

CAUSE NO. 2024CCV-61174-3

AJIT DAVID,	§	IN THE COUNTY COURT
Plaintiff,	§	
	§	
vs.	§	AT LAW NO. 3
	§	
CITY OF CORPUS CHRISTI,	§	
TEXAS,	§	
Defendant.	§	NUECES COUNTY, TEXAS

ORAL VIDEOTAPED DEPOSITION

HEATHER HURLBERT

June 13, 2025

ORAL VIDEOTAPED DEPOSITION OF HEATHER HURLBERT,  
produced as a witness at the instance of the Plaintiff  
and duly sworn, was taken in the above-styled and  
numbered cause on June 13, 2025, from 9:03 a.m. to  
1:55 p.m., before Tanisha Terrazas, Certified Shorthand  
Reporter in and for the State of Texas, reported by oral  
stenography at the offices of Corpus Christi City Hall,  
1201 Leopard Street, 5th Floor, Corpus Christi, Texas  
78401, pursuant to the Texas Rules of Civil Procedure  
and the provisions stated on the record or attached  
hereto.

APPEARANCES

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ALSO PRESENT:

Tom Kling, videographer

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INDEX

WITNESS:	PAGE
HEATHER HURLBERT	
Examination by Mr. Allison .....	5
Deposition concluded .....	178
Witness Errata Sheet .....	179
Witness Signature Page .....	180
Court Reporter's Certificate .....	181

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
1	Meeting Agenda - December 11, 2023	67
2	National Flood Hazard Layer FIRMette	78
3	Agenda Memorandum - January 30, 2024	86
4	Meeting Agenda - February 20, 2024	102
5	Meeting Agenda - February 27, 2024	103
6	Email - Red Flags in Proposed Hotel Incentive	107
7	Audio Tape Transcription	117
8	Agenda Memorandum - March 11, 2024	123

1  
2  
3  
4  
5  
6  
7  
8  
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10  
11  
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14  
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EXHIBITS (cont.)

EXHIBIT	DESCRIPTION	PAGE
9	Homewood Suites Elevate QOF, LLC, Letter	151

1 P-R-O-C-E-E-D-I-N-G-S

2 Whereupon,

3 9:03 a.m.

4

5 THE VIDEOGRAPHER: The time is 9:03 a.m.  
6 June 13th, 2025. We are recording.

7 THE COURT REPORTER: My name is Tanisha  
8 Terrazas, Texas CSR Number 12061. I will be  
9 administering the oath and reporting the deposition by  
10 oral stenography.

11 (The witness was sworn.)

12 HEATHER HURLBERT,  
13 having been first duly sworn, testified as follows:

14 EXAMINATION

15 BY MR. ALLISON:

16 Q. Okay. Good morning. My name is Doug Allison.

17 A. Good morning.

18 Q. And would you state your name for the record,  
19 please?

20 A. Heather Hurlbert.

21 Q. And, Ms. Hurlbert, go ahead and tell us where  
22 you are working today?

23 A. For the City of Corpus Christi.

24 Q. And what is your job today for the City of  
25 Corpus Christi?

1           A.     I'm one of the assistant city managers.

2           Q.     I know there are multiple assistant city  
3 managers.

4                     Do you have a specific -- an area or -- of  
5 the city you're assistant city manager for?

6           A.     Yes, currently under my purview is Budget,  
7 Finance, Economic Development, and Parks and Recreation.

8           Q.     And very generally, do you understand today  
9 that we're here in connection with a lawsuit that is  
10 complaining about a specific ordinance that was a award  
11 of \$2 million to a particular company?

12          A.     Yes.

13          Q.     Before we get into the details of that, do you  
14 understand the nature of your oath?

15          A.     Yes.

16          Q.     And you understand that there's a stenographer  
17 here and a video here so that everything that's in the  
18 room and happening -- every word spoken is being  
19 recorded?

20          A.     Yes.

21          Q.     Have you been deposed before?

22          A.     No.

23          Q.     I'll tell you right now, if you want to take a  
24 break, I usually say let's take a break about each hour.

25          A.     Sure.

1 Q. But we may be a little longer, a little bit  
2 less.

3 A. Sure.

4 Q. But if you want a break, I don't have any  
5 problem with you asking for a break, okay?

6 A. Okay.

7 Q. I will say though -- and I follow this rule if  
8 it's okay with you -- and that is the purpose of the  
9 break is to take a break. And I'm not saying you would  
10 do this. It's not to run over and figure out what  
11 you're supposed to say.

12 A. Sure.

13 Q. So whatever question or line of questioning we  
14 are on, we'll probably finish if that's okay with you?

15 A. Of course.

16 Q. Okay. Before we get to your -- work you've  
17 done here at the City and the specifics of this lawsuit,  
18 I do want to go back to get some background on you.

19 Where did you go to high school?

20 A. I went to Boerne High School.

21 Q. And what year did you graduate?

22 A. 1988.

23 Q. Did you go to college after that?

24 A. Yes.

25 Q. And where did you go to college?

1 A. I graduated from UTSA.

2 Q. And what year was that?

3 A. 1994.

4 Q. '94?

5 A. Uh-huh.

6 Q. And after that, did you go for any additional  
7 formal education?

8 A. No.

9 Q. And what was your area of focus or major?

10 A. Business -- business administration with a --  
11 with -- and accounting -- focus in accounting.

12 Q. Are you a CPA?

13 A. I am.

14 Q. We both know that's Certified Public  
15 Accountant?

16 A. Exactly.

17 Q. When did you -- is that a license?

18 A. Yes.

19 Q. And when did you get your CPA license?

20 A. It was in '96.

21 Q. I think you just told me you did not do any  
22 other additional formal education?

23 A. No.

24 Q. Correct?

25 A. That is correct.



1 Q. There was a double negative in there.  
2 Sometimes I'll fix those.

3 Did you do any additional coursework,  
4 seminars anything that led to your CPA license?

5 A. No.

6 Q. You just took the test?

7 A. Yes.

8 Q. And I don't know. I'm not trying to have you  
9 give an answer maybe that gives 20 people, but will you  
10 give me the thumbnail sketch -- or -- or 20 employers?  
11 Will you get me the thumbnail sketch from 1996 to when  
12 you started with the City?

13 A. Sure. So my first professional job was with  
14 Tower Life Insurance in San Antonio. I was a staff  
15 accountant for them. And then I left there, worked for  
16 a restaurant as a restaurant manager. I remembered why  
17 I got my degree, and then went into -- I went out of the  
18 restaurant business and back into -- where did I work  
19 next? Randolph-Brooks Federal Credit union.

20 I was trying to -- I was there for a  
21 while. I left Randolph-Brooks and worked for Arthur  
22 Andersen as an auditor. I left Arthur Andersen and  
23 worked for Simpson Race Products as their retail  
24 comptroller. Left Randolph-Brooks worked for Taco  
25 Cabana as their financial reporting and budgeting

1 manager.

2 Left Randolph -- left Taco Cabana and  
3 worked for a private CPA firm. And then from there, I  
4 left there, went to work for the City of San Marcos.  
5 And then left San Marcos to come here to Corpus Christi.

6 Q. And I think I got the list pretty good there.

7 After you got your CPA license in 1986,  
8 which one of these would have been your first job?

9 A. The Tower Life Insurance. And actually that  
10 was I did not have my license at the time that I started  
11 working for Tower Life Insurance. I had graduated. But  
12 I had not gotten my degree yet -- I mean, I had not --  
13 not gotten my license yet.

14 Q. And then I -- I heard the restaurant manager?

15 A. Uh-huh.

16 Q. And then it sounds like you went to work for a  
17 credit union?

18 A. Uh-huh.

19 Q. Is that a yes?

20 A. Yes. I'm sorry. Yes. Randolph-Brooks Federal  
21 Credit Union.

22 Q. I do that for her. I knew what you meant.

23 A. Sure.

24 Q. Okay. And I'm sorry, what was the name of that  
25 credit union?

1           A.     Randolph-Brooks Federal Credit Union.

2           Q.     And what did you do for Randolph-Brooks Federal  
3 Credit Union?

4           A.     I was one of their staff accountants and I  
5 think I was then promoted up to accounting manager.

6           Q.     And after that, I think you said you went to --  
7 to Arthur Andersen?

8           A.     Yes, I was an auditor for Arthur Andersen.

9           Q.     When you say auditor I think probably I know  
10 what that means. But tell me what that job was.

11          A.     I was a financial auditor. So we went to  
12 various companies that contracted with Arthur Andersen  
13 to do their audits, their financial audit. And so I was  
14 one of the staff auditors.

15          Q.     Would that include some -- what I'm going to  
16 call compliance auditing?

17          A.     Yes.

18          Q.     And when you're auditing for compliance, are  
19 you making sure, I guess, first of all that they're  
20 probably following generally-accepted accounting  
21 procedures?

22          A.     Accounting principles, yes.

23          Q.     Sorry. GAAP?

24          A.     Yes.

25          Q.     And what you're doing compliance are you

1 also -- is there a component of that, that also makes  
2 sure that there is legal compliance?

3 A. Less legal compli -- we wouldn't necessarily  
4 audit for legal compliance. We would audit for the  
5 accounting compliance.

6 Q. Okay. And under the umbrella of GAAP or  
7 accounting compliance --

8 A. Uh-huh.

9 Q. -- doesn't that make sure that -- are you  
10 looking at any of their procedures?

11 A. There is -- yes, we do look at some of their  
12 internal -- their internal procedures other controls  
13 that are in place, yes.

14 Q. So you're not making sure they are following  
15 their internal procedures and controls?

16 A. That is correct, yes.

17 Q. That's part of that audit process?

18 A. Yes, yeah, to assess risk and look at their  
19 internal --

20 Q. Huh?

21 A. To assess risks and look at their control --  
22 internal controls.

23 Q. Does that sometimes mean that you're actually  
24 looking at their policies and procedures to make sure  
25 that the way they're doing their -- their accounting for

1 things match up?

2 A. Yes.

3 Q. On my list, the next one I had was  
4 Randolph-Brooks but maybe that was earlier?

5 A. Yes, that was before Arthur Andersen.

6 Q. Okay. Maybe I wrote down the wrong --

7 A. That's okay.

8 Q. Okay. And then for Taco Cabana, what did you  
9 do?

10 A. Actually I left Arthur Andersen and I went to  
11 work for Simpson Race Products.

12 Q. I missed that one a minute ago. What was it  
13 called?

14 A. Simpson Race Products.

15 Q. And what is that?

16 A. They manufacture equipment for NASCAR for car  
17 -- for drag racing. They had five retail locations  
18 across the United States and I was their retail  
19 comptroller?

20 Q. And as comptroller, what did you do?

21 A. Oversaw the operations and the, you know, like  
22 -- basically oversaw the operations within the retail  
23 stores, general managers reported up to me, looked at  
24 their accounting. Looked at their financials, that kind  
25 of stuff.

1 Q. Did that involve some of the same type of  
2 compliance probably that we talked about with Arthur  
3 Andersen?

4 A. A -- a little bit. It was less auditing and  
5 more of managing the day-to-day reporting making sure  
6 the bank statements are reconc -- reconciled. Making  
7 sure that they -- you know, the -- the numbers -- all  
8 the -- everything that comes in for the different stores  
9 and stuff.

10 Q. Yeah. And I understand Arthur Andersen, you're  
11 coming in after-the-fact?

12 A. Exactly.

13 Q. And making sure they comply?

14 A. That's right.

15 Q. And probably for Simpson Race Products, you're  
16 overseeing it from a management perspective to make sure  
17 they're complying sort of in realtime?

18 A. That is correct and then putting the  
19 information together that then would be audited.

20 Q. Yeah.

21 A. So financial statements that type of stuff.

22 Q. So on one of those you're on one side of it?

23 A. Uh-huh.

24 Q. And the other one, you're on the other side of  
25 it?

1 A. Exactly.

2 Q. But it's a lot of the same skill set?

3 A. Yes.

4 Q. And then, I think you said you went for -- to  
5 work for a private CPA firm?

6 A. No, then I went to Taco Cabana.

7 Q. Ah, I did have the order wrong. Thank you.

8 A. That's okay.

9 Q. And what did you do for Taco Cabana?

10 A. I was their financial reporting and budgeting  
11 manager.

12 Q. And what did that mean you did as a practical  
13 matter?

14 A. So I was over accounts payable, payroll,  
15 accounts receivable, financial reporting, cash  
16 management.

17 So on the financial reporting side,  
18 working on the financial reporting to create those  
19 financial reports on a monthly basis, and then we pass  
20 them off to our corporate office.

21 In addition, then I also was over the  
22 budgeting. So we budgeted for 150 something stores in  
23 three states, along with the budgeting for the corporate  
24 function.

25 Q. Okay. Again, a large part of that on the

1 reporting side, financial reporting side obviously, it  
2 sounds like you're passing those reports up to  
3 corporate?

4 A. Yes.

5 Q. But again, that's making sure there's  
6 compliance?

7 A. Uh-huh.

8 Q. Making sure you're following the procedures,  
9 make sure --

10 A. Uh-huh.

11 Q. Making sure you're following the rules?

12 A. That is correct.

13 Q. Yeah. Then was there a private CPA firm?

14 A. Yes. After that.

15 Q. Who is that?

16 A. Steve Bankler was the name of the firm.

17 Q. And what did you do for that firm?

18 A. So I worked with them, doing small business,  
19 basically write up or accounting, and then tax  
20 preparation for small businesses.

21 Q. And then you went to the City of San Marcos?

22 A. Yes.

23 Q. Go ahead and give me -- I've gotten some  
24 background on you, but I'm going to start putting some  
25 time on it now.



1 A. Sure.

2 Q. What year do you think that was?

3 A. That I went to San Marcos? Was 2009.

4 Q. And how long were you with them?

5 A. 11-years.

6 Q. So about 220 -- 2020?

7 A. Yeah, 2020 is when I started with the City of  
8 Corpus Christi.

9 Q. And what did you do for City of San Marcos?

10 A. I was hired in as their assistant director of  
11 finance, and then was promoted up to the director of  
12 finance and CFO.

13 Q. Obviously that has a lot of either directly for  
14 you or you're overseeing compliance.

15 A. Yes.

16 Q. Is City of San Marcos, is that a home rule  
17 city?

18 A. Yes.

19 Q. For example, I'm generally familiar with there  
20 being statutes that require strict compliance for  
21 procurement.

22 Do you know what I'm referring to?

23 A. Yes.

24 Q. For cities, right?

25 A. Yes, all cities fall under the state statutes.

1 Yes.

2 Q. Yeah. And would you have oversight of  
3 compliance with those legal requirements?

4 A. Yes.

5 THE COURT REPORTER: You said San Marcos  
6 was a home rule? Home rule?

7 MR. ALLISON: Home rule.

8 THE COURT REPORTER: Okay.

9 Q. (BY MR. ALLISON) It's a -- City of San Marcos,  
10 I assume, would have a city charter?

11 A. Yes.

12 Q. Would you have responsibility in your job for  
13 City of San Marcos to make sure that there was  
14 compliance in so far as its interaction with the  
15 financial part of the City, compliance with the charter?

16 A. Yes.

17 Q. The City of San Marcos is that where you sort  
18 of made the jump from going to from the private sector  
19 to the public sector?

20 A. Correct.

21 Q. And I'm sure you understand the need for  
22 heightened scrutiny. Don't get me wrong, it may be your  
23 view that you should always have heightened scrutiny,  
24 but in -- when you're dealing with public money, there's  
25 certainly some would say there's heightened scrutiny.

1 A. Sure.

2 Q. Did the City of San Marcos, it's not an  
3 uncommon feature did they have some sort of a  
4 two-reading rule?

5 A. Yes. Their charter did require two readings of  
6 ordinances.

7 Q. Two readings --

8 A. Of ordinances.

9 Q. I was -- I was guessing that they did it like  
10 Corpus does, and called them ordinances also?

11 A. Yes.

12 Q. In other words, City of San Marcos acts by  
13 passing an ordinance, as does the City of Corpus?

14 A. For certain things.

15 Q. I understand, not always. That's one way?

16 A. Exactly, depending on the type of -- of -- of  
17 item it is. It requires either an ordinance, a  
18 resolution, or a motion.

19 Q. And just in sort of your terms, how you view  
20 it, how would you define or describe the two-reading  
21 rule?

22 A. I'm not sure I understand your question.

23 Q. Well, if somebody said, what's the two-reading  
24 rule, explain it to me. Go ahead.

25 A. Oh, that it has -- an ordinance has to be

1 considered by city council twice, or has to be read  
2 twice.

3 Q. And did the City of San Marcos have a wording  
4 in its two-reading rule like does Corpus where it  
5 requires the same ordinance to be read? I'm quoting  
6 when I say same.

7 A. There could be modifications between the first  
8 and second reading as long as it was substantially the  
9 same.

10 Q. Okay. That's the rule for the City of San  
11 Marcos?

12 A. Uh-huh.

13 Q. Right? Is that what you're telling me?

14 A. I believe so, yes.

15 Q. Okay. That's your recollection?

16 A. That -- that is my recollection.

17 Q. And I'm not trying to hold you down to their  
18 exact wording.

19 A. Yeah, but yes, that -- that they could change  
20 from first to second reading. Because it was -- based  
21 off of second reading.

22 Q. They allow that in the City of San Marcos?

23 A. Yes.

24 Q. And we're going to get to it later, but I'm  
25 sure you would agree that there needs to be strict

1 compliance with the words that are in the City of Corpus  
2 Christi's charter for the two-reading rule?

3 A. Yes.

4 Q. Okay. In other words, from one city to  
5 another, the language may vary a little bit, true?

6 A. It could, yes.

7 Q. And you're not here trying to testify that the  
8 City of Marcos was the same as the City of Corpus  
9 Christi in terms of the exact verbiage?

10 A. That is correct. I couldn't -- I couldn't  
11 speak to that.

12 Q. Okay. When you began then with the City of  
13 Corpus Christi, that was in 2020?

14 A. That's correct.

15 Q. And what position did you first take here?

16 A. The director of finance.

17 Q. And how long were you director of finance?

18 A. I was director of finance for three years,  
19 about three years.

20 Q. And then what did you become?

21 A. And then I was promoted up to assistant city  
22 manager.

23 Q. Do you remember the date and year that that  
24 transition, that up -- that change to assistant city  
25 manager, occurred?

1           A.     It was in May of '23.

2           Q.     Let's go back to your period of time, 2020,  
3 through May of 2023 where you were working for City of  
4 Corpus Christi and director of finance.

5                     Do I have it right so far?

6           A.     Yes.

7           Q.     Tell me what you -- what your job  
8 responsibilities were?

9           A.     So it was to oversee the finance department,  
10 which included all of the financial reporting, all the  
11 cash management, accounts payable, accounts receivable,  
12 payroll, procurement and economic development.

13          Q.     And during that period of time when you were  
14 serving as director of finance, would you attend city  
15 council meetings?

16          A.     Yes.

17          Q.     Always? I'm not saying you never missed one,  
18 but generally, always?

19          A.     Gen -- as a general rule, yes. Either I was in  
20 chambers or I watched it online.

21          Q.     During that period, and of course, it's -- part  
22 of that period is COVID.

23          A.     Yes.

24          Q.     Okay.

25          A.     Exactly, everything was online.

1 Q. Yes. And during -- during that period of time,  
2 as director of finance, would you also participate in  
3 executive session?

4 A. Yes.

5 Q. During that period of time, did you have --  
6 would you participate in drafting agenda items?

7 A. Yes.

8 Q. During that period of time, would you  
9 participate in drafting memos in support of agenda  
10 items?

11 A. Yes.

12 Q. As director of finance, would it be your  
13 responsibility to make sure that you're complying with  
14 procurement laws?

15 A. Yes.

16 Q. And you and I both know, but the State of Texas  
17 promulgates laws, statutes that define exactly that  
18 procurement process, right?

19 A. Yes.

20 Q. Okay. And that --

21 A. Aspects of that procurement process, yes.

22 Q. Yeah. During the period of time you were  
23 director of finance, would you have interaction with the  
24 legal department for the City?

25 A. Yes.

1 Q. On what sort of matters?

2 A. A multitude of matters.

3 Q. Anything that came up that probably involved  
4 money and the law?

5 A. Yes or --

6 Q. Any issue --

7 A. Or agenda items or contracts or procurement,  
8 or, like I said, a -- a multitude of things.

9 Q. What was the practice there, as far as what  
10 would be the trigger for you, as director of finance, to  
11 maybe reach out to Legal?

12 A. I mean, we worked with Legal on a daily basis.  
13 I mean, we worked with Legal on all of our agenda items.  
14 Like I said, all of our contracts, all of our  
15 agreements, multitude of things. Yeah.

16 Q. There's a huge interaction between how the  
17 money flows and making sure it complies with law?

18 A. Yes.

19 Q. Would there be a question -- I'm sure there  
20 would be while you were director of finance, where you  
21 would say, Hey, can we do this action or do something?  
22 And is that allowed under the laws of the State of  
23 Texas, whether it's procurement or otherwise?

24 A. Always.

25 Q. Yeah, and so you would like you said, almost



1 daily be in contact with Legal. That means every day  
2 you're --

3 A. Uh-huh.

4 Q. -- wondering if you're running afoul of the law  
5 or not, but --

6 A. No.

7 Q. But almost -- but daily you're contacting or  
8 working with Legal and making sure that you are  
9 following the laws of the State of Texas.

10 A. If any questions arise, yeah.

11 Q. Pardon?

12 A. I said, if any questions arise, or I need -- if  
13 I have any questions, yes.

14 Q. If you have any questions about legal  
15 compliance?

16 A. Yes.

17 Q. I kind of backed into that one with about three  
18 answers. So I'm going to ask you one time.

19 A. Okay.

20 Q. In your role as director of finance for the  
21 period of time you were doing that for the City of  
22 Corpus Christi, it was your rule to follow that if you  
23 had any question about legal compliance with the laws of  
24 the State of Texas, then you would contact Legal?

25 A. Yes.

1           Q.    And you would talk to them on a daily basis, so  
2 they were a resource that was immediately available to  
3 you?

4           A.    Yes.

5           Q.    What was your job description once you changed  
6 to start doing the job of assistant city manager?

7           A.    So when I moved into the -- I mean, it's to  
8 oversee various departments. When I moved into the  
9 assistant city manager role, I was over parks and  
10 recreation, economic development, airport, IT. I think  
11 that's it.

12          Q.    And now you're over different departments?

13          A.    Some of those -- yeah, some of the same, some  
14 of the different. Yes.

15          Q.    As you listed earlier?

16          A.    Yes, exactly.

17          Q.    Okay. As of, let's say December of 2023 you  
18 would have been assistant manager for that period  
19 through April, the end of April, let's say even May 2024  
20 what specific departments were you over?

21          A.    Those four that I mentioned, the economic  
22 development, parks, airport, and IT.

23          Q.    Okay. I asked you, and you've described to me  
24 your interaction with Legal?

25          A.    Uh-huh.

1 Q. How would you normally communicate with them?

2 A. A variety of ways, whether it was in person,  
3 over the phone or through email.

4 Q. Okay. During the same period of time. Let me  
5 back up.

6 During the period of time that you were  
7 assistant manager, do you think I mean you're reaching  
8 out by email once a day, ten times a day, once a week,  
9 you're sending a hundred emails a week?

10 How would you just describe it?

11 A. It would ebb and flow, depending on what I was  
12 dealing with them on. So I couldn't -- it would ebbs  
13 and flows.

14 Q. Are you a big emailer?

15 A. Actually, I'm more of in-person. A lot of  
16 times pick up the phone.

17 Q. Do you do ten emails a week at least?

18 A. Oh, to Legal specifically?

19 Q. Sure.

20 A. Like I said, it ebbs and flows.

21 Q. But sometimes?

22 A. Yes.

23 Q. I mean you --

24 A. Depending -- depending on if we were working on  
25 something together, yes.

1           Q.     Okay. During that same period of time, how  
2 would you communicate with your city manager?

3           A.     The same. Either through text, email, in  
4 person, phone calls.

5           Q.     And would you say you would frequently, during  
6 that period of time, be providing information to your  
7 city manager?

8           A.     Yes.

9           Q.     Okay. I'm guessing, but you're going to tell  
10 me if I'm right or wrong. My guess would be, since  
11 you're the city manager, and he's the city manager,  
12 we're talking about Peter Zanoni, right?

13          A.     Uh-huh.

14          Q.     You need a spoken response.

15          A.     Oh, yes, sorry.

16          Q.     It's okay. I imagine it's pretty hugely  
17 important to you to make sure that you provide any  
18 important information to your boss.

19          A.     That is correct.

20          Q.     Yeah. I mean, is it your practice in any way,  
21 shape or form, to withhold information from Peter Zanoni  
22 when it is relevant to an issue?

23          A.     No.

24          Q.     Are you the type of employee that if there's an  
25 issue and you have some information about it, you're

1 going to make sure you communicate it to your boss?

2 A. That is correct.

3 Q. And is that something that Peter Zanoni insists  
4 on?

5 A. I don't know if that is an insist. But that  
6 you want to make sure that, you know, you -- you always  
7 want to make sure your boss is informed.

8 Q. And I didn't mean at that time, insist in a bad  
9 way.

10 A. Okay. Okay.

11 Q. You think he expects of you that you're going  
12 to make sure you communicate all important information?

13 A. Yes.

14 Q. And keep him informed?

15 A. Yes.

16 Q. That's the way he does business?

17 A. Yes.

18 Q. Okay. And he -- and you feel like not that  
19 it's a bad thing, but that he requires that of you as an  
20 assistant city manager?

21 A. Yes.

22 Q. Has that always been your experience with  
23 Peter Zanoni?

24 A. Yes.

25 Q. When you were assistant city manager, would you

1 still have -- for the period of time we're talking  
2 about, would you still have frequent contact with Legal?

3 A. Yes, yeah.

4 Q. And would you still have the responsibility of  
5 participating and drafting agenda items?

6 A. Yes.

7 Q. And still have the responsibility of drafting  
8 memos and support of agenda items?

9 A. Yes.

10 Q. And still have the responsibility of making  
11 sure there's compliance with the laws of the State of  
12 Texas?

13 A. That is correct.

14 Q. And still make sure you had the -- oh, wait.  
15 And still had the responsibility of really interaction  
16 with multiple departments to make sure all those duties  
17 were discharged?

18 A. That is correct.

19 Q. And still follow the rule that if you had any  
20 questions about legal compliance, then you would call  
21 Legal?

22 A. Always.

23 Q. When -- when any employee in the City of Corpus  
24 Christi has a question and they get it over to Legal,  
25 I'm -- you would -- you would expect Legal to help you

1 with an answer, right as much as I can?

2 A. Yeah, I can't speak for all employees, but for  
3 me, yes.

4 Q. Okay. And I mean, you think it's fair that you  
5 rely on them for what ought to be done legally or not.

6 A. That is correct.

7 Q. In other words, you don't try to be the lawyer?

8 A. No. I don't --

9 Q. If the --

10 A. I don't have that after my name. No.

11 Q. And -- and you mentioned contracts for a minute  
12 ago -- a moment ago or so. For example, if you had a  
13 question about the validity of a contract, then you  
14 would -- that would be the sort of thing you would  
15 contact Legal on?

16 A. Define validity. I'm not sure what you mean.

17 Q. Is it valid? Is it enforceable?

18 A. Yes.

19 Q. Was it done correctly?

20 A. Yeah.

21 Q. If you had any question like that about a  
22 contract and you refer it to Legal, you would expect  
23 them to tell you if it's valid or enforceable or  
24 properly done from a legal standpoint.

25 A. That is correct.

1 Q. You don't play the lawyer.

2 A. No.

3 Q. You rely on Legal to give you the answer, and  
4 then you follow their advice.

5 A. That is correct.

6 Q. That's the structure here.

7 A. Yes.

8 Q. And would you then communicate whatever  
9 result -- whatever advice you get, legal advice from the  
10 Legal department of the City -- would you communicate  
11 that to the city manager, or would you expect the Legal  
12 Department to do it? Or do you usually do it on like a  
13 string?

14 A. It depends on the -- it depends on the  
15 situation. We -- a lot of times, are at meetings  
16 together with Legal, city manager, myself. If it is  
17 something that maybe Legal was not in the room at or  
18 there was conversations had, yes, that would be  
19 communicated.

20 Q. Okay. I'm going to break that down a little  
21 bit.

22 A. Yeah.

23 Q. While you were assistant city manager, how  
24 often would you have meetings, let's say, with the city  
25 manager?



1       A.    Oh, I couldn't speak to that.  It just depends.  
2   I mean, we do weekly, you know, agenda reviews.  We have  
3   executive leadership team meetings, and then there's  
4   just ad hoc meetings, so.

5       Q.    Do you see Peter -- is that only once a week,  
6   once a month?

7       A.    That's a weird question.  I would see him  
8   probably daily.

9       Q.    Okay.  And I mean, if there's important  
10   information relating to an issue, then you would be able  
11   to communicate it to him daily?

12      A.    Of course.

13      Q.    And if there was a legal issue, it would either  
14   be, it sounds like one way to handle it was, maybe it'd  
15   be Zaroni and you and Legal and maybe some others, if  
16   they were involved in that issue --

17      A.    Uh-huh.

18      Q.    -- fair enough?

19      A.    Yes.

20      Q.    Have an in-person meeting?

21      A.    Yes.

22      Q.    And that would be the way that information  
23   would get to Mr. Zaroni?

24      A.    Yes.

25      Q.    But if, for some reason, Mr. Zaroni wasn't

1     there, then you'd either make sure that you told him,  
2     following the practice we talked about earlier?

3           A.     Uh-huh.

4           Q.     Correct?

5           A.     Yes.

6           Q.     Or maybe there'd be an email string that would  
7     be shared with Mr. Zanoni in order to make sure he got  
8     that information?

9           A.     Yes.

10          Q.     But one way or the other, maybe not always on a  
11     daily basis, but at least, say, on a weekly basis,  
12     important information relating to any issues are being  
13     communicated to Mr. Zanoni.

14          A.     Yes.

15          Q.     That's the practice here?

16          A.     Yes.

17          Q.     And by here I mean the city?

18          A.     Yes.

19          Q.     I know you mentioned and I have great notes,  
20     but I'm not seeing it right now. I know you mentioned  
21     that you had some interaction or some responsibilities  
22     for economic development?

23          A.     That is correct.

24          Q.     And I think you had that responsibility when  
25     you were director of finance and assistant city manager?

1           A.     That is correct.

2           Q.     Okay.  And did it change when you changed  
3 positions, or was it pretty much the same job or  
4 interaction with economic development for you in both  
5 positions?

6           A.     When I first moved into the assistant city  
7 manager, it was the same in the fact that we did not  
8 have a director over economic development, so I was the  
9 interim director.  When we finally placed a director in  
10 July of '24 it changed a little bit, but still very much  
11 directly involved with that.

12          Q.     Okay.  So I'm going to have to figure that out  
13 a little bit.

14                   Go ahead and tell me what -- while you  
15 were director of finance --

16          A.     Uh-huh.

17          Q.     -- for the City of Corpus Christi, what was  
18 your job with regard to economic development?

19          A.     So when I first started as the director,  
20 economic development was a function under Finance.  I  
21 believe it was in October of '23, '22, I can't remember.

22                   There was a separate department of  
23 economic development created, but we did not have a  
24 director in place for a long period of time.  And so  
25 while it was a separate department, it still -- I was

1 still overseeing that in my role as finance director.

2 And then when I moved into the assistant  
3 city manager role, I was still overseeing economic  
4 development until we placed a director in June I think  
5 of '24.

6 Q. And I understand from what you just said, that  
7 there were sort of some position changes, but since it  
8 didn't get filled until July or June of 2024, sounds  
9 like you are doing the same job for that period of time?

10 A. Exactly, exactly. Yes.

11 Q. Okay. So now that I understand and I  
12 appreciate the explanation, because there's some --

13 A. Sure.

14 Q. -- maybe some -- maybe some titles in there, at  
15 different times?

16 A. Exactly.

17 Q. But as a practical matter, it sounds like from  
18 when you began in 2020, until June of 2024, you were --  
19 you have the same role with economic development?

20 A. In essence, yes.

21 Q. And tell me what that role was?

22 A. Just overseeing the economic development  
23 functions. So we have a tax agreement financing zones.  
24 We have the Type A, Type B, sales tax, along with 380  
25 agreements. Working --

1 THE COURT REPORTER: What kind of  
2 agreements?

3 THE WITNESS: 380 agreements.

4 A. So all those things that fall under the purview  
5 of economic development.

6 Q. (BY MR. ALLISON) Specifically for this same  
7 period of time --

8 A. Uh-huh.

9 Q. -- what was your role when you would oversee  
10 the Type B Board?

11 A. So we were -- I was basically the liaison with  
12 the economic development, with the Regional Economic  
13 Development.

14 Q. REDC.

15 A. REDC, CCREDC. So the Type B Board contracts  
16 with the Regional Economic Development Corporation to --  
17 to basically manage the Type B function, the -- I guess,  
18 to -- to work with the Type B Board to manage their  
19 compliance that receive the applications and present  
20 those items to Type B. So I basically was the conduit  
21 between the EDC and the City, in essence.

22 Q. Between EDC and who?

23 A. The City.

24 Q. Includes -- including because we know in that  
25 process that between the EDC and the City is Type B

1 Board?

2 A. Yes.

3 Q. And so you would follow that whole process?

4 A. Yes.

5 Q. And oversee that whole process?

6 A. Yes. In that sense, yeah, bringing the items  
7 forward for consideration and liaison with Legal on  
8 contracts, that kind of stuff, bringing things to city  
9 council for agendas.

10 Q. By the way, when we say REDC or EDC, we can  
11 agree we're always talking about the Corpus Christi,  
12 Regional Economic Development Corporation?

13 A. Corporation. That is correct.

14 Q. Okay. Unless we say otherwise?

15 A. Exactly.

16 Q. I knew what you meant.

17 A. It's a lot of letters.

18 Q. So would you get notice when there is an  
19 initial application made to the REDC?

20 A. Yes.

21 Q. How does that come to you typically?

22 A. Usually just an email.

23 Q. And usually from whom at the EDC?

24 A. Either from Mike Culbertson or from  
25 Randy Almaguer.

1 Q. Mike or who?

2 A. Randy Almaguer.

3 Q. And once you receive that notice of a  
4 application, what is your process?

5 A. That really isn't a process on our side. They  
6 -- the EDC handles the application, runs the modeling on  
7 it, and then takes --

8 Q. From what? Sorry.

9 A. They run the modeling on it if it's something  
10 that is looking at return on investment, things like  
11 that. So it's just a notification to us.

12 Q. But I know you have oversight, right? And so  
13 you expect them to do those things?

14 A. That's what the contract says. Yes.

15 Q. By the contract, you're talking about, the  
16 contract between the city and the REDC?

17 A. No, between the Type B Corporation and the EDC.

18 Q. Okay. And under that contract, what is  
19 required of the EDC, once the application is received?

20 A. They're to vet the application, review the  
21 application, run any type of financial modeling on the  
22 application, and then they make a recommendation. They  
23 bring it forward for -- in front of their board, for  
24 consideration. Their board then either recommends or  
25 doesn't recommend the -- for it to move forward to be

1 presented to the Type B Board.

2 Q. Aside from the contract, are there any other  
3 policies that the REDC is bound to follow?

4 A. Yes, there are policies in for the Type B  
5 Corporation.

6 Q. Are the --

7 A. For the economic development.

8 Q. Are they REDC policies and procedures, or are  
9 they Type B policies and procedures?

10 A. They're Type B policies and procedures.  
11 They're adopted by the Type B Board.

12 Q. But EDC has to follow them?

13 A. Yes.

14 Q. The modeling that you're talking about, what's  
15 that called?

16 A. Just financial models saying, usually it's  
17 looking at return on investment, what the economic  
18 impact will be for whatever the project is.

19 Q. I was trying to remember -- is it RIMS?

20 A. I'm not sure what their software is.

21 Q. Okay. You may know we've deposed  
22 Mike Culbertson.

23 Did you know that?

24 A. Yes.

25 Q. Have you read that deposition?



1           A.     Yes.

2           Q.     Okay.  So are there Type B policies and  
3 procedures that EDC is required to follow insofar as  
4 determining whether or not a award of money would be an  
5 incentive?

6           A.     I'm not sure what you --

7           Q.     Let me rephrase it, yeah, yeah.

8                     Is one of the requirements that, or -- I  
9 mean, is there some language that governs REDC and/or  
10 Type B, with regard to making sure that awards of monies  
11 are directed to be an incentive for a business to come  
12 here?

13          A.     There are -- and it -- so there's state statute  
14 that guides how Type B monies can be utilized.

15          Q.     That's what I'm getting at.

16          A.     Okay.  So, yes, there are specific state  
17 statutes that used to be Subsection B.  that's why it's  
18 called Type B or 4B.

19                    There are state statutes that governs how  
20 Type B money can be utilized.  There -- then there is a  
21 Type B policy that says narrowing it even more, saying  
22 how the Type B that, you know, our board has set their  
23 policies.

24          Q.     And I understand there's a statute then, from  
25 what you just told me, and then --

1           A.     Uh-huh.

2           Q.     -- that statute is narrowed more by the Type B  
3 policies that they follow?

4           A.     That is correct.

5           Q.     And does some of that language in the Type B  
6 policy talk about incentives?

7           A.     I mean, that's basically what the Type B policy  
8 lays out. Is that we are able to, I guess, provide  
9 assistance, I guess you could call it an incentive to  
10 businesses for expansion, relocation, if they meet  
11 certain criteria.

12          Q.     Yeah, isn't that the purpose of Type B?

13          A.     Yes, it's an economic development tool.

14          Q.     Yes, an economic development tool so you're  
15 supposed to spend money to incentivize the types of  
16 things you just said?

17          A.     Yes, for growth. Yes.

18          Q.     Since you read Culbertson's deposition, and I'm  
19 referring to page 115.

20                   He was asked, and because it's supposed to  
21 be talking about Type B --

22          A.     Uh-huh.

23          Q.     -- the money is supposed to be for the purpose  
24 of giving an incentive to increase economic development.  
25 His answer is, That is correct.

1           A.     Uh-huh.

2           Q.     Do you agree with that?

3           A.     Yes.

4           Q.     He was asked -- and what we're talking about,  
5     this cannibalizing effect is not increasing economic  
6     development. And he answered, Yes.

7                     Do you agree with that?

8           A.     I'm not sure what cannibalizing effect you're  
9     referring to.

10          Q.     Fair question.

11                     It's -- it's up earlier in the deposition,  
12     actually, just on the same page where I started reading.  
13     And I'm going to describe it generally, and then give  
14     you the exact if you want.

15          A.     Okay. Sure.

16          Q.     In his deposition, let me ask if you recall  
17     there being some discussion about cannibalizing, and  
18     that is where one the example we use sometimes, one  
19     restaurant gets built, and now the people don't go to a  
20     restaurant that was earlier built.

21          A.     Uh-huh.

22          Q.     They just -- you're not increasing any economic  
23     benefit to the community. You're just moving people  
24     from one restaurant to another.

25          A.     Sure.

1 Q. You understand that?

2 A. Yes.

3 Q. And have you heard the word cannibalizing in  
4 that context?

5 A. Yes. Yes.

6 Q. Okay. And so then applied to the hotel  
7 context, that if it's a destination hotel, for example,  
8 then that might bring new people to the community --

9 A. Uh-huh.

10 Q. And that is increasing your economics of the  
11 city?

12 A. Of course.

13 Q. But if you're just building a new hotel that's  
14 going to take from the existing hotels, that would be  
15 correctly described as cannibalizing?

16 A. I think that would be hard to prove that it  
17 would be 100 percent cannibalizing, because of the fact  
18 that we do have times in the downtown area that we are  
19 at 100 percent occupancy, so there is a need for  
20 additional rooms.

21 Q. Okay. So sometimes it would not have the  
22 effect of cannibalizing if you're at 100 percent  
23 capacity in the city?

24 A. Uh-huh.

25 Q. Right? Correct?

1           A.    Yes.  That is correct, yes.

2           Q.    But other times it might -- it might not have  
3 it might be cannibalizing?

4           A.    Possibly.

5           Q.    And how -- you probably know, what percentage  
6 of time in Corpus Christi do we have 100 percent  
7 occupancy?

8           A.    I'm not sure.  I don't have that off the top of  
9 my head.

10          Q.    Do you know, for like, 1 percent of a year, or  
11 --

12          A.    I think it'd be more than that.

13          Q.    Maybe?

14          A.    Based off of our convention business and some  
15 of our big events that we have, yeah.

16          Q.    But you don't know.

17          A.    I don't know off the top of my head, no.

18          Q.    So now understanding -- you now understand what  
19 I mean when I'm using the word cannibalizing, right?

20          A.    Yes, in this context, yes.

21          Q.    And so Mr. Culbertson was asked, and because  
22 it's -- well, I read you that one.

23          A.    Yeah.

24          Q.    Mr. Culbertson was asked, and what we're  
25 talking about this cannibalizing effect is not

1 increasing economic development. And he said, Yes.

2 Do you agree with that?

3 A. No, I can't agree with that, because I'm not  
4 sure what the stats is on the cannibalization.

5 Q. Okay. Talking about incentive, do you agree  
6 that it doesn't make sense to give money to a project  
7 that's already committed because they don't need an  
8 incentive? They're already here.

9 A. That is usually yes. We use the but-for  
10 principle, would the project happen but-for the  
11 incentive?

12 Q. I think your answer then is yes you agree?

13 A. Yes.

14 Q. Applying the but-for principle?

15 A. Yes.

16 Q. And the but-for principle is, Hey, if we don't  
17 give this money, are they leaving?

18 A. Yes.

19 Q. And so in that scenario, you would only give to  
20 projects that will only come here. They require the  
21 money in order to commit to coming here?

22 A. Or for an aspect of the project that may not  
23 occur if that incentive is not given.

24 Q. Okay. And so here, and I'm referring to  
25 page 118 of Mike Culbertson.

1                   He was asked, because you can understand  
2                   that it doesn't make sense to give money that's  
3                   incentive money to a project that's already committed.  
4                   And he said, Correct.

5                   Do you agree with that?

6           A.     I think it depends on the situation of the  
7           project.

8           Q.     So do you agree with Mr. Culbertson?

9           A.     I -- I don't have enough information to agree  
10           that -- with that, just a blank statement.

11          Q.     And then he was asked, and so that would be  
12           another reason that would out -- that would cut against  
13           money -- giving money to the Homewood Suites Project if  
14           they were already committed. And he says, I agree.

15                  Do you agree with that?

16          A.     No.

17          Q.     And who is -- are you -- who's the expert as  
18           between you and Mike Culbertson on economic development?

19          A.     I don't know who has the most expertise on  
20           that.

21          Q.     I mean, have you worked in the RDC before?

22          A.     No, I've not worked in the RDC.

23          Q.     Okay. Have you done specifically economic  
24           development for years and years, like Mike Culbertson,  
25           has?

1           A.    I did economic development in City of San  
2 Marcos also.  So, yes.

3           Q.    Okay.  I thought you were more on the finance.  
4                    You didn't -- did you mention that  
5 earlier?

6           A.    Under finance that also deals with economic  
7 development.

8           Q.    Well, yeah, that's like Corpus too, right?

9           A.    Uh-huh.

10          Q.    Yeah, correct?

11          A.    Yes.

12          Q.    Okay.  But you weren't doing solely economic  
13 development as your expertise, like Mr. Culbertson,  
14 right?

15          A.    No.

16          Q.    He's more of a -- his focus is more specific on  
17 economic development than yours?

18          A.    I -- I -- sure.

19          Q.    Do you agree they should not qualify for an  
20 incentive if they're already here?

21          A.    No.

22          Q.    So if he was asked -- Mr. Culbertson, was  
23 asked, they should not qualify for an incentive.  
24 Answer, Right.  They're already here.  Answer, Yes.

25                    You understand that he's saying, there



1 that, Hey, if they're already committed to being here,  
2 then we shouldn't be giving them an incentive.

3 You understand that's what he's saying?

4 A. No, I understand what he's saying, yes.

5 Q. Okay. And do you agree with him?

6 A. I think it depends on the situation.

7 Q. Okay. Because, I mean, the whole -- like you  
8 said, what you're testifying to right now is different  
9 than the but-for rule, right?

10 A. Yes and no. Because the --I mean, we give  
11 incentives to businesses that are already established  
12 for different aspects of their business. Maybe they're  
13 expanding. Maybe they're adding a new service.

14 Q. But it still has to meet the but-for rule that  
15 they wouldn't do that, but-for?

16 A. Exactly.

17 Q. Okay?

18 A. Yes.

19 Q. Okay. And so if -- for example, if -- do you  
20 know, if the grant or the award of money that we're here  
21 talking about today --

22 A. Uh-huh.

23 Q. -- Do you know -- did you ever do anything to  
24 test the but-four rule?

25 A. Yes.

1 Q. Who did you talk to about that?

2 A. We talked with Legal on it and the but-for,  
3 because this was not for the construction of the whole  
4 hotel. This incentive was given for the development of  
5 the retail along the street.

6 Q. Okay. And then did you --

7 A. So again --

8 Q. Did -- did you ever talk to anybody else  
9 before, other than Legal, about that?

10 A. Not --

11 Q. The application of the but-for rule?

12 A. I believe Mr. Culbertson and I had  
13 conversations also.

14 Q. Anybody else?

15 A. I can't recall.

16 Q. And you just said it, but ultimately you said  
17 the money went to improvements on the street?

18 A. Exactly, it was for the improvements on the  
19 street which allowed for the development of the retail  
20 along the street which would be consistent with the  
21 neighboring retail.

22 Q. Nothing to do with FEMA.

23 A. Well, it had to do with the flood proofing that  
24 was needed to be able to achieve that.

25 Q. Nothing to do with FEMA's changing rules on a

1 floodplain?

2 A. No, no.

3 Q. Completely different?

4 A. Yes.

5 Q. Okay. And as far as you can recall sitting  
6 here right now?

7 A. Yes.

8 Q. The only people that you talked to about  
9 whether or not this meets the but-for rule would have  
10 been Legal. And maybe Mike Culbertson?

11 A. Yes.

12 Q. And who at Legal?

13 A. Aimee Alcorn-Reed, was our Legal. Was our --  
14 the -- the legal counsel that we dealt with on economic  
15 development.

16 Q. And did anybody else at Legal?

17 A. I think we talked with Miles, I'm not sure.

18 Q. Did either one of them indicate that they had  
19 talked with, for example, Deven Bhakta or with  
20 Mr. Ramirez.

21 A. We -- we had conversations with them. Yes.

22 Q. You -- with who?

23 A. With both.

24 Q. And we may be kind of getting off track here.

25 A. Yeah.

1           Q.    I'm asking specifically about the but-for  
2 analysis, I know you did an investigation and talked to  
3 them later, right at some point?

4           A.    Well, I talked to -- I mean, they were our --  
5 basically our -- they were applying for it so we were  
6 entering into an agreement with them.

7           Q.    And here's my point.

8                    You're telling me you had conversations  
9 with them, and I know that.

10          A.    Yes.   Okay.

11          Q.    Okay?  I'm -- what I'm trying to ask is if you  
12 had any conversations with them on this but-for rule?

13          A.    I don't know that I specifically discussed that  
14 with them, no.

15          Q.    Okay.  And so you don't know if you had any  
16 specific discussions on this but-for rule, that were  
17 with any of the names we're naming, Ramirez, Bhakta?

18          A.    Yeah.

19          Q.    Reed?

20          A.    Miles Risley, Mike Culbertson, or people at  
21 REDC.

22          Q.    You don't recall any specific conversations  
23 with them about the -- about what would the -- what  
24 would Ramirez and the Homewood Suites Group and Bhakta  
25 do but-for?

1           A.     So we had conversations that based off of the  
2 requirements that they needed to build to if we wanted  
3 to preserve the -- the retail spar, or incur -- have the  
4 retail space that this is what the incentive was for.  
5 The but-for came into play in the fact of if they did  
6 not receive the incentive, then they would do something  
7 different on that bottom floor. So that was the  
8 but-for.

9           Q.     And who did you talk to that about?

10          A.     I talked with our legal department, talked with  
11 Aimee.

12          Q.     Okay.

13          A.     I think I -- I don't know if I specifically had  
14 a conversation with Miles, and then in the  
15 conversations, not in those exact words of but-for, but  
16 talking with the applicants, understanding what their  
17 needs were and what the design pivot points were so.

18          Q.     And what are the requirements for  
19 infrastructure under Type B rules?

20          A.     I'm not sure. What --

21          Q.     Are -- I mean, are you not familiar with there  
22 being a requirement for infrastructure in order to  
23 receive a recommendation out of -- a positive  
24 recommendation, out of REDC?

25          A.     So infrastructure, as in -- I mean,

1 infrastructure covers a lot of stuff. Are you talking  
2 about utility infrastructure, building infrastructure?

3 Q. Well, here --

4 A. I mean, that's; they're adding buildings.

5 Q. Well, the infrastructure that the applicants  
6 say they brought to the table when they went to the REDC  
7 --

8 A. Uh-huh.

9 Q. -- was compliance with FEMA new or recent  
10 rules, right?

11 A. The need to modify the design to com -- comply  
12 with that, to preserve the retail space.

13 Q. And by comply with that, you mean comply with  
14 what they characterized as recent FEMA rules or changes.

15 A. Yes.

16 Q. Okay. And that would be an infrastructure  
17 feature -- feature to the project, if they had to comply  
18 with recent changes in FEMA rules.

19 A. That is correct. Yes.

20 Q. Okay. And -- and that feature of the project  
21 completely disappeared over time. And by that, I mean  
22 the reason for awarding the \$2 million at the second  
23 reading had nothing to do with FEMA, correct?

24 A. It was to -- exactly because it was to preserve  
25 the retail space. So there was a pivot point. The --

1 Q. So the answer to my question is yes?

2 A. Yes.

3 Q. Correct?

4 A. Yes.

5 Q. Okay. I just want to make sure we're very --  
6 they're very, two different things?

7 A. Yes.

8 Q. What -- what it -- the way the -- the project  
9 came into RDC -- REDC and -- and as a infrastructure  
10 project in order to be funded to comply with, quote, as  
11 they called it, recent changes --

12 A. Yes.

13 Q. -- in FEMA rules, that's what it came into the  
14 pipeline with?

15 A. Exactly.

16 Q. And by -- by the time of the second reading, it  
17 was none of that.

18 A. Well, actually, when it left the Type B Board,  
19 the decision they made was based off of not necessarily  
20 just the flood proofing, but to be able to preserve the  
21 retail space and the retail consistency.

22 Q. And then we know your first reading, of course,  
23 said all the FEMA language?

24 A. Exactly. It was brought forward incorrectly.  
25 Yes.

1           Q.     Okay. The first reading for the City of Corpus  
2 Christi had all that language of infrastructure and FEMA  
3 in it, right?

4           A.     Uh-huh. Yes.

5           Q.     And then the second reading had none of it in  
6 it?

7           A.     Yes.

8           Q.     We're going to get to that in more detail but  
9 --

10          A.     Okay.

11          Q.     -- We kind of got ahead of ourselves there.  
12 It's okay. I'm going to put some kind of timeline to  
13 our discussion, since we're kind of getting there?

14          A.     Sure.

15          Q.     And it's -- it's in the deposition, so you may  
16 have read it, but do you agree that it looks like the  
17 application was received September 27th, 2023 does that  
18 comport with your memory?

19          A.     That -- about that time frame. I can't speak  
20 to that exact date, but yes.

21          Q.     And I -- if you read his deposition, he had a  
22 cheat sheet --

23          A.     Okay.

24          Q.     -- dates, and I told him to use it, okay.

25          A.     Yeah, it was -- it was about that timeframe.



1 Q. You're not disagreeing with that.

2 If that's what -- if that's what

3 Mike Culbertson said, you agree?

4 A. That is correct. Yes.

5 Q. And then he also testified that the project was  
6 presented to the REDC on October 12, 2023, does that  
7 sound correct?

8 A. That sounds appo -- yeah.

9 Q. Mr. Culbertson testified to it that's sort of  
10 his area of specialty.

11 A. Yes.

12 Q. So you don't disagree with that?

13 A. Yeah, that was his board meeting. So yes, I  
14 would -- I would defer to him on the date.

15 Q. I use that word too defer. You'll hear it now.

16 And then if he testified that the REDC  
17 voted to recommend 1,043,000 on November 9, 2023 that  
18 was also his board meeting and do you accept that date  
19 is true from him?

20 A. Yes, that it sounds approximate, yeah.

21 Q. And then it went to closed session with the  
22 Type B Board on November 23, 2023.

23 Again, is that something he would --  
24 Mike Culbertson would know more about?

25 A. Yeah. I'm not sure of the exact date, yes.

1 Q. And you would accept what he says is true  
2 there?

3 A. Yes. Yeah.

4 Q. And then the open board, the open meeting for  
5 the Type B Board, does it comport with your memory his  
6 testimony was it occurred on December 11th, 2023?

7 A. Yes.

8 Q. Yeah. Did you attend that meeting?

9 A. Yes.

10 Q. Did you attend any of the REDC meetings?

11 A. No.

12 MR. ALLISON: Okay. It's kind of a good  
13 time for a break. It's an hour. Five or ten minutes?

14 THE WITNESS: Sure.

15 MR. ALLISON: Whatever you want.

16 THE WITNESS: Okay. This is great.

17 MR. ALLISON: We'll -- we'll be right  
18 here.

19 THE WITNESS: Okay.

20 THE VIDEOGRAPHER: The time is 10:04.  
21 We're off the video record.

22 (Recess from 10:04 a.m to 10:15 a.m.)

23 THE VIDEOGRAPHER: Time is 10:15 a.m.  
24 We're back on the video record.

25 Q. (BY MR. ALLISON) Earlier you had, I think,

1 expressed some disagreement with Mr. Culbertson's  
2 testimony about the Homewood Suites Project --

3 A. Uh-huh.

4 Q. -- cannibalizing other hotels.

5 A. Uh-huh.

6 Q. Correct?

7 A. Yes.

8 Q. You understand he testified that Homewood  
9 Suites as a project was cannibalizing, and you're kind  
10 of saying you looked at that differently.

11 A. So I wouldn't say different. I don't know. So  
12 the -- the statement you made was that, I think,  
13 basically, I guess actually, can you re -- reread the  
14 statement that -- you read for Mr. Culbertson, or the  
15 question that you asked Mr. Culbertson.

16 Q. By the way, the usual -- the right answer to  
17 that is, you don't get to ask a question. But I'm going  
18 to do it.

19 A. I can't properly answer unless you read that  
20 back to me so --

21 Q. Okay. The question -- this is the question and  
22 answer as between me and Mr. Culbertson. I asked --

23 A. Yes.

24 Q. -- and because it is supposed to be -- the  
25 money is supposed to be for the purpose of giving an

1 incentive to increase economic development. He answers,  
2 That is correct.

3 And then I continued the question, and  
4 what we're talking about, this cannibalization effect,  
5 is not increasing economic development. And his answer  
6 is, Yes.

7 And that's on pages 115, and 16.

8 A. Okay.

9 Q. Do you understand what I've read to you?

10 A. Yes, I do.

11 Q. And do you understand that that's him saying  
12 that the Homewood Suites Project will have the effect of  
13 cannibalizing other hotels in town?

14 A. Yes.

15 Q. And so then my question was, I think you --  
16 without trying to characterize it, kind of --

17 A. Sure.

18 Q. -- I just said?

19 A. Yes.

20 Q. I think you had some disagreement with that.

21 A. I had some disagreement in the fact that he  
22 said that -- that there, and I guess entail that there  
23 was not an economic development effect due to the  
24 cannibalization. I don't agree with that, because there  
25 is an economic development effect that is a new

1 structure being built in our downtown area, and I don't  
2 know to what effect the cannibalization would offset  
3 that. I don't have that statistic.

4 In my understanding in dealing talking  
5 with our Convention and Visitors Bureau, there is a need  
6 for additional hotel rooms downtown, and so I would  
7 still say that there would be an economic development  
8 benefit in effect from having a new structure occupying  
9 areas where there are vacant structures in addition to  
10 the hotel rooms and the retail.

11 Q. So the extent that you're -- you're -- for the  
12 extent of your disagreement is not that you're saying  
13 he's always wrong about that effect.

14 A. Exactly.

15 Q. In fact, you're, I think, saying he's right  
16 about that effect --

17 A. Yes.

18 Q. -- being cannibalizing, except for the periods  
19 of time when we may be at a hundred percent occupancy?

20 A. Yes.

21 Q. And you don't know what that -- how often that  
22 happens?

23 A. I don't know. I don't know the exact amounts.  
24 And the fact that it shouldn't solely be -- the economic  
25 development effects should not solely be based off of

1 what that cannibalization is that there are other  
2 aspects that do provide economic development benefit.

3 Q. And -- and he's the one who did the economic  
4 benefit analysis?

5 A. Yes.

6 Q. By running it through their program?

7 A. Yes.

8 Q. A program that you don't know which one it is.

9 A. I do not know. No.

10 Q. Okay. And you did not do the economic  
11 development. You did not run it through a program?

12 A. We did analysis on it, just looking at what the  
13 current property values were and what the property value  
14 was going to be when this came online along, like I  
15 said, with need for more retail downtown, restaurants  
16 downtown, that type of stuff.

17 MR. ALLISON: Object. Nonresponsive.

18 Q. (BY MR. ALLISON) Sometimes lawyers do that, and  
19 you have permission to ignore me.

20 A. Okay.

21 Q. My question was a little different.

22 You did not do any sort of a economic  
23 modeling, like with a computer or with a software like  
24 they did at REDC?

25 A. No, I did not have a software. Did do

1 computer, Excel spreadsheet looking at property values,  
2 that kind of stuff.

3 Q. Okay. What -- in the past have you ever -- I  
4 really do, I thought it's called RIMS, but I may have it  
5 wrong.

6 Have you ever used that program?

7 A. No.

8 Q. Have you ever used -- yourself, used any kind  
9 of program to. like RIMS or whatever the software is  
10 that they use where you -- everyone, ever the one doing  
11 that actual computer modeling simulation?

12 A. I did computer modeling simulation through  
13 Excel worksheets. On my own we did not have access to  
14 that type of software.

15 Q. Okay. But doing an Excel worksheet is you  
16 putting the numbers in. It's not relying on upon a  
17 computer program. That's a pre -- pre-existing program  
18 where you feed in data points about industry and all  
19 that. It's you making a spreadsheet?

20 A. A financial model, yes.

21 Q. On an Excel spreadsheet?

22 A. Yes.

23 Q. You coming up with the numbers and putting them  
24 in?

25 A. Based off the information that I'm given.

1 And --

2 Q. Okay.

3 A. -- can glean? Yes.

4 Q. Okay. But I mean, you understand there's a  
5 difference between running a program and filling out a  
6 spreadsheet?

7 A. I would just -- I mean, yes, there is a  
8 difference.

9 Q. Okay.

10 A. Yes, there is a difference.

11 Q. Okay. And when they modeled it over at REDC,  
12 the Homewood Suites Project --

13 A. Uh-huh.

14 Q. -- they modeled the entire project right?

15 A. I believe so, yes.

16 Q. That's the way they do it. Is, how many rooms?

17 A. Uh-huh.

18 Q. Thirty million dollars.

19 A. Exactly.

20 Q. What they do the whole project, right?

21 A. Uh-huh.

22 Q. Right?

23 A. Yes.

24 Q. And you told me that in the end, though, the  
25 only but-for analysis you did was just based upon this,



1 improving the curb appeal?

2 A. And providing additional retail and restaurant  
3 spaces.

4 Q. Right. So you did not ever go do a model again  
5 for the whole project?

6 A. No.

7 Q. Okay. And -- and no one did, right?

8 A. No.

9 Q. So when the change occurred for the second  
10 reading, you know what I'm referring to?

11 A. Uh-huh.

12 Q. Right?

13 A. Yes.

14 Q. After that change occurred, there was never any  
15 sort of modeling of the entire project like had been  
16 done at the very beginning when it came out of REDC  
17 agreed?

18 A. That is correct.

19 Q. Okay. And you understand that modeling done at  
20 REDC is for the specific purpose.

21 They're given the task of doing that  
22 modeling to evaluate whether or not it is an economic  
23 development Project that qualifies for money.

24 A. So yes, they do theirs, just talks about the  
25 return on investment over --

1 Q. That's why they do it?

2 A. -- over a period of five years.

3 Q. To see if it's worth the investment of public  
4 money?

5 A. Exactly. But there are other aspects besides  
6 just the return on investment that we provide  
7 incentives -- that we grant incentives.

8 Q. And that economic development modeling was  
9 never done again once the project purpose changed,  
10 right? You just told me that a second ago.

11 A. So yes, there was not a financial modeling  
12 looking at the return on investment, but I said there  
13 are other aspects that are incentivized, that is not  
14 necessarily a direct dollar for dollar return on  
15 investment.

16 Q. And one of those other aspects you probably saw  
17 we talked about in the deposition was it became  
18 political.

19 Did you see that in the deposition?

20 A. No, I did not.

21 Q. Okay. You didn't see him talk about how, yes,  
22 their analysis, back at REDC is based upon a numerical  
23 evaluation of the return on investment?

24 A. Uh-huh.

25 Q. Did you see that part?

1           A.    I didn't read all the way through it.  No, I  
2 read parts of it, but not all the way through.

3           Q.    Did you see the part where he talks about, but  
4 later in time, it just became more about politics?

5           A.    No, I didn't see that part.

6           Q.    Okay.  So, we mark things as exhibits in  
7 depositions.

8           A.    Okay.

9           Q.    So we can keep track of documents.  And this  
10 first one I'm going to mark is going to be -- has your  
11 name on it.

12          A.    Okay.

13                       (Exhibit 1 marked.)

14          Q.    (BY MR. ALLISON) It's going to be Hurlbert 1.  
15 And see if you recognize this.

16                       Because I know you said you went to the  
17 Type B Board meeting?

18          A.    Uh-huh.

19          Q.    See if you recognize this as their agenda.  And  
20 then the slide presentation that was used at the Type B  
21 Board meeting.

22          A.    Yes, this does look like the Type B Board  
23 agenda.

24          Q.    Okay.  And confirm the date.  I know we said it  
25 earlier in the record.

1           A.     December the 11th, 2023.

2           Q.     Okay.  And you were there for that  
3 presentation?

4           A.     Yes.

5           Q.     And do you remember during the pre --  
6 presentation, for example.  That really, I think that  
7 Mr. Ramirez, Philip Ramirez was doing most of the  
8 talking in terms of the applicant?

9           A.     I believe so.

10          Q.     Pardon?

11          A.     I said I believe so.

12          Q.     Yeah.  Okay.  And I'll tell you, because I'm  
13 not trying to trick you what I'm about to ask you about  
14 are -- I believe, quotes from what he said.

15          A.     Okay.

16          Q.     But I'm not going to hold you down to the word  
17 --

18          A.     Okay.

19          Q.     -- to the quote, okay?

20                   Do you remember him talking about that one  
21 thing that came up that was not anticipated was FEMA  
22 maps were preliminary, but became finalized and adopted  
23 and in order to get a building permitted, we needed to  
24 comply with the new FEMA requirements --

25          A.     Yes.

1 Q. -- something along that line?

2 A. Yes.

3 Q. Do you remember him talking about that it kind  
4 of hit us midstream -- it threw us for a little bit of a  
5 loop for some aspects of the project we weren't planning  
6 on?

7 A. That is correct. Yes.

8 Q. And that he said something along the lines --  
9 Mr. Ramirez did about it -- it did certainly throw a  
10 wrinkle and an aspect of the project from a  
11 constructability perspective. But also just an added  
12 cost that we're not anticipating when we first started  
13 moving the project forward?

14 A. Yes.

15 Q. And he's talking about FEMA there, that --

16 A. Uh-huh.

17 Q. -- he's talking about-- he's -- he's saying we  
18 need the money because FEMA threw us a curveball?

19 A. To accomplish what they wanted to accomplish.  
20 Yeah.

21 Q. Well, to comply with what he said were the new  
22 FEMA regulations?

23 A. Yeah.

24 Q. Okay. And Philip went on to say then that they  
25 then had to do some things to mitigate these new FEMA

1 requirements. So we had to elevate the floor, and we  
2 had to provide flood proofing and provide new  
3 infrastructure.

4 Do you remember that? Things along this  
5 line?

6 A. Yeah, to preserve the retail along the bottom  
7 floor. Yes.

8 Q. Well, he's actually talking about raising the  
9 floors, the floor levels, right?

10 A. Uh-huh.

11 Q. Is that correct?

12 A. I -- I believe so. Yeah.

13 Q. In response to FEMA, what he's calling new FEMA  
14 rules, right?

15 A. Uh-huh.

16 Q. Correct?

17 A. I believe so, yes.

18 Q. Yeah. And he says, we need the money,  
19 basically. He said because -- and I'm quoting now,  
20 there were some FEMA requirements -- I put in FEMA. He  
21 just said requirements, but he's referring to there were  
22 FEMA requirements or parameters that we certainly did  
23 not anticipate, and we wanted to be good stewards and  
24 comply with the FEMA, right?

25 A. Yes.

1 Q. You remember, that was his pitch.

2 A. Uh-huh. Yes.

3 Q. And it's really not -- I don't mean it's okay,  
4 I guess, to say we're trying to be good stewards, but  
5 the truth is, you got to comply with FEMA rules. It's  
6 not a -- it's not, I feel good. I'm doing it to be  
7 good. You're doing it because he has to do it, right?

8 A. Yes.

9 Q. I mean, he's required to comply with FEMA  
10 rules, right?

11 A. Yes. Yes.

12 Q. Okay. And if you look at Exhibit Number 1 --  
13 if you'll go to the slide presentation?

14 A. Yes.

15 Q. And then the second page, one more page.

16 Do you remember them using that slide?

17 A. Yes.

18 Q. And you and I both know that became a slide  
19 that has generated a lot of controversy in this lawsuit;  
20 fair enough?

21 A. Yes.

22 Q. And that's a slide that Mr. Ramirez used when  
23 he was let me -- let me -- hold on just a second.

24 MR. ALLISON: You think -- what he's  
25 talking about. When you lean back and you rock it moves

1 your background.

2 THE WITNESS: Got you.

3 MR. ALLISON: And he's --

4 THE WITNESS: Okay.

5 MR. ALLISON: -- he's worried it's going  
6 to make the jury sea sick.

7 THE WITNESS: Okay.

8 MR. ALLISON: I'm just -- I know what  
9 he's -- I know what he's trying to do.

10 THE WITNESS: Okay. Pull up a little bit  
11 further. There.

12 MR. ALLISON: Yeah.

13 THE WITNESS: Okay. No, that's okay.

14 Q. (BY MR. ALLISON) Mr. Ramirez relied upon that  
15 slide when he was making the presentation to the Type B  
16 Board and requesting \$2 million of public money, right?

17 A. Yes.

18 Q. And that slide has -- is a screenshot of a FEMA  
19 federal website, right?

20 A. Yes.

21 Q. Okay. And I have, and I actually didn't get a  
22 hard copy of it, it was a technology challenge for me,  
23 okay. I have here -- let me back up though.

24 I have the screenshot here, at least of  
25 the actual slide, and I'm going to show it to you now



1 and draw your attention to the release date, the release  
2 number, and then it states the release date again.

3 A. Okay.

4 Q. And I'm going to let you look at that.

5 A. Yes, this is the press release.

6 Q. Yeah. Do you recognize that what I just showed  
7 you is the same thing that's on slide that was used  
8 during the Type B presentation, except for the one used  
9 at Type B had data removed.

10 A. I can't speak to its data removed, but it's not  
11 here versus what's on the screenshot.

12 Q. Okay. On this -- on the real one, it has a  
13 release date of April 13th, 2022, right?

14 A. That is correct.

15 Q. And then below that, it again states the -- I'm  
16 blowing it up for you so that you can see it easier.

17 Below that release date, it again says at  
18 a second location that the release date is April 13,  
19 2022, right?

20 A. That is correct.

21 Q. And then on the one that FEMA published, it  
22 also has a release number of R6009, right?

23 A. Yes. Yes.

24 Q. And someone has removed or altered that  
25 information from what was presented to the Type B Board,

1 right?

2 A. From what I can tell, yes.

3 Q. Okay. Did you do that?

4 A. No.

5 Q. Okay. Do you understand that this slide used  
6 in front of the Type B Board had information that would  
7 give the reader the Type B Board members data as to when  
8 the final release of the FEMA rules came into being --  
9 came into -- became effective?

10 A. Actually, it still has the date when it became  
11 effective. It's October the 12th, 2022.

12 Q. Right.

13 A. Or October 13, 2022.

14 Q. Good point. The release date is -- is what  
15 they removed to somebody?

16 A. Of the press release.

17 Q. Yeah, well, fair. Okay.

18 Of -- of when it was published in the  
19 press?

20 A. When the press release was published.

21 Q. Okay. And so, and that moves the date back to  
22 April 13, 2022 instead of the effective date being  
23 October 13, 2022?

24 A. I would agree the effective date is October 13,  
25 2022.

1       Q.    Right.  And so they removed language to show  
2   that that -- that the -- this -- these FEMA guidelines  
3   --

4       A.    Uh-huh.

5       Q.    -- remove data so that you didn't know it had  
6   been released to the press in April.

7       A.    I can't speak to that.  I'm not sure what --  
8   why it would have been omitted, especially since the  
9   slide didn't really deal with any dates.  It just talks  
10  about the projects.

11      Q.    Okay.  Well, do you think it's okay to alter a  
12  federal document?

13      A.    I wouldn't consider this a federal document.

14      Q.    Pardon?

15      A.    I said I wouldn't consider this a federal  
16  document.  It's a screenshot.

17      Q.    Okay.  Do you think it's okay to alter a  
18  federal document?

19      A.    No, I don't think it's okay to alter a fair --  
20  a federal document.

21      Q.    Do you think it's okay to request public funds  
22  using a federal document that's been altered?

23      A.    I haven't received a federal -- or no, I don't  
24  think it's okay to -- to alter a federal document to  
25  receive funds.  No.

1 Q. Okay. Do you think public money even more so  
2 that's true, right?

3 A. I think any money, it would be --

4 Q. Fraud?

5 A. Yes.

6 Q. Yeah. Okay.

7 And so if you look though, there's  
8 actually another publication, and let me show it to you.  
9 It's also a FEMA document that was published online.  
10 See it has a release date of October 20 -- excuse me --  
11 October 9 2020?

12 A. Yes.

13 Q. And it has a release number of R620-012?

14 A. Yes.

15 Q. And do you see that this is information that  
16 was released to the public by FEMA in October of 2020,  
17 right?

18 A. Yes. Yes.

19 Q. And that's even two-years earlier than the  
20 release date on the previous FEMA publication we were  
21 talking about.

22 A. Sure.

23 Q. Okay.

24 A. Yes.

25 Q. And do you see that that was a release by FEMA

1 of the revised preliminary flood maps for Nueces County  
2 and that they're -- you see that?

3 A. Yes.

4 Q. And that they're ready for public view back in  
5 October of 2020, right?

6 A. Yes.

7 Q. So if we just look at the FEMA documentation,  
8 these things that Philip Ramirez was characterizing as  
9 recent changes that were needed in order to -- or let me  
10 back up.

11 If we look at these federal documents, and  
12 we look at Philip Ramirez's presentation, we see that  
13 one Philip Ramirez was characterizing the changes in the  
14 flood maps. I'm using their word?

15 A. Uh-huh.

16 Q. In the flood lab -- maps as being a recent  
17 change when he makes the presentation in December --  
18 December of 2023 right?

19 A. I believe so. Yes.

20 Q. But we know just from looking at the FEMA  
21 documents that those flood maps had been released for  
22 review back in October of 2020, right?

23 A. Yes.

24 Q. And you --

25 A. Well, and I -- and I'm -- well, let me qualify

1 that I don't know what released means. From the  
2 document, it says, yes, they were released. I'm not  
3 sure when that was. I'm not sure what that means. So  
4 --

5 Q. Well, put it this way. If you look at the  
6 October 2021, I'll go ahead and show you this.

7 A. Uh-huh.

8 Q. Do you see where you can click on the flood map  
9 change viewer, and it gives you a website.

10 A. Okay.

11 Q. Do you see that?

12 A. Yes.

13 (Exhibit 2 marked.)

14 Q. (BY MR. ALLISON) Okay. And if you click on  
15 that, I'll show you Exhibit Number 2 to your deposition.  
16 It gives you -- do you see that?

17 A. Yes.

18 Q. You recognize that you can see the L heads and  
19 the T heads for Corpus Christi --

20 A. Uh-huh.

21 Q. -- right?

22 A. Uh-huh.

23 Q. You said, yes?

24 A. Yes.

25 Q. Okay. So back in October of 2020, if you click

1 on that, you can see the new FEMA flood maps back in  
2 October of 2020, right?

3 A. Yes.

4 Q. Okay. And so you probably know, I think, I  
5 think it's on the slide. Let me see this. This first  
6 slide?

7 A. This one, or this one?

8 Q. Actually --

9 A. That's just the title page.

10 Q. -- here it is. This is -- this is the one I  
11 was asking for.

12 A. Uh-huh.

13 Q. Do you remember talking -- him talking about it  
14 that they re-imagined the project, like July of 2022, or  
15 sometime in 2022? It's in the Type B presentation that  
16 he had.

17 A. I think it was '23, wasn't it?

18 Q. Okay. That's better for me, but either way,  
19 okay.

20 The point is, that they imagined the  
21 project years after the FEMA mud -- the truth is they  
22 imagined this very project, the Homewood Suites, years  
23 after FEMA flood maps had already changed, correct?

24 A. Like I said, I'm not sure what I -- I don't  
25 know when they imagined it. If it was in '22, it would

1 be about the time it was adopted. Right.

2 Q. Well, no -- and please answer my question.

3 A. Sure.

4 Q. And I said 2022, and you said 2023.

5 In either event, that is years after the  
6 FEMA flood maps were published --

7 A. For review.

8 Q. -- for review in 2020?

9 A. Yes.

10 Q. Okay. So they didn't even think about this  
11 project until after the FEMA flood maps were already  
12 available for them?

13 A. Yes, it appears that way.

14 Q. Yeah, and that's -- that's not a recent change,  
15 right?

16 A. Uh-huh -- no.

17 Q. Okay. And I think if you read Culbertson's  
18 deposition, I think the words we said in there, among  
19 other things, as that the word he used, actually, he  
20 volunteered it was that it's really disingenuous at --  
21 at a minimum, to the Type B Board to say it was a recent  
22 change when it had been a change in the making for  
23 years; fair enough?

24 A. Fair. Yes.

25 Q. Okay. And some people might think it's --



1 well, if you went and removed the release dates from the  
2 slide we were looking at a moment ago --

3 A. Uh-huh.

4 Q. -- and go ahead and hold that up so the camera  
5 can be clear on which one we're talking about.

6 A. This one?

7 Q. Yeah, hold it up where you can see it, if you  
8 can. That's the slide they used during the presentation  
9 to the B Board, right?

10 A. Yes.

11 Q. And that's the one that has the -- it's  
12 altered. It's had dates removed from it, right,  
13 correct?

14 A. It doesn't appear the same as what you showed  
15 me on the screen. Yes.

16 Q. Okay. And that's an alteration. If you remove  
17 a date, that's an alteration --

18 A. Yeah.

19 Q. -- right?

20 A. Yes.

21 Q. Okay. And so it's not -- if you're removing  
22 information that makes it look like you have some plan,  
23 some intention, to not really give the full truth?

24 A. I can't speak to that.

25 Q. And you can't disagree with it, though, can

1     you?

2           A.     No, but I don't know what the intent behind it  
3     was.

4           Q.     I understand.

5           A.     Or if there was intent.

6           Q.     Yeah.  You don't know why --

7           A.     No.

8           Q.     And -- but you did an investigation to see who  
9     -- who removed that data?

10          A.     Yes.

11          Q.     And I think you concluded Philip Ramirez did?

12          A.     Yeah, it was -- he prepared the or his staff --  
13     his company, prepared the slides.

14          Q.     Yeah.  And that was part of an investigation  
15     that was launched by the City of Corpus Christi and  
16     their city manager, right?

17          A.     Uh-huh.  Yes.

18          Q.     And you discovered that Philip Ramirez -- and  
19     I'm not saying he had his fingers on the keyboard, but  
20     he --

21          A.     Uh-huh.

22          Q.     -- or his staff, are the ones that had altered  
23     the slide and provided it to the CCREDC?

24          A.     Yeah, they provided the presentation.  Yes.

25          Q.     Huh?

1           A.    I said they provided the presentation to this  
2   -- the EDC.

3           Q.    They, meaning, Philip Ramirez and his staff?

4           A.    Yes.

5           Q.    Okay.  And how did you conclude that it was  
6   Philip Ramirez, or his staff, working for Philip  
7   Ramirez, that made that alteration?

8           A.    We met with Philip city manager and myself.  I  
9   don't remember who else was at the meeting.  But we  
10   talked to him about he -- he verbally -- we talked about  
11   it, so?

12          Q.    He admitted it.

13          A.    He said that he -- that, yeah, it was his staff  
14   that had prepared it.

15          Q.    Okay.  And did they admit to removing the date?

16          A.    He said he wasn't sure how the date was removed  
17   or how the screenshot was captured.

18          Q.    Okay.  So that's sort of, he kind of admitted  
19   it, but didn't really come clean.  Is that -- that's  
20   kind of what that sounds like to me.

21          A.    Well, like I said, he said that he was -- his  
22   staff prepared it.  That he's not sure how the  
23   screenshot, the -- that it was -- he didn't know how the  
24   date was not on that screenshot.

25          Q.    I mean, was he suggesting that somehow it was

1     like a computer error that happened to remove the  
2     release date and the reference number?

3             A.     He wasn't sure.

4             Q.     But was he suggesting that in any way that it  
5     was like a computer error?

6             A.     I'm not sure. I don't remember exactly. I  
7     just remember that he said that there was not -- that  
8     staff had prepared it. He wasn't sure why the date was  
9     not included on there.

10            Q.     Okay. I mean, was he suggesting, like, somehow  
11    the release date and then again, the release date, and  
12    then again, the reference number had somehow  
13    accidentally disappeared from the document, from the  
14    federal document?

15            A.     He said he didn't know.

16            Q.     Okay. So if -- if I'm hearing you now, he  
17    didn't say -- well, how did you conclude it was him, if  
18    he didn't even know how it happened.

19            A.     He said that his staff had prepared the  
20    presentation.

21            Q.     Was it at his direction?

22            A.     Yes.

23            Q.     Okay. So at his direction, his staff prepared  
24    the slide, and the release date was removed, and then  
25    the second release date was removed, and then the

1 reference number was removed.

2 A. I can't speak to that. He didn't say that he  
3 directed staff to do that. He directed staff to create  
4 the presentation.

5 Q. Did he tell you that the staff was renegade  
6 that they like did it without his permission?

7 A. No. No.

8 Q. Like, somebody had tricked his staff, or  
9 anything like that?

10 A. No. But what he did say is that this was a  
11 screenshot. He wasn't sure why the date wasn't included  
12 on there, where there was not an intent behind not  
13 including it was more of just a reference picture, in a  
14 sense.

15 Q. Do you see how removing the date fits into the  
16 false narrative that it was a recent change in -- in  
17 FEMA? You see that, don't you?

18 A. I understand that, yes.

19 Q. Okay. Which I mean if your -- if your  
20 narrative is something false, and you remove the data so  
21 you can sell the false narrative that doesn't pass the  
22 smell test, at least, right?

23 A. If, in fact, it was a false narrative. Yes.

24 Q. Well, the narrative that you needed it for  
25 new --

1           A.     Uh-huh.

2           Q.     -- FEMA requirements was false, right?

3           A.     They -- well, yes.

4           Q.     Okay. And do you think it's okay to get  
5     \$2 million in public money that is even in part, based  
6     upon a false narrative?

7           A.     No.

8                     (Exhibit 3 marked.)

9           Q.     (BY MR. ALLISON) Okay. I'm going to show you  
10    Exhibit Number 3. And I think you'll recognize that as  
11    your memo relating to this same ordinance that we're  
12    talking about.

13                    Do you see that?

14          A.     Yes.

15          Q.     And did you draft that?

16          A.     No, I didn't actually draft this. This was  
17    drafted by the EDC.

18          Q.     Okay. Did you --

19          A.     Is this a second reading or the first reading  
20    one?

21          Q.     First reading.

22          A.     Okay. The first reading memo was drafted by  
23    the EDC.

24          Q.     And did you sign off on it?

25          A.     Yes, in essence, yes.

1 Q. Yeah. And in that memorandum -- is it fair to  
2 call it a memo?

3 A. The agenda memo? Yes.

4 Q. I think it's dated, January 30, 2024, right?

5 A. Yes.

6 Q. So it's after the presentation to the Type B  
7 Board where we just looked at the altered slide, right?

8 A. Yes.

9 Q. And in this presentation, though, Philip  
10 Ramirez, again, used the same altered slide, correct?

11 A. Yes.

12 Q. Okay. And this is the memo that you  
13 prepared -- by the way, this second time that I'm  
14 referring to where Mr. Ramirez used the same altered  
15 slide that occurred at a meeting on February 20, 2024.

16 Does that sound right to you?

17 A. February 20 -- yeah, that was for the first  
18 reading of the ordinance.

19 Q. Yes. And you wrote your memo, obviously in  
20 advance of that, on about January 30, or the date on it  
21 is January 30?

22 A. Uh-huh. Yes.

23 Q. Okay. And so for this time period of  
24 January 30 to February 2024, we're seeing a continuation  
25 of this narrative -- by the way, have you -- have you

1 heard the audio -- audio tape where Peter Zanoni refers  
2 to it as a scheme?

3 A. No, I don't think so.

4 Q. Okay. I'll say narrative till we get there.

5 A. Okay.

6 Q. We're -- we're seeing that for this period of  
7 time, just like we had seen in -- in December of 2023 in  
8 front of Type B Board, we're seeing the same false  
9 narrative here in this January 30th, 2024 memo and we  
10 see it by the use of the same altered slide on  
11 February 20, 2024, right?

12 A. The same -- being the same, yes. But I would  
13 -- would argue, though, when here, it does talk about  
14 the FEMA flood zone requirements, but it also talks  
15 about exterior upgrades and leased spaces, which again,  
16 goes back to the intent of the Type B Board.

17 Q. Okay. Well, but it also goes back to the  
18 intent of the presentation, being using altered federal  
19 documents?

20 A. Again, I will -- I will -- I don't just -- I  
21 don't agree with a federal altered document. This is a  
22 screenshot of a website.

23 Q. Okay. An altered website?

24 A. A screenshot.

25 Q. Okay. A screenshot --



1 A. Yeah.

2 Q. Well, you -- you basically, they screenshot the  
3 website. That's a federal website, right?

4 A. Uh-huh. That's on a federal document.

5 Q. It's a federal website?

6 A. Uh-huh.

7 Q. Correct?

8 A. Yes.

9 Q. Well, and you can download it as a PDF, federal  
10 document, right?

11 A. Which it was not.

12 Q. Huh?

13 A. I said, but that was not what was done.

14 Q. Well, instead, they took a screenshot of it and  
15 altered it.

16 A. Yes.

17 Q. Okay. And you've already said that's not okay.

18 A. Yeah, no, exactly.

19 Q. I mean, it's wrong, no matter how you cut it?

20 A. Yes.

21 Q. You're not trying to say because it's a  
22 website, it's okay to mislead. But a document, you  
23 can't alter it. You're not saying that?

24 A. Well, no, what I'm saying is you keep referring  
25 to it as a federal document. If it's a -- you know,

1 it's not -- it was a screenshot of a website.

2 Q. Okay. He's altering federal information.

3 A. Yeah, I --

4 Q. Okay. I mean, and that's bad --

5 A. Yeah.

6 Q. It's horrible, right? I mean, it's horrible.

7 Can we agree?

8 A. If you were to alter a federal document? Yes.

9 Q. Well, if you're altering federal information in  
10 order to deceive somebody to thinking it's recent.

11 That's horrible, agreed?

12 A. Yes.

13 Q. Especially if you're asking for public money  
14 with it?

15 A. Yes.

16 Q. And that's what he was asking for public money  
17 using this federal, whatever you want to call it,  
18 altered screenshot, right?

19 A. I can't say that he was -- anyway --

20 Q. He was using it. It was up on the big screen?

21 A. It was up on the screen, yes.

22 Q. Okay. That's -- it shouldn't be there.

23 A. Yeah, I --

24 Q. You didn't do it. You would never in your life  
25 do that, would you? Alter a federal screenshot and go

1 present it to solicit federal or, excuse me, public  
2 money? You would never do that in your life, would you?

3 A. No.

4 Q. Okay.

5 A. But I don't feel like that's -- anyway, yeah.

6 Q. I don't want to argue with you. Just answer.

7 A. Exactly, yes.

8 Q. Okay. Anyway, in your memo, at least so -- and  
9 I'm just putting together the timeline --

10 A. Sure.

11 Q. In terms of in December of 2023, we see this  
12 federal altered -- whatever you want to call it,  
13 document screenshot, website --

14 A. Uh-huh.

15 Q. And then we see it again being referred to, not  
16 specifically the alteration, but the same FEMA  
17 information?

18 A. Yes.

19 Q. The false FEMA information. We see it being  
20 referred to in your memo, or being relied upon in part  
21 by your memo? I said in part because of the distinction  
22 you made a moment ago.

23 A. Yes.

24 Q. And then we see it again that Philip Ramirez  
25 uses it on February 20, 2024 right?

1           A.    Yes.

2           Q.    Okay.  And specifically, if you look at the  
3 caption, first of all, on your agenda memo that you  
4 published on January 30, 2024 it says there's going to  
5 be a first reading on February 20th, which there was  
6 right?

7           A.    Yes.  Yes.

8           Q.    It says the second reading is scheduled for  
9 February 27, right?

10          A.    Uh-huh.  Yes.

11          Q.    And that second reading did not occur on  
12 February 27 because all heck broke loose?

13          A.    That is correct.

14          Q.    Okay.  And the heck that broke loose was the  
15 accusation that there had been an alteration of federal  
16 data?

17          A.    That is correct.

18          Q.    And because as of at least January 30th, 2024  
19 your memo still under the caption says that the  
20 2 million is, and I'm going to quote now, for cost  
21 associated with FEMA AE Flood Zone requirements.  That's  
22 one of the things stated there, right?

23          A.    Yes.

24          Q.    And you later came out to -- to learn that was  
25 it really true?

1           A.     Well, no. The money was still going to those  
2 things that were required by FEMA. You have it still to  
3 build the infrastructure that is required by FEMA to do  
4 but they had two different choices, right. They could  
5 have done a more invasive model, where you would lose a  
6 lot of that retail or they could do a different  
7 requirement, or different thing to achieve the same  
8 requirement with a less invasive that would preserve the  
9 retail space.

10          Q.     Right. But at the time you wrote your memo,  
11 you still thought the lie was true?

12          A.     I'm not sure there was a lie.

13          Q.     Well, you still thought the -- the altered  
14 information.

15                    You did not know about the altered  
16 information, did you?

17          A.     I wasn't relying on the altered information.

18          Q.     Right. I understand it was the applicant that  
19 was relying on and presenting the altered information,  
20 right?

21          A.     I don't believe so. No. What was being  
22 presented was the fact of doing something different that  
23 was going to cost more instead of doing another type of  
24 flood. Both of them were related to flood, whether they  
25 did it one way or the other.

1           Q.     Okay.  So why did -- I mean so it -- it --  
2     earlier, you told me the first narrative and the second  
3     narrative were completely different.  Remember that?

4           A.     The -- yes, but the statement that this is  
5     wasn't -- I mean, all of it was for FEMA flood.  What  
6     you're talking about is the reliance on whatever the  
7     dates were the newly defined, right?

8           Q.     Let's just do it this way.

9                     Does it say in your memo that the  
10    \$2 million is quote for costs associated with FEMA AE  
11    Flood Zone requirements?

12          A.     That's true.

13          Q.     Does it say that?

14          A.     Yes.

15          Q.     Okay.  And that sentence was removed in your  
16    second memo, wasn't it?

17          A.     I believe so, yes.

18          Q.     Okay.  I have it here if you want.  We'll get  
19    to in a minute.

20          A.     Yeah.

21          Q.     And does it say on the background that the --  
22    under background, does it say quote in on this  
23    January 30th, one on January 22, 2024, the Type B  
24    Corporation unanimously approved an agreement with  
25    Elevate QOF, LLC for costs associated with FEMA AE Flood

1 Zone requirements.

2 Do you see that?

3 A. Yes.

4 Q. And the reference to costs associated with FEMA  
5 AE Flood Zone requirements was removed from your  
6 subsequent memo, right?

7 A. Yes.

8 Q. And so -- and then on your January 30th memo,  
9 does it say that -- find the paragraph, if you will, the  
10 grant request will be utilized.

11 Do you see that? It's on the top of the  
12 second page.

13 A. Okay. Okay.

14 Q. Where it says, quote, The grant request will be  
15 utilized for additional costs associated with newly  
16 defined --

17 A. Uh-huh.

18 Q. -- Federal Emergency Management Agency, open  
19 parent, FEMA, closed parent, AE Flood Zone requirements  
20 that has added additional unexpected cost of 1,510,000  
21 and change towards the project.

22 A. Yes.

23 Q. Do you see where I read that?

24 A. Yes.

25 Q. That sentence was completely removed from your

1 subsequent memo, right?

2 A. Yes.

3 Q. Okay. And the reason you remove those things  
4 is because there was this change? Well, you're removing  
5 those created a changed memo obviously.

6 You didn't -- you didn't go with this memo  
7 that was originally designed for both readings?

8 A. That is correct.

9 Q. Okay. In other words, this memo, we can look  
10 at the top of it, and we can tell that this memo is  
11 supposed to be for the first reading and the second  
12 reading?

13 A. Yes.

14 Q. Okay. But you didn't use this memo for the  
15 second reading. You went and did a completely new  
16 reading, new memo?

17 A. Yes, it was modified.

18 Q. Yes, changed?

19 A. Yeah.

20 Q. Revised? All of the above?

21 A. Yes.

22 Q. Okay.

23 A. But the dollar amount remained the same. The  
24 project remained the same.

25 Q. Oh, yeah. They still got their money politics



1 included, right?

2 A. That's an unfair statement I think.

3 Q. Okay. Come on. I mean, you probably know that  
4 -- that the -- do you know the closest of the  
5 relationship between Philip Ramirez and Devin Bhakta and  
6 the mayor?

7 A. No.

8 Q. Okay. Do you know what political influences  
9 there were?

10 A. No.

11 Q. They still got their money, didn't they?

12 A. Because of the project qualified. Yes.

13 Q. Well, it didn't qualify at REDC because it  
14 didn't even have an infrastructure component anymore,  
15 according to them. You know, that's what Mike  
16 Culbertson testified to?

17 A. I can't -- I -- no, I don't.

18 Q. Okay. So you can't argue with him -- he's the  
19 expert in that, right?

20 A. He's --

21 Q. He's got more EDC and infrastructure, and REDC,  
22 direct experience with modeling and the things he did  
23 than you do?

24 A. I don't know what is it? I don't know how long  
25 he's been with the EDC.

1 Q. Okay. Fair enough.

2 Anyway, in the recommendation, at least in  
3 the first memo, was quote, Staff recommends approval of  
4 the agreement in an amount not to exceed 2 million, to  
5 be funded by the CCBB Corporation in fiscal year 2024.

6 It was stated -- sorry about that. And  
7 then at the end of your first memo, it says, Under the  
8 recommendation, staff recommends approval of the  
9 agreement, an amount not to exceed 2 million to be  
10 funded by the CCB Corporation fiscal year 2024, right?

11 A. Yes.

12 Q. And that is typical that staff will either  
13 recommend or not?

14 A. Exactly.

15 Q. Okay. That's part of -- that's staff's job?

16 A. Exactly based off of the decisions made by the  
17 Type B Board.

18 Q. Well, based upon the information provided by  
19 the --

20 A. Exactly.

21 Q. -- applicant.

22 A. Exactly.

23 Q. Which was all this FEMA -- what we now know is  
24 FEMA garbage, right?

25 A. Based off the application. Yes.

1 Q. Okay. Which had FEMA garbage in it, things  
2 that were untrue or false or misleading, whatever word  
3 you want to use, right?

4 A. Based off the application. Yes.

5 Q. Okay. Which had that false information in it?  
6 No comment? Okay?

7 Anyway, and then on the list of supporting  
8 documents, it says the things that were relied upon to  
9 make this recommendation, that's what you're listing  
10 there, right?

11 A. Yes.

12 Q. The things that were relied upon to make the  
13 recommendation according to your memo were the  
14 agreement, and I assume that means the proposed  
15 agreement between Type B.

16 When you're saying agreement, are you  
17 talking about the proposed agreement between Type B and  
18 the applicant?

19 A. Yeah. So clarification --

20 Q. Is that a yes?

21 A. -- the -- the list of supporting documents is  
22 not what was used to make the decision. The list of  
23 supporting documents is what's actually attached to this  
24 memo on the agenda item.

25 Q. You -- are you telling me that you probably

1 like to attach the irrelevant stuff? Or do you try to  
2 attach the meaningful stuff?

3 A. Well, stuff that supports this? Yeah.

4 Q. The meaningful -- the things you're relying on?

5 A. Yes.

6 Q. Okay. And so the things that you were relying  
7 on is one the proposed agreement between Type B Board  
8 and the applicant?

9 A. Yes, because that was bring forward for  
10 consent. That's what was being approved as the  
11 agreement.

12 Q. Right? And the other thing that's here, as far  
13 as the listed item you relied upon, is FEMA cost  
14 estimates, right?

15 A. Yes.

16 Q. And who provided those FEMA cost estimates?

17 A. The developer.

18 Q. Huh?

19 A. The applicant.

20 Q. And then the other thing that you were relying  
21 upon in order to make this recommendation for \$2 million  
22 to be given was the FEMA flood map.

23 Do you see that?

24 A. Yes.

25 Q. And the other thing you were relying upon was

1 the PowerPoint presentation, which had the altered  
2 federal website slide, whatever you want to call it?

3 A. I would not agree that we're using the  
4 PowerPoint presentation to make the decision. It was  
5 based off the application and the information given?

6 Q. Well, it's listed as the supporting document?

7 A. To the agenda item.

8 Q. Yeah, and so you had false information because  
9 it's altered being part of what was supporting the  
10 award. I'm using the word supporting because it says  
11 supporting documents.

12 A. Yeah, supporting the agenda item, yes.

13 Q. Yeah. Which is approval for \$2 million?

14 A. Uh-huh.

15 Q. Correct?

16 A. Yes.

17 Q. Okay. So there's a direct link, even according  
18 to your memo, of that PowerPoint presentation that has  
19 the false or misleading information in it and the award  
20 of the 2 million?

21 A. Yes.

22 Q. And that's it -- again, that is a horrible  
23 thing to have in terms of a record for use of public  
24 money, agreed?

25 A. Yes.

1 (Exhibit 4 marked.)

2 Q. (BY MR. ALLISON) Okay. I -- I'm going to hand  
3 you what I'm going to mark as Exhibit 4, and I think  
4 you'll agree with me after there's a memorandum, then it  
5 usually ends up on an agenda.

6 A. Yes.

7 Q. And I think it's on page four of the agenda,  
8 this specific agenda item, right?

9 A. Yes.

10 Q. And the ordinance, it's called Ordinance  
11 24-0256, that's the one we've been talking about, right?

12 A. Yes.

13 Q. The ordinance reads or the agenda item, I'm  
14 going to read it into the record so we can talk about  
15 it. Make sure I read it right, okay?

16 A. Sure.

17 Q. Ordinance authorizing an agreement between the  
18 City -- I already messed up.

19 A. Uh-huh.

20 Q. I'm going to start over.

21 Ordinance authorizing an agreement between  
22 the Corpus Christi B Corporation and Elevate QOF, LLC,  
23 for cost associated with FEMA AE Flood Zone requirements  
24 and exterior upgrades for Homewood Suites by Hilton at  
25 the corner of Chaparral Street and Lomax Street,

1 appropriating \$2 million for a non-reimbursable grant  
2 from the Type B Economic Development Fund; and amending  
3 the budget.

4 Did I read that correctly?

5 A. You did read that correctly.

6 Q. Okay. And that is basically the agenda item  
7 that we just -- now being presented to the city council  
8 that we just talked about your memo that led to that  
9 agenda item?

10 A. Yes, the caption.

11 Q. It's this -- as of this point, there's no  
12 change in it.

13 A. No, it's the caption, yes.

14 Q. We agree?

15 A. Yes.

16 Q. Okay. We had a double negative in there again.  
17 And it was during -- this meeting occurred, city council  
18 meeting occurred on February 20th?

19 A. Yes.

20 Q. And it's during this meeting where Philip  
21 Ramirez again used the altered slide, website slide,  
22 whatever you want to call it, that he had also used in  
23 front of the Type B Board?

24 A. Yes, it was included in the presentation.

25 (Exhibit 5 marked.)

1 Q. (BY MR. ALLISON) Yeah. I'm learning my system.  
2 I'm going to hand you Exhibit Number 5 to your  
3 deposition.

4 And do you recognize this as the  
5 February 27, 2024 agenda?

6 A. Yes.

7 Q. And that is the -- what was originally back  
8 when this false narrative was going on, that was going  
9 to be the second reading to approve the ordinance?

10 A. That is correct. That was when it was  
11 originally scheduled. Yes.

12 Q. Pardon?

13 A. I said that was when it was originally  
14 scheduled, yes.

15 Q. And so if -- and to know that it was -- we know  
16 that because your memo indicates the second reading  
17 supposed to occur on February 27th?

18 A. That's when it was planned. Yes.

19 Q. And we also know that because when we look at  
20 the actual February 27th agenda item, or, excuse me,  
21 agenda package --

22 A. Uh-huh.

23 Q. -- the item on it, the same item is there,  
24 right? I think it's on page three, item seven. See if  
25 that helps you.



1 A. Yes.

2 Q. And compare that, if you will, to I know the  
3 one I handed you is the February 27th --

4 A. Yes.

5 Q. -- agenda.

6 A. Yes.

7 Q. And see your lawyer's hand during you the  
8 February 20 --

9 A. Yes.

10 Q. -- agenda item. Are they identical?

11 A. Yes.

12 Q. Okay. Okay, so at least at this point, we see  
13 very clearly that the first reading has occurred on  
14 February 20, right?

15 A. Yes.

16 Q. And it's -- as we see it reads on the agenda.  
17 We see exactly what the words are there, right?

18 A. Yes.

19 Q. And then those exact same words for the second  
20 reading appear on the February 27, 2024 agenda?

21 A. Yes.

22 Q. Okay. And that February 27 was supposed to be  
23 the second reading of those same words describing the  
24 ordinance?

25 A. Yes.

1 Q. We're setting forth the terms of the ordinance?

2 A. Yes.

3 Q. Okay.

4 A. The caption of the ordinance, yes.

5 Q. Pardon?

6 A. I said the caption of the ordinance.

7 Q. Well, I mean, it's -- you can go and call it a  
8 caption. It's a -- it's a lot of words.

9 A. Yeah.

10 Q. However many words it is, it is?

11 A. Yeah. Yeah.

12 Q. Okay. It is -- it is defining and -- and this  
13 agenda the way it's worded identifies many different  
14 facets of what's happening, right?

15 A. Yes.

16 Q. It identifies the amount of million at  
17 2 million?

18 A. Yes.

19 Q. It identifies that it's an -- for the purpose  
20 of authorizing an agreement between Type B Board and  
21 Elevate?

22 A. Yes.

23 Q. It identifies that it's quote cost associated  
24 with FEMA AE Flood Zone requirements, right?

25 A. Yes.

1 Q. It identifies that it's for the Homewood  
2 Suites, obviously, right? And gives the location?

3 A. Yes.

4 Q. And it says that, based upon that, they'll also  
5 be amending the budget?

6 A. Yes.

7 Q. Okay. And that's how it's worded on  
8 February 20th and February 27 it's very clear that we  
9 have the same ordinance when we compare those two.

10 A. Yes.

11 Q. Okay. Because it's an identical wording?

12 A. Yes.

13 (Exhibit 6 marked.)

14 Q. (BY MR. ALLISON) Okay. I'll hand you Exhibit  
15 Number 6.

16 Have you seen that document before?

17 A. I don't know that I --

18 Q. Huh?

19 A. I'm not sure that I have.

20 Q. Okay.

21 A. Because this was -- wasn't addressed to me.

22 Q. Right. Does it appear to be a email from Ajit  
23 David to Peter Zaroni?

24 A. Yes, to his personal email.

25 Q. Yes?

1 A. Uh-huh.

2 Q. Is that a yes?

3 A. Yes.

4 Q. And before we get to it, I tell you what, go  
5 ahead and finish reading it, and then tell me when  
6 you're ready.

7 A. Okay.

8 Q. Okay. And I want to kind of get the timeline  
9 here straight.

10 We talked about the first reading occurred  
11 on February 20th, and what the basis for the request was  
12 at that time?

13 A. Yes. Yes.

14 Q. And then that same basis and reasoning was  
15 contemplated on the February 27th agenda item?

16 A. Yes.

17 Q. And then you see this -- I'm just kind of  
18 getting the timeline for us --

19 A. Uh-huh.

20 Q. -- on May 7, there's a very clear articulation  
21 by my client to Mr. Zanoni, saying, Hey, basically you  
22 got an altered document here?

23 A. March 7th. You said, May 7th.

24 Q. Thank you.

25 A. Welcome.

1 Q. Correct?

2 A. Yes.

3 Q. Okay. And so on -- and I think you'll remember  
4 on February 27th it came off it got, you know, it's in  
5 the writing somewhere to be honest with you, I think --

6 A. Uh-huh.

7 Q. -- it was basically postponed or tabled or  
8 taken off the agenda?

9 A. It was pulled off the agenda, yes.

10 Q. It was pulled off the agenda.

11 And were you told at that time, back at  
12 February 27 time frame on why it was being pulled off  
13 the agenda?

14 A. I'm trying to remember. I think it was -- I  
15 was told, because there were questions about the  
16 project. There were questions about the project.

17 Q. Okay. Were you given information more  
18 detailed, like, Hey, we got a problem, because they've  
19 been showing everybody an altered federal website,  
20 screenshot, whatever?

21 A. I believe so. I don't remember exactly when I  
22 was told that. Yes.

23 Q. Okay. But you think you probably got a -- at  
24 least that small bit of data, probably back on  
25 February 27th?

1           A.    I know about that.  I actually was out of town  
2 on February 27th.

3           Q.    Okay.  You weren't that that meeting?

4           A.    No, I was at a conference.

5           Q.    Okay.  But so somewhere in there, either that  
6 day or immediately afterwards, you heard it got pulled  
7 off because there's problems with it?

8           A.    There were some questions, yes.

9           Q.    Yeah.  And the question was, Hey, have they  
10 been lying to us about this FEMA deadline -- about this  
11 FEMA timeline?

12          A.    Yes, that was being brought into question, yes.

13          Q.    About recent changes, right?

14          A.    Yes.

15          Q.    Okay.  And so that was because of this concern  
16 about it being some trickery, some misleading  
17 information, whatever word you want to use, that's your  
18 understanding that they decided to pull it off the  
19 agenda and look into it or investigate it?

20          A.    Yes.

21          Q.    And you were involved in that investigation?

22          A.    Yes.

23          Q.    Okay.  And do you know if that investigation  
24 started because we have this March 7th letter that is  
25 Exhibit Number --

1           A.     Six.

2           Q.     -- six.

3                     Do -- do you know if the investigation  
4 started immediately after February 27 or did it wait  
5 until after March 7? Or can you tell me?

6           A.     I don't recall.

7           Q.     Okay. But at least in terms of sort of what  
8 was being investigated, I want to review the letter with  
9 you and see if it was within the scope of the  
10 investigation.

11          A.     Sure.

12          Q.     Do you see that -- first of all, that Mr. David  
13 identifies that there are, in the first paragraph his  
14 words, lots of questions?

15          A.     Yes.

16          Q.     That he identifies that the project is well  
17 under construction and a fully committed project.

18                     Do you see that?

19          A.     Yes.

20          Q.     And I think there's actually a newspaper.

21                     I don't know if you're going to remember  
22 this, but I do know you're on TV too.

23          A.     Most likely. Yes.

24          Q.     Okay. That is, there was about, really, in  
25 this same time frame, they were actually working --

1 they'd already done enough structure where they're  
2 working on the second floor, right?

3 A. I think so, yeah, sure.

4 Q. Okay. There's a picture in the paper, whatever  
5 it shows --

6 A. Yes, yeah. Exactly.

7 Q. Okay. And you understand that he's quoting, he  
8 puts in a quote here, You're not supposed to do business  
9 incentives.

10 And the way he says it is quote, No  
11 business incentives if construction or program has  
12 commenced.

13 You see where he's quoted that?

14 A. I do.

15 Q. Okay. So essentially, he's complaining, Hey,  
16 why are you guys giving them \$2 million when they're  
17 already over there building the second floor?

18 A. Exactly. Yes.

19 Q. Okay. And you understand that complaint?

20 A. No, I understand that, yes.

21 Q. Okay. And that -- and then on the next  
22 paragraph, it talks about the CCREDC Board reviewed the  
23 application, and that they talked about pandemic-related  
24 costs of about a half a million.

25 Do you see that?



1 A. Yes.

2 Q. And then his complaint or his concern goes on  
3 to say that then there's 1,510,000 identified basically  
4 in the memos that the City had done, right?

5 A. Yes. Yes.

6 Q. That, I know that number probably came from  
7 EDC, right?

8 A. Yes.

9 Q. Okay. So there's this \$1,510,000 and change.  
10 And he's complaining, it's for, quote, new FEMA flood  
11 zone requirements.

12 A. Uh-huh.

13 Q. Do you see that?

14 A. I do.

15 Q. And he's saying, hey, you need to look at the  
16 presentation, because the FEMA screenshot, by the way,  
17 he calls it what you call it, a screenshot.

18 A. Uh-huh.

19 Q. The FEMA screenshot in the presentation, he  
20 says it's removed the release date and remove the  
21 release number.

22 Do you see that?

23 A. Yes.

24 Q. Okay. And so at least by this point in time,  
25 March 7, do you think you had been made aware

1 specifically that the release date and the release  
2 number had been altered?

3 A. Most likely.

4 Q. Okay.

5 A. He thinks, I guess.

6 Q. And he says he's honestly I think he's just  
7 trying to be a little polite.

8 Strangely -- I'm going to quote, Strangely  
9 these are missing or hidden from the screenshot in the  
10 application. How did they disappear? Question mark.

11 Did I read that correctly?

12 A. Yes.

13 Q. Okay. And then he says, I'm attaching a  
14 screenshot of the actual FEMA -- FEMA portal, where you  
15 can see the release date and see the release number  
16 basically?

17 A. Okay.

18 Q. So very clearly here, my client is saying, Hey,  
19 I'm letting the City know this slide -- let me use his  
20 word, screenshot, this screenshot of this federal  
21 information --

22 A. Exactly.

23 Q. -- has been altered.

24 A. Okay.

25 Q. He's saying that very clearly to you.

1 Do you agree?

2 A. Yes.

3 Q. Okay. And is that specifically what the City  
4 was investigating is, Hey, this -- you've said it's not  
5 good, horrible, whatever word you want to use from  
6 earlier. You were investigating why this bad thing had  
7 happened. That was a document part of a package to give  
8 \$2 million to the project?

9 A. Yes.

10 Q. Okay. And Mr. David made that very clear that  
11 that was the nature of his -- of his complaint, is that  
12 there's money being given for a project under these  
13 false pretenses.

14 A. Yes.

15 Q. Okay. Then he goes on to say it's questionable  
16 about a developer using this excuse, meaning, Hey, all  
17 these new FEMA things, because he's an architect, and  
18 he's supposed to be looking at flooding --

19 A. Uh-huh.

20 Q. -- flood zones, right?

21 A. Yes.

22 Q. And I assume you would agree if you're going to  
23 -- if you're going to do a \$30 million building, you  
24 better do your homework way in advance on what the flood  
25 zone requirements are?

1 A. Yes.

2 Q. And the FEMA requirements are, right?

3 A. Yes.

4 Q. And that means he should have and maybe did.  
5 I'm not going to ask you to speculate.

6 A. Yes.

7 Q. He certainly should have known back as early  
8 remember, I showed it to you in October of 2020, that  
9 they were publishing the new FEMA flood maps?

10 A. Yes.

11 Q. Okay. And you would certainly expect a project  
12 developer, architect, somebody who's doing a \$30 million  
13 project to do their homework and be aware of that, not  
14 at the 11th hour, which is what they were pretending in  
15 front of Type B. But you would expect them to have done  
16 it early in the development of their project. And by  
17 it, I mean looking at the flood maps.

18 A. Yes.

19 Q. And you don't -- and for all you know, he did  
20 look at them. He being Mr. Ramirez, right?

21 A. Yeah, I can't speak to whether he did or  
22 didn't.

23 Q. Right. And so you can't speak to whether he  
24 knew about the flood lab -- maps beginning in 2023 or  
25 all the way back to 2020?

1           A.     Exactly.

2           Q.     You only know that to represent the flood maps  
3 as being a recent development in 2024 is not really  
4 true, because we showed it to you where they were being  
5 published in 2020?

6           A.     Yes.

7           Q.     Okay. Is it fair to say that you -- that  
8 you -- I'll just ask you -- that you agreed with  
9 Mr. David's criticisms that he's articulated that we  
10 just went over in this letter?

11          A.     On face value, yes.

12          Q.     Yeah. Well, and you did an investigation.  
13                   You and who else were involved in the  
14 investigation?

15          A.     The city manager, I think we had the Miles  
16 Risley, I believe was in -- yeah, Miles Risley was  
17 involved in it. I don't know who else to tell you the  
18 truth. I don't remember.

19                   (Exhibit 7 marked.)

20          Q.     (BY MR. ALLISON) Okay. I'm going to show you  
21 Exhibit Number 7 to your deposition.

22                   And leaving room for human error by my  
23 staff. They have transcribed a audio tape of Peter  
24 Zanoni and my client speaking.

25                   Do you understand what I've just told you?

1 A. Yes.

2 Q. Okay. I'm going to give you a moment to review  
3 it, fair?

4 A. Okay.

5 MR. ALLISON: Let's go off record while  
6 she reviews it. Is that all right?

7 MS. MARCUM: Yes.

8 MR. ALLISON: Let's go off record for a  
9 second.

10 THE VIDEOGRAPHER: The time is 11:16 a.m.  
11 We're off the video record.

12 (Recess from 11:16 a.m to 11:25 a.m.)

13 THE VIDEOGRAPHER: The time is 11:25 a.m.  
14 We're back on the video record.

15 Q. (BY MR. ALLISON) Do you understand we took a  
16 break and we're back on the record?

17 A. Yes.

18 Q. And during that break, really, just before the  
19 break, I think I handed you a transcript that's marked  
20 as Exhibit 7?

21 A. Yes.

22 Q. Which is a transcription of a phone  
23 conversation between Ajit David and Peter Zanon?

24 A. Yes.

25 Q. And I think during the break, we talked with

1 your lawyer here --

2 A. Yes.

3 Q. -- and -- and I extended the courtesy of  
4 actually playing the audio tape so you could see it or  
5 hear it --

6 A. Yes.

7 Q. -- while you're also reading the transcript.

8 A. Yes.

9 Q. Okay?

10 A. Yes.

11 Q. And -- and was that helpful to you, getting an  
12 understanding how the conversation went?

13 A. Yes, it was very helpful.

14 Q. Okay. And so having listened to the recording,  
15 and having gotten to follow along with the transcript,  
16 and by the way, there's a reference in there that it's  
17 going to be on an agenda, we know that was April 23rd?

18 A. Uh-huh.

19 Q. Right?

20 A. Yes.

21 Q. And we know that he says on there, it's not  
22 going to be this -- it's not going to be tomorrow, it's  
23 going to be a week from tomorrow, which means this  
24 conversation, if you do the math, is 23 minus seven  
25 gives you 16. So the Monday before would be the 15th,

1 maybe?

2 A. Possibly, yeah, I know that I -- we were going  
3 to bring it back several different times, and it was  
4 delayed. So I can't say that this was exactly seven,  
5 whatever, before April 23rd.

6 Q. Fair enough. And you may be right about that.  
7 I've been trying to date it --

8 A. Yeah.

9 Q. -- in my mind, and there may be a record of it.  
10 And whatever it is, it is?

11 A. Yeah, yeah. Exactly, exactly.

12 Q. But it's clear from the context of the  
13 discussion between Mr. David and Mr. Zaroni, that  
14 they're talking about the same issue I've been asking  
15 you questions about is?

16 A. Yes.

17 Q. This darn altered. And the word he uses is a  
18 United States federal portal?

19 A. Exactly.

20 Q. Okay. And the word that goes unscathed in the  
21 discussion between Peter and Ajit is talking about it  
22 being the tampering with a United States federal  
23 portal --

24 A. Yes.

25 Q. -- information, right?



1           A.     Yes.

2           Q.     And I'm using now their words.  And without me  
3 making them up, or you making them up, and without them  
4 being your words, you don't have any reason to disagree  
5 with that characterization?

6           A.     No.

7           Q.     That's a -- that's in the conversation.  It was  
8 clearly nobody was fighting about it in the -- in the --

9           A.     Exactly yes.

10          Q.     -- in the discussion?

11          A.     Yes.

12          Q.     Okay.  And so is it okay then if we refer to it  
13 at least while we're talking about this recording as  
14 being the concern here was the tampering with a United  
15 States federal portal?

16          A.     Yes.

17          Q.     Okay.  Okay.

18                   And so it's -- it's very clear, I think,  
19 that by this point in time and again, we don't know the  
20 exact date, but by this point in time, we're between the  
21 first reading and the second reading?

22          A.     Yes.

23          Q.     So we know we're between February 20 and  
24 April 23rd.

25          A.     That is correct.

1 Q. And during that time frame, it's very clear  
2 that Peter has full knowledge that this tampering with  
3 the United States federal portal has occurred?

4 A. Yes.

5 Q. And it's very clear he is the one that  
6 characterizes it, or uses the word scheme?

7 A. Yes.

8 Q. And he actually goes into an explanation about  
9 how, you know, there was a need for an infrastructure  
10 component, so they made up this FEMA thing, and it was a  
11 scheme to basically get the money that's all in there,  
12 right?

13 A. Yes.

14 Q. And it was a scheme to get the money that was a  
15 -- and by the scheme is the tampering with the United  
16 States federal portal, right?

17 A. Yes.

18 Q. To get \$2 million and correct?

19 A. Yes.

20 Q. And is that what your -- is that consistent  
21 with what your investigation found?

22 A. Yes.

23 Q. Yeah. And repeatedly, because of the  
24 realization that it was a tampering of a United States  
25 federal portal scheme to get \$2 million Peter repeatedly

1 said that he was not going to recommend it to council,  
2 right?

3 A. Yes. In this conversation, yes.

4 Q. Pardon?

5 A. I said in this conversation, yes.

6 Q. Yeah, he said it several times, whatever the  
7 exact date is here --

8 A. Yeah.

9 Q. -- he said it several times on the recording?

10 A. Yes.

11 Q. Okay. And you probably qualified that because,  
12 you know, in front of the council he -- he switched and  
13 recommended it, you know that, right?

14 A. Yes. Yes.

15 (Exhibit 8 marked.)

16 Q. (BY MR. ALLISON) Okay. And before we get to  
17 that, I've also handed you Exhibit Number 8.

18 And that's the memo you wrote in order to  
19 get to that April 23rd meeting, right?

20 A. Yes.

21 Q. And that April 23rd or the memo really -- for  
22 April 23rd meeting, is dated March -- by the way, that's  
23 Exhibit 8, right?

24 A. Yes.

25 Q. And that's dated March 11, 2024, right?

1 A. Yes.

2 Q. Did you write it?

3 A. Yes.

4 Q. Okay. And one of the changes compared to the  
5 first memo --

6 A. Uh-huh.

7 Q. -- and the first memo we talked about earlier,  
8 right?

9 A. Yes.

10 Q. One of the changes is that this one says the  
11 rec -- second reading is going to happen on April 23rd,  
12 2024 right?

13 A. Yes.

14 Q. So apparently that was scheduled as to be the  
15 case as early as March 11?

16 A. Not necessarily. A lot of times we don't  
17 change the date of the original memo.

18 Q. Okay.

19 A. We -- but these dates do change based off of  
20 when we finally schedule it.

21 Q. Fair enough.

22 I'm glad I asked, just because sometimes  
23 it, you know, I infer something, but I appreciate you  
24 clarifying that.

25 A. Yeah. Yeah. Because we don't -- like I said

1 we don't necessarily, this is probably when the date the  
2 original memo was started, but we can delay. This is  
3 something that happens all the time.

4 Things get delayed, and so we don't go  
5 back and update this if there are additional changes  
6 made.

7 Q. And I'm going to read some things, because I  
8 know and you probably know them.

9 I'm going to ask you about some  
10 conversations you had with Leah Olivarri.

11 A. Yes.

12 Q. Olivarri?

13 A. Yes, Ollivari.

14 Q. And you probably know him.

15 I'm going to ask you about how -- how that  
16 played into conversations, or email exchanges with Mike  
17 Culbertson.

18 A. Sure. Yes.

19 Q. Okay. I know you know that's --

20 A. Yes.

21 Q. But let's at least kind of set the table for  
22 the shift that's occurred in advance of this April 23  
23 meeting.

24 It now it says that the \$2 million is for  
25 quote costs associated with the street level retail

1 public space and outdoor dining area, right?

2 A. Yes.

3 Q. And those are new words --

4 A. Yes.

5 Q. -- compared to the first memo?

6 A. Yes and no. Because in the first memo, it does  
7 talk about the -- which I had pointed out earlier. It  
8 says the exterior upgrades. Yeah, the exterior  
9 upgrades. And I think it goes into the exterior  
10 upgrades and leased spaces.

11 Q. Yeah, those are all different words?

12 A. But it's -- it's the same. It's talk --  
13 talking about the street level retail, the public space  
14 and the outdoor those are all included in those leased  
15 spaces. So --

16 Q. They're all different words, though, right?

17 A. Yes, yes.

18 Q. Okay. You changed it?

19 A. But the intent is the same. Yes.

20 Q. Well, if -- but you --

21 A. We provided more description, yes.

22 Q. -- you made changes?

23 A. To clarify. Yeah.

24 Q. Well, you made -- you did more than that. You  
25 took FEMA out.

1 A. Yes.

2 Q. Okay. FEMA is now not the headliner?

3 A. Exactly.

4 Q. And the reason you took the headliner out is  
5 because it was a big realization -- and you can hear it,  
6 and I saw it on your face when you listened to it during  
7 the break.

8 It's a terrible thing that was being  
9 discussed between Peter Zaroni And Ajit David --

10 A. Uh-huh.

11 Q. -- correct?

12 A. Yes.

13 Q. Okay. And you-all didn't want to touch that  
14 with a 10-foot pole again in the second reading?

15 A. Though we provide clarification, because the  
16 Type B Board --

17 Q. Well, you threw FEMA out?

18 A. Because that wasn't the Type B Board --

19 Q. For whatever reason you want to say, now you  
20 changed it?

21 A. Yes.

22 Q. Okay?

23 A. Yeah.

24 Q. And now we have the words we just read into it,  
25 and on the summary, it says it's for quote, For cost

1 associated with the development of street level retail,  
2 public space and outdoor dining activation.

3 Again, emphasizing those things and  
4 removing FEMA the way it had been expressed in the first  
5 memo?

6 A. Uh-huh.

7 Q. Correct? Yes?

8 A. Say that again.

9 Q. It's putting those words in and removing the  
10 FEMA words that were in the first memo?

11 A. Yes.

12 Q. Okay. And then on background, it says, again,  
13 For costs associated with the development of street  
14 level retail, restaurant and public spaces to be built  
15 along with the -- with the Homewood Suites Project.

16 A. Yes.

17 Q. Did I read that correctly?

18 A. Uh-huh.

19 Q. And again, those are words that were not in the  
20 first memo.

21 And you've removed the words about FEMA  
22 that were in the first memo?

23 A. Exactly.

24 Q. And then if you scroll down on this paragraph  
25 that starts on February 2024 tell me when you see that.



1 A. February 20th, 2024?

2 Q. Yes. Thank you.

3 A. Yes.

4 Q. It says quote, On February 20, 2024 the first  
5 reading of the ordinance was presented to city council  
6 for consideration. The ordinance caption primarily  
7 focused on the project to comply with FEMA flood  
8 requirements. The focus of the project should have  
9 instead focused on maintaining the street level retail  
10 activation.

11 Have I read it correctly so far?

12 A. Uh-huh.

13 Q. And then the next sentence says the caption  
14 presented for consideration today, meaning, April 23rd,  
15 right.

16 A. Yep.

17 Q. Correct?

18 A. Yes.

19 Q. Has been updated to properly reflect the  
20 aspects of the project from the Type B Corporation.

21 A. That is correct. Yes.

22 Q. Okay. And so you're clearly saying in this  
23 memo that you -- I mean the word you used is, Hey, this  
24 description is you're wanting to say is the proper one?

25 A. Uh-huh.

1 Q. Not the description in the first memo.

2 A. That is correct.

3 Q. Okay.

4 A. Expanding on the -- yeah. Yes.

5 Q. Well, I mean, and that -- and that you wanted  
6 it to be proper for the second reading, not the --

7 A. Yes.

8 Q. -- whether you want to call it improper,  
9 whatever in the first reading?

10 A. Yes. The caption, yeah.

11 Q. Okay. And that you are say caption. When you  
12 say caption, you're referring to what -- the way it's  
13 stated in the agenda?

14 A. Agenda exactly which sometimes does differ from  
15 what the -- the actual ordinance legal document caption  
16 is.

17 Q. Fair enough.

18 And then you go on to say the grant  
19 request will be -- second paragraph from the bottom.  
20 Then you go on to say the grant request will be utilized  
21 for costs associated with the development of and again,  
22 you keep repeating these same words in this new newer  
23 memo. This one for April 23rd with development of,  
24 quote, street level retail, restaurant and public spaces  
25 to be built along with the Homewood Suites Project.

1           A.    Yes.

2           Q.    Okay.

3           A.    I think the next sentence is very important,  
4    though.  It says the cost include flood wall and dry  
5    flood proofing the street level structures remain  
6    consistency with the adjacent buildings across downtown,  
7    so that -- it that refers back to while it doesn't  
8    specifically say FEMA, it's still the same intent of  
9    providing funding to ensure that it complies with FEMA.

10          Q.    So did you want there to be a FEMA component in  
11    it, even though they lied about FEMA?

12          A.    Well, but I --

13          Q.    Why would you want to lie in there?

14          A.    But that --

15          Q.    Well, I don't mean you lied.  They lied.

16                    They lied, right?

17          A.    I -- I can't say that they lied because the  
18    conversation that was had like I said, Type B approved  
19    this because of the --

20          Q.    You weren't -- you weren't a type -- you don't  
21    get -- you can't look into the minds of -- of Philip  
22    Ramirez.  You told me that earlier.

23                    You can't look in the minds of Type B  
24    either, agreed?

25          A.    But I was there for the conversation.

1 Q. Yeah, okay.

2 But -- and so you, but you can't say why  
3 each person voted and what it would have made a  
4 difference on whether they approved it or not knowing  
5 about a federal portal being tampered with that may have  
6 mattered to some people voting at the Type B Board.

7 You can't say?

8 A. No, I cannot say, no.

9 Q. Okay. So let's not guess --

10 A. Okay.

11 Q. -- on what each one of them --

12 A. Sure.

13 Q. -- meant, fair enough?

14 A. Sure.

15 Q. We'll get to them, okay?

16 We'll let them speak for themselves, fair?

17 A. Sure.

18 Q. Okay. Anyway, the thing I wanted to highlight  
19 here is, I think you said it three -- I think actually  
20 four times you keep repeating the words in the second  
21 memo.

22 A. Yes.

23 Q. Street-level retail, restaurant, and public  
24 spaces; fair to say?

25 A. Yes.

1           Q.    And you consistency -- consistently leave out  
2   the change in FEMA flood maps being the banner, reason  
3   for the change -- for the -- for the grant, for the  
4   award?

5           A.    Well, it was the changes in the FEMA flood map  
6   that required the changes to keep this activation.

7           Q.    Okay.  So you're saying that the 2 million was  
8   awarded based upon FEMA flood map changes?  And so the  
9   fraud --

10          A.    No.

11          Q.    I mean, we've already said that's a fraud to  
12   have represented it or misrepresented it the way they  
13   did, right?

14                    You sure -- you sure you want to -- we've  
15   already said that agreed.

16          A.    Yes.

17          Q.    Okay.  Are you sure that you want sitting here  
18   to say that the statute, as they passed it, did rely  
19   upon that fraudulent representation?

20          A.    No, it didn't rely on the fraudulent  
21   representation.

22          Q.    Okay.

23          A.    But we've already talked about that, yeah.

24          Q.    Yeah.  Because what -- the second -- the first  
25   time it had the fraudulent representation in it as the

1 banner reason for getting the \$2 million, right?

2 That was the headline?

3 A. Yes.

4 Q. Okay. And the second time the headline, the  
5 thing that you repeat four different times, is worded  
6 differently.

7 A. Yes, it is worded differently. Yes.

8 MR. ALLISON: Can we go off record for a  
9 minute.

10 THE VIDEOGRAPHER: The time is 11:39 a.m.  
11 We're off the video record.

12 (Lunch recess from 11:39 a.m to 1:02 p.m.)

13 THE VIDEOGRAPHER: Time is 1:02 p.m.  
14 We're back on the video record.

15 Q. (BY MR. ALLISON) One of the other things  
16 mentioned in the recording Exhibit Number 7 --

17 A. Uh-huh.

18 Q. -- is where Peter states that he's asked if he  
19 -- Hey, Peter, have you -- I'm paraphrasing --

20 A. Sure.

21 Q. -- have you, you know, let the council know  
22 about the -- the sentence where they're talking about  
23 tampering?

24 A. Uh-huh.

25 Q. And he says, I let them know. We're going to

1 let them know again tomorrow, in an executive session.  
2 I already have an executive session posted.

3 Remember that?

4 A. I think so, yeah. And I'm trying to recollect  
5 the executive session, but yeah.

6 Q. Okay. And that's what I wanted to make sure  
7 of, is --

8 A. Yeah.

9 Q. He -- he makes a statement here, And I know you  
10 also attend executive session?

11 A. Yes.

12 Q. And do you -- is it also your recollection that  
13 the council was informed about the tampering of the  
14 federal writing or instrument whatever you want to call  
15 it?

16 MS. MARCUM: I'm going to object to just  
17 anything in executive session, closed session.

18 MR. ALLISON: Other than the fact that  
19 Peter has already given statements to the public about  
20 it?

21 I mean, I guess that's actually your point  
22 is -- your point is that it -- that it's a crime to  
23 violate that?

24 MS. MARCUM: I'm not saying that. I'm  
25 just objecting.

1 MR. ALLISON: Okay.

2 Q. (BY MR. ALLISON) She's not instructing you not  
3 to answer. So we're good to go. Let me rephrase the  
4 question for you.

5 Is it your recollection also that Peter  
6 informed the council during executive -- executive  
7 session that this slide, this federal instrument, or  
8 writing, whatever you want to call it, portal,  
9 screenshot, that it had been tampered or altered?

10 A. I want to say that he -- and I am trying to  
11 remember, I believe that it was he said there were  
12 claims that it had been altered.

13 Q. Okay. What else do you remember about that?

14 A. I -- I'm trying to remember that was a long  
15 time ago. I don't remember the exact conversation.  
16 Yeah.

17 Q. Okay, are you in any way -- and I'm just using  
18 the words that's in the recorded statement --

19 A. Yeah.

20 Q. -- now. Are you in any way refuting that he  
21 let them know it had been tampered with?

22 A. I think he's -- like I said, I think that you  
23 said that there were claims that had been tampered with.

24 Q. Okay. And did he ever, that you know of, in  
25 executive session?



1                   Because you've told me the results of your  
2 investigation is you concluded it was, in fact, tampered  
3 with.

4           A.     It was -- yeah, not. It did not reflect what  
5 was on the screen. Yes.

6           Q.     Right.

7                   Which, the way they --

8           A.     Yeah.

9           Q.     The way Peter is talking about it, and  
10 everybody, without objection is they're using the word  
11 tampering. So we don't have to --

12          A.     Sure.

13          Q.     -- soft sell it today, okay?

14                   But do you know after -- well, so we  
15 talked about earlier that you agreed with and found in  
16 the investigation that the federal document or writing  
17 or instrument had been tampered with?

18          A.     The screenshot was not reflective of what was  
19 on the side. Yeah.

20          Q.     Okay?

21          A.     Yeah. I don't know how it got that way, but  
22 yes, it was not reflective of what was on the website.

23          Q.     Okay. And was -- were those investigation  
24 results reaching the conclusion that there had been this  
25 tampering, as Peter calls it? I'll say it that way --

1           A.    Yeah.  Yeah.

2           Q.    -- as Peter agrees to.

3                   Was that ever communicated in your  
4 presence to the city council?

5           A.    I'm trying to remember, because I don't  
6 remember exactly when the executive session was in  
7 relation to the conclusion of the investigation.  I  
8 don't -- I don't recall when that was.

9           Q.    Let me ask you this.

10                   It's a pretty important conclusion when  
11 you conclude that a federal document used to get  
12 \$2 million was tampered with, agreed?

13          A.    Yes.

14          Q.    Okay.  Should that have been communicated to  
15 the city council?

16          A.    Yes.

17          Q.    Was it?

18          A.    I'm trying to recollect.  I don't remember  
19 exactly what the conversation was in executive session.

20          Q.    Okay.  But it sure should have been.

21                   That's darn important information --

22          A.    Yeah.

23          Q.    -- as we say it, right?

24          A.    Yeah.  Okay.

25          Q.    I mean, you wouldn't want your city council

1 voting without giving them the knowledge of your  
2 investigation?

3 A. Yes.

4 Q. Okay. And so do you think you -- that Peter  
5 probably did do it, or you just really don't know?

6 And if you don't know, if you --

7 A. Yeah, I just, I don't remember. I don't  
8 remember the conversations to -- to say, like I said, I  
9 know that he had said that there were accusations. I  
10 don't remember how the -- the conclusion of the  
11 investigation was communicated back to city council.

12 Q. But Peter certainly should have communicated  
13 not just the claim but the results of your  
14 investigation, that it had been tampered to the city  
15 council?

16 A. Yes.

17 Q. He should do that --

18 A. Yes.

19 Q. -- otherwise you have the city council voting  
20 with -- without the benefit of the investigation?

21 A. Yes. Yes.

22 Q. Okay.

23 THE COURT REPORTER: I -- and if you  
24 don't mind, when he's asking, a lot of times you say,  
25 Yes, like, it's more conversational. But every time you

1 say, Yes, it's cutting his question. Like on the --

2 THE WITNESS: Okay.

3 THE COURT REPORTER: -- transcript, it  
4 just looks really choppy.

5 THE WITNESS: Sure.

6 THE COURT REPORTER: Thank you.

7 Q. (BY MR. ALLISON) And reaching back to our  
8 discussion a little bit too, in the tape recording or  
9 audio recording --

10 A. Uh-huh.

11 Q. -- Peter says several times he's not going to  
12 recommend it.

13 You remember that?

14 A. Yes.

15 Q. Okay. And then when you look at Exhibit  
16 Number 8, which is your memo?

17 A. Yes.

18 Q. The wording is different from your first memo.

19 In other words, your first memo for  
20 February 20. I'm looking at the recommendation section  
21 now --

22 A. Uh-huh.

23 Q. -- your memo from February 20 said staff was  
24 recommending that the ordinance be passed. And now this  
25 one is saying staff recommends city council consider

1 this agreement on second reading.

2 Do you see that?

3 A. I do.

4 Q. Okay. And that's a significant change, right?

5 A. Yes.

6 Q. What the memo says is more consistent with what  
7 we see in his recorded statement, which is that he says  
8 on page three of the recorded statement, quote, I  
9 changed the recommendation, in fact, because that's what  
10 it had initially. Like I'm not approving this. I'm  
11 recommending they can consider it. That means they  
12 consider what they want to do. Look at any other agenda  
13 memo on that agenda, on the council meeting, and it  
14 always says they should always say, Staff recommends  
15 blank.

16 Do you see that?

17 A. Yes, I do.

18 Q. So in other words, in his recorded statement  
19 with Ajit and also on your memo --

20 A. Uh-huh.

21 Q. -- it's -- it's a big deal that staff is not  
22 recommending it. And Peter's very keen on that  
23 distinction, fair?

24 A. Yes.

25 Q. Okay. And so do you know what caused Peter to,

1 on April 23rd, change his mind?

2 A. I can't speak to why he changed his mind. I  
3 mean, there was a lot of controversy about it, and there  
4 were allegations on the fraudulent document.

5 Q. When there was more than just allegations on a  
6 fraudulent document, there was an investigation you all  
7 had also concluded it was, in fact, tampered or  
8 fraudulent document.

9 A. Exactly.

10 Q. Okay. And so and you've already -- let me ask  
11 you this.

12 Do you when -- when it says staff --

13 A. Uh-huh.

14 Q. -- what department did this project fall under?  
15 It falls under EDC and that area, right?

16 A. It falls under the -- under economic  
17 development, yes.

18 Q. Did you recommend -- that's your area --

19 A. Uh-huh.

20 Q. -- right?

21 A. Yes.

22 Q. Did you recommend it be passed at the second  
23 meeting?

24 A. Yes.

25 Q. Okay. So you recommended it, even knowing it

1 was the tampering and altering of a federal portal or  
2 whatever?

3 A. Yes, because the Type B Board based their  
4 decision not on necessarily that screenshot, but the  
5 merit of the project.

6 Q. So as you sit here today, you think it's okay  
7 to go ahead and pass an ordinance, even if its origin is  
8 a forged document?

9 A. I did not say that.

10 Q. Well, I think you did just say that.

11 A. No, because I said that it was not -- the  
12 decision was not based on that forged -- forged  
13 document. It was on the merit of the project.

14 Q. Well, the first reading at the city council  
15 level was definitely based on the forged document?

16 A. Because that -- because it did not properly  
17 reflect the intention and the decision for the Type B  
18 Board.

19 Q. Okay. I'll let you say what you just wanted to  
20 say. Now, if you'll answer my question?

21 A. Yes.

22 Q. The approval of the proposed ordinance at the  
23 first meeting was definitely based upon --

24 A. Yes.

25 Q. -- the forged document?

1 A. Yes.

2 Q. Okay. A tampered document?

3 A. It was -- yes.

4 Q. Okay. And so you have one reading that's based

5 on a forged document, and then you're saying the second

6 reading was not based on the forged document, right?

7 Are you saying the second reading was, Hey --

8 A. No.

9 Q. -- if you want to say that they're passing

10 things based on a forged document --

11 A. No.

12 Q. -- you go ahead?

13 A. No.

14 Q. Okay. And you really -- you sure you want to

15 stick with, I recommend that they pass it even though

16 it's a forged document?

17 A. It wasn't --

18 Q. You sure you want to stick with that?

19 A. I recommended this on the second reading yes,

20 because the -- it was clarified what the recommendation

21 was from the Type B Board.

22 Q. Okay. But that's -- even if that's true --

23 A. Uh-huh.

24 Q. -- and I'm not sure it is, because the Type B

25 Board actually had the forged document in front of it,



1 right?

2 A. Yes.

3 Q. And we don't know how different people would  
4 have voted on the Type B Board if they'd known it was  
5 forged at the time. We've already agreed on that --

6 A. Uh-huh.

7 Q. -- right?

8 A. Yes, you told me I couldn't -- I couldn't get  
9 into -- I couldn't -- I was reflecting what the  
10 discussion was. But yes.

11 Q. And I'm not trying to put anything in your mind  
12 or words in your mouth.

13 A. Uh-huh.

14 Q. But I think we've kind of -- I think you kind  
15 of acquiesce or kind of agreed, yeah, let's not  
16 speculate on what this one would do, or this member  
17 would do.

18 A. Okay.

19 Q. Or that member would do if they had known it  
20 was forged, right? Correct?

21 A. Yes.

22 Q. Okay. And so whatever they did at Type B,  
23 there's still a requirement that you're supposed to have  
24 two readings. And -- and I know we reasons -- reasons  
25 matter to why members of Type B Board vote they should,

1 right? The reason matters.

2 A. But I'm not sure what you mean.

3 Q. Fair enough.

4 What one member of the Type B Board might  
5 think is a reason to vote yes or no --

6 A. Uh-huh.

7 Q. -- might not be the same reasons in the mind of  
8 another member of that Type B Board voting yes or no?

9 A. That is -- yes. Yeah, everyone has their own  
10 background, their own reasoning. Yes.

11 Q. Everybody has their own reasoning. I'm going  
12 to use your words there.

13 A. Yeah.

14 Q. And same thing on city council --

15 A. Yes.

16 Q. -- reasons matter on how you vote?

17 A. Yes.

18 Q. Okay. And so if the reason for voting, whether  
19 you're a Type B Board or the first reading or the second  
20 reading, the reasons changed for in terms of how it was  
21 presented, right?

22 A. Okay. That's fair.

23 Q. Okay. And so if there had been a -- if the  
24 first reading, for example, on this had then revealed it  
25 was a forged document before they voted, maybe they

1 would have passed it. Maybe not, right? Right?

2 A. Yes.

3 Q. But you've just told me, Hey, you wouldn't pass  
4 it if you knew it was relying on a forged document,  
5 right?

6 A. Yes.

7 Q. And you can speak for yourself?

8 A. Yes.

9 Q. And there may be other council member up there  
10 on the first reading that if they'd have known it was a  
11 forged document that they're being shown and voting  
12 based on it, it may well be -- I'm not asking you to  
13 speculate --

14 A. Uh-huh.

15 Q. -- it may well be that they would have said no  
16 on the first reading?

17 A. Possibly.

18 Q. Okay. We don't know?

19 A. Yes.

20 Q. And that's why you're supposed to have two  
21 readings that have the same reason behind them?

22 A. So I will correct you on that. If this had not  
23 been a budget amendment, it wouldn't have required two  
24 readings. So to award a contract --

25 Q. If -- if -- if -- what's that saying, ifs and

1     buts were candy?

2           A.     Oh, I know. I know, but I just -- I wanted to  
3     verify though, that that it would have -- it could have  
4     just been on one reading. It wouldn't have required two  
5     readings.

6           Q.     Okay. But you're not saying that this statute  
7     falls in that category, though, this ordinance?

8           A.     The only reason why it's two readings is  
9     because it required a budget amendment.

10          Q.     Yeah, and that's the fact it required two  
11     readings?

12          A.     Yes, not the contract, and the award of the  
13     project did.

14          Q.     Okay.

15          A.     Anyway, yeah.

16          Q.     Now you're mixing words with me that you know  
17     better than I do and I'm -- that's fair.

18          A.     Yeah.

19          Q.     But the point is, at the end, you're still  
20     agreeing it required two readings to be an ordinance.

21          A.     Yes.

22          Q.     And it required two readings because of the  
23     language in the city charter that requires two readings  
24     on the same ordinance?

25          A.     Yes.

1 Q. Okay. And -- and it never got two readings on  
2 the same ordinance. And you know, I'm quoting the word  
3 same out of the charter. You probably know that?

4 A. Uh-huh. Yeah, yes.

5 Q. It never got two readings on the same  
6 ordinance, because clearly the reason was changed from  
7 the first reading to the second reading, and we've just  
8 agreed reasons matter.

9 A. But actually the caption changed, the ordinance  
10 did not.

11 Q. Okay. Well, they -- okay well, the caption is  
12 what the being read to the city council that they're  
13 perceiving when they vote, correct?

14 A. Yeah. And the -- and the --

15 Q. Is that a yes?

16 A. Well, they, I mean, the mayor normally reads  
17 the ordinance.

18 Q. Okay. And do you -- well, you weren't there?

19 A. Yeah, but --

20 Q. You weren't there on April 23rd.

21 A. I believe I was.

22 Q. I thought you told me earlier you were not?

23 A. I was not -- I was not there on February 27.

24 Q. Oh, okay. Thank you.

25 A. For the original second reading.

1 Q. Okay.

2 A. I was not there. So I couldn't -- I couldn't  
3 say how it was pulled off the agenda.

4 Q. Okay. And you -- but anyway, obviously we --  
5 we -- all you got to do is read the caption on the one  
6 and read the caption on the other.

7 A. Uh-huh.

8 Q. And they have a lot of different words in them.

9 A. Uh-huh.

10 Q. They're very much revised, updated, modified,  
11 changed, whatever word you want to use, correct?

12 A. Yes.

13 Q. Okay. And -- and well, that's fine.

14 And again, I know you can't talk for what  
15 was in the mind of Peter Zanon, so I'm going to ask  
16 this in the context of for yourself.

17 You have told me that you would never have  
18 voted twice for an ordinance that you knew was relying  
19 upon a forged document --

20 A. Uh-huh.

21 Q. -- fair enough?

22 A. Yes.

23 Q. And do you know of anything that changed before  
24 April 23rd that somehow was evidence or information that  
25 the document had not been forged, that was relied upon

1 at the first reading?

2 A. No.

3 Q. In other words, I just want to make sure that  
4 somebody, as far as you know, Peter Zaroni, is not going  
5 to show up and say, Oh yeah, I got this new information,  
6 I guess I didn't tell Heather --

7 A. Yeah.

8 Q. -- and now I had a reason to think it was legit  
9 and had not been altered.

10 You never heard anything like that?

11 A. No.

12 (Exhibit 9 marked.)

13 Q. (BY MR. ALLISON) Okay. I'll show you  
14 Exhibit 9. I should have stretched farther for that for  
15 you, sorry about that.

16 A. It's okay.

17 Q. That made you reach a little farther than I  
18 meant to.

19 Have you seen this letter before?

20 A. I think -- I think so.

21 Q. It refers to a meeting with city staff, Type B  
22 Board Chair and three city council members.

23 Do you see that?

24 A. Yes.

25 Q. Were you at that meeting?

1           A.    I believe so.

2           Q.    Who else on city staff do you believe was at  
3 that meeting?

4           A.    I -- I don't remember.

5           Q.    Type B Board Chair would have been Leah  
6 Olivarri?

7           A.    Exactly.

8           Q.    And do you know who the three city council  
9 members were?

10          A.    I don't off the top of my head. I have to go  
11 back and look at the meeting invite to see who all was  
12 on. I really don't remember.

13          Q.    Was the mayor there?

14          A.    I don't remember.

15          Q.    Okay. Go ahead and read that same paragraph,  
16 that second paragraph that I'm looking about.

17          A.    Uh-huh.

18          Q.    And by the way, it's a letter that is dated  
19 April 11, 2024, right?

20          A.    Yes.

21          Q.    And it's from the applicant, therefore signed  
22 by Philip Ramirez and Devin Bhakta, right?

23          A.    Yes.

24          Q.    And obviously it is still dealing with this  
25 issue of the forged document, right?



1 A. Uh-huh.

2 Q. Correct?

3 A. Yes.

4 Q. Okay. And it talks about the meeting with city  
5 staff, Leah Olivarri and the three council members to  
6 and it's a letter making sure there's no longer  
7 confusion, kind of quoting there surrounding the formal  
8 recommendation of the Type B Board to the city council,  
9 and that said recommendation was expressly exclusive of  
10 any funding recommended -- recommendation tied to the  
11 flood proofing of the project, right?

12 A. Yes.

13 Q. So this letter is being emphatic that the  
14 second reading is going to be for funding that is  
15 exclusive of anything to do with flood proofing, right?

16 A. Yes, yes.

17 Q. And then it kind of says the same thing again  
18 in the next sentence, it says, we would request written  
19 acknowledgement by the City that the Type B  
20 recommendation to Council and the incentive are not tied  
21 to nor contain any requirements related to flood  
22 proofing improvements. You see that?

23 A. Yes.

24 Q. So again, it's saying, Hey, we -- for the  
25 second reading, and really for Type B --

1           A.     Yeah.

2           Q.     We're now saying it's gotten -- this \$2 million  
3 has nothing to do with I'm going to quote here, flood  
4 proofing improvements, right?

5           A.     Yes.

6           Q.     And then the third sentence actually even says  
7 it again, more emphatically, quote, It is our hope that  
8 this acknowledgement will allow for clarity in the City  
9 staff presentation and prevent any further confusion as  
10 to the true nature of what should be considered by the  
11 city council and the second reading agenda item for  
12 final approval of the incentive request.

13                     Did I read that correctly?

14          A.     Yes.

15          Q.     And what they're talking about here is, Hey, we  
16 want to be really now that we've said it I guess three  
17 times, we want to be triple sure that the second reading  
18 has nothing to do with the flood proofing?

19          A.     Exactly.

20          Q.     Okay. Which is the opposite of what the first  
21 reading had to do with?

22          A.     Yes.

23          Q.     Okay. And so but we're still obviously  
24 referring to the incentive request, which is, but we  
25 still want our \$2 million right?

1 A. Yes.

2 Q. Okay. That's what the applicant was saying.

3 Is, Hey, we know you're going to do a second reading,  
4 but we want to make triple sure that if you approve it  
5 the way we're rewriting it, that everybody's clear it's  
6 got nothing to do with changes in FEMA?

7 A. Yes.

8 Q. Which is what the first reading was all about?

9 A. In part, yes.

10 Q. Okay. I mean, it's clearly an effort to  
11 distinguish the first reading and the reasons behind it.  
12 Reasons matter from the second reading and the reasons  
13 behind that, right?

14 A. Yes.

15 Q. Okay. Again, highlighting that the two  
16 readings had significant differences.

17 A. Different description on the project. Not a  
18 difference in the dollar amount or anything like that.

19 Q. Well, no difference in the dollar. We  
20 understand either way they want their money, right?

21 A. Uh-huh.

22 Q. Correct?

23 A. Uh-huh. Uh-huh. Yes.

24 Q. Okay. But I mean every -- they're running from  
25 the FEMA thing at this point with this letter, right?

1           A.    I can't say that they're running from it, but  
2 they're trying to clarify, yes.

3           Q.    They're distancing themselves from it, clearly?

4           A.    Yes -- yes.

5           Q.    From the altered federal whatever we want to  
6 call it?

7           A.    If that's what you want to call it. Yes.

8           Q.    Okay. No, I'm through with that. If you want  
9 to set it down. Somewhere in this same time frame, I  
10 also know that you had -- and I want to get your  
11 recollection of it. There were some phone calls and  
12 some emails with you, and Leah Olivarri and Mike  
13 Culbertson about changing the narrative?

14          A.    Yes.

15          Q.    And by that, and it's all over -- we've talked  
16 about it.

17          A.    Yeah. Yeah.

18          Q.    I'm just going to try to abbreviate it.  
19 Narrative one was FEMA as the backbone.

20          A.    Yes.

21          Q.    Narrative two was curbside appeal.

22                   What do you want to call it, dining?

23          A.    Development of the retail, the dining and stuff  
24 down --

25          Q.    Retail and dining space?

1           A.    Yes.   Yes.

2           Q.    Okay.   And so in I know there was this  
3 conversation or email exchange, or maybe both?

4           A.    Uh-huh.

5           Q.    That was between you and Leah Olivarri and Mike  
6 Culbertson to change from the FEMA narrative recent FEMA  
7 changes to the dining and curbside appeal?

8           A.    Yeah.

9           Q.    And who initiated that effort?   In your  
10 investigation, you said, oh, I have an epiphany.   Or did  
11 Leah call you?   Or who called who?

12          A.    I think Leah call.   I think Leah initiated it  
13 because she wanted -- she was very concerned because the  
14 first reading, what was, you know, the -- the title in  
15 there did not reflect why they you know -- the intention  
16 behind why they recommended the award.

17          Q.    Why she did, she can at least speak for  
18 herself?

19          A.    Exactly.

20          Q.    Okay.   And so she was very concerned that the  
21 reason that she voted had not been reflected in the  
22 first reading?

23          A.    Yes.

24          Q.    And that's she called you and told you that?

25          A.    I think -- think so.   Yeah.

1 Q. Okay. And --

2 A. Again, I'm not sure if it was through email for  
3 I can't remember how it was, but yes, we -- we discussed  
4 that, yes.

5 Q. Okay. And she was concerned and I'm asking if  
6 this is part of the conversation --

7 A. Uh-huh.

8 Q. -- because, Hey, when you put up a thing that  
9 now everybody's saying is federal altered document,  
10 that's not the reason I voted for it.

11 A. That is correct.

12 Q. Okay. And she let you know, Hey, we need to  
13 get -- we need to get away from that. We need to change  
14 the narrative, basically?

15 A. Yeah, that the first reading did not properly  
16 reflect what the discussion was at the Type B.

17 Q. And we don't want any more of that improper  
18 first reading. We need to start the narrative on a  
19 proper second reading.

20 A. We need to clarify in the second reading, yes.

21 Q. Well, the different -- you said the word  
22 proper, okay?

23 A. Yeah.

24 Q. And improper. That's why I'm using those  
25 words.

1           A.     Okay.

2           Q.     And so at that time, do you think she'd already  
3 talked to Mike Culbertson? Or do you know, based on  
4 your conversation?

5           A.     I don't know. I can speak to that.

6           Q.     What is your recollection about how -- let me  
7 ask you, did you talk to Leah Olivarri more than once,  
8 or just the one time about it?

9           A.     I don't remember.

10          Q.     Okay and how -- what is your recollection about  
11 how Mike Culbertson got into that conversation? And I'm  
12 not suggesting I know it was an oral discussion or an  
13 email, but somehow I know he got in that mix.

14          A.     I -- I don't remember. I know that -- I don't  
15 know. I don't know if it was Leah who reached out to  
16 Mike, or if there -- I really -- I don't remember. I  
17 know that there -- there was communications, but I'm not  
18 sure.

19          Q.     Was there ever a conversation where the three  
20 of you got on the phone?

21          A.     I don't remember. I'm sorry. I don't -- I  
22 have so many conversations. I don't remember.

23          Q.     I know you said you read the deposition to Mike  
24 Culbertson, not studied every word.

25          A.     Yeah.

1 Q. But he refers to an email back and forth.

2 A. Okay.

3 Q. Did -- did you see that in his deposition?

4 A. No, like I said, I just kind of scanned it. I  
5 didn't read all the way through it. Yes.

6 Q. And do you recall that there were emails back  
7 and forth between you and Mike?

8 A. Yes, I do. I do. I know -- I know that yes.

9 Q. On this same issue that is changing from the  
10 FEMA false document narrative and jumping over to  
11 something more palatable, like a make prettier dining  
12 space and curb appeal or whatever, the right public  
13 spaces?

14 A. Yes.

15 Q. Whatever the language is that you put in your  
16 memo?

17 A. Yes.

18 Q. Okay. And so that email exchange was it  
19 exactly about making that change in the narrative by the  
20 time you get to the second reading.

21 Is that the purpose of the email exchange?

22 A. I think we're trying to clarify, I don't  
23 remember. I think we're trying to clarify what -- what  
24 needed to come, yeah, what -- what needed to -- to  
25 reflect.



1           Q.    You're trying to get what Leah, one of the  
2 people who voted at Type B, she wanted a different  
3 narrative, and you're trying to give that to her?  
4 You're changing the narrative?

5           A.    Yes.

6           Q.    Yeah.  The -- have you gone back and looked for  
7 those emails at all?

8           A.    I think we looked -- we had, I think I looked  
9 at it.  Yeah, I --

10          Q.    It's okay.

11          A.    That's why I remembered that I had had a  
12 correspondence with Mike.  But --

13          Q.    People prepare for depositions by doing things  
14 like that.

15          A.    Yeah.

16          Q.    It's no secret the emails exist.

17          A.    Yeah.

18          Q.    Mike Culbertson talked about it.  It was not a  
19 hard guess on my part --

20          A.    Sure.

21          Q.    -- that you went back and looked at them, okay?

22                    Okay.  I'm not -- do you have those  
23 available today?

24          A.    No.

25                   MS. MARCUM:  No, I don't have them ready

1 for you.

2 MR. ALLISON: Okay.

3 Q. (BY MR. ALLISON) When did you last look at  
4 them?

5 A. I looked at them yesterday.

6 Q. Okay. And how was there one email, five  
7 emails?

8 A. I think there was -- it was all kind of in the  
9 same string. I want to say there was two or three  
10 emails back and forth.

11 MR. ALLISON: Okay. Some people might --  
12 I'm talking to your lawyer now. Some people might --  
13 might argue that since -- well, let me, I'll go and do  
14 this.

15 Q. (BY MR. ALLISON) Did you do that as part of  
16 your preparation for this deposition?

17 A. Yes.

18 MR. ALLISON: Okay. Some people might  
19 argue that if she did it in preposition -- in  
20 preparation for a deposition, that you should give it to  
21 me now.

22 I'm going to let you think about that, so  
23 that I don't have to re-depose her later on that one,  
24 it's small, small, issue. Okay.

25 Q. (BY MR. ALLISON) I know it's going to be on the

1 email.

2 Do you remember the date of the email  
3 exchange?

4 A. I do not.

5 Q. Do you think that the email exchange was at in  
6 the same time frame as the phone conversations between  
7 you and Leah Olivarri?

8 A. It most likely was, yeah.

9 Q. Okay.

10 A. Probably followed that.

11 Q. Yeah. Do you know, for example, if that was  
12 before or after you wrote your -- it would have to be  
13 before you wrote your second memo?

14 A. Yes.

15 Q. Because the second memo does what you all  
16 talked about?

17 A. Yes.

18 Q. Okay. And what else did you do in preparation  
19 -- preparation -- let me back up.

20 I understand you looked at this email  
21 string in preparation for your deposition.

22 A. Yes.

23 Q. What other things did you do to prepare for  
24 your deposition?

25 A. I talked with our -- our former floodplain

1 manager to and -- to refresh my memory on the time  
2 frame, on when the plans were reviewed with.

3 Q. When the what?

4 A. The plans so the plans for the hotel were  
5 reviewed with development services, and at what point  
6 the recommendations for the changes that needed to  
7 happen to conform with what was needed. Also looked at  
8 the timeline on when the permits were issued.

9 Q. And I'm guessing you did the latter in order to  
10 identify sort of some space in the discussion about when  
11 the project commenced?

12 A. Yes, because I understand, I believe that there  
13 was some question on whether or not construction started  
14 prior to the application or whatever, and so I wanted to  
15 refresh my memory on that, yes.

16 Q. And that goes back to that being a rule that  
17 the Type B Board is supposed to follow?

18 A. Yeah, their policy is, is that the application  
19 has to be submitted prior to moving forward. It does  
20 not say that it has to have an approved project. It's  
21 just that the application has to be submitted.

22 Q. Actually, what it says, if I'm quoting it on  
23 page 10, is no business incentives if construction or  
24 program has commenced.

25 A. I think that's the revised policy.

1 Q. Okay.

2 A. We have changed the policy since then to  
3 clarify this.

4 Q. Okay.

5 A. Because there was an inconsistency between what  
6 the Type B Policy was and what we utilize for our tax  
7 increment financing zones.

8 Q. Right.

9 A. And so at the time the application was  
10 submitted, the policy only stated that the application  
11 had to be received. It didn't say that it had to have  
12 an approved -- they had didn't have to be approved.

13 Q. Okay. And without mixing words --

14 A. Sure.

15 Q. -- let's talk about the spirit behind it for a  
16 minute.

17 A. Sure.

18 Q. The spirit behind it is that Type B money is  
19 supposed to be incentive money to bring a project here  
20 or a modification of an existing project?

21 A. It is for yes, for economic development, yes.

22 Q. Right. It is for the purpose of giving an  
23 incentive for economic development?

24 A. Exactly.

25 Q. I think that's a good word.

1           A.    Yes.

2           Q.    And if, for example, it's already a -- again,  
3 I'm going to try to use words, maybe not in the  
4 statute --

5           A.    Sure.

6           Q.    -- so we can get away from splitting hairs in  
7 the spirit of how it's supposed to work.

8                        You understand what I'm doing?

9           A.    Yes.

10          Q.    And so if a project is already committed and  
11 going to be done.

12                       It's not supposed to get incentive money?

13          A.    Yes.

14          Q.    Okay. And do you know, for example, the date  
15 that Devin Bhakta and or Philip Ramirez committed with  
16 the franchise agreement to do this project?

17          A.    No.

18          Q.    Do you know, for example, how far in advance of  
19 even coming to The City, they signed on the dotted line  
20 and would have monetary penalties if they did not  
21 complete the project?

22          A.    No.

23          Q.    Do you know, for example, if they were legally  
24 obligated by contract months ahead of their application  
25 to the REDC to do the project?

1           A.     No.

2           Q.     Okay. All you're -- you're looking at a  
3     limited set of data, I -- for example, permits and the  
4     things that are within your ability to go look at, to  
5     have this discussion about when it commenced, or when it  
6     started, or when it's committed?

7           A.     Yes.

8           Q.     Okay. But you recognize that there are  
9     documents out there related to the project that probably  
10    create a timeline and commitments that are really not  
11    within your ability to review, because they're not your  
12    documents?

13          A.     Exactly.

14          Q.     Okay. So in terms of whether or not this was a  
15    committed project in advance of when the application was  
16    filed, you don't know.

17          A.     No.

18          Q.     Correct?

19          A.     That is correct.

20          Q.     Okay. You pointed out a few different times  
21    that the slide that we've talked so much about --

22          A.     Uh-huh.

23          Q.     -- was a screenshot of a United States federal  
24    FEMA portal?

25          A.     Yes.

1           Q.    Okay.  And you recognize, though, that a  
2   screenshot, taking a screenshot, is a form of recording  
3   information?

4           A.    Yes.

5           Q.    I mean, I think that was -- I think that's a  
6   soft ball.

7           A.    Yeah.

8           Q.    It's not getting tricky yet.  It'll get tricky  
9   in a minute, okay?  I'll let you know when to get  
10  skeptical, okay?

11          A.    Okay.  I'm sure -- I'm sure you will.

12          Q.    And so for purposes of what I am looking at  
13   right now, if it says a writing includes a printing or  
14   any other method of recording information, then the  
15   screenshot would fall in that definition of a writing?

16          A.    Yes.

17          Q.    Okay.  And removing information from it, from  
18   that writing, specifically removing the release date and  
19   at another location, removing the release date and at  
20   another location, removing the reference date that would  
21   be a form of altering that writing, correct?

22          A.    Yes.

23          Q.    But leaving the FEMA logo on it certainly makes  
24   it appear as though it is a authentic screenshot of a  
25   FEMA writing?



1 A. Yes.

2 Q. Otherwise, when you just look at it, you think,  
3 Hey, that's FEMA. This is what I'm looking at is FEMA,  
4 right?

5 A. Yes.

6 Q. Did anything in your investigation in any way,  
7 shape or form, suggest that FEMA had approved altering  
8 their document by removing the release date and by  
9 removing the reference number?

10 A. No.

11 Q. And you understand it was someone other than  
12 FEMA who altered the document, right?

13 A. Yes.

14 Q. Correct?

15 A. Yes.

16 Q. And that someone else, whether it was Philip or  
17 staff or whoever did so in such a way that it gave it  
18 the look that another i.e. FEMA had published the  
19 document in the way they showed it to you the city  
20 council?

21 A. Yes.

22 Q. The way it was presented, in other words, to  
23 the Type B Board and at the first reading to the city  
24 council, this altered writing, made it appear as though  
25 it was a screenshot of the original, right?

1           A.    Yes.

2           Q.    Even though there is no such original, because  
3 the original actually has the other information that  
4 they removed?

5           A.    Yes.

6           Q.    So if I give you this definition that forge  
7 like forging a document or a writing --

8           A.    Uh-huh.

9           Q.    -- that forge means to alter, make complete,  
10 execute or authenticate any writing that happened,  
11 right? So far?

12          A.    Yes.

13          Q.    So that it purports to be the act of another  
14 like FEMA, that happened, correct?

15          A.    Yes.

16          Q.    In this case?

17          A.    Yes.

18          Q.    Who did not authorize it?

19                   And we talked about FEMA didn't authorize  
20 it, right?

21          A.    Yes.

22          Q.    That happened in this case?

23          A.    Yes.

24          Q.    If that's the a definition of forge, then the  
25 facts of this case, case meet that definition.

1           A.    Yes.   Yes.

2           Q.    I'm going to give you another definition of  
3   forge.   That forge means to be a copy, to say, Hey, this  
4   is a copy of an original, when, in fact, no such  
5   original like we see in the slide exists.

6                   Do you understand?

7           A.    Say that again?

8           Q.    Yeah, if I purport to, Hey, this is -- this is  
9   what it looks like, and no such original exists that  
10   looks like that --

11          A.    Yes.

12          Q.    -- then that's a forgery, according to what I  
13   just read, I think.   But I want to say it to you again.

14                   You understand where I'm going?

15          A.    Yes.

16          Q.    I'm giving you a second definition of forge.  
17   Forge means to be a copy of an original when no such  
18   original existed.

19                   Do you understand the definition?

20          A.    Yes.

21          Q.    And we have that in this case?

22          A.    Yes.

23          Q.    Okay.   Those are two different definitions, and  
24   both of which you have agreed those facts are in this  
25   case to meet that definition of forge?

1           A.    Yes.

2           Q.    Okay.  Alternatively, I want to give you  
3 another definition of forge that would be to utter a  
4 writing, in other words, to say the words?

5           A.    Okay.

6           Q.    And I'll read you the whole thing.  Forge is  
7 also to issue, transfer, register the transfer of pass,  
8 publish, or otherwise utter a writing that was forged  
9 within the meaning of the things we've agreed, or you've  
10 now agreed, were forged within the definition.

11          A.    Okay.

12          Q.    And in fact, making the presentation and  
13 representing thereby that this forged document was  
14 authentic, the utterance of it becomes forgery.

15                   Do you understand?

16          A.    Yes.

17          Q.    And that happened in this case, right?

18          A.    Yes.

19          Q.    Okay.  It is also alternatively a separate  
20 definition of forgery, or forge if you possess a  
21 writing, you know, we've defined writing earlier?

22          A.    Yes.

23          Q.    That is, forged within the meaning of the first  
24 two definitions --

25          A.    Uh-huh.

1           Q.    -- with an intent to utter it in a manner  
2   that's within the preceding definitions I just gave you,  
3   okay?

4           A.    Yes.

5           Q.    That happened in this case too, right?

6           A.    Yes.

7           Q.    That's all.  Subsection A, of what I'm looking  
8   at, in Subsection D, then you're going to figure out  
9   what I'm reading from in a hurry here, I'll just tell  
10   you.  It's Texas Penal Code, 32.21.

11          A.    Okay.

12          Q.    And I know from your background, it's not just  
13   that I'm interested.  I -- I wanted to know your  
14   background in terms of looking at things, and this is  
15   the sort of thing your background has led you to be  
16   educated about --

17          A.    Yes.

18          Q.    -- okay?  Because when you're doing compliance  
19   auditing, when you're working at Arthur Andersen, when  
20   you're working with the City of Corpus, of course, but  
21   also the City of San Marcos --

22          A.    Uh-huh.

23          Q.    -- you're supposed to make sure you keep things  
24   it's your job, and the jobs you've had to keep things in  
25   compliance with the law?

1           A.     Yes.

2           Q.     And so you probably even knew at the very  
3 beginning I was reading from a statute. Did you  
4 probably?

5           A.     Probably yeah, either that or very  
6 sophisticated dictionary, one or the other, yeah.

7           Q.     Yeah. And that it is according to this Texas  
8 Penal Code, Statute 32.21 Subsection B, a person commits  
9 an offense.

10                    You're used to seeing that language and  
11 interpreting it right.

12          A.     Uh-huh.

13          Q.     Is that a yes?

14          A.     Yes.

15          Q.     A person commits an offense if he forges a  
16 riding with intent to defraud or harm another.

17                    Do you understand what I read to you?

18          A.     Yes.

19          Q.     We've already talked about this being a fraud,  
20 right?

21          A.     Yes.

22          Q.     And next section talks about, are you familiar  
23 that in Texas statutes that the degree of the offense  
24 sometimes has to do with how much money is involved.

25                    In other words, if I go steal a candy bar,

1 it's a worse offense if I go steal an automobile?

2 A. Yes.

3 Q. Okay. You understand what that in Texas law?  
4 You've probably seen that many times.

5 A. Yes.

6 Q. Okay. And so I'm going to skip down to A1, it  
7 says that if it's shown at the trial basically about an  
8 act or engaged in the conduct to obtain or attempt to  
9 obtain a property or a service, an offense under this  
10 section is; I'm going to skip down to Subpart 7, a  
11 felony of the first degree of the value of property  
12 service is 300,000 or more.

13 Do you understand what I just read to you?

14 A. Yes.

15 Q. And we can agree that \$2 million is more than  
16 300,000?

17 A. Yes.

18 Q. Okay. And -- and I know, look you -- you don't  
19 get to be judge and jury I'm going to relieve you of  
20 that responsibility --

21 A. Yes.

22 Q. -- okay? And you're not here to do that, fair  
23 enough?

24 A. Yes.

25 Q. But do you know as you sit here given your

1 background --

2 A. Uh-huh.

3 Q. -- of a reason and I'm going to grant you, you  
4 don't know what is the intent of whoever exactly altered  
5 it, fair enough?

6 A. Fair.

7 Q. And it rarely happens that somebody comes to  
8 the courthouse who is accused of a crime it says I  
9 intended to do it, fair enough?

10 A. Yes.

11 Q. But understanding that, do you know of any  
12 factual reason that came up with an investigation, that  
13 would preclude the application of this penal statute?

14 A. Say that again.

15 Q. Yeah, I'm trying to give you permission to not  
16 try and be in the mind of the people who actually  
17 altered it.

18 A. Okay.

19 Q. Because I'm not asking you to do that.

20 A. Okay.

21 Q. That would be unfair, I think, okay, true?

22 A. Yes.

23 Q. Okay. But in the course of your investigation,  
24 did you find any fact that you can tell me now that  
25 would preclude application of this penal statute?



1           A.     No.

2                   MR. ALLISON:     Okay. Can we take a break?

3                   MS. MARCUM:     Sure.

4                   THE VIDEOGRAPHER:     Time is 1:48 p.m.

5     We're off video record.

6                   (Recess from 1:48 p.m to 1:54 p.m.)

7                   THE VIDEOGRAPHER:     The time is 1:54 p.m.

8     We're back on the video record.

9                   MR. ALLISON:     And just on the record, I'm  
10   going to go ahead and pass the witness subject to the  
11   right of recall, in my opinion.

12                   I'm not trying to argue that now, so that  
13   when we get production of the emails if there were  
14   something in it I needed ask you I might come back. I  
15   don't anticipate that and I don't mind saying on the  
16   record.

17                   With that, we pass the witness.

18                   MS. MARCUM:     We'll reserve.

19                   THE VIDEOGRAPHER:     Before we go off of  
20   the video record, will you need a video copy or --

21                   MS. MARCUM:     Not at the moment. I will  
22   let you know.

23                   THE VIDEOGRAPHER:     Okay. And is the  
24   witness reading and signing?

25                   MS. MARCUM:     Yes.

1 THE VIDEOGRAPHER: Okay. All right. The  
2 time is 1:55 p.m. We're off the video record.

3 (Signature having been not waived, the  
4 deposition was concluded at 1:55 p.m.)  
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WITNESS SIGNATURE

I, HEATHER HURLBERT have read the foregoing  
deposition and hereby affix my signature that same is  
true and correct, except as noted above.

\_\_\_\_\_  
HEATHER HURLBERT

THE STATE OF TEXAS                   §

COUNTY OF NUECES                   §

Before me, \_\_\_\_\_, on this  
day personally appeared HEATHER HURLBERT known to me or  
proved to me on the oath of \_\_\_\_\_ or through  
\_\_\_\_\_ (description of identity card or  
other document) to be the person whose name is  
subscribed to the foregoing instrument and acknowledged  
to me that he/she executed the same for the purpose and  
consideration therein expressed.

Given under my hand and seal of office on this  
\_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

My Commission Expires: \_\_\_\_\_

CAUSE NO. 2024CCV-61174-3

AJIT DAVID,	§	IN THE COUNTY COURT
Plaintiff,	§	
	§	
vs.	§	AT LAW NO. 3
	§	
CITY OF CORPUS CHRISTI,	§	
TEXAS,	§	
Defendant.	§	NUECES COUNTY, TEXAS

REPORTERS CERTIFICATION  
Oral Videotaped Deposition  
OF HEATHER HURLBERT  
June 13, 2025

I, Tanisha Terrazas, Certified Shorthand  
Reporter in and for the State of Texas, hereby certify  
to the following:

That the witness, HEATHER HURLBERT was duly  
sworn by the officer and that the transcript is a true  
record of the testimony given by the witness;

That pursuant to information given to the  
deposition officer at the time said testimony was taken,  
the following includes all parties of record and the  
amount of time used by each party at the time of the  
deposition:

Mr. Allison (3h29m)  
Attorney for Plaintiff  
Ms. Marcum (0h0m)  
Attorney for Defendant

That a copy of this certificate was served on  
all parties shown herein on \_\_\_\_\_ and  
filed with the Clerk.

1 I further certify that I am neither counsel  
2 for, related to, nor employed by any of the parties in  
3 the action in which this proceeding was taken, and  
4 further that I am not financially or otherwise  
5 interested in the outcome of this action.

6 Further certification requirements pursuant to  
7 Rule 203 of the Texas Code of Civil Procedure will be  
8 certified to after they have occurred.

9 Certified to by me on this 30th day of June,  
10 2025.

11 

12 \_\_\_\_\_  
13 TANISHA TERRAZAS  
14 Texas CSR No. 12061  
15 Exp: 07/31/2026  
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AJIT DAVID,	§	IN THE COUNTY COURT
Plaintiff,	§	
	§	
vs.	§	AT LAW NO. 3
	§	
CITY OF CORPUS CHRISTI,	§	
TEXAS,	§	
Defendant.	§	NUECES COUNTY, TEXA

FIRM CERTIFICATION UNDER RULE 203 TRCP

The deposition transcript of HEATHER HURLBERT was submitted on \_\_\_\_\_, 2025 to the witness and/or attorney for the witness for examination, signature and return to me by \_\_\_\_\_, 2025.

The original deposition or changes and signature page\_\_\_\_\_ was \_\_\_\_\_ was not returned to the deposition officer.

If returned, date received: \_\_\_\_\_, 2025; and if returned, the attached changes and signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered in accordance to Rule 203.3 to MR. ALLISON, Custodial Attorney; and \$\_\_\_\_\_ is the deposition officer's charges to Mr. Allison for preparing the original deposition transcript and any copies of exhibits.

A copy of the Reporter's certificate and this

1 certificate were served on all parties shown herein and  
2 filed with the Clerk.

3 Certified to by me on this \_\_\_\_\_ day of  
4 \_\_\_\_\_, 2025.

5  
6 \_\_\_\_\_  
7 Firm Rep Signature  
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25



Exhibits	\$2	115	2
EX 0001 Heather Hurlbert 061325 67:13 71:12	6:11 54:22 72:16 86:5 94:10 100:21 101:13 103:1 112:16 115:8 122:18,25 125:24 134:1 138:12 154:2,25 175:15	42:19 60:7 118 46:25 11:16 118:10,12 11:25 118:12,13 11:39 134:10,12 11th 58:6 68:1 116:14 12 57:6 12061 5:8 12th 74:11 13 73:18 74:13, 22,23,24 13th 5:6 73:13 150 15:22 15th 119:25 16 60:7 119:25 1986 10:7 1988 7:22 1994 8:3 1996 9:11 1:02 134:12,13 1:48 177:4,6 1:54 177:6,7 1:55 178:2,4	2 78:13,15 92:20 98:4,9 101:20 106:17 133:7 20 9:9,10 76:10 87:15,17 88:11 91:25 105:8,14 121:23 129:4 140:20,23 2009 17:3 2020 17:6,7 21:13 22:2 36:18 76:11,16 77:5,22 78:25 79:2 80:8 116:8, 25 117:5 2021 78:6 2022 73:13,19 74:11,13,22, 23,25 79:14, 15 80:4 2023 22:3 26:17 56:17 57:6, 17,22 58:6 68:1 77:18 80:4 88:7 91:11 116:24 2024 26:19 36:8, 18 87:4,15, 24 88:9,11 91:25 92:4, 18 94:23 98:5,10 104:5 105:20 117:3 123:25
EX 0002 Heather Hurlbert 061325 78:13,15			
EX 0003 Heather Hurlbert 061325 86:8,10	\$30 115:23 116:12		
EX 0004 Heather Hurlbert 061325 102:1,3	- --I 49:10		
EX 0005 Heather Hurlbert 061325 103:25 104:2	1		
EX 0006 Heather Hurlbert 061325 107:13,14,15	1 45:10 67:13, 14 71:12 1,043,000 57:17		
EX 0007 Heather Hurlbert 061325 117:19,21 118:20 134:16	1,510,000 95:20 113:3 10 164:23 10-foot 127:14 100 44:17,19,22 45:6 10:04 58:20,22 10:15 58:22,23 11 123:25 124:15 152:19		
EX 0008 Heather Hurlbert 061325 123:15,17,23 140:15,16			
EX 0009 Heather Hurlbert 061325 151:12,14	11-years 17:5		
\$			
\$1,510,000 113:9			

124:12		110:24	<b>access</b>
128:25	<hr/> 3 <hr/>		63:13
129:1,4		<hr/> 8 <hr/>	<b>accidentally</b>
152:19	3		84:13
<b>2025</b>	86:8,10	8	<b>accomplish</b>
5:6	30	123:15,17,23	69:19
<b>20th</b>	87:4,20,21,	140:16	<b>accountant</b>
92:5 103:18	24 92:4		8:15 9:15
107:8 108:11	<b>300,000</b>	<hr/> 9 <hr/>	<b>accountants</b>
129:1	175:12,16		11:4
<b>22</b>	<b>30th</b>	9	<b>accounting</b>
35:21 79:25	88:9 92:18	57:17 76:11	8:11 11:5,
94:23	94:23 95:8	151:12,14	20,22 12:5,
<b>220</b>	<b>32.21</b>	<b>94</b>	7,25 13:24
17:6	173:10 174:8	8:4	16:19
<b>23</b>	<b>380</b>	<b>96</b>	<b>accounts</b>
22:1 35:21	36:24 37:3	8:20	15:14,15
57:22 79:17		<b>9:03</b>	22:11
119:24	<hr/> 4 <hr/>	5:3,5	<b>accusation</b>
125:22			92:15
<b>23rd</b>	4	<hr/> A <hr/>	<b>accusations</b>
119:17 120:5	102:1,3		139:9
121:24	<b>4B</b>	<b>a.m</b>	<b>accused</b>
123:19,21,22	41:18	58:22	176:8
124:11		118:10,12	<b>achieve</b>
129:14	<hr/> 5 <hr/>	134:12	50:24 93:7
130:23 142:1		<b>a.m.</b>	<b>acknowledgeme</b>
149:20	5	5:3,5 58:22,	<b>nt</b>
150:24	103:25 104:2	23 118:12,13	153:19 154:8
<b>24</b>		134:10	<b>acquiesce</b>
35:10 36:5	<hr/> 6 <hr/>	<b>A1</b>	145:15
<b>24-0256</b>		175:6	<b>across</b>
102:11	6	<b>abbreviate</b>	13:18 131:6
<b>27</b>	6	156:18	<b>act</b>
92:9,12	107:13,15	<b>ability</b>	170:13 175:8
104:5		167:4,11	<b>action</b>
105:20,22	<hr/> 7 <hr/>	<b>able</b>	24:21
107:8 109:12		33:10 42:8	<b>activation</b>
111:4 149:23	7	50:24 55:20	128:2 129:10
<b>27th</b>	108:20 111:5	<b>about--</b>	133:6
56:17	113:25	69:17	<b>acts</b>
104:17,20	117:19,21	<b>above</b>	19:12
105:3 108:15	118:20	96:20	<b>actual</b>
109:4,25	134:16	<b>accept</b>	63:11 72:25
110:2	175:10	57:18 58:1	104:20
	<b>7th</b>		114:14
	108:23		130:15

<b>ad</b>	<b>afterwards</b>	145:5,15	14 78:14
33:4	110:6	149:8 171:24	86:9 102:2
<b>added</b>	<b>Agency</b>	172:9,10	104:1 107:14
69:11 95:20	95:18	<b>agreeing</b>	117:20
<b>adding</b>	<b>agenda</b>	148:20	118:5,8,15
49:13 54:4	23:6,9 24:7,	<b>agreement</b>	123:16
<b>addition</b>	13 30:5,8	36:23 52:6	134:8,15
15:21 61:9	33:2 67:19,	94:24 98:4,9	135:18
<b>additional</b>	23 87:3 92:3	99:14,15,16,	136:1,2
8:6,22 9:3	99:24 101:7,	17 100:7,11	140:7 151:13
44:20 61:6	12 102:5,7,	102:17,21	162:2,3,11,
65:2 95:15,	8,13 103:6,9	106:20 141:1	15,18,25
20 125:5	104:5,20,21	166:16	177:2,9
<b>addressed</b>	105:5,10,16,	<b>agreements</b>	<b>allow</b>
107:21	20 106:13	24:15 36:25	20:22 154:8
<b>adjacent</b>	108:15	37:2,3	<b>allowed</b>
131:6	109:8,9,10,	<b>agrees</b>	24:22 50:19
<b>administering</b>	13 110:19	138:2	<b>Almaguer</b>
5:9	119:17	<b>ahead</b>	38:25 39:2
<b>administratio</b>	130:13,14	5:21 16:23	<b>alter</b>
<b>n</b>	141:12,13	19:24 35:14	75:11,17,19,
8:10	150:3 154:11	56:11 78:6	24 89:23
<b>admit</b>	<b>agendas</b>	81:4 108:5	90:8,25
83:15	38:9	143:7 144:12	170:9
<b>admitted</b>	<b>ago</b>	152:15	<b>alteration</b>
83:12,18	13:12 31:12	166:24	81:16,17
<b>adopted</b>	66:10 81:2	177:10	83:7 91:16
40:11 68:22	91:22 136:15	<b>Aimee</b>	92:15
80:1	<b>agree</b>	51:13 53:11	<b>altered</b>
<b>advance</b>	20:25 38:11	<b>airport</b>	73:24 75:22
87:20 115:24	43:2,7 46:2,	26:10,22	81:12 82:22
125:22	3,5,12 47:5,	<b>Ajit</b>	87:7,10,14
166:18	8,9,14,15	107:22	88:10,18,21,
167:15	48:19 49:5	118:23	23 89:15
<b>advice</b>	56:16 57:3	120:21 127:9	90:18 91:12
32:4,9	60:24 74:24	141:19	93:13,15,17,
<b>AE</b>	88:21 90:7	<b>Alcorn-reed</b>	19 101:1,9
92:21 94:10,	101:3 102:4	51:13	103:21
25 95:5,19	103:14	<b>allegations</b>	108:22
102:23	115:1,22	142:4,5	109:19
106:24	175:15	<b>Allison</b>	114:2,23
<b>afoul</b>	<b>agreed</b>	5:15,16	120:17
25:4	65:17 90:11	18:7,9 37:6	136:9,12
<b>after-the-</b>	101:24 117:8	58:12,15,17,	151:9 156:5
<b>fact</b>	131:24	25 62:17,18	158:9
14:11	133:15	67:14 71:24	169:12,24
	137:15	72:3,5,8,12,	176:4,17
	138:12		

<b>altering</b>	51:16	<b>approve</b>	<b>articulated</b>
90:2,9 143:1	<b>anymore</b>	104:9 155:4	117:9
168:21 169:7	97:14	<b>approved</b>	<b>articulation</b>
<b>alternatively</b>	<b>apparently</b>	94:24 100:10	108:20
172:2,19	124:14	131:18 132:4	<b>asked</b>
<b>amending</b>	<b>appeal</b>	164:20	26:23 42:20
103:2 107:5	65:1 156:21	165:12 169:7	43:4 45:21,
<b>amendment</b>	157:7 160:12	<b>approving</b>	24 47:1,11
147:23 148:9	<b>appears</b>	141:10	48:22,23
<b>amount</b>	80:13	<b>approximate</b>	59:15,22
96:23 98:4,9	<b>applicant</b>	57:20	124:22
106:16	68:8 93:18	<b>April</b>	134:18
155:18	98:21 99:18	26:19 73:13,	<b>asking</b>
<b>amounts</b>	100:8,19	18 74:22	7:5 52:1
61:23	152:21 155:2	75:6 119:17	79:11 90:13,
<b>analysis</b>	<b>applicants</b>	120:5 121:24	16 120:14
52:2 62:4,12	53:16 54:5	123:19,21,22	139:24
64:25 66:22	<b>application</b>	124:11	147:12 158:5
<b>and/or</b>	38:19 39:4,	125:22	176:19
41:9	6,19,20,21,	129:14	<b>aspect</b>
<b>Andersen</b>	22 50:11	130:23 142:1	46:22 69:10
9:22 11:7,8,	56:17 98:25	149:20	<b>aspects</b>
12 13:5,10	99:4 101:5	150:24	23:21 49:12
14:3,10	112:23	152:19	62:2 66:5,
173:19	114:10	<b>architect</b>	13,16 69:5
<b>answer</b>	164:14,18,21	115:17	129:20
9:9 31:1	165:9,10	116:12	<b>assess</b>
32:3 42:25	166:24	<b>area</b>	12:18,21
46:12 48:24	167:15	6:4 8:9	<b>assistance</b>
55:1 59:16,	176:13,25	44:18 57:10	42:9
19,22 60:5	<b>applications</b>	61:1 126:1	<b>assistant</b>
80:2 91:6	37:19	142:15,18	6:1,2,5
136:3 143:20	<b>applied</b>	<b>areas</b>	17:10 21:21,
<b>answered</b>	44:6	61:9	24 26:6,9,18
43:6	<b>applying</b>	<b>argue</b>	27:7 29:20,
<b>answers</b>	46:14 52:5	88:13 91:6	25 32:23
25:18 60:1	<b>appo</b>	97:18	34:25 35:6
<b>anticipate</b>	57:8	162:13,19	36:2
70:23 177:15	<b>appreciate</b>	177:12	<b>associated</b>
<b>anticipated</b>	36:12 124:23	<b>arise</b>	92:21 94:10,
68:21	<b>appropriating</b>	25:10,12	25 95:4,15
<b>anticipating</b>	103:1	<b>Arthur</b>	102:23
69:12	<b>approval</b>	9:21,22	106:23
<b>Antonio</b>	98:3,8	11:7,8,12	125:25
9:14	101:13	13:5,10	128:1,13
<b>anybody</b>	143:22	14:2,10	130:21
50:8,14	154:12	173:19	<b>assume</b>
			18:10 99:14

115:22	<b>award</b>	7:18 16:24	<b>beginning</b>
<b>attach</b>	6:10 41:4	72:1 94:21,	65:16 116:24
100:1,2	49:20	22 128:12	174:3
<b>attached</b>	101:10,19	146:10	<b>behind</b>
99:23	133:4 147:24	173:12,14,15	82:2 85:12
<b>attaching</b>	148:12	176:1	147:21
114:13	157:16	<b>bad</b>	155:11,13
<b>attempt</b>	<b>awarded</b>	29:8,19 90:4	157:16
175:8	133:8	115:6	165:15,18
<b>attend</b>	<b>awarding</b>	<b>ball</b>	<b>believe</b>
22:14 58:8,	54:22	168:6	20:14 35:21
10 135:10	<b>awards</b>	<b>bank</b>	50:12 64:15
<b>attention</b>	41:10	14:6	68:9,11,14
73:1	<b>aware</b>	<b>Bankler</b>	70:12,17
<b>audio</b>	113:25	16:16	77:19 93:21
88:1 117:23	116:13	<b>banner</b>	94:17 109:21
119:4 140:9		133:2 134:1	117:16
<b>audit</b>	<b>B</b>	<b>bar</b>	136:11
11:13 12:4,		174:25	149:21
17	<b>back</b>	<b>based</b>	152:1,2
<b>audited</b>	7:18 9:18	20:20 45:14	164:12
14:19	22:2 27:5	53:1 55:19	<b>below</b>
<b>auditing</b>	58:24 59:20	61:25 63:25	73:15,17
11:16,18	66:22 71:25	64:25 66:22	<b>benefit</b>
14:4 173:19	72:23 74:21	86:5 98:16,	43:23 61:8
<b>auditor</b>	77:4,10,22	18,25 99:4	62:2,4
9:22 11:8,9,	78:25 79:1	101:5 107:4	139:20
11	88:16,17	124:19 133:8	<b>besides</b>
<b>auditors</b>	104:7	143:3,12,15,	66:5
11:14	109:11,24	23 144:4,6,	<b>better</b>
<b>audits</b>	116:7,25	10 147:12	79:18 115:24
11:13	118:14,16	159:3	148:17
<b>authentic</b>	120:3 125:5	<b>basically</b>	<b>Bhakta</b>
168:24	131:7 134:14	13:22 16:19	51:19 52:17,
172:14	139:11 140:7	37:11,17,20	24 97:5
<b>authenticate</b>	152:11	42:7 52:5	152:22
170:10	160:1,6	59:13 70:19	166:15
<b>authorize</b>	161:6,21	89:2 103:6	<b>big</b>
170:18,19	162:10	108:21 109:7	27:14 45:15
<b>authorizing</b>	163:19	113:3 114:16	90:20 127:5
102:17,21	164:16	122:11	141:21
106:20	177:8,14	158:14 175:7	<b>bit</b>
<b>automobile</b>	<b>backbone</b>	<b>basis</b>	7:1 14:4
175:1	156:19	15:19 24:12	21:5 32:21
<b>available</b>	<b>backed</b>	26:1 34:11	35:10,13
26:2 80:12	25:17	108:11,14	69:4 72:10
161:23	<b>background</b>	<b>began</b>	109:24 140:8
		21:12 36:18	

<b>blank</b> 47:10 141:15	<b>bringing</b> 38:6,8	<b>but-four</b> 49:24	<b>capacity</b> 44:23
<b>blowing</b> 73:16	<b>broke</b> 92:12,14	<b>but</b> 148:1	<b>caption</b> 92:3,19
<b>board</b> 37:10,15,18 38:1 39:23, 24 40:1,11 41:22 55:18 57:13,18,22 58:4,5 67:17,21,22 72:16 73:25 74:6,7 80:21 81:9 87:7 88:8,16 98:17 100:7 103:23 106:20 112:22 127:16,18 132:6 143:3, 18 144:21,25 145:4,25 146:4,8,19 151:22 152:5 153:8 164:17 169:23	<b>brought</b> 54:6 55:24 110:12 <b>budget</b> 6:6 103:3 107:5 147:23 148:9 <b>budgeted</b> 15:22 <b>budgeting</b> 9:25 15:10, 22,23 <b>build</b> 53:2 93:3 <b>building</b> 44:13 54:2 68:23 112:17 115:23 <b>buildings</b> 54:4 131:6 <b>built</b> 43:19,20 61:1 128:14 130:25 <b>Bureau</b> 61:5 <b>business</b> 8:10 9:18 16:18 29:16 41:11 45:14 49:12 112:8, 11 164:23 <b>businesses</b> 16:20 42:10 49:11 <b>but-for</b> 46:9,10,14, 16 49:9,14, 15 50:2,11 51:9 52:1, 12,16,25 53:5,8,15 64:25	<hr/> <b>C</b> <hr/> <b>Cabana</b> 9:25 10:2 13:8 15:6,9 <b>call</b> 11:16 30:20 42:9 87:2 90:17 91:12 101:2 103:22 106:7 113:17 130:8 135:14 136:8 156:6, 7,22 157:11, 12 <b>called</b> 13:13 19:10 40:15 41:18 55:11 63:4 102:10 157:11,24 <b>calling</b> 70:13 <b>calls</b> 28:4 113:17 137:25 156:11 <b>camera</b> 81:4 <b>candy</b> 148:1 174:25 <b>cannibalizati on</b> 46:4 60:4,24 61:2 62:1 <b>cannibalizing</b> 43:5,8,17 44:3,15,17, 22 45:3,19, 25 59:4,9 60:13 61:18	<b>captured</b> 103:10,13 106:4,6,8 129:6,13 130:10,11, 12,15 149:9, 11 150:5,6 <b>captured</b> 83:17 <b>car</b> 13:16 <b>case</b> 124:15 170:16,22,25 171:21,25 172:17 173:5 <b>cash</b> 15:15 22:11 <b>category</b> 148:7 <b>caused</b> 141:25 <b>CCB</b> 98:10 <b>CCBB</b> 98:5 <b>CCREDC</b> 37:15 82:23 112:22 <b>certain</b> 19:14 42:11 <b>certainly</b> 18:25 69:9 70:22 116:7, 11 139:12 168:23 <b>Certified</b> 8:14 <b>CFO</b> 17:12 <b>Chair</b> 151:22 152:5 <b>challenge</b> 72:22

<b>chambers</b> 22:20	<b>characterizes</b> 122:6	38:8 39:16 44:11,23	122:1,5 155:5
<b>change</b> 20:19 21:24 35:2 65:9,14 77:17 78:9 80:14,22 85:16 95:21 96:4 103:12 113:9 124:17,19 133:2,3 141:4 142:1 157:6 158:13 160:19	<b>characterizin g</b> 77:8,13 <b>charter</b> 18:10,15 19:5 21:2 148:23 149:3 <b>cheat</b> 56:22 <b>choices</b> 93:4 <b>choppy</b> 140:4 <b>Christi</b> 5:23,25 10:5 17:8 21:9,13 22:4 25:22 30:24 35:17 38:11 45:6 56:2 78:19 82:15 102:22 <b>Christi's</b> 21:2 <b>cities</b> 17:24,25 <b>city</b> 5:23,24 6:1, 2,5 7:17 9:12 10:4 16:21 17:7, 9,16,17 18:9,10,13, 15,17 19:2, 12,13 20:1, 3,10,22 21:1,4,8,12, 21,24 22:3, 14 23:24 25:21 26:6,9 28:2,7,11 29:20,25 30:23 32:10, 11,16,23,24 34:17,25 35:6,17 36:3 37:21,23,25	48:1 56:1 82:15,16 83:8 102:18 103:7,17 113:4 114:19 115:3 117:15 129:5 138:4, 15,25 139:11,14,19 140:25 143:14 146:14 148:23 149:12 151:21,22 152:2,8 153:4,8,19 154:8,11 166:19 169:19,23 173:20,21 <b>claim</b> 139:13 <b>claims</b> 136:12,23 <b>clarification</b> 99:19 127:15 <b>clarified</b> 144:20 <b>clarify</b> 126:23 156:2 158:20 160:22,23 165:3 <b>clarifying</b> 124:24 <b>clarity</b> 154:8 <b>clean</b> 83:19 <b>clear</b> 81:5 107:8 108:20 115:10 120:12 121:18	<b>clearly</b> 105:13 114:18,25 121:8 129:22 149:6 155:10 156:3 <b>click</b> 78:8,14,25 <b>client</b> 108:21 114:18 117:24 <b>closed</b> 57:21 95:19 135:17 <b>closest</b> 97:4 <b>Code</b> 173:10 174:8 <b>college</b> 7:23,25 <b>come</b> 10:5 38:21 41:11 46:20 83:19 97:3 160:24 177:14 <b>comes</b> 14:8 176:7 <b>commenced</b> 112:12 164:11,24 167:5 <b>comment</b> 99:6 <b>commit</b> 46:21 <b>commitments</b> 167:10 <b>commits</b> 174:8,15 <b>committed</b> 46:7 47:3,14 49:1 111:17 166:10,15

167:6,15	<b>complies</b>	<b>conform</b>	<b>contract</b>
<b>communicate</b>	24:17 131:9	164:7	31:13,22
27:1 28:2	<b>comply</b>	<b>confusion</b>	39:14,15,16,
29:1,12	14:13 54:11,	153:7 154:9	18 40:2
32:8,10	13,17 55:10	<b>connection</b>	147:24
33:11	68:24 69:21	6:9	148:12
<b>communicated</b>	70:24 71:5,9	<b>consent</b>	166:24
32:19 34:13	129:7	100:10	<b>contracted</b>
138:3,14	<b>complying</b>	<b>consider</b>	11:12
139:11,12	14:17 23:13	75:13,15	<b>contracts</b>
<b>communication</b>	<b>component</b>	140:25	24:7,14
<b>s</b>	12:1 97:14	141:11,12	31:11 37:15
159:17	122:10	<b>consideration</b>	38:8
<b>community</b>	131:10	38:7 39:24	<b>control</b>
43:23 44:8	<b>comport</b>	129:6,14	12:21
<b>companies</b>	56:18 58:5	<b>considered</b>	<b>controls</b>
11:12	<b>comptroller</b>	20:1 154:10	12:12,15,22
<b>company</b>	9:24 13:19,	<b>consistency</b>	<b>controversy</b>
6:11 82:13	20	55:21 131:6	71:19 142:3
<b>compare</b>	<b>computer</b>	133:1	<b>convention</b>
105:2 107:9	62:23 63:1,	<b>consistent</b>	45:14 61:5
<b>compared</b>	11,12,17	50:20 122:20	<b>conversation</b>
124:4 126:5	84:1,5	141:6	53:14 118:23
<b>complaining</b>	<b>concern</b>	<b>consistently</b>	119:12,24
6:10 112:15	110:15 113:2	133:1	121:7 123:3,
113:10	121:14	<b>constructabil</b>	5 131:18,25
<b>complaint</b>	<b>concerned</b>	<b>ity</b>	136:15
112:19 113:2	157:13,20	69:11	138:19 157:3
115:11	158:5	<b>construction</b>	158:6 159:4,
<b>complete</b>	<b>conclude</b>	50:3 111:17	11,19
166:21 170:9	83:5 84:17	112:11	<b>conversational</b>
<b>completely</b>	138:11	164:13,23	<b>1</b>
51:3 54:21	<b>concluded</b>	<b>contact</b>	139:25
94:3 95:25	82:11 137:2	25:1,24 30:2	<b>conversations</b>
96:15	142:7 178:4	31:15	32:18 50:13
<b>compli</b>	<b>conclusion</b>	<b>contacting</b>	51:21 52:8,
12:3	137:24	25:7	12,22 53:1,
<b>compliance</b>	138:7,10	<b>contemplated</b>	15 125:10,16
11:16,18,25	139:10	108:15	139:8 159:22
12:2,4,5,7	<b>conduct</b>	<b>context</b>	163:6
14:2 16:6	175:8	44:4,7 45:20	<b>copy</b>
17:14,20	<b>conduit</b>	120:12	72:22 171:3,
18:3,14,15	37:20	150:16	4,17 177:20
21:1 25:15,	<b>conference</b>	<b>continuation</b>	<b>corner</b>
23 30:11,20	110:4	87:24	102:25
37:19 54:9	<b>confirm</b>	<b>continued</b>	<b>corporate</b>
173:18,25	67:24	60:3	15:20,23



16:3	147:22	154:11	45:21,24
<b>Corporation</b>	149:13	169:20,24	46:25 47:8,
37:16 38:12,	150:11 153:2	<b>counsel</b>	18,24 48:13,
13 39:17	155:22	51:14	22 50:12
40:5 94:24	158:11	<b>County</b>	51:10 52:20
98:5,10	167:18,19	77:1	57:3,9,24
102:22	168:21	<b>course</b>	59:14,15,22
129:20	169:14	7:15 22:21	97:16 125:17
<b>Corpus</b>	170:14	33:12 44:12	156:13 157:6
5:23,25 10:5	<b>correctly</b>	55:22 173:20	159:3,11,24
17:8 19:10,	31:19 44:15	176:23	161:18
13 20:4	103:4,5	<b>coursework</b>	<b>Culbertson's</b>
21:1,8,13	114:11	9:3	42:18 59:1
22:4 25:22	128:17	<b>COURT</b>	80:17
30:23 35:17	129:11	5:7 18:5,8	<b>curb</b>
38:11 45:6	154:13	37:1 139:23	65:1 160:12
48:8 56:1	<b>correspondenc</b>	140:3,6	<b>curbside</b>
78:19 82:15	<b>e</b>	<b>courtesy</b>	156:21 157:7
102:22	161:12	119:3	<b>current</b>
173:20	<b>cost</b>	<b>courthouse</b>	62:13
<b>correct</b>	69:12 92:20	176:8	<b>curveball</b>
8:24,25	93:23 95:20	<b>covers</b>	69:18
12:16 14:18	100:13,16	54:1	<b>cut</b>
16:12 18:20	102:23	<b>COVID</b>	47:12 89:19
21:10,14	106:23	22:22	<b>cutting</b>
28:19 29:2	127:25 131:4	<b>CPA</b>	140:1
30:13,18	<b>costs</b>	8:12,19 9:4	
31:6,25 32:5	94:10,25	10:3,7 15:5	
34:4,23 35:1	95:4,15	16:13	
38:13 42:4,	112:24	<b>create</b>	<b>D</b>
25 44:25	125:25	15:18 85:3	<b>daily</b>
45:1 47:4	128:13	167:10	24:12 25:1,7
48:10 54:19,	130:21	<b>created</b>	26:1 33:8,11
23 55:3	<b>council</b>	35:23 96:5	34:11
57:4,7 59:6	20:1 22:15	<b>credit</b>	<b>darn</b>
60:2 65:18	38:9 103:7,	9:19 10:17,	120:17
69:7 70:11,	17 123:1,12	21,25 11:1,3	138:21
16 73:14,20	129:5 134:21	<b>crime</b>	<b>data</b>
79:23 81:13	135:13 136:6	135:22 176:8	63:18 73:9,
87:10 89:7	138:4,15,25	<b>criteria</b>	10 74:7 75:5
92:13,17	139:11,15,19	42:11	82:9 85:20
96:8 101:15	140:25	<b>criticisms</b>	92:16 109:24
104:10 109:1	141:13	117:9	167:3
121:25	143:14	<b>CSR</b>	<b>date</b>
122:18	146:14 147:9	5:8	21:23 56:20
127:11 128:7	149:12	<b>Culbertson</b>	57:14,18,25
129:17,21	151:22 152:8	38:24 40:22	67:24 73:1,
130:2 145:20	153:5,8,20		2,13,17,18

74:10,14,21, 22,24 76:10, 20 81:17 83:15,16,24 84:2,8,11, 24,25 85:11, 15 87:20 113:20 114:1,15 120:7 121:20 123:7 124:17 125:1 163:2 166:14 168:18,19,20 169:8	<b>deceive</b> 90:10 <b>December</b> 26:17 58:6 68:1 77:17, 18 88:7 91:11 <b>decided</b> 110:18 <b>decision</b> 55:19 99:22 101:4 143:4, 12,17 <b>decisions</b> 98:16 <b>defer</b> 57:14,15 <b>define</b> 19:20 23:17 31:16 <b>defined</b> 94:7 95:16 172:21 <b>defining</b> 106:12 <b>definitely</b> 143:15,23 <b>definition</b> 168:15 170:6,24,25 171:2,16,19, 25 172:3,10, 20 <b>definitions</b> 171:23 172:24 173:2 <b>defraud</b> 174:16 <b>degree</b> 9:17 10:12 174:23 175:11 <b>delay</b> 125:2 <b>delayed</b> 120:4 125:4	<b>department</b> 22:9 23:24 32:10,12 35:22,25 53:10 142:14 <b>departments</b> 26:8,12,20 30:16 <b>depending</b> 19:16 27:11, 24 <b>depends</b> 32:14 33:1 47:6 49:6 <b>deposed</b> 6:21 40:21 <b>deposition</b> 5:9 40:25 42:18 43:11, 16 56:15,21 66:17,19 78:15 80:18 104:3 117:21 159:23 160:3 162:16,20 163:21,24 178:4 <b>depositions</b> 67:7 161:13 <b>describe</b> 19:20 27:10 43:13 <b>described</b> 26:23 44:15 <b>describing</b> 105:23 <b>description</b> 26:5 126:21 129:24 130:1 155:17 <b>design</b> 53:17 54:11 <b>designed</b> 96:7 <b>destination</b> 44:7	<b>detail</b> 56:8 <b>detailed</b> 109:18 <b>details</b> 6:13 <b>determining</b> 41:4 <b>developer</b> 100:17 115:16 116:12 <b>development</b> 6:7 22:12 26:10,22 34:22 35:4, 8,18,20,23 36:4,19,22 37:5,12,13, 16 38:12 40:7 42:13, 14,24 43:6 46:1 47:18, 24 48:1,7, 13,17 50:4, 19 51:15 60:1,5,23,25 61:7,25 62:2,11 65:23 66:8 103:2 116:16 117:3 128:1, 13 130:21,23 142:17 156:23 164:5 165:21,23 <b>Deven</b> 51:19 <b>Devin</b> 97:5 152:22 166:15 <b>dictionary</b> 174:6 <b>differ</b> 130:14 <b>difference</b> 64:5,8,10 132:4
<b>dated</b> 87:4 123:22, 25 152:18 <b>dates</b> 56:24 75:9 81:1,12 94:7 124:19 <b>David</b> 107:23 111:12 115:10 118:23 120:13 127:9 <b>David's</b> 117:9 <b>day</b> 25:1 27:8 110:6 <b>day-to-day</b> 14:5 <b>deadline</b> 110:10 <b>deal</b> 75:9 141:21 <b>dealing</b> 18:24 27:12 61:4 152:24 <b>deals</b> 48:6 <b>dealt</b> 51:14			

155:18,19	<b>disagreeing</b>	142:4,6,8	<b>draft</b>
<b>differences</b>	57:1	143:8,13,15,	86:15,16
155:16	<b>disagreement</b>	25 144:2,5,	<b>drafted</b>
<b>different</b>	59:1 60:20,	6,10,16,25	86:17,22
14:8 26:12,	21 61:12	146:25	<b>drafting</b>
14 36:15	<b>disappear</b>	147:4,11	23:6,9 30:5,
49:8,12 51:3	114:10	150:19,25	7
53:7 55:6	<b>disappeared</b>	152:25 158:9	<b>drag</b>
59:11 62:21	54:21 84:13	160:10	13:17
93:4,6,7,22	<b>discharged</b>	169:8,12,19	<b>draw</b>
94:3 106:13	30:17	170:7 172:13	73:1
120:3	<b>discovered</b>	<b>documentation</b>	<b>dry</b>
126:11,16	82:18	77:7	131:4
134:5 140:18	<b>discussed</b>	<b>documents</b>	<b>due</b>
145:3 150:8	52:13 127:9	67:9 77:11,	60:23
155:17	158:3	21 88:19	<b>duly</b>
158:21 161:2	<b>discussion</b>	99:8,21,23	5:13
167:20	43:17 56:13	101:11	<b>duties</b>
171:23	120:13,21	167:9,12	30:16
<b>differently</b>	121:10 140:8	<b>doing</b>	
59:10 134:6,	145:10	11:25 12:25	
7	158:16	16:18 25:21	
<b>dining</b>	159:12	26:6 36:9	
126:1 128:2	164:10 167:5	48:12 63:10,	
156:22,23,25	<b>discussions</b>	15 65:21	<b>earlier</b>
157:7 160:11	52:16	68:7 71:6,7	13:4 26:15
<b>direct</b>	<b>disingenuous</b>	93:22,23	34:2 43:11,
66:14 97:22	80:20	116:12	20 48:5
101:17	<b>distancing</b>	161:13 166:8	58:25 67:25
<b>directed</b>	156:3	173:18	76:19 94:2
41:11 85:3	<b>distinction</b>	<b>dollar</b>	115:6 124:7
<b>direction</b>	91:21 141:23	66:14 96:23	126:7 131:22
84:21,23	<b>distinguish</b>	155:18,19	137:15
<b>directly</b>	155:11	<b>dollars</b>	149:22
17:13 35:11	<b>document</b>	64:18	172:21
<b>director</b>	75:12,13,16,	<b>dotted</b>	<b>early</b>
17:10,11	18,20,22,24	166:19	116:7,16
21:16,17,18	76:9 78:2	<b>double</b>	124:15
22:4,14	84:13,14	9:1 103:16	<b>easier</b>
23:2,12,23	88:21 89:4,	<b>Doug</b>	73:16
24:10,20	10,22,25	5:16	<b>ebb</b>
25:20 34:25	90:8 91:13	<b>download</b>	27:11
35:8,9,15,	101:6 107:16	89:9	<b>ebbs</b>
19,24 36:1,4	108:22 115:7	<b>downtown</b>	27:12,20
<b>disagree</b>	130:15	44:18 61:1,6	<b>economic</b>
57:12 81:25	137:16	62:15,16	6:7 22:12
121:4	138:11	131:6	26:10,21
			34:22 35:4,
			8,18,20,23

---

**E**

---

36:3,19,22	155:20 174:5	<b>entail</b>	<b>exactly</b>
37:5,12,16	<b>elevate</b>	60:22	8:16 14:12
38:12 40:7,	70:1 94:25	<b>entering</b>	15:1 19:16
17 42:13,14,	102:22	52:6	22:25 23:17
24 43:5,22	106:21	<b>entire</b>	26:16 36:10,
46:1 47:18,	<b>email</b>	64:14 65:15	16 38:15
23 48:1,6,	27:3,8 28:3	<b>epiphany</b>	49:16 50:18
12,17 51:14	34:6 38:22	157:10	54:24 55:15,
60:1,5,23,25	107:22,24	<b>equipment</b>	24 61:14
61:7,24	125:16 157:3	13:16	64:19 66:5
62:2,3,10,22	158:2 159:13	<b>error</b>	84:6 89:18
65:22 66:8	160:1,18,21	84:1,5	91:7 98:14,
103:2 142:16	162:6 163:1,	117:22	16,20,22
165:21,23	2,5,20	<b>essence</b>	105:17
<b>economics</b>	<b>emailer</b>	36:20 37:21	109:21
44:10	27:14	86:25	112:6,18
<b>EDC</b>	<b>emails</b>	<b>essentially</b>	114:22 117:1
37:21,22,25	27:9,17	112:15	120:4,11,19
38:10,23	156:12 160:6	<b>established</b>	121:9 127:3
39:6,17,19	161:7,16	49:11	128:23
40:12 41:3	162:7,10	<b>estimates</b>	130:14
83:2 86:17,	177:13	100:14,16	138:6,19
23 97:21,25	<b>Emergency</b>	<b>evaluate</b>	142:9 152:7
113:7 142:15	95:18	65:22	154:19
<b>educated</b>	<b>emphasizing</b>	<b>evaluation</b>	157:19
173:16	128:3	66:23	160:19
<b>education</b>	<b>emphatic</b>	<b>event</b>	165:24
8:7,22	153:13	80:5	167:13 176:4
<b>effect</b>	<b>emphatically</b>	<b>events</b>	<b>EXAMINATION</b>
43:5,8 44:22	154:7	45:15	5:14
45:25 60:4,	<b>employee</b>	<b>everybody</b>	<b>exceed</b>
12,23,25	28:24 30:23	109:19	98:4,9
61:2,8,13,16	<b>employees</b>	137:10	<b>Excel</b>
<b>effective</b>	31:2	146:11	63:1,13,15,
74:9,11,22,	<b>employers</b>	<b>everybody's</b>	21
24	9:10	155:5 158:9	<b>exchange</b>
<b>effects</b>	<b>end</b>	<b>everyone</b>	157:3
61:25	26:19 64:24	63:10 146:9	160:18,21
<b>effort</b>	98:7 148:19	<b>evidence</b>	163:3,5
155:10 157:9	<b>ends</b>	150:24	<b>exchanges</b>
<b>either</b>	102:5	<b>exact</b>	125:16
17:13 19:17	<b>enforceable</b>	20:18 21:9	<b>exclusive</b>
22:19 28:3	31:17,23	43:14 53:15	153:9,15
33:13 34:1	<b>engaged</b>	56:20 57:25	<b>excuse</b>
38:24 39:24	175:8	61:23 105:19	76:10 91:1
51:18 79:18	<b>ensure</b>	121:20 123:7	104:20
80:5 98:12	131:9	136:15	115:16
110:5 131:24			

<b>execute</b> 170:10	<b>explain</b> 19:24	141:23	128:25
<b>executive</b> 23:3 33:3 135:1,2,5, 10,17 136:6, 25 138:6,19	<b>explanation</b> 36:12 122:8	146:3,22 148:17 150:21 175:22 176:5,6,9	129:1,4 140:20,23 149:23
<b>expressed</b> 59:1 128:4	<b>expressly</b> 153:9	<b>fall</b> 17:25 37:4 142:14 168:15	<b>federal</b> 9:19 10:20 11:1,2 72:19 75:12,13,15, 18,20,22,23, 24 77:11 84:14 88:18, 21 89:3,4,5, 9,25 90:2,8, 9,17,25 91:1,12 92:15 95:18 101:2 109:19 114:20 120:18,22 121:15 122:3,16,25 132:5 135:14 136:7 137:16 138:11 143:1 156:5 158:9 167:23
<b>exhibit</b> 67:13 71:12 78:13,15 86:8,10 102:1,3 103:25 104:2 107:13,14 110:25 117:19,21 118:20 123:15,17,23 134:16 140:15 151:12,14	<b>extended</b> 119:3	<b>falls</b> 142:15,16 148:7	
<b>exhibits</b> 67:6	<b>extent</b> 61:11,12	<b>false</b> 85:16,20,21, 23 86:2,6 88:8 91:19 99:2,5 101:8,19 104:8 115:13 160:10	
<b>exist</b> 161:16	<b>exterior</b> 88:15 102:24 126:8,9		
<b>existed</b> 171:18	<hr/> <b>F</b> <hr/>		
<b>existing</b> 44:14 165:20	<b>face</b> 117:11 127:6	<b>familiar</b> 17:19 53:21 174:22	
<b>exists</b> 171:5,9	<b>facets</b> 106:14	<b>far</b> 18:14 22:5 24:9 51:5 100:12 129:11 151:4 166:18 170:11	<b>feed</b> 63:18
<b>expanding</b> 49:13 130:4	<b>fact</b> 35:7 44:17 53:5 60:21 61:15,24 85:23 93:22 135:18 137:2 141:9 142:7 148:10 171:4 172:12 176:24	<b>farther</b> 151:14,17	<b>feel</b> 29:18 71:6 91:5
<b>expansion</b> 42:10	<b>facts</b> 170:25 171:24	<b>feature</b> 19:3 54:17, 20	<b>felony</b> 175:11
<b>expect</b> 30:25 31:22 32:11 39:13 116:11,15	<b>factual</b> 176:12	<b>February</b> 87:15,17,24 88:11 91:25 92:5,9,12 103:18 104:5,17,20 105:3,8,14, 20,22 107:8 108:11,15 109:4,12,25 110:2 111:4 121:23	<b>FEMA</b> 50:22 54:9, 14,18,23 55:13,23 56:2 68:21, 24 69:15,18, 22,25 70:13, 20,22,24 71:5,9 72:18 73:21 74:8 75:2 76:9, 16,20,25 77:7,20 79:1,21,23 80:6,11
<b>expects</b> 29:11	<b>fair</b> 31:4 33:18 43:10 71:20 74:17 75:19 80:23,24 87:1 98:1 117:7 118:3 120:6 124:21 130:17 132:13,16,24		
<b>experience</b> 29:22 97:22			
<b>expert</b> 47:17 97:19			
<b>expertise</b> 47:19 48:13			

85:17 86:2	<b>finance</b>	124:5,7	<b>flooding</b>
88:14 91:16,	6:7 17:11,12	126:5,6	115:18
19 92:21	21:16,17,18	128:4,10,20,	<b>floodplain</b>
93:2,3 94:5,	22:4,9,14	22 129:4	51:1 163:25
10,25 95:4,	23:2,12,23	130:1,9	<b>floor</b>
19 98:23,24	24:10,20	133:24	53:7 70:1,7,
99:1 100:13,	25:20 34:25	140:18,19	9 112:2,17
16,22 102:23	35:15,20	143:14,23	<b>floors</b>
106:24	36:1 48:3,6	146:19,24	70:9
110:10,11	<b>financial</b>	147:10,16	<b>flow</b>
113:10,16,19	9:25 11:11,	149:7 151:1	27:11
114:14	13 14:21	154:20	<b>flows</b>
115:17	15:10,15,17,	155:8,11	24:17 27:13,
116:2,9	18,19 16:1	157:14,22	20
122:10	18:15 22:10	158:15,18	<b>focus</b>
126:25	39:21 40:16	169:23	8:9,11 48:16
127:2,17	63:20 66:11	172:23	129:8
128:4,10,21	<b>financials</b>	175:11	<b>focused</b>
129:7 131:8,	13:24	<b>fiscal</b>	129:7,9
9,10,11	<b>financing</b>	98:5,10	<b>follow</b>
133:2,5,8	36:23 165:7	<b>fits</b>	7:7 25:22
155:6,25	<b>find</b>	85:15	30:19 32:4
156:19 157:6	95:9 176:24	<b>five</b>	38:3 40:3,12
160:10	<b>fine</b>	13:17 58:13	41:3 42:3
167:24	150:13	66:2 162:6	119:15
168:23,25	<b>fingers</b>	<b>fix</b>	164:17
169:3,7,12,	82:19	9:2	<b>followed</b>
18 170:14,19	<b>finish</b>	<b>flood</b>	163:10
<b>FEMA's</b>	7:14 108:5	50:23 55:20	<b>following</b>
50:25	<b>firm</b>	70:2 77:1,	11:20 12:14
<b>fighting</b>	10:3 15:5	14,16,21	16:8,11 25:9
121:8	16:13,16,17	78:8 79:1,23	34:2
<b>figure</b>	<b>first</b>	80:6,11	<b>follows</b>
7:10 35:12	5:13 9:13	88:14 92:21	5:13
173:8	10:8 11:19	93:24 94:5,	<b>forge</b>
<b>filed</b>	20:7,20	11,25 95:5,	170:6,9,24
167:16	21:15 35:6,	19 100:22	171:3,16,17,
<b>filled</b>	19 55:22	102:23	25 172:3,6,
36:8	56:1 67:10	106:24	20
<b>filling</b>	69:12 79:5	113:10	<b>forged</b>
64:5	86:19,21,22	115:20,24	143:8,12,15,
<b>final</b>	87:17 92:3,5	116:9,17,24	25 144:5,6,
74:8 154:12	94:2 96:11	117:2 129:7	10,16,25
<b>finalized</b>	98:3,7	131:4,5	145:5,20
68:22	105:13	133:2,5,8	146:25
<b>finally</b>	108:10	153:11,15,21	147:4,11
35:9 124:20	111:12,13	154:3,18	150:19,25
	121:21		

152:25	<b>front</b>	<b>getting</b>	68:16 72:5,
172:8,10,13,	39:23 74:6	41:15 51:24	25 73:4 86:9
23	88:8 103:23	56:13 108:18	92:4,20
<b>forgery</b>	116:15	119:11 134:1	93:1,23
171:12	123:12	168:8	102:2,3,14,
172:14,20	144:25	<b>give</b>	20 104:2,8
<b>forges</b>	<b>full</b>	9:9,10 16:23	111:21 114:8
174:15	81:23 122:2	32:3 43:13	115:22,23
<b>forging</b>	<b>fully</b>	46:6,17,19	116:5 117:20
170:7	111:17	47:2 49:10	118:2
<b>form</b>	<b>function</b>	74:7 81:23	119:17,22,23
28:21 168:2,	15:24 35:20	115:7 118:2	120:2 123:1
21 169:7	37:17	161:3 162:20	124:11
<b>formal</b>	<b>functions</b>	170:6 171:2	125:7,9,15
8:7,22 153:7	36:23	172:2 176:15	134:25
<b>forth</b>	<b>Fund</b>	<b>given</b>	135:16
106:1 160:1,	103:2	46:23 50:4	140:11
7 162:10	<b>funded</b>	63:25 65:21	146:11
<b>forward</b>	55:10 98:5,	100:22 101:5	150:15 151:4
38:7 39:23,	10	109:17	153:14 154:3
25 55:24	<b>funding</b>	115:12	155:3 156:18
69:13 100:9	131:9	135:19	162:22,25
164:19	153:10,14	175:25	166:3,11
<b>found</b>	<b>funds</b>	<b>giving</b>	171:2,14
122:21	75:21,25	42:24 47:13	173:8 175:6,
137:15		49:2 59:25	10,19 176:3
<b>four</b>		112:16 139:1	177:10
26:21 102:7	<b>G</b>	165:22	<b>good</b>
132:20 134:5		171:16	5:16,17 10:6
<b>frame</b>	<b>GAAP</b>	<b>glad</b>	58:12 70:23
56:19 109:12	11:23 12:6	124:22	71:4,6,7
111:25 122:1	<b>garbage</b>	<b>glean</b>	74:14 115:5
156:9 163:6	98:24 99:1	64:3	136:3 165:25
164:2	<b>gave</b>	<b>goes</b>	<b>governs</b>
<b>franchise</b>	169:17 173:2	88:16,17	41:9,19
166:16	<b>Gen</b>	113:2 115:15	<b>graduate</b>
<b>fraud</b>	22:19	120:20 122:8	7:21
76:4 133:9,	<b>general</b>	126:9 164:16	<b>graduated</b>
11 174:19	13:23 22:19	<b>going</b>	8:1 10:11
<b>fraudulent</b>	<b>generally</b>	11:15 16:24	<b>grant</b>
133:19,20,25	6:8 17:19	18:18 20:24	49:20 66:7
142:4,6,8	22:18 43:13	25:18 28:9	95:10,14
<b>frequent</b>	<b>generally-</b>	29:1,11	103:1
30:2	<b>accepted</b>	32:20 35:12	130:18,20
<b>frequently</b>	11:20	43:13 44:14	133:3 176:3
28:5	<b>generated</b>	56:8,12	<b>great</b>
	71:19	59:17 62:14	34:19 58:16
		67:10,14	

<b>Group</b>	<b>happening</b>	134:19 144:7	<b>hotel</b>
52:24	6:18 106:14	147:3 153:24	44:6,7,13
<b>growth</b>	<b>hard</b>	154:15 155:3	50:4 61:6,10
42:17	44:16 72:22	158:8,12	164:4
<b>guess</b>	161:19	169:3 171:3,	<b>hotels</b>
11:19 28:10	<b>harm</b>	8	44:14 59:4
37:17 42:8,9	174:16	<b>hidden</b>	60:13
59:13 60:22	<b>head</b>	114:9	<b>hour</b>
71:4 114:5	45:9,17	<b>high</b>	6:24 58:13
132:9 135:21	152:10	7:19,20	116:14
151:6 154:16	<b>headline</b>	<b>highlight</b>	<b>huge</b>
161:19	134:2,4	132:18	24:16
<b>guessing</b>	<b>headliner</b>	<b>highlighting</b>	<b>hugely</b>
19:9 28:9	127:2,4	155:15	28:16
164:9	<b>heads</b>	<b>Hilton</b>	<b>human</b>
<b>guidelines</b>	78:18,19	102:24	117:22
75:2	<b>hear</b>	<b>hired</b>	<b>hundred</b>
<b>guides</b>	57:15 119:5	17:10	27:9 61:19
41:14	127:5	<b>hit</b>	<b>Hurlbert</b>
<b>guys</b>	<b>heard</b>	69:4	5:12,20,21
112:16	10:14 44:3	<b>hoc</b>	67:14
	88:1 110:6	33:4	<b>hurry</b>
	151:10	<b>hold</b>	173:9
<b>H</b>	<b>hearing</b>	20:17 68:16	
	84:16	71:23 81:4,7	<b>I</b>
<b>hairs</b>	<b>Heather</b>	<b>home</b>	
166:6	5:12,20	17:16 18:6,7	<b>i.e.</b>
<b>half</b>	151:6	<b>Homewood</b>	169:18
112:24	<b>heck</b>	47:13 52:24	<b>identical</b>
<b>hand</b>	92:12,14	59:2,8 60:12	105:10
102:2 104:2	<b>heightened</b>	64:12 79:22	107:11
105:7 107:14	18:22,23,25	102:24 107:1	<b>identified</b>
<b>handed</b>	<b>help</b>	128:15	113:3
105:3 118:19	30:25	130:25	<b>identifies</b>
123:17	<b>helpful</b>	<b>homework</b>	106:13,16,
<b>handle</b>	119:11,13	115:24	19,23 107:1
33:14	<b>helps</b>	116:13	111:13,16
<b>handles</b>	104:25	<b>honest</b>	<b>identify</b>
39:6	<b>hey</b>	109:5	164:10
<b>happen</b>	24:21 46:16	<b>honestly</b>	<b>ifs</b>
46:10 124:11	49:1 108:21	114:6	147:25
164:7	109:18 110:9	<b>hope</b>	<b>ignore</b>
<b>happened</b>	112:15	154:7	62:19
84:1,18	113:15	<b>horrible</b>	<b>imagine</b>
115:7	114:18	90:6,11	28:16
170:10,14,22	115:4,16	101:22 115:5	<b>imagined</b>
172:17 173:5	129:23		79:20,22,25



<b>immediately</b> 26:2 110:6 111:4	<b>includes</b> 37:24 168:13	168:3,14,17 170:3	<b>interested</b> 173:13
<b>impact</b> 40:18	<b>including</b> 37:24 85:13	<b>informed</b> 29:7,14	<b>interim</b> 35:9
<b>important</b> 28:17,18 29:12 33:9 34:12 131:3 138:10,21	<b>inconsistency</b> 165:5	135:13 136:6	<b>internal</b> 12:12,15,19, 22
<b>improper</b> 130:8 158:17,24	<b>incorrectly</b> 55:24	<b>infrastructure</b> <b>e</b> 53:19,22,25 54:1,2,5,16 55:9 56:2 70:3 93:3 97:14,21 122:9	<b>interpreting</b> 174:11
<b>improvements</b> 50:17,18 153:22 154:4	<b>increase</b> 42:24 60:1	<b>initial</b> 38:19	<b>invasive</b> 93:5,8
<b>improving</b> 65:1	<b>increasing</b> 43:5,22 44:10 46:1 60:5	<b>initially</b> 141:10	<b>investigate</b> 110:19
<b>in-person</b> 27:15 33:20	<b>increment</b> 165:7	<b>initiated</b> 157:9,12	<b>investigated</b> 111:8
<b>incentive</b> 41:5,11 42:9,24 46:5,8,11,23 47:3 48:20, 23 49:2 50:4 53:4,6 60:1 153:20 154:12,24 165:19,23 166:12	<b>incur</b> 53:3	<b>insist</b> 29:5,8	<b>investigating</b> 115:4,6
<b>incentives</b> 42:6 49:11 66:7 112:9, 11 164:23	<b>indicate</b> 51:18	<b>insists</b> 29:3	<b>investigation</b> 52:2 82:8,14 110:21,23 111:3,10 117:12,14 122:21 137:2,16,23 138:7 139:2, 11,14,20 142:6 157:10 169:6 176:12,23
<b>incentivize</b> 42:15	<b>indicates</b> 104:16	<b>instructing</b> 136:2	<b>investment</b> 39:10 40:17 65:25 66:3, 6,12,15,23
<b>incentivized</b> 66:13	<b>industry</b> 63:18	<b>instrument</b> 135:14 136:7 137:17	<b>invite</b> 152:11
<b>include</b> 11:15 131:4	<b>infer</b> 124:23	<b>Insurance</b> 9:14 10:9,11	<b>involve</b> 14:1
<b>included</b> 22:10 84:9 85:11 97:1 103:24 126:14	<b>influences</b> 97:8	<b>intended</b> 176:9	<b>involved</b> 24:3 33:16 35:11 110:21 117:13,17 174:24
	<b>information</b> 14:19 28:6, 18,21,25 29:12 33:10, 22 34:8,12 47:9 63:25 73:25 74:6 76:15 81:22 90:2,9 91:17,19 93:14,16,17, 19 98:18 99:5 101:5, 8,19 109:17 110:17 114:21 120:25 138:21 150:24 151:5	<b>intent</b> 82:2,5 85:12 88:16,18 126:19 131:8 173:1 174:16 176:4	<b>irrelevant</b> 100:1
		<b>interaction</b> 18:14 23:23 24:16 26:24 30:15 34:21 35:4	<b>issue</b> 24:6 28:22, 25 33:10,13,

16 120:14	<b>jumping</b>	49:20,23	163:11
152:25 160:9	160:10	52:2,9,13,15	166:14,18,23
162:24 172:7	<b>June</b>	53:13 55:22	167:16 168:9
<b>issued</b>	5:6 36:4,8,	57:24 59:11	172:21
164:8	18	61:2,21,23	173:12,13
<b>issues</b>	<b>jury</b>	62:8,9 65:10	175:18,25
34:12	72:6 175:19	67:16,24	176:4,11
<b>item</b>		71:18 72:8,9	177:22
19:17 99:24		75:5 77:20	<b>knowing</b>
100:13	<b>K</b>	78:1 79:4,25	132:4 142:25
101:7,12	<b>keen</b>	82:2,6 83:23	<b>knowledge</b>
102:8,13	141:22	84:15,18	122:2 139:1
103:6,9	<b>keep</b>	89:25 93:15	<b>known</b>
104:20,23,24	29:14 67:9	97:3,4,8,15,	116:7 145:4,
105:10	89:24 130:22	24 98:23	19 147:10
108:15	132:20 133:6	104:15,19	
154:11	173:23,24	105:2 107:17	
<b>items</b>	<b>keyboard</b>	109:4 110:1,	<b>L</b>
23:6,10	82:19	23 111:3,21,	
24:7,13	<b>kind</b>	22 113:6	<b>lab</b>
30:5,8 37:20	13:24 25:17	114:19	77:16 116:24
38:6	37:1 38:8	116:19	<b>language</b>
	51:24 56:11,	117:2,17	21:5 41:9
	12,13 58:12	119:17,21	42:5 55:23
	59:9 60:16	120:2	56:2 75:1
	63:2,8 69:3	121:19,23	148:23
<b>January</b>	83:18,20	122:9	160:15
87:4,20,21,	108:8,17	123:12,13	174:10
24 88:9	125:21	124:23	<b>large</b>
92:4,18	145:14,15	125:8,14,19	15:25
94:23 95:8	153:7,17	134:21,25	<b>launched</b>
<b>job</b>	160:4 162:8	135:1,9	82:15
5:24 9:13	<b>knew</b>	136:21,24	<b>law</b>
10:8 11:10	10:22 38:16	137:14,21	24:4,17 25:4
18:12 22:7	116:24 147:4	139:5,6,9	173:25 175:3
26:5,6 35:3,	150:18 174:2	141:25	<b>laws</b>
18 36:9	<b>know</b>	145:3,24	23:14,17
98:15 173:24	6:2 8:14 9:8	147:18	24:22 25:9,
<b>jobs</b>	11:9 13:21	148:2,16	23 30:11
173:24	14:7 17:22	149:2,3	<b>lawsuit</b>
<b>judge</b>	23:16 29:5,6	150:14,23	6:9 7:17
175:19	33:2 34:19,	151:4 152:8	71:19
<b>July</b>	20 37:24	155:3 156:10	<b>lawyer</b>
35:10 36:8	39:12 40:21,	157:2,14,15	31:7 32:1
79:14	23 41:22	158:12	119:1 162:12
<b>jump</b>	45:5,10,16,	159:3,5,12,	<b>lawyer's</b>
18:18	17 47:19	13,14,15,17,	105:7
		23 160:8	
		162:25	

<b>lawyers</b>	14,16 53:10	<b>link</b>	131:21,23
62:18	130:15	101:17	140:15
<b>lays</b>	<b>legally</b>	<b>list</b>	141:12
42:8	31:5 166:23	10:6 13:3	152:11 162:3
<b>leadership</b>	<b>legit</b>	99:7,21,22	167:4 169:2,
33:3	151:8	<b>listed</b>	18 175:18
<b>Leah</b>	<b>letter</b>	26:15 100:13	<b>looked</b>
125:10 152:5	110:24 111:8	101:6	13:23,24
153:5 156:12	117:10	<b>listened</b>	59:10 87:7
157:5,11,12	151:19	119:14 127:6	161:6,8,21
159:7,15	152:18	<b>listing</b>	162:5 163:20
161:1 163:7	153:6,13	99:9	164:7
<b>lean</b>	155:25	<b>little</b>	<b>looking</b>
71:25	<b>letters</b>	7:1 14:4	12:10,24
<b>learn</b>	38:17	21:5 32:20	39:10 40:17
92:24	<b>letting</b>	35:10,13	62:12 63:1
<b>learning</b>	114:19	62:21 69:4	66:12 77:20
104:1	<b>level</b>	72:10 114:7	81:2 115:18
<b>leased</b>	125:25	140:8 151:17	116:17
88:15	126:13	<b>LLC</b>	140:20
126:10,14	128:1,14	94:25 102:22	152:16 167:2
<b>leave</b>	129:9 130:24	<b>location</b>	168:12 169:3
133:1	131:5 143:15	73:18 107:2	173:7,14
<b>leaving</b>	<b>levels</b>	168:19,20	<b>looks</b>
46:17 117:22	70:9	<b>locations</b>	56:16 140:4
168:23	<b>liaison</b>	13:17	171:9,10
<b>led</b>	37:11 38:7	<b>logo</b>	<b>loop</b>
9:4 103:8	<b>license</b>	168:23	69:5
173:15	8:17,19 9:4	<b>Lomax</b>	<b>loose</b>
<b>left</b>	10:7,10,13	102:25	92:12,14
9:15,21,22,	<b>lie</b>	<b>long</b>	<b>lose</b>
24 10:2,4,5	93:11,12	17:4 20:8	93:5
13:10 55:18	131:13	21:17 35:24	<b>lot</b>
<b>legal</b>	<b>lied</b>	97:24 136:14	15:2 17:13
12:2,3,4	131:11,15,	<b>longer</b>	27:15 32:15
18:3 23:24	16,17	7:1 153:6	38:17 54:1
24:11,12,13	<b>life</b>	<b>look</b>	71:19 93:6
25:1,8,14,	9:14 10:9,11	12:11,18,21	106:8 124:16
23,24 26:24	90:24 91:2	67:22 71:12	139:24 142:3
27:18 30:2,	<b>limited</b>	73:4 76:7	150:8
20,21,24,25	167:3	77:7,11,12	<b>lots</b>
31:15,22,24	<b>line</b>	78:5 81:22	111:14
32:3,9,10,	7:13 69:1	92:2 96:9	<b>lunch</b>
11,16,17	70:5 166:19	104:19	134:12
33:13,15	<b>lines</b>	110:19	<b>lying</b>
38:7 50:2,9	69:8	113:15	110:10
51:10,12,13,		116:20	

	<b>manage</b>	173:21	64:4,7 71:3,
	37:17,18	<b>MARCUM</b>	9 83:25
<b>M</b>	<b>management</b>	118:7	84:10 85:19
	14:16 15:16	135:16,24	89:19 90:4,6
<b>made</b>	22:11 95:18	161:25	94:1,5 97:3
18:18 38:19	<b>manager</b>	177:3,18,21,	106:7 116:17
55:19 59:12	6:5 9:16	25	129:23 130:5
83:7 91:22	10:1,14 11:5	<b>mark</b>	131:15
98:16 113:25	15:11 21:22,	67:6,10	133:11
115:10	25 26:6,9,18	102:3 114:10	135:21
122:10 125:6	27:7 28:2,7,	<b>marked</b>	138:25 142:3
126:22,24	11 29:20,25	67:13 78:13	146:2 149:16
132:3 151:17	32:11,16,23,	86:8 102:1	155:10,24
169:24	25 34:25	103:25	168:5
<b>maintaining</b>	35:7 36:3	107:13	<b>meaning</b>
129:9	82:16 83:8	117:19	83:3 115:16
<b>major</b>	117:15 164:1	118:19	129:14
8:9	<b>managers</b>	123:15	172:9,23
<b>make</b>	6:1,3 13:23	151:12	<b>meaningful</b>
12:9,24	<b>managing</b>	<b>match</b>	100:2,4
14:16 16:9	14:5	13:1	<b>means</b>
18:13 23:13	<b>manner</b>	<b>math</b>	11:10 25:1
28:17 29:1,	173:1	119:24	78:1,3 99:14
6,7,12	<b>manufacture</b>	<b>matter</b>	116:4 119:23
30:14,16	13:16	15:13 36:17	141:11 170:9
34:1,7 39:22	<b>map</b>	89:19 145:25	171:3,17
46:6 47:2	78:8 100:22	146:16 149:8	<b>meant</b>
55:5 72:6	133:5,8	155:12	10:22 38:16
99:9,12,22	<b>maps</b>	<b>mattered</b>	132:13
100:21 101:4	68:22 77:1,	132:6	151:18
102:15 135:6	14,16,21	<b>matters</b>	<b>meet</b>
151:3 155:4	79:1,23	24:1,2 146:1	42:10 49:14
160:11 170:9	80:6,11	<b>mayor</b>	170:25
173:23	116:9,17,24	97:6 149:16	171:25
<b>makes</b>	117:2 133:2	152:13	<b>meeting</b>
12:1 77:17	<b>March</b>	<b>mean</b>	33:20 57:13,
81:22 135:9	108:23	10:12 12:23	18 58:4,8
168:23	110:24 111:5	15:12 24:12,	67:17,21
<b>making</b>	113:25	13 26:7	83:9 87:15
11:19 12:14	123:22,25	27:7,23	103:17,18,20
14:5,6,13	124:15	28:20 29:8	110:3
16:5,8,11	<b>Marcos</b>	31:4,16	123:19,22
24:17 25:8	10:4,5 16:21	33:2,9 34:17	125:23
30:10 41:10	17:3,9,16	41:9 42:7	141:13
63:19 72:15	18:5,9,13,17	45:19 47:21	142:23
80:22 121:3	19:2,12	49:7,10 52:4	143:23
153:6 160:19	20:3,11,22	53:21,25	151:21,25
172:12	21:8 48:2	54:4,13,21	152:3,11

153:4	<b>mention</b>	<b>mind</b>	65:15,19,22
<b>meetings</b>	48:4	120:9 139:24	66:8,11
22:15 32:15,	<b>mentioned</b>	142:1,2	97:22
24 33:3,4	26:21 31:11	145:11 146:7	<b>models</b>
58:10	34:19,20	150:15	40:16
<b>meets</b>	134:16	176:16	<b>modification</b>
51:9	<b>merit</b>	177:15	165:20
<b>member</b>	143:5,13	<b>minds</b>	<b>modifications</b>
145:16,19	<b>messed</b>	131:21,23	20:7
146:4,8	102:18	<b>minimum</b>	<b>modified</b>
147:9	<b>met</b>	80:21	96:17 150:10
<b>members</b>	83:8	<b>minus</b>	<b>modify</b>
74:7 145:25	<b>method</b>	119:24	54:11
151:22 152:9	168:14	<b>minute</b>	<b>moment</b>
153:5	<b>midstream</b>	13:12 31:11	31:12 81:2
<b>memo</b>	69:4	94:19 134:9	91:22 118:2
86:11,22	<b>Mike</b>	165:16 168:9	177:21
87:2,3,12,19	38:24 39:1	<b>minutes</b>	<b>Monday</b>
88:9 91:8,	40:22 46:25	58:13	119:25
20,21 92:3,	47:18,24	<b>mislead</b>	<b>monetary</b>
19 93:10	51:10 52:20	89:22	166:20
94:9,16	57:3,24	<b>misleading</b>	<b>money</b>
95:6,8 96:1,	97:15 125:16	99:2 101:19	18:24 24:4,
5,6,9,10,14,	156:12 157:5	110:16	17 41:4,20
16 98:3,7	159:3,11,16,	<b>misrepresente</b>	42:15,23
99:13,24	23 160:7	<b>d</b>	46:6,17,21
101:18 103:8	161:12,18	133:12	47:2,3,13
104:16	<b>Miles</b>	<b>missed</b>	49:20 50:17
123:18,21	51:17 52:20	13:12 22:17	59:25 65:23
124:5,7,17	53:14	<b>missing</b>	66:4 69:18
125:2 126:5,	117:15,16	114:9	70:18 72:16
6 128:5,10,	<b>million</b>	<b>mitigate</b>	76:1,3 86:5
20,22 129:23	6:11 54:22	69:25	90:13,16
130:1,23	64:18 72:16	<b>mix</b>	91:2 93:1
132:21	86:5 92:20	159:13	96:25 97:11
140:16,18,	94:10 98:4,9	<b>mixing</b>	101:24
19,23 141:6,	100:21	148:16	115:12
13,19 160:16	101:13,20	165:13	122:11,14
163:13,15	103:1	<b>model</b>	155:20
<b>memorandum</b>	106:16,17	63:20 65:4	165:18,19
87:1 102:4	112:16,24	93:5	166:12
<b>memory</b>	115:8,23	<b>modeled</b>	174:24
56:18 58:5	116:12	64:11,14	<b>monies</b>
164:1,15	122:18,25	<b>modeling</b>	41:10,14
<b>memos</b>	125:24 133:7	39:6,9,21	<b>month</b>
23:9 30:8	134:1 138:12	40:14 62:23	33:6
113:4	154:2,25	63:11,12	
	175:15		

<b>monthly</b> 15:19	<b>narrowed</b> 42:2	<b>non-</b>	<b>obtain</b> 175:8,9
<b>months</b> 166:24	<b>narrowing</b> 41:21	<b>reimbursable</b> 103:1	<b>obviously</b> 16:1 17:13
<b>morning</b> 5:16,17	<b>NASCAR</b> 13:16	<b>Nonresponsive</b> 62:17	87:19 96:5
<b>motion</b> 19:18	<b>nature</b> 6:14 115:11	<b>notes</b> 34:19	107:2 150:4
<b>mouth</b> 145:12	154:10	<b>notice</b> 38:18 39:3	152:24
<b>move</b> 39:25	<b>necessarily</b> 12:3 55:19	<b>notification</b> 39:11	154:23
<b>moved</b> 26:7,8 35:6	66:14 124:16	<b>November</b> 57:17,22	<b>occupancy</b> 44:19 45:7
36:2	125:1 143:4	<b>Nueces</b> 77:1	61:19
<b>moves</b> 71:25 74:21	<b>need</b> 18:21 25:12	<b>number</b> 5:8 71:12	<b>occupying</b> 61:8
<b>moving</b> 43:23 69:13	28:14 44:19	73:2,22	<b>occur</b> 46:23 92:11
164:19	46:7 54:11	76:13 78:15	104:17
<b>mud</b> 79:21	61:5 62:15	78:2,12 85:1	<b>occurred</b> 21:25 58:6
<b>multiple</b> 6:2 30:16	69:18 70:18	84:2,12 85:1	65:9,14
<b>multitude</b> 24:2,8,15	113:15 122:9	86:10 104:2	87:15
	158:12,13,	107:15	103:17,18
	18,20 177:20	110:25	105:13
	<b>needed</b> 50:24 53:2	113:6,21	108:10 122:3
	68:23 77:9	114:2,15	125:22
	85:24 160:24	117:21	<b>October</b> 35:21 57:6
	164:6,7	123:17	74:11,13,23,
	177:14	134:16	24 76:10,11,
	<b>needs</b> 20:25 53:17	140:16 169:9	16 77:5,22
<b>N</b>	<b>negative</b> 9:1 103:16	<b>numbers</b> 14:7 63:16,	78:6,25 79:2
	<b>neighboring</b> 50:21	23	116:8
<b>name</b> 5:7,16,18	<b>never</b> 22:17 65:14	<b>numerical</b> 66:22	<b>offense</b> 174:9,15,23
10:24 16:16	66:9 90:24		175:1,9
31:10 67:11	91:2 149:1,5		<b>office</b> 15:20
<b>names</b> 52:17	150:17		<b>offset</b> 61:2
<b>naming</b> 52:17	151:10	<b>O</b>	<b>okay</b> 5:16 7:5,6,
<b>narrative</b> 85:16,20,21,	<b>newer</b> 130:22	<b>oath</b> 5:9 6:14	8,14,16
23,24 86:6	<b>newly</b> 94:7 95:15	<b>object</b> 62:17 135:16	10:24 12:6
87:25 88:4,9	<b>newspaper</b> 111:20	<b>objecting</b> 135:25	13:6,7,8
94:2,3 104:8		<b>objection</b> 137:10	15:8,25 18:8
156:13,19,21		<b>obligated</b> 166:24	20:10,15
157:6			21:4,12
158:14,18			22:24 23:20
160:10,19			25:19 26:17,
161:3,4			

23 27:4	18 95:13	147:18	19:15 21:4
28:1,9,16	96:3,9,14,22	148:6,14	22:17 25:17,
29:10,18	97:3,8,18	149:1,11,18,	18 33:14
31:4 32:20	98:1,15	24 150:1,4,	34:10 41:8
33:9 35:2,12	99:1,5,6	13 151:13,16	43:18,24
36:11 38:14	100:6 101:17	152:15 153:4	45:22 51:18
39:18 40:21	102:2,15	154:20,23	62:3,8 63:10
41:2,16	103:6,16	155:2,10,15,	65:7 66:16
43:15 44:6,	105:12,22	24 156:8	67:10 68:20
21 46:5,24	106:3,12	157:2,20	71:15 73:8,
47:23 48:3,	107:7,11,14,	158:1,5,12,	12,21 77:13
12 49:5,7,	20 108:7,8	22 159:1,10	79:7,10
17,19 50:6	109:3,17,23	160:2,18	81:5,6,11
51:5 52:10,	110:3,5,15,	161:10,21,22	86:20 92:22
11,15 53:12	23 111:7,24	162:2,6,11,	93:25 94:23
54:16,20	112:4,7,15,	18,24 163:9,	100:7 102:11
55:5 56:1,	19,21 113:9,	18 165:1,4,	105:3 122:5
10,12,23,24	24 114:4,13,	13 166:14	124:4,10
58:12,16,19	17,24 115:3,	167:2,8,14,	129:24
59:21 60:8	10,15 116:11	20 168:1,9,	130:23
62:10,20	117:7,20	10,11,17	132:11
63:3,15	118:2,4	171:23	134:15
64:2,4,9,11	119:9,14	172:2,5,11,	140:25 144:4
65:7,19	120:20	19 173:3,11,	145:16 146:4
66:21 67:6,	121:12,17	18 175:3,6,	148:4 150:5
8,12,24	123:11,16	18,22	156:19 159:8
68:2,12,15,	124:4,18	176:18,20,	161:1 162:6,
18,19 69:24	125:19	21,23 177:2,	23 174:6
71:3,12	126:18	23 178:1	<b>ones</b>
72:4,7,10,	127:2,13,22	<b>Olivarri</b>	82:22
13,21,23	128:12	125:10,12	<b>online</b>
73:3,12	129:22	152:6 153:5	22:20,25
74:3,5,17,21	130:3,11	156:12 157:5	62:14 76:9
75:11,17,19,	131:2 132:1,	159:7 163:7	<b>open</b>
21,24 76:1,	9,10,15,18	<b>Ollivari</b>	58:4 95:18
6,23 78:10,	133:7,17,22	125:13	<b>operations</b>
14,25 79:4,	134:4 135:6	<b>omitted</b>	13:21,22
18,19 80:10,	136:1,13,17,	75:8	<b>opinion</b>
17,25 81:16,	24 137:13,	<b>once</b>	177:11
21 83:5,15,	20,23	26:5 27:8	<b>opposite</b>
18 84:10,16,	138:14,20,24	33:5,6 39:3,	154:20
23 85:19	139:4,22	19 66:9	<b>oral</b>
86:4,9,18,22	140:2,15	159:7	5:10 159:12
87:12,23	141:4,25	<b>one</b>	<b>order</b>
88:4,5,17,	142:10,25	6:1 10:8	15:7 34:7
23,25 89:17,	143:6,19	11:4,14	46:21 53:22
22 90:2,4,22	144:2,4,14,	13:3,12	55:10 68:23
91:4,8 92:2,	22 145:18,22	14:22,24	77:9 90:10
14 94:1,15,	146:18,22,23		

100:21		<b>part</b>	132:6 145:3
123:18 164:9	<hr/> <b>P</b> <hr/>	12:17 15:25	161:2,13
<b>ordinance</b>		18:15 22:21	162:11,12,18
6:10 19:13,	<b>P-R-O-C-E-E-</b>	66:25 67:3,5	176:16
17,25 20:5	<b>D-I-N-G-S</b>	82:14 86:5	<b>perceiving</b>
86:11 87:18	5:1	91:20,21	149:13
102:10,13,	<b>p.m</b>	98:15 101:9	<b>percent</b>
17,21 104:9	177:6	115:7 155:9	44:17,19,22
105:24	<b>p.m.</b>	158:6 161:19	45:6,10
106:1,4,6	134:12,13	162:15	61:19
107:9 129:5,	177:4,6,7	<b>participate</b>	<b>percentage</b>
6 130:15	178:2,4	23:2,6,9	45:5
140:24	<b>package</b>	<b>participating</b>	<b>period</b>
143:7,22	104:21 115:7	30:5	22:2,13,21,
148:7,20,24	<b>page</b>	<b>particular</b>	22 23:1,5,8,
149:2,6,9,17	42:19 43:12	6:11	22 25:21
150:18	46:25 71:15	<b>parts</b>	26:18 27:4,6
<b>ordinances</b>	79:9 95:12	67:2	28:1,6 30:1
19:6,8,10	102:7 104:24	<b>pass</b>	35:24 36:9
<b>origin</b>	141:8 164:23	15:19 85:21	37:7 66:2
143:7	<b>pages</b>	143:7 144:15	87:23 88:6
<b>original</b>	60:7	147:3 172:7	<b>periods</b>
124:17 125:2	<b>palatable</b>	177:10,17	61:18
149:25	160:11	<b>passed</b>	<b>permission</b>
169:25	<b>pandemic-</b>	133:18	62:19 85:6
170:2,3	<b>related</b>	140:24	176:15
171:4,5,9,	112:23	142:22 147:1	<b>permits</b>
17,18	<b>paper</b>	<b>passing</b>	164:8 167:3
<b>originally</b>	112:4	16:2 19:13	<b>permitted</b>
96:7 104:7,	<b>paragraph</b>	144:9	68:23
11,13	95:9 111:13	<b>past</b>	<b>person</b>
<b>outdoor</b>	112:22	63:3	27:2 28:4
126:1,14	128:24	<b>payable</b>	132:3 174:8,
128:2	130:19	15:14 22:11	15
<b>oversaw</b>	152:15,16	<b>payroll</b>	<b>personal</b>
13:21,22	<b>parameters</b>	15:14 22:12	107:24
<b>oversee</b>	70:22	<b>PDF</b>	<b>perspective</b>
22:9 26:8	<b>paraphrasing</b>	89:9	14:16 69:11
37:9 38:5	134:19	<b>penal</b>	<b>Peter</b>
<b>overseeing</b>	<b>Pardon</b>	173:10 174:8	28:12,21
14:16 17:14	25:11 68:10	176:13,25	29:3,23 33:5
36:1,3,22	75:14 104:12	<b>penalties</b>	88:1 107:23
<b>oversight</b>	106:5 123:4	166:20	117:23
18:2 39:12	<b>parent</b>	<b>people</b>	118:23
	95:19	9:9 43:19,23	120:21
	<b>parks</b>	44:8 51:8	122:2,25
	6:7 26:9,22	52:20 80:25	127:9



134:18,19	<b>played</b>	<b>positive</b>	<b>presentation</b>
135:19 136:5	125:16	53:23	67:20 68:3,6
137:9,25	<b>playing</b>	<b>possess</b>	71:13 72:15
138:2 139:4,	119:4	172:20	73:8 77:12,
12 140:11	<b>please</b>	<b>Possibly</b>	17 79:15
141:25	5:19 80:2	45:4 120:2	81:8 82:24
150:15 151:4	<b>point</b>	147:17	83:1 84:20
<b>Peter's</b>	52:3,7 54:25	<b>posted</b>	85:4 87:6,9
141:22	74:14 79:20	135:2	88:18 101:1,
<b>Philip</b>	103:11	<b>postponed</b>	4,18 103:24
68:7 69:24	105:12	109:7	113:16,19
77:8,12,13	113:24	<b>Powerpoint</b>	154:9 172:12
82:11,18	121:19,20	101:1,4,18	<b>presented</b>
83:3,6,8	135:21,22	<b>practical</b>	40:1 57:6
87:9 91:24	148:19	15:12 36:17	73:25 93:22
97:5 103:20	155:25 164:5	<b>practice</b>	103:7 129:5,
131:21	<b>pointed</b>	24:9 28:20	14 146:21
152:22	126:7 167:20	34:2,15	169:22
166:15	<b>points</b>	<b>pre</b>	<b>presenting</b>
169:16	53:17 63:18	63:17 68:5	93:19
<b>phone</b>	<b>pole</b>	<b>pre-existing</b>	<b>preserve</b>
27:3,16 28:4	127:14	63:17	53:3 54:12,
118:22	<b>policies</b>	<b>preceding</b>	24 55:20
156:11	12:24 40:3,	173:2	70:6 93:8
159:20 163:6	4,8,9,10	<b>preclude</b>	<b>press</b>
<b>pick</b>	41:2,23 42:3	176:13,25	73:5 74:16,
27:16	<b>policy</b>	<b>preliminary</b>	19,20 75:6
<b>picture</b>	41:21 42:6,7	68:22 77:1	<b>pretending</b>
85:13 112:4	164:18,25	<b>preparation</b>	116:14
<b>pipeline</b>	165:2,6,10	16:20	<b>pretenses</b>
55:14	<b>polite</b>	162:16,20	115:13
<b>pitch</b>	114:7	163:18,19,21	<b>prettier</b>
71:1	<b>political</b>	<b>prepare</b>	160:11
<b>pivot</b>	66:18 97:8	161:13	<b>pretty</b>
53:17 54:25	<b>politics</b>	163:23	10:6 28:16
<b>place</b>	67:4 96:25	<b>prepared</b>	35:3 138:10
12:13 35:24	<b>portal</b>	82:12,13	<b>prevent</b>
<b>plan</b>	114:14	83:14,22	154:9
81:22	120:18,23	84:8,19,23	<b>previous</b>
<b>planned</b>	121:15	87:13	76:20
104:18	122:3,16,25	<b>preposition</b>	<b>primarily</b>
<b>planning</b>	132:5 136:8	162:19	129:6
69:5	143:1 167:24	<b>presence</b>	<b>principle</b>
<b>plans</b>	<b>position</b>	138:4	46:10,14,16
164:2,4	21:15 36:7	<b>present</b>	<b>principles</b>
<b>play</b>	<b>positions</b>	37:19 91:1	11:22
32:1 53:5	35:3,5		

<b>printing</b>	63:6,9,17	<b>properly</b>	<b>publishing</b>
168:13	64:5 112:11	31:24 59:19	116:9
<b>prior</b>	164:24	129:19	<b>pull</b>
164:14,19	<b>project</b>	143:16	72:10 110:18
<b>private</b>	40:18 46:6,	158:15	<b>pulled</b>
10:3 15:5	10,22 47:3,	<b>property</b>	109:9,10,12
16:13 18:18	7,13 54:17,	62:13 63:1	110:6 150:3
<b>probably</b>	20 55:8,10	175:9,11	<b>purport</b>
7:14 11:9,20	57:5 59:2,9	<b>proposed</b>	171:8
14:2,15 24:3	60:12 64:12,	99:14,17	<b>purports</b>
33:8 45:5	14,20 65:5,	100:7 143:22	170:13
66:16 79:4	15,23 66:9	<b>prove</b>	<b>purpose</b>
97:3 99:25	69:5,10,13	44:16	7:8 42:12,23
109:23,24	79:14,21,22	<b>provide</b>	59:25 65:20
113:6 123:11	80:11 95:21	28:17 42:8	66:9 106:19
125:1,8,14	96:24 97:12	62:2 66:6	160:21
139:5 149:3	109:16	70:2 127:15	165:22
163:10 167:9	111:16,17	<b>provided</b>	<b>purposes</b>
174:2,4,5	115:8,12	82:23,24	168:12
175:4	116:11,13,16	83:1 98:18	<b>purview</b>
<b>problem</b>	128:15	100:16	6:6 37:4
7:5 109:18	129:7,8,20	126:21	<b>put</b>
<b>problems</b>	130:25	<b>providing</b>	56:12 70:20
110:7	142:14	28:6 65:2	78:5 145:11
<b>procedures</b>	143:5,13	131:9	158:8 160:15
11:21 12:10,	148:13	<b>public</b>	<b>puts</b>
12,15,24	153:11	8:14 18:19,	112:8
16:8 40:8,9,	155:17	24 66:3	<b>putting</b>
10 41:3	164:11,20	72:16 75:21	14:18 16:24
<b>process</b>	165:19,20	76:1,16 77:4	63:16,23
12:17 23:18,	166:10,16,	86:5 90:13,	91:9 128:9
21 37:25	21,25 167:9,	16 91:1	
38:3,5 39:4,	15	101:23	
5	<b>projects</b>	126:1,13	
<b>procurement</b>	46:20 75:10	128:2,14	
17:21 22:12	<b>promoted</b>	130:24	<b>QOF</b>
23:14,18,21	11:5 17:11	132:23	94:25 102:22
24:7,23	21:21	135:19	<b>qualified</b>
<b>production</b>	<b>promulgates</b>	160:12	97:12 123:11
177:13	23:17	<b>publication</b>	<b>qualifies</b>
<b>Products</b>	<b>proofing</b>	76:8,20	65:23
9:23 13:11,	50:23 55:20	<b>publish</b>	<b>qualify</b>
14 14:15	70:2 131:5	172:8	48:19,23
<b>professional</b>	153:11,15,22	<b>published</b>	77:25 97:13
9:13	154:4,18	73:21 74:18,	<b>question</b>
<b>program</b>	<b>proper</b>	20 76:9 80:6	7:13 19:22
62:6,8,11	129:24 130:6	92:4 117:5	24:19 25:23
	158:19,22	169:18	30:24 31:13,

Q

21 33:7	14 14:15	<b>read</b>	12 157:14,22
43:10 55:1	<b>rac</b>	20:1,5 40:25	158:15,18,
59:15,17,21	13:17	42:18 45:22	19,20 160:20
60:3,15	<b>raising</b>	56:16,21	169:23 173:9
62:21 80:2	70:8	59:14,19	174:3 177:24
110:9,12	<b>Ramirez</b>	60:9 67:1,2	<b>readings</b>
114:10 136:4	51:20 52:17,	80:17 95:23	19:5,7 96:7
140:1 143:20	24 68:7 69:9	102:14,15	145:24
164:13	71:22 72:14	103:4,5	147:21,24
<b>questionable</b>	77:8,13	114:11 125:7	148:5,8,11,
115:15	82:11,18	127:24	20,22,23
<b>questioning</b>	83:3,6,7	128:17	149:1,5
7:13	87:10,14	129:11	155:16
<b>questions</b>	91:24 97:5	149:12	<b>reads</b>
25:10,12,13,	103:21	150:5,6	102:13
14 30:20	116:20	152:15	105:16
109:15,16	131:22	154:13	149:16
110:8 111:14	152:22	159:23 160:5	<b>ready</b>
120:15	166:15	171:13 172:6	77:4 108:6
<b>quote</b>	<b>Ramirez's</b>	174:17	161:25
55:10 68:19	77:12	175:13	<b>real</b>
92:20 94:10,	<b>Randolph</b>	<b>reader</b>	73:12
22 95:14	10:2	74:7	<b>realization</b>
98:3 106:23	<b>Randolph-</b>	<b>reading</b>	122:24 127:5
112:8,10	<b>brooks</b>	20:8,20,21	<b>realtime</b>
113:10 114:8	9:19,21,24	43:12 54:23	14:17
125:25	10:20 11:1,2	55:16,22	<b>reason</b>
127:25 129:4	13:4	56:1,5 65:10	33:25 47:12
130:24 141:8	<b>Randy</b>	86:19,21,22	54:22 96:3
154:3,7	38:25 39:2	87:18 92:5,	121:4 127:4,
<b>quoted</b>	<b>rarely</b>	8,11 96:11,	19 133:2
112:13	176:7	12,15,16	134:1 146:1,
<b>quotes</b>	<b>RDC</b>	104:9,16	5,18 147:21
68:14	47:21,22	105:13,20,23	148:8 149:6
<b>quoting</b>	55:9	108:5,10	151:8 157:21
20:5 70:19	<b>re-depose</b>	119:7 121:21	158:10
112:7 149:2	162:23	124:11	176:3,12
153:7 164:22	<b>re-imagined</b>	127:14 129:5	<b>reasoning</b>
	79:14	130:6,9	108:14
<b>R</b>	<b>reach</b>	141:1 143:14	146:10,11
	24:11 151:17	144:4,6,7,19	<b>reasons</b>
<b>R6009</b>	<b>reached</b>	146:19,20,24	145:24
73:22	159:15	147:10,16	146:7,16,20
<b>R620-012</b>	<b>reaching</b>	148:4 149:7,	149:8
76:13	27:7 137:24	25 151:1	155:11,12
<b>Race</b>	140:7	153:14,25	<b>rec</b>
9:23 13:11,		154:11,17,21	124:11
		155:3,8,11,	

<b>recall</b>	140:20 141:9	38:10,19	<b>regard</b>
43:16 50:15	144:20	39:16 40:3,8	35:18 41:10
51:5 52:22	153:8,9,10,	41:9 52:21	<b>Regional</b>
111:6 138:8	20	53:24 54:6	37:12,16
160:6 177:11	<b>recommendatio</b>	55:9 57:6,16	38:12
<b>receivable</b>	<b>ns</b>	58:10 62:24	<b>register</b>
15:15 22:11	164:6	64:11 65:16,	172:7
<b>receive</b>	<b>recommended</b>	20 66:22	<b>regulations</b>
37:19 39:3	123:13	97:13,21	69:22
53:6,23	142:25	166:25	<b>related</b>
75:25	144:19	<b>Reed</b>	93:24 153:21
<b>received</b>	153:10	52:19	167:9
39:19 56:17	157:16	<b>refer</b>	<b>relating</b>
75:23 165:11	<b>recommending</b>	31:22 121:12	33:10 34:12
<b>recent</b>	140:24	<b>reference</b>	86:11
54:9,14,18	141:11,22	84:2,12	<b>relation</b>
55:11 77:9,	<b>recommends</b>	85:1,13 95:4	138:7
16 80:14,21	39:24 98:3,8	119:16	<b>relationship</b>
85:16 90:10	140:25	168:20 169:9	97:5
110:13 117:3	141:14	<b>referred</b>	<b>release</b>
157:6	<b>reconc</b>	91:15,20	73:1,2,5,13,
<b>recess</b>	14:6	<b>referring</b>	17,18,22
58:22 118:12	<b>reconciled</b>	17:22 42:19	74:8,14,16,
134:12 177:6	14:6	43:9 46:24	20 76:10,13,
<b>recognize</b>	<b>record</b>	65:10 70:21	20,25 81:1
67:15,19	5:18 58:21,	87:14 89:24	84:2,11,24,
73:6 78:18	24 67:25	130:12	25 113:20,21
86:10 104:4	101:23	154:24	114:1,15
167:8 168:1	102:14	<b>refers</b>	168:18,19
<b>recollect</b>	118:5,8,11,	88:1 131:7	169:8
135:4 138:18	14,16 120:9	151:21 160:1	<b>released</b>
<b>recollection</b>	134:8,11,14	<b>reflect</b>	75:6 76:16
20:15,16	177:5,8,9,	129:19 137:4	77:21 78:1,2
135:12 136:5	16,20 178:2	143:17	<b>relevant</b>
156:11	<b>recorded</b>	157:15	28:22
159:6,10	6:19 136:18	158:16	<b>reliance</b>
<b>recommend</b>	141:7,8,18	160:25	94:6
39:25 57:17	<b>recording</b>	<b>reflected</b>	<b>relied</b>
98:13 123:1	5:6 119:14	157:21	72:14 91:20
140:12	121:13 123:9	<b>reflecting</b>	99:8,12
142:18,22	134:16	145:9	100:13
144:15	140:8,9	<b>reflective</b>	150:25
<b>recommendatio</b>	168:2,14	137:18,22	<b>relieve</b>
<b>n</b>	<b>recreation</b>	<b>refresh</b>	175:19
39:22 53:23,	6:7 26:10	164:1,15	<b>relocation</b>
24 98:2,8	<b>REDC</b>	<b>refuting</b>	42:10
99:9,13	37:14,15	136:20	
100:21			

<b>rely</b>	128:4,9	46:20	20,24 65:2
31:5 32:3	168:17,18,	<b>required</b>	128:14
133:18,20	19,20 169:8,	39:19 41:3	130:24
<b>relying</b>	9	71:9 93:2,3	132:23
63:16 93:17,	<b>renegade</b>	133:6 147:23	<b>restaurants</b>
19 100:4,6,	85:5	148:4,9,10,	62:15
20,25 147:4	<b>repeat</b>	20,22	<b>result</b>
150:18	134:5	<b>requirement</b>	32:9
<b>remain</b>	<b>repeatedly</b>	53:22 93:7,8	<b>results</b>
131:5	122:23,25	145:23	137:1,24
<b>remained</b>	<b>repeating</b>	<b>requirements</b>	139:13
96:23,24	130:22	18:3 41:8	<b>retail</b>
<b>remember</b>	132:20	53:2,18	9:23 13:17,
21:23 35:21	<b>rephrase</b>	68:24 70:1,	18,22 50:5,
40:19 68:5,	41:7 136:3	20,21,22	19,21 53:3,4
20 69:3 70:4	<b>reported</b>	86:2 88:14	54:12,25
71:1,16	13:23	92:21 94:11	55:21 61:10
79:13 83:9	<b>REPORTER</b>	95:1,5,19	62:15 65:2
84:6,7 94:3	5:7 18:5,8	102:23	70:6 93:6,9
109:3,14,21	37:1 139:23	106:24	125:25
111:21 116:8	140:3,6	113:11	126:13
117:18 135:3	<b>reporting</b>	115:25 116:2	128:1,14
136:11,13,	5:9 9:25	129:8 153:21	129:9 130:24
14,15 138:5,	14:5 15:10,	<b>requires</b>	132:23
6,18 139:7,	15,17,18	19:17 20:5	156:23,25
8,10 140:13	16:1 22:10	29:19 148:23	<b>return</b>
152:4,12,14	<b>reports</b>	<b>reread</b>	39:10 40:17
158:3 159:9,	15:19 16:2	59:13	65:25 66:6,
14,16,21,22	<b>represent</b>	<b>reserve</b>	12,14,23
160:23 163:2	117:2	177:18	<b>revealed</b>
<b>remembered</b>	<b>representatio</b>	<b>resolution</b>	146:24
9:16 161:11	<b>n</b>	19:18	<b>review</b>
<b>remove</b>	133:19,21,25	<b>resource</b>	39:20 77:22
75:5 81:16	<b>represented</b>	26:2	80:7,8 111:8
84:1 85:20	133:12	<b>response</b>	118:2 167:11
96:3 113:20	<b>representing</b>	28:14 70:13	<b>reviewed</b>
<b>removed</b>	172:13	<b>responsibilit</b>	112:22
73:9,10,24	<b>request</b>	<b>ies</b>	164:2,5
74:15 75:1	75:21 95:10,	22:8 34:21	<b>reviews</b>
81:1,12 82:9	14 108:11	<b>responsibilit</b>	33:2 118:6
83:16 84:24,	130:19,20	<b>y</b>	<b>revised</b>
25 85:1	153:18	18:12 23:13	77:1 96:20
94:15 95:5,	154:12,24	30:4,7,10,15	150:10
25 113:20	<b>requesting</b>	34:24 175:20	164:25
128:21 170:4	72:16	<b>restaurant</b>	<b>rewriting</b>
<b>removing</b>	<b>require</b>	9:16,18	155:5
81:21 83:15	17:20 19:5	10:14 43:19,	
85:15 96:4			

<b>riding</b>	118:6 119:19	<b>rule</b>	114:18,25
174:16	120:6,25	7:7 17:16	129:22 133:7
<b>right</b>	122:12,16	18:6,7 19:4,	135:24
6:23 14:14	123:2,13,19,	21,24 20:4,	140:25
17:24 20:13	23,25 124:8,	10 21:2	144:5,7
22:5 23:18	12 126:1,16	22:19 25:22	147:25 148:6
28:10,12	129:15	30:19 49:9,	153:24 154:2
31:1 34:20	131:16	14,24 50:11	155:2 158:9
39:12 44:25	133:13 134:1	51:9 52:12,	177:15
45:19 48:8,	137:6 138:23	16 164:16	<b>says</b>
14,24 49:8,9	141:4	<b>rules</b>	39:14 41:21
51:6 52:3	142:15,20	16:11 50:25	47:14 58:1
54:10 56:3	144:6 145:1,	53:19 54:10,	70:18 73:17
58:17 59:16	7,20 146:1,	14,18 55:13	78:2 92:4,8,
61:15 64:14,	21 147:1,5	70:14 71:5,	19 95:14
20,22 65:4,	152:19,22,25	10 74:8	98:7 99:8
7,12 66:10	153:11,15	<b>run</b>	101:10 107:4
70:9,14,24	154:4,25	7:10 39:9,21	112:10
71:7,10	155:13,20,25	62:11	113:20
72:16,19	160:12	<b>running</b>	114:6,13
73:13,19,22	165:8,22	25:4 62:6	119:21
74:1,12 75:1	168:13	64:5 155:24	124:10
76:2,17	169:4,12,25	156:1	125:24 126:8
77:5,18,22	170:11,20	<b>runs</b>	127:25
78:21 79:2	172:17 173:5	39:6	128:12
80:1,15	174:11,20		129:4,13
81:9,12,19	177:11 178:1		131:4 134:25
82:16 85:22	<b>RIMS</b>	<b>S</b>	140:11
86:2 87:4,7,	40:19 63:4,9	<b>sales</b>	141:6,7,14
16 88:11	<b>risk</b>	36:24	142:12
89:3,10	12:18	<b>San</b>	153:17,18
90:6,18	<b>risks</b>	9:14 10:4,5	154:6 164:22
91:25 92:6,	12:21	16:21 17:3,	168:13 175:7
9,22 93:4,	<b>Risley</b>	9,16 18:5,9,	176:8
10,18,20	52:20 117:16	13,17 19:2,	<b>scanned</b>
94:7 95:6	<b>rock</b>	12 20:3,10,	160:4
96:1 97:1,19	71:25	22 48:1	<b>scenario</b>
98:10,24	<b>role</b>	173:21	46:19
99:3,10	25:20 26:9	<b>saying</b>	<b>schedule</b>
100:12,14	36:1,3,19,21	7:9 22:17	124:20
102:8,11,15	37:9	40:16 41:21	<b>scheduled</b>
104:24	<b>room</b>	48:25 49:3,4	92:8 104:11,
105:14,17	6:18 32:17	59:10 60:11	14 124:14
106:14,24	117:22	61:12,15	<b>scheme</b>
107:2,22	<b>rooms</b>	69:17 82:19	88:2 122:6,
110:13 112:2	44:20 61:6,	89:23,24	11,14,15,25
113:4,7	10 64:16	99:16 108:21	<b>school</b>
115:20		113:15	7:19,20
116:2,20,23			

<b>scope</b>	149:7,25	<b>sell</b>	<b>she'd</b>
111:9	152:16	85:21 137:13	159:2
<b>screen</b>	153:14,25	<b>seminars</b>	<b>sheet</b>
81:15 90:20,	154:11,17	9:4	56:22
21 137:5	155:3,12	<b>sending</b>	<b>shift</b>
<b>screenshot</b>	158:19,20	27:9	125:22
72:18,24	160:20	<b>sense</b>	<b>show</b>
73:11 75:16	163:13,15	38:6 46:6	72:25 75:1
83:17,23,24	171:16	47:2 85:14	76:8 78:6,15
85:11 88:22,	<b>secret</b>	<b>sentence</b>	86:9 117:20
24,25 89:2,	161:16	94:15 95:25	151:5,13
14 90:1,18,	<b>section</b>	129:13 131:3	<b>showed</b>
25 91:13	140:20	134:22	73:6 81:14
109:20	174:22	153:18 154:6	116:8 117:4
113:16,17,19	175:10	<b>separate</b>	169:19
114:9,14,20	<b>sector</b>	35:22,25	<b>showing</b>
136:9 137:18	18:18,19	172:19	109:19
143:4 167:23	<b>see</b>	<b>September</b>	<b>shown</b>
168:2,15,24	33:5,7 66:3,	56:17	147:11 175:7
169:25	19,21,25	<b>service</b>	<b>shows</b>
<b>scroll</b>	67:3,5,15,19	49:13 175:9,	112:5
128:24	73:16 76:10,	12	<b>sick</b>
<b>scrutiny</b>	15,25 77:2,	<b>services</b>	72:6
18:22,23,25	12 78:8,11,	164:5	<b>side</b>
<b>sea</b>	16,18 79:1,5	<b>serving</b>	14:22,24
72:6	81:7 82:8	22:14	15:17 16:1
<b>second</b>	85:15,17	<b>session</b>	39:5 137:19
20:8,20,21	86:13 88:10	23:3 57:21	<b>sign</b>
54:22 55:16	91:11,15,19,	135:1,2,5,	86:24
56:5 65:9	24 95:2,11,	10,17 136:7,	<b>signature</b>
66:10 71:15,	23 100:23	25 138:6,19	178:3
23 73:18	104:24	<b>set</b>	<b>signed</b>
84:25 86:19	105:7,12,16,	15:2 41:22	152:21
87:13 92:8,	17 108:17	125:21 156:9	166:19
11 94:2,16	111:9,12,18	167:3	<b>significant</b>
95:12 96:11,	112:13,25	<b>setting</b>	141:4 155:16
15 104:9,16	113:13,22	106:1	<b>signing</b>
105:19,23	114:15 119:4	<b>seven</b>	177:24
112:2,17	128:25	104:24	<b>Simpson</b>
118:9 121:21	141:2,7,16	119:24 120:4	9:23 13:11,
124:11	151:23	<b>several</b>	14 14:15
127:14	152:11	120:3 123:6,	<b>simulation</b>
130:6,19	153:22 160:3	9 140:11	63:11,12
132:20	171:5	<b>shape</b>	<b>sit</b>
133:24 134:4	<b>seeing</b>	28:21 169:7	143:6 175:25
141:1 142:22	34:20 87:24	<b>shared</b>	<b>sitting</b>
144:5,7,19	88:6,8	34:7	51:5 133:17
146:19	174:10		

<b>situation</b>	57:9 62:22	47:23 52:1,	43:12 69:12
32:15 47:6	65:15 83:18	13 53:13	110:24 111:4
49:6	111:7 164:10	91:16 92:2	125:2 164:13
<b>skeptical</b>	173:15	114:1 115:3	167:6
168:10	<b>sound</b>	131:8 168:18	<b>starts</b>
<b>sketch</b>	57:7 87:16	<b>specifics</b>	128:25
9:10,11	<b>sounds</b>	7:17	<b>state</b>
<b>skill</b>	10:16 16:2	<b>speculate</b>	5:18 17:25
15:2	33:14 36:8,	116:5 145:16	23:16 24:22
<b>skip</b>	17 57:8,20	147:13	25:9,24
175:6,10	83:20	<b>spend</b>	30:11 41:13,
<b>slide</b>	<b>space</b>	42:15	16,19
67:20 71:13,	53:4 54:12,	<b>spirit</b>	<b>stated</b>
16,18,22	25 55:21	165:15,18	92:22 98:6
72:15,18,25	93:9 126:1,	166:7	130:13
73:7 74:5	13 128:2	<b>splitting</b>	165:10
75:9 79:5,6	156:25	166:6	<b>statement</b>
81:2,8 82:23	160:12	<b>spoken</b>	47:10 59:12,
84:24 87:7,	164:10	6:18 28:14	14 94:4 97:2
10,15 88:10	<b>spaces</b>	<b>spreadsheet</b>	135:9 136:18
101:2 103:21	65:3 88:15	63:1,19,21	141:7,8,18
114:19 136:7	126:10,15	64:6	<b>statements</b>
167:21 171:5	128:14	<b>staff</b>	14:6,21
<b>slides</b>	130:24	9:14 11:4,14	135:19
82:13	132:24	82:12,22	<b>states</b>
<b>small</b>	160:13	83:3,6,13,22	13:18 15:23
16:18,20	<b>spar</b>	84:8,19,23	73:2,15
109:24	53:3	85:3,5,8	120:18,22
162:24	<b>speak</b>	98:3,8,12	121:15
<b>smell</b>	21:11 31:2	117:23	122:3,16,24
85:22	33:1 56:19	140:23,25	134:18
<b>soft</b>	73:10 75:7	141:14,21	167:23
137:13 168:6	81:24 85:2	142:12	<b>statistic</b>
<b>software</b>	116:21,23	151:21 152:2	61:3
40:20 62:23,	132:16 142:2	153:5 154:9	<b>stats</b>
25 63:9,14	147:7 157:17	169:17	46:4
<b>solely</b>	159:5	<b>staff's</b>	<b>statute</b>
48:12 61:24,	<b>speaking</b>	98:15	41:13,24
25	117:24	<b>standpoint</b>	42:2 133:18
<b>solicit</b>	<b>specialty</b>	31:24	148:6 166:4
91:1	57:10	<b>start</b>	174:3,8
<b>sophisticated</b>	<b>specific</b>	16:24 26:6	176:13,25
174:6	6:4,10 26:20	102:20	<b>statutes</b>
<b>sort</b>	41:16 48:16	158:18	17:20,25
14:17 18:17	52:16,22	<b>started</b>	23:17 41:17,
19:3,19 24:1	65:20 102:8	9:12 10:10	19 174:23
31:14 36:7	<b>specifically</b>	17:7 35:19	<b>steal</b>
	27:18 37:6		



174:25 175:1	156:23	165:19	166:5 168:11
<b>stenographer</b>	<b>subject</b>	166:7,12	173:23 177:3
6:16	177:10	173:23	<b>surrounding</b>
<b>stenography</b>	<b>submitted</b>	<b>sure</b>	153:7
5:10	164:19,21	6:25 7:3,12	<b>switched</b>
<b>Steve</b>	165:10	9:13 10:23	123:12
16:16	<b>Subpart</b>	11:19 12:2,	<b>sworn</b>
<b>stewards</b>	175:10	9,14,24	5:11,13
70:23 71:4	<b>Subsection</b>	14:5,7,13,16	<b>system</b>
<b>stick</b>	41:17 173:7,	16:5,8,9,11	104:1
144:15,18	8 174:8	17:1 18:13,	
<b>stores</b>	<b>subsequent</b>	21 19:1,22	
13:23 14:8	95:6 96:1	20:25 23:13	
15:22	<b>substantially</b>	24:17,19	
<b>straight</b>	20:8	25:8 27:19	
108:9	<b>suggest</b>	28:17 29:1,	
<b>Strangely</b>	169:7	6,7,12	
114:8	<b>suggesting</b>	30:11,14,16	
<b>street</b>	83:25 84:4,	31:16 34:1,7	
50:5,17,19,	10 159:12	36:13 40:20	
20 102:25	<b>Suites</b>	41:6,10	
125:25	47:13 52:24	43:8,15,25	
126:13	59:2,9 60:12	45:8 46:4	
128:1,13	64:12 79:22	48:18 51:17	
129:9 130:24	102:24 107:2	53:20 55:5	
131:5	128:15	56:14 57:25	
<b>Street-level</b>	130:25	58:14 60:17	
132:23	<b>summary</b>	75:7 76:22	
<b>stretched</b>	127:25	78:3 79:24	
151:14	<b>support</b>	80:3 83:16,	
<b>strict</b>	23:9 30:8	22 84:3,6,8	
17:20 20:25	<b>supporting</b>	85:11 91:10	
<b>string</b>	99:7,21,23	93:12	
32:13 34:6	101:6,9,10,	102:15,16	
162:9 163:21	11,12	107:19	
<b>structure</b>	<b>supports</b>	111:11 112:3	
32:6 61:1,8	100:3	125:18	
112:1	<b>supposed</b>	132:12,14,17	
<b>structures</b>	7:11 42:15,	133:14,17	
61:9 131:5	20,23 59:24,	134:20 135:6	
<b>studied</b>	25 96:11	137:12	
159:24	104:17	138:20 140:5	
<b>stuff</b>	105:22 112:8	144:14,18,24	
13:25 14:9,	115:18	146:2 151:3	
21 38:8 54:1	145:23	153:6 154:17	
62:16 63:2	147:20	155:4 158:2	
100:1,2,3	164:17	159:18	
		161:20	
		165:14,17	
			<b>T</b>
			<b>table</b>
			54:6 125:21
			<b>tabled</b>
			109:7
			<b>Taco</b>
			9:24 10:2
			13:8 15:6,9
			<b>take</b>
			6:23,24 7:9
			21:15 44:14
			177:2
			<b>taken</b>
			109:8
			<b>takes</b>
			39:7
			<b>taking</b>
			168:2
			<b>talk</b>
			26:1 42:6
			50:1,8 53:9
			66:21 88:13
			102:14
			126:7,12
			150:14 159:7
			165:15
			<b>talked</b>
			14:2 34:2
			50:2 51:8,
			17,19 52:2,4
			53:10 66:17
			83:10 103:8
			108:10
			112:23
			118:25 124:7

133:23	<b>Tanisha</b>	16 59:8	128:3 134:15
137:15	5:7	97:16	144:10
156:15 159:3	<b>tape</b>	<b>testify</b>	161:13
161:18	88:1 117:23	21:7	163:23 167:4
163:16,25	119:4 140:8	<b>testifying</b>	172:9
167:21	<b>task</b>	49:8	173:14,23,24
170:19	65:21	<b>testimony</b>	<b>think</b>
174:19	<b>tax</b>	58:6 59:2	8:21 10:6
<b>talking</b>	16:19 36:23,	<b>Texas</b>	11:5,6,9
28:12 30:1	24 165:6	5:8 23:16	15:4 17:2
38:11 39:15	<b>team</b>	24:23 25:9,	26:10 27:7
40:14 42:21	33:3	24 30:12	29:11 31:4
43:4 45:25	<b>technology</b>	173:10	34:24 36:4
46:5 49:21	72:22	174:7,23	44:16 45:12
53:16 54:1	<b>tell</b>	175:3	46:12 47:6
60:4 61:4	5:21 6:23	<b>text</b>	49:6 51:17
68:8,20	11:10 22:7	28:3	53:13 58:25
69:3,15,17	28:9 31:23	<b>Thank</b>	59:12 60:15,
70:8 71:25	35:14 36:21	15:7 108:24	20 61:15
76:21 79:13	68:12 74:2	129:2 140:6	68:6 71:24
81:5 86:12	85:5 96:10	149:24	75:11,17,19,
94:6 99:17	108:4,5	<b>there'd</b>	21,24 76:1,3
102:11	111:5 117:17	34:6	79:4,5,17
120:14,21	128:25 151:6	<b>thing</b>	80:10,17,18,
121:13	173:9 176:24	29:19 31:14	25 82:11
126:13	<b>telling</b>	68:21 73:7	86:4,10 87:4
134:22 137:9	20:13 52:8	93:7 100:12,	88:3 97:2
154:15	99:25	20,25 101:23	102:3,7
162:12	<b>ten</b>	115:6 122:10	104:24
<b>talks</b>	27:8,17	127:8 132:18	109:3,5,14,
65:24 67:3	58:13	134:5 146:14	23 111:20
75:9 88:14	<b>terms</b>	153:17	112:3 113:25
112:22 153:4	19:19 21:9	155:25 158:8	114:6 117:15
174:22	68:8 91:11	172:6 173:15	118:19,25
<b>tampered</b>	101:23 106:1	<b>things</b>	121:18 126:9
132:5 136:9,	111:7 146:20	13:1 19:14	131:3 132:19
21,23 137:2,	167:14	24:8,15 37:4	135:4 136:22
17 138:12	173:14	38:8 39:10,	139:4 143:6,
139:14 142:7	<b>Terrazas</b>	13 42:16	10 145:14
144:2	5:8	55:6 67:6	146:5 151:8,
<b>tampering</b>	<b>terrible</b>	69:25 70:4	20 157:12,25
120:22	127:8	77:8 80:19	159:2
121:14	<b>test</b>	92:22 93:2	160:22,23
122:2,15,24	9:6 49:24	96:3 97:22	161:8 162:8,
134:23	85:22	99:1,8,12	22 163:5
135:13	<b>testified</b>	100:4,6	164:25
137:11,25	5:13 57:5,9,	115:17	165:25 168:5
143:1		125:4,7	169:2 171:13
			176:21

<b>thinking</b>	109:11,12	131:22 137:1	<b>triple</b>
90:10	111:25	145:8 147:3	154:17 155:4
<b>thinks</b>	113:24	149:22	<b>true</b>
114:5	118:10,13	150:17	21:5 57:19
<b>third</b>	121:19,20	157:24	58:1 76:2
154:6	122:1 125:3	<b>tomorrow</b>	92:25 93:11
<b>Thirty</b>	133:25	119:22,23	94:12 117:4
64:18	134:4,10,13	135:1	144:22
<b>thought</b>	136:15	<b>tool</b>	154:10
48:3 63:4	139:25 145:5	42:13,14	176:21
93:11,13	156:9 159:2,	<b>top</b>	<b>truth</b>
149:22	8 160:20	45:8,17	71:5 79:21
<b>three</b>	163:6 164:1	95:11 96:10	81:23 117:18
15:23 21:18,	165:9 177:4,	152:10	<b>try</b>
19 25:17	7 178:2	<b>touch</b>	31:7 100:1
104:24	<b>timeframe</b>	127:13	156:18 166:3
132:19 141:8	56:25	<b>Tower</b>	176:16
151:22 152:8	<b>timeline</b>	9:14 10:9,11	<b>trying</b>
153:5 154:16	56:12 91:9	<b>town</b>	9:8,20 20:17
159:19 162:9	108:8,18	60:13 110:1	21:7 40:19
<b>threw</b>	110:11 164:8	<b>track</b>	52:11 60:16
69:4,18	167:10	51:24 67:9	68:13 71:4
127:17	<b>times</b>	<b>transcribed</b>	72:9 89:21
<b>throw</b>	27:8,16	117:23	109:14 114:7
69:9	32:15 36:15	<b>transcript</b>	120:7 135:4
<b>thumbnail</b>	44:18 45:2	118:19	136:10,14
9:10,11	120:3 123:6,	119:7,15	138:5,18
<b>tied</b>	9 124:16	140:3	145:11 156:2
153:10,20	132:20 134:5	<b>transcription</b>	160:22,23
<b>till</b>	139:24	118:22	161:1,3
88:4	140:11	<b>transfer</b>	176:15
<b>time</b>	154:17	172:7	177:12
5:5 10:10	167:20 175:4	<b>transition</b>	<b>TV</b>
16:25 22:2,	<b>title</b>	21:24	111:22
13 23:1,5,8,	79:9 157:14	<b>trial</b>	<b>twice</b>
22 25:18,21	<b>titles</b>	175:7	20:1,2
27:4,6 28:1,	36:14	<b>trick</b>	150:18
6 29:8 30:1	<b>today</b>	68:13	<b>two</b>
35:24 36:9	5:22,24 6:8	<b>tricked</b>	19:5,7 55:6
37:7 45:6	49:21 129:14	85:8	93:4 107:9
54:21 55:16	137:13 143:6	<b>trickery</b>	145:24
56:19 58:13,	161:23	110:16	147:20,23
20,23 61:19	<b>told</b>	<b>tricky</b>	148:4,8,10,
67:4 80:1	8:21 34:1	168:8	20,22,23
87:13,23	41:25 56:24	<b>trigger</b>	149:1,5
88:7 93:10	64:24 66:10	24:10	155:15
108:12	94:2 109:11,		156:21 162:9
	15,22 117:25		171:23

172:24	<b>typically</b>	149:4 150:7,	<b>unfair</b>
<b>two-reading</b>	38:21	9,20 152:17	97:2 176:21
19:4,20,23		153:1	<b>union</b>
20:4 21:2	<hr/> <b>U</b> <hr/>	155:21,23	9:19 10:17,
<b>two-years</b>		157:4 158:7	21,25 11:1,3
76:19	<b>Uh-huh</b>	167:22 170:8	<b>United</b>
<b>type</b>	8:5 10:15,18	172:25	13:18
14:1,21	12:8 14:23	173:22	120:18,22
19:16 28:24	16:7,10	174:12 176:2	121:14
36:24 37:10,	20:12 25:3	<b>ultimately</b>	122:3,15,24
15,17,18,20,	26:25 28:13	50:16	167:23
25 39:17,21	33:17 34:3	<b>umbrella</b>	<b>unscathed</b>
40:1,4,9,10,	35:16 37:8	12:6	120:20
11 41:2,10,	42:1,22	<b>unanimously</b>	<b>untrue</b>
14,18,20,21,	43:1,21	94:24	99:2
22 42:2,5,7,	44:9,24 48:9	<b>uncommon</b>	<b>update</b>
12,21 53:19	49:22 54:8	19:3	125:5
55:18 57:22	56:4 59:3,5	<b>understand</b>	<b>updated</b>
58:5 62:16	64:13,17,21	6:8,14,16	129:19
63:14 67:17,	65:11 66:24	14:10 18:21	150:10
20,22 72:15	67:18 69:16	19:15,22	<b>upgrades</b>
73:8,9,25	70:10,15	36:6,11	88:15 102:24
74:6,7 79:15	71:2 75:4	41:24 44:1	126:8,9,10
80:21 87:6	77:15 78:7,	45:18 47:1	<b>usual</b>
88:8,16	20,22 79:12	48:25 49:3,4	59:16
93:23 94:23	80:16 81:3	59:8 60:9,11	<b>utility</b>
98:17 99:15,	82:17,21	64:4 65:19	54:2
17 100:7	86:1 87:22	74:5 82:4	<b>utilize</b>
103:2,23	89:4,6 91:14	85:18 93:18	165:6
106:20	92:10 95:17	112:7,19,20	<b>utilized</b>
116:15	101:14	117:25	41:14,20
127:16,18	102:19	118:15	95:10,15
129:20	104:22	155:20	130:20
131:18,20,23	108:1,19	163:20	<b>UTSA</b>
132:6 143:3,	109:6	164:12 166:8	8:1
17 144:21,24	113:12,18	169:11	<b>utter</b>
145:4,22,25	115:19	171:6,14,19	172:3,8
146:4,8,19	119:18 124:6	172:15	173:1
151:21 152:5	127:10	174:17	<b>utterance</b>
153:8,19,25	128:6,18	175:3,13	172:14
158:16 161:2	129:12,25	<b>understanding</b>	
164:17	134:17,24	45:18 53:16	
165:6,18	140:10,22	61:4 110:18	
169:23	141:20	119:12	<hr/> <b>V</b> <hr/>
<b>types</b>	142:13,19	176:11	
42:15	144:23	<b>unexpected</b>	<b>vacant</b>
<b>typical</b>	145:6,13	95:20	61:9
98:12	146:6 147:14		<b>valid</b>
			31:17,23

<b>validity</b> 31:13,16	<b>vote</b> 145:25	172:2	137:22
<b>value</b> 62:13 117:11 175:11	146:5,16 149:13	<b>wanted</b> 53:2 69:19 70:23 130:5	<b>week</b> 27:8,9,17 33:5 119:23
<b>values</b> 62:13 63:1	<b>voted</b> 57:17 132:3 145:4 146:25	132:18 135:6 143:19 148:2 157:13 161:2	<b>weekly</b> 33:2 34:11
<b>variety</b> 27:2	150:18 157:21	164:14 173:13	<b>weird</b> 33:7
<b>various</b> 11:12 26:8	158:10 161:2	<b>wanting</b> 129:24	<b>went</b> 7:20 9:17 10:4,16 11:6,11 13:10 15:4,6 16:21 17:3 50:17 54:6 57:21 67:16 69:24 81:1 96:15 117:10 119:12 161:21
<b>vary</b> 21:5	<b>voting</b> 132:6 139:1, 19 146:8,18 147:11	<b>watched</b> 22:20	
<b>verbally</b> 83:10		<b>way</b> 12:25 19:15 28:20 29:9, 16 33:14,22 34:10 38:10 55:8 59:16 64:16 67:1,2 78:5 79:18 80:13 84:4 87:13,25 93:25 94:8 106:13 112:10 113:16 115:24 116:25 119:16 123:22 128:4 130:12 133:12 136:17,20 137:7,9,21, 25 152:18 155:5,20 160:5 169:6, 17,19,22	
<b>verbiage</b> 21:9	<hr/> <b>W</b> <hr/>		
<b>verify</b> 148:3	<b>wait</b> 30:14 111:4		
<b>versus</b> 73:11	<b>waived</b> 178:3		<b>withhold</b> 28:21
<b>vet</b> 39:20	<b>wall</b> 131:4		<b>witness</b> 5:11 37:3 58:14,16,19 72:2,4,7,10, 13 140:2,5 177:10,17,24
<b>video</b> 6:17 58:21, 24 118:11,14 134:11,14 177:5,8,20 178:2	<b>want</b> 6:23 7:4,18 29:6,7 43:14 55:5 58:15 90:17 91:6, 12 94:18 99:3 101:2 103:22 108:8 110:17 111:8 115:5 127:13,19 130:8 131:10,13 133:14,17 135:14 136:8,10 138:25 141:12 144:9,14,18 150:11 151:3 154:16,17,25 155:4,20 156:5,7,8, 10,22 158:17 162:9 171:13		<b>wondering</b> 25:4
<b>VIDEOGRAPHER</b> 5:5 58:20,23 118:10,13 134:10,13 177:4,7,19, 23 178:1			<b>word</b> 6:18 44:3 45:19 57:15 68:16 77:14 80:19 99:2 101:10 110:17 114:20 115:5 120:17,20 122:6 129:23 137:10 149:2 150:11 158:21 159:24 165:25
<b>view</b> 18:23 19:19 77:4		<b>ways</b> 27:2	<b>worded</b> 106:13 107:7 134:5,7
<b>viewer</b> 78:9		<b>website</b> 72:19 78:9 88:22,23 89:3,5,22 90:1 91:13 101:2 103:21 109:19	
<b>violate</b> 135:23			
<b>Visitors</b> 61:5			
<b>volunteered</b> 80:20			

<b>wording</b>	<b>worried</b>	13,20,25	6,7 176:15
20:3,18	72:5	58:3,8 68:12	<b>year</b>
107:11	<b>worse</b>	69:20,23	7:21 8:2
140:18	175:1	70:6,12,18	17:2 21:23
<b>words</b>	<b>worth</b>	72:12 73:6	45:10 98:5,
19:12 21:1,4	66:3	74:17 76:6	10
31:7 53:15	<b>wrinkle</b>	80:14 81:7,	<b>years</b>
80:18 96:9	69:10	18 82:6,12,	21:18,19
105:17,19,23	<b>write</b>	14,24 83:13	47:24 66:2
106:8,10	16:19 124:2	87:1,17	79:21,22
111:14	<b>writing</b>	89:1,18	80:5,23
121:2,4	109:5 135:14	90:3,5,23	<b>yesterday</b>
126:3,11,16	136:8 137:16	91:5 94:20	162:5
127:24	168:13,15,	96:19,25	<b>you-all</b>
128:9,10,19,	18,21,25	99:19 100:3	127:13
21 130:22	169:24	101:8,12,13	
132:20	170:7,10	104:1 106:9,	
136:18	172:4,8,21	11 110:9	
140:19	<b>written</b>	112:3,6	<b>Z</b>
141:18	153:18	116:21	<b>Zanoni</b>
145:12	<b>wrong</b>	117:12,16	28:12,21
146:12	13:6 15:7	120:2,8,11	29:3,23
148:16 150:8	18:22 28:10	122:23	33:15,23,25
151:3 158:25	61:13 63:5	123:6,8	34:7,13 88:1
165:13 166:3	89:19	124:25	107:23
169:22 172:4	<b>wrote</b>	126:8,11,23	108:21
174:25	13:6 87:19	127:23	117:24
<b>work</b>	93:10 123:18	130:4,10	118:23
7:16 9:18	163:12,13	132:1	120:13 127:9
10:4,16		133:23,24	150:15 151:4
13:11 15:5	<b>y</b>	135:4,5,8	<b>zone</b>
37:18 166:7		136:16,19	88:14 92:21
<b>worked</b>	<b>yeah</b>	137:4,8,19,	94:11 95:1,
9:15,21,23,	12:18 14:10,	21 138:1,22,	5,19 102:23
24 10:3	20 16:13	24 139:7	106:24
16:18 24:12,	17:7 18:2	145:15	113:11
13 47:21,22	20:19 23:22	146:9,13	115:25
<b>working</b>	24:15,25	148:10,15,18	<b>zones</b>
5:22 10:11	25:10 26:13	149:4,14,19	36:23 115:20
15:18 22:3	28:20 30:3	151:5,7	165:7
25:8 27:24	31:2,20	154:1 156:17	
36:25 83:6	32:22 38:6	157:8,25	
111:25 112:2	41:7 42:12	158:15,23	
173:19,20	45:15,23	159:25	
<b>worksheet</b>	48:8,10	160:24	
63:15	51:25 52:18	161:6,9,15,	
<b>worksheets</b>	56:25 57:8,	17 163:8,11	
63:13		164:18 168:7	
		171:8 174:5,	