the next witness ready?

17 REALTIME STENOGRAPHER: Five or 10 minutes.

18 PRESIDENT McRAE: Okay. Let's be technical
19 about it, okay? Seven minutes until 11:30. Because
20 you said this morning he's available at 11:30. So,
21 we'll start at 11:30, then. Thank you.

22 (Recess.)

1 ██████████ CLAIMANT'S WITNESS, CALLED

2 PRESIDENT McRAE: Are you ready, or you
3 would like to--

4 MR. DÍAZ-CANDIA: No, we just want to
5 introduce to the Tribunal Dr. Caro Coria, and to our
6 colleagues in Perú, so you know who he is, and he's
7 the independent legal expert whose testimony will be
8 given tomorrow.

9 PRESIDENT McRAE: Thank you.

10 We will be seeing him tomorrow, I assume?

11 MR. DÍAZ-CANDIA: Yes.

12 PRESIDENT McRAE: I think we're ready to
13 proceed. Make sure I got the right statement here.

14 So, good morning, Mr. ██████████ Thank you for
15 coming and giving testimony today. You may be
16 familiar with the procedure, but just let me explain
17 it.

18 You will start with some initial questions
19 from the counsel for the Claimants. Then you will be
20 cross-examined by counsel for the Respondents, and
21 then the Claimants will have an opportunity to ask you
22 questions again after that, and maybe the Respondent

1 will also ask you further questions, and the Tribunal
2 might ask you questions.

3 I think to start we should ask you to read
4 the Declaration which I think is written in front of
5 you.

6 THE WITNESS: Yes, sir.

7 I solemnly declare upon my honor and
8 conscience that I shall speak the truth, the whole
9 truth, and nothing but the truth.

10 PRESIDENT McRAE: Thank you.

11 Mr. Díaz-Candia, are you going to ask some
12 questions?

13 MR. DÍAZ-CANDIA: Yes.

14 DIRECT EXAMINATION

15 BY MR. DÍAZ-CANDIA:

16 Q. Mr. [REDACTED] good morning. Can you please
17 state your full name for the record.

18 A. [REDACTED]

19 Q. Can you take a look at the Witness
20 Statements that you have on the table and confirm
21 whether that's your--contains your testimony and that
22 it is yours?

1 A. It looks to be, yes, sir.

2 Q. Can you also confirm that the signature that
3 appears at the end is your signature?

4 A. It is.

5 Q. Is there anything from that statement that
6 you would like to correct or clarify today?

7 A. No, sir.

8 Q. What was your position at KML? And I would
9 ask you, please, when you answer the question, look at
10 the Tribunal, if you may.

11 What was your position at Kaloti Metals &
12 Logistics?

13 A. Compliance Officer.

14 Q. In that role, can you in general terms
15 describe how the compliance process worked at Kaloti
16 Metals.

17 A. Right.

18 Q. Both in general and specifically in
19 connection with shipments of gold, please.

20 A. Sure.

21 The due-diligence process, the AML process
22 began--begins for every potential client prior to

1 on-boarding. A potential client or Supplier will
2 approach us with the intent to sell us gold--with the
3 intentions to sell us gold, and we will then begin the
4 due-diligence process, KYC process, where we will
5 request a series of documents, many documents.

6 The two main objectives are: identify
7 Ultimate Beneficial Owners, and identify source of
8 gold. That's done with a variety of different
9 documents. So, we collect all the documentation and
10 then we run our research, or background checks, if you
11 will, run them through World-Check, a tool that we use
12 to ensure that any of the Ultimate Beneficial Owners
13 are not listed on any of the--black listed in any way.
14 That's prior to on-boarding.

15 Once those two main pieces of information
16 are identified, the UBOs and the source of gold and we
17 see that there is no negative information on them and
18 we feel like it's a clean or a legitimate source of
19 gold, we are able to then approve the account, and
20 then our ongoing periodic monitoring would then kick
21 into play.

22 At certain--at some points in our history,

1 it was, I believe, on a yearly basis. It got to the
2 point where it was done on a daily basis through
3 World-Check, we were able to automate the World-Check
4 reviews or searches to run on a daily basis. It was a
5 List of Suppliers, UBOs, company names, which we
6 upload to World-Check, and World-Check would then, on
7 a daily basis, run a check on those names.

8 Additionally, for every shipment that we
9 received, all the proper documents had to be in place,
10 both from the exporting country and also from the
11 U.S., the importing documents. So, it was an
12 ongoing--ongoing process.

13 Q. Thank you, Mr. [REDACTED]

14 In your Witness Statement, specifically in
15 Paragraph 26, you made reference to an exhibit which
16 is C-0030, which contains a list of providers.

17 A. Which paragraph, sorry?

18 Q. 26.

19 It references Exhibit C-0030.

20 You see that paragraph?

21 A. Yes, I do.

22 Q. Okay. That list includes many companies,

1 but two in particular, Minera IRL, Corporación del
2 Centro.

3 Do you know who those companies--do you
4 remember those companies were informal or artisanal
5 miners?

6 A. I believe they are not artisanal miners or
7 informal miners. They had been formalized.

8 Q. And do you remember, if you do, from memory
9 when those companies started operating in Perú?

10 A. They began operating--I believe they were in
11 operation well before Kaloti Metals was in operation.
12 I believe both of those companies were formed in the
13 80s, if I'm not mistaken, 1980s. They were
14 quite--they had some--they had presence in Perú for
15 quite a while before--before they were our clients.

16 Q. Thank you, Mr. [REDACTED] We have no further
17 questions.

18 MR. DÍAZ-CANDIA: You're witness.

19 PRESIDENT McRAE: Thank you.

20 Respondent? I assume it's Mr. Nistal, given
21 the seating arrangement. Please, go ahead.

22 MR. NISTAL: Thank you, Mr. President.

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CROSS-EXAMINATION

BY MR. NISTAL:

Q. Good morning, Mr. [REDACTED]

A. Good morning.

Q. My name is Álvaro Nistal, and I represent the Republic of Perú in this Arbitration. I will ask you some questions in relation to your testimony.

You joined Kaloti in 2012; correct?

A. That's correct.

Q. And you were Kaloti's Compliance Officer from 2012 to 2018; correct?

A. That's correct, yes.

MR. NISTAL: Let's please display on the screen Exhibit R-266, Page 1.

BY MR. NISTAL

Q. As you can see, the table on the screen indicates that, in addition to your role as Compliance Officer, you were also Assistant Trader. In Paragraph 34 of her Witness Statement, Ms. [REDACTED] indicated that the significant portion of trader's income at Kaloti was comprised of commissions. Was

1 any part of your salary as Assistant Trader composed
2 of commissions?

3 A. No.

4 Q. As you can see, the table on the screen also
5 indicates that, in addition to your roles as
6 Compliance Officer and Assistant Trader, you were
7 assigned tasks related to client services and general
8 support office, so you had to divide your working
9 hours among those four roles; correct?

10 A. That would be--yeah, you could say that.

11 Q. You did not indicate that you had any of
12 these roles in your Witness Statement; correct?

13 A. They're minor roles. They were assigned to
14 me--

15 Q. Sorry, Mr. [REDACTED] I'm asking you whether you
16 indicated it in your Witness Statement, not why.

17 A. Whether I indicated if I had those roles in
18 my Witness Statement?

19 Q. Um-hmm.

20 A. No, I did not mention that in my Witness
21 Statement.

22 Q. In Paragraph 6 of your Witness Statement,

1 you indicate that in 2013 alone, Kaloti had a turnover
2 of more than \$1.3 billion.

3 Can you give me a sense, quickly, of how
4 many transactions that is, like how many purchases of
5 gold would carry out, Kaloti, in a given week in 2013?
6 You don't need to tell me an exact number. I just
7 want to understand if it's 10 or it's 200.

8 A. Definitely not 200 in a week.

9 Q. Okay. Is it closer to 50?

10 A. I mean, it'll be speculation. 2013, I
11 wouldn't be able to say how many purchases we made on
12 a given week. If you want me to guess, I could say it
13 would probably be under 50 purchases.

14 Q. Close to 50?

15 A. I would be guessing.

16 Q. Yeah, okay. Thank you.

17 And the table on the screen indicates that
18 you were the only individual of Kaloti with compliance
19 responsibilities; correct?

20 A. I wouldn't say I was the only one with
21 compliance responsibilities.

22 Q. Mr. [REDACTED], I'm asking you whether the table

1 on the screen says that you were the only individual
2 with compliance responsibilities.

3 A. The table on the screen, yes, it does show
4 that I'm the only one with compliance
5 responsibilities.

6 Q. Thank you.

7 In Paragraph 2 of your Witness Statement,
8 you testified that you have lived in Miami, without
9 interruption, from 1999; is that correct?

10 A. Yes, that's correct.

11 Q. So, you performed your roles, your four
12 roles, at Kaloti from Miami?

13 A. Yes, that's correct.

14 Q. And so, for example, let's say, in a week,
15 you received those 50 transactions and you had to
16 conduct due diligence, you would receive the documents
17 electronically. You wouldn't fly to every single one
18 of the countries where the gold was bought, I assume.

19 A. That's correct.

20 Q. That's correct.

21 How did you receive them? By email?

22 A. Yes, usually by email.

1 Q. And in Paragraph 5 of your Witness
2 Statement, you testified that you are fully bilingual,
3 Spanish-English, which allows you to read documents in
4 the Spanish language; correct?

5 A. That's correct.

6 Q. And, in Paragraph 18, you testified that you
7 personally reviewed and confirmed the legality and
8 legitimacy of the purchase of the Five Shipments and
9 the background of the Suppliers of these shipments; is
10 that correct?

11 A. That's correct.

12 Q. And, in Paragraphs 16 and 17 of your Witness
13 Statement, you testified that you did not find
14 anything suspicious in the Five Shipments; correct?

15 A. That's correct.

16 Q. So, you did not identify any red flags in
17 relation to any of the Suppliers of the Five
18 Shipments--

19 A. That's not what it says.

20 Q. No, this is a different question.

21 A. Okay.

22 Q. Did you identify any red flags in relation

1 to any of the Suppliers of the Five Shipments or about
2 the shipments itself?

3 A. I did not see any red flags on the shipments
4 themselves.

5 On the Suppliers, I'm not certain if there
6 were any red flags that we had to conduct enhanced due
7 diligence.

8 Q. Enhanced due diligence would have required
9 you to conduct site visits--right?--in the mines, for
10 example?

11 A. That's one of the ways to conduct enhanced
12 due diligence. Yes.

13 Q. Do you recall having conducted a site visit
14 in any of the mines from which the Five Shipments
15 came?

16 A. From these Five Shipments?

17 Q. Yes.

18 A. No.

19 Q. You don't recall or you're certain that you
20 did not conduct--

21 A. I did not conduct site visits on these.

22 MR. NISTAL: Let's please display on the

1 screen Exhibit C-126.

2

3 BY MR. NISTAL

4 Q. Mr. [REDACTED] as you can see, this is a
5 presentation of the compliance training that you
6 provided to Kaloti's employees in 2013. Please--let's
7 please go to Page 22 of the PDF.

8 This summarizes, essentially, what you just
9 explained to the Tribunal; correct? The different
10 steps of the internal due-diligence process, and I
11 found it very helpful to understand the different
12 steps. So, I'm going to tell you how I interpret it,
13 and if I say something that's wrong, then please
14 correct me.

15 A. Sure.

16 Q. First, the Supplier provides Supporting
17 Documentation to Kaloti--no, sorry. First, the
18 Supplier completes Kaloti's Account Opening forms.

19 Second, the Supplier provides Supporting
20 Documentation to Kaloti.

21 Third, Kaloti's Compliance Department
22 conducts verifications and "know your client"

1 diligence checks.

2 MR. DÍAZ-CANDIA: Mr. President, is
3 Mr. Nistal testifying or is there a question?

4 PRESIDENT McRAE: The question was if he's
5 incorrectly identifying these, then the Witness is
6 asked to speak. That seems to me just like a
7 question.

8 MR. DÍAZ-CANDIA: Thank you.

9 BY MR. NISTAL:

10 Q. I will have to start again, Mr. [REDACTED].

11 First, the Supplier completes Kaloti's
12 Account Opening forms; second, the Supplier provides
13 supporting documentation to Kaloti; third, Kaloti's
14 Compliance Department conducts its verifications and
15 "know your client" due-diligence checks; fourth, the
16 Client signs Kaloti's agreements; and fifth, Kaloti
17 activates the account.

18 And here I add, I assume that this is where
19 you can start trading; correct?

20 A. That's correct, yes.

21 Q. And then, sixth, while trading, Kaloti then
22 carries out enhanced due diligence on the Suppliers on

1 an ongoing basis?

2 A. That's correct.

3 Q. Thank you.

4 And you mentioned that you received a lot of
5 documents. I have a few questions here. Actually,
6 let's do the questions, then I will ask you a
7 following one.

8 MR. NISTAL: Let's please exhibit--let's
9 display on the screen Exhibit C-0025, and let's please
10 go to Section 7.1 which is at the top of Page 8 of the
11 PDF. If we can make it a bit larger so that the
12 Witness can read it.

13 THE WITNESS: I can see it here.

14 MR. NISTAL: Excellent.

15

16 BY MR. NISTAL

17 Q. Mr. [REDACTED], the document on the screen is
18 Kaloti's Compliance Manual. I'm sure you recognize
19 it. Section 7.1 of the Manual concerns client
20 on-boarding and approval, and in particular the
21 documents that Kaloti Metals needed to obtain from the
22 Suppliers to complete its "know your customer" due

1 diligence; correct?

2 A. Let me just finish reading here.

3 (Witness reviews document.)

4 A. Yeah, this is correct.

5 Q. So, here we are, between Step 2 and 3;
6 right? Here is where--of the six steps that we saw
7 before, here is where you start getting the documents
8 and you start preparing the due diligence. I just
9 want the Tribunal and everyone to understand which in
10 step we are.

11 A. Um-hmm.

12 This is usually done--this is all done prior
13 to conducting any business transactions.

14 Q. Correct.

15 A. Yeah.

16 Q. The second paragraph--the second paragraph
17 of Section 7.1 states that, I quote: "ID," for
18 identification, "VR," for verification, and "KYC," for
19 know your customer, "requirements are met at such time
20 as Supplier presents a complete Kaloti Account Opening
21 Application with all relevant supporting documentation
22 for review by the Compliance Officer. The Compliance

1 Officer must be able to reasonably verify that the
2 Supplier has completed the Kaloti Account Opening
3 Application in full and confirm that the Company,
4 Shareholder, and source of metals information declared
5 therein is, in fact, accurate, current and consistent
6 with the relevant Supporting Documentation provided."

7 Do you confirm that the Compliance Manual
8 required you to do this for every Supplier?

9 A. Absolutely.

10 MR. NISTAL: Let's now display Section 7.1.e
11 of the Compliance Manual. It's in Page 9 of the PDF.

12
13 BY MR. NISTAL

14 Q. Mr. [REDACTED], this section required that
15 Kaloti: "Verify information regarding the nature of
16 proposed business detailed in Account Opening packet
17 including metals to be sourced, volume/frequency of
18 delivery of metals, and estimated purity range of the
19 metals." Correct?

20 A. Yeah, that's correct.

21 Q. And the same section required Kaloti to
22 obtain and verify documentation in the form of

1 invoices, contracts, licenses, and other documentation
2 that provides clear evidence that the metals have been
3 procured through legal means; correct?

4 A. That's correct.

5 MR. NISTAL: Let's display Section 7.1.f,
6 which is on Page 9 of the PDF.

7

8 BY MR. NISTAL

9 Q. Mr. [REDACTED], this section required Kaloti to
10 screen the business entities, Shareholders,
11 controlling persons, account representatives, and
12 source of metals in the chain of custody before
13 approving an account; correct?

14 A. That's correct.

15 Q. Let's scroll to the following page, which is
16 tenth page of the PDF, first paragraph.

17 Mr. [REDACTED], the screening that we just
18 discussed, and that you mentioned, actually, during
19 your direct presentation, was conducted partially
20 through a due-diligence tool called "World-Check."
21 And we understand that this tool allows you to verify
22 things such as adverse media attention and criminal

1 records of individuals; is that correct?

2 A. That's correct.

3 Q. And as you can see in the last paragraph of
4 the Section 7.1.f, Kaloti was also required to conduct
5 a full web search of the Supplier before approval;
6 correct?

7 A. That's correct.

8 Q. And Section 7.1.d, always in Page 10 of the
9 PDF, required Kaloti to obtain from the Applicant
10 Supplier documentation related to the Supplier's
11 program and independent audits; correct?

12 A. That's correct.

13 Q. Thank you.

14 Let's please go back to the slide that we
15 saw earlier regarding the different steps of the
16 internal due-diligence process of Kaloti.

17 MR. NISTAL: For the record, this is
18 Page 22, Exhibit C-0026.

19 BY MR. NISTAL:

20 Q. Mr. [REDACTED], we have seen that the third stage
21 of the Kaloti due-diligence process required you to
22 confirm that the Company, Shareholder, and source of

1 metals information declared in the Suppliers Account
2 Opening Application was, in fact, accurate, current,
3 and consistent with the relevant supporting
4 documentation provided by the Supplier. You were also
5 required to conduct background checks on the Suppliers
6 and to conduct a full web search, among other tasks.

7 Then, Kaloti and the Supplier entered into
8 the trading agreements, and then Kaloti finally opened
9 the Suppliers account and could start trading metals
10 with the Supplier.

11 We understand that this process--we
12 understand that it could take between several days and
13 several weeks to move from the first stage to the
14 fifth stage of the internal due-diligence process.

15 So, what I want to say is, between the
16 moment the Suppliers submitted the Account Opening
17 Application and the moment Kaloti completed the
18 due-diligence application and could start trading with
19 the Supplier, it could take between several days to
20 several weeks; is that correct?

21 A. I would say "yes," it would be a minimum of
22 several days and it could take up to weeks, yes.

1 Q. Okay.

2 MR. NISTAL: Let's please display on the
3 screen Exhibit R-256.

4 BY MR. NISTAL:

5 Q. Mr. [REDACTED], you see the cover page, but if we
6 go to Page 2, the document on the screen is the
7 Account Opening Application of [REDACTED] correct?

8 MR. NISTAL: If you can please zoom so that
9 Mr. [REDACTED] can look at it.

10

11 THE WITNESS: That looks like it, yes, sir.

12 MR. NISTAL: Thank you.

13

14 BY MR. NISTAL

15 Q. And [REDACTED] signed the application on
16 30 July 2013; correct?

17 A. That's the date on the document, yes, sir.

18 MR. NISTAL: Let's now display on the screen
19 Exhibit C-0128.

20

21 BY MR. NISTAL

22 Q. Mr. [REDACTED], as you can see, this document

1 contains the, I quote, "exchange of emails between
2 Kaloti and [REDACTED] regarding 'know your customer'
3 process conducted by Kaloti"; correct?

4 A. That's what this document says, yes.

5 Q. Yeah, just so that you know, this is a
6 document submitted by Claimant. Every time I cite a
7 document with "C", it's a document submitted by
8 Claimant. If I cite a document with "R", it's means
9 Respondent.

10 A. Okay.

11 Q. Let's please go to the end of Page 5 of the
12 PDF.

13 So, the document on the screen contains an
14 email by [REDACTED] to you and other individuals including
15 Miguel Chamy Román; correct?

16 A. That's what it says, yes.

17 Q. And the subject line of the email reads:
18 "[REDACTED] -Account Opening"; correct?

19 A. Yes, sir.

20 Q. So, through this email, [REDACTED] sent to
21 Kaloti its Account Opening Application; correct?
22 Which we saw had been signed the day before?

1 A. I don't know what the attachment was.

2 Q. Yeah, it's a bit--we don't know either
3 because we weren't provided the attachment, but does
4 it make sense to you that, if they signed that same
5 day, actually, 30 July, the application, and they sent
6 an email saying "envio los documentos llenos y
7 firmados," with the heading "ACCOUNT OPENING," it's
8 likely that that's when they sent the Account Opening
9 Application?

10 A. I'm not sure.

11 Q. Okay. Well, we know at least that the
12 account application was signed on 30 July. That, we
13 know because we saw it before; correct?

14 A. Yeah.

15 Q. Let's go to the top of Page 5. Here,
16 Mr. [REDACTED], you answered the email we just saw, asking
17 [REDACTED] and Miguel Chamy requesting company documents
18 to be able to begin.

19 REALTIME STENOGRAPHER: Would you slow down?

20 MR. NISTAL: Of course.

21 BY MR. NISTAL:

22 Q. Here, Mr. [REDACTED], you answered the email we

1 just saw, and in this email you are asking [REDACTED] and
2 Miguel Chamy the company documents to be able to begin
3 the due-diligence process on [REDACTED]; is that correct?

4 A. That's--yeah, that's what it sounds like,
5 yeah.

6 Q. So far, we are following the process that we
7 saw. First, they signed the application, there is
8 doubt about whether they sent it in that email or not,
9 but looks like they did, and here you are asking them
10 the documents which is Point 2 of the six steps that
11 we saw before; correct?

12 A. Yes.

13 Q. And you sent that email on 31st July 2013 at
14 2:45 p.m.; correct?

15 A. Yeah, that's the same stamp.

16 Q. Yeah.

17 Let's scroll down to Page 7 of the PDF.

18 As shown on the screen on 31st July 2013 at
19 9:00 a.m. so, approximately five hours before you had
20 requested the due-diligence documents, Alfredo Chamy
21 sent to Kaloti an email that read: "I attached the
22 documents for the reservation of [REDACTED] Correct?

1 A. That's what it says, yes.

2 Q. Now, let's scroll down to see what document
3 that was.

4 The document that Alfredo Chamy sent to
5 Kaloti contains instruction for a shipment of gold
6 from [REDACTED] to Kaloti; correct?

7 A. That's what it looks like. Yes, sir.

8 Q. And the shipment was scheduled for 1st
9 August 2013.

10 A. Um-hmm.

11 REALTIME STENOGRAPHER: Is that a "yes"?

12 THE WITNESS: Yes.

13 BY MR. NISTAL:

14 Q. So, Mr. [REDACTED], you said earlier that it
15 normally took approximately days or sometimes weeks to
16 conduct due diligence and only then--then you needed
17 to sign the Trading Terms, and only after that, if
18 everything was okay, you could start trading.

19 But, here we just saw that only 13 hours
20 after receiving [REDACTED] Account Opening Application
21 and before you had requested the due-diligence
22 documents, Kaloti was already scheduling shipments of

1 gold for [REDACTED] correct?

2 A. They are scheduling a shipment from [REDACTED]
3 on the 1st of August, yes.

4 Q. Okay. Let's display this section of
5 [REDACTED] application entitled "Proposed Business
6 Detail and Source of Metals," which is in Page 8 of
7 the PDF.

8 In the section entitled "Expected Frequency
9 of Deliveries," four boxes down, "[REDACTED] indicates
10 that it expected to deliver to Kaloti 15 kilograms of
11 gold per day." Correct?

12 A. Yes, that's what it says.

13 Q. I have made my math, and 15 kilograms of
14 gold per day is more than 5.4-thousand kilograms a
15 year. That is a very significant amount of gold for a
16 single Supplier in a single year; correct?

17 A. I guess it depends on the Supplier.

18 Q. Yeah. I'm talking about even relative
19 importance for Kaloti. Would you say that is a very
20 significant amount of gold even for Kaloti?

21 A. That is a significant amount of gold, yes.

22 Q. Thank you.

1 In fact, I checked the transaction history
2 of Kaloti, that you cite in Paragraph 26 of your
3 Witness Statement, and if [REDACTED] had supplied
4 5.4-thousand kilograms of gold a year, that would have
5 made [REDACTED] one of the three largest Suppliers in
6 Kaloti's history. My point being: Do you agree that
7 Kaloti was required to be particularly meticulous with
8 its due diligence concerning [REDACTED] given the amount
9 of gold it was going to provide?

10 A. We were meticulous with every client.

11 Q. Okay. Even more with a client that provides
12 this kind of gold, I guess.

13 A. I wouldn't say "more" simply because our
14 standards are so high regardless that every single
15 potential client received a meticulous review.

16 Q. Excellent.

17 MR. NISTAL: Let's please display the
18 following page on the screen which is Page 9 of the
19 PDF.

20
21 BY MR. NISTAL

22 Q. Mr. [REDACTED], in the second box, [REDACTED]

1 confirmed that it anticipated to supply to Kaloti
2 5 tons of gold a year and that this gold would be
3 mined in the Peruvian region of Ica; is that correct?

4 A. That's what it says, yes.

5 Q. Can you tell us, in which regions was the
6 gold in shipment to allegedly mined?

7 A. I'm not sure.

8 Q. You don't remember.

9 A. I don't recall.

10 Q. Okay. Mr. [REDACTED], through Document
11 Production No. 9, Perú requested that Claimant
12 produce, I quote, "documents prepared by or sent to
13 Kaloti, its managing partners, its Shareholders or
14 officers, prior to Kaloti's alleged purchase of the
15 Five Shipments between 2012 and January 2014 regarding
16 any due-diligence review performed on the Suppliers
17 and on the lawful origin of the shipments."

18 A. Um-hmm.

19 Q. In relation to Shipment 2, Claimant produced
20 the documents contained in Exhibit C-0130. Let's
21 please display this exhibit on the screen.

22 And Mr. [REDACTED], for your convenience, we have

1 printed a copy of this document because I will be
2 asking you a number of questions. My colleague will
3 give it to you now and to the Members of the Tribunal.
4 I understand there is a copy also for opposing Party.

5 (Pause.)

6 A. Thank you.

7 Q. You will have received an English and a
8 Spanish version of the document.

9 A. Yes.

10 Q. I think the English is shorter because
11 Claimant translated only part of the documents, there
12 were a couple of IDs that they didn't translate, so
13 that's why the English is slightly shorter than the
14 Spanish.

15 Can you tell me, on the basis of that
16 due-diligence document where the gold in Shipment 2
17 came from?

18 A. With these documents?

19 Q. Yes, with your due-diligence documents.

20 A. These documents don't show any source of
21 metal.

22 Q. Can you tell me the mines from which it

1 comes?

2 A. With these documents?

3 Q. With those documents.

4 A. No.

5 Q. "No."

6 Do the documents contain--and let's see if
7 you agree--two national identity cards and the unique
8 Tax Code of [REDACTED] which, in Perú, is known as a
9 "RUC"; correct?

10 A. That's correct.

11 Q. They do not indicate the regions or the
12 mines from which the gold came from. They do not
13 contain waybills or any exploitation authorization or
14 the unique Concession Code of the mines from which the
15 gold contained in Shipment 2 came from; correct?

16 A. Not in these documents, no.

17 Q. Let's please display Exhibit C-7 on the
18 screen, and let's please go to the page--well, let me
19 tell you what this document first, Mr. [REDACTED]. This
20 exhibit contains a series of document requests that
21 SUNAT formulated to [REDACTED] as well as documents that
22 [REDACTED] presented to SUNAT in response to those

1 requests. All of that was after the Immobilizations
2 of the shipments. And in particular, this concerns
3 Shipment 2 which is the one supplied by [REDACTED]

4 Let's please go to Page 24 of the PDF.

5 The document on the screen is a Sworn
6 Declaration submitted by [REDACTED] to SUNAT in relation
7 to part of the gold in Shipment 2.

8 A. Um-hmm.

9 Q. According to the table on the screen, about
10 25 kilograms of gold in Shipment 2 came from the
11 region of Puno; correct?

12 A. According to this document? Yes.

13 Q. Let's go to the following page, which is
14 Page 25 of the PDF.

15 This is another Sworn Declaration submitted
16 by [REDACTED] to SUNAT in relation to the rest of the gold
17 in Shipment 2, and according to this table, about 17
18 additional grams of gold in Shipment 2 came from the
19 region of Puno; correct?

20 A. Yes.

21 Q. So, Mr. [REDACTED], in its Account Opening
22 Application, [REDACTED] told Kaloti that it sourced its

1 gold from the region of Ica, but then we have just
2 seen that about half of the gold in Shipment 2 did not
3 come from Ica and instead allegedly came from the
4 region of Puno; correct?

5 A. According to these documents, yes.

6 Q. Yeah.

7 And according to compliance--according to
8 Kaloti's own Compliance Manual, Suppliers may only
9 source metals to Kaloti through the avenues previously
10 approved upon on-boarding; correct?

11 A. No, that's not correct.

12 Q. No?

13 A. They are able to add Suppliers to their
14 business model.

15 Q. Did they add Suppliers in this case?

16 A. It looks like they did, yes.

17 Q. Ah, they did it on-the-go with SUNAT?

18 A. Sorry?

19 Q. They did it on-the-go or through a process
20 with Kaloti? Did they inform you at any point that
21 they would modify the sources of their gold?

22 A. They are required to, yes.

1 Q. "They are required to."

2 A. Absolutely.

3 Q. Okay. Can you show me that communication?

4 A. No. I don't have access to any of my
5 communications anymore with Kaloti.

6 Q. And you haven't prepared--I'm asking this,
7 Mr. [REDACTED], because, frankly, I have been having
8 difficulties obtaining answers regarding the
9 documents.

10 A. I will be happy to help.

11 Q. Nobody seems to know where they are.

12 So, you don't know where to find the
13 communication from [REDACTED] indicating that they have
14 modified the sources of gold that they indicated in
15 the Account Opening Application?

16 A. If you would have asked me while I was still
17 working with Kaloti, I would know exactly where those
18 documents are.

19 Q. Okay. You don't--but the point--the
20 document we are looking--and that must exist so that
21 Kaloti complied with its obligations is a
22 communication from [REDACTED] saying "we know we said this

1 in the application, but now"--

2 A. "We've added suppliers."

3 Q. "We've changed the source of our gold."

4 A. It doesn't necessarily mean it changed. It

5 could just mean that they've added more Suppliers.

6 They've found and on-boarded new Suppliers, so they

7 have more gold to sell.

8 Q. Okay. And then, you would need to conduct--

9 A. Due diligence.

10 Q. --due diligence on all of the Suppliers that

11 they indicate.

12 A. Correct.

13 Q. I understand.

14 Do you recall whether that action was taken,

15 adding Suppliers and conducting due diligence on those

16 Suppliers?

17 A. Specifically with [REDACTED]

18 Q. Yeah.

19 A. I cannot recall specifically with [REDACTED]

20 It happened, I would say, on a relatively

21 regular basis.

22 Q. Right.

1 And if they added Suppliers, you would need
2 to have asked for each of those Suppliers'
3 documentation?

4 A. Absolutely.

5 MR. NISTAL: Let's please display--let's
6 please display again [REDACTED] Account Opening
7 Application, which is Exhibit C-0256, and let's go to
8 Page 4 of the PDF.

9 BY MR. NISTAL

10 Q. Mr. [REDACTED] the section of [REDACTED]
11 Application that is now on the screen lists the
12 documents that any new Supplier was required to submit
13 with its application in order to open an account with
14 Kaloti; correct?

15 A. Yes, yes.

16 Q. Mr. [REDACTED], Point 1 on the screen required
17 that Kaloti--required Kaloti to obtain from [REDACTED] the
18 bank reference letter or the certificate extract from
19 the Commercial Register or the valid Trade License or
20 Mining License, or confirmation from a lawyer or a
21 notary; correct?

22 A. Yes, that's correct.

1 Q. But Exhibit C-30 that we saw earlier doesn't
2 contain any of those documents.

3 A. These--C-30, this one?

4 Q. Yeah.

5 A. Yes, it does not contain any of these
6 documents.

7 Q. And are you aware of any of these documents
8 on the record of this Arbitration?

9 A. On the record of this arbitration?

10 Q. Yeah.

11 A. I believe--I don't know if it was for
12 [REDACTED], I have seen a couple of documents that are
13 valid Trade License. I don't recall if it was for the
14 [REDACTED] Supplier or if it was for one of the other
15 Suppliers, on the record.

16 Q. Okay. Let's move to the next question.

17 And, in fact Point 2 on the screen required
18 Kaloti to verify the Clients' operational address by
19 obtaining a utility bill, a Tenancy Contract, or a
20 Trade License.

21 A. Yes.

22 Q. And C-30 does not contain any of those

1 documents; correct?

2 A. C-30 contains in the RUC--mentions their
3 address.

4 Q. Yeah. But that's not the same thing as a
5 utility bill, Tenancy Contract or Trade License;
6 correct?

7 A. It's not the same as any of those, no.

8 Q. "No." And Point 3 on the screen required
9 Kaloti to identify Beneficial Owners and Shareholders
10 with a controlling interest in the Company by
11 obtaining a Share Register or Incorporation Memorandum
12 of Association.

13 A. That's correct.

14 Q. And C-30 does not contain that document?

15 A. It contains a document showing the
16 Shareholders.

17 Q. Not the--let me read it: "...by obtaining a
18 Share Register of Incorporation or--a Share Register
19 or Incorporation Memorandum of Association." It
20 doesn't contain those documents?

21 A. That's true, but as a Compliance Officer, I
22 would argue that this document is even better than any

1 of those.

2 Q. Oh, yeah?

3 A. Yes.

4 Q. For example, would you know there are any
5 changes that happened in a corporate--would you know,
6 for example, there if the Company was sold to another
7 individual?

8 A. I would--I would assume that this would be
9 updated, yes.

10 Q. Was that updated when you conducted--when
11 Shipment 2 was--

12 (Overlapping speakers.)

13 Q. Can you tell me the date of that document?

14 A. This is July 30th, 2013.

15 Q. And the Shipment 2 was sold or tried to
16 export in January--right?--2014.

17 A. Right.

18 Q. So, it was not updated.

19 A. What do you mean?

20 Q. Well, I mean that, in those six months, the
21 Company could have sold, the legal representative
22 could have changed, the legal representative could

1 have been in jail--lots of things could have happened.

2 Shouldn't you request for every transaction
3 updated documents?

4 MR. DÍAZ-CANDIA: I'm sorry, he's making
5 hypotheticals and asking the Witness for opinions.

6 PRESIDENT McRAE: I think he's asking what
7 the Witness as a compliance officer would do.

8 THE WITNESS: Sure. I'll answer that.

9 No, it was not a requirement for me to
10 verify that UBOs for every single transaction.

11 BY MR. NISTAL:

12 Q. Okay, that's interesting because it was
13 required under Peruvian law.

14 So, you requested compliance documents once,
15 and then you traded with that company for 20 years,
16 and you kept that RUC for your compliance?

17 A. No.

18 Q. Okay. How often did you updated it?

19 A. It varied. At one point it was once a year.
20 Some points it was once a quarter.

21 Q. Okay. Here it wasn't once a quarter.

22 A. Here it wasn't once a quarter.

1 Q. Okay. Mr. [REDACTED] we saw earlier that [REDACTED]
2 signed its Account Opening Application on
3 30 July 2013. Do you know on which date was [REDACTED]
4 incorporated?

5 A. Not off the top of my head, but I think it's
6 in these documents.

7 Q. The RUC will tell you, yes.

8 A. Right.

9 Q. Let me show you--

10 MR. NISTAL: Let's please display on the
11 screen Exhibit C-130. It's, as we saw, the
12 due-diligence files prepared by [REDACTED] and let's go
13 to Page 2, and in particular to the box titled
14 "Company Data."

15 BY MR. NISTAL

16 Q. Do you see that the Company was incorporated
17 on 11 July 2013?

18 A. Yeah, that's what it says, yes.

19 Q. Yeah. Let's now go to the box concerning
20 "general taxpayer information" on the top of Page 2.

21 Mr. [REDACTED], this documents states that [REDACTED]
22 began operating on 24 July 2013; correct?

1 A. That's what it says, yes.

2 Q. So, Mr. [REDACTED], [REDACTED] was incorporated less
3 than three weeks before it submitted its Account
4 Opening Application to Kaloti and when it submitted
5 that application, [REDACTED] had been in operation for
6 less than one week; correct?

7 A. According to these dates, yes, that's
8 correct.

9 Q. So, it's fair to say that when [REDACTED]
10 submitted its Account Opening Application to Kaloti,
11 [REDACTED] was a recently established company?

12 A. Yes.

13 Q. Yeah.

14 In fact, it was a recently established
15 company that was telling Kaloti that it would supply
16 more than 5.4 tons of gold a year?

17 A. Yes, it did say that.

18 Q. And Kaloti's own Compliance Manual
19 identified as a red flag the fact that the Supplier
20 was a new or recently established company; correct?

21 A. That would be considered--yeah, you could
22 consider that a red flag.

1 Q. Yeah, but you said before that you didn't
2 identify any of it in relation to any of the Five
3 Shipments?

4 A. The shipments themselves, no.

5 Q. Or Suppliers?

6 A. No, you didn't ask for Suppliers, you asked
7 about the shipments.

8 Q. Why didn't--well, do you want to change your
9 testimony, then? Did you identify red flags in
10 relation to the Suppliers?

11 A. I could have.

12 Q. No, I'm asking you whether you did.

13 A. I'm not sure. I don't recall.

14 Q. You don't recall, okay.

15 I understand that Claimant has alleged that
16 only--these are the only Five Shipments in the history
17 of Claimant that have been ever seized, and Claimant
18 alleges that they led to the destruction of the
19 Company. So, shouldn't you have more recollection
20 about whether or not the Suppliers had raised red
21 flags?

22 A. I mean, I don't know.

1 Q. Okay.

2 A. It was quite a bit--it was a long time ago.

3 Q. Okay. Mr. [REDACTED], let's go to [REDACTED]
4 Account Opening Application, in particular to the
5 bottom of Section C in Page 6 of the PDF.

6 Mr. [REDACTED], as you can see, not only [REDACTED]
7 was recently established but the legal representative
8 of [REDACTED] indicated he only had one year of business
9 experience; correct?

10 A. That's what it says, yes.

11 Q. And according to Kaloti's own Compliance
12 Manual, the fact that the Supplier lacks industry
13 knowledge or business experience also constitutes a
14 red flag; correct?

15 A. It would constitute a red flag, yes.

16 Q. So, this would constitute an additional red
17 flag.

18 A. Correct.

19 Q. Let's go to the section of the application
20 concerning due diligence on the original of Mineral
21 Resources in Page 10 of the PDF.

22 The first question of this section of the

1 application is whether [REDACTED] had a solid compliance
2 policy, to which [REDACTED] responded "yes"; correct?

3 A. Yes, that's their answer.

4 Q. And then in the same question, the form
5 required that [REDACTED] explain such policy in response
6 to which [REDACTED] simply said, the origin of the
7 material is verified, documentation is requested;
8 correct?

9 A. That's what it says, yes.

10 Q. And then also in the same question, the form
11 asks whether [REDACTED] compliance policy complies with
12 the OECD Guidelines, and [REDACTED] did not even respond
13 to this question; correct?

14 A. Correct.

15 Q. And, according to the Manual, the OECD
16 Manual, the OECD Guidelines were quite important for
17 you?

18 A. For us, yes.

19 Q. "Yes." So, it was important for you that
20 the Suppliers complied with the OECD Guidelines.

21 A. Yes.

22 Q. "Yes."

1 But you didn't get that information here.

2 A. They're not required to have it.

3 Q. No, I mean, based on that response, you
4 don't know whether they complied or not because they
5 didn't respond to the answer.

6 A. Can you rephrase that question?

7 Q. Yeah.

8 My point is, based on the fact that they
9 didn't even respond to that question in the
10 questionnaire, you have no indication whatsoever of
11 whether their policy complies with the OECD
12 Guidelines.

13 A. Right.

14 Q. Correct?

15 A. They're not indicating whether they do or
16 they don't.

17 Q. Exactly.

18 A. Right.

19 Q. And I was highlighting that I thought
20 perhaps that was important for you given that you want
21 your Suppliers to comply with OECD Guidelines?

22 A. Do I want them to? I would want everybody

1 to comply with OECD Guidelines.

2 Q. Great.

3 A. Right.

4 Q. So, can we agree that this application was
5 incomplete in relation to a relatively important
6 point?

7 A. I wouldn't call it incomplete.

8 Q. It's fine for a few blank spaces; no?

9 A. I would say that there are questions on here
10 more important than those.

11 Q. More than complying with the OECD
12 Guidelines; no?

13 A. Yeah.

14 Q. Yeah, okay.

15 And then always in the same question the
16 form asks whether [REDACTED] compliance policy
17 complies--sorry, I already asked you this.

18 The form also asked whether [REDACTED]
19 compliance policy is available on [REDACTED] website, to
20 which [REDACTED] answered "no."

21 A. Um-hmm.

22 Q. Correct?

1 A. Correct.

2 Q. Then the form says: If the compliance
3 policy is not available on the website, [REDACTED] should
4 provide a copy of the policy to Kaloti; correct?

5 A. Yes, that's correct.

6 Q. Would you say that this is one of those more
7 important points, obtaining a compliance policy?

8 A. No.

9 Q. "No." This is unimportant, too.

10 A. I didn't say it was unimportant.

11 Q. But it's not important.

12 A. I did not say that.

13 Q. Is it important or is it not?

14 A. It is important. It's not--it's not
15 something that I would consider rejecting a customer
16 for.

17 Q. Okay.

18 A. I would say a majority of customers or maybe
19 not a majority, I would say several customers, didn't
20 have a policy, a written policy, and especially not on
21 their website.

22 Q. Yeah. And [REDACTED] did not even have a

1 written policy; correct?

2 A. It doesn't seem that way, no.

3 Q. "No."

4 And then let's move to the following
5 paragraph of Question 1, where the form states: If
6 the Supplier doesn't have a documented compliance
7 policy, it should explain to Kaloti the compliance
8 process followed by the company," to which [REDACTED]
9 answered: "We request all the information from the
10 Supplier and we verify it with the State entities."
11 Correct?

12 A. That's important, yes.

13 Q. Yeah.

14 Mr. [REDACTED] you confirmed earlier that Kaloti
15 was required to obtain documentation concerning the
16 Suppliers' Compliance Program; and, in light of that,
17 my question is, in light of this answer: Were you
18 satisfied with the answers of [REDACTED] Did you simply
19 believe, well, [REDACTED] is telling me that they comply.
20 That's fine with me.

21 A. No, [REDACTED] told me that they complied and
22 then they provided documentation showing that they

1 complied.

2 Q. They provide you a compliance--the program
3 of compliance policy?

4 A. No, not their program. Their documentation
5 that they collect for their providers and that they
6 verified against--what does that say? "Entidades
7 estatales."

8 INTERPRETER: State entities.

9 BY MR. NISTAL:

10 Q. But that was for a specific transaction;
11 correct? That would be after you trade.

12 A. I'm sorry?

13 Q. Yes.

14 If you're telling me that they provide you
15 that documentation, then we are in the trading stage.
16 We are not in the on-boarding stage?

17 A. No. They have to provide their source of
18 gold documentation prior to on-boarding.

19 Q. Okay. What source of gold documentation was
20 that?

21 A. Invoices showing that they purchased from X
22 Supplier.

1 Q. Okay.

2 A. And then documents showing that X Supplier
3 is registered on the Public Registry that they're
4 required to be.

5 Q. Okay. And that was before you started
6 trading with them.

7 A. Absolutely.

8 Q. Can you show me those documents?

9 A. I cannot.

10 Q. Yeah, I cannot either. They're not on the
11 record. We've requested it, and they are nowhere to
12 be found.

13 A. Like I said, I no longer work there.

14 When I was at Kaloti, those documents were
15 under my custody, they were in a file behind my desk.
16 Files this thick. Where they are now, is not my
17 responsibility.

18 Q. Okay. Mr. [REDACTED], you confirmed earlier
19 that--let's move to this one.

20 You also confirmed earlier that
21 Section 7.1.d of the Compliance Manual required Kaloti
22 Metals to obtain documentation related to the

1 Suppliers independent of it; correct?

2 A. If they had them, yes.

3 Q. Okay. But Kaloti did not obtain any
4 documentation concerning [REDACTED] independent audit;
5 correct?

6 A. I don't recall.

7 MR. NISTAL: Let's please display on the
8 screen Exhibit R-256, which is [REDACTED] Account
9 Opening Application.

10 BY MR. NISTAL

11 Q. Mr. [REDACTED], here [REDACTED] expressly stated that
12 it did not undergo audits by third parties; correct?

13 A. Um-hmm, that's correct.

14 Q. Would you consider that a warning sign for
15 laundering money?

16 A. No.

17 A warning sign?

18 Q. For money-laundering.

19 A. That's a vague term.

20 I would not--I would not jump to the
21 conclusion that simply because they don't have
22 third-party audits that they are laundering money. I

1 would not jump to that conclusion.

2 Q. My question was whether you would consider
3 it a warning sign for money-laundering.

4 A. No.

5 Q. "No"?

6 MR. NISTAL: Can we please display on the
7 screen Exhibit C-0176. And let's go to Page 14.

8 BY MR. NISTAL

9 Q. Do you see there the heading "INTERNAL
10 WARNING SIGNS FOR MONEY-LAUNDERING"?

11 A. Um-hmm, yes, I do.

12 Q. And then you see the fourth row, "lack of an
13 independent audit program"?

14 A. Yes.

15 Q. And that's your own words; correct?

16 A. They are.

17 Q. Right.

18 So, it was a warning sign.

19 A. It could be seen as such. I did not see it
20 as such, not in this case.

21 Q. But you saw it when you were training Kaloti
22 Metals.

1 A. I'm sorry?

2 Q. But you did consider that it was a warning
3 sign when--

4 A. It could be, yes.

5 Q. Yeah.

6 A. It could be.

7 I did not consider it to be in this
8 instance.

9 MR. NISTAL: Let's go back to [REDACTED]
10 Application. Let's please display Section A, which is
11 on Page 5 of the PDF, and concerns "Company
12 Information."

13 BY MR. NISTAL

14 Q. Mr. [REDACTED] you can see in the heading
15 highlighted in yellow, the Account Opening Application
16 required that [REDACTED] I quote, "LIST ALL
17 SHAREHOLDERS."

18 Do you see that?

19 A. I do.

20 Q. And [REDACTED] only listed an individual called
21 "Marco Antonio Noriega Ramirez"; correct?

22 A. That's correct.

1 Q. However, Kaloti knew, or should have known,
2 that this was a false statement because [REDACTED] had a
3 second Shareholder named Alfredo Chamy Miranda.

4 REALTIME STENOGRAPHER: Can you start that
5 question again. I missed the beginning of it.

6 MR. NISTAL: Sure.

7 BY MR. NISTAL:

8 Q. However, Kaloti knew, or should have known,
9 that this was a false statement. [REDACTED] had a second
10 Shareholder named Alfredo Chamy Miranda; correct?

11 A. They did. He owned .1 percent of the
12 Company.

13 Q. Ah-ha.

14 Can we please display--so, you're saying
15 that, as long as they don't--he doesn't own a
16 significant part of the Company, he doesn't need to be
17 listed or controlled by your due diligence?

18 A. No, that's not what I said.

19 Q. Okay. So, do we agree that that was false
20 information?

21 A. I wouldn't call it false information.

22 Q. Can we please--so, if you request an entity

1 to list all Shareholders--all, means all of them.

2 A. Right.

3 Q. And they only list one and they leave out
4 one that has criminal records--let's put it in
5 context, and we will get there--you don't consider
6 that a false statement?

7 A. I don't consider it a false statement.

8 Q. So, you were fine with companies telling you
9 only part of their Shareholders.

10 A. We knew who the Shareholders were. We had
11 identified the Shareholders. Whether they listed it
12 there or not, we knew who the Shareholders were, we
13 have it on this document. And we ran the proper due
14 diligence on all Shareholders, when I believe the
15 requirement is any Shareholder above 25 percent.

16 MR. NISTAL: Let's please display on the
17 screen the Compliance Manual, Section 7.1.c, Page 10
18 of the PDF. First paragraph. 7.1.c, yeah.

19 BY MR. NISTAL

20 Q. The first paragraph says: "Kaloti has
21 strict policies in place to identify each and every
22 Ultimate Beneficial Owner of the entities it does

1 business with, regardless of their ownership
2 percentage."

3 A. Correct.

4 Q. And you think still think that it was okay
5 for Mr. Noriega to omit the fact that there were other
6 Shareholders in its company?

7 A. I said we knew who the Shareholders were.
8 Whether he listed it on that document or not, we knew
9 who the Shareholders were. He had identified them.

10 Q. Another red flag under your money-laundering
11 is when you receive incomplete or false information in
12 your applications, Account Opening Applications. This
13 would fall within that category; no?

14 A. This, what you're mentioning about the
15 Shareholder not being listed?

16 Q. Yeah.

17 A. I don't consider it to be.

18 As I mentioned, his ownership percentage is
19 .1 percent. I believe the OECD Guidelines is to
20 identify and run background checks on anyone owning
21 25 percent or more of the Company. So, we had put
22 even more stringent policies in place for our Company,

1 and I did identify the Shareholders, regardless of
2 whether they listed at .1 percent on the application,
3 and proper due diligence was conducted on every
4 Ultimate Beneficial Owner regardless of the .1 percent
5 ownership.

6 Q. What is your sense of the ownership and
7 control that Mr. Chamy had over the Company? Do you
8 think he was someone irrelevant, or did you have the
9 sense that it was controlling the Company?

10 A. That's not for me to say. Was he
11 controlling it? I don't know who took the decisions,
12 who made the decisions.

13 Q. An indication would be who would send you
14 the emails, instructions in order to send the
15 shipments to pay you, to receive payments.

16 A. From my understanding it was one of the
17 Chamy brothers.

18 Q. Yeah.

19 MR. NISTAL: Let's go back to [REDACTED]
20 Account Opening Application and let's please display
21 Page 10 of the PDF concerning the due diligence
22 regarding the origin of the gold the [REDACTED] would

1 provide to Kaloti.

2 BY MR. NISTAL

3 Q. Mr. [REDACTED], in the last question of
4 Section 1, [REDACTED] confirmed that it did not even have
5 contracts with its Suppliers; correct?

6 A. That's what they indicated, yes.

7 Q. Would that be part of the category of "more
8 important"?

9 A. I'm sorry?

10 Q. Would that be part of the omissions or red
11 flags that are really important?

12 A. I don't believe they're required to have a
13 contract.

14 Q. So--

15 A. I believe that they could purchase from any
16 legal source.

17 Q. But you told me earlier that you were
18 required to review the Contracts of the suppliers in
19 order to ensure the origin of the gold.

20 (Overlapping speakers.)

21 Q. And here they were telling you that they
22 didn't have contracts. Wasn't that a warning sign?

1 A. They could simply purchase from Suppliers.
2 They don't necessarily have to have an exclusivity
3 Contract.

4 Q. Sure.

5 But they were telling you that they were
6 going to supply to you 5.4 tons of gold without the
7 Contract. That didn't ring an alarm?

8 A. I mean, something that needs to be
9 understood here is that clients, or potential clients,
10 are trying to get the best, most favorable Terms for
11 themselves; and, in this business, the more favorable
12 Terms is for larger volumes, so it could be that they
13 were just inflating the volumes on this application to
14 try to get better Terms from us. Whether or not they
15 were going to provide that amount of gold to us,
16 regardless, would have had to pass through our KYC
17 due-diligence process.

18 Q. I understand that, but the fact is that they
19 did provide that amount because, in 2013, in only four
20 months, from August to December in 2013, they sold to
21 Kaloti 2,400 kilograms of gold. That's 600 kilograms
22 of gold a week--a month, for a company recently in

1 incorporated. Without contracts.

2 A. It's significant, yeah.

3 Q. Okay. And we saw earlier that Section 7.1.e
4 of Kaloti's Compliance Manual required Kaloti to
5 obtain from its Suppliers and verify, I quote,
6 "documentation in the form of a number of documents,"
7 but contracts is one of them, "to confirm that the
8 metals have been procured through legal means."

9 Correct?

10 A. Correct.

11 Q. And I assume that you never obtained a
12 contract from Kaloti--from [REDACTED]

13 A. Invoices.

14 Q. You never obtained contracts from [REDACTED]
15 contracts between [REDACTED] and its Suppliers?

16 A. Invoices.

17 Q. So, you didn't obtain contracts.

18 A. Is that not--no.

19 Q. An invoice is not a contract.

20 A. It's not a contract?

21 Q. No.

22 MR. DÍAZ-CANDIA: I'm sorry, that's a legal

1 conclusion that the Witness is not in a position to
2 make.

3 BY MR. NISTAL:

4 Q. Well, you are telling me that you obtained
5 invoices. Did you obtain contracts in addition to
6 invoices?

7 A. I don't recall. I don't recall.

8 Q. You don't recall.

9 A. As I said, it's not a requirement.

10 Q. Mr. [REDACTED], you confirmed earlier that Kaloti
11 was required to screen each of the Shareholders of its
12 Suppliers, including by checking the records, by
13 verifying that they had not received adverse media
14 attention, and by conducting a full web search.

15 A. Yes.

16 Q. Are you able to show me any sort of document
17 confirming that you conducted that type of screening
18 in relation to the Shareholders of [REDACTED] Marco
19 Antonio Noriega and Alfredo Chamy Román?

20 A. Am I able to provide you with the
21 documentation?

22 Q. Yeah.

1 A. No, as I said, in 2018, those documents were
2 no longer my responsibility.

3 Q. No, you prepared the Witness Statement for
4 this arbitration. I assume that you reviewed
5 documents and that you verified--

6 A. I don't have access to those documents
7 anymore.

8 Q. Right.
9 Did you request them?

10 A. No.

11 Q. "No"? Okay.

12 Let's please display exhibit--but did you
13 conduct a full web search?

14 A. Absolutely.

15 Q. And did you confirm that they didn't have
16 criminal records?

17 A. I believe one of them had some indiscretions
18 in the past, yeah.

19 Q. Indiscretions?

20 A. Yes.

21 Q. Such as?

22 A. "Such as"?

1 Q. Yes.

2 A. One of the Chamy brothers had some issues
3 with the law in previous years.

4 Q. Like what?

5 A. If I'm not mistaken, he was--I don't know if
6 it was convicted but it was alleged that he committed
7 domestic violence, and I think there was a video of
8 him shooting a gun into the air.

9 Q. Have you spoken about the testimony or
10 arguments discussed by the Parties during this Hearing
11 with your lawyers?

12 A. Have I done what?

13 Q. Have you discussed with your lawyers, with
14 the Party that brought you here, about the content of
15 this Hearing before today?

16 A. The content--I know what this Hearing is
17 about, if that's what you're asking.

18 Q. Now, what has happened in this Hearing in
19 the last two or three days, have you discussed it
20 with--

21 A. No.

22 Q. "No."

1 You haven't spoken at all about what has
2 happened in this Hearing?

3 A. No, not what has happened in this Hearing.

4 Q. Okay. Let's display Exhibit--but you have
5 confirmed that you knew when you bought the shipments,
6 that Chamy had criminal records? That we have
7 confirmed.

8 A. I believe I knew at the time, yes.

9 Q. Okay.

10 MR. NISTAL: Let's display Exhibit C-255.
11 This is an article published by a Peruvian newspaper.
12 It was published on 9 June 2011, so about two years
13 before Kaloti started dealing with [REDACTED]

14 THE WITNESS: Yeah.

15 BY MR. NISTAL

16 Q. Let's please turn to Page 2, the penultimate
17 paragraph refers to Alfredo Chamy Román, who, as we
18 saw, is a shareholder of [REDACTED] and the Article
19 states: I quote: "In addition to the police reports
20 of physical aggression, Chamy has three criminal
21 charges against him. One in the 8th Criminal
22 Prosecutor's Office for the crime of embezzlement and

1 misappropriation of funds; in the 26th Criminal
2 Prosecutor's Office, he is being investigated for the
3 extortion of Gálvez Ramos y Abogados, and the third
4 charge is in the 5th Criminal Prosecutor's Office for
5 illicit enrichment."

6 Would you agree that this qualifies as
7 negative media attention?

8 A. Yeah, it is negative, that's for sure.

9 Q. Yeah. So, that was another red flag under
10 your--

11 A. It can be considered a red flag, sure.

12 Q. Is this what you referred as indiscretion?

13 A. No. I was talking about the other issue
14 with the domestic violence.

15 Q. Okay.

16 MR. NISTAL: Let's display R-203.

17 BY MR. NISTAL

18 Q. Mr. ██████-ah, we are in the process.

19 MR. NISTAL: Let's please display R-203 on
20 the screen.

21 BY MR. NISTAL

22 Q. Mr. ██████, the document on the screen is the

1 criminal indictment of [REDACTED] I'm just showing it to
2 you so that you know what document it is.

3 MR. NISTAL: Perhaps we can make it a bit
4 bigger for Mr. [REDACTED].

5 THE WITNESS: I'm just looking for the date.

6 BY MR. NISTAL

7 Q. It's probably 2015.

8 A. 2015.

9 Q. The date is, can we confirm the date,
10 please?

11 A. It looks like the 4th of March 2019.

12 Q. Would that make sense? Probably. Yeah.

13 A. That's what the stamp is.

14 Q. Okay. Anyway, it's post the purchase of--

15 A. According--

16 Q. That should be the date of the document--

17 A. Right.

18 Q. --the information that I'm going to show
19 you.

20 A. Okay.

21 Q. Let's please go to Paragraph 151 in Page 31
22 of the PDF.

1 Mr. [REDACTED], as you can see on 12 April 2010,
2 Alfredo Chamy had been found criminally liable for
3 manufacturing, processing, and supplying dangerous
4 materials; correct?

5 A. That's what the document says, yes.

6 Q. You would agree that this is also more than
7 an indiscretion.

8 A. I don't know what he was fabricating. I
9 don't know what that is.

10 Q. Do you see that there was a sentence of four
11 years in prison.

12 A. Yes, I do.

13 Q. It seems serious.

14 A. It seems, yeah, it seems serious, if you did
15 jail time, yeah.

16 Q. Would you agree that this was another red
17 flag?

18 A. I was not--I was not under--I did not know
19 this.

20 Q. But you said before that you checked
21 criminal records.

22 A. I did not say I checked criminal records.

1 Q. I asked you whether World-Check confirmed
2 criminal records, and you said it did.

3 A. I don't think I said that. I think it said
4 more negative publications.

5 Q. Anyway, we can come back to that later.

6 But I take this opportunity to ask you, so
7 you didn't check criminal records of Suppliers?

8 A. Criminal records, when possible, yes.

9 Q. So, you did.

10 A. When possible, yes.

11 Q. But here you didn't.

12 A. I'm not sure if Perú has the mechanism to
13 check criminal records. If they did, if it does, then
14 I did.

15 Q. And then you saw this?

16 A. No, I did not see this.

17 Q. Meaning, if it has no mechanism--

18 A. I would have seen that.

19 Q. --then you would have seen that.

20 A. Right.

21 Q. And Mr. [REDACTED], Perú was an incredibly
22 important source of raw materials for Kaloti; correct?

1 A. I would say so, yes.

2 Q. So, shouldn't you know whether the system in
3 Perú allows to obtain criminal records, as a
4 Compliance Officer?

5 A. Should I know? I guess I should, yeah.

6 Q. But you don't.

7 A. I don't recall.

8 Q. And despite all of the red flags that we
9 have seen between August 2013 and December 2013,
10 Kaloti traded 2.4 tons of gold for [REDACTED] correct?

11 A. I don't have the numbers in front of me. I
12 will trust you.

13 Q. I can show it to you. It's one of the
14 exhibits.

15 A. If it's on there, then it's true.

16 Q. Okay.

17 MR. NISTAL: Let's please display Exhibit
18 C-132 on the screen.

19 BY MR. NISTAL

20 Q. This contains the due-diligence files
21 prepared by Kaloti in relation to [REDACTED] as you
22 can see?

1 A. Yes.

2 Q. And let's review the tax identification, the
3 RUC that we saw before, in particular the box
4 concerning "Legal Representatives" in Page 13 of the
5 PDF.

6 You can see that the legal
7 representative--the box on the screen states that from
8 24 April 2013, the legal representative was an
9 individual called "Marcos Hermán Estrada Alvarado";
10 correct?

11 A. Yes, sir.

12 Q. Now, let's please show Page 16 of the PDF,
13 which contains additional information regarding the
14 legal representatives of [REDACTED]

15 [REDACTED] (sic), the box on the screen
16 states that, from 18 December 2013, the General
17 Manager of [REDACTED] was José Antonio Soto Tipacti;
18 correct?

19 A. Yes, that's what it says.

20 MR. NISTAL: Now, let's please display
21 Exhibit R-337, which contains the indictment of [REDACTED]
22 [REDACTED].

1 BY MR. NISTAL

2 Q. Mr. [REDACTED], this is a similar document to the
3 one we saw for [REDACTED] This one concerns [REDACTED]
4 and we're going to Paragraphs 68 and 69. Can we make
5 that bigger, please.

6 Mr. [REDACTED], Paragraph 68 and the table under
7 it, states that the legal representative of [REDACTED]
8 [REDACTED], Mr. Soto Tipacti, had a criminal record
9 because on five occasions he had been found guilty of
10 issuing fraudulent checks; correct?

11 A. I don't know if that translates to bad
12 checks. I'll take your word for it.

13 Q. "Libramiento y cobro indebido."

14 MR. NISTAL: Perhaps opposing counsel can
15 agree that that's issuing fraudulent checks or
16 similar?

17 MR. DÍAZ-CANDIA: Can you repeat that,
18 please?

19 MR. NISTAL: "Libramiento y cobro indebido."

20 MR. DÍAZ-CANDIA: I honestly have no idea
21 what that means in Perú.

22 BY MR. NISTAL:

1 Q. Okay. Well, in any way, you can see that
2 this constitutes a crime, it constitutes "antecedentes
3 penales," and that there was a sentence of one year
4 for each of the instances, and the four that he had
5 criminal records; correct?

6 A. Yeah, that's what the document says.

7 Q. And this happened, all of this happens
8 before the purchases?

9 A. According to these dates, yes.

10 Q. Now, let's go to Paragraph 69.

11 Paragraph 69 states that the other legal
12 representative of [REDACTED] Mr. Estrada Alvarado,
13 also had a criminal record, in this case for
14 corruption and procuring prostitution.

15 Do you see that?

16 A. I do see it.

17 Q. So, the two legal representatives of [REDACTED]
18 had criminal records. Would that be a red flag?

19 A. I'm sorry?

20 Q. The two representative was [REDACTED] had a
21 criminal record. That would constitute a red flag,
22 too?

1 A. That would constitute a red flag, yes.

2 Q. I don't have any more questions. Thank you,

3 Mr. [REDACTED].

4 PRESIDENT McRAE: Thank you.

5 Do you have some question, Claimant?

6 MR. DÍAZ-CANDIA: Yes, please.

7 PRESIDENT McRAE: Go ahead.

8 MR. DÍAZ-CANDIA: Thank you, Mr. President.

9 REDIRECT EXAMINATION

10 BY MR. DÍAZ-CANDIA:

11 Q. Mr. [REDACTED], you spoke today several times
12 about "red flags." Can you please be more specific
13 about what that means, and if it means like a light, a
14 street light that you cannot continue. I mean, what
15 does a red flag--

16 (Overlapping speakers.)

17 Q. Yes, I was finished. But don't answer

18 before I end.

19 Go ahead.

20 A. A red flag basically means, depending on the
21 severity of the red flag, what the information you
22 found is. You would then determine whether this red

1 flag constitutes or gives you the--you would have to
2 decide as a Compliance Officer, as a team in general
3 on whole to decide whether or not this red flag
4 constitutes shutting down the business or shutting
5 down the Account Opening process, or if enhanced due
6 diligence will satisfy your risk appetite.

7 Q. Thank you.

8 They showed you a chart where the other
9 person that was referred to as Compliance Officer was
10 you. What was the role of the other people working at
11 Kaloti Metals, including in Lima, regarding
12 compliance?

13 A. Compliance was everybody's responsibility.
14 It's a team-wide effort. One of the charts that the
15 gentleman put up was a deck from my
16 anti-money-laundering employee training. The employee
17 training was conducted at least on an annual basis
18 where every single employee attended. So, it was a
19 company-wide effort. Everybody had compliance on the
20 mind.

21 The other part of your question was the role
22 of Lima?

1 Q. If that included any people living in Lima
2 and working for Kaloti.

3 A. Yes, that included everybody, yes.

4 I don't recall if there was another part to
5 your question.

6 Q. No, I think that's it.

7 Had you ever traveled to Lima physically
8 while working for Kaloti?

9 A. Yes, I did. I traveled to Lima I think on
10 three separate occasions, if I'm not mistaken. The
11 first occasion was in 2013 for a period of five weeks
12 I was in Lima.

13 Q. Okay. If any document is considered
14 confidential, under Peruvian law, would any of your
15 tools be able to go around--

16 A. No.

17 Q. --that confidentiality? So, do you have any
18 tools to--

19 A. All my tools were public.

20 Q. So, they didn't have access to documents
21 that were confidential, under Peruvian law?

22 A. No, I did not have access to confidential

1 documents.

2 Q. Okay. The documents regarding due diligence
3 for gold deliveries made in 2013 and '14, they would
4 be dated on that date or before; is that correct?

5 A. Correct.

6 Q. Do you remember, under your AML Manual, how
7 long the document retention policy was for?

8 A. I believe we piggybacked off of IRS
9 requirements, which is seven years.

10 Q. Okay. When would seven years expire from
11 2014?

12 A. 2021.

13 Q. Okay. Thank you.

14 MR. DÍAZ-CANDIA: No further questions.

15 PRESIDENT McRAE: Thank you.

16 Do you have any recross questions?

17 THE WITNESS: Can I clarify one thing? I
18 mentioned that all the tools I had were public,
19 World-Check is a paid subscription. That one you have
20 to pay for.

21 MR. NISTAL: One question.

22 PRESIDENT McRAE: Go ahead.

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REXCROSS-EXAMINATION

BY MR. NISTAL:

Q. As far as you know, Mr. [REDACTED], was there a policy of destroying the documents after the end of this seven-year period that you mentioned?

A. I don't recall if there is a destruction policy in place. It just says that we have to retain the records for that long. Whether or not you destroy them, I believe that's up to the owner of those documents.

Q. So, you're not aware of any destruction of documents.

A. I personally never destructed any documents.

Q. No.

And the seven-year period would have ended after Kaloti closed its operations in Perú; correct?

A. According to the timeline that I understand, yes, it would have happened after.

Q. And, in any event, the documents would have been in Miami in electronic form?

A. Yes, they would have been in Miami in physical form and in digital form.

1 Q. Thank you.

2 A. All documents were in both.

3 Q. Thank you, Mr. [REDACTED].

4 MR. DÍAZ-CANDIA: No further questions.

5 PRESIDENT McRAE: Well, thank you very much,

6 Mr. [REDACTED]. You are now free to go. We appreciate

7 very much your testimony.

8 (Witness steps down.)

9 PRESIDENT McRAE: I think that means that we

10 should probably take the lunch break now. I don't

11 know that anything is going to happen in the next five

12 minutes, so we will take the lunch break and start

13 again at 2:00. And let's find out what we're going to

14 start with because we're clearly slightly ahead of

15 time or largely ahead of time.

16 MR. DÍAZ-CANDIA: If it's okay with the

17 Tribunal and representatives of Perú, I think--

18 PRESIDENT McRAE: Sorry, can you say that

19 again?

20 MR. DÍAZ-CANDIA: Sorry, if it's agreeable

21 for the Tribunal and the representatives of Perú, I

22 think the next portion in the calendar is Dr. Caro.

1 He's here--yes, and we can start with him in the
2 afternoon.

3 MR. GRANÉ LABAT: Mr. President, we are
4 happy to start with Mr. Caro's presentation, but we
5 are not prepared to initiate the cross-examination
6 today, but rather we would prefer to stick to
7 the--with the Schedule.

8 MR. DÍAZ-CANDIA: He could make a
9 presentation, and we'll make it available. They need
10 it, according to PO4, an hour in advance, so we will
11 deliver it to you as soon as practicable, and he can
12 make the presentation this afternoon.

13 PRESIDENT McRAE: So, you're suggesting that
14 we have the presentation this afternoon and the
15 cross-examination tomorrow?

16 MR. DÍAZ-CANDIA: Our preference would be to
17 do everything, but we would have no objection to their
18 proposal.

19 PRESIDENT McRAE: Your preference would
20 be...

21 MR. DÍAZ-CANDIA: To begin with him the
22 cross-examination today. That would be our

1 preference.

2 PRESIDENT McRAE: Right, right, right, but
3 if the cross-examination is not possible today, would
4 your preference be to have him give his statement
5 today and let the cross-examination go tomorrow?

6 MR. DÍAZ-CANDIA: If we start at 2:00, his
7 presentation is 30 minutes, so we will have plenty of
8 time for cross-examination today.

9 PRESIDENT McRAE: I understand you're not
10 ready to go ahead with the cross-examination, and the
11 Schedule does not require cross-examination before
12 tomorrow, so.

13 MR. GRANÉ LABAT: That's correct,
14 Mr. President.

15 And we understand that they would have no
16 objection to having the presentation, and then the
17 cross-examination tomorrow. We're equally happy so
18 that we don't retain everyone over lunch to have
19 Mr. Caro's presentation now, of course, if the
20 Tribunal deems that appropriate and also the Court
21 Reporters allow, that way we have his presentation and
22 then we don't have to have lunch here in the premises

1 and we reconvene tomorrow morning for the
2 cross-examination.

3 MR. DÍAZ-CANDIA: We would object to that,
4 respectfully. We do want the lunch break, please.
5 I'm sorry.

6 PRESIDENT McRAE: Okay. So, let me just get
7 this clear. Your preference, then, would be we have
8 the lunch break, then the presentation, and then we
9 break and then cross-examine tomorrow? That's
10 suggested by the Respondent.

11 MR. DÍAZ-CANDIA: We have no objection to
12 that, but that's not our preference.

13 PRESIDENT McRAE: Right. It's not your
14 preference.

15 MR. DÍAZ-CANDIA: It's up to the Tribunal.
16 I don't know.

17 (Tribunal conferring.)

18 PRESIDENT McRAE: I think the Tribunal would
19 prefer to keep them together rather than having a
20 separation between the statement and the
21 cross-examination, which means that we will end for
22 the day now and start again tomorrow with the

1 presentation and then the cross-examination.

2 MR. DÍAZ-CANDIA: You still have to give us
3 lunch, though.

4 PRESIDENT McRAE: I don't think that we are
5 making any decision about lunch. That is purely a
6 matter for the Parties to decide themselves and you
7 don't have to agree on it either.

8 So, thank you very much. We will suspend
9 the proceedings and start again tomorrow. I think
10 tomorrow is still 9:30 as the starting time.

11 (Pause.)

12 PRESIDENT McRAE: Okay, I just have to
13 correct, the starting time is 9:00 tomorrow, not 9:30.

14 (Whereupon, at 12:59 p.m., the Hearing was
15 adjourned until 9:00 a.m. the following day.)

POST-HEARING REVISIONS
CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby attest that the foregoing English-speaking proceedings, after agreed-upon revisions submitted to me by the Parties, were revised and re-submitted to the Parties per their instructions.

I further certify that I am neither counsel for, related to, nor employed by any of the Parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.



DAVID A. KASDAN