

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(SOUTHERN DIVISION)**

***In re* SANCTUARY BELIZE  
LITIGATION**

**Case No. 18-cv-3309-PJM**

**DECLARATION OF DAVID W. WIECHERT IN SUPPORT OF OPPOSITION  
TO FTC TURNOVER MOTION AND REQUEST FOR INTERVENTION**

I, David W. Wiechert declare:

1. I am a member of the California state bar licensed to practice in all of the courts in California. I have also been admitted to practice before the United States Supreme Court and have been admitted *pro hac vice* in various federal courts throughout the United States including the District of Nevada, District of Arizona, Eastern District of Texas, Eastern District of Missouri, and Eastern District of New York.

2. I have practiced law for almost 40 years including as an Assistant United States Attorney in the Criminal Division in the Central District of California between 1983 and 1987. I am currently a member of the Federal Indigent Defense Panel in the Central District of California and have previously served as a lawyer delegate for the Ninth Circuit Judicial Conference. I have had the highest rating for ethics and competence by Martindale Hubbell for over a decade.

3. I have represented multiple individuals in matters with the Federal Trade Commission ("FTC"). I have also had prior experience with FTC Enforcement Attorney Benjamin Theisman. Approximately 4 years ago I represented defendant Damian Kutzner in an FTC enforcement action where Mr. Theisman was one of the lead FTC enforcement attorneys.

4. In Fall 2018 I was introduced to Rod Kazazi, a California resident, by attorney Kate Corrigan and subsequently retained by him to assist in the defense of an action filed by the FTC in the United States District Court for the District of Maryland, ultimately entitled *In re Sanctuary Belize Litigation*, 18-cv-3309-PJM (hereinafter “Sanctuary Belize Action”). I had no prior relationship or dealings with Mr. Kazazi, and never had any interaction with any of the persons or entities named as defendants in the Sanctuary Belize Action. At the time I was a sole proprietor employing other attorneys and doing work as the Law Offices of David W. Wiechert. On January 1, 2020, I formed a Professional Corporation with two other attorneys entitled Wiechert, Munk & Goldstein, PC, which is now the firm I work for.

5. On or about November 13, 2018, I transmitted to Mr. Theisman financial documents including a financial disclosure form verified by Mr. Kazazi under oath as required by the Temporary Restraining Order imposed by the court. On page 8 of the form, a true and correct copy of which is attached as **Exhibit 1**, Mr. Kazazi disclosed the funds that were held by others on his behalf: \$5,000 placed in my trust account and \$5,000 with Ms. Corrigan.

6. From the outset Mr. Kazazi’s desire, as expressed to the FTC, was to cooperate with the government. Consistent with that desire, in a November 20, 2018 meeting also attended by me, Mr. Kazazi spent multiple hours with representatives of the Receiver appointed in the Sanctuary Belize Action reviewing documents and answering questions about them.

7. Mr. Kazazi’s cooperation was not limited to in-person meetings or responding to the FTC’s or Receiver’s inquiries. He was also proactive in relaying to the government potentially useful information pertinent to co-defendants that had not been identified in civil discovery or by government representatives. For example, I emailed the Receiver and the FTC on November 20, 2018, on Mr.

Kazazi's behalf to identify two additional companies potentially pertinent to the Sanctuary Belize Action. A true and correct copy of this email is attached hereto as **Exhibit 2**.

8. In and around Fall 2019, the FTC generated civil discovery to Mr. Kazazi including a deposition notice for October 23, 2019. Mr. Kazazi desired to avoid the legal costs associated with my assisting in responding to discovery or representing him in a deposition proceeding. He had proceeded *pro se* in the Sanctuary Belize Action in order to keep his legal costs down and avoid the necessity of hiring Maryland counsel. I inquired whether there was a draft settlement agreement in the works so as to avoid the cost of a deposition, and by emails on October 19, 2019, a true and correct copy of which is attached as **Exhibit 3**, Mr. Theisman confirmed that there was.

9. FTC representatives and I discussed the parameters of a potential settlement between the FTC and Mr. Kazazi that would resolve the litigation and avoid the need for formal discovery responses. The deal points were as follows: First, the FTC insisted on a judgment of \$144 million as the total consumer loss in the Sanctuary Belize scheme, even though Mr. Kazazi first came on board in 2012 (which, based on information learned throughout the course of the Sanctuary Belize Action, was about 7 years after Belizean properties were first being sold to consumers). This number was presented as non-negotiable. Second, except for living and legal expenses authorized by the Court, Mr. Kazazi would have to turn over all of his assets to the FTC or Receiver, including his house. Third, as long as Mr. Kazazi surrendered all of his assets, the \$144 million judgment would be suspended. Fourth, Mr. Kazazi would complete a Declaration that could be utilized by the FTC in the Sanctuary Belize Action. Fifth, Mr. Kazazi would verify a current financial statement.

10. Mr. Kazazi was willing to accede to all of the FTC's requests. However, for personal reasons Mr. Kazazi sought an alternative to surrender of the house. In that vein, I explained to Mr. Theisman Mr. Kazazi's desire and that he intended to borrow money from family and friends to cover the equity that the FTC could obtain through the Receiver's sale of the property. Thereafter, Mr. Theisman and I discussed the value of the house. Mr. Kazazi obtained an appraisal of the house in order to facilitate the reaching of a fair number representing the value of its equity if turned over to the Receiver. After further negotiation about reasonable selling costs that could be avoided if Mr. Kazazi made a cash payment, ultimately the number of \$250,000 was agreed to.

11. On October 21, 2019, Mr. Theisman sent me an email with a first draft of the Stipulated Order for Permanent Injunction and Monetary Judgment Against Defendants Rod Kazazi and Foundation Partners (the "Order") attached, along with the FTC's standard Financial Statement of Corporate Defendant form. True and correct copies of the email and its two attachments are attached hereto as **Exhibit 4**. On page 5 of the first draft of the Order (which is page 28 of the Exhibits attached to this declaration) is the first draft of Section III(C) which, in its entirety, reads "Settling Defendants shall pay to the [FTC], within fourteen (14) days of the entry of this Order, two hundred fifty thousand dollars (\$250,000)." There was no reference to an attorney escrow in the first draft of the order.

12. At the inception of the case the FTC had obtained an asset freeze. The largest asset held by Mr. Kazazi was his Irvine, California residence. The house had been acquired by his parents in 2017. In response to the possibility of settlement, the FTC requested extensive financial information from Mr. Kazazi about multiple transactions and accounts. Mr. Kazazi answered these questions and in an October 23, 2019 email to Mr. Theisman, a true and correct copy of which is attached as **Exhibit 5** (on bottom of page 45 of the attached Exhibits), the FTC was

advised that Mr. Kazazi's parents had originally put up funds to purchase his house.

13. On November 2, 2019, Mr. Theisman sent me an email attaching a second draft of the Order. A true and correct copy of this email and its attachment are attached hereto as **Exhibit 6**. Mr. Theisman stated in the email: "In preparation for our meeting, attached is an updated draft of the order. The only changes are in the amount to be transferred (to account for the tax refund check), and the documents upon which the judgment will be suspended..." This was untrue. This second draft of Section III(C) not only changed the amount from \$250,000 to \$268,873.37, it also contained the following new sentence: "Settling Defendants hereby stipulate that their counsel holds such funds in escrow for no purpose other than payments to the [FTC]." See page 54 of the attached Exhibits. The \$268,873.37 number was made up of the \$250,000.00 equity, and some tax refund money received by Mr. Kazazi. When reviewing this draft, I did not notice the new funds in escrow language and the FTC provided me no notification that they had inserted it into the second draft of the 20-page Order.

14. On November 4, 2019, Mr. Kazazi and I met with Mr. Theisman in Orange County, California for over three hours. During the meeting Mr. Kazazi asked if there was any way that the FTC would give up its claim to the equity in the house as it had been derived from his parents who had nothing to do with Sanctuary Belize. Mr. Theisman explained that the asset was legally Mr. Kazazi's and therefore the FTC would not give up its claim to it. Mr. Kazazi explained that he would be borrowing the money to cover the large lump sum payment from family and friends and asked if there was any more flexibility in the figure. Mr. Theisman said he would inquire but he doubted it. Mr. Kazazi explained that the path of least resistance would be just to turn over the house, but he didn't want to let his parents down. Most of the meeting focused on the preparation of Mr. Kazazi's Declaration,

a process in which I actively assisted Mr. Theisman for the purpose of making the Declaration less objectionable should it be used in a court of law. This was consistent with Mr. Kazazi's continued desire to be as cooperative with the FTC as he could.

15. On November 15, 2019, Mr. Theisman sent me an email attaching an execution draft of the Order, as well as a copy of Mr. Kazazi's financial declaration dated November 12, 2019. A true and correct copy of this email and its attachments are attached hereto as **Exhibit 7**. This draft contained an identical Section III(C) as the second draft, including the \$268,873.37 amount and the escrow language cited above. *See* page 79 of the attached Exhibits.

16. At no time during the negotiation of the Order did I ever communicate to the FTC that Mr. Kazazi had deposited funds in my firm's trust account or an attorney escrow account to complete the settlement, and no time during the Fall of 2019 and thereafter did Mr. Kazazi ever provide money in trust or escrow to complete the settlement.

17. As part of the settlement process, the FTC required Mr. Kazazi to submit current verified financials. Mr. Kazazi did so through a Financial Declaration dated November 12, 2019, a true and correct copy of which is attached as part of Exhibit 7, pages 73 and 74 of the attached Exhibits. The updated financials incorporated those he had submitted in 2018. Mr. Kazazi did not indicate on his updated financials that approximately \$269,000 was being held for him in an attorney escrow account. The FTC has never contested the accuracy of the financial information provided in Exhibit 7.

18. Mr. Theisman advised that it would take some period of time for the FTC to approve the final Order and then the judge would have to sign it. On January 8, 2020 the court approved the Order. Thereafter Mr. Kazazi and I had

multiple communications with the FTC regarding the status of his financial commitments to the FTC.

19. On January 22, 2020, the date the payments were due to be made under the Stipulated Order, after communicating with my client, I sent an email to Mr. Theisman delineating the status of each monetary obligation. A true and correct copy of this email is attached as **Exhibit 8**. I did not receive any query from the FTC in reply inquiring as to the status of money in my, or any attorney's, trust account.

20. On April 7, 2020, Mr. Theisman sent me an email, a true and correct copy of which is attached as **Exhibit 9**, inquiring about the status of Mr. Kazazi's payments under the Stipulated Order. On April 9, 2020, I provided Mr. Theisman with a seriatim response as to a different payment required under the Stipulated Order. A true and correct copy of this email is attached as **Exhibit 10**. In paragraph 5, I described in detail the status of Mr. Kazazi's efforts to obtain a loan to cover the \$268,873.37 payment.

21. On April 15, 2020, Mr. Theisman sent me a letter attached as Attachment 1 to his Declaration that I forwarded to Mr. Kazazi. The letter is instructive in that, like our earlier post judgment communications, it doesn't identify me as a party to the Stipulated Order, nor does it mention the existence of any monies in my trust account. The following day, Mr. Theisman sent an email, a true and correct copy of which is attached as **Exhibit 11**, indicating that the FTC had received \$12,200 from Mr. Kazazi and wondered what item the payment pertained to. Later that day after consulting with Mr. Kazazi, I informed Mr. Theisman of the source of the funds in the email attached as part of Exhibit 10.

22. In an email chain commencing April 20, 2020, a true and correct copy of which is attached as **Exhibit 12**, Mr. Theisman requested a call to discuss "Skytree Capital Investment in particular." On April 22, 2020, I participated in a



conference call that included Mr. Kazazi and Mr. Theisman. During the call Mr. Kazazi explained the situation with Skytree Capital. He also advised that he had obtained a loan commitment in November from a lawyer friend of his, and that the loan documents were signed in March, but due to the pandemic the loan did not come through. Mr. Kazazi said he would send the FTC a copy of the loan agreement. He said he would continue to attempt to gain the funds but that the coronavirus pandemic was making it difficult for him to meet this financial commitment. He also stated that if he was not able to secure the funds, he would be willing to give up the house.

23. On May 4, 2020, Mr. Kazazi copied me on an email, a true and correct copy of which is attached as **Exhibit 13**, to Mr. Theisman wherein he enclosed the executed loan agreement from early March that he entered into with his friend Farshid Ghamari, who also happens to be an attorney.

24. On May 7, 2020, Mr. Theisman emailed me a letter concerning Mr. Kazazi's compliance with the Order, a true and correct copy of which is attached as **Exhibit 14**. The letter provides a "reminder" about Mr. Kazazi's payment obligations under the Order and focuses on whether the FTC lost money due to a delay in liquidating the Skytree investment. Mr. Theisman offered a compromise of an additional \$9,400.00 payment by Mr. Kazazi. On May 21, 2020, I responded by email, a true and correct copy of which is attached as **Exhibit 15**, that Mr. Kazazi agreed to the payment of the additional approximately \$9,000.

25. On June 3, 2020, I was copied on an email from Mr. Theisman responding to a June 2, 2020 email from Mr. Kazazi regarding payment status, which is Attachment 3 to Mr. Theisman's Declaration connected with the Turnover motion. Mr. Kazazi on June 2 informed Mr. Theisman that he had borrowed money to cover the Skytree deficit from the same person who was going to make the larger loan.



26. On August 12, 2020, Mr. Kazazi reached out to the FTC explaining his financial circumstances and advising that he listed his house for sale and that he would be willing to give up the house in order to satisfy the FTC. Mr. Theisman responded the next day that a sale of the house would be prohibited by the asset freeze in place. This email thread is attached to Mr. Theisman's Declaration in support of the Turnover motion as attachment 4.

27. On September 1, 2020, Mr. Theisman served on me copies of a turnover motion and supporting Declarations. There was no meet and confer prior to the filing of this motion, and the motion takes a position - never before asserted in numerous communications between me and the FTC between October 2019 when settlement negotiations commenced in earnest and September 1, 2020 - that I was personally responsible for Mr. Kazazi's financial commitments in the Stipulated Order. From the court's adoption of the Stipulated Order in January 2020, until the filing of the turnover motion on September 1, 2020, the FTC never expressed a belief to me or Mr. Kazazi that I had money from Mr. Kazazi in my trust account. Furthermore, there are statements in the turnover motion that are misleading, or without any evidentiary basis. For example, on the first page of the turnover motion the FTC states that Wiechert "holds such funds in escrow..." At the time the motion was filed the FTC knew that I did not possess such funds.

28. After the filing of the Turnover motion Mr. Kazazi and I had two calls with the FTC. The first occurred on September 3, 2020. During this call the parties discussed the implications of the Turnover motion and imposition of a \$144 million judgment on Mr. Kazazi. Mr. Kazazi indicated that the FTC taking his house and imposing a life altering judgment would end his ability to borrow the lump sum payment. Mr. Theisman stated at the end of the call that we should not be optimistic that the FTC would change its position.

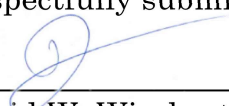
29. On September 8, 2020, by an email, a true and correct copy of which is attached as **Exhibit 16**, Mr. Kazazi answered a question about a Bank of America account that was raised in the September 3, 2020 call and stated: “Also, for what it’s worth, I can have all remaining funds (plus additional interest) paid by the end of the week.” As a follow-up to Mr. Kazazi’s email, also on September 8, 2020, per an email a true and correct copy of which is attached as **Exhibit 17**, I proposed to the FTC that Mr. Kazazi would borrow funds from Mr. Ghamari and be able to pay the FTC \$276,000 that would reflect a loss of use factor for the FTC.

30. Two days later, Mr. Kazazi and I had another call with the FTC. During the call Mr. Theisman stated he might be able to get the FTC to agree to a settlement where the \$144 million judgment would be suspended on the condition that Mr. Kazazi give up his house, and either Mr. Kazazi or I pay \$268,873.37. I responded that the practical effect of this offer was that the FTC was exacting a 100% penalty for the approximate 8-month delay in the FTC’s receipt of the payment assuming the equity in the house was close to the amount of the lump sum payment.

31. On September 10, 2020, I received a letter from Mr. Theisman, a true and correct copy of which is attached as **Exhibit 18**, wherein he proposed a general outline of a potential resolution that required Mr. Kazazi or myself to pay the FTC \$268,873.37 and that Mr. Kazazi would also turn over his home. In exchange, the \$144 million judgment would be suspended.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Respectfully submitted,



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