
FIRST WITNESS STATEMENT OF NIGEL KUSHNER AT THE REQUEST OF THE RESPONDENT

I, NIGEL KUSHNER, of W Legal Limited, 47 Red Lion Street, London, WC1R 4PF, WILL SAY as FOLLOWS:

1. I am the Chief Executive Officer of W Legal Limited and I make this witness statement at the request of the State Advocates Office of the Republic of Albania (“the **Respondent**”) in support of its application for a revision and/or annulment of the prior award (and associated decisions) in International Centre for Settlement of Investment Disputes Case No. ARB/15/28.
2. The facts and matters set out in this witness statement are, save where the contrary appears, within my own knowledge and have come to my knowledge as a result of my role as solicitor making this witness statement on behalf of the Respondent. Nothing stated in this witness statement is intended to waive privilege.
3. I describe below the circumstances which gave rise to the prior award, and the efforts to enforce that award against the Respondent, which led the Respondent to instruct an investigation into the claimants. The investigation was undertaken by a reputable litigation support firm (“the **Investigation Firm**”). I have worked with the Investigation Firm for more than a decade, on a number of litigation matters, and I am familiar with their work and methodology.
4. As part of the investigation methodologies, the Investigation Firm arranges meetings, in-person or via video conference, with individuals relevant to the case. The objective of these meetings is to obtain information relevant to the case through free-will conversation with the individuals, led in a friendly context.
5. The conversations are recorded during these meetings. Recordings are only made in jurisdictions where it is lawful to record a conversation with consent from only one of the parties to the conversation. It should further be noted that when required by the laws of the relevant jurisdiction, the Investigation Firm also utilises licensed local investigators to assist with its investigations.
6. Each recorded conversation is recorded from start to finish, without breaks, and multiple recording devices are frequently used to ensure that all statements during the meeting are captured.

7. For the purposes of producing copies of the recordings, the voices of the agents are distorted and their images blurred in order to protect their identities. No other alterations are made to the recordings. The Investigation Firm preserves each of the audio recordings in its entirety and do not alter the original recordings in any way.
8. The Investigation Firm's general operating procedures and methodologies are tailor-made in accordance with the law in each jurisdiction where it operates. In addition, the evidence obtained by the agents is ordinarily not protected under attorney-client privilege.
9. In preparing this statement, I have had access to the evidence they have gathered and received representations as to the circumstances and methods which were used. These are entirely consistent with my experience of the Investigation Firm's methods.
10. The purpose of this witness statement is to provide a summary of the findings of the investigation as presented to me by the Investigation Firm, which will now follow for the remainder of this witness statement. Any assumptions made or conclusions drawn as contained in this witness statement are the assumptions made and conclusions drawn by the Investigation Company. There is now produced and shown to me a paginated bundle of documents named Exhibit "1-15" containing true copies of (1) open-source materials gathered from various databases, and (2) audio and video recordings made by the Investigation Firm, to which I shall refer in this witness statement.

I. Background

11. I was informed by the Respondent of the following relevant facts which provided the basis for the investigation, as detailed below:

- a) In the early 1990s Francesco Becchetti (“**Mr Becchetti**”), an Italian businessman, explored investment opportunities in Albania, mainly in the energy sector, focusing on hydro plants and wind farms.
- b) As part of his business endeavours in Albania, Mr Becchetti initiated collaboration with the local authorities, with the aim to construct and operate hydro-power facilities in the Kalivac region (“**the Kalivac Hydro-Plant Project**”). Mr Becchetti has operated and established various legal entities both in Albania and Italy for the purpose of the Kalivac Hydro-Plant Project and his other business operations in Albania.
- c) As part of the Kalivac Hydro-Plant Project, Mr Becchetti signed joint venture agreements with various entities, including with Albanian state bodies and inter alia with Deutsche Bank AG (“**Deutsche Bank**”).
- d) As part of the joint venture agreement with Deutsche Bank, the latter undertook the obligation to provide the necessary capital to the joint venture to construct the Hydro-Plant facilities. In addition, Mr Becchetti and Deutsche Bank established an Italian company – Hydro S.r.l – to build and operate the Kalivac Hydro-Plant Project.
- e) Over the years, the relationship between the Mr Becchetti and Deutsche Bank deteriorated as the Kalivac Hydro-Plant Project encountered numerous difficulties, including significant delays and cost overruns by Mr Becchetti. In 2013 Mr Becchetti ceased the construction work on the Kalivac Hydro-Plant Project.
- f) During the years 2010-2012, both Mr Becchetti (through Hydro S.r.l) and Deutsche Bank filed arbitration requests against each other, each accusing the other of breaching the joint venture agreements. In two subsequent arbitration claims submitted by Mr Becchetti in Rome, the arbitration tribunal found that Deutsche Bank had breached its obligations (“**the Deutsche Bank Case**”).
- g) Mr Becchetti also initiated an ICC arbitration against the Respondent regarding the

Kalivac Hydro-Plant Project, alleging that the Respondent was responsible for the standstill and failure of the project. However, the claim was dismissed.

- h) In or about 2012, Mr Becchetti decided to expand his business activities into the media sector. In April 2012, he established a company named Agonset SH.P.K (“**Agonset**”) with the purpose to provide media and broadcasting services in Albania. In April 2013 Becchetti’s media channel “Agon Channel Albania” (“**Agon Channel**”) was officially launched.
- i) In 2014 a criminal proceeding was registered (no. 1564) by the Prosecution Office of Tirana District and in 2015 the Office of the General Prosecutor in Albania investigated Mr Becchetti for various criminal activities. Following the investigation outcomes, the courts in Albania ordered the freezing of all Mr Becchetti’s assets, including Agonset. In addition, the Albanian authorities issued international arrest warrants to Mr Becchetti for tax evasion and fraud.¹ The charges against Mr Becchetti and his collaborators were sustained by the First Instance Criminal Court of Tirana, condemning him with 17 years of imprisonment on several accounts, including money laundering and fraud. The appeal proceedings against that judgment are pending before Tirana Court of Appeal.
- j) On June 11th, 2015, Mr Becchetti and Hydro S.r.l, and others, submitted a claim against the Respondent in the International Centre for Settlement of Investment Disputes (“**Original ICSID Proceedings**”).
- k) Mr Becchetti and the other claimants nominated Dr Charles Poncet (“**Mr Poncet**”) a Swiss national, as arbitrator in this case. The Respondent nominated Mr Ian Glick (“**Mr Glick**”), a UK national, as arbitrator. The co-arbitrators, after consulting with the parties, agreed to nominate Dr Michael Pryles (“**Mr Pryles**”), an Australian national, as the president of the tribunal.
- l) In the final Award, dated April 24th, 2019, The ICSID tribunal has ordered Albania to pay €110 million to Mr Becchetti and the other claimants for the expropriation of Agonset

¹ It should be noted that the Secretariat to the Commission for the Control of Interpol’s Files (CCF), didn’t publish the arrest warrants in the e-ASF2 of Interpol. As a consequence, there is no published International Arrest Warrant against Mr Becchetti by Interpol.

- (“**the ICSID award**”). The damages rendered by the ICSID Tribunal to Mr Becchetti were largely based on an expert opinion provided by Alberto Pasquale, who was one of the two expert witnesses put forward by the claimants in the Original ICSID Proceedings.
- m) On August 22nd, 2019, the Respondent filed an application to annul the ICSID Award (“**ICSID Annulment Proceedings**”).
 - n) On November 5th, 2019, ICSID informed the parties that the Administrative Council had nominated Ms Lucinda A. Low, a U.S. national, as President, and Ms Sylvia Tonova, a Bulgarian national, and Dr Jacomijn van Haersolte-van Hof, a Dutch national, as members of the ad-hoc committee for the ICSID Annulment Proceedings.
 - o) In a decision made on April 2nd, 2021, the ad-hoc committee, nominated directly by the ICSID, rejected the Respondent’s application for annulment of the award rendered in favour of Mr Becchetti and other Claimants.
 - p) On April 22nd, 2022, following the dismissal of the Respondent’s application to annul the ICSID award, the Respondent filed an application for revision of the ICSID award (“**ICSID Revision Proceedings**”).
 - q) On October 17th, 2022, the ICSID Administrative Council nominated Mr Grant Hanessian, a U.S. national as a Presiding Arbitrator of the Revision Tribunal, pursuant to Article 38 of the ICSID Convention. Mr Poncet, Mr Becchetti’s arbitrator in the Original ICSID Proceedings was re-nominated by the Claimants for the revision proceedings; Mr Robert Anderson KC was nominated by the Respondent (“**the Revision Tribunal**”).
 - r) On December 1st, 2022, the Revision Tribunal rejected the Respondent’s request to disqualify Mr Poncet. On May 23rd, 2023, the Revision Tribunal dismissed the Revision Application under Rule 41 (5).

The Investigation

12. In early 2024, the Investigation Firm was retained to support the Respondent's legal efforts by conducting a thorough investigation to examine whether Mr Becchetti and his associates and related companies conspired with the relevant arbitrators, experts and decision makers to defraud the Respondent. The investigation was concluded during August 2024.
13. During the investigation, a research team has conducted an extensive, holistic and thorough investigation of different legal and factual aspects that are related to the investigation and the legal proceedings brought against the Respondent by Mr Becchetti.
14. The research team has performed comprehensive research across multiple sources: public registries in numerous jurisdictions, various online documents pertaining to the matter herein, and more.
15. In addition to its open-source research, the Investigation Firm has also contacted several individuals believed to hold information relevant to the investigation.
16. The individuals the agents contacted and provided relevant information, are listed below, along with the date and location of their meetings:
17. Marco Giontella ("Mr Giontella"):
 - a) Mr Giontella is an Italian citizen, residing and operating in Italy. Mr Giontella is the founder of the Italian-based tax firm Giontella e Associates and considered as one of the leading tax attorneys in Italy with over 30 years of experience.² Mr Giontella's business and personal relationship with Mr Becchetti originated around 1999, where they cooperated and held senior positions for in the Italian volleyball club Piaggio Roma. Mr Giontella served there as a director until 2002,³ and Mr Becchetti served as the CEO and owner of the club.⁴
 - b) In addition, according to Mr Giontella's statements, as detailed below, **he is one of the architects of Mr. Becchetti's scheme**: he serves as the confidant and counsel of Mr

² See Marco Giontella's profile on Giontella e Associates's website: <https://www.giontellaassociati.com/en/people/marco-giontella-founder/> (Last visited: August 19th, 2024).

³ Ibid.

⁴ Piaggio Roma, Serie A1 - Season 1999/2000, <https://www.legavolley.it/team/2249?lang=en> (Last visited: August 16th, 2024). Paul Jiggings, (The Sun, March 3rd, 2017) <https://www.thesun.co.uk/sport/football/3006837/leyton-orient-fans-fight-to-save-their-club-from-extinction-as-they-fear-march-20-deadline-over-unpaid-tax-bill/> (Last visited: August 19th, 2024).

Becchetti, provides him with advisory services regarding the case against the Respondent and “has been living the case” for 15 years.

- c) The close and friendly relationship between Mr Giontella and Mr Becchetti is illustrated from surveillance from May 29, 2024, when they were seen having a lengthy conversation near Mr Becchetti’s residence in London.



- d) In total, the agents met with Mr Giontella six times:
- i. On June 28th, 2024, two agents conducted a video conference with Mr Giontella. The conversation was recorded in Israel (**Exhibit 1**).
 - ii. On July 18th, 2024, the two agents met Mr Giontella twice in Singapore: the first meeting was held in a conference room at Dao by Sorsett AMTD Singapore hotel at 12:30 (**Exhibit 2**); the second meeting took place at Artemis Grill restaurant at 20:30 (**Exhibit 3**). The conversations were recorded in Singapore.
 - iii. On July 31st, 2024, the agent conducted a video conference with Mr Giontella. The conversation was recorded in Israel (**Exhibit 4**).

- iv. On August 6th, 2024, the agent met with Mr Giontella twice in Amsterdam, Netherlands: the first meeting was held in a conference room at Waldorf-Astoria Amsterdam at 14:30 (**Exhibit 5**); and the second meeting took place at Amstel restaurant at 20:30 (**Exhibit 6**). The conversations were recorded in the Netherlands.
- e) One of the agents who met Mr Giontella presented himself as a representative of a bespoke consultancy firm specialising in several industries, including Chemicals and Agrochemicals, machinery, and electronics and watches. In addition, it was presented that the consultancy firm provides traditional financial & wealth management services. The second agent presented himself as an independent strategic business consultant, who provides a wide range of advisory services to high-net-worth individuals and organisations. The correspondence with Mr Giontella was conducted via email and phone.
- f) The meetings with Mr Giontella focused on establishing a new tech venture in Italy that requires a complex tax and financial planning. Mr Giontella was approached as a suitable advisor for the initiative. During the meetings, Mr Giontella elaborated on his experience in similar cases and initiatives – which accordingly led to the statements presented below.
- g) All the meetings with Mr Giontella were conducted in English, recorded and transcribed. The total duration of the conversations was approximately: first meeting – 50 minutes; second meeting: 2 hours and 40 minutes; third meeting: 2 hours and 48 minutes; fourth meeting – 18 minutes; fifth meeting: 2 hours and 27 minutes; sixth meeting: 2 hours and 2 minutes.
- h) The meetings with Mr Giontella were held in a friendly and relaxed environment. The information provided by Mr Giontella was given in a completely voluntary manner without him being subject to any explicit or implicit pressure. Mr Giontella's travel and hospitality expenses were covered by the Investigation Firm.

18. Alberto Pasquale (“**Mr Pasquale**”):

- a) Mr Pasquale is an Italian citizen, residing and operating in Italy. Mr Pasquale is a lecturer in many educational organizations and is a freelance strategy advisor specialised in the media industry internationally. Mr Pasquale submitted an expert opinion in support of Mr Becchetti’s claim against the Respondent, upon which the award was largely based.
- b) In total, the agent met with Mr Pasquale four times on the following dates: March 26th (**Exhibit 7**), April 26th (**Exhibit 8**), May 29th (**Exhibit 9**) and July 11th, 2024 (**Exhibit 10**). The meetings were all conducted via video conference. The conversations were recorded from England.
- c) The agent presented himself as a representative of a consultancy firm that provides a diverse range of services such as Professional Management, Expertise Sourcing, Strategic Guidance, etc. The correspondence with Mr Pasquale was conducted via email and phone.
- d) The meetings with Mr Pasquale focused on providing an evaluation regarding potential investment in the Italian media industry. During the meetings, Mr Pasquale elaborated on his experience in this field. Mr Pasquale’s notions initiated a discussion on his business experience in financial planning and provided examples of similar cases studies which subsequently led to the statements presented below.
- e) All the meetings with Mr Pasquale were conducted in English, recorded and transcribed. The total duration of the conversations was approximately: first meeting – 57 minutes; second meeting – 39 minutes; third meeting – an hour and 5 minutes; forth meeting – 39 minutes.
- f) The meetings with Mr Pasquale were held in a friendly and relaxed environment. The information provided by Mr Pasquale was given in a completely voluntary manner without him being subject to any explicit or implicit pressure.

19. David Rivkin (“**Mr Rivkin**”):

- a) Mr Rivkin is an American citizen, residing and operating in the USA. Mr Rivkin acts as an independent arbitrator. Mr Rivkin served as Mr Becchetti’s legal counsel in the legal proceedings in the ICSID case.
- b) In total, two agents met with Mr Rivkin twice: on April 18th (**Exhibit 11**) and July 9th, 2024 (**Exhibit 12**). The meetings were all conducted via video conference and were recorded in Israel.
- c) The agents presented themselves as follows: The first agent presented himself as an independent Business Consultant with experience in strategy development, project management and organisational transformation. The second agent presented himself as an advisor with a focus on high-net-worth individuals, advising on large scale projects. The correspondence with Mr Rivkin was conducted via email and phone.
- d) The meetings with Mr Rivkin focused on establishing a new arbitration centre in the Gulf area. Mr Rivkin was approached as a suitable advisor for the initiative. During the meetings, Mr Rivkin was asked about recommended potential colleagues that would be able to take part in the project, which subsequently led to the statements presented below.
- e) All the meetings with Mr Rivkin were conducted in English, recorded using and transcribed. The total duration of the conversations was approximately: first meeting – 46 minutes; second meeting – 57 minutes.
- f) The meetings with Mr Rivkin were held in a friendly and relaxed environment. The information provided by Mr Rivkin was given in a completely voluntary manner without him being subject to any explicit or implicit pressure.

II. The Findings⁵

Summary of findings

20. Below is a summary of the most relevant evidence collected from the methods described above. The quotes of the interviews hereunder are reported as is and the material support of the recorded interviews does not leave room for any discussion on the materiality of the content. The full interviews are attached as exhibits to this Witness Statement. My selection of these highlights and the emphasis applied by me to the excerpted evidence has been guided by the Investigation Firm.

a) **Mr Becchetti's modus operandi: Manipulating arbitration outcomes through corrupt relationships and appointments of biased arbitrators**

- i. Mr Giontella is a trusted and long-term advisor to Mr Becchetti for over 25 years. He is very familiar with the proceedings against the Respondent in which he said he took part as a consultant of the Claimant.
- ii. Mr Giontella explained that Mr Becchetti orchestrates premeditated fraud schemes to win arbitrations. This is said to be achieved by manipulating arbitration outcomes through connections and corrupt practices which allows Mr Becchetti to secure favourable results and **undermine the fairness and integrity of the arbitration** against the Respondent.
- iii. The first part of Mr Becchetti's scheme is said to be to premeditate potential arbitration cases and **create** disputes against parties with whom he is engaged, including the Respondent.
- iv. The second and **very delicate** part of Mr Becchetti's corrupt scheme is said to be securing the arbitration outcome by **influencing the nominations** of arbitrators in his cases and their decisions, through bribes. Thus, through connections and sophisticated methods, Mr Becchetti manages to ensure that in arbitrations involving three arbitrators, at least two are appointed with whom he has personal relationships, to guarantee rulings in his favour without leaving a trace as shown by his reported avoidance of mobile communication.

⁵ All the citations referred to in tables in this section are all based on raw recordings produced in the meetings detailed above. Phrases in square parentheses "[]", were added when clarification was needed.

b) Mr Becchetti manipulated the arbitration against the Respondent through corrupt activities that allowed him to influence two of the three arbitrators appointed in the proceedings

i. **Corrupt nomination of Becchetti's arbitrator:** Mr Giontella asserts that the arbitrator (Mr Poncet) was appointed by Becchetti only after Becchetti personally spoke with him and secured his agreement to rule in his favour in the proceedings.

ii. The arbitrator appointed by Becchetti, Mr Poncet, has been involved in different controversies in the past.

iii. **Corrupt nomination of the President of the arbitration's tribunal:**

Mr Giontella further asserts that Mr Becchetti invested substantial resources, totalling many millions, to establish a network of connections with the committee responsible for appointing the tribunal president. His aim was to influence the appointment process and ensure that the selected individual would likely rule in his favour. In this regard, he is said to have created business opportunities and provided employment to associates and relatives of members of ICSID committees, thereby fostering relationships and enhancing his influence over their members.

iv. In this context, it may also be suspected that Mr Rivkin was later called by Mr Becchetti to join his team of attorneys in the case against the Respondent, because he maintains long and friendly relations with the president of the Original ICSID Proceedings tribunal, Mr Pryles. Notably, Mr Pryles did not disclose his relationship with Mr Rivkin, let alone their friendship.

v. Mr Rivkin and Mr. Pryles friendly and professional relationship goes back for over 12 years prior to the beginning of the ICSID proceedings, including Mr. Pryles nominating Mr. Rivkin to the first international board of the Singapore International Arbitration Center (SIAC), and Mr. Rivkin writing an article praising Mr. Pryles in a book in his honour.

c) Mr Giontella described a significant application of the method in which he played an active role: how Mr Becchetti helped by Mr Giontella manipulated the arbitration results in the Deutsche Bank arbitration through corrupt relations and influence over the nomination process of the president.

- REPORT TV HD
- i. In the **Deutsche Bank Case**, Mr Becchetti employed a similar method of controlling the nominating the president of the arbitration, with the full help and cooperation of Mr Giontella
 - ii. Mr Becchetti and Mr Giontella incorporated a contractual mechanism that allowed Mr Becchetti to have absolute control over the nomination of the president of the arbitration.
 - iii. The president of arbitration tribunal was nominated directly by the head of the Italian accountant committee who maintains close ties with Mr Becchetti and Mr Giontella and was instructed by them to nominate a specific president.
 - iv. According to Mr Giontella, the identity of the president in the Deutsche Bank case indeed made the difference. **Without control over the nomination, Mr Becchetti would have lost the case.**
- d) **Mr Becchetti shaped and choreographed the expert opinion of Mr Pasquale, to promote his narrative:**

- i. Mr Pasquale affirmed that he breached his duties as an unbiased expert witness through close interactions with Mr Becchetti, referred by him as "the Boss" in the case against the Respondent.
- ii. In his misleading valuation, Mr Pasquale knowingly provided false indications and statements on Agon Channel's improvement and growth, while holding a totally different professional personal opinion (for which he was hired) – that Agon Channel had no chance to grow.
- iii. Mr. Pasquale confirmed that his role was to serve the paying party's (Mr Becchetti) interests in the ICSID proceedings, rather serving as an independent and objective expert.
- iv. While the submitted expert opinion presented a real possibility for Agon Channel to improve and increase its profits, Mr Pasquale **true and honest** opinion was that Agon Channel had no chance of improving - and therefore no damage was caused by its closure.

Description of findings

21. The findings are described in detail below.

A. **Mr Becchetti’s modus operandi as described by Mr Giontella: manipulating arbitration outcomes through corrupt relationships and appointments of biased arbitrators.**

22. As described above, Mr Giontella is a key figure in Mr Becchetti inner circle, with a longstanding relationship that spans over two decades. During the meeting held on July 18th, 2024 (**Exhibit 3**), Mr Giontella explained how his relationship with Mr Becchetti developed over time as Mr Giontella started working with Mr Becchetti on his various litigation procedures:

Mr Giontella	I know this client when I was in the board of an Italian team of volleyball called Piaggio, Piaggio. Like vespa. Piaggio. And we win the Italian title in 2000. In 2000. And he was the owner of the team. And we worked together for four, five years, and I follow him in the evaluation of his litigation.
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23. During the same meeting (**Exhibit 3**), Mr Giontella also addressed to the dispute between Mr Becchetti and the Respondent, specifying that he serves as a consultant advising on this matter. Mr Giontella explained that because of conflict-of-interest issues he cannot serve the official legal representative in the case, however he provides “**a lot of opinion**” and “**a lot of evaluation for the client**”:

Mr Giontella	I have conflict of interest. Because I'm the consultant of the client. E [Italian: and] I can't defend him in front of the court... arbitration.
Agent	Right.
Mr Giontella	Because I make a lot of opinion for the client, a lot of evaluations for the client.
Agent	Right, right.
Mr Giontella	This is the reason for which I'm out of this litigation, completely out.

Agent	Between Albania and?
Mr Giontella	<u>Between Albania and my client. Because the lawyer are American lawyer.</u>
Agent	Okay.
Mr Giontella	Litigator.
Agent	But you are consulting?
Mr Giontella	<u>Yeah. I'm consulting.</u>
Agent	<u>Okay, so you're giving...</u>
Mr Giontella	<u>Yeah, yeah.</u>
Agent	<u>So, what I'm asking with your consultancy, basically, you won arbitration against the state, Albania?</u>
Mr Giontella	<u>Yeah.</u>

24. During the meeting held on August 6th, 2024 (**Exhibit 6**), Mr Giontella demonstrated his familiarity with the proceedings commenced by Mr Becchetti against Deutsche Bank and the Respondent concerning the Kalivac Hydro-Plant Project and Agon Channel, and provided a full overview of Mr Becchetti's business activities in Albania:

Agent	I don't know if it's totally different, because, what's the case in Albania? Was it a political issue against him or was there any merits.
Mr Giontella	Political.
Agent	-true merits against the client?
Mr Giontella	Okay, the case in Albania was.
Agent	Was it a criminal? Kind of criminal?
Mr Giontella	I, no, no, no, no. I'll try to explain.

Agent	Tax Evasion?
Mr Giontella	I'll try to explain. The client must build an hydro-electric plant in a place in Albania, near Kalivac. It's a river called Vjosa. And they had the possibility to build the hydro-electric plant and to use the electricity. Big project. For billions.
Agent	Yeah.
Mr Giontella	What's the problem? <u>That my client start with the television in Albania. And the Premier of Albania had other television. This create conflict between him and the Premier.</u>
Agent	Who's the Premiere?
Mr Giontella	The Premiere, Edi Rama. The Prime Minister.
Agent	Oh, the Prime Minister.
Mr Giontella	Prime Minister. When he was in Albania, they try to put him in a difficult situation, with criminal prosecution. With criminal prosecution.
Agent	Okay.
Mr Giontella	And they issued a red notice. Red notice means, the order to the police in Europe to take him. To take him. He goes to UK, starting with a process in front of the Court of Justice in London. And they obtain to cancel the red notice. But he cancel all the project in Albania, and this cause him, his company, big trouble. And this is the reason of the arbitration. This is the reason. He ask to the Albania, the dam concerning <u>the construction and the television</u>, that he can't have more in Albania. And this process against Albania government is still live. He has three sentences, three, that condemn Albania to pay him more or less one billion. And <u>this arbitration was in France,</u>

	<u>in Italy and in Netherlands. Three arbitration.</u> And they win. But Albania, till today, don't want to pay.
Agent	Yeah.
Mr Giontella	Don't want to pay. Because ask about sovereignty, ask, but him take a lot of us, of Albania, in Europe. Because they have a contract, for electricity, for example, and they take the credit and the final result is that more or less in two, three months, he could have 600 million. It's ready. 600 million. And this is one of the arbitration against Albania. Another arbitration is against Enel. Enel is the international company of electricity. <u>And another is against Deutsche Bank.</u> Deutsche Bank, because Deutsche Bank refused to pay financial aid that they signed. For these reasons, started with an arbitration, concluded in 2018, for 200 million, 200,000 million. Just 200.
Agent	200 million?
Mr Giontella	200 million.
Agent	Yeah. Change.
Mr Giontella	Against Deutsche Bank. Because we think about lira.
Agent	Yeah. Still?
Mr Giontella	Yes. Still, still. And this is a reason for which, with this 200 million Albanian, start with the prosecution, says that this was <i>riciclaggio</i> [Italian: recycling]. Recycling, money laundering.

25. Mr Giontella continued and described during the same meeting (**Exhibit 6**) that he works alongside Mr Becchetti on the dispute with the Respondent for over 15 years, and referred to the ICSID award against the Respondent:

Agent	'Do you have experience?'
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Mr Giontella	Yeah.
Agent	And you say, 'Yes'.
Mr Giontella	'Yes'.
Agent	'I have'.
Mr Giontella	'I have'. <u>I have because I lived for 15 years this case. 15 years.</u>
Agent	The Albanian case is 15 years?
Mr Giontella	Yeah, 15 years.
Agent	No.
Mr Giontella	Yeah, 15 years.
Agent	You're joking.
Mr Giontella	Yeah, 15 years. And.
Agent	Wow.
Mr Giontella	-now <u>we have a final sentence against Albania.</u> Final. They can't do anymore. We are final. They must pay. 'Stop! Stop!'. They must pay.

26. During the meeting held on July 18th, 2024 (**Exhibit 3**), Mr Giontella explained how Mr Becchetti is an experienced party in arbitration proceedings and has effectively turned arbitrations into a business for generating profits.
27. According to Mr Giontella, Mr Becchetti has extensive experience in arbitration and carefully selects transactions with a view towards eventually bringing them into arbitration by creating a dispute, where he anticipates winning. This behaviour is said to be his systematic *modus operandi*.
28. Mr Giontella presented the modus operandi of Mr Becchetti regarding the arbitration disputes with his rivals:

Agent 1	So, the reason so basically, he was able to choose the arbitrator, one of them, through his connections?
Mr Giontella	Because they have a lot of experience in this field. A lot of experience.
Agent 1	Your client?
Mr Giontella	Yes. I can say that <u>they gain a lot of money in this field.</u>
Agent 1	It's not the first time that they're doing it? They did it a few times, to gain.
Mr Giontella	<u>More? They have a lot of arbitration.</u> Imagine, <u>this client create the case.</u>
Agent 2	Create a case?
Mr Giontella	<u>Create the case.</u>
Agent 2	Because he just gave...
Mr Giontella	Create. <u>This client make contracts, having in mind the possibility to go to the arbitration.</u>
Agent 2	<u>So, it becomes like a business.</u>
Mr Giontella	<u>Yeah.</u>

[...]

Mr Giontella	<u>Creating the case. It's a job. it's a work.</u>
Agent	And they win?
Mr Giontella	<u>Win, win, win.</u>

29. During the meetings held on August 6th, 2024 (**Exhibit 5**), Mr Giontella explained, based on his 30 years familiarity with Mr Becchetti, the second part of Mr Becchetti's corrupt scheme

- securing the arbitration outcome by “**influencing the nomination**” of at least 2 out of 3 favourable arbitrators, even when he has a strong case. To highlight the illegal and sensitive nature of Mr Becchetti’s corrupt scheme, Mr Giontella referred to Mr Becchetti’s nomination process as “**very delicate**”:

Mr Giontella	I know, my experience following him for 30 years that he influenced the nomination.
Agent	Right. So.
Mr Giontella	But to have the...
Agent	The exact way.
Mr Giontella	<u>It's very delicate. I know, imagine, my client has had more or less, 20.</u>
Agent	Arbitrations?
Mr Giontella	20. more or less, more or less.
Agent	You know?
Mr Giontella	In this 20, <u>I follow him in five, six, knowing perfectly the case, and I know what he makes in this case.</u>

[...]

Agent	So, you also build the case which is strong and also he knows that you have arbitrators?
Mr Giontella	The two.
Agent	Which?
Mr Giontella	The two. The two.

30. Mr Giontella further specified during the meeting held on July 18th, 2024 (**Exhibit 3**), how favourable arbitrators - **the chosen arbitrator, and the president of the tribunal** - are being

nominated through “**relationships**”. Mr Giontella illustrated the corrupt nature of the scheme, by stressing that the influence on the nomination process is carried out “**without anybody knows**”:

Mr Giontella	<u>They do it without anybody knows.</u>
Agent	What do you mean? What do they do?
Mr Giontella	<u>They have contact.</u> Where is the skill of this kind of people? <u>The skill is to create the arbitration, the arbitrator, using relationship.</u>
Agent	Right.
Mr Giontella	<u>Using relationship. They know perfectly who the arbitrators are.</u>
Agent	You could choose an arbitrator, right?
Mr Giontella	Yeah, one.
Agent	One.
Mr Giontella	<u>And before to choose one, they have chosen the president.</u>
Agent	That's the third one?
Mr Giontella	<u>The third one.</u>

31. During the same meeting (**Exhibit 3**), Mr. Giontella unveiled another aspect of Mr Becchetti’s alleged corrupt scheme: to ensure secrecy and secure a favourable majority in the tribunals hearing his cases, Mr Becchetti, the scheming mastermind, frequently alters the methods of arbitrator nominations and strictly avoids mobile communication. Despite the varying tactics he employs, the underlying strategy remains consistent — relying on personal connections and relationships with influential individuals to manipulate outcomes:

Agent	So, in the case of your, the client that you spoke about from Albania , if he didn't have those connections with the arbitrators, then you think they wouldn't win?
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Mr Giontella	These are relationship different time to time. Different time to time.
Agent	What do you mean?
Mr Giontella	<u>Because the way of operating of him is not to create possibility of discover the way in which he operates.</u> And time to time, he creates different way of nominate the arbitrator. Time to time. It's...
Agent	But how?
Mr Giontella	How? How is a good answer. [Waiter Interrupts] With his relationship. <u>Only question of relationships.</u>
Agent	It's all relationships.
Mr Giontella	Only question of relationship. And a lot of years of experience, of history, and pay the maximum attention not to share his
Agent	Network?
Mr Giontella	Yeah, yeah, yeah, yeah. <u>They don't use mobile phone.</u>

32. In this context, it is understood that Mr Giontella is describing that Mr Becchetti was attentive to conceal his actions, including the deliberate avoidance of mobile communication when coordinating arbitrator nominations.
33. After explaining Mr Becchetti's modus operandi and how he turned participation in arbitration proceedings into a lucrative business - by selecting engagements that could lead to arbitration, intentionally creating disputes to initiate such proceedings, and exploiting his connections and influence over the appointment of arbitrators and their rulings - Mr Giontella took it a step further and provided specific examples of how this corrupt mechanism operated in practice, both in the Respondent's case and in the Deutsche Bank's case.

B. Mr Becchetti and his co-perpetrators manipulated the arbitration results against Albania through corrupt relations and influence over the appointment process of the president

34. During the meeting that took place on July 18th, 2024 (**Exhibit 3**), Mr Giontella affirmed that Mr Becchetti influenced the arbitrators in the case against the Respondent:

Agent	So, you know whether he's been able to influence the arbitrators in this case?
Mr Giontella	Yeah.
Agent	Because against a government is quite tough. So, I would imagine, like, you mentioned before, some of these.
Mr Giontella	Yeah. They can. They can.

35. During the meetings held on August 6th, 2024 (**Exhibits 5-6**), Mr Giontella affirmed that prior to appointing his arbitrator in the arbitration against the Respondent, Mr Becchetti met with the arbitrator he intended to nominate (Mr Poncet) and secured his assurance to rule in his favour in exchange for the nomination as an arbitrator in the case.

Agent	And that is, also, with the arbitrators that he chooses, and also with the president?
Mr Giontella	No, no, no. The arbitrator he chooses his man.
Agent	His totally his man.
Mr Giontella	Totally his man.
Agent	Yeah, but what do you mean? Also...
Mr Giontella	No, mean that, if I choose an arbitrator, before choosing him, I spoke to him and said, 'What is your opinion?' If your opinion is I win, I choose you.

[...]

Agent	I have another question, which also I was asked. When you choose the president and you also choose your own arbitrator, right?
Mr Giontella	Yeah, yeah.
Agent	And you said beforehand that your client was able to talk to the arbitrator in advance and.
Mr Giontella	<u>Yeah, yeah, yeah, yeah. Absolutely.</u>
Agent	<u>and he knew already from the...</u>
Mr Giontella	<u>Absolutely yes.</u>
Agent	So, with Albania he spoke to the, with the case of the arbitration against Albania, he spoke to the arbitrator. He knew that the arbitrator will give him a positive outcome.
Mr Giontella	Yeah.
Agent	<u>He knew that in advance?</u>
Mr Giontella	Yeah, yeah.

36. During the meeting held on August 6th, 2024 (**Exhibit 6**), Mr Giontella again affirmed that prior to appointing his arbitrator in the arbitration against the Respondent, Mr Becchetti met with the arbitrator he intended to nominate and secured his assurance to rule in his favour in exchange for the nomination as an arbitrator in the case.

Agent	I have another question. Also, in the case of, with the... against Albania, because I'm always looking to this state. In this case you he had a conversation with the arbitrator that he chose, and he knew that he's gonna be voting on his side, before even this started.
Mr Giontella	Yeah, yeah.

37. In this regard, it is worth noting that Mr Poncet's name came up in different controversies in the past, some of them related to arbitration proceedings:

- a) In 1996, Mr Poncet was criminally convicted in the Italian courts for aiding and abetting, as well as for providing false testimony in connection with criminal proceedings against a businessman accused of fraudulent bankruptcy. His conviction was upheld by the Milan Court of Appeal but quashed by Italy’s Supreme Court of Cassation in 1999 on the basis of a statute of limitation (**Exhibit 13**).⁶
- b) In July 2009, Mr Poncet was accused and investigated by the Italian authorities for attempting extortion on behalf of a client, seeking to obtain an affidavit and funds from an individual connected to that client (**Exhibit 14**).⁷
- c) Most recently, in 2023, the ICC tribunal disqualified Mr Poncet over concerns of bias during arbitration proceedings relating to the Crescent Petroleum’s US\$32 billion arbitration against the National Iranian Oil Company (**Exhibit 15**).⁸

38. Mr Giontella said Mr Becchetti applied similar corrupt nomination methods also in the selection process of the president of the tribunal during the ICSID proceedings, and this nomination method, as will be explained below, gave Mr Becchetti control over the nominations and a significant advantage in the proceedings against the Respondent.

39. During the meeting held on August 6th, 2024 (**Exhibit 6**), Mr Giontella detailed the corrupt mechanism that he said enabled Mr Becchetti to secure the nomination of his favourable president in the arbitration proceedings against the Respondent.

40. **According to Mr. Giontella the bribery was as follows:** Mr Becchetti was said to have provided workplaces to associates of the members of the Arbitration Institution committees (ICSID) in exchange for access and influence over the selection of a favourable President and “**favourable outcomes**”. And in Giontella’s own words – Mr Becchetti “**oriented the choosing**” of the president in the case against the Respondent:

Agent	But who chose the president for the arbitration against Albania?
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⁶ Susannah Moody and Toby Fisher, “**Poncet sees off arbitrator challenge ahead of election to parliament**” (GAR, November 6th, 2023) <https://globalarbitrationreview.com/article/poncet-sees-arbitrator-challenge-ahead-of-election-parliament> (Last visited: August 17th, 2024).

⁷ Paolo Stefanato, “**Margherita Agnelli: indagati ex legali**” (il Giornale, September 19th, 2009) <https://www.ilgiornale.it/news/margherita-agnelli-indagati-ex-legali.html> (Last visited: August 17th, 2024).

⁸ [Sebastian Perry](https://globalarbitrationreview.com/article/poncet-disqualified-iranian-mega-case-after-burkini-remarks), “**Poncet disqualified from Iranian mega-case after “burkini” remarks**” (GAR, November 30th, 2023) <https://globalarbitrationreview.com/article/poncet-disqualified-iranian-mega-case-after-burkini-remarks> (Last visited: August 17th, 2024).

Mr Giontella	The rules of the ICC. The rules of ICCID [ICSID].
Agent	Not your client? Your client didn't have?
Mr Giontella	<u>Well, they oriented the choosing. They oriented. They had a list of people. And in this list, they said, 'I would prefer one and two. Not three and four'.</u>
Agent	Who said that? Who said they would prefer?
Mr Giontella	Who?
Agent	Yeah, who said he prefers one or two and not.
Mr Giontella	<u>My because my client knows one and two, and not three and four. And for this reason, he, as I explained today, make, giving job.</u>
Agent	Giving jobs. Yeah.
Mr Giontella	Giving job, yeah.
Agent	<u>For a favourable outcome.</u>
Mr Giontella	<u>Yeah.</u>
Agent	So let me get this right. The ICC General Secretary or the, from what I understood today, the secretary of the arbitration institution chooses the third one.
Mr Giontella	Yeah.
Agent	The president.
Mr Giontella	Yeah.
Agent	How did your client make sure that this secretary of the arbitration institution chose the president that he wanted? The one or two.

Mr Giontella	Because they had contacts.
Agent	With.
Mr Giontella	Yeah.
Agent	No, with the...?
Mr Giontella	With friends of him.
Agent	With the friends of the secretary.
Mr Giontella	Yeah, yeah.
Agent	Of the institution.
Mr Giontella	Yeah, yeah.
Agent	Of the arbitration institution?
Mr Giontella	Yeah, yeah, yeah.
Agent	So, he knows someone who knows the secretary of the.
Mr Giontella	<u>The friends of him.</u>
Agent	The friends of him, he knows.
Mr Giontella	Yeah.
Agent	<u>And he chose on behalf of your client.</u>
Mr Giontella	Yeah, yeah.
Agent	<u>One and two? One or two?</u>
Mr Giontella	<u>And not three and four.</u>
Agent	Not three and four.

Mr Giontella	And not three and four.
Agent	And one and two know your client? They are, they....
Mr Giontella	One and two.
Agent	<u>Are friends, they support each other?</u>
Mr Giontella	<u>Yeah, support. Support.</u>

41. Mr Giontella further explained that Mr Becchetti invested **tremendous amounts (up to half of the 200 million income he gained in the Deutsche Bank Case)** to build the corrupt mechanism and the relationships with the members of ICSID committees that eventually resulted in influence over the selection of a favourable president in the case against the Respondent:

Agent	And his, the friends of the secretary of the arbitration institution.
Mr Giontella	Yes, yeah.
Agent	How why would they do this? Also, they also have a relationship?
Mr Giontella	Only relationship. Only. Only.
Agent	And that, would that be also giving them?
Mr Giontella	I, look, the 200 they've won and the Deutsche Bank paid.
Agent	From Deutsche Bank, yeah.
Mr Giontella	For half, are being used, have been used, to build the other arbitration. To build.
Agent	The relationship.
Mr Giontella	Possibility and relationship, to manage.

42. Mr Giontella continued detailing the corrupt mechanism put in place and emphasised that **Mr Becchetti “invested a lot of money”** in creating business opportunities for associates of the arbitration institution committees to ensure influence over the selection of a favourable president:

Mr Giontella	But to give job, you must build something. Because you can't give job, creating job. You must give job creating opportunity. And to create this opportunity, he invested a lot of money.
Agent	So, give me an example. What opportunity? What do you mean?
Mr Giontella	Yeah. <u>Opportunity, it means to create an activity. An activity to allow to the children of these people to start with this activity.</u>
Agent	So, like a start-up activity?
Mr Giontella	Yeah. Like a..., yeah, yeah, yeah.
Agent	So, he used.
Mr Giontella	Because he is a person that works with energy and green energy, or different kind of energy. And they have a lot of initiative, start-up, technology, new technology.
Agent	So, he put them in front of one of his initiatives.
Mr Giontella	Yeah, yeah.
Agent	As the front-end.
Mr Giontella	Yeah, yeah, yeah.
Agent	Where they make money.
Mr Giontella	Yeah, yeah.
Agent	And those are the children of the people he knows.
Mr Giontella	Yeah, of the people, yeah.
Agent	Who know the secretary of the institution of - arbitration institution.
Mr Giontella	Yeah, yeah, yeah, yeah.

Agent	Who reached.
Mr Giontella	So, the contact was...
Agent	Through them.
Mr Giontella	Yeah.
Agent	And he appointed one and two.
Mr Giontella	Yeah, yeah.
Agent	Which he knew beforehand, which they have a relationship.
Mr Giontella	Yeah. Yeah, this is. This is.

43. In addition to investing substantial funds to create business opportunities with the aim of influencing committee members to appoint arbitrator favourable to Mr Becchetti, during the meeting held on August 6th, 2024 (**Exhibit 5**), Mr Giontella detailed how Mr Becchetti actively seeks to sway the appointed arbitrator to show favour towards him in return for the guarantee of additional work.

Agent	And the fund, obviously, that's how they make the money. But if-- you're... the client of yours, in the instance, where he's able to choose the arbitrator. So, obviously everyone can choose the arbitrator, but making sure that the arbitrator is on his side, okay? It's not only relationship, is there?
Mr Giontella	No, no, no, no, no. Absolutely not. <u>I know that the way in which he reach the president is to guarantee work.</u>
Agent	For the president?
Mr Giontella	Yeah.
Agent	For the president?
Mr Giontella	Yeah.
Agent	What? Give him cases?

Mr Giontella	Yeah,
Agent	And this is?
Mr Giontella	Yeah. If because I... and normally, it's not a payment of money.
Agent	Yeah, it could be a job.
Mr Giontella	Is a job. Job, job I can guarantee you, one million job, okay?
Agent	That's
Mr Giontella	This is a way.
Agent	So, <u>your client</u>
Mr Giontella	Yeah, yeah.
Agent	So, basically, he guaranteed
Mr Giontella	Yeah, yeah.
Agent	he's able to guarantee more?
Mr Giontella	More jobs.
Agent	More jobs, more
Mr Giontella	More jobs
Agent	Cases where
Mr Giontella	Cases
Agent	Cases where this judge is going to be involved in?
Mr Giontella	Yeah.
Agent	And that's good
Mr Giontella	Yeah.
Agent	for his prestige?
Mr Giontella	Yeah,
Agent	Financially?
Mr Giontella	Yeah, yeah. <u>This is the way.</u>

44. Mr Giontella, who is closely associated with Mr Becchetti and privy to the intricacies of the case, unequivocally confirmed his knowledge that Mr Becchetti assured the president of the arbitration additional assignments:

Agent	So, basically the mechanism that we can use, which is possible, is finding a way to assign the president through relationships <u>where you promise him more jobs.</u>
Mr Giontella	Yeah, this is it.
Agent	<u>And this is how your client, did.</u>
Mr Giontella	<u>Yeah.</u>
Agent	With Albania.
Mr Giontella	Yeah, yeah.
Agent	Where he managed to
Mr Giontella	Yeah.

45. During the meeting on July 18th, 2024 (**Exhibit 3**), Mr Giontella addressed the last stage of Mr Becchetti’s corrupt scheme – the enforcement procedures. Mr Giontella shared that Mr Becchetti will use any means possible to create pressure points against the Respondent, including leveraging political influence with Italian Ministers, and using his media companies to intensify the pressure:

Mr Giontella	Imagine that my client put a big carton board in front of the <i>Ministero degli Esteri</i> [Italian: Ministry of Foreign Office] Foreign Office. Big carton board says, ‘Albania lost, and Italia defend Albania against his citizen’. Because he is Italian. Big carton board. <u>The newspaper, social media. This is the way to force, to force. To accelerate.</u>
Agent	You would I mean, the situation that you say is probably a serial person that has done this before. He would have chosen Albania as you were studied before, what are the.

Mr Giontella	Absolutely, yes. Absolutely, yes, yes.
Agent	He wouldn't have just, 'Okay, I try this country', you know, right? Because he knows that, what strings to pull after that.
Mr Giontella	[Nods in agreement].

46. Thus, during the meeting held on April 18th, 2024 (**Exhibit 11**), Mr Rivkin who was called by Mr Becchetti to co-lead his team of attorneys after the appointment of Mr Pryles as president of the Original ICSID Proceedings, admitted that not only is he well-acquainted with Mr Pryles and meets with him frequently, but the two also maintain very **friendly** relations:

Agent	There is a certain individual you probably know him, Michael Pryles, that is the head of the arbitration centre in Dubai, that said that it might be problematic. My question is, would it be possible to speak with him in some way? Or to try to verify this issue? How crucial it is, or what are the possibilities in that case?
Mr Rivkin	I don't think that, well, <u>I know Michael very well. I, probably I'm going to see him at a big conference in Hong Kong in a couple of weeks.</u>

47. Mr. Rivkin affirmed his friendly relation with Mr. Pryles also during the meeting held on July 9th, 2024 (**Exhibit 12**):

Agent	I want to ask, how well do you know him? Mr Pryles?
Mr Rivkin	Michael? I know him very well. I know him very well.
Agent	Okay. As a friend?
Mr Rivkin	Yeah.

48. Furthermore, during the meeting held on April 18th, 2024 (**Exhibit 11**), Mr Rivkin stated that his **friendship** with Mr Pryles goes 15 years back and includes professional collaboration. Thus, Mr Rivkin explained that while Mr Pryles served as the chairman of the Singapore Arbitration Centre ("SIAC"), Mr Pryles invited him to serve as one of the first international member of SIAC' board:

Agent	How well do you know him? Is it your friend or just a colleague?
Mr Rivkin	<u>No, no, we're friends.</u> And in fact, when he took over the chairmanship of the Singapore Arbitration Centre, he asked me to be one of the first international members of that board. But again, I think.
Agent	And when was that?
Mr Rivkin	Before, like, that was 12, 15 years ago. A long time ago.

49. During the meeting held on July 9th, 2024 (**Exhibit 12**), Mr Rivkin reaffirmed that he collaborated with Mr Pryles who “brought” him into the SIAC:

Agent	Michael Pryles?
Mr Rivkin	Michael is excellent. One of the, yeah, one of the strongest arbitrators there is.
Agent	And you guys know each other?
Mr Rivkin	And my. yeah, very well.
Agent	I think that you said that.
Mr Rivkin	Michael was one that, Michael, when the SIAC in Singapore decided to make itself a more international institution, it asked Michael to be chair, and Michael brought in a, you know, a very international court, including me. And so, yeah, Michael, you know, has a very strong experience.

50. The Investigation Firm also learned that in 2018, during the ICSID Original Proceedings, and while acting as Mr Becchetti’s attorney, Mr Rivkin published a chapter in a book published in honour of, the president, Mr Pryles: *Jurisdiction, Admissibility and Choice of Law in International Arbitration: Liber Amicorum Michael Pryles* (Neil Kaplan and Michael J Moser eds, Kluwer Law International 2018).

51. As far as I am aware, nothing was ever disclosed about this long standing and ongoing close relationship between Mr Rivkin and Mr Pryles, let alone, the friendship between the two.

C. Mr Becchetti and his co-perpetrators manipulated the arbitration results against Deutsche bank case through corrupt relations and influence over the nomination process of the president

52. As Mr Giontella explained, Mr Becchetti actively sought ways to exert influence over the nomination of arbitrators as part of his corrupt scheme. In the **Deutsche Bank Case**, Mr Becchetti employed **similarly corrupt methods** to ensure that his preferred candidate was appointed as the president of the tribunal, with the full assistance and cooperation of Mr Giontella.

53. Thus, Mr Giontella explained during the meeting held on August 6th, 2024, that in the Deutsche Bank Case, the president was elected directly by an accountant committee in Italy:

Agent	So, you said last time there's, basically, there's, there was a body who was in charge of choosing the president.
Mr Giontella	Yeah. I explain.
Agent	Is that the arbitration institution? Is that the body, the ICC, or the. I don't know what you call it.
Mr Giontella	Okay. In this case, the agreement said, 'You appoint one, the other appoint the other one'. And.
Agent	Standard.
Mr Giontella	The third one is nominated by the president of accountant in Italy.
Agent	Accountant?
Mr Giontella	Accountant, accountant. <i>Dottore commercialista</i> [Italian: Chartered accountant] The president, the....
Agent	But what has an accountant got to do with the....
Mr Giontella	He is, there is a word in Italy that represent all the Italian accountant.

Agent	Okay. Like in every country.
Mr Giontella	Okay, okay, okay. And the president of this arbitration should be appointed by the president of the board of the accountant.
Agent	Nothing to do with the institution? With the arbitration institution?
Mr Giontella	Nothing. In this case, no. In this case, no. In this case, no.
Agent	Not the secretary general, not the ICC? The.
Mr Giontella	In this case, no. They had an agreement like this.
Agent	With Albania?
Mr Giontella	With Albania.
Agent	So, the....
Mr Giontella	No, no. With Deutsche Bank.

54. The first step in the corrupt scheme applied in the Deutsche Bank Case, as explained by Mr Giontella, was the incorporation of a sophisticated contractual mechanism that later will allow Mr Becchetti to have absolute control over the nomination of the president of the arbitration. In this contract, Mr Becchetti predetermined a high salary for the individual who would serve as the president of the tribunal. By doing so, he ensured that the position would be prestigious and sought-after:

Agent	You didn't create opportunities for him? Or.
Mr Giontella	No, no, no, no, no. In this case, no. No. This case, no. Absolutely. Because they gain a lot of money making the president.
Agent	Ah, okay. Okay, so they're getting from.
Mr Giontella	Making the president.
Agent	And you were the.

Mr Giontella	Because we decided the fees. We decided the fees.
Agent	So, you advised.
Mr Giontella	One, 1.5 million for the president, the fee was.
Agent	<u>So, you advises your clients to put in a contract the mechanism to choose the president, where you knew who he's going to choose and the fees, and everything was.</u>
Mr Giontella	<u>Everything.</u>
Agent	<u>In a closed deal already.</u>
Mr Giontella	<u>Yeah.</u>
Agent	<u>Even before they even started.</u>
Mr Giontella	<u>Yeah. Yeah. Yeah.</u>
Agent	It's fantastic.
Mr Giontella	<u>Yeah.</u>

55. This contractual mechanism allowed Mr Becchetti full control over the process of nominating the president due to direct access and prior acquaintance with the Italian accountant committee:

Agent	How did you choose the president again?
Mr Giontella	How?
Agent	How did he choose? You said.
Mr Giontella	Because.
Agent	No, the president of the accounting..
Mr Giontella	Yeah.

Agent	He, because of the contract, he was, he knew him, he knew your client, had a good relationship, so they....
Mr Giontella	With the president.
Agent	With the president of the account?
Mr Giontella	Yeah.
Agent	Of the accountants.
Mr Giontella	Yeah. <u>I choose him. I choose him.</u>
Agent	You choose him.
Mr Giontella	I have.
Agent	You have the...
Mr Giontella	I have it.
Agent	And in return for the relationship.
Mr Giontella	<u>Yeah.</u>
Agent	which you have, he chose.
Mr Giontella	<u>Yeah.</u>
Agent	the president in arbitration?
Mr Giontella	<u>Yeah, yeah. Yeah, yeah.</u> I told to the president, 'I would like', <u>I told to the president of the accounting.</u>
Agent	Accounting.
Mr Giontella	<u>'I would like that the president of this arbitration</u> was Marco, was and this kind of relationship allow to have this person.

56. The identity of the president arbitrator in the Deutsche Bank Case indeed made the difference. In fact, as Mr Giontella explained during the same meeting (**Exhibit 6**), that the control over the nomination of the president is what led to Mr Becchetti’s win in the arbitration. **Without control over the nomination, Mr Becchetti - according to Mr Giontella - would most likely have lost the case:**

Agent	So, let me, so I understand the mechanism. So, first you started arbitration against Deutsche Bank, and you won. And he chose the president over there. And he won the 200 million. And with that money, he did a whole, whole.
Mr Giontella	Because as you know, you must have lot of money to start this kind of litigation.
Agent	Yeah.
Mr Giontella	A lot of money. A lot of money. <u>And if you ask me, you had a good possibility to win against Deutsche Bank? I would say no. No. Without our president.</u>
Agent	President
Mr Giontella	No.

57. In this context, Mr Giontella's assertions are corroborated, as evidenced by the RICO lawsuit filed in 2016 in New York, wherein it was noted (section 92) that the President of the Deutsche Bank case, has bragged about “amazing results” he obtained for a “party” asserting claims against Deutsche Bank.⁹

58. Indeed, in meetings with him, Mr Giontella asserted that Mr Becchetti employs a consistent approach to influence the appointment of arbitrators in various proceedings, with the aim of securing victories in those proceedings. Specifically, he ensures to maintain influential connections with individuals responsible for the appointment of arbitrators within different arbitration institutions. In this way, he guarantees that at least two arbitrators will rule in his favour.

⁹ [Case 1:16-Cv-02575-PAE , AMTRUST FINANCIAL SERVICES, INC. V. ANTONIO SOMMA And MARCO LACCHINI \(coalitiaromanilor.org\).](#)

D. The expert opinion regarding the valuation of Agon Channel was misleading and tailored to serve Becchetti’s claims and the expert knowingly provided false evidence to promote Mr Becchetti’s narrative

59. One of the two expert witnesses used by Mr Becchetti in the ICSID Original Proceedings and repeatedly referred to in the award, was Mr Pasquale, a media industry expert.
60. Mr Pasquale concluded in his expert opinion that was submitted in ICSID Original Proceedings, dated June 2nd, 2017, that Agon Channel had a significant chance of growth in viewership (and thereby also financially), by comparing the performances of Agon Channel with other television channels broadcasting to Italian viewers. Mr Pasquale’s opinion and arguments were accepted by the ICSID tribunal and were used as the basis of the final award (and referred to many times) in Mr Becchetti's favour.
61. During the meeting held on May 29th, 2024 (**Exhibit 9**), Mr Pasquale affirmed that he breached his duties as an unbiased expert witness through close interactions with Mr Becchetti in the case against the Respondent. Mr Pasquale admitted that **“technically, I was not allowed to talk to each other”**. However, in practice he held close interactions with Mr Becchetti who provided him with specific instructions regarding his expert opinion.

Agent	The lawyers, if I understand, the case of Francesco Becchetti?
Mr Pasquale	Becchetti, yeah.
Agent	The owner of Agon?
Mr Pasquale	Agon, yeah. He was there, yeah. You see there Hydro, on front page. Hydro was the company that was the holding, that were working on the television side. Costruzioni Srl was another, Costruzioni was another issue with Albania, related to other, about real estate.
Agent	Okay.
Mr Pasquale	So, it was a different section of this conflict, let's say, against Albania. And, <u>but Becchetti was “The Boss”</u>.
Agent	Nice. Did he, was he, did you meet him in person? Like, was he?

Mr Pasquale	<u>Absolutely, yeah. Technically, I was not allowed to talk each other. Technically.</u>
Agent	Why? Oh, because, well.
Mr Pasquale	You know, because I should, I was an expert, and lawyers were asking me to do that, this and that. <u>But I met him</u>, and I can tell you, I'm sincere, that he congratulates with me, saying that this is the best performance I've had during all this discussion.

62. In this regard, during the meeting held on July 11th, 2024 (Exhibit 10), Mr Pasquale stated that his expert opinions and evaluations **were biased in favour of Mr Becchetti**. Mr Pasquale emphasised that his expert opinions **will always align with the paying party's needs** – “where is the right, where is the fault? It depends on who pays”

Mr Pasquale	Of course, I was on one side, but it's like lawyers, you know? Where is the right, where is the fault? It depends on who pays, you know? If I had to write my comments on the other side, I probably will emphasise, I will have emphasised different things. I mean, it's, the problem is who was the aim for this thing.
Agent	Of course, you need to align with your client's needs.
Mr Pasquale	Yes, of course. I'm very happy with that.

63. During the meeting held on April 26th, 2024 (Exhibit 8), Mr Pasquale revealed the manipulation he made in the expert opinion, thereby confirming that if he had been an independent expert, his advice to the tribunal would have been entirely different, leading to a shift in favour of the Respondent.

64. Mr Pasquale explained that when he submitted the expert opinion, he presented a real possibility for the Agon Channel to improve and increase its profits, Mr Pasquale **true and honest** opinion was that Agon Channel had no chance of improving - and therefore no damage was caused by its closure.

Mr Pasquale	The key point was to demonstrate that there was a reasonable possibility for them to improve. Not that, <u>in my personal opinion, I can tell you they were not able.</u>
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65. During the meeting held on May 29th, 2024 (Exhibit 9), Mr Pasquale reaffirmed his manipulation, asserting that the conclusions in his expert report were not possible and in fact, Agon Channel would have been bankrupt in six months:

Mr Pasquale	Of course. Of course. <u>My report was in support of this position, saying, ‘Well, if the Albanian government would have not cut the broadcast of this, they could have flourished’. I don't think that could, honestly.</u>
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[...]

Mr Pasquale	Yeah. They had an agreement with a company, and these guys said, ‘ This company is going to be squeezed by competitors ’. But this didn't happen with other situations. So, I say, ‘Of course it depends where is your target in terms of daily audience’, and in that sense, I was right. That was perfectly acceptable. That, again, this, the potential was there. And if you cut the potential, you will never know. What's going to happen. <u>But I think after six months, maybe the situation will have been desperate.</u>
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STATEMENT OF TRUTH

I solemnly declare upon my honour and conscience that this statement contains the truth, the whole truth and nothing but the truth.

Signed: 

Full Name: Nigel Kushner

Dated this 2nd day of September 2024