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Clerk, Supreme Court of Appeals
Richmond, Va.

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Record No. 7082

In the
Supreme Court of Appeals of Virginia
at Richmond

HERBERT S. GLASSMAN

v.

FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER, ETC.

FROM THE CIRCUIT COURT OF THE CITY OF NORFOLK

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a.m.; Adjourns at 1:00 p.m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7082

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

HERBERT S. GLASSMAN, Plaintiff in error,

against

FEDERAL DEPOSIT INSURANCE CORPORATION,
Receiver of Crown Savings Bank,
Newport News, Virginia, Defendant in error.

From the Circuit Court of the City of Norfolk
Thomas M. Johnston, Judge

Upon the petition of Herbert S. Glassman a writ of error and *supersedeas* is awarded him to judgments rendered by the Circuit Court of the City of Norfolk on the 11th day of April, 1968, in certain motions for judgment consolidated for trial then therein depending, Law Docket 448 M, Law Docket 449 M, and Law Docket 450 M, wherein Federal Deposit Insurance Corporation, Receiver of Crown Savings Bank, Newport News, Virginia, was plaintiff and the petitioner was defendant.

And it appearing from the certificate of the clerk of the said court that a suspending and *supersedeas* bond in the penalty of $35,000, conditioned according to law, has heretofore been given in accordance with the provisions of sections 8-465 and 8-477 of the Code, Law Docket Nos. 448 M, 449 M and 450 M, no additional bond is required.

RECORD

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page 1 }

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NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR

The defendant, Herbert S. Glassman, hereby serves notice of his appeal and states the following Assignments of Error in compliance with the Rules of the Supreme Court of Appeals of Virginia, specifically Rule 5, §4.

(1) The Court erred in finding Crown Savings Bank of Newport News a holder in due course when taking the notes of the defendant as collateral for debts owed to said bank by Andrew Goldberg, A. S. Mirman, and others. The Court by such error failed to recognize that the collateral was given long after the loans to Goldberg, Mirman and others were made. Further, the Court erred in disregarding evidence that the bank made no effort or attempt to effect collection of the Glassman notes until said bank was placed in receivership.

(2) The Court erred in permitting the Crown Savings Bank of Newport News the status of holder in due course of the notes of defendant, when they negligently and recklessly accepted notes without investigation, without notice to the maker of their acceptance of said notes as collateral, and without notice of default when default occurred; all of which action of the Bank was contrary to accepted banking practice.

(3) The Court further erred in failing to conclude that the conduct of the Bank in this instance estopped said Bank from claiming status as a holder in due course.

page 2 } (4) The Court erred in not finding as a matter of law that the notes in question were utterly void *ab initio,* said notes having been given in payment of proven gambling losses.

(5) The Court erred in concluding Glassman's evidence was vague and unsatisfactory respecting his assertion that the notes were in payment of gambling obligations, when that evidence was positive and uncontroverted, and although the plaintiff was advised as to the payees of said notes and failed to call them as witnesses to refute defendant's evidence.

(6) The Court erred in finding defendant's evidence vague and unsatisfactory respecting the making of the notes when his testimony was clear, definite and totally unrefuted.

(7) The Court erred in concluding that defendant delayed in asserting his defense and that he made no effort to retrieve or locate the said notes in that all the evidence proved that defendant used all appropriate means to notify all banks with whom he dealt of the invalidity of said notes.

(8) The Court erred in holding defendant failed to carry his burden of proof.

(9) The Court erred in entering judgment for the plaintiff over the objection and exception of counsel for the defendant.

Herbert S. Glassman

By Edwin Jay Rafal
Of Counsel

* * * * *

Filed Apr-12-1968

T. A. W. Gray, D.C.

Law Docket Nos. 448-M, 449-M, 450-M

(Consolidated for trial and purposes of appeal.)

* * * * *

page 3 }

* * * * *

Federal Deposit Insurance Corporation, Receiver of Crown Savings Bank, Newport News, Virginia, Plaintiff
vs.
Herbert S. Glassman, Defendant

Law Docket 448M

Federal Deposit Insurance Corporation, Receiver of Crown Savings Bank, Newport News, Virginia, Plaintiff
vs.
Herbert S. Glassman, Defendant

Law Docket 449M

Federal Deposit Insurance Corporation, Receiver of Crown Savings Bank, Newport News, Virginia, Plaintiff
vs.
Herbert S. Glassman, Defendant

Law Docket 450M

ORDER

This day came the parties, by counsel, and in person, and represented unto the Court that by agreement between the parties and counsel, that the above three cases be
page 4 } tried together, both the plaintiff and the defendant having waived trial on the issues by a jury and electing and requesting that all matters of law and fact be submitted to the Court for hearing and determination, it is accordingly ordered that the said three actions as set forth in the caption be jointly tried by the Court, without the intervention of a jury, with the Court rendering separate judgments therein.

Enter this: 4-11-68

T.M.J., Judge

* * * * *

page 5 }

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MOTION FOR JUDGMENT WITH AFFIDAVIT UNDER SECTION 8-511

Plaintiff, Federal Deposit Insurance Corporation, as Receiver of Crown Savings Bank, Newport News, Virginia, respectfully moves this Honorable Court for judgment against the defendant, Herbert S. Glassman, as hereinafter set forth as follows, to-wit:

1. Plaintiff, Federal Deposit Insurance Corporation, is a corporation created by and existing under an Act of Congress of the United States of America, and is duly authorized, among other things by said Act, to act as receiver of banks when duly appointed and to sue and be sued in any court of law or equity, State or Federal.

2. By decree of the Corporation Court of the City of New-

port News, Virginia, entered September 4, 1964, Federal Deposit Insurance Corporation was appointed Receiver of Crown Savings Bank, Newport News, Virginia, a banking corporation organized and existing under the laws
page 6 } of the State of Virginia (hereinafter called "Crown" or the "Bank"), and was authorized to and did take title to all of the property, contracts, rights of action, choses in action and other assets of the Bank, and it was further authorized to administer and liquidate the assets and banking business of Crown, including the right to receive and sue for any and all assets of the said Bank. Plaintiff, as such Receiver, furnished the bond and surety approved by the said Court and is now duly qualified and acting.

3. Among assets of said Bank so taken over by said Receiver, of which it is now assignee, owner and holder, is the following described negotiable promissory note in writing signed by the defendant, Herbert S. Glassman, which said note has been extended from time to time, so that the amount now due and in default is hereinafter shown and for which demand has been duly made, but the said amount remains unpaid. Photostatic copy of said note is attached hereto and made a part hereof. The original of said note will be produced at any hearing on this motion for judgment. The said note is described as follows:

Note dated August 15, 1963, in the original amount of $10,000.00, made as aforesaid, of which amount there is presently due the sum of $10,000.00, since August 15, 1963, with interest at the rate of 6% from said date, plus expenses incurred in collection and obtaining judgment.

WHEREFORE, plaintiff demands judgment against said defendant, Herbert S. Glassman, in the amount of $10,000.00, with interest thereon at the rate of 6% from August 15, 1963, until paid, and costs. Attached hereto and made a
page 7 } part hereof is affidavit under Section 8-511 of the Code of Virginia, as amended.

Federal Deposit Insurance Corporation,
Receiver of Crown Savings Bank,
Newport News, Virginia

By John J. Slocum
Its Liquidator and Agent

* * * * *

AFFIDAVIT

State of Virginia,
City of Newport News, to-wit:

This day personally appeared before me,....., a Notary Public in and for the City and State aforesaid, JOHN J. SLOCUM, who, being first duly sworn, made oath and said that he is Liquidator and Agent for FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER of Crown Savings Bank, Newport News, Virginia, by appointment of the Corporation Court of the City of Newport News, Virginia, on September 4, 1964, which said Receiver is duly qualified and acting; and, that he, the said John J. Slocum, as Liquidator of said Receiver, is duly authorized to act for said Receiver as its agent to make this affidavit, and further says that he is familiar with the assets of Crown Savings Bank, now in receivership, as aforesaid, and among other page 8 } assets, of which said Receiver is assignee, owner and holder, is the aforementioned and described note of Herbert S. Glassman, and that to the best of affiant's belief the amount of the claim of the Receiver against said Herbert S. Glassman on said note, which is justly due said Receiver, and the time from which said Receiver claims interest is as follows:

$10,000.00 with interest at the rate of 6% from August 15, 1963.

John J. Slocum
Liquidator and Agent

Subscribed and sworn to before me this 21 day of October, 1965.

U. U. D., Notary Public

My commission expires on the 27 day of Dec, 1967.

Filed in the Clerk's Office the 25 day of Oct, 1965.

Teste:

W. R. Hanckel, Clerk
T. A. W. Gray, D.C.

* * * * *

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ANSWER

In Answer to a Motion for Judgment exhibited against him, the defendant answers and states as follows:

1. That the allegations in paragraphs 1 and 2 are unknown to this defendant, same are neither affirmed nor denied, and strict proof is called for.

2. That the said defendant admits signing the said note shown on the photostated copy attached hereto. The said defendant states that the note was for a gambling indebtedness, that it is void and invalid according to Title 11, Section 14, of the Code of Virginia. There is no legal or moral compulsion on the part of the defendant to pay same. That the defendant further avers that the said note was obtained from the defendant by fraud and trickery.

WHEREFORE, the defendant asks that the said Motion for Judgment exhibited against him be dismissed.

Herbert S. Glassman

By F. T. Stant, Jr.
Of Counsel

Law Docket No. 448 M

Filed 11-5-65

Dave War, D.C.

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MOTION FOR JUDGMENT WITH AFFIDAVIT UNDER SECTION 8-511

Plaintiff, Federal Deposit Insurance Corporation, as Receiver of Crown Savings Bank, Newport News, Virginia, respectfully moves this Honorable Court for judgment against the defendant, Herbert S. Glassman, as hereinafter set forth as follows, to-wit:

1. Plaintiff, Federal Deposit Insurance Corporation, is a corporation created by and existing under an Act of Congress of the United States of America, and is duly authorized, among other things by said Act, to act as receiver of banks when duly appointed and to sue and be sued in any court of law or equity, State or Federal.

2. By decree of the Corporation Court of the City of Newport News, Virginia, entered September 4, 1964, Federal Deposit Insurance Corporation was appointed Receiver of Crown Savings Bank, Newport News, Virginia, a banking corporation organized and existing under the laws
page 12 } of the State of Virginia (hereinafter called "Crown" or the "Bank"), and was authorized to and did take title to all of the property, contracts, rights of action, choses in action and other assets of the Bank, and it was further authorized to administer and liquidate the assets and banking business of Crown, including the right to receive and sue for any and all assets of the said Bank. Plaintiff, as such Receiver, furnished the bond and surety approved by the said Court and is now duly qualified and acting.

3. Among assets of said Bank so taken over by said Receiver, of which it is now assignee, owner and holder, is the following described negotiable promissory note in writing signed by the defendant, Herbert S. Glassman, which said note has been extended from time to time and payments made thereon, so that the amount now due and in default is hereinafter shown and for which demand has been duly made, but the said amount remains unpaid. Photostatic copy of said note is attached hereto and made a part hereof. The original of said note will be produced at any hearing on this motion for judgment. The said note is described as follows:

Note dated August 15, 1963, in the original amount of $10,000.00, made as aforesaid, of which amount there is presently due the sum of $5,000.00, since November 15, 1963, with interest at the rate of 6% from said date, plus expenses incurred in collection and obtaining judgment.

WHEREFORE, plaintiff demands judgment against said defendant, Herbert S. Glassman, in the amount of $5,000.00 with interest thereon at the rate of 6% from No-
page 13 } vember 15, 1963, until paid, and costs. Attached

hereto and made a part hereof is affidavit under Section 8-511 of the Code of Virginia, as amended.

Federal Deposit Insurance Corporation,
Receiver of Crown Savings Bank,
Newport News, Virginia

By John J. Slocum
Its Liquidator and Agent

* * * * *

AFFIDAVIT

State of Virginia,
City of Newport News, to-wit:

This day personally appeared before me, , a Notary Public in and for the City and State aforesaid, JOHN J. SLOCUM, who, being first duly sworn, made oath and said that he is Liquidator and Agent for FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER of Crown Savings Bank, Newport News, Virginia, by appointment of the Corporation Court of the City of Newport News, Virginia, on September 4, 1964, which said Receiver is duly qualified and acting; and, that he, the said John J. Slocum, as Liquidator of said Receiver, is duly authorized to act for said Receiver as its agent to make this affidavit, and further says that he is familiar with the assets of Crown Sav-
page 14 } ings Bank, now in receivership, as aforesaid, and among other assets, of which said Receiver is assignee, owner and holder, is the aforementioned and described note of Herbert S. Glassman, and that to the best of affiant's belief the amount of the claim of the Receiver against said Herbert S. Glassman on said note, which is justly due said Receiver, and the time from which said Receiver claims interest is as follows:

$5,000.00 with interest at the rate of 6% from November 15, 1963.

John J. Slocum
Liquidator and Agent

Subscribed and sworn to before me this 21 day of October, 1965.

, Notary Public

My commission expires on the 27 day of Dec, 1967.

Filed in the Clerk's Office the 25 day of Oct, 1965.

Teste:

W. R. Hanckel, Clerk
T. A. W., Gray, D.C.

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ANSWER

In Answer to a Motion for Judgment exhibited against him, the defendant answers and states as follows:

1. That the allegations in paragraphs 1 and 2 are unknown to this defendant, same are neither affirmed nor denied, and strict proof is called for.

2. That the said defendant admits signing the said note shown on the photostated copy attached hereto. The said defendant states that the note was for a gambling indebtedness, that it is void and invalid according to Title 11, Section 14, of the Code of Virginia. There is no legal or moral compulsion on the part of the defendant to pay same. That the defendant further avers that the said note was obtained from the defendant by fraud and trickery.

WHEREFORE, the defendant asks that the said Motion for Judgment exhibited against him be dismissed.

CROSS CLAIM

And for further answer to be treated in the nature of a Cross Claim, the defendant states as follows:

1. That the Crown Savings Bank of Newport News is indebted to this defendant in the sum of Five Thou-
page 17 } sand Dollars ($5,000.00) with interest at the rate of six percent from November 15, 1963.

2. That this plaintiff, Crown Savings Bank of Newport News, placed the note here in question, with the Virginia National Bank for collection. That at that time the agents of the said Crown Savings Bank of Newport News, well knew that the said note that they were placing for collection was a void

and invalid note, that same had been given for a gambling debt, the indebtedness of which had been procured through fraud, trickery and deceit. That same was not only invalid under Title 11, Section 14, of the Code of Virginia, but same was invalid as having been procured through fraud, trickery and deceit.

3. That by reason of the acts of the agents of the Crown Savings Bank of Newport News, the defendant paid the sum of Five Thousand Dollars ($5,000.00) to the Virginia National Bank on the said note, the said payment being made in the mistaken belief that there was a valid note at the Virginia National Bank; whereas in fact there was only the note herein exhibited, which said note was invalid.

4. That by reason of the action of the agents of Crown Savings Bank of Newport News, the said bank was unjustly enriched in the sum of Five Thousand Dollars ($5,000.00), for which the defendant now asks judgment as aforesaid, with interest from November 15, 1963.

5. The defendant states that the note in question is void, of no effect and incollectible in that same is a contract pay money on a gambling debt and is void according to Title 11, Section 14, of the Code of Virginia.

WHEREFORE, defendant asks that the Motion for Judgment exhibited against him be dismissed.

Herbert S. Glassman

By F. T. Stant, Jr.
Of Counsel

* * * * *

Law Docket No. 449 M

Filed 11-5-65

Dave Ward, D.C.

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ANSWER OF PLAINTIFF TO CROSS-CLAIM
Law Docket No. 449M

1. Now comes the plaintiff, Federal Deposit Insurance Corporation, as Receiver of Crown Savings Bank, and for answer and grounds of defense to the cross-claim heretofore filed, denies that it or the Crown Savings Bank is indebted to the defendant for the sum of $5,000.00 as claimed. The said Federal Deposit Insurance Corporation, as Receiver of Crown Savings Bank, denies the allegations in paragraphs 1, 2, 3, 4 and 5 of the cross-claim and calls for strict proof.

2. This plaintiff denies any indebtedness to the defendant as claimed in the cross-claim and on the contrary re-asserts its demand for judgment against the said Herbert S. Glassman for the sum of $5,000.00, together with interest at the rate of 6% (six per cent) from November 15, 1963, until paid, all as alleged in the motion for judgment herein filed.

Federal Deposit Insurance Corporation,
Receiver of Crown Savings Bank,
Newport News, Virginia

By Daniel W. Wilkinson, Jr., Its Attorney

* * * * *

Filed Mar. 3-1966

T. A. W. Gray, D.C.

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MOTION FOR JUDGMENT WITH AFFIDAVIT UNDER SECTION 8-511

Plaintiff, Federal Deposit Insurance Corporation, as Receiver of Crown Savings Bank, Newport News, Virginia, respectfully moves this Honorable Court for judgment against

the defendant, Herbert S. Glassman, as hereinafter set forth as follows, to-wit:

1. Plaintiff, Federal Deposit Insurance Corporation, is a corporation created by and existing under an Act of Congress of the United States of America, and is duly authorized, among other things by said Act, to act as receiver of banks when duly appointed and to sue and be sued in any court of law or equity, State or Federal.

2. By decree of the Corporation Court of the City of Newport News, Virginia, entered September 4, 1964, Federal Deposit Insurance Corporation was appointed Receiver of Crown Savings Bank, Newport News, Virginia, a banking corporation organized and existing under the laws of
page 26 } the State of Virginia (hereinafter called "Crown" or the "Bank"), and was authorized to and did take title to all of the property, contracts, rights of action, choses in action and other assets of the Bank, and it was further authorized to administer and liquidate the assets and banking business of Crown, including the right to receive and sue for any and all assets of the said Bank. Plaintiff, as such Receiver, furnished the bond and surety approved by the said Court and is now duly qualified and acting.

3. Among assets of said Bank so taken over by said Receiver, of which it is now assignee, owner and holder, is the following described negotiable promissory note in writing signed by the defendant, Herbert S. Glassman, which said note has been extended from time to time, so that the amount now due and in default is hereinafter shown and for which demand has been duly made, but the said amount remains unpaid. Photostatic copy of said note is attached hereto and made a part hereof. The original of said note will be produced at any hearing on this motion for judgment. The said note is described as follows:

Note dated September 1, 1963, in the original amount of $10,000.00, made as aforesaid, of which amount there is presently due the sum of $10,000.00, since September 1, 1963, with interest at the rate of 6% from said date, plus expenses incurred in collection and obtaining judgment.

WHEREFORE, plaintiff demands judgment against said defendant, Herbert S. Glassman, in the amount of $10,000.00, with interest thereon at the rate of 6% from September 1, 1963, until paid, and costs. Attached hereto and

page 27 } made a part hereof is affidavit under Section 8-511 of the Code of Virginia, as amended.

Federal Deposit Insurance Corporation,
Receiver of Crown Savings Bank,
Newport News, Virginia

By John J. Slocum
Its Liquidator and Agent

* * * * *

AFFIDAVIT

State of Virginia,
City of Newport News, to-wit:

This day personally appeared before me, , a Notary Public in and for the City and State aforesaid, JOHN J. SLOCUM, who, being first duly sworn, made oath and said that he is Liquidator and Agent for FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER of Crown Savings Bank, Newport News, Virginia, by appointment of the Corporation Court of the City of Newport News, Virginia, on September 4, 1964, which said Receiver is duly qualified and acting; and, that he, the said John J. Slocum, as Liquidator of said Receiver, is duly authorized to act for said Receiver as its agent to make this affidavit, and further says that he is familiar with the assets of Crown Savings Bank, now in receivership, as aforesaid, and among other assets,
page 28 } of which said Receiver is assignee, owner and holder, is the aforementioned and described note of Herbert S. Glassman, and that to the best of affiant's belief the amount of the claim of the Receiver against said Herbert S. Glassman on said note, which is justly due said Receiver, and the time from which said Receiver claims interest is as follows:

$10,000.00 with interest at the rate of 6% from September 1, 1963.

John J. Slocum
Liquidator and Agent

Subscribed and sworn to before me this 21 day of October, 1965.

, Notary Public

My commission expires on the 27 day of Dec, 1967.

Filed in the Clerk's Office the 25 day of Oct, 1965.

Teste:

W. R. Hanckel, Clerk
T. A. W. Gray, D.C.

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LAW DOCKET NO. 450 M

Filed 11/5/65 Dave Ward, D.C.

ANSWER

In Answer to a Motion for Judgment exhibited against him, the defendant answers and states as follows:

1. That the allegations in paragraphs 1 and 2 are unknown to this defendant, same are neither affirmed nor denied, and strict proof is called for.

2. That the said defendant admits signing the said note shown on the photostated copy attached hereto. The said defendant states that the note was for a gambling indebtedness, that it is void and invalid according to Title 11, Section 14, of the Code of Virginia. There is no legal or moral compulsion on the part of the defendant to pay same. That the defendant further avers that the said note was obtained from the defendant by fraud and trickery.

WHEREFORE, the defendant asks that the said Motion for Judgment exhibited against him be dismissed.

HERBERT S. GLASSMAN

By F. T. Stant, Jr.
Of Counsel

* * * * *

page 31 } CIRCUIT COURT OF THE
CITY OF NORFOLK

Norfolk 10, Virginia

Office of the Judge

March 19, 1968

Mr. F. T. Stant, Jr.
Stant, Moss & Rafal
Maritime Tower
Norfolk, Virginia

Mr. D. W. Wilkinson, Jr.
Ford, West & Wilkinson
First and Merchants National Bank Building
Newport News, Virginia 23607

Re: Law Docket Nos. 448-M, 449-M, 450-M
FDIC v. Herbert Glassman

Gentlemen:

At your request these cases were tried together on February 27, 1968, without a jury. You agreed that the evidence introduced at the time applies to all three cases and that the issues in the cases are identical. The discovery deposition of Leroy F. Ridley was introduced by agreement with the request that the court read it rather than having it read during trial by counsel. The balance of the evidence was heard *ore tenus*.

Certain facts are not disputed. By court decree of September 4, 1966, the plaintiff was appointed receiver of Crown Savings Bank of Newport News, Virginia; among the bank's assets which came into the possession of the receiver were the following negotiable promissory notes signed as maker by the defendant Herbert S. Glassman:

(1) Note No. 1 (which is the basis of Law Action 448-M) in the sum of $10,000.00 dated August 15, 1963, payable six months after date at the Seaboard Citizens Bank of Norfolk, Virginia, to George Vaintraub.

(2) Note No. 2 (which is the basis of Law Action 449-M) in the sum of $10,000.00 dated August 15, 1963, payable six months after date at Norfolk Virginia, to bearer. This note

was curtailed by the maker to the extent of $5,000.00 on the 2nd of February, 1964 and has a present face value of $5,000.00.

page 32 } (3) Note No. 3 (which is the basis of Law Action 450-M) in the sum of $10,000.00 dated September 1, 1963, payable six months after date at the Bankers Trust Company, New York City, to bearer.

Each of these notes bears a cryptic endorsement which may be read "George Vantraub" or "G. Vantraub."

The evidence shows that the bank took these notes prior to maturity as collateral for a debt of one Andrew Goldberg. There is no evidence to prove that the bank was not a holder in due course within the terms of the Negotiable Instrument Law effective at the time (Virginia Code 1950; Sec. 6-404). The fact that the notes were taken as collateral security, or even if it were proven that they were negligently taken, does not of itself deprive the bank of this status. *Anderson* v. *Union Bank,* 117 Va. 1; *Colona* v. *Parksley Nat'l. Bank,* 120 Va. 812. Under such circumstances, the bank is entitled to the prima facie presumption that it acted in good faith; the burden is on the party denying good faith in the transaction to prove his charge. *Catron* v. *Bostic,* 123 Va. 355, 371-372.

The crucial issue here was raised by Glassman's defense. He denies liability (under Va. Code 1950, Sec. 11-14) on the grounds that he gave the notes in question to George Vantraub in payment of gambling losses sustained in a series of gin rummy games.

The gaming statute (Sec. 11-14, Va. Code) provides in clear, unequivocal language that securities won at any game shall be "utterly void." *Citizens Bank* v. *McDannald,* 116 Va. 834, on which the plaintiff relies is clearly distinguishable and was decided under a different part of the old statute effective in 1914. The Negotiable Instrument Law did not repeal the law voiding gaming contracts. 8 ALR 314; 11 ALR 211; 37 ALR 695-698; 46 ALR 952, 959-960. Under the facts of our cases estoppel would not have precluded this defense. *Stebbins & Lawson* v. *Bruce,* 80 Va. 389, 397-401; *Pettit* v. *Jennings,* 2 Rob. (41 Va.) 676; *Feazle* v. *Dillard,* 5 Leigh (32 Va.) 30.

If Glassman's assertion had been proven by satisfactory evidence, it would, in my opinion, have constituted valid defense to these actions. But such was not the case. The defendant's evidence was vague and unsatisfactory as to time, place, persons present and other circumstances

page 33 } surrounding gambling games in which he participated; although the defendant's testimony inferred that these games continued over a substantial period of time, he fails to explain why two notes in the sum of $10,000.00 each were given on the same date (August 15, 1963). Nor does he explain why one of these was payable to George Vaintraub and the other to bearer; his explanation of the delay in asserting this defense to the notes is unsatisfactory; he fails to explain why he made no attempt to locate or retrieve the notes or file an appropriate proceeding to have them nullified.

Where the defendant relies upon his own violation of law as a defense to these actions, it seems only proper that he should be required to support his defense by a preponderance of evidence. This he has failed to do.

For the foregoing reasons the plaintiff will recover judgment in each of the three cases. The defendant's Cross-claim in Law Action 449-M will be denied.

Counsel for plaintiff will prepare sketch of an order consolidating the three cases for trial and an appropriate judgment order in each of the three cases, duly noting defendant's objections and exceptions.

With kindest personal regards, I am

Very truly yours,

Thomas M. Johnston
Judge

TMJ:meg

* * * * *

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* * * * *

ORDER

Law Docket 448M

This day came the parties, in person, and by counsel, upon issue joined, the plaintiff and defendant having waived trial of the issue herein by jury, and electing and requesting that all matters of law and fact be submitted to the Court for

hearing and determination, without the intervention of a jury, the Court having fully heard the evidence and arguments of counsel, finds for the plaintiff in the sum of $10,000.00, together with legal interest thereon from August 15, 1963 until paid, plus the sum of $1,000.00 being reasonable attorney's fees, upon a claim waiving the benefit of the homestead exemption, together with costs of this proceeding.

It is, therefore, ADJUDGED and ORDERED that Federal Deposit Insurance Corporation, Receiver of Crown Savings Bank, recover and have judgment against Herbert Glassman in the sum of $10,000.00 with legal interest thereon from August 15, 1963, until paid, together with costs in-
page 35 } cident to this proceeding, to which action of the Court the defendant, by counsel, duly excepts.

ENTER THIS: 4-11-68

T.M.J.
Judge

I ASK FOR THIS:
David W. Wilkinson
Counsel for Plaintiff

SEEN AND OBJECTED TO:
Edwin Jay Rafal
Counsel for Defendant

* * * * *

page 36 }

* * * * *

ORDER

Law Docket 449M

This day came the parties, in person and by counsel, on issue joined, the defendant having heretofore filed his cross claim herein. Thereupon, both the plaintiff and the defendant, having waived trial of the issues involved by jury, and electing and requesting that all matters of law and fact be submitted to the Court for hearing and determination, without the intervention of a jury, the Court having fully heard the

evidence and arguments of counsel, finds for the plaintiff in the sum of $5,000.00 with legal interest thereon from February 2, 1964 until paid, together with costs of this proceeding, and further finds for the plaintiff upon the cross claim of the said defendant.

It is, therefore, ADJUDGED and ORDERED that Federal Deposit Insurance Corporation, Receiver of Crown Savings Bank, recover and have judgment against Herbert Glassman in the sum of $5,000.00 with legal interest thereon from February 2, 1964 until paid, together with costs of this proceeding, and it is further ADJUDGED and ORDERED that the said Herbert Glassman recover nothing from Federal Deposit Insurance Corporation, Receiver of Crown Savings Bank, on his cross claim herein, to which action of the Court the defendant, by counsel, duly excepts.

page 37 }

ENTER THIS: 4-11-68

T.M.J.
Judge

I ASK FOR THIS:
David W. Wilkinson
Counsel for Plaintiff

SEEN AND OBJECTED TO:
Edwin Jay Rafal
Counsel for Defendant

* * * * *

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* * * * *

ORDER

Law Docket 450M

This day came the parties, in person, and by counsel, on issue joined. Thereupon, both plaintiff and defendant, having waived trial of the issue herein by jury, and electing and requesting that all matters of law and fact be submitted to

the Court for hearing and determination, without the intervention of a jury, the Court having fully heard the evidence and arguments of counsel, finds for the plaintiff in the sum of $10,000.00 with legal interest from September 1, 1963 until paid.

It is, therefore, ADJUDGED and ORDERED that Federal Deposit Insurance Corporation, Receiver of Crown Savings Bank, recover and have judgment against Herbert Glassman in the sum of $10,000.00 with legal interest thereon from September 1, 1963 until paid, together with costs incident to this proceeding, to which action of the Court the defendant, by counsel, duly excepted.

ENTER THIS: 4-11-68

T.M.J.
Judge

I ASK FOR THIS:
Daniel W. Wilkinson
Counsel for Plaintiff

SEEN AND OBJECTED TO:
Edwin Jay Rafal
Counsel for Defendant

page 39 }

* * * * *

LAW DOCKET NOS. 448-M, 449-M, 450-M

(Consolidated for trial and purposes of appeal.)

ORDER

THIS CAUSE came on this day to be heard upon motion of counsel for the defendant to set bond in the sum of $35,000.00 in the matter now pending appeal in this Court, and the Court after having maturely considered the matter, doth ORDER that a suspending bond for this appeal be set at $35,000.00, to which action of the Court counsel for the plaintiff doth note his objection and exceptions.

Enter: 4-26-68

T.M.J.
Judge

* * * * *

Dep.
3/21/66
page 1 }

* * * * *

Discovery deposition of Leroy F. Ridley taken before Morris Schneider, a Notary Public for the State of Virginia at Large, pursuant to Court Order, at the Crown Savings Bank, 2411 Jefferson Avenue, Newport News, Virginia, on March 21, 1966 at 2:30 p.m. in reference to the above entitled cause pending in the Circuit Court for the City of Norfolk, Virginia.

PRESENT:

Mr. D. W. Wilkinson, Jr., Attorney for the Plaintiff.

Mr. Fred Stant, Attorney for the Defendant.

* * * * *

Dep.
3/21/66
page 3 } LEROY F. RIDLEY, called as a witness by the Defendant in Discovery Proceedings, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Stant:

Q. What is your full name, sir?

A. Leroy F. Ridley.

Q. Mr. Ridley, do you of your own knowledge know what specific account of Andrew Goldberg was involved in the Glassman notes?

A. What specific account?

Q. Yes.

A. From my memory now I cannot recall the specific ac-

counts. I imagine that record could be furnished to you through the liquidator, I suppose.

Q. Mr. Ridley, when you took these Glassman notes as collateral on a loan to Goldberg, were you familiar with a man named Herbert Glassman?

A. Only by name. I had never met him personally and—I only knew him from the records that I had gotten and information I had received and secured.

Dep. 3/21/66 page 4

Q. Now, when you took his notes as security on a—Mr. Ridley, did you know Herbert Glassman?

A. No, I did not know Herbert Glassman personally.

Q. When you took notes for collection as collateral on indebtedness, what was your usual procedure thereafter?

A. After taking the notes?

Q. Yes.

A. Well, the usual—of course it may be well to know what the procedure was prior to that. When I said I did not know him, it did not mean that I did not find out or get some information about him. You're not presuming that, are you?

Q. Mr. Ridley, these notes were—dated August 15 of '63 and were due $20,000.00 in six months, and there appeared on the notes, "Golden Triangle Hotel", on one of the notes, "Golden Triangle Hotel, Norfolk, Virginia." Did you notify Mr. Glassman that you had these notes and that they were being accepted as collateral on a indebtedness of Goldberg?

A. No, I don't—I'm pretty certain I did not.

Dep. 3/21/66 page 5

Q. Mr.—was it—the policy of the bank, Mr. Ridley to take $30,000.00 in notes and not notify the maker that you were accepting them for collateral or otherwise?

A. No, that wasn't the policy of the bank but—of the bank but it could be the policy in the field of banking to do it. I didn't have to—to notify him. We took them as collateral. We did not discount the notes, as I recall.

Q. If you took them as collateral, why when the day came that you wanted to collect them, why didn't you notify the man who was the maker that you desired him to—to pay for the notes?

A. Why did we notify him?

Q. Why didn't you notify him?

A. As I recall, of course we dealt with Mr. Goldberg in

this. We understood that he owned these notes. That the notes had been given to him or his organization; that he owned the notes and we dealt specifically with him. Now, when the notes —when it came time to make a collection on the note, we sent, as I recall, it to the Virginia National Bank for collection which was his bank and that was on information that—as I recall, that Goldberg gave us, that is where he wanted them sent.

Q. Now, Mr.—Ridley, the note is made, one note is made to the Seaboard Citizens National Bank as the collecting agency. The other note, the other two notes are made to bearer?

A. Yes.

Dep. 3/21/66 page 6

Q. Why would you forward anything to the Virginia National Bank for collection?

A. Because the information was given that was the bank they wanted them sent for collection for the payment to be made.

Q. They wanted them sent?

A. Mr. Goldberg gave me that information. That was where they were supposed to be sent for collection. You don't have to send them to the bank that was drawn on, necessarily.

Q. Isn't that the usual procedure.

A. No sir, it is not the usual procedure.

Q. Is it not the usual procedure to tell the maker that you are holding the note?

A. No, it isn't—that's not the usual procedure.

Q. You're stating that the usual banking procedure in this bank was to send the note for collection to a bank designated by the person from whom you got the note, is that correct?

A. Well, may I ask you this? Are you asking me what it was in this bank or are you asking what was the banking custom? What are you asking me?

Q. I'm asking you what your ordinary procedure was?

Dep. 3/21/66 page 7

A. The ordinary procedure was—the ordinary procedure would be this. If a customer of the bank brought you a note and you held that note as collateral, he owned the note. He was in full possession and owned the note, that you would follow his instructions where to send it for the convenience of the payer to pay it, for the maker to pay it.

Q. Wasn't this account for which Goldberg gave you these notes, hadn't that been in default for a long period of time?

A. I don't—I don't recall that. I don't recall that, no. I

don't recall that. If that had been the case, it would have been a good reason why I would have taken the notes as additional collateral. It would seem that way to me. I don't recall it.

Q. Mr. Ridley, I want you to look at this. This will be Exhibit One. I'd like you to look at this account (indicating) and that has to do with the note of Herbert Glassman dated August the 15th, 1963 in the sum of $10,000.00 and payable six months after date. I ask you who borrowed that money?

A. This is seventy-five hundred here.

Q. I understand that.

A. You said $10,000.00.

Q. I said the note is $10,000.00?

A. Oh!

Dep. Q. Which you accepted as collateral?

3/21/66 A. For this loan. I beg your pardon. This note is

page 8 } made by Allen S. Mirman date December 2nd, '63.

Q. I want to know, did Allen S. Mirman give you this note as collateral (indicating) for a loan? I refer to the note that now is marked as having a balance of $5,000.00?

A. As I recall, Allen S. Mirman did not physically give me this note. I discussed it with him and had *and* understanding but he didn't actually give it to me.

Q. Did you discuss it with Mr. Mirman?

A. I did.

Q. You talked to him on the telephone?

A. That's right.

Q. Who physically gave you the note?

A. As I recall, Andrew Goldberg brought the note in.

Q. To whom was the check for $7,500.00 made payable?

A. I don't see a record of the check here.

Q. You don't remember of your own memory to whom you gave the $7,500.00, is that correct?

A. No, the bank's records would show.

Q. Mr. Ridley, do you state under your oath that Allen S. Mirman talked to you on the telephone and told you that he had made that note that you have?

A. I do.

Dep. Q. Now, Mr. Ridley—

3/21/66 A. I discussed the note with him, yes.

page 9 } Q. Now, Mr. Ridley, what collateral did you have in your hand at the time of making this loan in the sum of $7,500.00 on a 60 day term?

Leroy F. Ridley

A. As I recall, it was a note of Allen—of Glassman, Herbert Glassman.

Q. Are you saying that when you made this loan to Mr. Mirman in the sum of $7,500.00 that on that day you had in your hand the note of Herbert S. Glassman?

A. That's what I recall.

Q. Now, at that time had you run a credit check on Herbert Glassman, Mr. Ridley?

A. I talked to—I talked to—to a bank in Norfolk, one officer in Norfolk. I had talked previously prior to this when—I had inquired previously of Mr. Glassman, about him previously.

Q. Had you ever called Mr. Glassman and talked to him and told him you were accepting these notes as collateral for loans?

A. No, I never did.

Q. Mr. Ridley, wouldn't that be the thing that you would normally do?

A. No, not necessarily.

Dep. 3/21/66 page 10

Q. You mean you would accept a—$30,000.00 worth of paper?

A. Yes.

Q. That you didn't know whether or not they were a forgery, you had no knowledge as to the background of the paper?

A. That's right.

Q. And yet you accept that type of thing?

A. Yes; while we're sitting around here some bankers are doing the same thing. As long as he knows the person he's dealing with, he accepts the notes.

Q. You didn't know Herbert Glassman?

A. No, I didn't, no.

Q. You didn't know whether he was broke or owned a quarter?

A. I said I made a credit investigation on him. I knew he was not broke.

Q. From whom did you get a credit investigation, Mr. Ridley?

A. I inquired of—I believe it was the—some—I talked to someone in the Bank of Virginia in Norfolk and the—it was—not the Seaboard; I don't know whether it was Virginia National or Seaboard Bank. I made an inquiry. I called about it to find out some information.

Q. Did you know at that time that Mr. *Glassmand*—you said you made an inquiry?

Leroy F. Ridley

Dep. A. I inquired.
3/21/66 Q. I want to know from whom?
page 11 } A. From two banks in Norfolk, the Credit Department.

Q. Which banks?

A. The Bank of Virginia was one. I inquired of the Bank of Virginia.

Q. Does he have an account at the Bank of Virginia, Mr. Ridley?

A. I don't recall that.

Q. Actually he doesn't?

A. I got some information, I believe, from the Virginia National Bank at the time but I inquired of the Bank of Virginia and the Virginia National Bank.

Q. Mr. Ridley, do you know that a complete credit investigation on that day, September of '63, in August of '63 would have disclosed that he was broke?

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

Q. Mr. Ridley, when you sent one check to Norfolk to the Virginia National Bank for collection, why didn't you send the other two?

A. You mean note now or check?

Q. Note, excuse me. Note.

A. Why didn't I send the other two?
Dep. Q. Yes.
3/21/66 A. Because I understood that he was going to
page 12 } pay only the one note. That's the reason I sent it.
Q. Who did you understand that from?

A. Andrew Goldberg.

Q. Well now, Mr. Goldberg didn't give you these notes, did he?

A. Yes, he delivered them to me.

Q. He gave you the notes for Mirman to make a loan and for Crawley?

A. He brought the Glassman note and the Mirman note.

Q. Did he also bring you the Crawley note in the sum of $5,000.00 for which a note of Herbert Glassman, dated 8-15-63 was—was given as collateral?

A. I'm not clear on that. I believe that both of them came in on that occasion. I'm not very clear in my memory on that.

Q. Mr.—

Leroy F. Ridley

A. Mr. Glassman did not come in nor Mr. Mirman in this case.

Q. Did you ever check, Mr. Ridley, on the bank of the note that we have reference to, that was for $5,000.00 was paid on, did you ever check the man who had endorsed the note on the back (indicating)?

Dep. 3/21/66 page 13

A. Yes, I—I can't remember his name and I inquired about him.

Q. From whom did you inquire, Mr. Ridley?

A. I asked about him and I didn't get any information on this man. I don't believe I got—

Q. From whom did you ask?

A. I asked the Bank of Virginia and the—and the other bank that I called at the same time but I didn't get any information on him. I got some on Mr. Glassman.

Q. Mr. Ridley, didn't you ask Goldberg who this man was?

A. Surely.

Q. Where this man—

A. Yes.

Q. Did he tell you?

A. No, he—I don't recall any specific thing he told me. He did most of his talking about Mr. Glassman.

Q. You mean to tell me you accepted a note that was endorsed on the back by a man that you didn't know?

A. Yes.

Q. And didn't know where he lived?

A. That's right.

Q. That didn't put you on any notice?

A. No notice.

Dep. 3/21/66 page 14

Q. None whatsoever?

A. None whatsoever at that point, no. None whatsoever.

Q. Did you ever get any information on George Van Traub?

A. I don't believe I ever did. I don't recall any.

Q. Mr. Ridley, for your information he's one of the biggest con men and gamblers in the nation.

A. I didn't know that. I never was in contact with him at all. All I got was on Mr. Glassman in dealing with Goldberg.

Q. Now, Mr. Ridley, I ask you to look at the manner in which the $5,000.00 was applied (indicating) and I ask you on whose say so that money was applied?

Leroy F. Ridley

A. It was on Mr. Goldberg and Mr. Mirman's say so that it was applied.

Q. Now, Mr. Ridley, did Mr. Mirman tell you that Mr. Goldberg was giving you a note of Herbert Glassman as collateral for this loan?

A. Did he tell me that?

Q. Yes sir.

A. Well, we understood it that he was giving it and discussed it. That's the reason I called him. He didn't call me and say I'm giving it to him, he didn't do that.

Dep. 3/21/66 page 15

Q. You say you discussed?

A. That's right.

Q. The Glassman note with Mr. Mirman, is that what you are saying?

A. I am, yes.

Q. And there's no question in your mind that Mirman told you he wanted to borrow $7,500.00 on the strength of the Glassman note?

A. I don't think it was quite put just that way.

Q. You tell me as best your memory serves you how it was put?

A. As I recall, this note was brought into the bank. I talked with Mr. Mirman on the telephone and we discussed the amount of the note and what was—and the Glassman notes that were to be held as collateral. That's all I know.

Q. Mr. Ridley, would it be fair to say that you discussed that—you discussed this with Mr. Mirman around December the second of 1963?

A. It was prior to making the loan. I don't know what date you're speaking of here.

Q. Would it have been right around that date?

A. Either prior or around that date, yes.

Dep. 3/21/66 page 16

Q. Now, Mr. Ridley, Mirman had this note for 60 days, did he not?

A. I don't know.

Q. Can't you look at the face of the note—it is a 60 day note, is it not?

A. That's 60 days, yes.

Q. At the end of 60 days, did you ever notify Mirman that this note was in default?

A. I don't recall that specific. I don't recall that specifically.

Q. If you have a man who has made a loan and the loan is in default, don't you notify him?

Leroy F. Ridley

A. Yes.

Q. Well, what do you have to show that you ever notified Mirman that this loan was in default?

A. Well, a notice was sent out on the note.

Q. How do you know that Mr. Ridley?

A. It was our custom to do it. I'm pretty certain it was. I don't see any entry here to show it but that was our custom.

Q. Now, the monies that was collected by reason of the $5,000.00 payment were not even credited to Mirman's note in whole, were they?

A. No.

Q. Why?

Dep. 3/21/66 page 17 } A. Because of the fact that he understood and permitted, he said as long as his note was credited either with an amount or—as I recall it, that Goldberg could apply the other as he wished and I discussed that with Mr. Mirman before I permitted it.

Q. In other words, Mr. Mirman told you as long as his note was credited with $2,500.00—

A. That's right.

Q. Or whatever it was, that you could apply the rest as Mr. Goldberg told you?

A. Directed, that's right, which we did. I didn't discount the note and did not disburse any and didn't do anything else unless I talked to Mr. Mirman in each instance.

Q. Now, why didn't you *every* attempt to collect any further on any one of these three notes after Virginia National sent you the $5,000.00 out of Glassman's account?

A. Why didn't we attempt to collect further?

Q. Yes.

A. We had planned to. Of course,—I felt originally in the original discussion that the whole $10,000.00 note was going to be paid.

Q. Mr. Ridley,—

A. Yes.

Q. I'm talking about 25,000 in notes.

A. Yes.

Q. Goldberg was at that in default on many notes?

Dep. 3/21/66 page 18 }

A. That's right.

Q. Crawley was in default on many notes?

A. That's right.

Q. And Mirman was in default on that note?

A. That's right.

Leroy F. Ridley

Q. Yet from February the tenth on until this bank went under you never brought a suit nor did you ever try to collect these other notes, isn't that correct?

A. I don't know—I don't know the condition of all the notes. I don't want to certify that to you as being correct as to whether it was due or not due but I'll answer your question, why I didn't send them. You want the question answered?

Q. Mr. Ridley, I'm asking you "A" and just takes a simple yes or no answer. Did you ever try to collect on any of the $25,000.00 in notes?

A. The balance due on those notes, no.

Q. All right, sir. When did this bank finally go into receivership?

A. On September 4, 1964.

Q. From February the tenth of 1964 until September the fourth of '64, Mr. Crawley, Mr. Mirman and Mr. Goldberg were all indebted to you in large sums of money, were they not?

A. Yes.

Dep. 3/21/66 page 19 } Q. And during that time, they were all in default, were they not?

A. I would not want to say that now. They may have been.

Q. Mr. Ridley, it doesn't take too much—of anything to know that the Crawley note was in default?

A. This wasn't on the note that Crawley had. You said they were all in default.

Q. Let's talk about one specific note.

A. That note was in default.

Q. That was in default?

A. Yes sir.

Q. And the basis of your lending that money was $10,000.00 note of Glassman, wasn't it, because it says so right here on the top?

A. Yes.

Q. Why didn't you attempt to collect this $10,000.00 note?

A. After February?

Q. Yes sir. From February to September?

A. I can tell you why. When this note was originally discussed with me to be sent for collection, I was told that the whole note would be paid; to send the note for collection. Later I understood that Mr.—it wasn't convenient for Mr. Glassman. He would pay only part of the note and

Leroy F. Ridley

Dep. 3/21/66 page 20 } he paid only part of the note. Then after that, a question was raised that Mr. Glassman I take it had raised the question or—the bank I think, the bank called, an officer of the bank called and said Mr. Glassman had made an error; that he didn't intend to pay on this note so we did not send it for collection after that.

Q. You mean the mere fact that Glassman made an error would keep you from trying?

A. The bank made an error. The bank—he said the bank made an error.

Q. The bank made an error in paying the money to you; that's what he told you, wasn't it?

A. No, no, it wasn't stated in that way.

Q. Regardless of who made an error, you had $25,000.00 worth of notes against the man that you thought was solvent?

A. I haven't made the statement that he was solvent. We thought he was worth this money or those notes had value when we loaned on them.

Q. That's fine. Why didn't you attempt to collect these notes?

A. Because I say that because of the fact we collected the 5,000 and he had raised a question with the bank.

Q. What question did he raise?

Dep. 3/21/66 page 21 } A. I understood from an officer of the bank, I can't recall the bank, that he didn't intend to pay on the note. He wasn't fully apprised or hadn't been—fully apprised as to which note he was paying on.

Q. Didn't this bank receive a letter prior to October of '63 stating to it that none of these notes were any good?

A. Not to my knowledge.

Q. Would you be in a position to deny that, Mr. Ridley?

A. From what I know now I would absolutely deny it.

Q. Are you saying you never saw the letter or you—

A. I'm saying to my knowledge no such letter ever came here.

Q. To your knowledge?

A. Not to my knowledge.

Q. If the letter were sent here in the usual ordinary mail you wouldn't be able to state that no one in this bank received it in your note collection department, would you?

A. Well,—I could practically—I could almost certify that

Leroy F. Ridley

any letter that came here regarding a note would be referred to me, I mean of that type, would be referred to me.

Dep. 3/21/66 page 22

Q. Who was your note collection manager in August, September and October, of 1963?

A. Well, it would have come—either to—me or to Mr. Davis or to Mrs. Thomas, either of those—those persons.

Q. Mr. Davis still here?

A. Yes, he's still here.

Q. What's his first name?

A. William W. Davis. It could have come to his attention or Mrs. Thomas.

Q. What's her name?

A. Willie A. Thomas.

Q. Is she still here?

A. Yes sir. May I ask from whom was such a letter was sent, if one was sent?

Q. I'll produce the letter.

A. All right.

Q. At the proper time.

A. I have never seen it.

Q. Mr. Ridley, did Mr. Mirman, Mr. Crawley or Mr. Goldberg at any time tell you that these notes were for a gambling indebtedness?

A. No.

Q. Did there come a time when you heard from a bank official in Norfolk that they were for a gambling indebtedness?

Dep. 3/21/66 page 23

A. I heard that from someone, yes.

Q. Who did you hear it from, Mr. Ridley?

A. I can't recall when I first—heard it. That question was raised after the payment of the money from the collection. That question was raised.

Q. Of the 5,000?

A. Of the 5,000, yes.

Q. Dollars?

A. Yes, I believe it was mentioned to me by an officer of the bank, I believe it was.

Q. Do you know why only $5,000.00 was requested instead of ten or twenty or thirty thousand?

A. No, as I understood it, the $10,000.00 was requested. The whole note was requested.

Q. You did not know that Virginia National Bank sent out a notice only for $5,000.00?

Leroy F. Ridley

A. No, I did not.

Q. Payment on the note due?

A. No, I didn't know that. I did not know that. I placed the whole note with them but I didn't know that particular. We sent the whole note for collection.

Q. Now, Mr. Ridley, to your knowledge did you *every* see Mirman make this note here (indicating) that you lent the $7,500.00 on?

A. I did not.

Dep. 3/21/66 page 24

Q. Do you know whether or not that is in fact Mirman's signature (indicating)?

A. Yes sir, it appeared to be his signature to me at that time and we had—I had seen his signature before.

Q. Do you know?

A. I didn't question his signature.

Q. You didn't question it?

A. Not at that time. It looked and appeared to be his signature. It appeared to be.

Q. You don't know whether or not this is Mirman's signature?

A. I do not know, no. I couldn't know.

Q. When you lent this money to Allen S. Mirman, did you know what his financial condition was?

A. Yes, I believe we had a—we had a statement in our file of Mr. Mirman, as I recall.

Q. From who?

A. From Mr. Mirman. I believe we had a statement.

Q. From Mr. Mirman himself?

A. As far as I recall we had. I think we had.

Q. Did you check his credit at that time?

A. Before we dealt with him, we did the usual calling around before we did, yes.

Dep. 3/21/66 page 25

Q. Calling around?

A. We called the banks in Norfolk where they had dealt.

Q. Don't you usually get a retail credit statement, Mr.—Ridley, on people?

A. Yes.

Q. Did you get one on Mirman?

A. We did not.

Q. Did you get one on Glassman?

Leroy F. Ridley

A. I don't recall whether we did or not. We might have. I don't recall it, whether we did or not. I don't recall.

Q. I would like to know who Tornessee is?

A. Tornessee?

Q. Who is that?

A. He's the man, that's a note that we had discounted here. That's in connection with Goldberg and D'Agostino. This man is in the New York area. That's the note that Goldberg and D'Agostino had guaranteed. He's not in this area.

Q. Who is Stanley Mirman?

A. He's in Norfolk. I don't think he's related to this—

Mr. Allen Mirman at all. I asked Mr. Mirman and I don't think he's related.

Dep. 3/21/66 page 26 } Q. Did you get Mirman's permission to put $524.62 to Gostino Tornessee and $576.00 to an account of Thomas Tornessee?

A. As stated to you before, and I think you asked the same question before, Mr. Mirman told me that as long as this credit was made on his loan, I think it was $2,500.00, that Mr. Goldberg could apply the other as he wanted to apply and we did not go into detail as to each specific note he applied it on.

Q. Now, Mr. Ridley, your application shows $4,458.30 to the notes, other indebtedness to the bank. You gave Goldberg cash of $536.70, is that correct?

A. I think that's correct.

Q. Was that on Mr. Mirman's authorization also?

A. Mr. Mirman approved of—I could have given it all to him in cash as far as Mr. Mirman is concerned. That was my understanding from him. As long as we applied that on his note.

Q. Now, going back to the question of Crawley's and Mirman's defaults after February the tenth of '63, and I would like for you to state if you ever tried to collect Mirman's defaulted—defaulted payments and Crawley's defaulted payments prior to September of the fourth when the bank went into receivership?

Dep. 3/21/66 page 27 } A. Yes.

Q. How did you try?

A. Well, we notified, we talked with him. I had several conversations with Mr. Mirman about the status.

Q. Did you bring a suit against him?

Leroy F. Ridley

A. I don't believe—I don't believe we sued him, not that I recall.

Q. Did you bring a suit against Crawley?

A. No, I don't believe I did.

Q. Mr. Ridley, you didn't—bring a suit against Glassman, did you.

A. No.

Q. Mr. Ridley, was it the practice in this bank to let these defaults go along for eight months without any payment at all and without suit being brought in any manner?

A. Well, did they go without any attention for eight months? Does the record show that?

Q. The records doesn't show anything that I can see, Mr. Ridley.

A. Well then—if the record doesn't show anything, then it would be difficult for me to answer your question. That was not the custom of the bank. I can't ever recall any note in the bank that I was connected with that went eight months without any attention. I can't recall it. Not any note.

Dep. 3/21/66 page 28

Q. Let me ask you specifically what attention did you give these?

A. We would contact the parties; we would send notices, we would write them and urge them to pay. We did not sue everybody as no bank does but it did not go without attention for eight months.

Q. Well, did you ever get around to suing Crawley for this money, Mr.—

A. No, I don't recall suing Crawley.

Q. Isn't it true, Mr. Ridley, that these were just loans of Goldberg and not Crawley and not Mirman. That's why you didn't sue?

A. No, that isn't the case. I would say—in fairness I would answer you here that the loan of Mr. Mirman's based on his note appeared to us to be an accommodation but I wouldn't say that all of Crawley's loans were for Goldberg, I wouldn't say that. I think this is where Mr. Mirman was helping Mr. Goldberg out, yes I believe out.

Q. When Goldberg needed helping out at that point and—and you were still lending Goldberg money, it was still your best judgment that you didn't have to talk directly to Glassman about these notes?

A. You got a full catch-all there. I don't know exactly what you mean by all that.

Leroy F. Ridley

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Q. You say that Mirman was helping Goldberg out?

A. That's my opinion, yes.

Q. Right. And at that time, Mr. Goldberg was in default on a great many accounts to you wasn't he?

A. He was in default on some of his accounts, yes.

Q. All right, sir. Now, my question is if Mirman was helping Goldberg out and Goldberg was obviously in trouble because he couldn't meet his accounts, why wouldn't you have talked to Glassman?

A. Well I wouldn't—I wouldn't have discussed Goldberg's condition with Mr. Glassman. That wouldn't have been proper. It wouldn't have been ethical to do that.

Q. You certainly discussed Mr. Glassman's condition with Mr. Glassman relative to paying you $30,000.00 worth of paper?

A. Well, I did. I sent the note to collection for a bank. Wasn't that enough notice to him? It showed him we wanted the money.

Q. Mr. Ridley, what you are saying is that when you accepted these notes—

A. That's right.

Q. The sole collateral that you got for Crawley's note and for Mirman's note were these notes, correct?

A. As I recall, that's true.

Dep. 3/21/66 page 30

Q. You didn't see fit, however, to call Glassman to find out what he said about these notes, right?

A. No sir, I did not, because they were purported to me to be owned by someone else. I didn't have to discuss them with them.

Q. They were purported to you to be owned by Goldberg who couldn't meet his obligations to you at that point?

A. They were purported to be owned by Goldberg, yes sir, that's right.

Q. Not purported to be owned by Mirman?

A. No, I beg your pardon. They were purported to be owned by Goldberg and Mirman. He said, "We own these notes. We own these notes" and that was the reason that I understood.

Q. You said he said, "We own these notes"; who is he?

A. Goldberg said we owned them and I discussed it with Mr. Mirman and all along I never—knew Mr. Mirman had

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any question about not owning them. I understood they were owned by Goldberg and Mirman.

Q. Did you ever specifically ask Mirman did he have an interest in these notes?

A. No, I—I do not recall specifically asking him that question, you see, but I do recall that he told me that we owned the notes, I recall that. He said, "We own the notes."

Q. Mr. Mirman?

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A. Mr. Mirman said, "We own the notes. We own the notes" in a conversation, yes. I didn't specifically ask him as you asked there.

Q. Now,—

A. In fact, as I recall he was holding the notes prior to their being brought here in his office, as I recall it.

Q. If Mr. Goldberg and Mr. Mirman owned these notes, how did it happen that Crawley became the recipient of $5,000.00 based on one of these notes?

(At this time a document was handed to the witness.)

A. As I recall, we had—there were three—there were three notes I believe.

Q. Yes sir.

A. Isn't that correct? There were three notes, is that right?

Q. Right.

A. The two notes that I am speaking of that were owned were the two notes upon Mr. Mirman's note, that were owned by Goldberg and Mirman, as I understood it.

Q. Two notes?

A. Two notes. I'm not speaking of this note under Crawley's note.

Q. The third note was owned by Crawley?

Dep. 3/21/66 page 32

A. Crawley brought this into the bank himself. This note, as I recall it. I'm speaking of those up under the Mirman note. I'm not speaking of that note.

Q. On August 22, 1963 which was four months before Mirman's note, Crawley brought you a note in here made by Herbert Glassman and endorsed by George Van Traub, is that correct?

A. I think that's right. They came at different times. They came in the bank at different times, as I recall.

Q. This was a two months note, was it not, Crawley's?

Leroy F. Ridley

A. That's right.

Q. Now, at that date and at that time, Crawley was broke, wasn't he Mr. Ridley?

A. At that time, what now?

Q. Crawley was broke, wasn't he?

A. I will not—I can't answer that question.

Q. You can't answer that?

A. No sir.

Q. Well you lent Crawley $5,000.00 in August of '63, correct?

A. That's right.

Q. That was for two months. Two months later, October the 22nd of '63, Crawley defaulted, did he not?

Dep. 3/21/66 page 33 } A. If the record shows that. I don't have the note there. I imagine that's right. I don't doubt—

Q. He never paid a nickel on it except the interest, did he?

A. The note was five thousand; down to forty seven twelve. Somebody paid a little on it, didn't it. The balance was 47. Something was paid besides a nickel.

Q. He paid a nickel or so on it?

A. Two hundred some dollars.

Q. He was in complete default outside of that, was he not?

A. Well, the last entry here is July of '64.

Q. I understand that, Mr. Ridley.

A. July '64. Somebody was paid some interest on there.

Q. That's fine.

A. One, two, three, four, five, six, seven interest payments.

Q. Principal was due and payable October the 22nd, '63 was it not?

A. Two months after the—

Q. Correct.

A. October 20—that's right.

Q. Isn't it the ordinary procedure to make—if you're going to renew a note to make the interest be paid and a new note be issued out?

Dep. 3/21/66 page 34 } A. That's old time way but not now, no. That is not the ordinary way now.

Q. You don't do that?

A. No, generally banks don't do it.

Q. Every bank I deal with, which is about nine, still do it, Mr. Ridley.

A. Well,—

Leroy F. Ridley

Q. That includes First National, Virginia National, Bank of Virginia, Seaboard, Merchants and Planters, every one of those banks do it. You say you don't do that?

A. First National where?

Q. Norfolk.

A. And you have given them a note each time?

Q. Every 60 days give them a new note.

A. We didn't do that and you'll find in modern banking it isn't done to a great degree any more.

Q. Now, you never called on Glassman for the payment of that note during the entire period of time, did you?

A. No, except the time we sent it for collection. That's the only time we actually called on him.

Q. That was another note. It didn't have a thing to do with this?

A. We did not.

Dep. 3/21/66 page 35 } Q. In spite of the fact that—that Mirman was in default to you, that Goldberg was in default to you, a bearer note dated September the first, '63, also payable six months after date, that was never—put in for collection anywhere was it?

A. The only one we sent for collection was the ten thousand we sent to Virginia National Bank.

Q. I hand you a paper and ask you, this credit investigation report. Is that the report that you ran on Herbert Glassman (indicating)?

A. Looks like some information we got on him, yes.

Q. Do you know where that came from?

A. I imagine that was in the bank's file.

Q. Do you know who gave you this information?

A. That could have come from—from some credit—it looks like coming from a credit association, from the type of information. It looks that way to me. That's what it looks like.

Q. Getting back to these notes, Mr. Ridley, you never made Goldberg identify nor point out to you the man who endorsed each of the notes, the man named George Van Traub?

A. No.

Q. You had no interest in him?

A. I didn't deal with him, no.

Dep. 3/21/66 page 36 } Q. You weren't dependent on him to pay these notes in the event they were bad?

A. Well, I had not relied on him in considering the loan, that's right. We were—of course, if we

sued we would want to get it out of anybody we could but initially we did not rely on him. We relied on only three people mainly.

Q. Mr. Ridley, when Goldberg was in default in certain notes in February of '64, why wasn't the other note, this note put in for collection also. Why was only one note sent?

A. Because we understood that was the one that—that was planned to be paid.

Q. Who—who relayed this information to you?

A. Mr. Goldberg.

Q. Mr. Goldberg?

A. Right.

Q. And you never had any contact with anyone else that told you that Glassman was going to pay any notes, correct?

A. That's correct but—I sent it for collection and asked the bank to notify Mr. Glassman of it—of the fact we were sending it.

Q. Mr.—

A. As I recall.

Dep. 3/21/66 page 37 } Q. Mr. Ridley, with Glassman living at the Golden Triangle in Norfolk, why didn't you think a simple letter would suffice to collect this note if the man owed the money and if it were a valid note?

A. For the reason that I felt that I had received a message from him that he wanted it sent to his bank and I had no reason to call him.

Q. You received this message from Mr. Goldberg?

A. I understood that was the bank it was to be sent to and it turned out it was because that was the bank it was paid.

Q. At that time, you trusted Mr. Goldberg implicitly?

A. Are you asking a question or making a statement?

Q. I'm asking a question. At that time you trusted Mr. Goldberg implicitly?

A. I wouldn't say that. I trusted the information he gave me regarding this note was correct.

Q. That in spite of the fact that he was—in default in a number of areas to you and wasn't making his payments promptly?

A. Well, all payments were not being paid promptly. At this time, I would like for you to give me a statement how far he was in default at the time this note was—

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page 38 } Q. How far he was?

A. Give me the statement he was in default on, at that time.

Q. I'll be glad to if we can get them all together.

A. Before I discuss that any further I want to know. You said he was in default in a large area and we were after him about fixing notes and he fixed some even while the proceeds of this; I want to know how many notes were in default on that date.

Q. At least four notes by your own—by your own statement, he was in default in four notes that he was either the guarantor on or the owner of, wasn't he?

A. Which four?

Q. Mirman's note, the two Tornessee boy notes and Stanley Mirman notes?

A. The ones—

Q. In default on all of those wasn't he?

A. He applied payments on them. Now, how far in default was he. I would like to see the due notes of those notes.

Q. Mr. Ridley, you were running the bank and I wasn't.

Dep. 3/21/66 page 39 } A. You're asking me the question as though you felt I should have—that you knew they were so far in default. I wanted to know just what dates they were in default. He paid on Tornessee's note and paid on Mirman's note. What were the due dates of those notes?

Q. If you don't know, I know I don't know.

A. I don't have the records before me. I don't think it was as far back possibly as you—you want me to ask a general question that—that they were substantially in default and I don't recall that. I don't believe they were all paid as promptly as they should have been paid. I would like to know what date they were due and what was the default date so I know what I could answer.

Q. Mr. Ridley, in September the fourth of 1964, Goldberg had indebtedness to this bank in the sum of $569,000.00. Did you hear that last part?

A. You said he had indebtedness in the bank of the sum of $569,000.00; yes I heard what you said.

Q. The original amount of money he had borrowed was $730,000.00 approximately and since September the fourth, only $36,000.00 has been paid on this, over half a million dollars indebtedness. My question to you is except such paper

as this, what actual collateral had Goldberg put up with you that had any real value?

A. I'll say this to you, Mr. Stant. I believe that what you are asking raises a question in my mind whether I should answer that question. I don't think—I don't think you have—I don't think you have a right to ask me that question. I would say that—restate that question.

Dep. 3/21/66 page 40

Q. I asked you what valid good marketable security did Mr. Goldberg put up with you to induce you to make three quarters of a million dollars in loans to him?

A. Number one, I did not make three quarters of a million dollars worth of loans to Mr. Goldberg. That answers that part of the question.

Q. You made—you made direct indebtedness loans to him of $100,000.00; you made loans on which he was the endorser to 65,000. You made loans on which he was the guarantor to 213,000 and you made loans that he brokered or placed for you with people in the sum of $352,000.00 and out of that vast total, there's still is over $500,000.00 of that money that has never been repaid. My only question to you is what security did he give you that would have made you lend him all this money, either directly or indirectly?

A. Well, I would say to you that the bank's records will show any and all securities that was given by Mr. Goldberg or anybody he was associated with and—when we started dealing with him we accepted his statement and—

Q. His financial statement?

A. His financial statement.

Q. Go ahead.

A. His financial statement and subsequently we got a statement of his mother who—who was also in his family and from time to time when loans were made, we had some security given on some of the notes but not on all of them and—I believe the bank's records are in the hands of the liquidator now, the receiver and liquidator, will indicate any collateral that was given but there was no over all—there was no over all collateral given to secure the lien that you refer to.

Dep. 3/21/66 page 41

Q. Did you ever get his mother as a co-guarantor with him on this paper (indicating)?

A. This specific loan here?

Q. Yes.

Leroy F. Ridley

A. No sir, I don't recall that.

Q. Was his mother a co-guarantor on his entire loan?

A. No, no, she was not.

Q. Was she ever a co-guarantor with him here?

A. Yes, she was—she was a co or obligor. She was not a co-guarantor.

Q. Co-obligor?

A. Yes.

Q. Has that been paid off?

A. Mr. Slocum could tell you that. I don't know that.

Q. Now, Mr. Ridley, on the loans that Goldberg brokered or placed, was he paid by this bank for getting you these loans?

Dep. 3/21/66 page 42

A. Mr. Goldberg was never employed by the bank in any capacity what so ever or of any kind or nature by me nor by the bank.

Q. Well, it says here that there were $352,000.00 worth of loans brokered or placed by Goldberg. What was his connection there?

A. What was his connection?

Q. Yes.

A. Oh, I imagine you said—it says here—you don't say who said it or where it came from but I imagine the information you're reading from is an aggregate, is the notes that were handled that he had some connection with. He and D'Agostino possibly.

Q. This is his, strictly his ball of wax here, and you've received back approximately 100,000 so there's still $250,000.00 worth of those notes owed and my question to you, you passed on the validity and security of these loans, did you not?

A. Yes.

Q. And in each instance you felt that the bank, of course, was making a good loan to a reputable person?

A. That's right. May I call your attention, you said a little while ago there were eight hundred some thousand and only—30 or $40,000.00 had been paid on it.

Dep. 3/21/66 page 43

Q. 730,000 Mr. Ridley and only, on that—approximately $200,000.00 has been paid?

A. You made the statement 30 some thousand, as I recall. I want to know which ball of wax you're talking about, because it seems like the figures are—get out of polarity.

Q. You're confused?

Leroy F. Ridley

A. Possibly I'm confused.

Q. I must be all torn to pieces.

A. You're right and I'm confused because I understood you to say previously it was the same seven hundred some thousand dollar figure, the loans had been handled and that only thirty some thousand had been collected and now you said 100,000 had been collected on the $200,000.00.

Q. Mr. Ridley, when we state that Goldberg brokered or placed with the bank $350,000.00 worth of loans, I would like to know what Goldberg's connection was with the bank in placing these loans, if any?

A. I've answered. He had no connection with the bank.

Q. Then if he made money out of this, he made money out of it by getting a certain brokerage fee from the people for whom he secured the loan from you?

A. The bank paid him no fees and no commissions of any kind so if he got it, he got it elsewhere. From whom, I have no knowledge.

Dep. 3/21/66 page 44

Q. Mr. Ridley, when did you first meet Andrew Goldberg?

A. That was back—I think it was the early part of '62, I believe. I'm just trusting—I think it was the early part of '62. I think so.

Q. At that time did you have any idea as to his prior business record and his prior records?

A. No.

Q. Did you go into his record at any time to see what his criminal involvement or other involvement might have been in his life?

A. No, I never got any indication he had any criminal problem.

Q. Did you investigate this man when he began doing business with your bank?

A. I talked to banks in Norfolk, yes.

Q. Which bank in Norfolk?

A. Bank of Virginia in Norfolk, he had a loan there as I recall it. That's one. I don't recall the other bank. I'm pretty sure it was one that made him a loan.

Q. Did you ever get a retail credit on him?

A. I don't recall. If it is so, it is in the bank files.

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Q. Did you know that he had had various difficulties with the law prior to your—

A. No, I did not, at the time. He was recom-

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page 45 } mended by someone we had known a number of years.

Q. Who recommended him?

A. Gerald Friedman. He brought him and introduced him to the bank.

Q. Did he recommend?

A. He introduced him. He did not recommend him. He introduced him to the bank.

Q. That's the man who has Crown Savings?

A. Crown Finance.

Q. And Friedman brought him over here?

A. He came to the bank with him. The first time I ever met him. You asked me about the first time.

Q. When you began to do business with Mr. Goldberg to the extent that—this rather large sum of money passed hands with him, either borrowing or being an endorser or guarantor, directing, lending—borrowing business to you, did you make any further investigation into this man?

A. I can't recall that I did, no. I wasn't just dealing with him. He was working for other people.

Q. For whom was he working?

A. At least he was associated with Mr. D'Agostino.

Q. Did you investigate D'Agostino?

Dep. 3/21/66 A. I got reports from New York banks on him and as I recall we got credit reports on him, that's right.

page 46 } Q. Who else was he doing business with that recommended itself to you, sir?

A. When he came in, that was the other person that he was working, Mr. D'Agostino primarily at that time, as I recall.

Q. Is this the only firm he was associated with, the group —D'Agostino group?

A. Person? I'm speaking of people. You asked about people. D'Agostino, he was working with Peter D'Agostino, through Norwalk Investors' Corporation. That was the Corporation D'Agostino was connected with.

Q. Did he work with anyone?

A. He and Joseph Lamonica were associated in this—with D'Agostino and—that's the—I think that's all I recall, yes at this time.

Q. To your knowledge, Mr. Ridley, was Goldberg associated with any people from Virginia in his borrowing money here?

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A. You mean people in Virginia?
Q. Yes sir. D'Agostino was in New York?
A. Yes.
Q Virginia.

Dep. 3/21/66 page 47 } A. Of course, he dealt with a lot of—of people in Virginia. A lot of these people, most of them had been Virginians, if that's what you mean.

Q. Except for Wayne Investment Company, did Goldberg represent to you that he owned any other company?

A. No, he had connections with other—with Rambam Corporation, I think that's the right name. That's one. I can't recall these names. He was connected with—he did not represent to me that he was working for or with, if that's what you mean, any other person in the same—category or in the same way he worked with D'Agostino.

Mr. Stant: I haven't any other questions.

(The discovery deposition was then concluded.)

Dep. 3/21/66 page 48 } STATE OF VIRGINIA:
CITY OF NEWPORT NEWS, to-wit:

I, Morris Schneider, a Notary Public for the State of Virginia at Large, certify that the foregoing discovery deposition of Leroy F. Ridley was duly taken and sworn to before me at the time and place and for the purpose in the caption mentioned; and that signature thereto was waived by agreement of counsel.

Given under my hand this 2nd day of May, 1966.

Morris Schneider, Notary Public

My commission expires September 5, 1967.

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Stenographic transcript of the testimony introduced and proceedings had upon the trial of the above-mentioned causes in said Court on February 27, 1968, at 2:00 p.m., before the Honorable Thomas M. Johnston without the intervention of a jury.

Appearances:

Ford, West & Wilkinson, Esqs.,
By D. W. Wilkinson, Jr., Esq.,
Attorney for the Plaintiff.

Stant, Moss & Rafal, Esqs.,
By Frederick T. Stant, Jr., Esq.,
Attorney for the Defendant.

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HERBERT S. GLASSMAN, called as a witness by and on his own behalf, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Stant:

Q. You have heretofore seen the three notes in
2/27/68 this case, have you not?
page 11 } A. Yes, sir.

Q. And there are two notes dated August 15, 1963, and one dated September 1, 1963.

I ask you whether or not these notes were secured by reason of a gambling indebtedness?

Herbert S. Glassman

Mr. Wilkinson: I object to you suggesting the answer, if it please the Court.

Mr. Stant: I asked him whether or not.

The Court: Sustained.

By Mr. Stant:

Q. How did those notes happen to come into the hands of anyone but yourself, Mr. Glassman?

A. Well, after I got rid of all the cash, I had no money coming in, and I gave these notes, and it was a gambling debt.

Q. Was it the result of what type of gambling and with whom were you playing?

A. Well, I was in what was known as a Hart, Schaftner and Marks game, I guess.

Q. Tell His Honor what we are talking about what kind of game was it?

A. A gin game.

Q. Who was in it?

2/27/68 page 12 } A. Well, it was this fellow Vaintraub, and there were the Halprins, Jack Halprin, and the other times his brother would play, either Burt Halprin, his brother, or both.

Q. That was a three-way game and at times it was a four-way game, is that correct?

A. That is correct.

The Court: Don't lead him. Mr. Wilkinson is shaking his head. Don't lead him.

By Mr. Stant:

Q. This game, where did this occur?

A. It occurred in the Golden Triangle Hotel. It was generally played in Suite 801.

Q. What city and what state?

A. Norfolk, Virginia.

Q. And now, Mr. Glassman, did there come a time in this game when you discovered anything about the game that you can tell His Honor about?

A. I picked up a couple of decks of the cards down there and they had been filed on the side.

Q. What do you mean by "they had been filed"? What happens?

Herbert S. Glassman

A. Well, that enables one to be able to read the cards.

Mr. Wilkinson: If it please the Court, I object to this line of testimony. I think it is immaterial what transpired at that so-called gambling game. If it is a gambling debt, that is one thing. If they played with marked cards and shot dice, I think it is immaterial.

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The Court: Well, the defense charges that it was an illegal game, an illegal gambling game, as I understand it. Go ahead. I will permit it.

By Mr. Stant:

Q. Mr. Glassman, what action did you take after you discovered this as to any of the notes?

A. Well, I recall I came to you and explained the situation to you and you advised me that you thought you ought to notify the banks that I was doing business with, notify them against making any payments on those notes.

Q. All right, sir, and have you ever paid any of those notes?

A. Well, by error five thousand dollars was paid.

Q. On that error, was the money that was given to pay on that note—tell His Honor what kind of check that was and from where did this check come?

A. I was operating the Golden Key Club at the Golden Triangle Motor Hotel and we borrowed some forty-five or fifty thousand dollars from the Virginia National Bank, and we were paying it off at the rate of, I think it was either five thousand semi-annually or five thousand quarterly. We were in the habit of getting these notices when they would come in and we had to make the payments on those notes.

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On this occasion there was a note there that had come in calling for a five-thousand-dollar payment, and Mr. Doty, who is out of town at the present time, he was the manager of the Club at the time. Mr. Keeley over here (indicating) was the manager of the Golden Triangle Hotel. I told him that I had made out a check, a Golden Key Club check—

The Court: You want this witness to leave?

Mr. Stant: No, sir.

The Court: All right.

Herbert S. Glassman

By Mr. Stant:

Q. Go ahead.

A. I made out a check on the Golden Key Club for five thousand dollars plus interest and gave it to Mr. Doty, who was manager of the Club, and asked him to take it down to the bank and curtail this note. Mr. Keeley went down there with him.

Q. What note did you have in mind when you told him to curtail the note?

A. The balance of the forty-five or fifty thousand dollar original note of the Virginia National Bank.

Q. To what agency? Who was that forty-five or
2/27/68 fifty thousand dollars lent to?
page 15 } A. To the Golden Key Club.

Q. Now, Mr. Glassman, did you later discover that that check of the Golden Key Club had been used for any other purpose?

A. Yes. I later found out through a bookkeeper that that five thousand dollars had been applied to one of those notes, and I had no knowledge at the time there was any note in any other bank.

Q. Did you have any experience of paying anything on that note, on the note to which the five thousand dollars was applied?

A. No, sir.

Q. Mr. Glassman what occurred in your relationship with the Golden Key Club and their payment of this five thousand dollars? Did you ever make that good?

A. The five thousand dollars?

Q. Yes.

A. It was charged to me personally.

The Court: Where are the notes?

Mr. Wilkinson: Right here, Your Honor.

By Mr. Stant:

Q. That is the money you have claimed in a cross claim today, is that correct?

A. Yes, sir.

2/27/68 Q. Mr. Glassman, did the bank in Newport
page 16 } News, the Crown Savings Bank, ever call you at the Golden Triangle Motor Hotel for payment on those notes?

Herbert S. Glassman

A. I never had any conversation whatsoever with the bank or with Mr. Ridley. I never met him and know nothing about him.

Mr. Stant: All right, sir. Your witness, Mr. Wilkinson

CROSS-EXAMINATION

By Mr Wilkinson:

Q. Then I take it, Mr. Glassman, you did not notify Mr. Ridley or the Crown Savings Bank of these notes?

A. Well, I never had no account there and there was no reason for us to notify that bank, no more than the ten thousand other banks. We only notified the banks that I was doing business with.

Q. My question was, you did not notify them?

A. No, sir.

Q. You say you did not realize who held the note? You got their notice on that note, did you not, which gave you the credit for the five-thousand-dollar payment?

A. Well, I will put it to you this way: I saw the note and I was used to receiving the note from the Virginia National Bank every three months or so, and I just took it for granted because I had no note in any other banks, to my knowledge, and I automatically made out a check for five thousand dollars plus interest thinking all the time that it was the note due to Virginia National Bank.

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Q. Well, the notice says "Remit to Crown Savings Bank".

A. I never read that part of it. It was laying on the desk. I just took it for granted that it was the five-thousand-dollar payment, because in paying off forty-five thousand dollars, I got in the habit of making out checks for the payment on that note.

Q. How did you know that note was due on the same time you paid this note?

A. Well, we went down to the bank to pay this note. The Golden Key Club note wasn't due for about a month or so. Again, this slips my mind, because I didn't know just what date this note is due on until I received a notice.

Q. After you made payment of this note, you say you found there was a mistake, you didn't mean to pay this one, you meant to pay another one?

Herbert S. Glassman

A. Yes, sir. I meant to pay the note on the Virginia National Bank.

Q. Did you take any action then to recover that money?

A. I notified Mr. Stant immediately after I

2/27/68 found out about it.

page 18 } Q. Did you file any claim against the Virginia National Bank?

A. Yes, sir, I did.

Q. Was that suit adjudicated?

Mr. Stant: Let's get that right. The suit was by Golden Key Club, Incorporated, against Virginia National Bank, Your Honor.

The Court: This is cross-examination. I am going to permit him. You, of course, can get him back.

Mr. Stant: I just wanted to be helpful to the Court. It wasn't his suit. I am sorry, Your Honor. Excuse me, Your Honor. I have it here.

By Mr. Wilkinson:

Q. An effort was made to recover that five thousand dollars, wasn't it?

A. Yes, sir.

Q. And the Court ruled against you, didn't it?

A. I believe it did rule against us. I am not sure about that, though.

Q. You at the time were the operator of the Golden Key Club, weren't you?

A. When this happened?

Q. Yes.

2/27/68 A. How far back are we going?

page 19 } Q. 1964.

A. Yes. I was still in operation at the time.

Q. And you say you thought there was a mistake and you tried to rectify it and the Court disagreed with you, didn't they?

A. I believe that is the situation.

Q. And the suit was brought in the Circuit Court of the City of Norfolk, wasn't it?

Mr. Stant: If Mr. Wilkinson is willing to stipulate, I will stipulate that this is the bill of complaint that was filed and it was filed by the National Bank of Commerce, which is now the Virginia National Bank.

Herbert S. Glassman

The Court: Is that the stipulation, gentlemen?
Mr. Wilkinson: Yes, sir.
The Court: Do you want that marked?
Mr. Stant: Yes, sir.
The Court: We will make this Defendant's Exhibit No. 1.

(Whereupon, the bill of complaint was received in evidence and marked as Defendant's Exhibit No. 1.)

2/27/68
page 20 } By Mr. Wilkinson:

Q. Now, Mr. Glassman, when were these notes that were introduced in evidence given?

A. I think this was somewhere between the latter part of 1964 or the latter part—

Q. Can you refer to the date on this thing?

A. They were given in August and September, 1963.

Q. Now, this so-called game that you have referred to, when was that played?

A. That was, I'd say, within sixty to ninety days. It all happened over a period of about from six weeks to two months the whole thing happened.

Q. Did you give these notes at the conclusion of the game?

A. No. I gave them different times when we were playing.

Q. In other words, you would play in July and give a note in August?

A. That was possible.

Q. What?

A. I don't know. I won't say that that happened. Generally when we got through with playing for a day or two, we would settle up.

2/27/68 page 21 } Q. Now, you mentioned that you lost all the cash you had before you started giving these notes.

A. That's right.

Q. Let me ask you this: What effort, if any, have you made to recover the cash that you paid?

A. I am afraid I would have a little trouble trying to collect from these fellows.

Q. Would you answer the question?

A. Well, I tell you, it would be useless to try to collect anything because they don't have anything.

Q. In other words, you made no effort to recover the cash?

Herbert S. Glassman

A. I made an effort all right, but it didn't do me any good.

Q. Did you bring a suit against them?

A. No, sir, I did not.

Q. What effort did you make?

A. Well, we got into a pretty good tussle in the back room of the Key Club one day.

Q. When you found they were cheating you?

A. Yes, sir.

Q. Who was that that you got in a tussle with?

A. Halprin.

Q. Which one?

2/27/68 page 22 } A. Burt, and also—I can't think of the other boy's name. We had a pretty good tussle back there in the back.

Q. Are either of these people here today?

A. Not that I know of.

Q. Did you request that they be here?

A. I did not.

Q. Neither the Halprins nor this Mr. Vaintraub?

A. No. They are not my witnesses. I didn't ask them.

Q. How much cash did you lose in this game?

A. About a hundred thousand dollars.

Q. And after that you gave the notes?

A. Yes, sir.

Q. How long did this game progress before you realized that there were crooked cards involved?

A. Well, getting toward the time that I found these cards that were marked.

Q. Well, I mean, did you play after that?

A. Oh, no, not after I discovered that they were playing with crooked cards.

Q. When was that?

A. Well, that was between the time of these notes, after I discovered the cards, after it was all over. We had discontinued playing, of course. After that we played no more.

2/27/68
page 23 } The Court: Were you indicted and tried or were the other parties indicted and tried for a violation of the law?

The Witness: No, sir.

The Court: You have not yet been indicted?

Herbert S. Glassman

The Witness: No, sir.

By Mr. Wilkinson:
Q. Did you report this offense to anyone?
A. Only to my attorney.
Q. No one else?
A. No.
Q At the time you had this so-called tussle with the Halprins, had you reported the incident to your attorney then?
A. No. This thing started off as an innocent small game, and it just kept developing and going and going and going.

Mr. Wilkinson: I think that's all.

REDIRECT EXAMINATION

By Mr. Stant:
Q. Mr. Glassman, did you tell Mr. Wilkinson the names of the men that you played with and where these gentlemen are to the best of your ability and knowledge?
2/27/68 page 24 } A. Burt Halprin and Jack Halprin. They are in the City of Norfolk, to my knowledge. I haven't seen them in years.
Q. You told Mr. Wilkinson that, did you not?
A. When, today?
Q. No. When you had your discovery deposition or when the deposition was taken.
A. Well, I don't remember whether the question was asked or not.

Mr. Stant: Come down, Mr. Glassman.
Mr. Wilkinson: Wait a minute.
Mr. Stant: Your Honor, do you have any questions?
The Court: No
Mr. Wilkinson: Wait a minute.
Mr. Stant: Excuse me.
Mr. Wilkinson: Excuse me just a minute, Judge.

RECROSS-EXAMINATION

By Mr. Wilkinson:
Q. Do you recall when I asked you the names of these parties at the time of the taking of the deposition, Mr. Glassman? You do remember that, do you not?

Richard B. Keeley

Mr. Stant: He just said he didn't remember.

2/27/68
page 25 } By Mr. Wilkinson:
Q. You don't remember that?
A. No, I don't recall just that particular item.

Mr. Wilkinson: All right, sir, that's all I have.
Mr. Stant: Come down, Mr. Glassman.

RICHARD B. KEELEY, called as a witness by and on behalf of the defendant, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Stant:
Q. Mr. Keeley, what is your full name, please?
A. Richard B. Keeley.
Q. Mr. Keeley, what is your occupation at the present time?
A. I am the manager of the Americana Motel at Virginia Beach.
Q. And in August and September of 1963, what was your occupation?
A. I was general manager of the Golden Triangle Motor Hotel in Norfolk.
2/27/68 Q. During that period of time did you have
page 26 } occasion to see Mr. Glassman participating in any gin rummy games with anyone?
A. Yes.
Q. Could you give us the names of those people?
A. Well, Mr. Vaintraub from New York City, and the two Halprin men from Norfolk.
Q. All right, sir. And as a result of those games, can you tell His Honor whether or not any notes were given?
A. To my knowledge, there were, sir.

The Court: Where did you get your knowledge?
The Witness: I talked with Mr. Glassman about it.
The Court: That is the only way you got your knowledge of this?
The Witness: Yes, sir.

Richard B. Keeley

By Mr. Stant:

Q. Did you see any notes passed?

A. Subsequent events made me realize there were these notes. There was right much talk about it.

Q. You did not see any notes passed?

A. No, sir.

2/27/68 page 27 } Mr. Wilkinson: I move that his evidence be stricken.

Mr. Stant: Wait a minute.

By Mr. Stant:

Q. You do know that a game of gin rummy existed between those people, do you not?

A. Yes, sir, I certainly do.

Q. In addition thereto, Mr. Keeley, did there come a time in those games when you were aware and saw any evidence of what had occurred in those games?

A. I knew that Mr. Glassman was losing.

Q. No. I am talking about the cards that the game was played with. Can you tell us anything about them?

A. I had a deck of cards shown to me that had been taken out of this room where the game took place, and the person that showed me those cards said that—

Q. Don't say what he said to you. Tell me what they were.

A. He showed me this deck of cards and he said that those cards had been used—

Mr. Wilkinson: I object, if it please the Court.

The Court: Did you examine the cards?

The Witness: No, sir. He showed them to me and he said—

The Court: Don't tell us what he said.

2/27/68
page 28 } By Mr. Stant:

Q. What did he do?

A. He demonstrated that he could identify any card by the backs of them. Without looking at the face of the card, he could tell whether it was the ace of spades or hearts, *et cetera.*

Q. Was that knowledge transmitted to Mr. Glassman?

A. Yes, sir, I told him.

Richard B. Keeley

Q. And did there come a time when you went with anyone to pay off a note to any bank?

A. Yes, sir.

Q. Could you tell us what bank you went to and where?

A. Mr. Ed Doty, who was the manager of the Key Club, stopped by my office and asked me to accompany him to the People's Branch of the Bank of Commerce which was at that time over on Boush Street, and it was a very cold day. We were walking over there and he said, "We just got this notice from—"—

Mr. Wilkinson: I object.

By Mr. Stant:

Q. Did you see the check that he took over there?

A. Yes, sir. I certainly did.

2/27/68 page 29 } Q. What check was it on?

A. It was a Key Club check in the amount of five thousand and seventy-some odd dollars.

Q. Would you state what you did with that check?

A. He went to the note teller. It was just before closing time, and asked for the note of the Key Club. The young lady said that she didn't have the note, and Mr. Doty said, "Well, we received a notice—"—

Mr. Wilkinson: I object to all this, Your Honor.

The Court: You can't tell what anyone said. Just tell us what you saw.

By Mr. Stant:

Q. Did you leave the note there?

A. I saw Mr. Doty attempt to get the note from the young lady.

Q. All right, sir. Was the note showed to you?

A. No, sir, it was not in the teller's cage.

Q. What did he then do with the check?

A. He presented the check to the young lady and she gave him a receipt for it and said that—

Q. Don't tell us what she said.

2/27/68 page 30 } She gave him a receipt for it and that check was then left there by Mr. Doty?

A. Yes, sir, and we returned to the hotel.

Mr. Stant: Your witness.

Herbert S. Glassman

CROSS-EXAMINATION

By Mr. Wilkinson:

Q. Were you employed by Mr. Glassman at the time?

A. Mr. Glassman was joint owner of the Golden Triangle. The Futterman Corporation were the other owners.

Q. You were employed by him?

A. I was employed by the corporation, sir.

Q. And you were not present at any of these alleged incidents, were you?

A. Yes, sir.

Q. Where were you when the so-called gin rummy games were going on?

A. They were played in Room 801, a suite.

Q. You were there?

A. At several of them, yes, sir.

Q. You were?

A. Yes, sir.

Q. All right, sir. Did you see any money transferred?

2/27/68 page 31 } A. No, sir.

Q. Did you see any paper transferred of any kind?

A. No, sir.

Q. All right, sir.

A. I saw scores kept, sir.

Mr Wilkinson: That's all.

Mr. Stant: Come down.

* * * * *

HERBERT S. GLASSMAN, recalled as an adverse witness, previously duly sworn, was examined and testified further as follows:

The Court: What is your present address, Mr. Glassman?

The Witness: Pembroke Towers.

2/27/68 page 32 } The Court: What is your full address?

The Witness: 112 Pembroke Towers, Norfolk, Virginia.

Herbert S. Glassman

DIRECT EXAMINATION (Adverse)

By Mr. Wilkinson:

Q. Mr. Glassman, do you recall giving a deposition in this case on November 16, 1967, in the office of Mr. Stant?

A. Yes.

Q. And Mr. Slocum and I, I believe, were present?

A. Yes, sir.

Q. Do you recall I asked you how many people were involved in this gin rummy game, and your answer was, "Three people. Well, principally, I'd say—well, it was three people besides myself."

Question, "Was anyone else present besides the two Mr. Halprins whom you have mentioned, yourself, and Mr. Vaintraub?"

Answer, "No. This was a three-way deal, Hart, Schaftner and Marks."

Next question, "What part did Mr. Halprin play in this game?"

2/27/68 page 33 } Answer, "Well, you see, we played around. We were playing this game and I am in the middle of this whole thing, of course, unbeknowing to me."

Now, I ask you when you testified at that time did you know whether or not Mr. Keeley had been in any of these games or had been an observer?

Mr. Stant: I must object to that. That is not the proposition that he asked him. He asked him who was in the game.

Mr. Wilkinson: I asked him who was present.

Mr. Stant: You were talking about the game.

The Court: This is cross-examination. Go ahead.

The Witness: I would certainly think that you were referring to who were the players, because many times it was other people in the room while we were playing as observers or kibitzers.

By Mr. Wilkinson:

Q. So you misunderstood my question when I asked you who was present at that time? You understood that meant only who was playing?

A. Who was playing, yes.

Mr. Wilkinson: I see. I have no further questions.

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

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